

**ORDINANCE NO. 19-P**

**AN ORDINANCE OF THE CITY OF ALVIN, TEXAS, GRANTING CONSENT TO THE ADDITION OF APPROXIMATELY 55.90 ACRES OF LAND TO BRAZORIA COUNTY MUNICIPAL UTILITY DISTRICT NO. 73; APPROVING ADDITIONAL CONSENT CONDITIONS; MAKING FINDINGS OF FACT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Alvin, Texas (the “City”), consented to the creation of Brazoria County Municipal Utility District No. 73 (the “District”) by Ordinance No. 18-E, passed and adopted by City Council on January 18, 2018; and

**WHEREAS**, the District was created by an order of the Texas Commission on Environmental Quality on August 6, 2018, and operates pursuant to Chapters 49 and 54 of the Texas Water Code, as amended; and

**WHEREAS**, the District and Stanton Realty Corp., a Texas corporation and the owner of the land herein requested to be added to the District, have petitioned the City to consent to addition of approximately 55.90 acres of land more fully described in the petition and the exhibit attached hereto as Exhibit A; and

**WHEREAS**, the land sought to be annexed into the District is situated wholly within the corporate limits of the City of Alvin, Texas, and is not within such jurisdiction of any other city; and

**WHEREAS**, Section 54.016 of the Texas Water Code, as amended, provides that no land within the corporate limits of a city or within the extraterritorial jurisdiction of a city, shall be included within a municipal utility district unless such city grants its written consent to the inclusion of the land within the district; and

**WHEREAS**, the City Council of the City desires to create Ordinance No. 19-P as set forth herein for the purpose of consenting to the addition of said land to the District and establishing the terms and conditions of such consent.

**NOW, THEREFORE; BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALVIN, TEXAS:**

**Section 1.** The facts and recitals set forth in the preamble of this Ordinance are hereby found to be true and correct.

**Section 2.** The City Council of the City of Alvin, Texas, hereby grants its specific written consent to the addition of the approximately 55.09 acres of land referenced above that are situated within the corporate limits of the City of Alvin, Texas, into the District as described in the Petition and the exhibit, attached hereto as Exhibit A. The Petition is hereby granted, subject to the terms and conditional set forth in the additional Consent Conditions set forth in Exhibit B,

attached hereto. This Ordinance shall not impair the effectiveness of any agreement between the City and the District dated prior to the effective date hereof or conditions contained in Ordinance 18-E consenting to the creation of the District.

**Section 3.** In addition to all the rights and remedies provided by the laws of the State of Texas, in the event the District violates the terms and provisions of the City's written consent, the City shall be entitled to injunctive relief or a writ of mandamus issued by a court of competent jurisdiction restraining, compelling or requiring the District and its officials to observe and comply with the terms and provisions of this Ordinance.

**Section 4.** That if any provision of this Ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

**Section 5.** That this Ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Texas Local Government Code.

**Section 6. Open Meetings Act.** It is hereby officially found and determined that the meeting at which this resolution was passed was open to the public and public notice of the time, place and purpose of said meeting was given, all as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

**PASSED AND APPROVED** on this the 6<sup>th</sup> day of June 2019.

**CITY OF ALVIN, TEXAS**

By: \_\_\_\_\_

Paul A. Horn, Mayor

**ATTEST**

By: \_\_\_\_\_

Dixie Roberts, City Secretary

# Exhibit 1

Stanton Realty Petition  
for Consent

PETITION FOR CONSENT TO INCLUDE ADDITIONAL LAND IN  
BRAZORIA COUNTY MUNICIPAL UTILITY DISTRICT NO. 73

THE STATE OF TEXAS     §  
                                          §  
COUNTY OF BRAZORIA   §

TO THE HONORABLE MAYOR AND  
CITY COUNCIL OF THE CITY OF ALVIN:

STANTON REALTY CORP., being the holder of title to all of, and therefore, a majority in value of the land hereinafter described, as such values are indicated by the tax rolls of the central appraisal district of Brazoria County, Texas ("Landowner"), and Brazoria County Municipal Utility District No. 73 ("District") (Landowner and District hereinafter called "Petitioner"), acting pursuant to the provisions of Section 54.016, Texas Water Code, as amended, respectfully petition for consent to include additional land in a municipal utility district. In support of this petition, Petitioner shows as follows:

I.

The District, to which the land hereinafter described is sought to be annexed, exists under the terms and provisions of Article XVI, Section 59 of the Constitution of Texas and Chapters 49 and 54, Texas Water Code, as amended and was created by order of the Texas Commission on Environmental Quality dated August 6, 2018. Landowner is the sole owner and holder of fee simple title to the land sought to be annexed to the District, as indicated by the tax rolls of the central appraisal district of Brazoria County, Texas. Landowner represents and warrants that there are no holders of liens against said land.

II.

The land sought to be added to the District contains approximately 55.90 acres of land, more or less, and lies wholly within Brazoria County, Texas. Under the provisions of Vernon's Texas Civil Statutes, Local Government Code, Section 42.001 *et seq.*, as amended, said area is within the corporate limits of the City of Alvin and is not within such jurisdiction of any other city. All of the territory to be annexed may properly be annexed to the District.

III.

The land sought to be added to the area of the District is described by metes and bounds in Exhibit "A" attached hereto and incorporated herein for all purposes.

#### IV.

The general nature of the work proposed to be done in the area sought to be annexed shall be the purchase, construction, acquisition, repair, extension and improvement of land, easements, works, improvements, facilities, plants, equipment and appliances necessary to:

- (1) provide a water supply for municipal, domestic 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 storm water or other harmful excesses of water in the area; and
- (4) finance, develop and maintain recreational facilities for the people of the District if and as allowed by applicable law;
- (5) design, acquire, construct, finance and issue bonds for roads pursuant to applicable law, as amended ("Road Powers"), as, if, and when required; and
- (6) to provide such other facilities, systems, plants and enterprises as shall be consistent with the purposes for which the District is created and permitted under state law.

#### V.

The area of the District is urban in nature, is within the growing environs of the City of Alvin and is in close proximity to populous and developed sections of Brazoria County. The District's area will, within the immediate future, experience a substantial and sustained residential and commercial growth. Therefore, there is a necessity for the improvements described above for the following reasons:

- (1) The land sought to be added to the District is not supplied with adequate water and sanitary sewer facilities and services, or with adequate drainage facilities nor is it presently economically feasible for such facilities to be added to said land. The health and welfare of the present and future inhabitants of the District, the land sought to be added to the District, and of territories adjacent thereto require the installation and acquisition of adequate water, sanitary sewer, and drainage facilities for and within the land sought to be added to the District.
- (2) The present and future inhabitants of the District, the land sought to be added to the District, and of territories adjacent thereto require recreational facilities, as same are necessary and desirable for the health and well-being of such inhabitants. The land sought to be added to the District does not currently include adequate recreational facilities.
- (3) The present and future inhabitants of the District, the land sought to be added to the District and of territories adjacent thereto require adequate road facilities, as same are

necessary and desirable for the health and welfare of such inhabitants, and for the orderly growth of residential and commercial development within the area and territories adjacent thereto. Road Powers are of necessity to the land within the District and the land sought to be added to the District as such powers will allow the District to construct, acquire, improve, and provide financing for road facilities that may not otherwise be constructed in a manner that will proactively address safety, capacity, durability, economic feasibility, and regional mobility issues.

A public necessity exists for the addition of said lands to the District to promote and protect the purity and sanitary condition of the State's waters and the public health and welfare of the community, by and through the purchase, construction, extension, improvement, maintenance and operation of a water supply and sanitary sewer system, drainage facilities, recreational facilities (if allowed by applicable law), and road facilities.

VI.

The Petitioner agrees and hereby covenants that if the requested consent to the annexation of the land to the District is given, the Petitioner will adopt and abide by the conditions set forth in Exhibit "B" attached hereto and incorporated herein for all purposes.

VII.

It is now estimated by the Petitioner from such information as is available at this time, that the amount of bonds necessary to be issued to finance development costs contemplated within the area proposed to be annexed will be approximately \$3,300,000.

*{Signature Pages Follow}*

WHEREFORE, Petitioner respectfully prays that this petition be granted in all respects and that the City of Alvin give its consent to the annexation of the aforesaid land into said District.

Dated this the 10 day of May, 2019.

STANTON REALTY CORP.

By: [Signature]  
Name: Paul S. Stanton  
Title: Corp Secretary

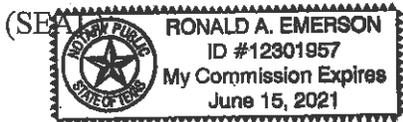
Petitioner

Attest: [Signature]  
By: Neal T. Stanton  
Name: Neal T. Stanton  
Title: Director

THE STATE OF TEXAS §  
                                          §  
COUNTY OF Brazoria §

This instrument was acknowledged before me on this 10<sup>th</sup> day of May, 2019, by Paul S. Stanton, Corporate Secretary of Stanton Realty Corp., a Texas corporation.

[Signature]  
Notary Public in and for the  
State of TEXAS



BRAZORIA COUNTY MUNICIPAL UTILITY  
DISTRICT NO. 73

By: *Lewis Locke*  
Lewis Locke  
President, Board of Directors

ATTEST:

By: *Mouricia Carbone*  
Mouricia Carbone  
Secretary, Board of Directors

(SEAL)

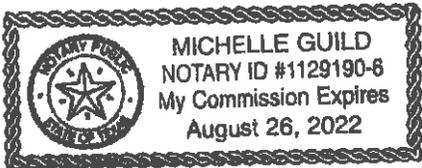


THE STATE OF TEXAS   §  
                                  §  
COUNTY OF HARRIS   §

This instrument was acknowledged before me on this 16<sup>th</sup> day of May, 2019, by Lewis Locke, the President of BRAZORIA COUNTY MUNICIPAL UTILITY DISTRICT NO. 73, on behalf of said district.

*Michelle Guild*  
Notary Public in and for the  
State of Texas

(SEAL)



County: Brazoria  
Project: Alvin – Stanton Tract  
C.I. No.: 1064-19 (Boundary Map Prepared)  
Job Number: 2018-153-008

METES AND BOUNDS DESCRIPTION  
55.90 ACRES

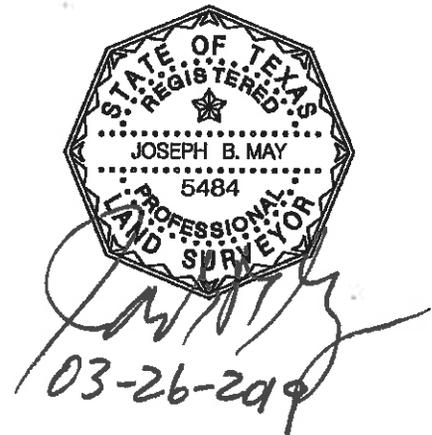
Being a 55.90 acre tract of land located in the Hooper and Wade Survey, Section 21, Abstract No. 421 in Brazoria County, Texas; said 55.90 acre tract being a part of a called 40 acre tract of land (First Tract), all of a called 12.5 acre tract of land (Second Tract), all of a called approximate 1-3/4 acre tract of land (Third Tract), and a part of a called 5.5 acre tract of land (Fourth Tract), all of which are recorded in the name of Stanton Realty Corporation in Volume 1018, Page 367 of the Deed Records of Brazoria County (D.R.B.C.); said 55.90 acre tract being more particularly described by metes and bounds as follows (all bearings are referenced to the Texas Coordinate System, North American Datum 1983 (NAD 83), South Central Zone):

**Beginning** at a 1/2-inch iron rod found at the southeast corner of said First Tract and the southwest corner of a called 1.6473 acre tract of land recorded in the name of G & A Alexander Properties, L.L.C. in Clerk's File (C.F.) No. 2016027381 of the Official Public Records of Brazoria County (O.P.R.B.C.), and being on the northerly line of a called 11.354 acre tract of land recorded in the name of Highway 35 DJM, L.L.C. in C.F. No. 2014007533 of the O.P.R.B.C.;

1. Thence, with said southerly line of First Tract and said northerly line of the 11.354 acre tract, the northerly line of a called 0.5148 acre tract recorded in the name of Victor Martinez, et al, in C.F. No. 2011017267 of the O.P.R.B.C., the northerly line of a called 0.7813 acre tract of land recorded in the name of James E. McKaughan and wife, Virginia Elfriede Brunbauer McKaughan in C.F. No. 2007069423 of the O.P.R.B.C., and the northerly line of a called 1.77 acre tract of land recorded in the name of Donna and Jeff B. Hartley in C.F. No. 98040083 of the O.P.R.B.C., South 86 degrees 34 minutes 22 seconds West, a distance of 1,486.18 feet to a 5/8-inch iron rod found at the northwest corner of said 1.77 acre tract and the northeast corner of a called 1.31 acre tract of land recorded in the name of Hermania Gonzales in C.F. No. 2016060184 of the O.P.R.B.C.;
2. Thence, continuing with said southerly line of First Tract, the southerly line of aforesaid Second Tract, the northerly line of said 1.31 acre tract, the northerly line of a called 2.69 acre tract recorded in the name of Houston TKCCP Holdings, L.L.C. in C.F. No. 2007000767 of the O.P.R.B.C., and the northerly line of a called 8.654 acre tract of land recorded in the name of Mauro S. Gutierrez and wife, Isabell Gutierrez in Volume 1361, Page 718 of the D.R.B.C., South 86 degrees 26 minutes 27 seconds West, a distance of 583.45 feet to a 1-inch pinched top iron pipe found at the southwest corner of said Second Tract and the southeast corner of a called 6 acre tract of land recorded in the name of Mauro S. Gutierrez and wife, Isabel Gutierrez in Volume 993, Page 534 of the D.R.B.C.;

3. Thence, with the westerly line of said Second Tract and the easterly line of said 6 acre tract, North 03 degrees 11 minutes 55 seconds West, a distance of 217.80 feet to a 5/8-inch iron rod with cap stamped "COSTELLO INC" set at the northeast corner of said 6 acre tract and the southeast corner of aforesaid Third Tract;
4. Thence, with the northerly line of said 6 acre tract, the southerly line of said Third Tract, the southerly line of aforesaid Fourth Tract, and the southerly line of Lot 5 of Weidenbach Subdivision as recorded in Volume 5, Page 97 of the Plat Records of Brazoria County (P.R.B.C.), South 86 degrees 48 minutes 14 seconds West, a distance of 721.34 feet to a 5/8-inch iron rod with cap stamped "COSTELLO INC" set at an exterior corner of said 6 acre tract, an exterior corner of said Fourth Tract, and the most easterly corner of a called 1 acre tract of land recorded in the name of Jose Guadalupe Valencia in C.F. No. 2016055058 of the O.P.R.B.C.;
5. Thence, with the southwesterly line of said Fourth Tract, the southwesterly line of said Lot 5, and the northeasterly line of said 1 acre tract, North 61 degrees 01 minutes 52 seconds West, a distance of 396.18 feet to a 5/8-inch iron rod with cap stamped "COSTELLO INC" set on the southeasterly right-of-way line of FM 528 (Friendswood Road, width varies) as recorded in Volume 552, Page 5 of the D.R.B.C., from which a found 5/8-inch iron rod bears North 61 degrees 01 minutes 52 seconds West, a distance of 9.42 feet;
6. Thence, with said southeasterly right-of-way line of FM 528, North 29 degrees 10 minutes 31 seconds East, a distance of 143.69 feet to a 3/4-inch iron pipe found on the northerly line of said Fourth Tract and being the southwesterly corner of a called 2.96 acre tract of land recorded in the name of Ceasar Garcia and Isidra Delacruz Garcia in C.F. No. 2008022502 of the O.P.R.B.C.;
7. Thence, with said northerly line of Fourth Tract and the southerly line of said 2.96 acre tract, South 86 degrees 12 minutes 31 seconds East, a distance of 803.55 feet to a 1/2-inch iron rod with cap found at the southeast corner of said 2.96 acre tract, and being on the southeasterly line of said Lot 5 and the northwesterly line of aforesaid Third Tract;
8. Thence, with said northwesterly line of Third Tract, the northwesterly line of aforesaid Second Tract, the southeasterly line of aforesaid Weidenbach Subdivision, the southeasterly line of said 2.96 acre tract, the southeasterly line of a called 4.33 acre tract of land recorded in the name of Patsy Frase in C.F. No. 93-021132 of the O.P.R.B.C., and the southeasterly line of a tract of land recorded in the name of Giulio Catallo in C.F. No. 1985038680 of the O.P.R.B.C., North 29 degrees 09 minutes 27 seconds East, at a distance of 237.55 feet pass a 1/2-inch iron pipe found at the northeast corner of said 2.96 acre tract and the southeast corner of said 4.33 acre tract, at a distance of 760.56 feet pass a found 1/2-inch iron pipe and continuing a total distance of 804.64 feet to a P/K Nail set at the most northerly northwest corner of said Second Tract and being in the right-of-way of Wheeler Road (width varies);

9. Thence, with the northerly line of said Second Tract, the northerly line of aforesaid First Tract, and with said Wheeler Road, North 86 degrees 34 minutes 22 seconds East, a distance of 1,408.53 feet to a P/K Nail set on the southwesterly right-of-way line of SH 35 Bypass (300-foot wide) recorded in Volume 781, Page 518 of the D.R.B.C.;
10. Thence, with said southwesterly right-of-way line of SH 35 Bypass, South 35 degrees 29 minutes 21 seconds East, a distance of 768.89 feet to a 5/8-inch iron rod with cap stamped "COSTELLO INC" set on the easterly line of aforesaid First Tract and being the most northerly corner of aforesaid 1.6473 acre tract, from which a found 1-inch iron pipe bears South 62 degrees 45 minutes 49 seconds East, a distance of 4.22 feet;
11. Thence, with said easterly line of First Tract and the westerly line of said 1.6473 acre tract, South 03 degrees 25 minutes 38 seconds East, a distance of 478.08 feet to the **Point of Beginning** and containing 55.90 acres of land.





## EXHIBIT B

In additions to any requirements as may be set forth in that certain Utility Services Contract dated effective September 21, 2017, by and between The City of Alvin, Texas and Brazoria County Municipal Utility District No. 73, the City's consent to the addition of the 55.90 acres described in Exhibit A to the petition to which this Exhibit at attached is subject to the Petitioner's compliance with the following conditions:

- (a) The developer will be responsible for funding a utility capacity study and constructing water and wastewater facilities adequate to serve the tract including offsite extensions. At the City's discretion, the City may require oversizing of facilities in compliance with the City's master water and wastewater plans. In such cases, the developer will construct the oversized facilities with the City's portion funded by one or more of the following methods:
  1. Reimbursement to the developer from the impact fee fund (or other available City funds) at the time of completion of the improvements.
  2. Reimbursement to the developer over an agreed upon time using a Chapter 380 agreement with funds derived from the new property and/or sales tax generated from the property.
  3. Reimbursement to the developer over a period of time funded by pro rata assessments levied on other properties benefitting from the oversized facilities with assessments collected and paid to developer at the time of development of those properties.
  
- (b) The developer will be responsible for constructing roadway facilities adequate to serve the tract including offsite extensions as determined by a traffic impact analysis (TIA). Where the Thoroughfare Plan requires a roadway wider than that indicated by the TIA, at a minimum, the developer will preserve and dedicate the planned right-of-way width. At the City's discretion, the City may choose to participate in expanding the roadway facility to its ultimate configuration. In such cases, the developer will construct the expanded facilities with the City's portion to be funded by one or more of the following methods:
  1. Reimbursement to the developer from lawfully available funds at the time of completion of the improvements.
  2. Reimbursement to the developer over an agreed upon time using a Chapter 380 agreement with funds derived from the new property and/or sales tax generated from the property.
  3. Reimbursement to the developer over a period of time funded by pro rata assessments levied on other properties benefitting from the expanded facilities with assessments collected and paid to developer at the time of development of those properties.

- (c) Where the City's Parks Plan indicates the need for a neighborhood park, linear park, or city park (community or regional park) on or near the tract being developed, provision for the park needs to be made when subdividing the property. The development must comply with the Park Dedication requirements of the subdivision code and, if applicable, the PUD park requirements.
1. Neighborhood Parks and Linear Parks: The location and size should be mutually agreeable between the developer and the City for logical placement within the plan of development for the property and maintained by a homeowners association.
  2. City Parks: The developer should be compensated for land area required for a city park in excess of the land area required under the Subdivision Ordinance. Compensation may be made by one of the following methods:
    - A. Reimbursement to the developer from lawfully available funds at the time of platting.
    - B. Reimbursement to the developer over an agreed upon time using a Chapter 380 agreement with funds derived from the new property and/or sales tax generated from the property.