

Jon Niermann, *Chairman*
Bobby Janecka, *Commissioner*
Catarina Gonzalez, *Commissioner*
Kelly Keel, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

April 19, 2024

VIA ELECTRONIC FILING

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

Re: Executive Director's Backup Documents Filed for Consideration of Hearing Requests at Agenda for Petition by Bailey Land Investments, LP and Armbruster Land Investments, LP for the Creation of Persimmon Municipal Utility District; TCEQ Docket No. 2023-1665-DIS; Internal Control No. D-06162023-032

Dear Ms. Gharis:

Enclosed please find a copy of the following documents for inclusion in the background material for creation petition. If you have any questions or comments, please call me at 512-239-1439 or email me at Harrison.malley@tceq.texas.gov.

- Technical Memo
- Notice
- Temporary Director Affidavits

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Harrison Cole Malley".

Harrison Cole Malley, *Staff Attorney*
Environmental Law Division

Texas Commission on Environmental Quality

TECHNICAL MEMORANDUM

To: Justin P. Taack, Manager *AT*
Districts Section
11/21/2023

Date: November 21, 2023

Thru: Michael Briscoe, Team Lead
Districts Creation Review Team

From: James Walker
Districts Creation Review Team

Subject: Petition by Bailey Land Investments, LP and Armbruster Land Investments, LP for Creation of Persimmon Municipal Utility District; Pursuant to Texas Water Code Chapters 49 and 54.
TCEQ Internal Control No. D-06162023-032 (TC)
CN: 606151900 RN: 111758405

A. GENERAL INFORMATION

The Texas Commission on Environmental Quality (TCEQ) received a petition within the application requesting approval for the creation of Persimmon Municipal Utility District (District) of Hays County. The petition was signed by Garrett Martin as the manager of Bailey Land Investments GP, LLC, a Texas limited liability company, a general partner of Bailey Land Investments, LP, a Texas limited partnership and the manager of Armbruster Land Investments GP, LLC, a Texas limited liability company, a general partner of Armbruster Land Investments, LP, a Texas limited partnership (Petitioner). The petition states that the Petitioners hold title to a majority in value of the land in the proposed District and it further states that there are two lienholders, International Bank of Commerce and Labenski Branch, LP, a Texas limited partnership, on the land in the proposed District and the aforementioned entities have 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, approximately 25 miles southeast of downtown Austin, Texas and approximately 750 feet north of the Haleys Way Drive and FM 967 intersection. The proposed District is within the extraterritorial jurisdiction of the City of Buda (City). Access to the proposed District will be provided by FM 967.

Metes and Bounds Description

The proposed District contains approximately 459 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 Petitioners 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 Petitioners 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 Petitioners 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 22, 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 has over 50 projects in the Austin Metro Statistical Area completed or in progress. MileStone has won numerous awards recognizing high quality, uniquely designed homes particularly well-tailored to Austin's unique culture.

Certificate of Ownership

By certificate dated May 19, 2023, the Hays Central Appraisal District has certified that the appraisal roll indicates that the Petitioners are the owners 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:

Alejandro Enrique Granados Rico Elliot Condos Daniel McElrath

Brandon Willin

Jeffrey Todd Tamaru

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 City of Buda currently holds the Certificate of Convenience and Necessity (CCN) for water and wastewater for some of the area within the proposed District. A request was made for the City to provide water and wastewater services to the proposed District; however, no formal agreement has been received. A request was also made to the City of Austin, although no formal agreement has been reached. There are two existing MUDs within 2 miles of the proposed District, however, these MUDs do not have the capacity to serve the proposed District. In the event an agreement is made with one of the cities that is more cost advantageous, the proposed District would pursue those agreements accordingly, but with the pending status of those commitments, the feasibility of the proposed District's creation is being determined as if the proposed District owns and maintains its own facilities. Therefore, a complete utility system within the proposed District is planned to include a water supply and distribution system, a wastewater collection system and treatment facility, a storm drainage system, stormwater quality facilities and roads. Water and wastewater service cannot be provided by the proposed District within the area contained within the City's CCN unless that area of the proposed District is released from the City CCN. Design and construction of these facilities will be in conformance with applicable criteria established by Hays County, the City, and the TCEQ.

Water Supply Improvements

All water supply and distribution system improvements to serve the proposed District will be designed in accordance with applicable criteria established by the TCEQ, Hays County, and the City. Per the engineering report, it is estimated that the District will contain 1,735 equivalent single-family connections (ESFCs) at ultimate development. Further, the engineering report indicates that a formal request was made to the City for water supply services; however, no

agreement to serve the proposed District has been received. The developer is also pursuing water services from the City of Austin, although no definitive agreement has been reached. In the event an agreement is made with one of the cities that is more cost advantageous, the proposed District would pursue those agreements accordingly, but with the pending status of those commitments, the feasibility of the proposed District's creation is being determined as if the District owns and maintains its own facilities.

Water Distribution Improvements

Whether the proposed District or an adjacent city provides the water supply, it is anticipated that the proposed District will construct, own, and maintain the proposed water distribution facilities within its boundaries. A properly sized water main looped system is proposed to ensure that all service connections are provided with an ample supply of water. The pipe, valves, and fittings will be of normally accepted materials and design, the proposed construction methods should provide a reliable system with little maintenance for many years. The projected ultimate distribution system within the proposed District will consist of approximately 10,433 linear feet (LF) of main 12" in diameter, along with all related appurtenances. The water distribution system will be designed to maintain a minimum pressure of 35 psi at all points within the distribution network at flow rates of a least 2 gallons per minute per ESFC. The system will maintain a minimum pressure of 20 psi under combined fire and drinking water flow conditions and will meet or exceed TCEQ requirements.

Wastewater Treatment Improvements

It is estimated that the District will contain 1,735 ESFCs at ultimate development, requiring 520,500 gallons per day of wastewater treatment capacity, using 300 gallons per day per connection. A formal request was made to the City for wastewater treatment services; however, no agreement to serve the proposed District has been received. The developer is also pursuing wastewater treatment services from the City of Austin, although no definitive agreement has been reached. In the event an agreement is made with one of the cities that is more cost advantageous, the proposed District would pursue those agreements accordingly, but with the pending status of those commitments, the feasibility of the proposed District's creation is being determined as if the proposed District maintains its own facilities. The first phase of the facilities is anticipated to include a 125,000 gallon per day (gpd) unit with the second phase to include an additional 200,000 gpd unit. Subsequent expansions will follow the demand from the proposed District. The facility is planned to be located within the proposed District and ultimately discharge into Garlic Creek. A wastewater discharge permit has not been issued; however, TCEQ and the Environmental Protection Agency NPDES permits will be secured during the initial phases of the development.

Wastewater Collection Improvements

Whether the proposed District or an adjacent city provides the wastewater treatment facilities, it is anticipated that the proposed District will construct, own, and maintain the internal wastewater collection system which will convey the wastewater generated by the proposed District to the proposed wastewater treatment plant via a network of gravity wastewater lines. The gravity system will be designed to accommodate normal infiltration and sewage flows from the District's customers. The proposed pipe material, bedding, and manhole design should provide a collection system which requires little maintenance and allows minimum infiltration. The collection system will be designed to meet TCEQ, Hays County, and the City design criteria.

Storm Water Drainage System and Drainage Improvements

Little Bear Creek is situated at the northern end of the proposed District and Garlic Creek is located along the eastern boundary. Both creeks deliver stormwater to Onion Creek which ultimately joins the Colorado River. Due to natural topography, the site will drain to a variety of low points within the site that will be conveyed to the proposed stormwater quality facilities to be located within the proposed District. The stormwater will navigate through a storm sewer collection system within the proposed District including storm piping as well as channel/creek conveyance which will ultimately outfall into Garlic Creek. A Garlic Creek Drainage Impact Analysis revealed that there is no increase in peak flows being delivered to Garlic Creek or ultimately to Onion Creek resulting from the proposed development; therefore, no onsite detention facilities are being proposed. The storm drainage system in the proposed District will complement the proposed asphalt paved streets with concrete curb-and-gutter and have a minimum pipe diameter of 18", and an overall design following Hays County design criteria. The detention system will be designed to carry runoff from a 100-year storm event. Stormwater quality facilities will be required by Hays County to treat the runoff from the proposed District. The onsite drainage system will provide stormwater quality in conformance with Hays County criteria.

Road Improvements

The proposed District requests full road powers and reimbursements authorized under Section 54.234 of the Texas Water Code. The proposed District's proposed roadway improvements consist of asphalt pavement with concrete curbs and gutters along collector and arterial roadways with complementing signalization, as applicable. The roadways will be designed in accordance with Hays County standards.

Topography/Land Elevation

The topography of the proposed District includes both grassy and wooded areas with Garlic Creek situated along the eastern boundary of the property and Little Bear Creek situated just north of the property. The approximate elevation ranges from 750 feet above mean sea level (msl) to 676 feet above msl near Little Bear Creek, then the remainder breaking on the south from the northern third of the property to approximately 675 feet msl at Garlic Creek. The fill and/or excavation associated with development of the District's systems will not cause changes in the overall land elevations other than that normally associated with the construction of single-family lots, underground utility systems, drainage facilities, and paving. In the areas of the commercial developments, some cosmetic land elevation changes might be used to enhance the appearance of the area. Therefore, development within the District is not expected to have an unreasonable effect on overall land elevations.

Floodplain

According to Federal Emergency Management Agency Flood Insurance Rate Map No. 48209C0280F, effective September 2, 2005, there are approximately 24.18 acres within the limits of the Zone A 100-year floodplain. The 100-year storm runoff for the development will be contained within the limits of the conveyance system. There are no plans for residential building pads within the 100-year floodplain. Proposed development within the proposed District that is currently located within the 100-year floodplain will be removed from the 100-year floodplain by filling the area to an elevation above the 100-year floodplain and providing onsite compensating floodplain mitigation. The proposed improvements will allow for development within the proposed District to occur with no resulting impact to the existing

conditions in any upstream or downstream drainage system for events up to and including the 100-year storm event.

Subsidence

Hays County is located within the Texas Water Development Board (TWDB) Regions K and L water planning areas. The current Regions K and L Regional Water Plans include each region's Water Conservation Plan which outlines the goals to decrease groundwater use and therefore slow subsidence in each respective area. It is anticipated 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 April 25, 2023, that there are no dam safety issues associated with the proposed District.

Groundwater Levels/Recharge

Hays County is located within the TWDB Regions K and L water planning areas. The current Regions K and L Regional Water Plans include each region's Water Conservation Plan which outlines the goals to decrease groundwater use in each respective area. Hays County also participated in the creation of Barton Springs Edwards Aquifer Conservation District (BSEACD) which is committed to conserving, protecting, recharging, and preventing waste of groundwater and preserving all aquifers within the Barton Springs segment of the Edwards Aquifer. The County is actively engaged with BSEACD to assist with exploring viable water management options to assist with recharge and recovery of the surrounding aquifers. It is anticipated that the proposed District will have no adverse effect on the groundwater levels and recharge capability in the area.

Natural Run-off and Drainage

The current undeveloped overland flow is collected into Garlic Creek, then to Onion Creek, and ultimately to the Colorado River. The proposed development will increase the amount of impervious cover onsite; however, a Garlic Creek Drainage Impact Analysis revealed that there is no increase in peak flows being delivered to Garlic Creek or ultimately Onion Creek resulting from the proposed development; therefore, no onsite detention facilities are being proposed. Development within the proposed District will occur with no resulting impact to the existing conditions in any upstream or downstream drainage system for events up to and including the 100-year storm event.

Water Quality

The quality of water to be supplied from the proposed District will meet the approval of the TCEQ. No adverse effect of the water quality of ground or surface water is anticipated as a result of the proposed development. Wastewater quality from the proposed wastewater treatment plant facility will be controlled by permit in order to comply with all regulatory requirements.

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	\$ 835,498
2. Wastewater Collection System	1,000,875
3. Stormwater Drainage System	1,362,515
4. Stormwater Quality Facilities	2,240,000
5. Clearing and Grubbing	1,626,135
6. Residential Sections	20,440,350
7. Contingencies	2,750,537
8. Engineering	4,538,386
9. Materials Testing	907,677
10. SWPPP	<u>907,677</u>
Total Developer Contribution Items	\$ 36,609,650
B. District Items	
1. Water Plant Facilities	\$ 10,185,000
2. Wastewater Treatment Plant Facility	11,587,500
3. Contingencies	2,177,250
4. Engineering	3,592,463
5. Materials Testing	718,493
6. Land Acquisition Costs	<u>240,000</u> ⁽²⁾
Total District Items	\$ 28,500,706
TOTAL CONSTRUCTION COSTS (71.30% of BIR)	\$ 65,110,356
<u>Non-Construction Costs</u>	
A. Legal Fees	\$ 2,739,600
B. Fiscal Agent Fees	1,826,400
C. Interest Costs	
1. Capitalized Interest (2 years @ 5.5%)	10,045,200
2. Developer Interest (2 years @ 5.5% of Construction Costs)	7,162,139 ⁽³⁾
D. Bond Discount (3%)	2,739,600
E. Bond Issuance Expenses	422,085
F. Initial Organization & Operating Cost	300,000
G. Creation Legal Costs	50,000
H. District Engineering Costs	50,000
I. Market Study	75,000
J. Bond Application Report Costs	480,000
K. Attorney General Fee (0.1%)	91,320

L. TCEQ Bond Issuance Fee (0.25%)	228,300
TOTAL NON-CONSTRUCTION COSTS	\$ 26,209,644
TOTAL W, WW, & D BOND ISSUE REQUIREMENT	\$ 91,320,000

- Notes: (1) Assumes 70% funding of anticipated developer contribution items, where applicable.
(2) Land costs consist of 8.3 acres of stormwater quality facilities, 1.8 acres for a water plant site, and 1.9 acres for a wastewater treatment plant site at \$20,000/acre.
(3) 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. Roadway Improvements	\$ 10,575,447
2. Contingencies	1,057,545
3. Engineering	1,744,949
4. Materials Testing	348,990
5. SWPPP	<u>348,990</u>
TOTAL CONSTRUCTION COSTS (72.11% of BIR)	\$ 14,075,921

Non-Construction Costs

A. Legal Fees	\$ 585,600
B. Fiscal Agent Fees	390,400
C. Interest Costs	
1. Capitalized Interest (2 years @ 5.5%)	2,147,200
2. Developer Interest (2 years @ 5.5% of Construction Costs)	1,548,351 ⁽²⁾
D. Bond Discount (3%)	585,600
E. Bond Application Report Costs	40,000
F. Bond Issuance Expenses	127,408
G. Attorney General Fee (0.1%)	<u>19,520</u>
TOTAL NON-CONSTRUCTION COSTS	\$ 5,444,079
TOTAL ROAD BOND ISSUE REQUIREMENT	\$ 19,520,000

- Notes: (1) Assumes 70% funding of anticipated developer contribution items, where applicable.
(2) Based on developer advancing funds approximately two years prior to reimbursement.

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, multi-family, 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	272.9	1,283
Multi-Family	8.6	90
Townhomes	30.6	337
Commercial	5.0	25
Amenity Center	8.1	0
Stormwater Quality Facilities	8.3	0
Landscaping/Open Space	62.4	0
Water Plant	1.8	0
Wastewater Treatment Plant	1.9	0
Rights-of-way	<u>59.4</u>	<u>0</u>
Total	459.0	1,735

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 1,620 ESFCs on a tract totaling approximately 459 acres. The home values are expected to be approximately \$350,000 for 25-foot lot townhomes, \$397,800 for 40-foot lots, \$499,800 for 50-foot lots, and \$571,200 for 60-foot 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 121 homes/year over the first twelve 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>
40-foot single-family lots	770	\$ 397,800	\$ 306,306,000
50-foot single-family lots	321	\$ 499,800	\$ 160,435,800
60-foot single-family lots	192	\$ 571,200	\$ 109,670,400
25-foot townhomes	337	\$ 350,000	\$ 117,950,000
8.6 acres of Multi-Family Residential @ \$3,698,949/acre			\$ 31,810,961
5 acres of Commercial @ \$1,560,502/acre			\$ <u>7,802,510</u>
		Total Assessed Valuation	\$ 733,975,671

Considering the issuance of a total of \$110,840,000 (\$91,320,000 for utilities and \$19,520,000 for roads) in bonds, assuming 70% financing, a coupon bond interest rate of 5.5%, and a 30-year bond life, the average annual debt service requirement would be \$7,626,389 (\$6,283,308 for utilities plus \$1,343,081 for roads). Assuming a 97% collection rate and an ultimate AV of \$733,975,671, a projected ultimate tax rate of approximately \$1.08 (\$0.89 for utilities and \$0.19 for roads) per \$100 AV was indicated to be necessary to meet the annual debt service requirements for the proposed District. An additional \$0.12 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, the total year 2022 overlapping tax rates on land within the proposed District are shown as follows:

<u>Taxing Jurisdiction</u>	<u>Tax Rates</u> <u>(Hays County)</u> ⁽¹⁾
Persimmon MUD (District)	\$ 1.2000 ⁽²⁾⁽³⁾
Hays County	\$ 0.2950
Austin Community College District	\$ 0.0987
Northeast Hays County ESD No. 2	\$ 0.0674
Hays County Fire ESD No. 8	\$ 0.0876
Special Road	\$ 0.0175
Hays County Independent School District	\$ <u>1.3423</u>
TOTAL TAX per \$100 AV:	\$ 3.1085

- Notes: (1) Tax rate per \$100 assessed valuation.
(2) Represents \$0.89 for utilities, \$0.19 for roads, and \$0.12 for operation and maintenance tax.
(3) Assuming 70% 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, 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 \$137.50.

Comparative Water District Tax Rates

A tax rate of \$1.20 (\$0.89 for utilities, \$0.19 for roads, and \$0.12 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; the proposed District obtaining a 5.5% 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 Persimmon 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:

Alejandro Enrique Granados Rico	Elliot Condos	Daniel McElrath
Brandon Willin	Jeffrey Todd Tamaru	

H. ADDITIONAL INFORMATION

The Petitioner's professional representatives are:

Attorney: Mr. Anthony Corbett - McLean & Howard, LLP
Creation Engineer: Mr. Joseph Yaklin, P.E. - BGE, Inc.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



NOTICE OF DISTRICT PETITION TCEQ INTERNAL CONTROL NO. D-06162023-032

PETITION. Bailey Land Investments, LP, a Texas limited partnership and Armbruster Land Investments, LP, a Texas limited partnership, (Petitioners) filed a petition for creation of Persimmon 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 Petitioners hold title to a majority in value of the land to be included in the proposed District; (2) there are two lienholders, International Bank of Commerce and Labenski Branch, LP, a Texas limited partnership, on the property to be included in the proposed District and information provided indicates that the lienholders consent to the creation of the proposed District; (3) the proposed District will contain approximately 459 acres located within Hays County, Texas; and (4) the land within the proposed District is within the extraterritorial jurisdiction of the City of Buda.

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.

In accordance with Local Government Code §42.042 and Texas Water Code §54.016, the Petitioners submitted a petition to the City of Buda, requesting the City's consent to the creation of the District. After more than 90 days passed without receiving consent, the Petitioners 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 Petitioners 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 Petitioners to initiate proceedings to include the land within the proposed District.

The petition further states that the proposed District will purchase, construct, acquire, repair, extend and improve land, easements, works, improvements, facilities, plants, equipment, and appliances necessary to: (1) provide a water supply for municipal uses and commercial purposes; (2) collect, transport, process, dispose of and control all domestic, industrial, or communal wastes whether in fluid, solid, or composite state; (3) gather, conduct, divert, and control local stormwater 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) design, acquire, construct, finance, improve, operate, and maintain macadamized, graveled, or paved roads, or improvements in aid of those roads; and (5) 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 \$110,840,000 (\$91,320,000 for water, wastewater, and drainage plus \$19,520,000 for roads).

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.

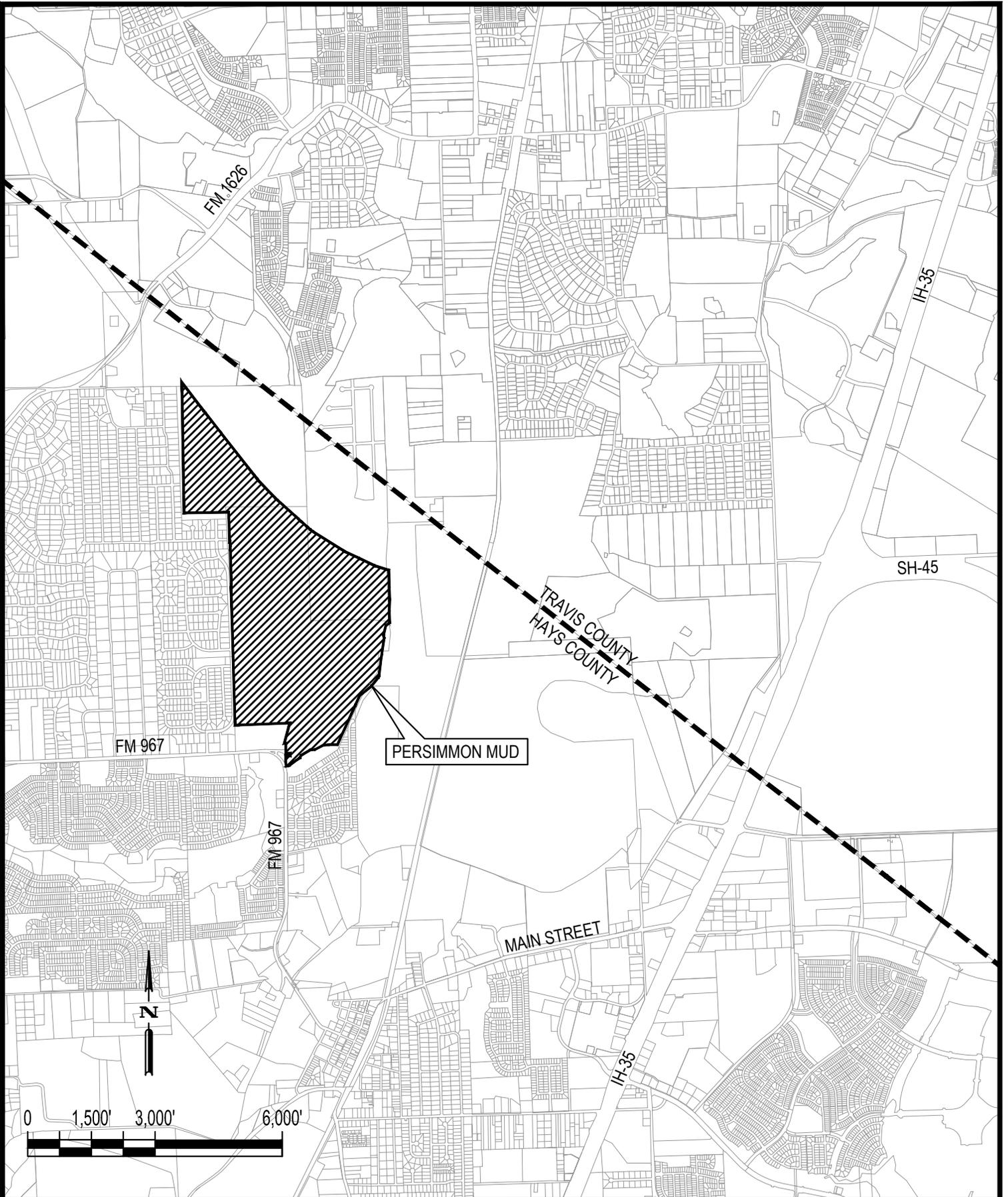
To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioners and the TCEQ Internal Control Number; (3) the statement "I/we request 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

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PERSIMMON MUD
 HAYS COUNTY, TEXAS

VICINITY MAP Exhibit "A"

BGE, INC.
 101 WEST LOUIS HENNA BLVD, SUITE 400
 AUSTIN, TX 78728
 TBPE Registration No. F-1046
 TEL: 512-879-0400 www.bgeinc.com



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 Elliot Condos, who expressed a desire to become a Director of Persimmon 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 Development Director of Forestar, a real estate development company.

[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.

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 Alejandro Enrique Granados Rico, who expressed a desire to become a Director of Persimmon 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 _____ County, State of Texas, being a County adjacent to the County in which the District is located.
 - I am resident of Williamson 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 Project Manager (Civil Engineer) by Kimley-Horn and Associates.

[OR]

I am not employed at this time.

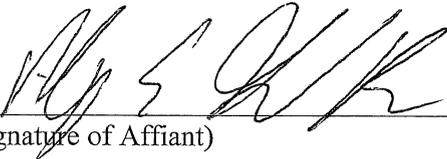
7. I am not a State employee nor do I receive all or part of my compensation directly or indirectly from funds of the State of Texas; or, in the alternative, I will not accept fees of office for serving on the Board of Directors of the District.
8. Neither my employer nor I have any business or other 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.

Alejandro Enrique Granados Rico
(Full Name)

3701 Hermann Street
(Home Address)

<u>Round Rock</u>	<u>78681</u>	<u>(512) 782-0602</u>
(City)	(Zip Code)	(Telephone)

Alex.granados@kimley-horn.com
(Email Contact)



(Signature of Affiant)

ACKNOWLEDGEMENT

STATE OF TEXAS §

COUNTY OF Travis §

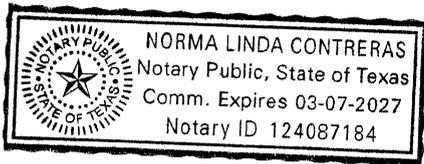
Before me, the undersigned authority, on this day personally appeared Alejandro Enrique Granados Rico, who desires to be appointed as director of Persimmon Municipal Utility District to serve until his/her successor is elected or appointed, and who being by me first duly sworn on his/her oath deposed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

Sworn to and subscribed before me this 18 day of May,
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 Daniel McElrath, who expressed a desire to become a Director of Persimmon 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.
6. I am presently employed as a Real estate developer & Consultant.

[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. Daniel McElrath
(Full Name)
900 Mirala Dr.
(Home Address)
Austin, TX 78758 (512) 921-0229
(City) (Zip Code) (Telephone)
danielmcelrath@gmail.com
(Email Contact)

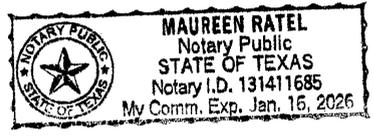
[Signature]
(Signature of Affiant)

ACKNOWLEDGEMENT

STATE OF TEXAS §
COUNTY OF TRAVIS §

Before me, the undersigned authority, on this day personally appeared, Daniel McElrath, who desires to be appointed as director of Persimmon 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 3 day of May, 2023.



[Signature]
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 Jeffrey Todd Tamaru, who expressed a desire to become a Director of Persimmon 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 Sr. Principal at Maroon Pass Advisors, an exempt reporting advisor for private funds. I lead investment strategy and operations for this company.

[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. Jeffrey Todd Tamaru
(Full Name)

15. 1113 Taulbee Lane
(Home Address)

Austin 78757 916-365-7094
(City) (Zip Code) (Telephone)

jttamaru@gmail.com
(Email Contact)

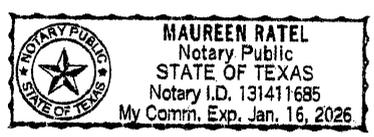

(Signature of Affiant)

ACKNOWLEDGEMENT

STATE OF TEXAS §
COUNTY OF TRAVIS §

Before me, the undersigned authority, on this day personally appeared, Jeffrey Todd Tamaru, who desires to be appointed as director of Persimmon 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 4 day of MAY, 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 Brandon Willin, who expressed a desire to become a Director of Persimmon 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]

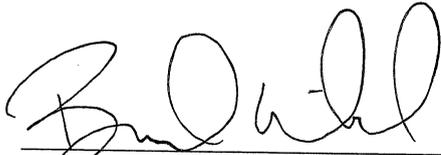
- I am a resident of Travis County, State of Texas, being a County adjacent to the County in which the District is located.
 - I am resident of _____ County, State of Texas, being a County located in the same metropolitan statistical area (designated by the United States Office of Management and Budget) 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 the Chief Operating Officer of Austin Property Partners.

[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. Brandon Willin
(Full Name)
1909 Townesouth Circle, B
(Home Address)
Austin, Texas 78741 (936) 524.2024
(City) (Zip Code) (Telephone)
brandon@austinpropertypartners.com
(Email Contact)

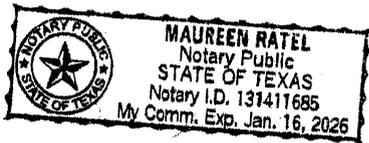

(Signature of Affiant)

ACKNOWLEDGEMENT

STATE OF TEXAS §
COUNTY OF TRAVIS §

Before me, the undersigned authority, on this day personally appeared, Brandon Willin, who desires to be appointed as director of Persimmon 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 1 day of MAY, 2023.




Notary Public in and for
the State of Texas

(SEAL)