

FORT BEND COUNTY FY 2009
COMMISSIONERS COURT AGENDA REQUEST FORM

Return Completed Form by E-Mail to: Agenda Coordinator, County Judge's Office

Date Submitted: 06.11.09	Submitted By: Laura Johnson
Court Agenda Date: 06.23.09	For: Drainage District Phone Number: 4556

SUMMARY OF ITEM: Deliberate and take action on Partial Assignment and Assumption of Drainage Easement to Big Oaks Municipal Utility District.

RENEWAL AGREEMENT/APPOINTMENT YES NO
REVIEWED BY COUNTY ATTORNEY'S OFFICE: YES X NO

List Supporting Documents Attached:

FINANCIAL SUMMARY:

BUDGETED ITEM: YES NO

FUNDNG SOURCE: Accounting Unit: _____ Account Number: _____
Activity (If Applicable): _____

DESCRIPTION OF LAWSOM ACCOUNT: _____

Instructions to submit Agenda Request Form:

- Completely fill out agenda form: incomplete forms will not be processed.
- Agenda Request Forms should be submitted by e-mail, fax, or inter-office mail, and all back-up information must be provided by Wednesday at 2:00 p.m. to all those listed below.
- All original back-up must be received in the County Judge's Office by 2:00 p.m. on Wednesday.

DISTRIBUTION:

Original Form Submitted with back up to County Judge's Office (✓ when completed)
If by E-Mail to ospindon@co.fort-bend.tx.us If by Fax to (281) 341-8609

Distribute copies with back-up to all listed below. If by fax, send to numbers below:

<input checked="" type="checkbox"/> Auditor (281-341-3774)	<input checked="" type="checkbox"/> Comm. Pct. 1 (281-342-0587)
<input checked="" type="checkbox"/> Budget Officer (281-344-3954)	<input checked="" type="checkbox"/> Comm. Pct. 2 (281-403-8009)
<input checked="" type="checkbox"/> Facilities/Planning (281-633-7022)	<input checked="" type="checkbox"/> Comm. Pct. 3 (281-242-9060)
<input checked="" type="checkbox"/> Purchasing Agent (281-341-8642)	<input checked="" type="checkbox"/> Comm. Pct. 4 (281-980-9077)
<input type="checkbox"/> Information Technology (281-341-4526)	<input checked="" type="checkbox"/> County Clerk (281-341-8697)
<input checked="" type="checkbox"/> Mark Vogler, Drainage District	

RECOMMENDATION / ACTION REQUESTED:

Special Handling Requested (specify):

6-24-09 orig. easement recorded with County Clerk property records & returned to Laura at Co. Attorney

COATS | ROSE

A Professional Corporation

JOHN G. CANNON

jcannon@coatsrose.com
Direct Dial
(713) 653-5735
Direct Fax
(713) 890-3958

June 11, 2009

Via Messenger

Glen Dunbar
City Attorney Office
Fort Bend County, Texas
301 Jackson St., Suite 728
Richmond, Texas 77469

Re: Big Oaks Municipal Utility District

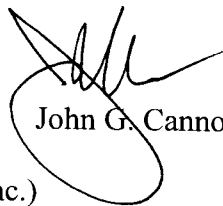
Dear Glen:

Enclosed please find an original Partial Assignment and Assumption of Drainage Agreement. I changed the date on page 1 to June 23, 2009 per your request.

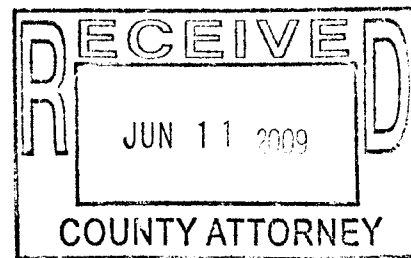
After the County signs the documents, either record it or return to me for recordation. In either event I would like a copy of the recorded document.

Thanks for your help with this matter.

Sincerely,


John G. Cannon

cc: Matt Carpenter (via email w/out enc.)



3 East Greenway Plaza, Suite 2000 Houston, Texas 77046-0307
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**PARTIAL ASSIGNMENT AND ASSUMPTION
OF DRAINAGE EASEMENT**

This PARTIAL ASSIGNMENT AND ASSUMPTION OF DRAINAGE EASEMENT ("Assignment") is executed and delivered as of June 23, 2009 (the "Effective Date"), by FORT BEND COUNTY DRAINAGE DISTRICT, a corporation of Fort Bend County, Texas ("Assignor") to BIG OAKS MUNICIPAL UTILITY DISTRICT, a municipal utility district organized, created and established under the terms and provisions of Section 59 of Article 16 of the Constitution of the State of Texas ("Assignee").

INTRODUCTORY PROVISION:

WHEREAS, Assignor and Blanche Webb Hall, sole devisee under the Will of Leslie E. Hall and survivor in the community estate, entered into that certain Fort Bend County Drainage District Right of Way Deed dated July 16, 1953, recorded in the real property records of Fort Bend County, Texas at Volume 319, page 93 as amended by that certain Grant and Abandonment of Certain Drainage Easements described in instrument filed for record under Clerk's File No. 2000055233 of the Official Records of Fort Bend County, Texas (the "Drainage Easement") providing for constructing, maintaining, operating, repairing and reconstructing a drainage canal, including drains, ditches, laterals and levees upon the land more particularly described in the Drainage Easement.

NOW, THEREFORE, for and in consideration of the foregoing premises, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and confessed, the parties agree as follows:

1. Assignment and Assumption. Assignee hereby assumes all obligations of Assignor under the Drainage Easement arising after the Effective Date. Assignor by these presents does hereby GRANT, CONVEY, BARGAIN, SELL, TRANSFER, ASSIGN, SET-OVER and DELIVER unto Assignee, Assignor's rights, titles, interests and privileges under and pursuant to the Drainage Easement, which are necessary to Assignee to perform its obligations under the Drainage Easement; however such rights are to be shared in common with Assignor.

2. Disclaimer of Warranty. Except as specifically stated herein, Assignor hereby specifically disclaims to the fullest extent allowed by law any warranty, guaranty, or representation, oral or written, past, present or future, of, as, to, or concerning (i) the nature and condition of the Drainage Easement, including but not by way of limitation, the water, soil, geology and the suitability thereof, for any and all activities and uses which Assignee may elect to conduct thereon or any improvements Assignee may elect to construct thereon, income to be derived therefrom or expenses to be incurred with respect thereto, or any obligations or any other matter or thing relating to or affecting the same; (ii) the manner of construction and condition and state of repair or lack of repair of any improvements located thereon; (iii) except for any warranties contained herein, the nature and extent of any easement, right-of-way, lease, possession, lien, encumbrance, license, reservation, condition or otherwise; and (iv) the compliance of the Drainage Easement with any laws, rules, ordinances, or regulations of any

CCM 6-23-09 # 602
Fort Bend County Clerk
Return Admin Serv Coord
Ret At Counter:

government or other body. THE CONVEYANCE OF THE DRAINAGE EASEMENT AS PROVIDED FOR HEREIN IS MADE ON AN "AS IS" BASIS, AND ASSIGNEE ACKNOWLEDGES THAT, IN CONSIDERATION OF THE AGREEMENTS OF ASSIGNOR HEREIN, EXCEPT AS OTHERWISE SPECIFIED HEREIN, ASSIGNOR MAKES NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, INCLUDING, BUT IN NO WAY LIMITED TO, ANY WARRANTY OF CONDITION, HABITABILITY, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF THE DRAINAGE EASEMENT.

3. Enforcement. Assignor shall have the right to enforce any of the terms of this Assignment by any proceedings at law or in equity against any person or persons violating or attempting to violate them, whether the relief sought is an injunction or recovery of damages, or both. Failure by the Assignor to enforce any covenant, condition or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. With respect to any litigation hereunder, the prevailing party shall be entitled to recover reasonable attorney fees and court costs from the non-prevailing party.

4. Applicable Law. This Assignment shall be governed by and construed in accordance with the laws of the State of Texas. Assignor and Assignee hereby agree that venue of any action brought under this Assignment shall be in Fort Bend County, Texas.

5. Severability. In case any one or more of the provisions contained in this Assignment shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not effect any other provision hereof, and this Assignment shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

6. Multiple Counterparts. To facilitate execution, this instrument may be executed in as many counterparts as may be convenient or required. It shall not be necessary that the signature or acknowledgment of, or on behalf of, each party, or that the signature of all persons required to bind any party, or the acknowledgment of such party, appear on each counterpart. All counterparts shall collectively constitute a single instrument. It shall not be necessary in making proof of this instrument to produce or account for more than a single counterpart containing the respective signatures of, or on behalf of, and the respective acknowledgments of, each of the parties hereto. Any signature or acknowledgment page to any counterpart may be detached from such counterpart without impairing the legal effect of the signatures or acknowledgments thereof and thereafter attached to another counterpart identical thereto except having attached to it additional signature or acknowledgment pages.

7. Entire Agreement. This Assignment contains the entire agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any or all representations or modifications concerning this instrument shall be of no force and effect except for a subsequent modification in writing signed by the parties hereto.

Binding Effect. Assignee and Assignor covenant and agree that the servitudes, easements, rights, rights-of-way, privileges, agreements, covenants and restrictions and all other terms, conditions and provisions hereof shall be binding upon their respective successors and assigns.

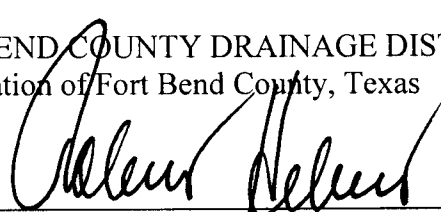
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EXECUTED as of the date first above written.

ASSIGNOR:

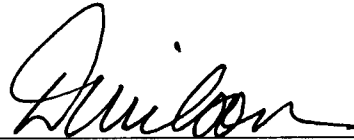
FORT BEND COUNTY DRAINAGE DISTRICT,
a corporation of Fort Bend County, Texas

By: _____


Robert Hebert, Chairman of the Board

June 23, 2009

Attest: _____



Dianne Wilson, County Clerk

ASSIGNEE:

BIG OAKS MUNICIPAL UTILITY DISTRICT,
a municipal utility district

By: _____

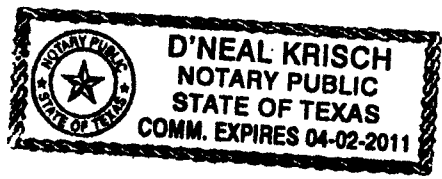

Name: MICHAEL ASHIFE

Title: VICE - PRESIDENT

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

This instrument was acknowledged before me on this 23 day of June, 2009, by Robert Hebert, Chairman of the Board of FORT BEND COUNTY DRAINAGE DISTRICT, a corporation of Fort Bend County, Texas, on behalf of said corporation.

D'neal Krisch
Notary Public in and for The State of Texas



THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

This instrument was acknowledged before me on this 10th day of June, 2009, by Michael Abshire, Vice President of BIG OAKS MUNICIPAL UTILITY DISTRICT, a municipal utility district, on behalf of said district.

Michael Abshire
Notary Public in and for the State of Texas



FILED AND RECORDED

OFFICIAL PUBLIC RECORDS

Dianne Wilson

2009 Jun 29 02:11 PM
MAM \$0.00

2009065072

Dianne Wilson COUNTY CLERK
FT BEND COUNTY TEXAS