

ORDINANCE NO. 3 - 2005

ORDINANCE OF THE VILLAGE OF BONNEY, TEXAS  
GIVING CONSENT TO THE CREATION OF  
BRAZORIA COUNTY MUNICIPAL UTILITY DISTRICT NO. 44

WHEREAS, Pursuant to Chapters 49 and 54 of the Texas Water Code, HD Path of Growth Partners, Ltd. (the "Petitioner") has petitioned for consent to the creation of Brazoria County Municipal Utility District No. 44 (the "District") to serve the 249 acres of land in Brazoria County, Texas described in the attached Exhibit "A" ("Petitioner's Land"); and

WHEREAS, all of the land to be included within the District is located within the extraterritorial jurisdiction of the Village of Bonney; and

WHEREAS, V.T.C.A. Local Government Code, Section 42.042 provides that land within the extraterritorial jurisdiction of a city, town, or village may not be included within a municipal utility district without the written consent of such city, town, or village; and

WHEREAS, Petitioner has submitted to the Mayor and Village Council of the Village of Bonney, Texas, a Petition for Consent to Creation of Brazoria County Municipal Utility District No. 44; and

WHEREAS, the general nature of the work to be done in the District is the construction, acquisition, maintenance and operation of a waterworks, wastewater and drainage system and road facilities; and

WHEREAS, the Village Council of the Village of Bonney desires to adopt Ordinance No. 3 - 2005 as set forth herein for the purpose of consenting to the creation of the District; Now Therefore,

BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF BONNEY, TEXAS:

1. That all of the matters and facts set out in the preamble hereof be true and correct.

2. That the Village Council of the Village of Bonney, Texas, hereby specifically gives its written consent, as provided by Section 42.042 V.T.C.A. Local Government Code, to the creation of Brazoria County Municipal Utility District No. 44, all of which is within the extraterritorial jurisdiction of the Village of Bonney, the boundaries of such land being described by metes and bounds in Exhibit "A" attached hereto and made a part hereof for all purposes.

3. That the Village Council of the Village of Bonney, Texas, hereby consents to the creation of the District in accordance with the conditions and agreements set forth in Exhibit "B" attached hereto and made a part hereof for all purposes.

PASSED AND APPROVED on this 19 day of September, 2005.

Raymond Conroy  
Mayor, Village of Bonney

ATTEST:

Alexis Martin  
Village Secretary, Village of Bonney

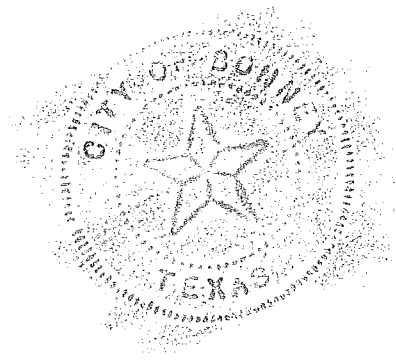


EXHIBIT "A"

A 249.972 acre tract out of Tracts Twenty Two (22), Twenty Three (23), Twenty Four (24) and Twenty Five (25), at the Bogart & Taylor Subdivision of the West one-half of the Warren D. C. Hall League, Abstract 69, according to plat recorded in Volume 1, Page 64, of the Plat Records of Brazoria County, Texas, and by metes and bounds described as follows:

BEGINNING at a concrete monument at the intersection with the East line of County Road 48, Airline road, and the South line of County Road 51; said concrete monument making the Northwest corner of Tract 25 of the Bogart & Taylor Subdivision;

THENCE South 03 deg. 01 min. 46 sec. East 2,577.15 feet to a concrete monument at the intersection with the East line of County Road 48 and the North line of County Road 35;

THENCE North 86 deg. 58 min. 14 sec. East 4,305.70 feet along the North line of County Road 35 to a concrete monument in the Westerly right-of-way line of the proposed State Highway 288 Freeway;

THENCE in a Northerly direction following the said Westerly right-of-way line of proposed State Highway 288 Freeway with the following calls: North 42 deg. 01 min. 15 sec. East, 70.69 feet to an iron rod for corner;

THENCE North 02 deg, 59 min. 46 sec. West, 1,273.85 feet to an iron rod for corner;

THENCE around a curve to the left whose radius is 1,091.35 feet, an arc distance of 961.91 feet to an iron rod for corner;

THENCE North 53 deg. 29 min. 46 sec. West, 44.89 feet to an iron rod for corner;

THENCE around a curve to the right whose radius is 446.46 feet, an arc distance of 293.51 feet to an iron rod for corner;

THENCE North 45 deg. 34 min. 29 sec. West, 134.72 feet to an iron rod for corner;

EXHIBIT "B"

CONDITIONS  
OF VILLAGE OF BONNEY  
TO THE CONSENT TO CREATION OF  
BRAZORIA COUNTY MUNICIPAL UTILITY DISTRICT NO. 44

(a) The District will issue bonds or other obligations of the District only for the purposes of:

- (1) purchasing and constructing or otherwise acquiring waterworks systems, sanitary sewer systems, storm sewer systems, and drainage facilities and road facilities, or parts of or capacity in such systems or facilities;
- (2) making any and all necessary purchases, construction, improvements, extensions, additions, and repairs to such systems and facilities;
- (3) purchasing or acquiring all necessary land, right-of-way, easements, sites, equipment, buildings, plants, structures, and facilities for such systems and facilities; and
- (4) creating, operating and maintaining the District and such systems and facilities.

Such bonds will expressly provide that: the District reserves the right to redeem the bonds on any date subsequent to the tenth (10th) anniversary of the date of issuance without premium; the bonds, other than refunding bonds, will be sold only after the taking of public bids therefor; 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, bids for the bonds will be received not more than forty-five (45) days after notice of sale of the bonds is given. The resolution authorizing the issuance of the District's bonds will contain a provision that any pledge of the revenues from the operation of the District's water and sewer and/or drainage system to the payment of the District's bonds will terminate when and if the Village of Bonney, Texas, annexes the District, takes over the assets of the District, and assumes all of the obligations of the District.

(b) The District, its directors, officers, or developers and landowners will submit to the appropriate department of the Village of Bonney or Brazoria County, as applicable, all plans and specifications for water, sanitary sewer, drainage and road facilities ("Facilities") to be constructed to serve the District and obtain the approval of such plans and specifications therefrom prior to commencement of construction. Prior to the construction of the Facilities, the District or its engineer will give written notice to the Director of the appropriate department of the Village of Bonney or Brazoria County, as applicable, stating the date that such construction will be commenced, and such construction will be in accordance with the approved plans and specifications and the applicable standards and specifications of the Village of Bonney or Brazoria County, as applicable. During the progress of the construction and installation of the Facilities, the Director of the appropriate department of the Village of Bonney or Brazoria County, as applicable, or an employee thereof, may make periodic on-the-ground inspections at no cost to the District. The District shall employ third-party inspectors to conduct inspections during construction.

(c) The Village hereby expressly covenants and agrees that annexation of the property in the District shall not occur prior to (i) the installation of facilities by the District sufficient to serve all of the land located within the District, and (ii) the payment of all principal and interest due on the bonds issued by the District to finance such facilities.

Approved 9-19-05  
Raymond Conti  
Mayor  
Village of Bonney