

Ordinance No. 17-86

**AN ORDINANCE OF THE VILLAGE OF PLEAK, TEXAS GRANTING
CONSENT TO PETITIONER TO ANNEX 62.652 ACRE TRACT OF LAND
INTO FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 5.**

WHEREAS, Fort Bend County Municipal Utility District No. 5 (the "District") and, BGM Land Investments, LTD, a Texas limited partnership (hereinafter collectively referred to as "Petitioners") acting pursuant to provisions of chapter 49, Texas Water Code, particularly Section 49.301 of the Code and has petitioned the Village of Pleak to give written consent to annex into the District a 62.252 acre tract of land (said Petition attached hereto as **Exhibit "A"** and incorporated herein for all purposes including Exhibit "B" Consent Conditions and a description of the Land by metes and bounds); and

WHEREAS, the Village of Pleak has reviewed the Petition and has determined that the facts therein stated in the request are true and correct; and that no part of the Land is within the limits of any incorporated city, town or village and all of the Land is within the extraterritorial jurisdiction of the Village of Pleak; and

WHEREAS, the Village Council has determined that all of the Land may properly be annexed into the District; and

WHEREAS, the Village Council has determined it will be in the best interest of the Village of Pleak grant consent to authorize Petitioners to annex into the District a 62.252 acre tract of land to; and

WHEREAS, the Petitioners agree to develop said Land in accordance with the terms, restrictions and regulations of the Development Agreement executed between the Village of Pleak and Woodmere Development Company, LTD on April 4, 2006 as stated in the First Amendment to Development Agreement Between the Village of Pleak, Texas And Woodmere Development Company, LTD;


**NOW, THEREFORE BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE
VILLAGE OF PLEAK, TEXAS:**

1. The Village of Pleak gives consent to Petitioners to annex into the District a 62.252 acre tract of land as described by metes and bounds in **Exhibit "A"** ; and

2. Petitioners agree to develop said Land in accordance with the terms, restrictions and regulations of the Development Agreement executed between the Village of Pleak and Woodmere Development Company, LTD on April 4, 2006 as stated in the First Amendment to Development Agreement Between the Village of Pleak, Texas And Woodmere Development Company, LTD; and
3. Petitioners agree to abide by the Consent Conditions attached to **Exhibit "A"**.


Passed by an affirmative vote of all members of the City Council, this 17 day of May, 2017.

APPROVED:



Mayor Larry Bittner

ATTEST:



Nancy Walker, City Secretary

PETITION FOR CONSENT TO ANNEX LAND INTO
FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 5

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

TO THE HONORABLE MAYOR AND BOARD OF ALDERMEN OF THE VILLAGE OF
PLEAK, TEXAS:

The undersigned, FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 5 (the "District"), and BGM LAND INVESTMENTS, LTD., a Texas limited partnership (the "Petitioner"), acting pursuant to the provisions of Chapter 49, Texas Water Code, particularly Section 49.301 of that Code, together with all amendments and additions thereto, respectfully petition the Board of Aldermen of the VILLAGE OF PLEAK, TEXAS ("Pleak"), for its written consent to the annexation by the District of the 62.652 acre tract of land described by metes and bounds in **Exhibit A** (the "Land"), which is attached hereto and incorporated herein for all purposes. In support of this petition, the undersigned would show the following:

I.

The District is a municipal utility district duly created under the laws of the State of Texas on August 5, 1974. The District was created and organized under the terms and provisions of Article XVI, Section 59, of the Constitution of Texas, and is governed by the provisions of Chapters 49 and 54, Texas Water Code.

II.

The Petitioner holds fee simple title to the Land, as indicated by the certificate of ownership provided by the Fort Bend Central Appraisal District. The Petitioner represents that there are no lienholders on the Land.

III.

The Land is situated wholly within Fort Bend County, Texas. No part of the Land is within the limits of any incorporated city, town or village, and all of the Land is within the extraterritorial jurisdiction (as such term is defined in Local Government Code Section 42.001 et seq., as amended) of Pleak. All of the Land may properly be annexed into the District.

IV.

The general nature of the work to be done within the Land is the construction, acquisition, maintenance and operation of a waterworks and sanitary sewer system, a drainage and storm sewer system, road facilities and parks and recreational facilities.

V.

There is, for the following reasons, a necessity for the above-described work. The Land, which will be developed for commercial and/or residential purposes, is urban in nature, is within the growing environs of Pleak, is in close proximity to populous and developed sections of Fort Bend County, and within the immediate future will experience a substantial and sustained residential and commercial growth. There is not now available within the Land an adequate waterworks and sanitary sewer system, an adequate drainage system, road facilities nor parks or recreational facilities, and it is not presently economically feasible for the Land to provide for such systems and facilities itself. Because the health and welfare of the present and future inhabitants of the Land and of lands adjacent thereto require the construction, acquisition, maintenance and operation of an adequate waterworks and sanitary sewer system, a drainage and storm sewer system, road facilities and parks and recreational facilities, a public necessity exists for the annexation of the Land into the District, to provide for the purchase, construction, extension, improvement, maintenance and operation of such waterworks and sanitary sewer system, such drainage and storm sewer system, such road facilities and such parks and recreational facilities, so as to promote the purity and sanitary condition of the State's waters and the public health and welfare of the community.

VI.

The undersigned estimate, from such information as they have at this time, that the cost of extending the District's facilities to serve the Land is \$2,5000,000.

VII.

The Petitioner and the District agree and hereby covenant that if the requested consent to the annexation of the Land to the District is given, the Petitioner and the District will adopt and abide by the conditions set forth in **Exhibit B**, attached hereto and incorporated herein for all purposes.

WHEREFORE, the undersigned respectfully pray that this petition be heard and granted in all respects and that Pleak give its written consent to the annexation of the Land into the District.

[EXECUTION PAGES FOLLOW.]

RESPECTFULLY SUBMITTED on this 23 day of March, 2017.

FORT BEND COUNTY MUNICIPAL
UTILITY DISTRICT NO. 5

By: Margaret F. Greenwood
Name: Margaret F. Greenwood
Title: Vice President

ATTEST:

By: Gary P. Smith

Name: Gary P. Smith

Title: Secretary

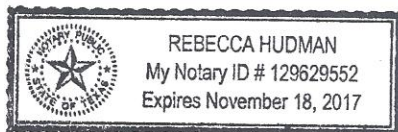


THE STATE OF TEXAS

COUNTY OF Harris

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This instrument was acknowledged before me on this 23 day of March, 2017, by Margaret F. Greenwood, as Vice President, and Gary P. Smith, as Secretary, of the Board of Directors of FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 5 a political subdivision of the State of Texas, on behalf of said political subdivision.




(NOTARY SEAL)

Rebecca Hudman
Notary Public, State of Texas

BGM LAND INVESTMENTS, LTD., a Texas limited partnership

By: GP Landvest, L.L.C., a Texas limited liability company, General Partner

By: 
Roger B. Medors
Manager

THE STATE OF TEXAS

COUNTY OF HARRIS

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This instrument was acknowledged before me on this 7th day of March, 2017, by Roger B. Medors, Manager of GP Landvest, L.L.C., a Texas limited liability company, as General Partner of BGM LAND INVESTMENTS, LTD., a Texas limited partnership, on behalf of said limited liability company and said limited partnership.

(NOTARY SEAL)




Notary Public, State of Texas

Attachments:

Exhibit A: Description of the Land

Exhibit B: Conditions of Pleak

After recording, return to: Allen Boone Humphries Robinson LLP, 3200 Southwest Freeway, Suite 2600, Houston, Texas 77027, Attn: Yvonne Onak.

County: Fort Bend
Project: Fort Bend County M.U.D. No. 5
M.S.G. No.: 161352
Job Number: 1230-MUD

FIELD NOTES FOR AN ANNEXATION TRACT
CONTAINING 62.652 ACRES OF LAND
FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 5

Being a 62.652 acre tract of land, located in the Angus J. James Survey, Abstract-37, Fort Bend County, Texas; said 62.652 acre tract being a portion of a called 219.240 and a portion of a called 51.075 acre tract, recorded in the name of BGM Land Investments, LTD., under F.B.C.C.F. No. 2006104422 and 2006130433; said 62.652 acre tract being more particularly described by metes and bounds as follows (bearings referenced to the Texas Coordinate System of 1983, South Central Zone):

BEGINNING at the most southerly corner of said 219.240 acre tract, being the most easterly corner of a called 155 acre tract recorded in the name of Gilbert Band Et. Al., Second Tract, Volume 562, Page 296 Deed Records of Fort Bend County Texas (D.R.F.B.C.T.) also being in the northwest line of a called 51.075 acre tract for an interior corner of the herein described tract;

THENCE, along a southwest line of said 219.240 acre tract, and the northeast line of said 155 acre tract, North 48 degrees 02 minutes 51 seconds West, a distance of 550.25 feet, to a point for the most westerly corner of the herein described tract;

THENCE, through and across said 219.240 acre tract, the following three (3) courses:

1. 824.13 feet along the arc of a non-tangent curve to the left, having a radius of 2,640.00 feet, through a central angle of 17 degrees 53 minutes 10 seconds, with a chord bearing of North 51 degrees 07 minutes 10 seconds East, a distance of 820.79 feet, to an angle point of the herein described tract;
2. North 42 degrees 10 minutes 35 seconds East, a distance of 532.70 feet, to the most northwesterly corner of the herein described tract;
3. South 47 degrees 49 minutes 25 seconds East, a distance of 415.42 feet, to a point on the southeast line of said 219.240 acre tract and on the northwest line of said 51.075 acre tract to an angle point;

THENCE, along a southeast line of said 219.240 acre tract, and the northwest line of a called 60.821 acre tract, recorded in the name of Woodmere Development Company, Ltd., under F.B.C.C.F. No. 2012148053, North 41 degrees 52 minutes 03 seconds East, a distance of 55.23 feet to an angle point;

THENCE, along a southwest line of said 60.821 acre tract and the herein described tract, South 49 degrees 07 minutes 52 seconds East, a distance of 713.12 feet to an angle point for the northeast corner of the herein described tract on the west line of a called 52.73 recorded in the

name of William H. Nordt under Volume 1659, Page 786 of the Official Records of Fort Bend County, Texas (F.B.C.O.R.);

THENCE, along a line common to said 52.73 acre tract and the herein described tract, South 41 degrees 53 minutes 19 seconds West, a distance of 3056.64 feet to an angle point in the proposed North right of way line of Spur 10 (width varies) recorded in the name of State of Texas under 2013098297 the Official Public Records of Fort Bend County, Texas (F.B.C.O.P.R.);

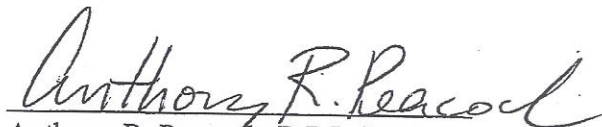
THENCE, North 47 degrees 50 minutes 58 seconds West, a distance of 485.88 feet with said proposed North right of way line of Spur 10 to an angle point in the east line of the residue of a called 52.73 acre tract recorded in the name of Douglas and Linda Koenig under Volume 2122, Page 2463 (F.B.C.O.R.);

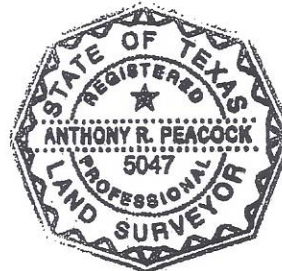
THENCE, along a line common to said 52.73 acre residue tract and the herein described tract, North 41 degrees 52 minutes 03 seconds East, a distance of 174.67 feet to an angle point for the northeast corner of the 52.73 acre residue tract and an interior corner of the herein described tract;

THENCE, along a line common to said 52.73 acre residue tract and the herein described tract, North 47 degrees 56 minutes 10 seconds West, a distance of 226.01 feet to an angle point for the northwest corner of said 52.73 acre residue tract in the southwest line of the herein described tract and said called 155 acre tract;

THENCE, along a line common to said 155 acre tract and the herein described tract, North 41 degrees 52 minutes 03 seconds East, a distance of 1469.75 feet to the **POINT OF BEGINNING**, and containing 62.652 acres of land.

This document was prepared under 22 TAC 663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.


Anthony R. Peacock, R.P.L.S.
Texas Registration No. 5047



MILLER SURVEY GROUP
Texas Firm Reg. No. 10047100
www.millersurvey.com
Phone: (713) 413-1900
Date: November 29, 2016
MSG M&B No. 161352

EXHIBIT "B"

CONSENT CONDITIONS

- (a) Purposes for which bonds may be issued, absent prior approval by the Village of Pleak, shall be limited to the purchase, construction, acquisition, operation, repair, maintenance, extension and improvement of land, easements, works, improvements, facilities, plants, equipment and appliances necessary to:
- (1) provide a water supply for municipal uses, domestic uses and commercial purposes;
 - (2) collect, transport, process, dispose of and control all domestic, industrial or communal wastes whether in fluid, solid or composite state (except that the District will not issue bonds for the purpose of garbage collection and disposal);
 - (3) gather, conduct, divert and control local storm water or other local harmful excesses of water in the District (including the payment of costs associated with any state or federal stormwater permit requirements);
 - (4) provide for parks and other recreational facilities as may be consistent with and authorized pursuant to Chapters 49 and 54 of the Texas Water Code;
 - (5) payment for organizational expenses, operation expenses, bond issuance costs, capitalized interest and interest on funds advanced to the District, or paid on behalf of the District all in accordance with the rules of the TCEQ.
- (b) Bonds issued by the District will expressly provide that the District reserves the right to redeem said bonds on any interest-payment date subsequent to the fifteenth (15th) anniversary of the date of issuance without premium and will be sold only after the taking of public bids therefor, and none of such bonds, other than refunding bonds, will be sold for less than 95% of par; provided that the net effective interest rate on bonds so sold, taking into account any discount or premium as well as the interest rate borne by such bonds, will not exceed two percent (2%) above the highest average interest rate reported by the Daily Bond Buyer in its weekly "20 Bond Index" during the one-month period next preceding the date notice of the sale of such bonds is given, and that bids for the bonds will be received not more than forty-five (45) days after notice of sale of the bonds is given.
- (c) The boundaries of the District cannot be expanded without prior written consent of the Village of Pleak.

(d) Prior to the sale of any lot or parcel of land, the owner or the developer of the land included within the limits of the District will obtain the approval of the Planning Commission of the Village of Pleak of a plat which will be duly recorded in the Real Property Records of Fort Bend County, Texas.

CERTIFICATE

THE STATE OF TEXAS §
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COUNTY OF FORT BEND §

I, the undersigned Secretary of the Board of Directors of FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 5, do hereby certify that the attached and foregoing is a true and correct copy of the Petition For Consent To Annex Land Into Fort Bend County Municipal Utility District No. 5 that was filed with the Board of Directors of the District on this 23 day of March, 2017.

WITNESS MY HAND AND SEAL OF SAID DISTRICT on this 23 day of March, 2017.

FORT BEND COUNTY MUNICIPAL
UTILITY DISTRICT NO. 5

By: _____
Secretary, Board of Directors

