

1-1 By: Metcalf (Senate Sponsor - Creighton) H.B. No. 5316
 1-2 (In the Senate - Received from the House May 10, 2023;
 1-3 May 10, 2023, read first time and referred to Committee on Local
 1-4 Government; May 17, 2023, reported favorably by the following
 1-5 vote: Yeas 9, Nays 0; May 17, 2023, 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 Montgomery County Municipal Utility
 1-20 District No. 235; 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 8016 to read as follows:

1-26 CHAPTER 8016. MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 235

1-27 SUBCHAPTER A. GENERAL PROVISIONS

1-28 Sec. 8016.0101. 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 Montgomery County Municipal
 1-34 Utility District No. 235.

1-35 Sec. 8016.0102. 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. 8016.0103. CONFIRMATION AND DIRECTORS' 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. 8016.0104. CONSENT OF MUNICIPALITY REQUIRED. The
 1-43 temporary directors may not hold an election under Section
 1-44 8016.0103 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. 8016.0105. 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. 8016.0106. 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. 8016.0201. GOVERNING BODY; TERMS. (a) The district is
 2-11 governed by a board of five elected directors.

2-12 (b) Except as provided by Section 8016.0202, directors
 2-13 serve staggered four-year terms.

2-14 Sec. 8016.0202. TEMPORARY DIRECTORS. (a) The temporary
 2-15 board consists of:

- 2-16 (1) Natalie Simmons;
- 2-17 (2) Page Barnes;
- 2-18 (3) Sally Miller;
- 2-19 (4) Kenneth Sessum Sr.; and
- 2-20 (5) David Thomas.

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

2-22 (1) the date permanent directors are elected under
 2-23 Section 8016.0103; 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 8016.0103 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 8016.0103; 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. 8016.0301. 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. 8016.0302. 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. 8016.0303. AUTHORITY FOR ROAD PROJECTS. Under Section
 2-52 52, Article III, Texas Constitution, the district may design,
 2-53 acquire, construct, finance, issue bonds for, improve, operate,
 2-54 maintain, and convey to this state, a county, or a municipality for
 2-55 operation and maintenance macadamized, graveled, or paved roads, or
 2-56 improvements, including storm drainage, in aid of those roads.

2-57 Sec. 8016.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A
 2-58 road project must meet all applicable construction standards,
 2-59 zoning and subdivision requirements, and regulations of each
 2-60 municipality in whose corporate limits or extraterritorial
 2-61 jurisdiction the road project is located.

2-62 (b) If a road project is not located in the corporate limits
 2-63 or extraterritorial jurisdiction of a municipality, the road
 2-64 project must meet all applicable construction standards,
 2-65 subdivision requirements, and regulations of each county in which
 2-66 the road project is located.

2-67 (c) If the state will maintain and operate the road, the
 2-68 Texas Transportation Commission must approve the plans and
 2-69 specifications of the road project.

3-1 Sec. 8016.0305. COMPLIANCE WITH MUNICIPAL CONSENT
 3-2 ORDINANCE OR RESOLUTION. The district shall comply with all
 3-3 applicable requirements of any ordinance or resolution that is
 3-4 adopted under Section 54.016 or 54.0165, Water Code, and that
 3-5 consents to the creation of the district or to the inclusion of land
 3-6 in the district.

3-7 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

3-8 Sec. 8016.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)
 3-9 The district may issue, without an election, bonds and other
 3-10 obligations secured by:

3-11 (1) revenue other than ad valorem taxes; or

3-12 (2) contract payments described by Section 8016.0403.

3-13 (b) The district must hold an election in the manner
 3-14 provided by Chapters 49 and 54, Water Code, to obtain voter approval
 3-15 before the district may impose an ad valorem tax or issue bonds
 3-16 payable from ad valorem taxes.

3-17 (c) The district may not issue bonds payable from ad valorem
 3-18 taxes to finance a road project unless the issuance is approved by a
 3-19 vote of a two-thirds majority of the district voters voting at an
 3-20 election held for that purpose.

3-21 Sec. 8016.0402. OPERATION AND MAINTENANCE TAX. (a) If
 3-22 authorized at an election held under Section 8016.0401, the
 3-23 district may impose an operation and maintenance tax on taxable
 3-24 property in the district in accordance with Section 49.107, Water
 3-25 Code.

3-26 (b) The board shall determine the tax rate. The rate may not
 3-27 exceed the rate approved at the election.

3-28 Sec. 8016.0403. CONTRACT TAXES. (a) In accordance with
 3-29 Section 49.108, Water Code, the district may impose a tax other than
 3-30 an operation and maintenance tax and use the revenue derived from
 3-31 the tax to make payments under a contract after the provisions of
 3-32 the contract have been approved by a majority of the district voters
 3-33 voting at an election held for that purpose.

3-34 (b) A contract approved by the district voters may contain a
 3-35 provision stating that the contract may be modified or amended by
 3-36 the board without further voter approval.

3-37 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

3-38 Sec. 8016.0501. AUTHORITY TO ISSUE BONDS AND OTHER
 3-39 OBLIGATIONS. The district may issue bonds or other obligations
 3-40 payable wholly or partly from ad valorem taxes, impact fees,
 3-41 revenue, contract payments, grants, or other district money, or any
 3-42 combination of those sources, to pay for any authorized district
 3-43 purpose.

3-44 Sec. 8016.0502. TAXES FOR BONDS. At the time the district
 3-45 issues bonds payable wholly or partly from ad valorem taxes, the
 3-46 board shall provide for the annual imposition of a continuing
 3-47 direct ad valorem tax, without limit as to rate or amount, while all
 3-48 or part of the bonds are outstanding as required and in the manner
 3-49 provided by Sections 54.601 and 54.602, Water Code.

3-50 Sec. 8016.0503. BONDS FOR ROAD PROJECTS. At the time of
 3-51 issuance, the total principal amount of bonds or other obligations
 3-52 issued or incurred to finance road projects and payable from ad
 3-53 valorem taxes may not exceed one-fourth of the assessed value of the
 3-54 real property in the district.

3-55 SECTION 2. The Montgomery County Municipal Utility District
 3-56 No. 235 initially includes all the territory contained in the
 3-57 following area:

3-58 Being a 149.1 acre tract of land located in the B.F. Winters
 3-59 Survey, Abstract No. 621 and the Matthew Morris Survey, Abstract
 3-60 No. 338 in Montgomery County, Texas; said 149.1 acre tract being a
 3-61 portion of a called 160.99 acre tract recorded in the name of Conroe
 3-62 1484, LLC under Clerk's File (C.F.) No. 2022150104 of the Official
 3-63 Public Records of Montgomery County (O.P.R.M.C.); said 149.1 acre
 3-64 tract being more particularly described by metes and bounds as
 3-65 follows (all bearings are referenced to the Texas Coordinate
 3-66 System, North American Datum of 1983 (NAD83), Central Zone):

3-67 BEGINNING at a 5/8-inch iron rod with cap stamped "COSTELLO
 3-68 INC" found at the north corner of said 160.99 acre tract, the east
 3-69 corner of a called 5.47 acre tract recorded in the name of Asim and

4-1 Faisal Shahzad under C.F. No. 2012082132 of the O.P.R.M.C., being
 4-2 on the southerly right-of-way (R.O.W.) line of F.M. 1484 (80-foot
 4-3 wide per Volume (Vol.) 344, Page 152 of the Montgomery County Deed
 4-4 Records (M.C.D.R.);

4-5 Thence, with the southerly R.O.W. line of said FM 1484 the
 4-6 following five (5) courses:

4-7 1. 866.55 feet along the arc of a curve to the right, said
 4-8 curve having a central angle of 54 degrees 15 minutes 26 seconds, a
 4-9 radius of 915.08 feet and a chord that bears South 74 degrees 20
 4-10 minutes 01 seconds East, a distance of 834.54 feet to a 5/8-inch
 4-11 iron rod with cap stamped "COSTELLO INC" found;

4-12 2. South 47 degrees 12 minutes 18 seconds East, a distance
 4-13 of 236.50 feet to a 5/8-inch iron rod with cap stamped "COSTELLO
 4-14 INC" found;

4-15 3. 354.05 feet along the arc of a curve to the right, said
 4-16 curve having a central angle of 22 degrees 10 minutes 00 seconds, a
 4-17 radius of 915.13 feet and a chord that bears South 36 degrees 07
 4-18 minutes 18 seconds East, a distance of 351.84 feet to a 5/8-inch
 4-19 iron rod with cap stamped "COSTELLO INC" found;

4-20 4. South 25 degrees 02 minutes 18 seconds East, a distance
 4-21 of 236.30 feet to a 5/8-inch iron rod with cap stamped "COSTELLO
 4-22 INC" found;

4-23 5. 329.69 feet along the arc of a curve to the left, said
 4-24 curve having a central angle of 18 degrees 59 minutes 07 seconds, a
 4-25 radius of 994.97 feet and a chord that bears South 34 degrees 31
 4-26 minutes 52 seconds East, a distance of 328.19 feet to a 5/8-inch
 4-27 iron rod with cap stamped "COSTELLO INC" found for the northeast
 4-28 corner of said 160.99 acre tract and the north corner of Valley
 4-29 Oaks, Section One, a subdivision recorded in Cabinet Q, Sheet 109 of
 4-30 the Montgomery County Plat Records;

4-31 6. Thence, with the common line of said 160.99 acre tract
 4-32 and said Valley Oaks, Section One, South 41 degrees 29 minutes 36
 4-33 seconds West, a distance of 639.24 feet to a 5/8-inch iron rod with
 4-34 cap stamped "COSTELLO INC" found;

4-35 7. Thence, with the northwest lines of said Valley Oaks,
 4-36 Section One and Valley Oaks, Section Two, an unrecorded
 4-37 subdivision, and the southeast line of said 160.99 acre tract,
 4-38 South 41 degrees 48 minutes 36 seconds West, a distance of 1,727.21
 4-39 feet to a 5/8-inch capped iron rod stamped "COSTELLO INC" found for
 4-40 the south corner of said 160.99 acre tract;

4-41 8. Thence, with a southwest line of said 160.99 acre tract,
 4-42 North 47 degrees 56 minutes 11 seconds West, a distance of 339.76
 4-43 feet to a 3/4-inch iron rod found at an interior corner of said
 4-44 160.99 acre tract;

4-45 9. Thence, with an interior line of said 160.99 acre tract,
 4-46 South 44 degrees 15 minutes 23 seconds West, at a distance of 382.76
 4-47 feet pass a 3/4-inch iron rod found for reference, continue in all a
 4-48 distance of 470.14 feet to the southeast corner of said 160.99 acre
 4-49 tract, same being on the centerline of Caney Creek;

4-50 Thence, with the meanders of the centerline of Caney Creek
 4-51 the following twenty-one (22) courses:

4-52 10. North 59 degrees 33 minutes 18 seconds West, a distance
 4-53 of 174.86 feet;

4-54 11. South 80 degrees 55 minutes 47 seconds West, a distance
 4-55 of 200.00 feet;

4-56 12. South 47 degrees 51 minutes 27 seconds West, a distance
 4-57 of 227.00 feet;

4-58 13. North 52 degrees 25 minutes 33 seconds West, a distance
 4-59 of 100.00 feet;

4-60 14. North 03 degrees 50 minutes 27 seconds East, a distance
 4-61 of 185.00 feet;

4-62 15. North 43 degrees 01 minutes 33 seconds West, a distance
 4-63 of 120.00 feet;

4-64 16. North 65 degrees 42 minutes 33 seconds West, a distance
 4-65 of 185.00 feet;

4-66 17. South 82 degrees 21 minutes 27 seconds West, a distance
 4-67 of 100.00 feet;

4-68 18. South 23 degrees 41 minutes 27 seconds West, a distance
 4-69 of 232.00 feet;

5-1 19. South 57 degrees 01 minutes 27 seconds West, a distance
5-2 of 112.00 feet;
5-3 20. North 71 degrees 50 minutes 33 seconds West, a distance
5-4 of 123.00 feet;
5-5 21. North 27 degrees 55 minutes 33 seconds West, a distance
5-6 of 138.00 feet;
5-7 22. North 03 degrees 57 minutes 27 seconds East, a distance
5-8 of 175.00 feet;
5-9 23. North 43 degrees 04 minutes 33 seconds West, a distance
5-10 of 238.00 feet;
5-11 24. North 77 degrees 35 minutes 33 seconds West, a distance
5-12 of 200.00 feet;
5-13 25. North 21 degrees 40 minutes 33 seconds West, a distance
5-14 of 80.00 feet;
5-15 26. North 49 degrees 35 minutes 27 seconds East, a distance
5-16 of 160.00 feet;
5-17 27. North 31 degrees 31 minutes 33 seconds West, a distance
5-18 of 134.00 feet;
5-19 28. South 83 degrees 26 minutes 27 seconds West, a distance
5-20 of 232.00 feet;
5-21 29. South 51 degrees 32 minutes 27 seconds West, a distance
5-22 of 174.30 feet;
5-23 30. North 25 degrees 41 minutes 33 seconds West, a distance
5-24 of 290.50 feet;
5-25 31. North 07 degrees 58 minutes 15 seconds West, a distance
5-26 of 97.30 feet to the southeast R.O.W. line of said FM 1484 (width
5-27 varies per Vol. 344, Pg. 144 and Vol. 344, Pg. 147 of the M.C.D.R.,
5-28 and C.F. No. 9325884 and 9325885 of the O.P.R.M.C.);
5-29 Thence, with the southeast R.O.W. line of said FM 1484 the
5-30 following two (2) courses:
5-31 32. North 64 degrees 28 minutes 00 seconds East, a distance
5-32 of 450.50 feet to a 5/8-inch iron rod with cap stamped "COSTELLO
5-33 INC" found;
5-34 33. 232.59 feet along the arc of a curve to the left, said
5-35 curve having a central angle of 12 degrees 45 minutes 13 seconds, a
5-36 radius of 1,044.93 feet and a chord that bears North 55 degrees 28
5-37 minutes 49 seconds East, a distance of 232.11 feet;
5-38 34. Thence, through said 160.99 acre tract, South 49 degrees
5-39 35 minutes 33 seconds East, a distance of 575.87 feet;
5-40 35. Thence, continuing through said 160.99 acre tract,
5-41 North 41 degrees 55 minutes 01 seconds East, at a distance of 801.87
5-42 feet pass the south corner of a called 5.255 acre tract recorded in
5-43 the name of Michael Chardwick Et Ux. under C.F. No. 81-03320 of the
5-44 O.P.R.M.C., at a distance of 1,095.65 feet pass the south corner of
5-45 a called 3.5567 acre tract recorded in the name of David Hernandez
5-46 under C.F. No. 2002102847 of the O.P.R.M.C, at a distance of
5-47 1,295.06 feet pass a 1/2-inch iron rod found at the south corner of
5-48 a called 4.35 acre tract recorded in the name of Andrew S. Gordon
5-49 and Jessica Faye Taylor under C.F. No. 2020045361 of the
5-50 O.P.R.M.C., at a distance of 1,751.38 feet pass a 3/4-inch iron rod
5-51 found at the south corner of aforesaid 5.47 acre tract, continue in
5-52 all a distance of 2,664.84 feet to the Point of Beginning and
5-53 containing 149.1 acres of land.
5-54 SECTION 3. (a) The legal notice of the intention to
5-55 introduce this Act, setting forth the general substance of this
5-56 Act, has been published as provided by law, and the notice and a
5-57 copy of this Act have been furnished to all persons, agencies,
5-58 officials, or entities to which they are required to be furnished
5-59 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
5-60 Government Code.
5-61 (b) The governor, one of the required recipients, has
5-62 submitted the notice and Act to the Texas Commission on
5-63 Environmental Quality.
5-64 (c) The Texas Commission on Environmental Quality has filed
5-65 its recommendations relating to this Act with the governor, the
5-66 lieutenant governor, and the speaker of the house of
5-67 representatives within the required time.
5-68 (d) All requirements of the constitution and laws of this
5-69 state and the rules and procedures of the legislature with respect

6-1 to the notice, introduction, and passage of this Act are fulfilled
6-2 and accomplished.

6-3 SECTION 4. (a) If this Act does not receive a two-thirds
6-4 vote of all the members elected to each house, Subchapter C, Chapter
6-5 8016, Special District Local Laws Code, as added by Section 1 of
6-6 this Act, is amended by adding Section 8016.0306 to read as follows:
6-7 Sec. 8016.0306. NO EMINENT DOMAIN POWER. The district may
6-8 not exercise the power of eminent domain.

6-9 (b) This section is not intended to be an expression of a
6-10 legislative interpretation of the requirements of Section 17(c),
6-11 Article I, Texas Constitution.

6-12 SECTION 5. This Act takes effect immediately if it receives
6-13 a vote of two-thirds of all the members elected to each house, as
6-14 provided by Section 39, Article III, Texas Constitution. If this
6-15 Act does not receive the vote necessary for immediate effect, this
6-16 Act takes effect September 1, 2023.

6-17

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