

**ORDER AUTHORIZING EXEMPTION, SPECIAL COUNSEL,
FILING OF SUIT AND EXPENSES**

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

On the 22nd day of August, 2023, at a duly posted and called meeting of the Commissioners Court of Fort Bend County, Texas, on motion of Commissioner Meyers, seconded by Commissioner Morales, duly put and carried;

WHEREAS, in order to guarantee that the roads, streets, and drainage shown on recorded plats are built to completion by standards which meet or exceed the minimum requirements of the Fort Bend County Regulations of Subdivisions (the "Subdivision Regulations") and of the Fort Bend County Engineer, Fort Bend County, Texas (the "County") received the following Maintenance Bonds with Surety (collectively, the "Bonds"):

Bond No. MNT9193591 in the amount of \$180,180.00 from Jaho, Inc. and Taylor Morrison of Texas, Inc. for the Avalon at Riverstone Section Sixteen-A subdivision with Colonial American Casualty and Surety Company named as a surety on the referenced bond.

Bond No. MNT9233357 in the amount of \$147,630.00 from Jaho, Inc. and Hillsboro Estates, LLC for the Cabrera Drive at Riverstone Street Dedication subdivision with Colonial American Casualty and Surety Company named as a surety on the referenced bond.

Bond No. MNT9204975 in the amount of \$155,400.00 from Jaho, Inc. and Fort Bend County Levee Improvement District No. 15 for the East and West Avalon Drive Connection Street Dedication subdivision with Colonial American Casualty and Surety Company named as a surety on the referenced bond.

Bond No. MNT9100050 in the amount of \$224,420.00 from Jaho, Inc. and Sugar Land Ranch Development II, Corp. for the Edgewood at Riverstone, Section 2 subdivision with Colonial American Casualty and Surety Company named as surety on the referenced bond.

Bond No. MNT9182072 in the amount of \$64,330.00 from Jaho, Inc. and Perry Homes, LLC for the Enclave at Scanlan Trace subdivision with Colonial American Casualty and Surety Company named as surety on the referenced bond.

Bond No. MNT9165118 in the amount of \$110,800.00 from Jaho, Inc. and Land Tejas FM 1093 & 723, Ltd. for the Heritage Bluff Drive Street Dedication, Section 1 subdivision with Colonial American Casualty and Surety Company named as surety on the referenced bond.

Bond No. MNT9118159 in the amount of \$161,280.00 from Jaho, Inc. and Herrin Ranch Development II, Inc. for the Millwood at Riverstone, Section 2 subdivision with Colonial American Casualty and Surety Company named as surety on the referenced bond.

Bond No. MNT9118199 in the amount of \$214,550.00 from Jaho, Inc. and Herrin Ranch Development II, Inc. for the Millwood at Riverstone, Section 3 subdivision with Colonial American Casualty and Surety Company named as surety on the referenced bond.

Bond recorded under Clerk's File No. 2017070966 of the Official Public Records of Fort Bend County, Texas in the amount of \$5,530.00 from Jaho, Inc. and Newmark Homes Houston, LLC for the Nandina at Riverstone partial replat subdivision with Colonial American Casualty and Surety Company named as surety on the referenced bond.

Bond recorded under Clerk's File No. 2017105574 of the Official Public Records of Fort Bend County, Texas in the amount of \$387,946.00 from Jaho, Inc. and Riverwood Land, LLC for the Riverwood Village, Section 4 subdivision with Colonial American Casualty and Surety Company named as surety on the referenced bond.

Bond No. 8196-08-46 in the amount of \$598,500.00 from Durwood Greene Construction Co. for the Stone Brook at Riverstone, Section 1 subdivision with Federal Insurance Company named as surety on the referenced bond.

Bond recorded under Clerk's File No. 2017094285 of the Official Public Records of Fort Bend County, Texas in the amount of \$243,740.00 from Jaho, Inc. and Newmark Homes Houston, LLC for The Grove at Rivestone,

Section 1 subdivision with Colonial American Casualty and Surety Company named as surety on the referenced bond.

Bond No. MNT9049051 in the amount of \$224,329.00 from Jaho, Inc. and Perry Homes, LLC for the Canyon Village at Westheimer Lakes, Section 3 subdivision with Colonial American Casualty and Surety Company named as surety on the referenced bond.

WHEREAS, the roads, streets, and drainage shown on the recorded plats for the above-referenced subdivisions have not been built to completion by standards meeting or exceeding the minimum standards established by the Subdivision Regulations and the Fort Bend County Engineer's Office; and

WHEREAS, despite written demand by the Fort Bend County Engineer's Office, Jaho, Inc., Taylor Morrision of Texas, Inc., Perry Homes, LLC, Newmark Homes Houston, LLC, Durwood Green Construction Co., Riverwood Land, LLC, Herrin Ranch Development II, Inc., Land Tejas FM 1093 & 723, Ltd., Hillsboro Estates, LLC, Fort Bend County Levee Improvement District No. 15, and Sugar Land Ranch Development, Corp., have not completed the roads, streets, and drainage in the subdivisions at or exceeding the County standards; and

WHEREAS, pursuant to Section 232.005 of the Texas Local Government Code and the Subdivision Regulations, the County, acting by and through the Fort Bend County Attorney or other prosecuting attorney, is authorized and desires to file a claim against the Bonds, seek injunctive relief, and recover damages in an amount adequate for the County to undertake any construction or other activity necessary to bring the streets, roads, and drainage into compliance, thus requiring Colonial American Casualty and Surety Company and Federal Insurance Company to deliver the proceeds of said Bonds to County; and

WHEREAS, County has found a substantial need to employ Special Counsel to assist the County Attorney in the prosecution of said claims and lawsuit against one or more of the following: Jaho, Inc., Taylor Morrision of Texas, Inc., Perry Homes, LLC, Newmark Homes Houston, LLC, Durwood Green Construction Co., Riverwood Land, LLC, Herrin Ranch Development II, Inc., Land Tejas FM 1093 & 723, Ltd., Hillsboro Estates, LLC, Fort Bend County Levee Improvement District No. 15, Sugar Land Ranch Development, Corp., Colonial American Casualty and Surety Company, and Federal Insurance Company.

NOW THEREFORE BE IT ORDERED that the Commissioners Court of Fort Bend County, Texas, grants an exception from competitive bidding and proposal procedures in accordance with Texas Local Government Code Section 262.024(a)(4).

IT IS FURTHER ORDERED that authorization is hereby granted to the Fort Bend County Attorney's Office to engage Andrew P. McCormick, McCormick, Landry, Munoz, PLLC, as Special Counsel to file suit on behalf of Fort Bend County, Texas against Jaho, Inc., Taylor Morrision of Texas, Inc., Perry Homes, LLC, Newmark Homes Houston, LLC, Durwood Green Construction Co., Riverwood Land, LLC, Herrin Ranch Development II, Inc., Land Tejas FM 1093 & 723, Ltd., Hillsboro Estates, LLC, Fort Bend County Levee Improvement District No. 15, Sugar Land Ranch Development, Corp., Colonial American Casualty and Surety Company, Federal Insurance Company, and/or any other necessary party, to collect payment on the bonds, and to seek any and all additional relief to which Fort Bend County may be lawfully entitled, upon execution of a Professional Services Agreement, which agreement terms and conditions are subject to the approval of the County Attorney; and

IT IS FURTHER ORDERED that the Fort Bend County Attorney's Office and Special Counsel are authorized to do all things necessary to prosecute all phases of litigation, including appeal, and the same are hereby exempted, pursuant to Tex. Civil Prac. & Rem. Code § 6.001(c), from being required to file a bond for court costs incident to this suit or for an appeal or writ of error (petition for review) taken out by the County and are not required to give a surety for the issuance of a bond to take out a writ of attachment, a writ of sequestration, a distress warrant, or a writ of garnishment in said suit.

IT IS FURTHER ORDERED that the Fort Bend County Attorney and Special Counsel are authorized to incur fees and expenses as necessary for the proper prosecution of this case, including the fees paid to Special Counsel for professional legal services, said fees and expenses not to exceed a total of \$50,000.00. It is also ORDERED to approve transfer in the amount of \$50,000.00 from Non-Departmental Contingency Fees to Engineering Fees as listed on Auditor's form dated August 16, 2023 to allocate funds for litigation expenses.

PASSED and APPROVED this _____ day of _____, 2023.

FORT BEND COUNTY, TEXAS

Kellie George

KELLIE GEORGE, COUNTY JUDGE



ATTEST:

Laura Richard

LAURA RICHARD, COUNTY CLERK