

ORDINANCE NO. 4-2009

ORDINANCE OF THE VILLAGE OF BONNEY, TEXAS
GIVING CONSENT TO THE CREATION OF
BRAZORIA COUNTY MUNICIPAL UTILITY DISTRICT NO. 64

WHEREAS, Pursuant to Chapters 49 and 54 of the Texas Water Code, SH 288 and 476 Partners, Ltd., a Texas limited partnership (the "Petitioner") has petitioned for consent to the creation of Brazoria County Municipal Utility District No. 64 (the "District") to serve the approximately 359.13 acres of land in Brazoria County, Texas described in the attached Exhibit "A" ("Petitioner's Land"); and

WHEREAS, a portion of the land to be included within the District is located within the corporate boundaries 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. 64; 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. 4-2009 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. 64, a portion of which is within the corporate boundaries of, and a portion 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 16 day of February, 2009.

Raymond Carter
Mayor, Village of Bonney

ATTEST:

Sunday Strickler
Village Secretary, Village of Bonney



EXHIBIT "A" TO ORDINANCE

Property Description

Consisting of the following two tracts of land:

TRACT A:

BEGINNING at a 1/2 inch iron rod set for the Southwest corner of the herein described tract; the Southwest corner of the Stephen F. Austin League, Abstract 24, the Southeast corner of the Melvin D. Coleman tract described in Volume 1697, Page 696, Deed Records, the Southeast corner of the Stephen F. Austin League, Abstract 25, said point being in the North line of a 209.54 acre tract described in a deed to Doyle McConathy, Jr. recorded in Clerk's File 97-022435, and the North line of the Joshua Abbott League, Abstract 144;

THENCE North 03 deg. 37 min. 32 sec. West, along the common line of Abstract 24 and Abstract 25, being the West line of said 209.194 acre tract and the East line of the Coleman tract, a distance of 2576.00 feet to a concrete monument found for the Northwest corner of the herein described tract in the South right-of-way line of County Road 618 (60.0 feet wide);

THENCE North 87 deg. 18 min. 23 sec. East, along the South right-of-way line of County Road 618, a distance of 3827.69 feet to a 1/2 inch iron rod set for the Northeast corner of the herein described tract in the West right-of-way line of County Road 48;

THENCE South 21 deg. 02 min. 56 sec. East, along the West right-of-way line of County Road 48, a distance of 172.26 feet to a concrete monument found for corner at the extreme North corner of a tract described as Parcel 166 in a deed to the State of Texas for the right-of-way of State Highway No. 288 recorded in Volume 1133, Page 85, Deed Records;

THENCE South 70 deg. 39 min. 19 sec. West with the line of Parcel 166, a distance of 27.31 feet to a concrete monument found for corner;

THENCE South 18 deg. 28 min. 39 sec. East with the line of Parcel 166, a distance of 149.88 feet to a concrete monument found at a cut-back corner in said right-of-way;

THENCE South 25 deg. 13 min. 03 sec. West with the line of Parcel 166 and said cut-back, a distance of 70.30 feet to a concrete monument found;

THENCE South 72 deg. 03 min. 26 sec. West with the line of Parcel 166 being the Westerly right-of-way line of State Highway No. 288, a distance of 51.65 feet to a 1/2 inch iron rod set at the P.C. of a curve to the left;

THENCE with the line of Parcel 166, being the Westerly right-of-way line of State Highway No. 288, following said curve to the left having a Radius of 458.37 feet, Central Angle of 90 deg. 00 min. 02 sec., Chord Bearing and Distance of South 26 deg. 02 min. 38 sec. West - 648.24 feet, for an arc distance of 720.01 feet to a concrete monument found at the P. T. of said curve;

THENCE South 18 deg. 57 min. 23 sec. East with the line of Parcel 166 being the Westerly right-of-way line of State Highway No. 288, a distance of 311.37 feet to a concrete monument found at the P.C. of a curve to the right;

THENCE with the line of Parcel 166, being the Westerly right-of-way line of State Highway No. 288, following said curve to the right having a Radius of 1273.24 feet, Central Angle of 36 deg. 46 min. 50 sec., Chord Bearing and Distance of South 00 deg. 40 min. 40 sec. East – 803.38 feet, for an arc distance of 817.34 feet to a concrete monument found at the P. T. of said curve;

THENCE South 17 deg. 50 min. 15 sec. West with the line of Parcel 166, being the westerly right-of-way line of State Highway No. 288, a distance of 520.91 feet to a 3/4 inch iron pipe found for the Southeast corner of the herein described tract at the Southeast corner of said 209.194 acre tract, the Southwest corner of Parcel 166, and the Northeast corner of the aforementioned McConathy tract, said point being in the common line of Abstract 24 and Abstract 144;

THENCE South 86 deg. 51 min. 11 sec. West, along the common line of said Surveys being the South line of said 209.194 acre tract and the North line of the McConathy tract, a distance of 3336.59 feet to the PLACE OF BEGINNING and containing 210.77 acres of land.

TRACT B:

BEGINNING at a concrete monument found in the East right-of-way line of County Road 48 (60.0 feet wide), said point being the Southwest corner of the aforementioned 137.818 acre tract and the Northwest corner of the aforementioned 9.404 acre tract;

THENCE North 18 deg. 51 min. 59 sec. West, along the East right-of-way line of County Road 48, a distance of 2790.11 feet to a 1 inch iron pipe found for the Northwest corner of the herein described tract at the Northwest corner of said 137.818 acre tract and the Southwest corner of Paloma Acres, Section I, according to the Plat recorded in Volume 21, Pages 165-166, Plat Records;

THENCE North 86 deg. 59 min. 40 sec. East, along the North line of said 137.818 acre tract and the South line of Paloma Acres, Section I, at 20.0 feet pass a 1/2 inch iron rod found at the Southwest corner of Lot 1, Section 1, and continue along the South line of Section 1, and Paloma Acres, Section III, according to the Plat recorded in Clerk's File 2006-050280, for a total distance of 3368.31 feet to a 1 inch iron pipe found for the Northeast corner of the herein described tract at the Northeast corner of said 137.818 acre tract in the West right-of-way line of State Highway No. 288 which point is the Northwest corner of a tract described as Parcel 164 in a deed to the State of Texas for the right-of-way of State Highway No. 288 recorded in Volume 1082, Page 925, Deed Records;

THENCE with the line of Parcel 164, being the Westerly right-of-way line of State Highway No. 288, following a curve to the right having a Radius of 11249.16 feet, Central Angle of 06 deg. 39

min. 14 sec., Chord Bearing and Distance of South 24 deg. 58 min. 51 sec. West – 1305.64 feet, for an arc distance of 1306.37 feet to a 1/2 inch iron rod set at the P. T. of said curve;

THENCE South 27 deg. 36 min. 58 sec. West with the line of Parcel 164 and the line of a tract described as Parcel 165 in Volume 1133, Page 85, Deed Records, being the Westerly right-of-way line of State Highway No. 288, a distance of 2053.50 feet to a concrete monument found at the P.C. of a curve to the right;

THENCE with the line of Parcel 165, being the Westerly right-of-way line of State Highway No. 288, following said curve to the right having a Radius of 1095.92 feet, Central Angle of 28 deg. 40 min. 03 sec., Chord Bearing and Distance of South 56 deg. 26 min. 43 sec. West – 542.63 feet, for an arc distance of 548.33 feet to a concrete monument found at the P.T. of said curve;

THENCE South 70 deg. 54 min. 55 sec. West with a line of Parcel 165 being the Westerly right-of-way line of State Highway No. 288, a distance of 241.69 feet to a 1/2 inch iron rod set at a cut-back line in said right-of-way;

THENCE North 64 deg. 05 min. 05 sec. West with the line of Parcel 165 and said cut-back, a distance of 71.21 feet to a concrete monument found;

THENCE North 18 deg. 52 min. 09 sec. West with a line of Parcel 165, a distance of 300.46 feet to a concrete monument found for corner;

THENCE South 73 deg. 18 min. 08 sec. West with a line of Parcel 165, a distance of 18.40 feet to a concrete monument found in the East right-of-way line of County Road 48, said point being the Westerly Northwest corner of Parcel 165;

THENCE North 21 deg. 09 min. 48 sec. West, along the East right-of-way line of County Road 48 and the West line of the aforementioned 9.404 acre tract, a distance of 273.48 feet to the PLACE OF BEGINNING and containing 148.36 acres of land.

EXHIBIT "B" TO ORDINANCE

CONDITIONS
OF VILLAGE OF BONNEY
TO THE CONSENT TO CREATION OF
BRAZORIA COUNTY MUNICIPAL UTILITY DISTRICT NO. 64

(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.