

Jon Niermann, *Chairman*
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Kelly Keel, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

February 13, 2024

Laurie Gharis, Chief Clerk
Office of the Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13087, MC-105
Austin, Texas 78711-3087

Re: TCEQ Docket No. 2023-1588-DIS; Hays Commons Municipal Utility District;
Request filed regarding Internal Control No. D-06282023-060

Dear Ms. Gharis:

Transmitted herewith for filing with the Texas Commission on Environmental Quality (Commission or TCEQ) are the following items to be filed as backup materials for the March 6, 2024, agenda on hearing requests for the creation of Hays Commons Municipal Utility District:

1. Technical memo prepared by staff;
2. Temporary Directors' Affidavits; and
3. Notice of District Petition.

Please do not hesitate to contact me if you have any questions regarding these materials. Thank you for your attention to this matter.

Respectfully submitted,

A handwritten signature in black ink that reads "Kayla Murray".

Kayla Murray, Staff Attorney
Environmental Law Division

Enclosures

Attachment 1

Texas Commission on Environmental Quality

TECHNICAL MEMORANDUM

To: Justin P. Taack, Manager
Districts Section


10/30/2023

Date: October 30, 2023

Thru: Michael Briscoe, Team Lead
Districts Section

From: James Walker
Districts Creation Review Team

Subject: Petition by Hays Commons Land Investments, LP for Creation of Hays Commons Municipal Utility District; Pursuant to Texas Water Code Chapters 49 and 54. TCEQ Internal Control No. D-06282023-060 (TC) CN: 606156107 RN: 111765376

A. GENERAL INFORMATION

The Texas Commission on Environmental Quality (TCEQ) received a petition within the application requesting approval for the creation of Hays Commons Municipal Utility District (District). The petition was signed by Terry LaGrone as the Chief Financial Officer of Hays Commons GP, LLC, a Texas limited liability company, a general partner of Hays Commons Land Investments, LP, a Texas limited partnership (Petitioner). The petition states that the Petitioner holds title to a majority in value of the land in the proposed District and information provided indicates that there is one lienholder, Horizon Bank, SSB, on the land in the proposed District and the aforementioned entity has consented to the petition.

The District is proposed to be created and organized according to the terms and provisions of Article XVI, Section 59 of the Texas Constitution, and Chapters 49 and 54 of the Texas Water Code (TWC).

Location and Access

The proposed District is located in Hays County, Texas, west of the intersection of State Highway 45 and FM 1626 and immediately north of the City of Hays. The proposed District is within the extraterritorial jurisdiction of the City of Hays (City). Access to the proposed District will be provided by FM 1626.

Metes and Bounds Description

The proposed District contains 290.388 acres of land. The metes and bounds description of the proposed District has been reviewed and checked by TCEQ's staff and has been found to form an acceptable closure.

City Consent

In accordance with Local Government Code Section 42.042 and TWC Section 54.016, a petition was submitted to the City, requesting the City's consent to the creation of the District. After more than 90 days passed without receiving consent, the Petitioner submitted a petition to the

City to provide water or sewer services to the District. The 120-day period for reaching a mutually agreeable contract as established by TWC Section 54.016(c) expired and the information provided indicates that the Petitioner and the City have not executed a mutually agreeable contract for service. Pursuant to TWC Section 54.016(d), failure to execute such an agreement constitutes authorization for the Petitioner to initiate proceedings for creation of the District and inclusion of the land within the district.

County Notification

In accordance with TWC Section 54.0161, a certified letter, dated June 30, 2023, was sent to the Commissioners Court of Hays County which provided notice of the proposed District's pending creation application and provided them an opportunity to make their recommendations. To date, the county has not responded to this notification.

Statements of Filing Petition

Evidence of filing a copy of the petition with the City Secretary's office, the Hays County Clerks' office, the TCEQ's Austin regional office, the Texas state representative, and the Texas state senator was included in the application.

Type of Project

The proposed District will be considered a "developer project" as defined by 30 Texas Administrative Code (30 TAC) Section 293.44(a). Therefore, developer cost participation in accordance with 30 TAC Section 293.47 will be required.

Developer Qualifications

Application material indicates that the property will be developed by MileStone Community Builders (MileStone). MileStone is Austin's largest privately held homebuilding company. MileStone's development experience consists of over 50 projects in the Austin Metro Statistical Area completed or in progress.

Certificate of Ownership

By certificate dated April 28, 2023, the Hays Central Appraisal District has certified that the appraisal roll indicates that the Petitioner is the owner of all the property in the proposed District. It is noted that subsequent to the appraisal district certificate, the developer deeded a lot to each of the directors in order to meet director qualifications, which does not affect the Petitioner's majority value.

Temporary Director Affidavits

The TCEQ has received affidavits for consideration of the appointment of the following five temporary directors:

Ryan Cunningham	Philip Roush	Devon Vo
Benjamin Cude	Tyler Jay Brown, Jr.	

Each of the above persons named is qualified, as required by 30 TAC Section 293.32(a), to serve as a temporary director of the proposed District as each (1) is at least 18 years old, (2) is a resident of the State of Texas, and (3) either owns land subject to taxation within the proposed District or is a qualified voter within the proposed District. Additionally, as required by TWC

Section 54.022, the majority are residents of the county in which the proposed District is located, a county adjacent to the county in which the proposed District is located, or if the proposed District is located in a county that is in a metropolitan statistical area designated by the United States Office of Management and Budget or its successor agency, a county in the same metropolitan statistical area as the county in which the proposed District is located.

Notice Requirements

Proper notice of the application was published on August 17 and August 24, 2023, in the *San Marcos Daily Record*, a newspaper regularly published or circulated in Hays County, the county in which the district is proposed to be located. Proper notice of the application was posted on August 29, 2023, in the Hays County Courthouse, the place where legal notices in Hays County are posted. Accordingly, the notice requirements of 30 TAC Section 293.12(b) have been satisfied. The opportunity for the public to request a contested case hearing (comment period) expired September 25, 2023.

B. ENGINEERING ANALYSIS

The creation engineering report indicates the following:

Availability of Comparable Service

The proposed District is within the water Certificate of Convenience and Necessity (CCN) of the City. The City does not have existing capacity to serve the proposed demands of the District. The developer has requested water service from the City with no response. The Glen Rose and Hosston formations of the Trinity Aquifer are the primary option for alternative potable water supply and the property owner has drilled three separate test wells to verify that the available Trinity wells are a viable option for potable water for this location. The Edwards Aquifer has limited available capacity and conversations with the groundwater district indicate it is unlikely permits to produce the amount of water needed could be granted for Edwards wells. The City does not have an existing collective wastewater system. The proposed District will construct, maintain, and operate its own water production and distribution system and wastewater collection system to serve the District. Water service cannot be provided by the District within the area contained within the City's CCN unless that area of the proposed District is released from the City's CCN.

Water Supply and Distribution Improvements

All water supply and distribution system improvements to serve the proposed District will be designed in accordance with criteria established by the TCEQ. Per the engineering report, it is estimated that the District will contain 406 equivalent single-family connections (ESFCs) at ultimate development. Further, the engineering report indicates that the main line within the proposed District is sized at 16-inches in diameter. A 16" line is proposed to connect the main water facility to the loop roads in order to facilitate phasing and avoid needing to loop the waterline before the development is complete. The loop eventually will be closed with the final phase of development. The remaining lines will be sized at 8" and 12" depending on the number of lots served. The proposed District will serve retail water to its customers. When fully developed, the total peak daily demand is expected to be 250 gallons per minute (gpm) with a peak hour demand of 600 gpm. It is anticipated that the proposed District may need to construct additional elevated storage in order to provide fire protection.

Wastewater Treatment and Collection Improvements

It is estimated that the District will contain 406 ESFCs at ultimate development, requiring 99,470 gallons per day of wastewater treatment capacity, using 245 gallons per day per connection. Wastewater collection will be provided through the use of a gravity system which connects to a proposed wastewater treatment facility for ultimate disposal through land application. A wastewater collection and treatment system, lift stations, and force main will be designed and constructed to serve the proposed District. The collection system will be designed to meet TCEQ design criteria.

Storm Water Drainage System and Drainage Improvements

Stormwater runoff within the proposed District will be routed primarily through sheet flow across lots, then to curb inlets along the streets, then through storm sewers to water quality ponds. Once the required volume is captured, additional runoff will then be conveyed to detention facilities or existing natural drainage channels depending on the watershed and the location of the proposed detention facilities. Flows at the point of analysis will be maintained at pre-development levels for the 2-, 10-, 25-, and 100-year storm events. All drainage improvements will be designed in accordance with criteria established by Hays County. The detention pond proposed for each of the outflow locations was sized based on a basis of no net increase in flow resulting from a 24 hour storm for the 2-, 10-, 25-, and 100-year storms. A detention facility is proposed for each applicable sub watershed outflow, and each facility will handle all proposed development designed to drain it. These facilities will be constructed with the appropriate phase of development and are located at a low point to ensure the minimum amount of grading work necessary to fulfill design criteria.

Road Improvements

All streets and associated improvements will be designed in accordance with applicable criteria established by Hays County and the Texas Department of Transportation (TXDOT). The roadway system will consist of public streets conveyed to Hays County including local streets for access to lots and collector roads to connect to existing offsite roads.

Topography/Land Elevation

The topography of the proposed District is pastureland on the east/northeast side of Little Bear Creek and forested land to the south and west of the creek. The approximate elevation ranges from 750 feet above mean sea level (msl) to 690 feet above msl. No significant cut or fill is planned within the proposed District. Water surface elevations in streams within the proposed District and in the streams leaving the District will remain unchanged.

Floodplain

According to Federal Emergency Management Agency Flood Insurance Rate Map No. 48209C0165F, a portion of the proposed District lies within the 100-year floodplain.

Subsidence

There is no indication of subsidence in the area in which the District is located. It is anticipated that that the proposed District will have no adverse effect on land subsidence within the area.

Dam Safety Analysis

The TCEQ Dam Safety Program personnel reviewed the location of the District and confirmed by letter dated August 31, 2022, that there are no dam safety issues associated with the proposed District.

Groundwater Levels/Recharge

The proposed District will use groundwater for its potable water needs. An application for groundwater production permits is planned to be filed with the groundwater conservation district, which will limit the impact to groundwater as a result of the proposed District's development. The District lies partly within the Edwards Aquifer Recharge Zone. Structural stormwater quality best management practices are proposed for use in mitigating the impact of development. No impact to recharge is anticipated based on the location of the proposed District.

Natural Run-off and Drainage

Existing drainage patterns flow east to the Little Bear Creek watershed before eventually reaching Onion Creek. Detention facilities are proposed for each watershed to return peak flows for the 2-, 10-, 25-, and 100-year storm events to pre-development levels. No downstream property owners will be adversely affected by the proposed improvements contained within the proposed District.

Water Quality

The proposed District is located in an area of Hays County and the extraterritorial jurisdiction of the City which will include creek buffer setbacks for larger waterways. Furthermore, the construction will be subject to inspection by a qualified inspector verifying compliance with properly prepared Stormwater Pollution Prevention Plans (SWPPP). Water quality pond to treat stormwater runoff are proposed. Due to these measures no adverse impact is expected to downstream water quality.

C. SUMMARY OF COSTS

WATER, WASTEWATER, AND DRAINAGE

<u>Construction Costs</u>	<u>District Share</u> ⁽¹⁾
A. Developer Contribution Items	
1. Water Distribution System	\$ 1,446,900
2. Wastewater Collection System	1,642,200
3. Stormwater Drainage System	2,539,600
4. E/S Controls	278,600
5. Contingencies	886,095
6. Geotechnical, Survey, Design/CPS, Project Representative and Lab Fees	<u>1,019,009</u>
Total Developer Contribution Items	\$ 7,812,404

B. District Items

October 30, 2023

1. Wastewater System	\$	5,750,000
2. Water Facilities		1,875,000
3. Regional Detention		500,000
4. Land Acquisition Costs (Detention and Wastewater)		250,000
5. Geotechnical, Survey, Design/CPS, Project Representative and Lab Fees		<u>1,256,250</u>
Total District Items	\$	9,631,250
 TOTAL CONSTRUCTION COSTS (71.20% of BIR)	\$	17,443,654

Non-Construction Costs

A. Legal Fees	\$	612,500
B. Fiscal Agent Fees		490,000
C. Interest Costs		
1. Capitalized Interest (2 years @ 5%)		2,450,000
2. Developer Interest (2 years @ 5% of Construction Costs)		1,744,365 ⁽²⁾
D. Bond Discount (3%)		735,000
E. Bond Issuance Expenses		238,731
F. Developer Reimbursement Audit		75,000
G. District Creation Expenses		150,000
H. Bond Application Report Costs		250,000
I. Market Study		25,000
J. Developer Advances		200,000
K. Attorney General Fee (0.1%)		24,500
L. TCEQ Bond Issuance Fee (0.25%)		<u>61,250</u>
TOTAL NON-CONSTRUCTION COSTS	\$	7,056,346
 TOTAL W, WW, & D BOND ISSUE REQUIREMENT	\$	24,500,000

Notes: (1) Assumes 70% funding of anticipated developer contribution items, where applicable.

(2) Based on developer advancing funds approximately two years prior to reimbursement.

Eligibility of costs for District funding and 30% developer contribution requirements will be determined in accordance with TCEQ rules in effect at the time bond applications are reviewed.

ROAD IMPROVEMENTS

<u>Construction Costs</u>		<u>District Share</u> ⁽¹⁾
1. Paving	\$	3,050,000
2. Contingencies		305,000
3. Geotechnical, Survey, Design/CPS, Project Representative and Lab Fees		<u>603,900</u>
TOTAL CONSTRUCTION COSTS (71.98% of BIR)	\$	3,958,900

Non-Construction Costs

A. Legal Fees	\$ 137,500
B. Fiscal Agent Fees	110,000
C. Interest Costs	
1. Capitalized Interest (2 years @ 5%)	550,000
2. Developer Interest (2 years @ 5% of Construction Costs)	395,890 ⁽²⁾
D. Bond Discount (3%)	165,000
E. Bond Issuance Expenses	82,210
F. Developer Reimbursement Audit	45,000
G. Bond Issue Requirement Costs	50,000
H. Attorney General Fee (0.1%)	<u>5,500</u>
TOTAL NON-CONSTRUCTION COSTS	\$ 1,541,100
TOTAL ROAD BOND ISSUE REQUIREMENT	\$ 5,500,000

Notes: (1) Assumes 100% funding of anticipated developer contribution items, where applicable.
(2) Based on developer advancing funds approximately two years prior to reimbursement.

A preliminary layout of roads proposed for funding has been provided, and they appear to benefit the proposed District and the land included within the proposed District. TCEQ’s review of eligibility of costs may be determined in accordance with TCEQ rules in effect at the time bond applications are reviewed.

D. ECONOMIC ANALYSIS

Land Use

The land use for the proposed District is intended to accommodate single-family residential and commercial development. Planned ultimate development in the proposed District, as shown in the land use plan provided in the engineering report, is as follows:

<u>Land Use</u>	<u>Acreage</u>	<u>ESFCs</u>
Single Family/Residential	111.09	278
Amenity Center	1.90	1
Parks/Open Space	139.67	0
Commercial	13.84	127
Utilities/Right-of-way	<u>23.89</u>	<u>0</u>
Total	290.39	406

Market Study

A market study, prepared in May 2023 by 360° Real Estate Analytics, was submitted in support of the creation of the proposed District. The proposed District is expected to include approximately 278 equivalent single-family connections on a tract totaling approximately 290.388 acres. The home values are expected to be approximately \$550,000 for 50-foot lots and \$1,750,000 for 1-acre lots. The study indicates single-family homes for that price range within the study’s market area are expected to be absorbed at a rate of approximately 48 homes/year over the first six years.

Project Financing

Per the engineering report, the projected taxable assessed valuation (AV) for the proposed District is as follows:

<u>Development Description</u>	<u>Lots</u>	<u>Developed Unit Value (per home per lot)</u>	<u>Total Buildout Value</u>
50-foot single-family lots	258	\$ 550,000	\$ 141,900,000
1-acre single-family lots	20	\$ 1,750,000	\$ 35,000,000
13.84 commercial acres @ \$1,572,385/acre			\$ <u>21,761,808</u>
Total Assessed Valuation			\$ 198,661,808

Considering the issuance of a total of \$30,000,000 (\$24,500,000 for utilities and \$5,500,000 for roads) in bonds, assuming 100% financing for road facilities and 70% financing for water, wastewater, and drainage facilities, a coupon bond interest rate of 5%, and a 25-year bond life, the average annual debt service requirement would be \$2,128,574 (\$1,738,335 for utilities plus \$390,239 for roads). Assuming a 95% collection rate and an ultimate AV of \$198,661,808, a projected ultimate tax rate of approximately \$1.13 (\$0.93 for utilities and \$0.20 for roads) per \$100 AV was indicated to be necessary to meet the annual debt service requirements for the proposed District. An additional \$0.07 per \$100 AV is projected to be levied for maintenance and operating expenses, for a combined proposed District tax rate of \$1.20.

Based on the information provided and assuming 70% financing for water, wastewater, and drainage and 100% financing for roads, the total year 2022 overlapping tax rates on land within the proposed District are shown as follows:

<u>Taxing Jurisdiction</u>	<u>Tax Rates (Hays County)</u> ⁽¹⁾
Hays Commons MUD (District)	\$ 1.2000 ⁽²⁾⁽³⁾
Hays County	\$ 0.2950
Hays Consolidated Independent School District	\$ 1.3423
Northeast Hays County Emergency Services	\$ 0.0300
Hays County Roadway District	\$ 0.0175
Hays County Fire District No. 8	\$ <u>0.0876</u>
TOTAL TAX per \$100 AV:	\$ 2.9724

- Notes: (1) Tax rate per \$100 assessed valuation.
(2) Represents \$0.93 for utilities, \$0.20 for roads, and \$0.07 for operation and maintenance tax.
(3) Assuming 100% funding of anticipated developer contribution items, where applicable.

Based on the proposed District tax rate and the year 2022 overlapping tax rate on land within the proposed District, and assuming 70% financing for water, wastewater, and drainage and 100% financing for roads, the project is considered economically feasible.

Water and Wastewater Rates

According to information provided, the proposed District will provide retail water and wastewater services to the proposed District's customers. The estimated monthly fee for 10,000 gallons of water and wastewater would be \$220.00.

Comparative Water District Tax Rates

A tax rate of \$1.20 (\$0.93 for utilities, \$0.20 for roads, and \$0.07 for operation and maintenance tax) for the proposed District is comparable to other districts in the target market area. Based on the requirements of 30 TAC Section 293.59, this project is considered economically feasible.

E. SPECIAL CONSIDERATION

Request for Road Powers

A request for approval of road powers was included in the petition for creation of the proposed District. Pursuant to TWC Section 54.234, approval of road powers may be requested at the time of creation. The engineering report provided with the application included a summary of the estimated costs. The proposed roads appear to benefit the proposed District, and financing appears feasible.

F. CONCLUSIONS

1. Based on TCEQ policy, compliance with TCEQ rules, and review of the engineering report and supporting documents, the proposed District is considered feasible, practicable, a benefit to the land within the proposed District, and necessary as a means to finance utilities and to provide utility service to future customers.
2. Based on a review of the preliminary engineering report; market study; the proposed District's water, wastewater, drainage facilities, and road facilities; a combined projected tax rate of \$1.20 per \$100 AV when assuming 70% financing for water, wastewater, and drainage and 100% financing for roads; the proposed District obtaining a 5% bond coupon interest rate; and other supporting data, the proposed District is considered feasible under the feasibility limits prescribed by 30 TAC Section 293.59.
3. The recommendations are made under authority delegated by the Executive Director of the TCEQ.

G. RECOMMENDATIONS

1. Grant the petition for creation of Hays Commons Municipal Utility District.
2. Grant the District's request to acquire road powers in accordance with TWC Section 54.234 and 30 TAC Sections 293.11(d)(11), 293.201, and 293.202 subject to the requirement imposed by the TCEQ and the general laws of the state relating to the exercise of such powers.
3. The Order granting the petition should include the following statements:

“This Order shall in no event be construed as an approval of any proposed agreements or of any particular items in any documents provided in support of the petition for creation, nor as a commitment or requirement of the TCEQ in the future to approve or disapprove any particular items or agreements in future applications submitted by the District for TCEQ consideration.”

4. Appoint the following five persons to serve as temporary directors until permanent directors are elected and qualified:

Ryan Cunningham	Philip Roush	Devon Vo
Benjamin Cude	Tyler Jay Brown, Jr.	

H. ADDITIONAL INFORMATION

The Petitioner’s professional representatives are:

Attorney: Mr. Tony Corbett – McLean & Howard, LLP
Creation Engineer: Mr. Daniel Ryan, P.E. – LJA Engineering

Attachment 2

REQUEST FOR CONSIDERATION OF APPOINTMENT AS DIRECTOR

THE STATE OF TEXAS §

COUNTY OF Hays §

BEFORE ME, the undersigned duly constituted authority of the State of Texas, on this day personally appeared Tyler Jay Brown, who expressed a desire to become a Director of Hays Commons Municipal Utility District (hereinafter the "District"), to serve until his or her successor is elected or appointed, and who on oath did state:

1. I am at least eighteen years of age, a resident citizen of the State of Texas, and own land subject to taxation within the District.
2. I am a resident of Hays County, State of Texas, being the County in which the District is located.

[OR]

- I am a resident of Hays County, State of Texas, being a County adjacent to the County in which the District is located.
- I am resident of _____ County, State of Texas, being a County located in the same metropolitan statistical area (designated by the United States Office of Management and Budget) as the County in which the District is located.
3. I am not now and have no present plans to be a developer of property in the District (defined as a person who owns land located within the District who has divided or proposes to divide the land into two or more parts for the purpose of laying out any subdivision or any tract of land or any addition to any town or city, or for laying out suburban lots or building lots, or any lots, streets, etc. for public use or use by other landowners within the District).
4. I am not related within the third degree of affinity (marriage) or consanguinity (blood) to a Developer of property within the District, to any of the other Directors of the District, or to the Attorney, Engineer, or Manager of the District.
5. I am not an employee of any Developer of property within the District or any other Director, the Attorney, or Engineer of the District. Nor was I, within the two years immediately preceding this proposed appointment, an employee of any Developer of property within the District or of any Director, Attorney, or Engineer of the District.
6. I am presently employed as a Vice President, Senior Commercial Lender, by Del Norte Bank.

[OR]

I am not employed at this time.

7. I am not a State employee nor do I receive all or part of my compensation directly or indirectly from funds of the State of Texas; or, in the alternative, I will not accept fees of office for serving on the Board of Directors of the District.
8. Neither my employer nor I have any business or other connection with the Developer of the District, the Attorney representing the District, or the Consulting Engineer for the District in regard to the District and the development therein.
9. I presently own taxable land within the District. I agree to notify the Board of Directors of the District should I become disqualified to serve on the Board by virtue of the above condition ceasing to exist. I have no plans for my land within the District other than holding said land to allow myself to serve as a Director of the District.
10. I am generally familiar with the responsibilities of a Director of a municipal utility district. I realize that as a Director I will be a public official charged with the responsibility of serving the best interests of the present and future property owners, taxpayers, and residents of the District.
11. I am aware that the Board of Directors of a District is a governmental body that by law notice of its meetings must be posted, its meetings must be open to the public, and its records available for inspection by the public at all reasonable times.
12. I am aware that the District will be subject to the continuing supervision of the Texas Commission on Environmental Quality (the "Commission"). I will cooperate fully with the Commission in its exercising of supervisory powers.
13. I hereby affirm that, if appointed, I will faithfully execute the duties of the office of Director of the District and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States, and of the State of Texas; and I hereby affirm that I have not directly nor indirectly paid, offered or promised to pay, contributed or promised to contribute any money or valuable thing, or promised any public office or employment as a reward to secure this appointment.

14. Tyler Jay Brown JR JAB
(Full Name)

199 Crooked Creek
(Home Address)

Buda 78610 (719) 849-0085
(City) (Zip Code) (Telephone)

tj@truelocalbank.com
(Email Contact)

TJB

(Signature of Affiant)

ACKNOWLEDGEMENT

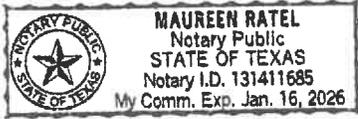
STATE OF TEXAS §

COUNTY OF Hays §

Before me, the undersigned authority, on this day personally appeared Tyler Jay Brown, who desires to be appointed as director of Hays Commons Municipal Utility District to serve until his/her successor is elected or appointed, and who being by me first duly sworn on his/her oath deposed and said that every response and statement set forth herein is true and correct.

*mk
JR*

Sworn to and subscribed before me this 9 day of June, 2023.



Maureen Ratel

Notary Public in and for the State of Texas

(SEAL)

REQUEST FOR CONSIDERATION OF APPOINTMENT AS DIRECTOR

THE STATE OF TEXAS §

COUNTY OF Travis §

BEFORE ME, the undersigned duly constituted authority of the State of Texas, on this day personally appeared Benjamin Cude, who expressed a desire to become a Director of Hays Commons Municipal Utility District (hereinafter the "District"), to serve until his or her successor is elected or appointed, and who on oath did state:

1. I am at least eighteen years of age, a resident citizen of the State of Texas, and own land subject to taxation within the District.
2. I am a resident of _____ County, State of Texas, being the County in which the District is located.

[OR]

- I am a resident of Travis County, State of Texas, being a County adjacent to the County in which the District is located.
- I am resident of _____ County, State of Texas, being a County located in the same metropolitan statistical area (designated by the United States Office of Management and Budget) as the County in which the District is located.
3. I am not now and have no present plans to be a developer of property in the District (defined as a person who owns land located within the District who has divided or proposes to divide the land into two or more parts for the purpose of laying out any subdivision or any tract of land or any addition to any town or city, or for laying out suburban lots or building lots, or any lots, streets, etc. for public use or use by other landowners within the District).
4. I am not related within the third degree of affinity (marriage) or consanguinity (blood) to a Developer of property within the District, to any of the other Directors of the District, or to the Attorney, Engineer, or Manager of the District.
5. I am not an employee of any Developer of property within the District or any other Director, the Attorney, or Engineer of the District. Nor was I, within the two years immediately preceding this proposed appointment, an employee of any Developer of property within the District or of any Director, Attorney, or Engineer of the District.
6. I am presently employed as engineer in training for BGE, Inc.

[OR]

I am not employed at this time.

7. I am not a State employee nor do I receive all or part of my compensation directly or indirectly from funds of the State of Texas; or, in the alternative, I will not accept fees of office for serving on the Board of Directors of the District.
8. Neither my employer nor I have any business or other connection with the Developer of the District, the Attorney representing the District, or the Consulting Engineer for the District in regard to the District and the development therein.
9. I presently own taxable land within the District. I agree to notify the Board of Directors of the District should I become disqualified to serve on the Board by virtue of the above condition ceasing to exist. I have no plans for my land within the District other than holding said land to allow myself to serve as a Director of the District.
10. I am generally familiar with the responsibilities of a Director of a municipal utility district. I realize that as a Director I will be a public official charged with the responsibility of serving the best interests of the present and future property owners, taxpayers, and residents of the District.
11. I am aware that the Board of Directors of a District is a governmental body that by law notice of its meetings must be posted, its meetings must be open to the public, and its records available for inspection by the public at all reasonable times.
12. I am aware that the District will be subject to the continuing supervision of the Texas Commission on Environmental Quality (the "*Commission*"). I will cooperate fully with the Commission in its exercising of supervisory powers.
13. I hereby affirm that, if appointed, I will faithfully execute the duties of the office of Director of the District and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States, and of the State of Texas; and I hereby affirm that I have not directly nor indirectly paid, offered or promised to pay, contributed or promised to contribute any money or valuable thing, or promised any public office or employment as a reward to secure this appointment.

14. Benjamin Cude
(Full Name)
310 Bellagio
(Home Address)
Austin 78734 (210) 867-0367
(City) (Zip Code) (Telephone)
bcude@bgeinc.com
(Email Contact)

Benjamin J Cude
(Signature of Affiant)

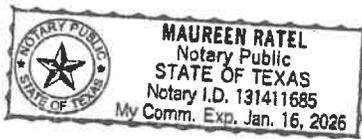
ACKNOWLEDGEMENT

STATE OF TEXAS §

COUNTY OF TRAVIS §

Before me, the undersigned authority, on this day personally appeared, Benjamin Cude, who desires to be appointed as director of Hays Commons Municipal Utility District to serve until his/her successor is elected or appointed, and who being by me first duly sworn on his/her oath deposed and said that every response and statement set forth herein is true and correct.

Sworn to and subscribed before me this 12 day of June, 2023.



Maureen Rattel
Notary Public in and for
the State of Texas

(SEAL)

REQUEST FOR CONSIDERATION OF APPOINTMENT AS DIRECTOR

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

BEFORE ME, the undersigned duly constituted authority of the State of Texas, on this day personally appeared Ryan Cunningham, who expressed a desire to become a Director of Hays Commons Municipal Utility District (hereinafter the "District"), to serve until his or her successor is elected or appointed, and who on oath did state:

1. I am at least eighteen years of age, a resident citizen of the State of Texas, and own land subject to taxation within the District.
2. I am a resident of _____ County, State of Texas, being the County in which the District is located.

[OR]

- I am a resident of Travis County, State of Texas, being a County adjacent to the County in which the District is located.
- I am resident of _____ County, State of Texas, being a County located in the same metropolitan statistical area (designated by the United States Office of Management and Budget) as the County in which the District is located.
3. I am not now and have no present plans to be a developer of property in the District (defined as a person who owns land located within the District who has divided or proposes to divide the land into two or more parts for the purpose of laying out any subdivision or any tract of land or any addition to any town or city, or for laying out suburban lots or building lots, or any lots, streets, etc. for public use or use by other landowners within the District).
4. I am not related within the third degree of affinity (marriage) or consanguinity (blood) to a Developer of property within the District, to any of the other Directors of the District, or to the Attorney, Engineer, or Manager of the District.
5. I am not an employee of any Developer of property within the District or any other Director, the Attorney, or Engineer of the District. Nor was I, within the two years immediately preceding this proposed appointment, an employee of any Developer of property within the District or of any Director, Attorney, or Engineer of the District.
6. I am presently employed as a Civil Engineer by Kimley-Horn and Associates.

[OR]

I am not employed at this time.

7. I am not a State employee nor do I receive all or part of my compensation directly or indirectly from funds of the State of Texas; or, in the alternative, I will not accept fees of office for serving on the Board of Directors of the District.
8. Neither my employer nor I have any business or other connection with the Developer of the District, the Attorney representing the District, or the Consulting Engineer for the District in regard to the District and the development therein.
9. I presently own taxable land within the District. I agree to notify the Board of Directors of the District should I become disqualified to serve on the Board by virtue of the above condition ceasing to exist. I have no plans for my land within the District other than holding said land to allow myself to serve as a Director of the District.
10. I am generally familiar with the responsibilities of a Director of a municipal utility district. I realize that as a Director I will be a public official charged with the responsibility of serving the best interests of the present and future property owners, taxpayers, and residents of the District.
11. I am aware that the Board of Directors of a District is a governmental body that by law notice of its meetings must be posted, its meetings must be open to the public, and its records available for inspection by the public at all reasonable times.
12. I am aware that the District will be subject to the continuing supervision of the Texas Commission on Environmental Quality (the "Commission"). I will cooperate fully with the Commission in its exercising of supervisory powers.
13. I hereby affirm that, if appointed, I will faithfully execute the duties of the office of Director of the District and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States, and of the State of Texas; and I hereby affirm that I have not directly nor indirectly paid, offered or promised to pay, contributed or promised to contribute any money or valuable thing, or promised any public office or employment as a reward to secure this appointment.

14. Ryan Cunningham
(Full Name)
- 809 S. Lamar Blvd., Ste. 564
(Home Address)
- | | | |
|---------------|--------------|-----------------------|
| <u>Austin</u> | <u>78704</u> | <u>(703) 888-8713</u> |
| (City) | (Zip Code) | (Telephone) |
- Ryan.Cunningham@kimley-horn.com
(Email Contact)

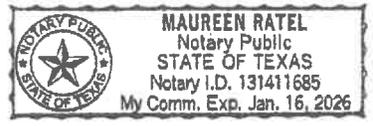
RM Cunningham
(Signature of Affiant)

ACKNOWLEDGEMENT

STATE OF TEXAS §
COUNTY OF TRAVIS §

Before me, the undersigned authority, on this day personally appeared Ryan Cunningham, who desires to be appointed as director of Hays Commons Municipal Utility District to serve until his/her successor is elected or appointed, and who being by me first duly sworn on his/her oath deposed and said that every response and statement set forth herein is true and correct.

Sworn to and subscribed before me this 9 day of June, 2023.



Maureen Ratel
Notary Public in and for
the State of Texas

(SEAL)

REQUEST FOR CONSIDERATION OF APPOINTMENT AS DIRECTOR

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

BEFORE ME, the undersigned duly constituted authority of the State of Texas, on this day personally appeared Philip Roush, who expressed a desire to become a Director of Hays Common Municipal Utility District (hereinafter the "District"), to serve until his or her successor is elected or appointed, and who on oath did state:

- 1. I am at least eighteen years of age, a resident citizen of the State of Texas, and own land subject to taxation within the District.
- 2. I am a resident of Travis County, State of Texas, being the County in which the District is located.

[OR]

- I am a resident of _____ County, State of Texas, being a County adjacent to the County in which the District is located.
- I am resident of _____ County, State of Texas, being a County located in the same metropolitan statistical area (designated by the United States Office of Management and Budget) as the County in which the District is located.
- 3. I am not now and have no present plans to be a developer of property in the District (defined as a person who owns land located within the District who has divided or proposes to divide the land into two or more parts for the purpose of laying out any subdivision or any tract of land or any addition to any town or city, or for laying out suburban lots or building lots, or any lots, streets, etc. for public use or use by other landowners within the District).
- 4. I am not related within the third degree of affinity (marriage) or consanguinity (blood) to a Developer of property within the District, to any of the other Directors of the District, or to the Attorney, Engineer, or Manager of the District.
- 5. I am not an employee of any Developer of property within the District or any other Director, the Attorney, or Engineer of the District. Nor was I, within the two years immediately preceding this proposed appointment, an employee of any Developer of property within the District or of any Director, Attorney, or Engineer of the District.

6. I am presently employed as a Property Inspector

[OR]

I am not employed at this time.

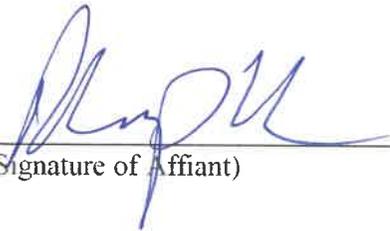
7. I am not a State employee nor do I receive all or part of my compensation directly or indirectly from funds of the State of Texas; or, in the alternative, I will not accept fees of office for serving on the Board of Directors of the District.
8. Neither my employer nor I have any business or other connection with the Developer of the District, the Attorney representing the District, or the Consulting Engineer for the District in regard to the District and the development therein.
9. I presently own taxable land within the District. I agree to notify the Board of Directors of the District should I become disqualified to serve on the Board by virtue of the above condition ceasing to exist. I have no plans for my land within the District other than holding said land to allow myself to serve as a Director of the District.
10. I am generally familiar with the responsibilities of a Director of a municipal utility district. I realize that as a Director I will be a public official charged with the responsibility of serving the best interests of the present and future property owners, taxpayers, and residents of the District.
11. I am aware that the Board of Directors of a District is a governmental body that by law notice of its meetings must be posted, its meetings must be open to the public, and its records available for inspection by the public at all reasonable times.
12. I am aware that the District will be subject to the continuing supervision of the Texas Commission on Environmental Quality (the "*Commission*"). I will cooperate fully with the Commission in its exercising of supervisory powers.
13. I hereby affirm that, if appointed, I will faithfully execute the duties of the office of Director of the District and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States, and of the State of Texas; and I hereby affirm that I have not directly nor indirectly paid, offered or promised to pay, contributed or promised to contribute any money or valuable thing, or promised any public office or employment as a reward to secure this appointment.

14. Philip Roush
(Full Name)

91 Red River st. Apt 204
(Home Address)

Austin 78701 512-963-2830
(City) (Zip Code) (Telephone)

phil@z3realestate.us
(Email Contact)


(Signature of Affiant)

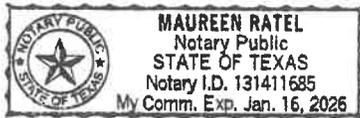
ACKNOWLEDGEMENT

STATE OF TEXAS §

COUNTY OF TRAVIS §

Before me, the undersigned authority, on this day personally appeared, Philip Roush, who desires to be appointed as director of Hays Common Municipal Utility District to serve until his/her successor is elected or appointed, and who being by me first duly sworn on his/her oath deposed and said that every response and statement set forth herein is true and correct.

Sworn to and subscribed before me this 12 day of June, 2023.




Notary Public in and for
the State of Texas

(SEAL)

REQUEST FOR CONSIDERATION OF APPOINTMENT AS DIRECTOR

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

BEFORE ME, the undersigned duly constituted authority of the State of Texas, on this day personally appeared Devon Vo, who expressed a desire to become a Director of Hays Commons Municipal Utility District (hereinafter the "*District*"), to serve until his or her successor is elected or appointed, and who on oath did state:

1. I am at least eighteen years of age, a resident citizen of the State of Texas, and own land subject to taxation within the District.
2. I am a resident of _____ County, State of Texas, being the County in which the District is located.

[OR]

- I am a resident of Travis County, State of Texas, being a County adjacent to the County in which the District is located.
 - I am resident of _____ County, State of Texas, being a County located in the same metropolitan statistical area (designated by the United States Office of Management and Budget) as the County in which the District is located.
3. I am not now and have no present plans to be a developer of property in the District (defined as a person who owns land located within the District who has divided or proposes to divide the land into two or more parts for the purpose of laying out any subdivision or any tract of land or any addition to any town or city, or for laying out suburban lots or building lots, or any lots, streets, etc. for public use or use by other landowners within the District).
 4. I am not related within the third degree of affinity (marriage) or consanguinity (blood) to a Developer of property within the District, to any of the other Directors of the District, or to the Attorney, Engineer, or Manager of the District.
 5. I am not an employee of any Developer of property within the District or any other Director, the Attorney, or Engineer of the District. Nor was I, within the two years immediately preceding this proposed appointment, an employee of any Developer of property within the District or of any Director, Attorney, or Engineer of the District.
 6. I am presently employed as a Partner and Vice President at Parnell Engineering Inc, a Civil Engineering | Consulting firm in Central Texas.

[OR]

I am not employed at this time.

7. I am not a State employee nor do I receive all or part of my compensation directly or indirectly from funds of the State of Texas; or, in the alternative, I will not accept fees of office for serving on the Board of Directors of the District.
8. Neither my employer nor I have any business or other connection with the Developer of the District, the Attorney representing the District, or the Consulting Engineer for the District in regard to the District and the development therein.
9. I presently own taxable land within the District. I agree to notify the Board of Directors of the District should I become disqualified to serve on the Board by virtue of the above condition ceasing to exist. I have no plans for my land within the District other than holding said land to allow myself to serve as a Director of the District.
10. I am generally familiar with the responsibilities of a Director of a municipal utility district. I realize that as a Director I will be a public official charged with the responsibility of serving the best interests of the present and future property owners, taxpayers, and residents of the District.
11. I am aware that the Board of Directors of a District is a governmental body that by law notice of its meetings must be posted, its meetings must be open to the public, and its records available for inspection by the public at all reasonable times.
12. I am aware that the District will be subject to the continuing supervision of the Texas Commission on Environmental Quality (the "Commission"). I will cooperate fully with the Commission in its exercising of supervisory powers.
13. I hereby affirm that, if appointed, I will faithfully execute the duties of the office of Director of the District and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States, and of the State of Texas; and I hereby affirm that I have not directly nor indirectly paid, offered or promised to pay, contributed or promised to contribute any money or valuable thing, or promised any public office or employment as a reward to secure this appointment.

14. Devon Vo
(Full Name)

3424 Brambling Road
(Home Address)

<u>Pflugerville</u>	<u>78660</u>	<u>(512)-299-5963</u>
(City)	(Zip Code)	(Telephone)

devon.vo@parnellengineeringinc.com
(Email Contact)

Devon Vo

(Signature of Affiant)

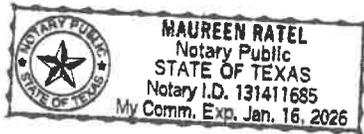
ACKNOWLEDGEMENT

STATE OF TEXAS §

COUNTY OF TRAVIS §

Before me, the undersigned authority, on this day personally appeared Devon Vo, who desires to be appointed as director of Hays Commons Municipal Utility District to serve until his/her successor is elected or appointed, and who being by me first duly sworn on his/her oath deposed and said that every response and statement set forth herein is true and correct.

Sworn to and subscribed before me this 9 day of June, 2023.



Maureen Ratel

Notary Public in and for
the State of Texas

(SEAL)

Attachment 3

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



NOTICE OF DISTRICT PETITION TCEQ INTERNAL CONTROL NO. D-06282023-060

PETITION. Hays Commons Land Investments, LP, a Texas limited partnership, (Petitioner) filed a petition for creation of Hays Commons Municipal Utility District (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, §59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ.

The petition states that: (1) the Petitioner holds title to a majority in value of the land to be included in the proposed District; (2) there is one lienholder, Horizon Bank, SSB, on the property to be included in the proposed District and the lienholder consents to the creation of the proposed District; (3) the proposed District will contain approximately 290.388 acres located within Hays County, Texas; and (4) the land within the proposed District is within the extraterritorial jurisdiction of the City of Hays.

The territory to be included in the proposed District is depicted in the vicinity map designated as Exhibit "A", which is attached to this document.

The petition further states that the proposed District will: (1) purchase, construct, acquire, repair, extend and improve land, easements, works, improvements, facilities, plants, equipment, and appliances necessary to provide a water supply for municipal uses, domestic uses, and commercial purposes; (2) purchase, construct, acquire, repair, extend and improve land, easements, works, improvements, facilities, plants, equipment, and appliances necessary to collect, transport, process, dispose of and control all domestic, industrial, or communal wastes whether in fluid, solid, or composite state; (3) purchase, construct, acquire, repair, extend and improve land, easements, works, improvements, facilities, plants, equipment, and appliances necessary to gather, conduct, divert and control local storm water or other local harmful excesses of water in the proposed District and the payment of organization expenses, operational expenses during construction and interest during construction; (4) purchase, construct, acquire, repair, extend and improve land, easements, works, improvements, facilities, plants, equipment, and appliances necessary to design, acquire, construct, finance, improve, operate, and maintain macadamized, graveled, or paved roads, or improvements in aid of those roads; and (5) purchase, construct, acquire, repair, extend and improve land, easements, works, improvements, facilities, plants, equipment, and appliances necessary to provide such other facilities, systems, plants and enterprises as shall be consonant with all of the purposes for which the proposed District is created.

According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioners that the cost of said project will be approximately \$30,000,000 (\$24,500,000 for water, wastewater, and drainage and \$5,500,000 for roads).

The Property depicted in Exhibit "A" is located within the extraterritorial jurisdiction of the City of Hays, Hays County, Texas (the "City"). In accordance with Local Government Code §42.042 and Texas Water Code §54.016, the Petitioner submitted a petition to the City, requesting the City's consent to the creation of the District. After more than 90 days passed without receiving consent, the Petitioner submitted a petition to the City to provide water and sewer services to the proposed District. The 120-day period for reaching a mutually agreeable contract as established by the Texas Water Code §54.016(c) expired and the information provided indicates that the Petitioner and the City have not executed a mutually agreeable contract for service. Pursuant to Texas Water Code §54.016(d), failure to execute such an agreement constitutes authorization for the Petitioner to initiate proceedings to include the land within the proposed District.

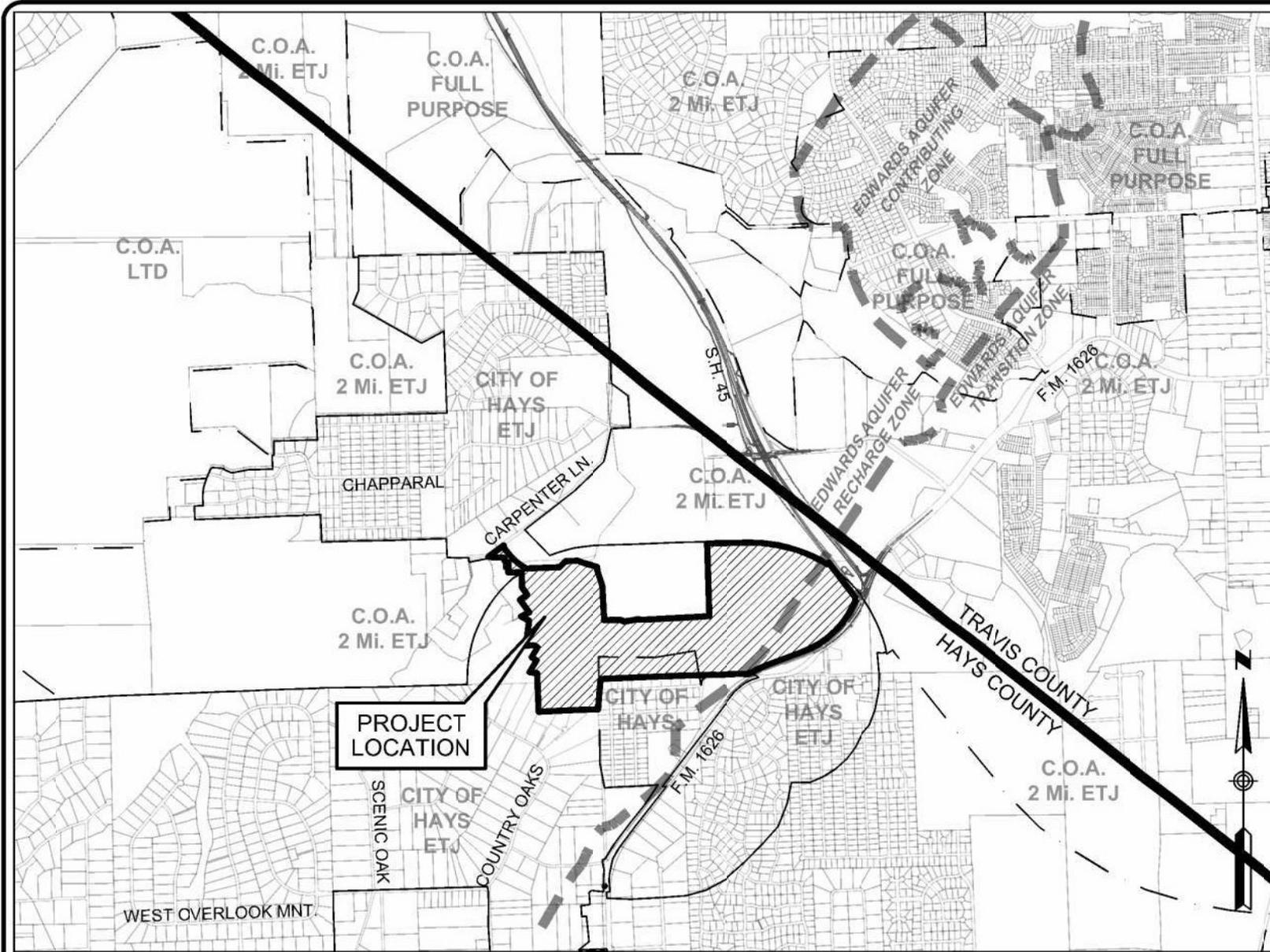
CONTESTED CASE HEARING. The TCEQ may grant a contested case hearing on this petition if a written hearing request is filed within 30 days after the newspaper publication of this notice.

To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioners and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below.

The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court.

INFORMATION. Written hearing requests should be submitted to the Office of the Chief Clerk, MC-105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC-103, at the same address. General information regarding TCEQ can be found at our web site <http://www.tceq.texas.gov/>.

Issued: August 7, 2023



HCMD-road.dwg

HAYS COMMONS M.U.D.
 HAYS COUNTY, TX.

LOCATION MAP

LJA
 Phone 512.439.4700
 Fax 512.439.4716
 FRN - F-1386

LJA Engineering, Inc.
 7500 Riata Boulevard, Building II
 Suite 100
 Austin, Texas 78735

