

ORDINANCE NO. _____
ORDINANCE OF THE VILLAGE OF BONNEY, TEXAS
GIVING CONSENT TO THE CREATION OF
BRAZORIA COUNTY MUNICIPAL UTILITY DISTRICT NO. 65

WHEREAS, Pursuant to Chapters 49 and 54 of the Texas Water Code, The Cardon Group, L.L.C. (the "Petitioner") has petitioned for consent to the creation of Brazoria County Municipal Utility District No. 65 (the "District") to serve the approximately 367.2 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. 65; 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, parks and recreational facilities and road facilities; and

WHEREAS, the Village Council of the Village of Bonney desires to adopt Ordinance No. _____ as set forth herein in the purpose of the 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. 65, 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 ____ of _____, 200_.

Mayor, Village of Bonney

ATTEST:

Village Secretary, Village of Bonney

EXHIBIT "A"

**BRAZORIA COUNTY MUD NO. 65
367.2 ACRES
BRAZORIA COUNTY, TEXAS**

THREE TRACTS OF LAND TOTALING 367.2 ACRES DESCRIBED AS FOLLOWS:

PARCEL 1:

A survey of 123.68 acres out of Lots 20 and 21 of the Bogart and Taylor Subdivision of the West ½ of the W.D.C. Hall League, Abstract 69 according to the Plat recorded in Volume 1, Page 64 of the Map Records of Brazoria County, Texas (B.C.M.R), and being more particularly described by metes and bounds as follows:

BEGINNING at the Southwest corner of Lot 20 at a concrete monument set on the North right-of-way line of County Road #51 for the most Southern Southwest corner of this tract and the POINT OF BEGINNING;

THENCE, North 02 degrees 51 minutes 52 seconds West, along the West lines of Lot 20, same being the East line of that tract of land (Lots 10, 11, and 19, Bogart and Taylor) as described by deed recorded in Clerk's File No. 85030634 of Brazoria County, Texas (B.C.C.F.), a distance of 3,416.87 feet to the present Northwest corner of Lot 20 and a point lying on the centerline of Ditch 316-00-00 as recorded in Iowa Colony Drainage District No. 5 for the most Western Northwest corner of this tract;

THENCE, North 86 degrees 57 minutes 14 seconds East, along the said centerline of Ditch 316-00-00, a distance of 1,707.48 feet for the most Northern Northeast corner of this tract and lying on the West right-of-way line of State Highway 288;

THENCE South 03 degrees 00 minutes 50 seconds East, along the West right-of-way line of State Highway 288, a distance of 1,622.37 feet and to found concrete monument at an angle point in the East line of the herein described tract and located at North: 13682078.1065 / East: 3107137.5618 (NAD83), point also being the most Eastern corner of the herein described tract;

THENCE South 00 degrees 52 minutes 45 seconds West, along the West right-of-way line of State Highway 288, a distance of 543.00 feet to a found concrete monument marking a point of curvature;

THENCE, along the West right-of-way line of State Highway 288, along said curve to the right having a radius of 1,041.74 feet through a central angle of 46 degrees 27 minutes 46 seconds, an arc length of 844.78 feet to a found concrete monument marking a point of tangency, long chord of said curve bears South 24 degrees 16 minutes 16 seconds West, 821.82 feet;

THENCE South 47 degrees 31 minutes 18 seconds West, along the West right-of-way line of State Highway 288, a distance of 140.03 feet to a found concrete monument marking the point of curvature of another curve;

THENCE, along the West right-of-way line of State Highway 288, along said curve to the left having a radius of 525.00 feet through a central angle of 47 degrees 48 minutes 38 seconds, an arc length of 438.09 feet to a found concrete monument marking a point of tangency, long chord of said curve bears South 23 degrees 41 minutes 02 seconds West, 425.49 feet;

THENCE South 43 degrees 06 minutes 27 seconds West, along the West right-of-way line of State Highway 288 and the North right-of-way of County Road 51, a distance of 36.74 feet to a found concrete monument at an angle point and marking the Southwest corner of said cut-back;

THENCE South 86 degrees 58 minutes 20 seconds West, along the North right-of-way of County Road 51, a distance of 212.53 feet to a found concrete monument at an angle point;

THENCE South 01 degrees 32 minutes 04 seconds East, along the North right-of-way of County Road 51, a distance of 28.33 feet to a found concrete monument at an angle point;

THENCE South 86 degrees 57 minutes 35 seconds West, along the North line of County Road 51, a distance of 763.77 feet to a concrete monument and the POINT OF BEGINNING and containing 123.68 acres of land, more or less, and being a part of the same property described in the deed "Tract C" as described in the B.C.C.F No. 2008-037928, to which deed and the record thereof reference is here made for all appropriate purposes.

PARCEL 1A:

All that certain 103.61 acres tract of land, being a part of that certain called 264.33 Acre Tract containing Lots 10, 11, and 19 of the Bogart and Taylor Subdivision of the West ½ of the W.D.C. Hall League, Abstract 69, Brazoria County, Texas, a Plat of record in Volume 16, at Pages 518 and 519 of the Deed Records of Brazoria County, Texas (B.C.D.R.), and being that 264.533 Acre Tract described in a deed from Buffet Inc. to Tehama Communities, LLP recorded in Clerk's File (C.F.) 2005-069871, said 103.61 acres tract of land being more particularly described as follows:

BEGINNING at a 4-inch square concrete monument found at the Southeast corner of said Lot 19, said concrete monument being the same described in that certain deed to Claud B. Hamill recorded in Volume 1121, at Page 386 of the B.C.D.R., being also the Southwest corner of Lot 20 of said Bogart and Taylor Subdivision;

THENCE South 87 degrees 02 minutes 24 seconds West, 1,319.26 feet coincident with the South line of said Lot 19, being also the North line of County Road 51, a 60-foot wide right-of-way, to a 1-inch galvanized iron pipe found for corner at the Southwest corner of said Lot 19;

THENCE North 03 degrees 02 minutes 53 seconds West, 3,420.00 feet coincident with the West line of said Lot 19 to a point for corner, from which a ½-inch iron rod set for reference bears North 78 degrees 12 minutes 16 seconds East, 63.35 feet;

THENCE North 86 degrees 57 minutes 14 seconds East, 1,319.26 feet coincident with the North line of said Lot 19, being also the South line of Lot 10 of said Bogart and Taylor Subdivision point also being the Northeast corner of this tract;

THENCE South 03 degrees 02 minutes 53 seconds East, 3,421.98 feet coincident with the West line of said Claud B. Hamill tract to the PLACE OF BEGINNING, containing 103.61 acres of land, more or less.

PARCEL 2:

A survey of 139.95 acres of land, being a part of that certain called 325.54 Acre Tract containing Lots 15, 16, and 17, and those platted roads lying between said lots, of the Bogart and Taylor Subdivision of the West ½ of the W.D.C. Hall League, Abstract 69, Brazoria County, Texas, according to the Plat recorded in Volume 1, Page 64, Plat Records, and Volume 16, Pages 518-519, Deed Records of Brazoria County, Texas (B.C.D.R.), and being a part of that certain called 326.04 Acre Tract described in a deed from Elmer M. Cannon, Jr. to Tehama Communities, LLP recorded in Clerk's File (C.F.) 2006-074531, said 139.95 Acre Tract being more particularly described as follows:

BEGINNING at a ¾ inch iron pipe found in the West right-of-way line of County Road 48 (60.0 feet wide) at the most Eastern Southeast corner of the herein described tract and the Northeast corner of a tract described in Volume 760, Page 411, B.C.D.R., said point being located South 03 degrees 02 minutes 44 seconds East 4,399.65 feet from a sucker rod found at intersection of the West right-of-way line of County Road 48 with the South right-of-way line of County Road 841 (60.0 feet wide);

THENCE South 87 degrees 03 minutes 31 seconds West, along the North line of said tract, 1,317.29 feet, to a 1- ¼ inch iron pipe found for corner at the Northwest corner of said tract described in Volume 760, Page 411, B.C.D.R.;

THENCE South 04 degrees 01 minute 26 seconds East, along the West line of said tract, 306.18 feet, to a 3 inch iron pipe found for corner at the Northeast corner of the Stephen Coleman tract described in C.F. 1998-011886;

THENCE South 87 degrees 08 minutes 31 seconds West, along the North line of the Coleman tract, 1329.32 feet, to a 2 inch iron pipe found for corner at the Southern most Southwest corner of the herein tract and the aforesaid 326.04 Acre Tract;

THENCE North 02 degrees 42 minutes 18 seconds West, along the West line of said 326.04 Acre Tract and the Easterly line of a former 60.0 foot platted road, closed by document in Volume 1359, Page 945, B.C.D.R., 661.35 feet, to a 1- ¼ inch iron pipe found for angle point;

THENCE North 03 degrees 07 minutes 30 seconds West, continuing along the West line of said 326.04 Acre Tract and the Easterly line of said platted road, 484.85 feet, to a ½ inch iron rod capped "Stroud RPLS 2112" found for corner;

THENCE South 86 degrees 56 minutes 50 seconds West, along a Southerly line of said 326.04 Acre Tract, at 60.0 feet pass a ½ inch iron rod capped “Stroud RPLS 2112” found in the West right-of-way line of said 60.0 foot platted road, and continue for a total distance of 983.63 feet to a ½ inch iron rod capped “Stroud RPLS 2112” found for corner in the Northeast right-of-way line of F.M. 521 (100.0 feet wide);

THENCE North 18 degrees 47 minutes 40 seconds West, along said Northeast right-of-way line of F.M. 521, 959.36 feet, to the centerline of a 60.0 foot platted road (not open) for corner, said point being the Western most Northwest corner of the herein tract;

THENCE North 86 degrees 57 minutes 14 seconds East, along said centerline of a 60.0 foot platted road (not open), 3,882.14 feet, to the aforesaid West right-of-way line of County Road 48 for corner, said point being the Northern most Northeast corner for the herein described tract;

THENCE South 03 degrees 02 minutes 44 seconds East, along the said West right-of-way line of County Road 48, 1,770.06 feet, to the POINT OF BEGINNING and containing 139.95 acres of land.

EXHIBIT "B"

CONDITIONS OF VILLAGE OF BONNEY
TO THE CONSENT TO CREATION OF
BRAZORIA COUNTY MUNICIPAL UTILITY DISTRICT NO. 65

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

- (1) purchasing and construction or otherwise acquiring waterworks systems, sanitary sewer systems, storm sewer systems, and drainage facilities, park and recreational 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 therefore; 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 proceeding 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.