

1-1 By: Bell of Montgomery (Senate Sponsor - Kolkhorst) H.B. No. 4635
 1-2 (In the Senate - Received from the House May 17, 2021;
 1-3 May 17, 2021, read first time and referred to Committee on Local
 1-4 Government; May 21, 2021, reported favorably by the following
 1-5 vote: Yeas 7, Nays 0; May 21, 2021, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11			X	
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16			X	

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to the creation of the Waller County Municipal Utility
 1-20 District No. 38; granting a limited power of eminent domain;
 1-21 providing authority to issue bonds; providing authority to impose
 1-22 assessments, fees, and taxes.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-24 SECTION 1. Subtitle F, Title 6, Special District Local Laws
 1-25 Code, is amended by adding Chapter 7944A to read as follows:

1-26 CHAPTER 7944A. WALLER COUNTY MUNICIPAL UTILITY DISTRICT NO. 38
 1-27 SUBCHAPTER A. GENERAL PROVISIONS

1-28 Sec. 7944A.0101. DEFINITIONS. In this chapter:

1-29 (1) "Board" means the district's board of directors.
 1-30 (2) "Commission" means the Texas Commission on
 1-31 Environmental Quality.

1-32 (3) "Director" means a board member.
 1-33 (4) "District" means the Waller County Municipal
 1-34 Utility District No. 38.

1-35 Sec. 7944A.0102. NATURE OF DISTRICT. The district is a
 1-36 municipal utility district created under Section 59, Article XVI,
 1-37 Texas Constitution.

1-38 Sec. 7944A.0103. CONFIRMATION AND DIRECTOR ELECTION
 1-39 REQUIRED. The temporary directors shall hold an election to
 1-40 confirm the creation of the district and to elect five permanent
 1-41 directors as provided by Section 49.102, Water Code.

1-42 Sec. 7944A.0104. CONSENT OF MUNICIPALITY REQUIRED. The
 1-43 temporary directors may not hold an election under Section
 1-44 7944A.0103 until each municipality in whose corporate limits or
 1-45 extraterritorial jurisdiction the district is located has
 1-46 consented by ordinance or resolution to the creation of the
 1-47 district and to the inclusion of land in the district.

1-48 Sec. 7944A.0105. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.
 1-49 (a) The district is created to serve a public purpose and benefit.

1-50 (b) The district is created to accomplish the purposes of:
 1-51 (1) a municipal utility district as provided by
 1-52 general law and Section 59, Article XVI, Texas Constitution; and
 1-53 (2) Section 52, Article III, Texas Constitution, that
 1-54 relate to the construction, acquisition, improvement, operation,
 1-55 or maintenance of macadamized, graveled, or paved roads, or
 1-56 improvements, including storm drainage, in aid of those roads.

1-57 Sec. 7944A.0106. INITIAL DISTRICT TERRITORY. (a) The
 1-58 district is initially composed of the territory described by
 1-59 Section 2 of the Act enacting this chapter.

1-60 (b) The boundaries and field notes contained in Section 2 of
 1-61 the Act enacting this chapter form a closure. A mistake made in the

2-1 field notes or in copying the field notes in the legislative process
 2-2 does not affect the district's:

- 2-3 (1) organization, existence, or validity;
- 2-4 (2) right to issue any type of bond for the purposes
 2-5 for which the district is created or to pay the principal of and
 2-6 interest on a bond;
- 2-7 (3) right to impose a tax; or
- 2-8 (4) legality or operation.

2-9 SUBCHAPTER B. BOARD OF DIRECTORS

2-10 Sec. 7944A.0201. GOVERNING BODY; TERMS. (a) The district
 2-11 is governed by a board of five elected directors.

2-12 (b) Except as provided by Section 7944A.0202, directors
 2-13 serve staggered four-year terms.

2-14 Sec. 7944A.0202. TEMPORARY DIRECTORS. (a) The temporary
 2-15 board consists of:

- 2-16 (1) Allison Thompson;
- 2-17 (2) Zachary Boyer;
- 2-18 (3) Mario Gobert Sr.;
- 2-19 (4) Sean Hewitt; and
- 2-20 (5) Jerry Peruchini.

2-21 (b) Temporary directors serve until the earlier of:

2-22 (1) the date permanent directors are elected under
 2-23 Section 7944A.0103; or

2-24 (2) the fourth anniversary of the effective date of
 2-25 the Act enacting this chapter.

2-26 (c) If permanent directors have not been elected under
 2-27 Section 7944A.0103 and the terms of the temporary directors have
 2-28 expired, successor temporary directors shall be appointed or
 2-29 reappointed as provided by Subsection (d) to serve terms that
 2-30 expire on the earlier of:

2-31 (1) the date permanent directors are elected under
 2-32 Section 7944A.0103; or

2-33 (2) the fourth anniversary of the date of the
 2-34 appointment or reappointment.

2-35 (d) If Subsection (c) applies, the owner or owners of a
 2-36 majority of the assessed value of the real property in the district
 2-37 may submit a petition to the commission requesting that the
 2-38 commission appoint as successor temporary directors the five
 2-39 persons named in the petition. The commission shall appoint as
 2-40 successor temporary directors the five persons named in the
 2-41 petition.

2-42 SUBCHAPTER C. POWERS AND DUTIES

2-43 Sec. 7944A.0301. GENERAL POWERS AND DUTIES. The district
 2-44 has the powers and duties necessary to accomplish the purposes for
 2-45 which the district is created.

2-46 Sec. 7944A.0302. MUNICIPAL UTILITY DISTRICT POWERS AND
 2-47 DUTIES. The district has the powers and duties provided by the
 2-48 general law of this state, including Chapters 49 and 54, Water Code,
 2-49 applicable to municipal utility districts created under Section 59,
 2-50 Article XVI, Texas Constitution.

2-51 Sec. 7944A.0303. AUTHORITY FOR ROAD PROJECTS. Under
 2-52 Section 52, Article III, Texas Constitution, the district may
 2-53 design, acquire, construct, finance, issue bonds for, improve,
 2-54 operate, maintain, and convey to this state, a county, or a
 2-55 municipality for operation and maintenance macadamized, graveled,
 2-56 or paved roads, or improvements, including storm drainage, in aid
 2-57 of those roads.

2-58 Sec. 7944A.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A
 2-59 road project must meet all applicable construction standards,
 2-60 zoning and subdivision requirements, and regulations of each
 2-61 municipality in whose corporate limits or extraterritorial
 2-62 jurisdiction the road project is located.

2-63 (b) If a road project is not located in the corporate limits
 2-64 or extraterritorial jurisdiction of a municipality, the road
 2-65 project must meet all applicable construction standards,
 2-66 subdivision requirements, and regulations of each county in which
 2-67 the road project is located.

2-68 (c) If the state will maintain and operate the road, the
 2-69 Texas Transportation Commission must approve the plans and

3-1 specifications of the road project.
 3-2 Sec. 7944A.0305. COMPLIANCE WITH MUNICIPAL CONSENT
 3-3 ORDINANCE OR RESOLUTION. The district shall comply with all
 3-4 applicable requirements of any ordinance or resolution that is
 3-5 adopted under Section 54.016 or 54.0165, Water Code, and that
 3-6 consents to the creation of the district or to the inclusion of land
 3-7 in the district.

3-8 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

3-9 Sec. 7944A.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)
 3-10 The district may issue, without an election, bonds and other
 3-11 obligations secured by:

3-12 (1) revenue other than ad valorem taxes; or
 3-13 (2) contract payments described by Section
 3-14 7944A.0403.

3-15 (b) The district must hold an election in the manner
 3-16 provided by Chapters 49 and 54, Water Code, to obtain voter approval
 3-17 before the district may impose an ad valorem tax or issue bonds
 3-18 payable from ad valorem taxes.

3-19 (c) The district may not issue bonds payable from ad valorem
 3-20 taxes to finance a road project unless the issuance is approved by a
 3-21 vote of a two-thirds majority of the district voters voting at an
 3-22 election held for that purpose.

3-23 Sec. 7944A.0402. OPERATION AND MAINTENANCE TAX. (a) If
 3-24 authorized at an election held under Section 7944A.0401, the
 3-25 district may impose an operation and maintenance tax on taxable
 3-26 property in the district in accordance with Section 49.107, Water
 3-27 Code.

3-28 (b) The board shall determine the tax rate. The rate may not
 3-29 exceed the rate approved at the election.

3-30 Sec. 7944A.0403. CONTRACT TAXES. (a) In accordance with
 3-31 Section 49.108, Water Code, the district may impose a tax other than
 3-32 an operation and maintenance tax and use the revenue derived from
 3-33 the tax to make payments under a contract after the provisions of
 3-34 the contract have been approved by a majority of the district voters
 3-35 voting at an election held for that purpose.

3-36 (b) A contract approved by the district voters may contain a
 3-37 provision stating that the contract may be modified or amended by
 3-38 the board without further voter approval.

3-39 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

3-40 Sec. 7944A.0501. AUTHORITY TO ISSUE BONDS AND OTHER
 3-41 OBLIGATIONS. The district may issue bonds or other obligations
 3-42 payable wholly or partly from ad valorem taxes, impact fees,
 3-43 revenue, contract payments, grants, or other district money, or any
 3-44 combination of those sources, to pay for any authorized district
 3-45 purpose.

3-46 Sec. 7944A.0502. TAXES FOR BONDS. At the time the district
 3-47 issues bonds payable wholly or partly from ad valorem taxes, the
 3-48 board shall provide for the annual imposition of a continuing
 3-49 direct ad valorem tax, without limit as to rate or amount, while all
 3-50 or part of the bonds are outstanding as required and in the manner
 3-51 provided by Sections 54.601 and 54.602, Water Code.

3-52 Sec. 7944A.0503. BONDS FOR ROAD PROJECTS. At the time of
 3-53 issuance, the total principal amount of bonds or other obligations
 3-54 issued or incurred to finance road projects and payable from ad
 3-55 valorem taxes may not exceed one-fourth of the assessed value of the
 3-56 real property in the district.

3-57 SECTION 2. The Waller County Municipal Utility District No.
 3-58 38 initially includes all the territory contained in the following
 3-59 area:

3-60 A description of 469.7 acres of land located in the Nathan W.
 3-61 Bush Survey, Abstract 76, and the John L. Boatright Survey,
 3-62 Abstract 81, Waller County, Texas, and out a called 69 acre tract
 3-63 (First Tract) described in the deed to Paul Arrington Wood,
 3-64 Trustee, recorded under Volume 634, Page 710, in the Deed Records of
 3-65 Waller County, Texas, a called 84 acre tract (Second Tract)
 3-66 described in the deed to Paul Arrington Wood, Trustee, recorded
 3-67 under Volume 634, Page 710, in the Deed Records of Waller County,
 3-68 Texas, the called 205 acre tract described in the deed to Paul
 3-69 Arrington Wood, Trustee, recorded under Volume 634, Page 710, in

4-1 the Deed Records of Waller County, Texas, and the 236 acre tract
 4-2 described in the deed to Paul Arrington Wood, Trustee, recorded
 4-3 under Volume 551, Page 50 and Volume 551, Page 52, in the Deed
 4-4 Records of Waller County, Texas, and more particularly described by
 4-5 metes and bounds as follows (all bearings referenced to the Texas
 4-6 Coordinate System, South Central Zone (4204), NAD 83 (NA2011) Epoch
 4-7 2010.00):

4-8 BEGINNING at a found fence post at the southeast corner of a
 4-9 called 29.565 acre tract described in the deed to Huey Paul Beckham,
 4-10 and wife, Carolyn Ann Beckham, recorded under Volume 319, Page 528,
 4-11 in the Deed Records of Waller County, Texas, common to the southwest
 4-12 corner of said 205 acre tract, and the southwest corner of the
 4-13 herein described tract, in the north right-of-way line of Owens
 4-14 Road (called 80 feet wide), (found to be 79.7 feet wide at this
 4-15 point);

4-16 Thence, North 02° 23' 59" West - 2515.78', along the west line
 4-17 of said 205 acre tract, and along a west line of the aforesaid First
 4-18 Tract, to a found fence post at the northeast corner of said 29.565
 4-19 acre tract, common to an angle corner of the herein described tract;

4-20 Thence, South 87° 20' 45" West - 297.31', along the north line
 4-21 of said 29.565 acre tract, common to a south line of said First
 4-22 Tract, to a found fence post at the most westerly southwest corner
 4-23 of said First Tract, common to the southeast corner of a called
 4-24 38.2977 acre tract, described as Tract 4B, described in the deed to
 4-25 Cynthia Flukinger Stasny, recorded under Volume 410, Page 368, in
 4-26 the Deed Records of Waller County, Texas;

4-27 Thence, North 02° 27' 25" West - 818.17', along a west line of
 4-28 said "First Tract" common to the east line of said Tract 4B, to a
 4-29 1/2" iron rod with cap stamped "Precision Surveying" found for the
 4-30 southwest corner of a called 97.1861 acre tract described in the
 4-31 deed to Edmund and So King Chan recorded under File Number 1502533,
 4-32 in the Official Public Records of Waller County, Texas;

4-33 Thence, North 86° 09' 07" East - 3604.71', along the south line
 4-34 of said 97.1861 acre tract, (at 2,196.59' passing a 1/2" iron rod
 4-35 with cap stamped "Precision Surveying" found for the southeast
 4-36 corner of said 97.1861 acre tract, common to the most northerly
 4-37 northwest corner of aforesaid 205 acre tract), then continuing
 4-38 along the north line of said 205 acre tract, common to the south
 4-39 line of a called 25.453 acre tract (referenced as Tract 8) described
 4-40 in the deed to Charley E. Richard and Eula P. Richard, recorded
 4-41 under Volume 509, Page 221, in the Deed Records of Waller County,
 4-42 Texas, and partially along the south line of a called 25.453 acre
 4-43 tract (referenced as Tract 10) described in the deed to Charley E.
 4-44 Richard and Eula P. Richard, recorded under Volume 646, Page 772, in
 4-45 the Deed Records of Waller County, Texas to a 3/4" iron pipe found
 4-46 for the northeast corner of said 205 acre tract, common to an angle
 4-47 corner of said Tract 10, in the west line of aforesaid 236 acre
 4-48 tract;

4-49 Thence, North 02° 42' 37" West - 4.00', along the west line of
 4-50 said 236 acre tract, common to an east line of said Tract 10, to a
 4-51 5/8" iron rod with cap stamped "LJA SURVEY" set for an angle corner
 4-52 of the herein described tract, common to the northwest corner of
 4-53 said 236 acre tract, and an angle corner of said Tract 10;

4-54 Thence, North 86° 01' 48" East - 2474.62', along a south line
 4-55 of said Tract 10, common to the north line of said 236 acre tract,
 4-56 (at 1042.89' passing a 3/4" iron rod found for the southeast corner
 4-57 of said Tract 10, common to the southwest corner of the 25.4535 acre
 4-58 tract referenced in the deed to Donald G. Keischnick and Grace A.
 4-59 Keischnick, recorded under Volume 412, Page 337, in the Deed
 4-60 Records of Waller County, Texas, and described as 25.453 acres
 4-61 (Tract Twelve) in the deed recorded under Volume 224, Page 170, of
 4-62 the Deed Records of Waller County, Texas) then continuing along the
 4-63 north line of said 236 acre tract, common to the south line of said
 4-64 Tract Twelve, to a 5/8" iron rod with cap stamped "LJA SURVEY" set
 4-65 for the northeast corner of the herein described tract, common to
 4-66 the southeast corner of said Tract Twelve, in the west right-of-way
 4-67 line of F.M. 362 (80' right-of-way width);

4-68 Thence, South 20° 44' 44" East - 2131.42', along said west
 4-69 right-of-way line, to a 5/8" iron rod with cap stamped "LJA SURVEY"

5-1 set for the beginning of a tangent curve to the right;

5-2 Thence, 896.48', along said west right-of-way line, along
5-3 said tangent curve to the right, having a radius of 2824.93', a
5-4 central angle of 18° 10' 57", and a chord bearing and distance of
5-5 South 11° 39' 01" East - 892.71' to a 5/8" iron rod with cap stamped
5-6 "LJA SURVEY" set for the end of curve;

5-7 Thence, South 02° 33' 44" West - 464.00', continuing along
5-8 said west right-of-way line, to a found 12" cedar post at the
5-9 intersection of said west right-of-way line and the north
5-10 right-of-way line of aforesaid Owens Road (found to be 80' wide at
5-11 this point), common to the southeast corner of the herein described
5-12 tract;

5-13 Thence, South 86° 25' 49" West - 2412.90', along the north
5-14 right-of-way line of said Owens Road, to a 5/8" iron rod with cap
5-15 stamped "LJA SURVEY" set for an interior corner of the herein
5-16 described tract (said Owens Road found to be 78.4' wide at this
5-17 point);

5-18 Thence, North 04° 27' 13" West - 1054.33', generally along the
5-19 west side of a gravel drive, to a 5/8" iron rod with cap stamped "LJA
5-20 SURVEY" set for an interior corner of the herein described tract;

5-21 Thence, North 82° 00' 12" West - 841.76', generally along a 4'
5-22 barbed wire fence, to a 5/8" iron rod with cap stamped "LJA SURVEY"
5-23 set for an interior corner of the herein described tract, in the
5-24 east line of aforesaid 205 acre tract, common to the west line of
5-25 aforesaid 236 acre tract;

5-26 Thence, South 02° 42' 37" East - 1223.17', along said common
5-27 line, (at 872.58' passing a 1/2" iron rod found for the northwest
5-28 corner of a called 2.016 acre tract described in the deed to Charles
5-29 J. Wood and Robyn A. Wood recorded under Volume 498, Page 493, in
5-30 the Deed Records of Waller County, Texas), then continuing along
5-31 said common line, and the west line of said 2.016 acre tract, to the
5-32 southwest corner of said 2.016 acre tract, in the north
5-33 right-of-way line of said Owens Road (found to be 77.5' wide at this
5-34 point), from which a bent 1/2" iron rod bears North 86° 34' 26" East
5-35 - 1.54'';

5-36 Thence, South 86° 34' 26" West - 3324.19', along the north
5-37 right-of-way line of said Owens Road, to the POINT OF BEGINNING and
5-38 containing 469.7 acres of land.

5-39 SECTION 3. (a) The legal notice of the intention to
5-40 introduce this Act, setting forth the general substance of this
5-41 Act, has been published as provided by law, and the notice and a
5-42 copy of this Act have been furnished to all persons, agencies,
5-43 officials, or entities to which they are required to be furnished
5-44 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
5-45 Government Code.

5-46 (b) The governor, one of the required recipients, has
5-47 submitted the notice and Act to the Texas Commission on
5-48 Environmental Quality.

5-49 (c) The Texas Commission on Environmental Quality has filed
5-50 its recommendations relating to this Act with the governor, the
5-51 lieutenant governor, and the speaker of the house of
5-52 representatives within the required time.

5-53 (d) All requirements of the constitution and laws of this
5-54 state and the rules and procedures of the legislature with respect
5-55 to the notice, introduction, and passage of this Act are fulfilled
5-56 and accomplished.

5-57 SECTION 4. (a) If this Act does not receive a two-thirds
5-58 vote of all the members elected to each house, Subchapter C, Chapter
5-59 7944A, Special District Local Laws Code, as added by Section 1 of
5-60 this Act, is amended by adding Section 7944A.0306 to read as
5-61 follows:

5-62 Sec. 7944A.0306. NO EMINENT DOMAIN POWER. The district may
5-63 not exercise the power of eminent domain.

5-64 (b) This section is not intended to be an expression of a
5-65 legislative interpretation of the requirements of Section 17(c),
5-66 Article I, Texas Constitution.

5-67 SECTION 5. This Act takes effect immediately if it receives
5-68 a vote of two-thirds of all the members elected to each house, as
5-69 provided by Section 39, Article III, Texas Constitution. If this

6-1 Act does not receive the vote necessary for immediate effect, this
6-2 Act takes effect September 1, 2021.

6-3

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