

ORDINANCE NO. O-2019-022

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
MAGNOLIA, MONTGOMERY COUNTY, TEXAS,
APPROVING THE ADDITION OF 48.00 ACRES INTO
MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT
NO. 108 LOCATED WITHIN THE CITY LIMITS.**

* * * * *

WHEREAS, the City Council adopted Ordinance No. O-2016-003 on January 12, 2016, to approve the creation of Montgomery County Municipal Utility District No. 108 ("No. 108") within the extraterritorial jurisdiction of the City of Magnolia, Montgomery County, Texas (the "City"); and

WHEREAS, prior to the creation of No. 108 by the Texas Commission on Environmental Quality, the City Council annexed the land within No. 108 into the corporate boundaries of the City; and

WHEREAS, attached to this Ordinance as Exhibit I and made a part hereof is the petition, pursuant to Section 54.016 of the Texas Water Code, as amended, requesting the City's consent to the addition of approximately 48.00 acres into No. 108 encompassing the land described in Exhibit "A" to said petition, subject to the terms and conditions set forth in Exhibit "B" attached to and made a part of said petition; and

WHEREAS, the City Council desires to consent to the requested addition of land to No.108.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MAGNOLIA, TEXAS, THAT:

Section 1. All of the matters and facts set out in the preamble hereof are true and correct.

Section 2. The City Council officially finds, determines, recites and declares that a sufficient written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public at the City Hall of the City for the time required by law preceding this meeting, as required by the Open Meetings Law, Texas Government Code, Chapter 551, and that this meeting has been open to the public as required by law at all times during which this Resolution and the subject matter thereof has been discussed,

considered and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

Section 3. The City Council of the City hereby specifically gives it written consent, as provided by Section 54.016, Texas Water Code, as amended, and as required by Chapter 42, Texas Local Government Code, as amended, to the addition of approximately 48.00 acres in No. 108 encompassing the land described in Exhibit "A" to said Petition, subject to the terms and conditions set forth in Exhibit "B" attached to and made a part of said petition.

Section 4. The City Secretary is hereby directed to attach this Ordinance and attachments to Ordinance No. O-2016-003.

PASSED, APPROVED and ADOPTED by the City Council of the City of Magnolia, Montgomery County, Texas on this the 10th day of September 2019.



CITY OF MAGNOLIA, TEXAS

A handwritten signature in black ink, appearing to read "Todd Kana".

Todd Kana, Mayor

ATTEST:

A handwritten signature in blue ink, appearing to read "Lynne George".
Lynne George, CPM, TRMC
City Secretary

EXHIBIT A

PETITION FOR CONSENT TO ANNEX LAND INTO MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 108

THE STATE OF TEXAS §
 §
COUNTY OF MONTGOMERY §

TO THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF
MAGNOLIA, TEXAS:

The undersigned, Montgomery County Municipal Utility District No. 108 (the "District"), and Parkside Magnolia East, LLC, a Texas limited liability company (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 City Council of the City of Magnolia, Texas (the "City"), for its written consent to the annexation by the District of the 48.00 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 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 Montgomery Central Appraisal District and a deed tracing ownership. The Petitioner represents that there are no lienholders on the Land.

The Land is situated wholly within Montgomery County, Texas. All of the Land is within the corporate boundaries of the City. All of the Land may properly be annexed into the District.

III.

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, roads, parks and recreational facilities.

IV.

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 the City, is in close proximity to populous and developed sections of Montgomery 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, drainage system, roads, parks or recreational facilities, and it is not presently economically feasible for the Land to provide for such systems 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, drainage and storm sewer system, and roads, 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, and such roads, 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.

V.

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 \$50,000.

VI.

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 the City give its written consent to the annexation of the Land into the District.

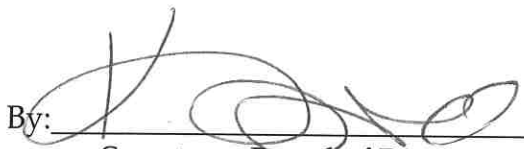
[EXECUTION PAGES FOLLOW]

RESPECTFULLY SUBMITTED on this 26th day of August, 2019.

MONTGOMERY COUNTY
MUNICIPAL UTILITY DISTRICT NO.
108

By: 
President, Board of Directors

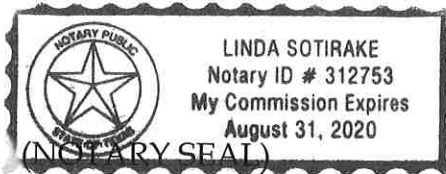
ATTEST:

By: 
Secretary, Board of Directors



THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on this 26th day of August, 2019 by Dustin O'Neal, as President, and Kelly Clark, as Secretary, of the Board of Directors of Montgomery County Municipal Utility District No. 108, a political subdivision of the State of Texas, on behalf of said political subdivision.




Notary Public, State of Texas

PARKSIDE MAGNOLIA EAST, LLC
a Texas limited liability company

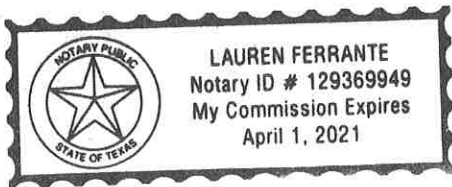
By: [Signature]
Name: Brett F. Walker
Title: Vice President

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on this 23 day of August, 2019
by Brett Walker, as VP, of PARKSIDE
MAGNOLIA EAST, LLC, a Texas limited liability company, on behalf of said company.

[Signature]
Notary Public, State of Texas

(NOTARY SEAL)



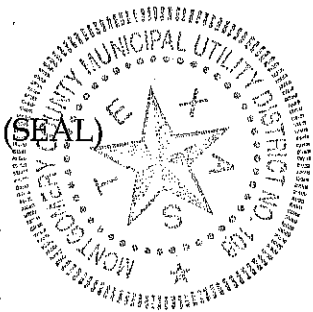
CERTIFICATE

THE STATE OF TEXAS §
 §
COUNTY OF MONTGOMERY §

I, the undersigned Secretary of the Board of Directors of Montgomery County Municipal Utility District No. 108, do hereby certify that the attached and foregoing is a true and correct copy of the Petition For Consent To Annex Land Into Montgomery County Municipal Utility District No. 108 that was filed with the Board of Directors of the District on this 26th day of August, 2019.

WITNESS MY HAND AND SEAL OF SAID DISTRICT on this 26th day of August, 2019.

**MONTGOMERY COUNTY MUNICIPAL
UTILITY DISTRICT NO. 108**



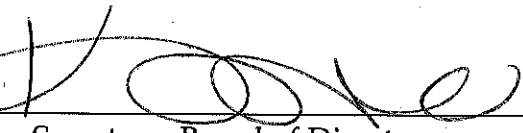
By: 
Secretary, Board of Directors

EXHIBIT A

METES AND BOUNDS DESCRIPTION OF 48.00 ACRES OF LAND IN THE HAMPTON TILLONS SURVEY, A-556 MONTGOMERY COUNTY, TEXAS

Being 48.00 acres of land in the Hampton Tillons Survey, Abstract 556, Montgomery County, Texas, and being a portion of the residue of the 100 acre tract described in the deed from Eddie E. Jones, et al., to E. J. Damuth recorded under Volume 326, Page 238 of the Official Public Records of Real Property of Montgomery County, Texas and more particularly described by metes and bounds as follows with bearings based on the Texas Coordinate System of 1983, Central Zone:

BEGINNING at a 5/8-inch iron rod with cap stamped "HOVIS" found for the southwest corner of the herein described tract, being the northwest corner of the 107.715 acre tract described in the deed from DIANNE ELIZABETH DOGGETT and MARTHA L. BURT to BBQ EQUITY PARTNERS, LLC recorded in Document No. 2017-015767 of the Official Public Records of Real Property of Montgomery County, Texas, and being in the east right-of-way line of Spur 149 (60-feet wide at this point) (as occupied – no recording information found);

THENCE North 02° 44' 01" West - 728.29 feet, with the east right-of-way line of said Spur 149 and the west line of the herein described tract to a 5/8-inch iron rod with TxDOT aluminum cap found for an angle point;

THENCE North 06° 00' 02" East - 92.60 feet, continuing with the east right-of-way line of said Spur 149 to a 5/8-inch iron rod with TxDOT aluminum cap found for an angle point;

THENCE North 02° 55' 15" West - 83.97 feet, to the south end of a cutback at the intersection of the east right-of-way line of said Spur 149 with the south right-of-way line of said F.M. 1488 (width varies);

THENCE North 42° 01' 29" East - 93.34 feet, to the north end of said cutback;

THENCE with the south right-of-way line of said F.M. 1488 and the north line of the herein described tract the following courses and distances:

North 86° 59' 16" East - 377.62 feet to the beginning of a curve to the left;

in a northeasterly direction, with said curve to the left, having a central angle of 02°18'21", a radius of 11,534.16 feet, an arc length of 464.18 feet and a chord bearing and distance of North 85°50'06" East - 464.15 feet to a 5/8-inch iron rod with TxDOT aluminum cap found for the end of said curve;

North 84° 40' 56" East - 781.68 feet to a 5/8-inch iron rod with TxDOT aluminum cap found for the beginning of a curve to the right;

in a northeasterly direction, with said curve to the right, having a radius of 11,384.16 feet, a central angle of $02^{\circ} 08' 13''$, a chord bearing and distance of North $85^{\circ} 45' 02''$ East - 424.58 feet, and an arc distance of 424.60 feet to a 5/8-inch iron rod with cap stamped "IDS" set for the northeast corner of the herein described tract;

THENCE South $00^{\circ} 31' 18''$ West - 1043.41 feet, across said residue tract, to a 5/8-inch iron rod with cap stamped "IDS" set for the southeast corner of the herein described tract and being on the north line of said 107.715 acre tract;

THENCE South $87^{\circ} 35' 32''$ West - 2067.22 feet, with the north line of said 107.715 acre tract, to the **POINT OF BEGINNING** and containing 48.00 acres of land.

Prepared by:
IDS Engineering Group
Job No. 2024-014-00-530
March 8, 2018



Michael L. Swan
Registered Professional Land Surveyor
Texas Registration Number 5551



Exhibit "B"

Consent Conditions

(a) To the extent authorized by law, the District will issue bonds only for the purpose of purchasing and constructing, or purchasing, or constructing, or otherwise acquiring water supply or distribution systems; wastewater collection, transportation, treatment or disposal systems; stormwater control or detention, drainage or flood protection systems; recreational facilities, parks and open space; fire protection or prevention facilities; emergency medical services or medical transport services facilities; law enforcement facilities; improvements related to economic development; roads or transportation; or other essential community, governmental or quasi-governmental improvements services facilities or functions which may be authorized to be provided by the District, or parts of such systems or facilities, and to make any and all necessary purchases, construction, improvements, extensions, additions, and repairs thereto, and to purchase or acquire all necessary land, right-of-way, easements, sites, equipment, buildings, plants, structures, and facilities therefor, and to operate and maintain same, and to sell water, sanitary sewer, and any other services related to the above within or without the boundaries of the District. Such bonds will expressly provide that the District reserves the right to redeem the bonds on any interest-payment date subsequent to the fifteenth (15) anniversary of the date of issuance or subsequent to any earlier date specified by the District, 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 borne by such bonds will not exceed two percent (2%) above the highest average interest 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. 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 systems to the payment of the District's bonds will terminate when and if the City of Magnolia, Texas annexes the District, takes over the assets of the District and assumes all of the obligations of the District. No land located within the extraterritorial jurisdiction of the City of Magnolia will be added or annexed to the District until the City of Magnolia has given its written consent by resolution or ordinance of the City Council to such addition or annexation which consent will include these conditions.

(b) (1) The construction of the District's facilities and systems will be in accordance with the Applicable Regulatory Requirements as specified in that certain Utility Agreement between the City of Magnolia, UMTI Land Development, L.P., and Reynolds Reserve, Ltd. on behalf of Proposed Montgomery County Municipal Utility District No. 108 dated January 12, 2016.

(2) Before the expenditure by the District of bond proceeds for the acquisition, construction or development of recreational facilities, the District shall obtain and maintain on file, from a registered landscape architect, registered professional engineer or a design professional allowed by law to engage in architecture, a certification that the recreational facilities, as constructed, conform to the Applicable Regulatory Requirements (as described above).

(c) The District, its board of directors, officers, developers, and/or landowners will not permit the construction, or commit to any development within, the District that will result in a wastewater flow to the serving treatment facility which exceeds that facility's legally permitted average daily flow limitations or the District's allocated capacity therein.

(d) Prior to the sale of any lot or subdivided parcel of land, the owner or the developer of the land included within the limits of the District will comply with the Applicable Regulatory Requirements which govern platting of land.
