RESOLUTION NO. 2019-08-06-29

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELGIN, TEXAS, CONSENTING TO THE CREATION OF A MUNICIPAL UTILITY DISTRICT TO BE KNOWN AS ALTESSA MUNICIPAL UTILITY DISTRICT AND MAKING CERTAIN FINDINGS RELATED THERETO

WHEREAS, the City of Elgin has received a Petition for Consent to Include Land in a Municipal Utility District, dated July 26, 2019 a copy of which is attached hereto and marked as Exhibit "A"; and

WHEREAS, the City wishes to evidence its support for the creation of the Altessa Municipal Utility District ("District") within its extraterritorial by order of the Texas Commission on Environmental Quality (the "TCEQ").; and

WHEREAS, the creation of the Altessa Municipal Utility District was previously contemplated through a Development Agreement executed by and between the City of Elgin and Clayton Properties Group, Inc. dba Brohn Homes.

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

Section 1. That the above recitals are true and correct; and that the City Council hereby grants its consent to and permission for the creation of the Altessa Municipal Utility District by the TCEQ within its extraterritorial jurisdiction, which is described more fully in the field notes attached to Exhibit "A"; a copy of which being attached hereto and made part of this Resolution as if copied verbatim therein.

Section 2. That the Mayor and City Secretary are hereby authorized to execute any documents necessary to effectuate this Resolution.

Section 3. That the City Council further states that it has not relinquished any rights, duties or powers relating to the inclusion of the District in its extraterritorial jurisdiction and that while the City consents to the creation of the District, it does not release the area within the District from its extraterritorial jurisdiction.

Section 5. The City Council hereby finds and declares that written notice of the date, hour, place and subject of the meeting at which this Resolution was adopted was posted and that such meeting was open to the public as required by law at all times during which this Resolution and the subject matter hereof was discussed, considered and formally acted upon, all as required by the Open Meeting Act, Chapter 551, Texas Government Code, as amended.

Section 6. This Resolution shall take effect immediately upon passage.

PASSED AND ADOPTED this 6th day of August, 2019.

JESSICA BEGA, Mayor Pro Tem
City of Elgin, Texas

ATTEST:

AMELIA SANCHEZ, City Secretary

I, AMELIA SANCHEZ, CITY SECRETARY, CITY OF ELGIN, BASTROP COUNTY, TEXAS do hereby certify that this is a true and correct copy as same appears of record in my office. Witness my hand and seal of office on: Date: 8-16-19

AMELIA SANCHEZ, City Secretary
City of Elgin, TX
Signature:

PETITION FOR CONSENT TO CREATION OF ALTESSA MUNICIPAL UTILITY DISTRICT

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

The undersigned (the "*Petitioner*"), holding title to the land described below (the "*Land*") and acting pursuant to the provisions of Chapters 49 and 54 of the Texas Water Code and Section 42.042 of the Texas Local Government Code, respectfully petition the City Council of the City of Elgin, Texas, for its written consent to the creation of a municipal utility district over the Land and, in support of this Petition, would show the following:

I.

The name of the proposed district is ALTESSA MUNICIPAL UTILITY DISTRICT (the "*District*").

II.

The District will be created and organized under the terms and provisions of Article XVI, Section 59 and Article III, Section 52 of the Texas Constitution and Chapters 49 and 54, Texas Water Code, together with all amendments and additions thereto. It is further proposed that the District be granted road powers under the authority of Article III, Section 52 of the Texas Constitution.

III.

The Land proposed to be contained within the District is a total of 283.115 acres of land, more or less, situated in Bastrop and Travis Counties, Texas, more particularly described on **Exhibit "A"** attached hereto and incorporated herein by reference. All of the Land is currently located within the extraterritorial jurisdiction of the City of Elgin, Texas (the "*City*") and may properly be included within the District.

IV.

Petitioner holds title to the Land proposed to the included within the District and is the owner of a majority in value of such Land, as indicated by the tax rolls of Bastrop and Travis Counties, Texas. There are no lienholders on the Land.

V.

The general nature of the work proposed to be done by the District, as contemplated at the present time, is the design, construction, acquisition, improvement, extension, financing, and issuance of bonds: (i) for maintenance, operation, and conveyance of an adequate and efficient water works and sanitary sewer system for domestic and commercial purposes; (ii) for maintenance, operation, and conveyance of works, improvements, facilities, plants, equipment, and appliances helpful or necessary to provide more adequate drainage for the District, and to control, abate, and amend local storm waters or other harmful excesses of waters; (iii) for maintenance, operation, and conveyance of park and recreational facilities; (iv) for conveyance of roads and improvements in aid of roads; and (v) for maintenance, operation, and conveyance of such other additional facilities, systems, plants, and enterprises as may be consistent with any or all of the purposes for which the District is created.

VI.

There is a necessity for the above-described work, because there is not now available within the area, an adequate waterworks system, sanitary sewer system, drainage and storm sewer system, park and recreational facilities system, or roadway system to serve the Land, which will be developed for single-family residential use. The health and welfare of the present and future inhabitants of the area and of the adjacent areas requires the purchase, design, construction, acquisition, ownership, operation, repair, improvement, and extension of an adequate waterworks system, sanitary sewer system, drainage and storm sewer system, and park and recreational facilities system, and roadway system. A public necessity therefore exists for the creation of the District, in order to provide for the purchase, design, construction, acquisition, ownership, operation, repair, improvement, and extension of a waterworks system, sanitary sewer system, drainage and storm sewer system, park and recreational facilities system, and roadway system to promote the purity and sanitary condition of the State's waters and the public health and welfare of the community.

VII.

A preliminary investigation has been made to determine the cost of the proposed District's projects, and it is now estimated by Petitioner, from such information as is available at this time, that such cost will be approximately $112,580,000.

VIII.

Petitioner, by submission of this Petition, requests the City's consent to the creation of the District as a municipal utility district, as described in this Petition.

Petitioner requests that this Petition be heard and that the City Council duly pass and approve an ordinance or resolution granting its consent to the creation of the District and authorizing the inclusion of the Land within the District.

[SIGNATURE PAGE FOLLOWS]

EXECUTED on the date or dates indicated below, to be effective the 26th day of July, 2019.

PETITIONER:

CLAYTON PROPERTIES GROUP, INC., a Tennessee corporation doing business in Texas as BROHN HOMES

By: _____
Aaron J. Boenig, Vice President

Date: 7.26.19

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 26 day of July, 2019, by Aaron J. Boenig, Vice President of Clayton Properties Group, Inc., a Tennessee corporation doing business in Texas as Brohn Homes, on behalf of said corporation.

_____
Notary Public, State of Texas

(SEAL)

JENNIFER STEWART
Notary Public, State of Texas
Comm. Expires 02-23-2023
Notary ID 126016728

Exhibit "A"
Page 3 of 8

EXHIBIT "A"

THE PROPERTY

All of that certain 283.115 acres, more or less, located in Travis and Bastrop Counties, Texas, comprised of the following tracts:

Tract 1: 234.288 acres, more or less, located in Travis and Bastrop Counties, Texas, more particularly described by metes and bounds on Exhibit "A-1" attached hereto and incorporated herein; and

Tract 2: 48.827 acres, more or less, located in Travis and Bastrop Counties, Texas, more particularly described by metes and bounds on Exhibit "A-2" attached hereto and incorporated herein.

Exhibit "A-1"

Tract 1

LEGAL DESCRIPTION

DESCRIPTION OF 234.288 ACRE TRACT OF LAND, SITUATED IN THE THOMAS CHRISTIAN SURVEY, ABSTRACT NOS. 20 AND 2296, IN BASTROP AND TRAVIS COUNTIES, TEXAS, BEING ALL OF THAT CERTAIN 234.215 ACRE TRACT OF LAND DESCRIBED IN A WARRANTY DEED FROM EUGENE R. KANAK, AND WIFE, JUDY A. KANAK TO THE EUGENE R. AND JUDY A. KANAK LIVING TRUST, EUGENE R. KANAK AND JUDY A. KANAK, CO-TRUSTEES, OF RECORD IN VOLUME 920, PAGE 713 OF THE OFFICIAL PUBLIC RECORDS OF BASTROP COUNTY, TEXAS, AND VOLUME 13223, PAGE 668 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, SAID 234.288 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 5/8-inch iron rod found for the southwest corner of the said 234.215 acre tract and the herein described tract, being on the east right-of-way line of County Line Road, a variable width right-of-way, being also the northwest corner of that certain 48.820 acre tract of land described in a deed to Russel F. Boyd of record in Volume 725, Page 633 of the Official Public Records of Bastrop County, Texas, said point having Grid Coordinates of N=10110911.98, E=3221530.09;

THENCE, N 27°08'47" E, with the east right-of-way of County Line Road and the west line of said 234.215 acre tract, for a distance of **708.88** feet to a 1/2-inch iron rod with cap stamped "ZWA" set for the southwest corner that certain 10.00 acre tract of land described in a deed to Clyde T. Lundgren and Betty S. Lundgren of record in Volume 7619, Page 44 of the Official Public Records of Travis County, Texas, and being an ell angle corner of said 234.215 acre tract and the herein described tract;

THENCE, S 62°51'29" E, departing the east right-of-way of County Line Road, with the south line of said 10.00 acre tract, for a distance of **476.51** feet to a 1/2-inch iron rod with cap stamped "ZWA" set for the southeast corner said 10.00 acre tract, and being an interior angle corner of said 234.215 acre tract and the herein described tract;

THENCE, N 27°08'48" E, with the east line of said 10.00 acre tract and the west line of said 234.215 acre tract, at a distance of 914.67 feet passing the northeast corner of said 10.00 acre tract and the southeast corner of that certain 4.737 acre tract of land described in a deed to Clyde T. Lundgren and Betty S. Lundgren of record in Volume 7619, Page 47 of the Official Public Records of Travis County, Texas, for a total distance of **1,347.72** feet to a 1/2-inch iron rod with cap stamped "ZWA" set for the northeast corner said 4.737 acre tract, being on the south line of that certain 147.144 acre tract of land described in a deed to RSM Real Estate, LP of record in Document No. 201414715 of the Official Public Records of Bastrop County, Texas, and being the northwest corner of said 234.215 acre tract and the herein described tract;

THENCE, S 62°53'48" E, with the south line of said 147.144 acre tract and the north line of said 234.215 acre tract, at a distance of 3,922.44 feet passing a 1-inch iron pipe found for the southeast corner of said 147.144 acre tract and the southwest corner of that certain 139.723 acre tract of land described in a deed to Roger and Suzanne Mogonye of record in Volume 2039, Page 771 of the Official Public Records of Bastrop County, Texas, for a total distance of **4,832.13** feet to a 5/8-inch iron rod found for the northeast corner of said 234.215 acre tract and the herein described tract, and being the northwest corner of that certain 42.158 acre tract of land described in a deed to Ward and Patsy Payne of record in Volume 647, Page 728 of the Official Public Records of Bastrop County, Texas;

THENCE, S 27°35'48" W, with the west line of said 42.158 acre tract and the east line of said 234.215 acre tract, at a distance of 1,298.23 feet passing a 5/8-inch iron rod found for the southwest corner of said 42.158 acre tract and the northwest corner of that certain 66.936 acre tract of land described in a deed to Jim V. and Katherine L. Mogonye of record in Volume 2343, Page 362 of the Official Public Records of Bastrop County, Texas, for a total distance of **2,036.79 feet** to a 1/2-inch iron rod with cap stamped "ZWA" set for the southeast corner of said 234.215 acre tract and the herein described tract, and being on the north line of that certain 103 acre tract of land described in a deed to Norma Jean Larson and Kelly Wayne Kastner of record in Volume 2296, Page 347 of the Official Public Records of Bastrop County, Texas;

THENCE, N 63°06'30" W, with the north line of said 103 acre tract and the south line of said 234.215 acre tract, at a distance of 3,287.28 feet passing the northwest corner of said 103 acre tract and the northeast corner of said 48.820 acre tract, for a total distance of **5,292.66 feet** to the **POINT OF BEGINNING** and containing 234.288 acres of land.

BEARING BASIS NOTE

BEARINGS ARE BASED ON TEXAS STATE PLANE CENTRAL ZONE 4203, NAD 83. STATION. ALL COORDINATES SHOWN HEREON ARE GRID AND CAN BE ADJUSTED TO SURFACE BY MULTIPLYING BY A SURFACE ADJUSTMENT FACTOR OF 1.00003. DISTANCES SHOWN HEREON ARE IN SURFACE, U.S. SURVEY FEET.

THE STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF HAYS §

That I, Gina Loftis-Franklin, a Registered Professional Land Surveyor, do hereby state that the above description is true and correct to the best of my knowledge and belief and that the property described herein was determined by a survey made on the ground December, 2017 and January, 2018 under my direction and supervision.

WITNESS MY HAND AND SEAL at Buda, Hays County, Texas this the 25th day of January 2018, A.D.

Zamora, L.L.C. dba "ZWA"
1435 South Loop 4
Buda, Texas 78610
512-295-6201
TX Firm No. 10062700



Gina Loftis-Franklin
Registered Professional Land Surveyor
No. 6087 – State of Texas

Exhibit "A-2"

Tract 2

LEGAL DESCRIPTION

DESCRIPTION OF 48.827 ACRE TRACT OF LAND, SITUATED IN THE THOMAS CHRISTIAN SURVEY, ABSTRACT NO. 20, IN BASTROP AND TRAVIS COUNTIES, TEXAS, BEING ALL OF THAT CERTAIN 24.41 ACRE TRACT (TRACT B) OF LAND DESCRIBED IN A PARTITION DEED TO RUSSELL FRANKLIN BOYD OF RECORD IN VOLUME 567, PAGE 545 OF THE OFFICIAL PUBLIC RECORDS OF BASTROP COUNTY, TEXAS, AND ALL OF A 24.41 ACRE TRACT OF LAND CONVEYED TO RUSSELL FRANKLIN BOYD OF RECORD IN VOLUME 567, PAGE 545 OF THE OFFICIAL PUBLIC RECORDS OF BASTROP COUNTY, TEXAS, AND ALL OF A 24.41 ACRE TRACT LAND DESCRIBED IN GENERAL WARRANTY DEED OF RECORD IN VOLUME 725, PAGE 633 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, SAID 48.827 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 5/8-inch iron rod found having Grid Coordinates of N=10110911.84, E=3221530.37 on the on the east right-of-way line of County Line Road, a variable width right-of-way, at the northwest corner of said 24.41 acre tract (Tract B) and being the southwest corner of a 234.288 acre tract described in a deed to CMH Parks, Inc. of record in Document No. 201807699, Official Public Record, Bastrop County, Texas, for the northwest corner of the herein described tract;

THENCE, S 63°06'26" E, departing the east right-of-way of County Line Road, with the common line of said 24.41 acre tract (Tract B) and said 234.288 acre tract, a distance of **2001.92** feet to a calculated point at the northeast corner of said 24.41 acre tract (Tract B) and being the northwest corner of a 103 acre tract of land described in a deed to Norma Jean Larson and Kelly Wayne Kastner of record in Volume 2296, Page 347 of the Official Public Records of Bastrop County, Texas, for the northeast corner of the herein described tract;

THENCE, S 27°10'16" W, departing the south line of said 234.288 acre tract, with the common line of said 24.41 acre tract (Tract B) and said 103 acre tract at 5.10 feet passing a 1/2" iron rod found and at 534.06 feet passing a 1/2" iron found disturbed at the southeast corner of said 24.41 acre tract (Tract B) and being the northeast corner of said 24.41 acre tract described in said Volume 725, Page 633, continuing with said common line of said 24.41 acre tract and said 103 acre tract, for a total distance of **1065.40 feet** to a 1/2" iron rod found on the north line of a 67 acre tract, more or less, described a warranty deed to the Cynthia Kreig & Sheldon Ray Johnson Living Trust, of record in Document No. 201810089, Official Public Record of Bastrop County, Texas, at the southeast corner of said 24.41 acre tract and being ell corner of said 103 acre tract, for the southeast corner of the herein described tract;

THENCE, N 62°50'09" W, departing the west line of said 103 acre tract, with the south line of said 24.41 acre tract, and being the north line of said 67 acre tract and a north line of a 3.006 acre tract described in a special warranty deed to Fausto C. Martinez and Maria Saucedo of record in Document No. 201108993, Official Public Records of Bastrop County, Texas, a distance of **2008.67 feet** to a 1/2" iron found on the east right-of-way line of said County Line Road, at the southwest corner of said 24.41 acre tract and being the northwest corner of said 3.006 acre tract, for the southwest corner of the herein described tract;

THENCE, N 27°32'17" E, with the east right-of-way of County Line Road and being the west line of said 24.41 acre tract and the west line of said 24.41 acre tract (Tract B), a distance of 1055.94 feet to the **POINT OF BEGINNING** and containing 48.827 acres of land.

BEARING BASIS

THE BEARINGS SHOWN HEREON ARE BASED ON TEXAS STATE PLANE COORDINATE SYSTEMS (CENTRAL ZONE 4203), NAD83 (93). THE BEARINGS AND DISTANCES ARE GRID.

THE STATE OF TEXAS §
§ **KNOW ALL MEN BY THESE PRESENTS:**
COUNTY OF HAYS §

That I, G. Rene Zamora, a Registered Professional Land Surveyor, do hereby state that the above description is true and correct to the best of my knowledge and belief and that the property described herein was determined by a survey made on the ground under my direction and supervision.

WITNESS MY HAND AND SEAL at Buda, Hays County, Texas this the 22 day of January, 2019, A.D.

STATE OF TEXAS
G. RENE ZAMORA
5682
REGISTERED PROFESSIONAL LAND SURVEYOR

G. Rene Zamora
Registered Professional Land Surveyor
No. 5682 – State of Texas

Zamora, L.L.C.
1425 South Loop 4
Buda, Texas 78610
512-295-6201
Tx. Firm No. 10062700