

By: Metcalf

H.B. No. 4505

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Montgomery County Municipal Utility District No. 178; granting a limited power of eminent domain; providing authority to issue bonds; providing authority to impose assessments, fees, and taxes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8086 to read as follows:

CHAPTER 8086. MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 178

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8086.0101. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "Commission" means the Texas Commission on Environmental Quality.

(3) "Director" means a board member.

(4) "District" means the Montgomery County Municipal Utility District No. 178.

Sec. 8086.0102. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8086.0103. CONFIRMATION AND DIRECTOR ELECTION REQUIRED. The temporary directors shall hold an election to confirm the creation of the district and to elect five permanent directors as provided by Section 49.102, Water Code.

1 Sec. 8086.0104. CONSENT OF MUNICIPALITY REQUIRED. The
2 temporary directors may not hold an election under Section
3 8086.0103 until each municipality in whose corporate limits or
4 extraterritorial jurisdiction the district is located has
5 consented by ordinance or resolution to the creation of the
6 district and to the inclusion of land in the district.

7 Sec. 8086.0105. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

8 (a) The district is created to serve a public purpose and benefit.

9 (b) The district is created to accomplish the purposes of:

10 (1) a municipal utility district as provided by
11 general law and Section 59, Article XVI, Texas Constitution; and

12 (2) Section 52, Article III, Texas Constitution, that
13 relate to the construction, acquisition, improvement, operation,
14 or maintenance of macadamized, graveled, or paved roads, or
15 improvements, including storm drainage, in aid of those roads.

16 Sec. 8086.0106. INITIAL DISTRICT TERRITORY. (a) The
17 district is initially composed of the territory described by
18 Section 2 of the Act enacting this chapter.

19 (b) The boundaries and field notes contained in Section 2 of
20 the Act enacting this chapter form a closure. A mistake made in the
21 field notes or in copying the field notes in the legislative process
22 does not affect the district's:

23 (1) organization, existence, or validity;

24 (2) right to issue any type of bond for the purposes
25 for which the district is created or to pay the principal of and
26 interest on a bond;

27 (3) right to impose a tax; or

1 (4) legality or operation.

2 SUBCHAPTER B. BOARD OF DIRECTORS

3 Sec. 8086.0201. GOVERNING BODY; TERMS. (a) The district is
4 governed by a board of five elected directors.

5 (b) Except as provided by Section 8086.0202, directors
6 serve staggered four-year terms.

7 Sec. 8086.0202. TEMPORARY DIRECTORS. (a) On or after the
8 effective date of the Act enacting this chapter, the owner or owners
9 of a majority of the assessed value of the real property in the
10 district may submit a petition to the commission requesting that
11 the commission appoint as temporary directors the five persons
12 named in the petition. The commission shall appoint as temporary
13 directors the five persons named in the petition.

14 (b) Temporary directors serve until the earlier of:

15 (1) the date permanent directors are elected under
16 Section 8086.0103; or

17 (2) the fourth anniversary of the effective date of
18 the Act enacting this chapter.

19 (c) If permanent directors have not been elected under
20 Section 8086.0103 and the terms of the temporary directors have
21 expired, successor temporary directors shall be appointed or
22 reappointed as provided by Subsection (d) to serve terms that
23 expire on the earlier of:

24 (1) the date permanent directors are elected under
25 Section 8086.0103; or

26 (2) the fourth anniversary of the date of the
27 appointment or reappointment.

1 (d) If Subsection (c) applies, the owner or owners of a
2 majority of the assessed value of the real property in the district
3 may submit a petition to the commission requesting that the
4 commission appoint as successor temporary directors the five
5 persons named in the petition. The commission shall appoint as
6 successor temporary directors the five persons named in the
7 petition.

8 SUBCHAPTER C. POWERS AND DUTIES

9 Sec. 8086.0301. GENERAL POWERS AND DUTIES. The district
10 has the powers and duties necessary to accomplish the purposes for
11 which the district is created.

12 Sec. 8086.0302. MUNICIPAL UTILITY DISTRICT POWERS AND
13 DUTIES. The district has the powers and duties provided by the
14 general law of this state, including Chapters 49 and 54, Water Code,
15 applicable to municipal utility districts created under Section 59,
16 Article XVI, Texas Constitution.

17 Sec. 8086.0303. AUTHORITY FOR ROAD PROJECTS. Under Section
18 52, Article III, Texas Constitution, the district may design,
19 acquire, construct, finance, issue bonds for, improve, operate,
20 maintain, and convey to this state, a county, or a municipality for
21 operation and maintenance macadamized, graveled, or paved roads, or
22 improvements, including storm drainage, in aid of those roads.

23 Sec. 8086.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A
24 road project must meet all applicable construction standards,
25 zoning and subdivision requirements, and regulations of each
26 municipality in whose corporate limits or extraterritorial
27 jurisdiction the road project is located.

1 (b) If a road project is not located in the corporate limits
2 or extraterritorial jurisdiction of a municipality, the road
3 project must meet all applicable construction standards,
4 subdivision requirements, and regulations of each county in which
5 the road project is located.

6 (c) If the state will maintain and operate the road, the
7 Texas Transportation Commission must approve the plans and
8 specifications of the road project.

9 Sec. 8086.0305. COMPLIANCE WITH MUNICIPAL CONSENT
10 ORDINANCE OR RESOLUTION. The district shall comply with all
11 applicable requirements of any ordinance or resolution that is
12 adopted under Section 54.016 or 54.0165, Water Code, and that
13 consents to the creation of the district or to the inclusion of land
14 in the district.

15 Sec. 8086.0306. DIVISION OF DISTRICT. (a) The district may
16 be divided into two or more new districts only if the district:

- 17 (1) has never issued any bonds; and
18 (2) is not imposing ad valorem taxes.

19 (b) This chapter applies to any new district created by the
20 division of the district, and a new district has all the powers and
21 duties of the district.

22 (c) Any new district created by the division of the district
23 may not, at the time the new district is created, contain any land
24 outside the area described by Section 2 of the Act enacting this
25 chapter.

26 (d) The board, on its own motion or on receipt of a petition
27 signed by the owner or owners of a majority of the assessed value of

1 the real property in the district, may adopt an order dividing the
2 district.

3 (e) The board may adopt an order dividing the district
4 before or after the date the board holds an election under Section
5 8086.0103 to confirm the creation of the district.

6 (f) An order dividing the district shall:

7 (1) name each new district;

8 (2) include the metes and bounds description of the
9 territory of each new district;

10 (3) appoint temporary directors for each new district;

11 and

12 (4) provide for the division of assets and liabilities
13 between or among the new districts.

14 (g) On or before the 30th day after the date of adoption of
15 an order dividing the district, the district shall file the order
16 with the commission and record the order in the real property
17 records of each county in which the district is located.

18 (h) Any new district created by the division of the district
19 shall hold a confirmation and directors' election as required by
20 Section 8086.0103.

21 (i) If the creation of the new district is confirmed, the
22 new district shall provide the election date and results to the
23 commission.

24 (j) Any new district created by the division of the district
25 must hold an election as required by this chapter to obtain voter
26 approval before the district may impose a maintenance tax or issue
27 bonds payable wholly or partly from ad valorem taxes.

1 (k) Municipal consent to the creation of the district and to
2 the inclusion of land in the district granted under Section
3 8086.0104 acts as municipal consent to the creation of any new
4 district created by the division of the district and to the
5 inclusion of land in the new district.

6 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

7 Sec. 8086.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)
8 The district may issue, without an election, bonds and other
9 obligations secured by:

10 (1) revenue other than ad valorem taxes; or

11 (2) contract payments described by Section 8086.0403.

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

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

20 Sec. 8086.0402. OPERATION AND MAINTENANCE TAX. (a) If
21 authorized at an election held under Section 8086.0401, the
22 district may impose an operation and maintenance tax on taxable
23 property in the district in accordance with Section 49.107, Water
24 Code.

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

27 Sec. 8086.0403. CONTRACT TAXES. (a) In accordance with

1 Section 49.108, Water Code, the district may impose a tax other than
2 an operation and maintenance tax and use the revenue derived from
3 the tax to make payments under a contract after the provisions of
4 the contract have been approved by a majority of the district voters
5 voting at an election held for that purpose.

6 (b) A contract approved by the district voters may contain a
7 provision stating that the contract may be modified or amended by
8 the board without further voter approval.

9 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

10 Sec. 8086.0501. AUTHORITY TO ISSUE BONDS AND OTHER
11 OBLIGATIONS. The district may issue bonds or other obligations
12 payable wholly or partly from ad valorem taxes, impact fees,
13 revenue, contract payments, grants, or other district money, or any
14 combination of those sources, to pay for any authorized district
15 purpose.

16 Sec. 8086.0502. TAXES FOR BONDS. At the time the district
17 issues bonds payable wholly or partly from ad valorem taxes, the
18 board shall provide for the annual imposition of a continuing
19 direct ad valorem tax, without limit as to rate or amount, while all
20 or part of the bonds are outstanding as required and in the manner
21 provided by Sections 54.601 and 54.602, Water Code.

22 Sec. 8086.0503. BONDS FOR ROAD PROJECTS. At the time of
23 issuance, the total principal amount of bonds or other obligations
24 issued or incurred to finance road projects and payable from ad
25 valorem taxes may not exceed one-fourth of the assessed value of the
26 real property in the district.

27 SECTION 2. The Montgomery County Municipal Utility District

1 No. 178 initially includes all the territory contained in the
2 following area:

3 Being 133.0 acres of land in the F. K. Henderson Survey,
4 Abstract 248, Montgomery County, Texas, and being a portion of the
5 116.9 acre tract ("First Tract") and a portion of the 139.78 acre
6 tract ("Second Tract") described in the deed from Otway Taylor, et
7 al., to Geo. B. Darden recorded in Volume 258, Page 84 of the
8 Official Public Records of Real Property of Montgomery County,
9 Texas, also described in deed from Geo. B. Darden conveying 50%
10 interest in the above referenced tracts to W. T. Moran recorded in
11 Volume 285, Page 598 of the Official Public Records of Real Property
12 of Montgomery County, Texas, and being a portion of the 34 acre
13 tract described in deed from Geo. B. Darden conveying 50% interest
14 in said 34 acre tract to W. T. Moran recorded in Volume 285, Page 598
15 of the Official Public Records of Real Property of Montgomery
16 County, Texas, and being more particularly described by metes and
17 bounds as follows with bearings based on the Texas Coordinate
18 System of 1983, Central Zone:

19 BEGINNING at a 1-inch pinched top pipe found for the most
20 southerly corner of the called 4.4 acre tract described in the deed
21 to Bessie Ingram, et al., recorded in Volume 613, Page 166 of the
22 Official Public Records of Real Property of Montgomery County,
23 Texas, and being on the existing east right-of-way line of
24 Interstate Highway 45 (width varies) described in Volume 495, Page
25 593 of the Montgomery County Deed Records and being a southwesterly
26 corner of the herein described tract;

27 THENCE North 72° 02' 04" East - 775.42 feet, with the

1 southerly line of said called 4.4 acre tract to a 5-inch metal post
2 at a barbed wire fence corner found for the most easterly corner of
3 said called 4.4 acre tract;

4 THENCE North 18° 13' 40" West - 258.57 feet, with the easterly
5 line of said called 4.4 acre tract to a 3/4-inch pinched top pipe
6 found for the most northerly corner of said called 4.4 acre tract
7 and being the most easterly corner of the called 20.478 acre tract
8 described in deed to O. G. Williams recorded under Volume 613, Page
9 166 of the Official Public Records of Real Property of Montgomery
10 County, Texas;

11 THENCE North 18° 04' 15" West - 1902.34 feet, with the
12 easterly line of said called 20.478 acre tract to a 5-inch metal
13 post at a barbed wire fence corner found for the most northerly
14 corner of said called 20.478 acre tract, being the northwest corner
15 of the herein described tract and being on the southeasterly line
16 of the 184 acre tract described in deed to W. T. Moran recorded in
17 Volume 225, Page 324 of the Montgomery County Deed Records, and from
18 which point a 1-inch pinched top pipe found on the existing east
19 right-of-way line of said Interstate Highway 45 bears South 72° 30'
20 01" West - 239.16 feet;

21 THENCE North 72° 30' 01" East, at a distance of 2178.53 feet
22 pass a found 1-1/4 inch iron pipe, in all a total distance of
23 2996.55 feet to a 5/8-inch iron rod with cap stamped "IDS" set for
24 an angle point in the center of the 50-foot wide Gulf States
25 Utilities Company easement recorded in Volume 117, Page 578 of the
26 Montgomery County Deed Records;

27 THENCE North 18° 25' 50" West - 150.08 feet, with the

1 centerline of said 50-foot wide easement, to a 4-inch metal pole in
2 concrete found for the west corner of the 6.000 acre tract described
3 in deed to Andrew Scott Munson recorded in File Number 2002-114531
4 of the Official Public Records of Real Property of Montgomery
5 County, Texas;

6 THENCE South 77° 55' 33" East - 628.35 feet, with the
7 southerly line of said 6.000 acre tract to a 5/8-inch iron rod with
8 cap stamped "IDS" set for an angle point and being the north corner
9 of the 1.724 acre tract described in deed to Boardman Lee Munson
10 recorded in File Number 2005-039674 of the Official Public Records
11 of Real Property of Montgomery County, Texas;

12 THENCE South 13° 15' 38" West - 410.25 feet, with the westerly
13 line of said 1.724 acre tract and subsequently the westerly line of
14 the 2.00 acre tract described in deed to S.R.S. FAMILY, L.P.
15 recorded in File Number 2016-072723 of the Official Public Records
16 of Real Property of Montgomery County, Texas, to a 5/8-inch iron rod
17 found for the southwest corner of said 2.00 acre tract and being an
18 interior corner of the herein described tract;

19 THENCE South 76° 38' 05" East - 418.77 feet, with the south
20 line of said 2.00 acre tract, to a 1/2-inch iron rod found for the
21 southeast corner of said 2.00 acre tract and being on the westerly
22 right-of-way line of State Highway 75 (width varies);

23 THENCE South 11° 56' 11" West - 641.18 feet, with the westerly
24 right-of-way line of State Highway 75, to a 1/2-inch iron rod with
25 cap stamped "JEFF MOON" found for the northeast corner of the
26 30-foot wide access easement described in deed to City of Willis
27 recorded in Volume 949, Page 600 of the Official Public Records of

1 Real Property of Montgomery County, Texas;

2 THENCE North 76° 39' 50" West - 170.90 feet, with the north
3 line of said 30-foot wide access easement, to a 1/2-inch iron rod
4 with cap stamped "JEFF MOON" found for the beginning of a curve to
5 the left;

6 THENCE in a southwesterly direction, with the north line of
7 said 30-foot wide easement and with said curve to the left, having a
8 radius of 275.00 feet, a central angle of 29° 50' 00", a chord
9 bearing and distance of South 88° 25' 13" West - 141.58 feet, and an
10 arc distance of 143.19 feet to a 1/2-inch iron rod (bent) found for
11 the end of said curve;

12 THENCE South 73° 30' 13" West - 376.45 feet, continuing with
13 the north line of said 30-foot wide easement, to a 5/8-inch iron rod
14 (bent) found for the northwest corner of said 30-foot wide easement
15 and being the northeast corner of a 4.3668 acre tract described in
16 deed to City of Willis recorded in File Number Volume 949, Page 593
17 of the Official Public Records of Real Property of Montgomery
18 County, Texas;

19 THENCE South 73° 27' 30" West - 549.83 feet, with the north
20 line of 4.3668 acre tract to a 5/8- inch iron rod found for the
21 northwest corner of said 4.3668 acre tract;

22 THENCE South 16° 08' 36" East - 74.20 feet, with a westerly
23 line of said 4.3668 acre tract, to the centerline of East Fork of
24 Crystal Creek and being a northerly corner of the called 56.537 acre
25 tract described in deed to WILLIS INDEPENDENT SCHOOL DISTRICT
26 recorded in File Number 2009-075919 of the Official Public Records
27 of Real Property of Montgomery County, Texas;

1 THENCE upstream with the centerline meanders of East Fork of
2 Crystal Creek and the northerly lines of said 56.537 acre tract the
3 following courses and distances:

- 4 South 70° 35' 11" West - 33.39 feet to a point;
- 5 North 80° 32' 26" West - 73.75 feet to a point;
- 6 South 71° 37' 44" West - 71.55 feet to a point;
- 7 North 37° 39' 44" West - 193.05 feet to a point;
- 8 North 75° 27' 42" West - 15.78 feet to a point;
- 9 South 79° 52' 36" West - 16.52 feet to a point;
- 10 North 21° 05' 06" West - 17.97 feet to a point;
- 11 North 36° 24' 29" East - 31.20 feet to a point;
- 12 North 75° 23' 22" West - 89.92 feet to a point;
- 13 North 72° 00' 47" West - 54.68 feet to a point;
- 14 North 26° 03' 42" East - 25.75 feet to a point;
- 15 North 61° 20' 29" East - 42.65 feet to a point;
- 16 North 15° 26' 24" West - 11.68 feet to a point;
- 17 North 53° 00' 21" West - 53.87 feet to a point;
- 18 South 58° 16' 00" West - 20.71 feet to a point;
- 19 North 79° 26' 57" West - 16.65 feet to a point;
- 20 North 48° 21' 09" West - 27.21 feet to a point;
- 21 North 18° 36' 35" West - 37.64 feet to a point;
- 22 North 15° 59' 52" West - 45.67 feet to a point;
- 23 North 30° 02' 36" West - 11.21 feet to a point;
- 24 North 72° 54' 49" West - 31.82 feet to a point;
- 25 North 86° 21' 07" West - 28.71 feet to a point;

26 THENCE with westerly lines of said 56.537 acre tract and
27 interior lines of the herein described tract the following courses

1 and distances:

2 South 60° 52' 13" West - 439.62 feet to a 5/8-inch iron
3 rod with cap stamped "M&A" found for an angle corner;

4 South 12° 53' 19" West - 1415.35 feet to a 5/8-inch iron
5 rod with cap stamped "M&A" found for an angle corner;

6 South 22° 51' 04" East - 900.35 feet to a 5/8-inch iron
7 rod with cap stamped "M&A" found for an angle corner;

8 South 15° 52' 57" East - 478.23 feet to a 5/8-inch iron
9 rod with cap stamped "IDS" set on the arc of a non-tangent
10 curve to the left and being on the north right-of-way line of
11 FM 830 (120-foot wide) recorded in Volume 563, Page 60 of the
12 Official Public Records of Real Property of Montgomery
13 County, Texas;

14 THENCE in a southwesterly direction, with the north
15 right-of-way line of FM 830 and said curve to the left, having a
16 radius of 2925.00 feet, a central angle of 03° 30' 20", a chord
17 bearing and distance of South 87° 37' 26" West - 178.93 feet, and an
18 arc distance of 178.96 feet to a TxDOT concrete monument found for
19 the end of said curve;

20 THENCE South 85° 52' 16" West - 902.35 feet, continuing with
21 the north right-of-way line of FM 830, to the south corner of a
22 cutback line at the intersection of the north right-of-way line of
23 FM 830 and the easterly right-of-way line of said Interstate
24 Highway 45, from which point a TxDOT concrete monument bears South
25 46° 39' 14" East - 1.07 feet;

26 THENCE North 39° 05' 47" West - 67.43 feet, with said cutback
27 line, to the north corner of said cutback line and the easterly

1 right-of-way line of said Interstate Highway 45, being the
2 beginning of a non-tangent curve to the left, from which point a
3 TxDOT concrete monument bears South 72° 08' 45" East - 0.46 feet;

4 THENCE in a northwesterly direction, with the easterly
5 right-of-way line of said Interstate Highway 45 and with said curve
6 to the left, having a radius of 285.00 feet, a central angle of 64°
7 59' 58", a chord bearing and distance of North 36° 39' 22" West -
8 306.26 feet, and an arc distance of 323.32 feet to the end of said
9 curve from which point a TxDOT concrete monument bears South 48° 43'
10 13" East - 0.51 feet;

11 THENCE North 69° 09' 21" West - 272.82 feet, continuing with
12 the easterly right-of-way line of said Interstate Highway 45 to a
13 TxDOT concrete monument found for the beginning of a curve to the
14 right;

15 THENCE in a northwesterly direction, continuing with the
16 easterly right-of-way line of said Interstate Highway 45 and with
17 said curve to the right, having a radius of 177.00 feet, a central
18 angle of 65° 00' 00", a chord bearing and distance of North 36° 39'
19 21" West - 190.20 feet, and an arc distance of 200.80 feet to a TxDOT
20 concrete monument found for the end of said curve;

21 THENCE North 04° 09' 21" West - 214.21 feet, continuing with
22 the easterly right-of-way line of said Interstate Highway 45, to
23 the POINT OF BEGINNING and containing 133.0 acres of land.

24 SECTION 3. (a) The legal notice of the intention to
25 introduce this Act, setting forth the general substance of this
26 Act, has been published as provided by law, and the notice and a
27 copy of this Act have been furnished to all persons, agencies,

1 officials, or entities to which they are required to be furnished
2 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
3 Government Code.

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

7 (c) The Texas Commission on Environmental Quality has filed
8 its recommendations relating to this Act with the governor, the
9 lieutenant governor, and the speaker of the house of
10 representatives within the required time.

11 (d) All requirements of the constitution and laws of this
12 state and the rules and procedures of the legislature with respect
13 to the notice, introduction, and passage of this Act are fulfilled
14 and accomplished.

15 SECTION 4. (a) If this Act does not receive a two-thirds
16 vote of all the members elected to each house, Subchapter C, Chapter
17 8086, Special District Local Laws Code, as added by Section 1 of
18 this Act, is amended by adding Section 8086.0307 to read as follows:

19 Sec. 8086.0307. NO EMINENT DOMAIN POWER. The district may
20 not exercise the power of eminent domain.

21 (b) This section is not intended to be an expression of a
22 legislative interpretation of the requirements of Section 17(c),
23 Article I, Texas Constitution.

24 SECTION 5. This Act takes effect immediately if it receives
25 a vote of two-thirds of all the members elected to each house, as
26 provided by Section 39, Article III, Texas Constitution. If this
27 Act does not receive the vote necessary for immediate effect, this

H.B. No. 4505

1 Act takes effect September 1, 2019.