88R14283 SCP-F

By:  Wilson H.B. No. 5380

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Theon Ranches Municipal Utility District No. 3; 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 7963A to read as follows:

CHAPTER 7963A. THEON RANCHES MUNICIPAL UTILITY DISTRICT NO. 3

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 7963A.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 Theon Ranches Municipal Utility District No. 3.

Sec. 7963A.0102.  NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 7963A.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.

Sec. 7963A.0104.  CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 7963A.0103 until each municipality in whose corporate limits or extraterritorial jurisdiction the district is located has consented by ordinance or resolution to the creation of the district and to the inclusion of land in the district as required by applicable law.

Sec. 7963A.0105.  FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a) The district is created to serve a public purpose and benefit.

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

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

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

Sec. 7963A.0106.  INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act enacting this chapter.

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

(1)  organization, existence, or validity;

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

(3)  right to impose a tax; or

(4)  legality or operation.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 7963A.0201.  GOVERNING BODY; TERMS. (a) The district is governed by a board of five elected directors.

(b)  Except as provided by Section 7963A.0202, directors serve staggered four-year terms.

Sec. 7963A.0202.  TEMPORARY DIRECTORS. (a) The temporary board consists of:

(1)  Robert Peerman;

(2)  David Featherston;

(3)  Eric Miller;

(4)  Lisa Laguna; and

(5)  John Chang.

(b)  Temporary directors serve until the earlier of:

(1)  the date permanent directors are elected under Section 7963A.0103; or

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

(c)  If permanent directors have not been elected under Section 7963A.0103 and the terms of the temporary directors have expired, successor temporary directors shall be appointed or reappointed as provided by Subsection (d) to serve terms that expire on the earlier of:

(1)  the date permanent directors are elected under Section 7963A.0103; or

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

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

SUBCHAPTER C. POWERS AND DUTIES

Sec. 7963A.0301.  GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 7963A.0302.  MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 7963A.0303.  AUTHORITY FOR ROAD PROJECTS. Under Section 52, Article III, Texas Constitution, the district may design, acquire, construct, finance, issue bonds for, improve, operate, maintain, and convey to this state, a county, or a municipality for operation and maintenance macadamized, graveled, or paved roads, or improvements, including storm drainage, in aid of those roads.

Sec. 7963A.0304.  ROAD STANDARDS AND REQUIREMENTS. (a) A road project must meet all applicable construction standards, zoning and subdivision requirements, and regulations of each municipality in whose corporate limits or extraterritorial jurisdiction the road project is located.

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

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

Sec. 7963A.0305.  COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE OR RESOLUTION. The district shall comply with all applicable requirements of any ordinance or resolution that is adopted under Section 54.016 or 54.0165, Water Code, and that consents to the creation of the district or to the inclusion of land in the district.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 7963A.0401.  ELECTIONS REGARDING TAXES OR BONDS. (a) The district may issue, without an election, bonds and other obligations secured by:

(1)  revenue other than ad valorem taxes; or

(2)  contract payments described by Section 7963A.0403.

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

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

Sec. 7963A.0402.  OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 7963A.0401, the district may impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107, Water Code.

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

Sec. 7963A.0403.  CONTRACT TAXES. (a) In accordance with Section 49.108, Water Code, the district may impose a tax other than an operation and maintenance tax and use the revenue derived from the tax to make payments under a contract after the provisions of the contract have been approved by a majority of the district voters voting at an election held for that purpose.

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

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 7963A.0501.  AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, contract payments, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

Sec. 7963A.0502.  TAXES FOR BONDS. At the time the district issues bonds payable wholly or partly from ad valorem taxes, the board shall provide for the annual imposition of a continuing direct ad valorem tax, without limit as to rate or amount, while all or part of the bonds are outstanding as required and in the manner provided by Sections 54.601 and 54.602, Water Code.

Sec. 7963A.0503.  BONDS FOR ROAD PROJECTS. At the time of issuance, the total principal amount of bonds or other obligations issued or incurred to finance road projects and payable from ad valorem taxes may not exceed one-fourth of the assessed value of the real property in the district.

SECTION 2.  The Theon Ranches Municipal Utility District No. 3 initially includes all the territory contained in the following area:

BEING approximately 271.35 acres of land in Williamson County, Texas, said land being all of the 261.35 acres as described in Tract "A", and all of the 10 acres as described in Tract "B". Those individual tracts being described as follows:

Tract "A"

BEING 261.35 acres of land, situated in the Edmund Parsons Survey, Abstract No. 494 and the Nathaniel Moore Survey, Abstract No. 410, in Williamson County, Texas, said 261.35 acres being out of five (5) tracts of land, first tract being a portion of a 97.7 acre tract, of record to Cobb Springs Ranch, LTD, Exhibit B, Document No. 9838600, Official Public Records Williamson County, Texas (OPRWCT), second tract being a 52.03 acre tract, of record to Cobb Springs Ranch, LTD, Exhibit A, Document No. 2011079583, (OPRWCT), third tract being a 76.927 acre tract, of record to Cobb Springs Ranch, LTD, Exhibit A, Document No. 9838601, (OPRWCT), fourth tract being a 43.61 acre tract, of record to Cobb Springs Ranch, LTD, Exhibit A, Document No. 2000083825, (OPRWCT) and fifth tract being an unrecorded strip of land, said strip of land being a 0.5551 acre tract (24,182 square feet). This tract was surveyed on the ground in November of 2021 under the direction of William F. Forest, Jr., Registered Professional Land Surveyor No. 1847. Survey note: The bearing basis for this survey is the State Plane Coordinate System, Texas Central Zone (4203), and being more particularly described by metes and bounds as follows:

BEGINNING, at a 1/2" iron pin found (steel pin), at the Southwest corner of said 97.7 acre tract, for the Southwest corner hereof, same being the upper Northwest corner of a 4.02 acre tract, of record to Robert A. Van Swelm and Patricia Van Swelm, Document No. 2017095989, (OPRWCT), said point being a point in the East Right-of-Way line of County Road 234, from which a 1/2" capped iron pin found, marked "FOREST RPLS 1847", bears: S 21°37'06" E, 21.52 feet,

THENCE, with the West boundary line of said 97.7 acre tract and the East Right-of-Way line of County Road 234, along or near a fence, N 21°22'50" W, crossing the common Survey line of the Nathaniel Moore Survey, Abstract No. 410 and the Edmund Parsons Survey, Abstract No. 494, in all a total distance of 3228.45 feet, to a 1/2" capped iron pin set, marked "FOREST RPLS 1847", at the Northwest corner of said 97.7 acre tract, for the Northwest corner hereof, said point being a point in the South Right-of-Way line of Farm to Market Road 487 (FM 487),

THENCE, with the North boundary line of said 97.7 acre tract and the South Right-of-Way line of FM 487, along or near a fence, N 80°32'16" E, passing at 409.73 feet, the remains of a TXDOT Type I concrete marker, in all a total distance of 987.50 feet, to a 1/2" capped iron pin found, marked "FOREST RPLS 1847", at the Northeast corner of said 97.7 acre tract, for an angle point hereof, said point being the Northwest corner of said 52.03 acre tract, from which a 1/2" capped iron pin found, marked "FOREST RPLS 1847", at the Southwest corner of said 52.03 acre tract, bears: S 21°27'07" E, 1969.98 feet,

THENCE, with the North boundary line of said 52.03 acre tract and the South Right-of-Way line of FM 487, along or near a fence, the following three (3) courses and distances:

1. N 80°32'16" E, 260.89 feet, to a TXDOT Type I concrete marker, at the point of curvature for an angle point hereof,

2. in a easterly direction with a non-tangent curve to the left, (C1) with a Radius of 1178.28 feet, having a Chord Bearing of N 73°11'06" E, 303.24 feet, having a Central Angle of 14°47'12" and an Arc Length of 304.09 feet, to a TXDOT Type I concrete marker, at the point of tangency, for an angle point hereof,

3. N 65°50'39" E, 629.67 feet, to a 1/2" iron pin found, at the Northeast corner of said 52.03 acre tract, for an angle point hereof, said point being the Northwest corner of said 76.927 acre tract,

THENCE, with the North boundary line of said 76.927 acre tract and the South Right-of-Way line of FM 487, along or near a fence, the following four (4) courses and distances:

1. N 65°50'39" E, 577.18 feet, to a TXDOT Type I concrete marker, at the point of curvature, for the upper Northeast corner hereof,

2. in an easterly direction with a tangent curve to the right, (C2) with a Radius of 532.96 feet, having a Chord Bearing of S 67°55'46" E, 769.78 feet, having a Central Angle of 92°28'08" and an Arc Length of 860.14 feet, to a 3/8" iron pin found, at the point of tangency, for the lower Northeast corner hereof,

3. S 21°41'45" E, 876.06 feet, to a TXDOT Type I concrete marker, at the point of curvature for an angle point hereof,

4. in a southeasterly direction with a tangent curve to the left, (C3) with a Radius of 613.89 feet, having a Chord Bearing of S 30°08'38" E, 180.38 feet, having a Central Angle of 16°53'48" and an Arc Length of 181.04 feet, to calculated point, for an angle point hereof, a 3/8" iron pin found, bears: S 20°58'07" E, 0.21 feet, said point being the Northwest corner of a 7.73 acre tract, of record to Frank L. Fletcher, Document No. 2017046532, (OPRWCT), described in Document No. 2006034149, (OPRWCT), from which a TXDOT Type I concrete marker found, bears: in a southeasterly direction with a non-tangent curve to the left, (C4) with a Radius of 613.89 feet, having a Chord Bearing of S 74°39'37" E, 722.85 feet, having a Central Angle of 72°08'11" and an Arc Length of 772.90 feet,

THENCE, departing said Right-of-Way line, with the common boundary line of said 76.927 acre tract and said 7.73 acre tract, along or near a fence, S 20°58'07" E, passing at 0.21 feet, 3/8" iron pin found, passing at 4 feet, a 4" square concrete monument, S 69°01'53" W, 0.67 feet, and crossing the common Survey line of the Nathaniel Moore Survey, Abstract No. 410 and the Edmund Parsons Survey, Abstract No. 494, and passing the common corner of said 7.73 acre tract and a 13.00 acre tract, of record to Frank L. Fletcher, Document No. 2017046531, (OPRWCT), described in Document No. 9733401, (OPRWCT), and continuing with the common boundary line of said 76.927 acre tract and said 13.00 acre tract, in all a total distance of 1391.06 feet, to a 4" square concrete monument, at the Southeast corner of said 76.927 acre tract, for an angle point hereof, said point being the termination of a boundary agreement between Frank L. Fletcher and Cobb Springs Ranch, LTD, Document No. 2001002451, said point being the Northeast corner of said 0.5551 acre tract, an unrecorded strip of land, from which a 5/8" iron pin found inside a 2" galvanized iron pipe, at the Southwest corner of said 76.927 acre tract, bears: S 68°20'29" W, 1164.49 feet,

THENCE, continuing with said boundary agreement, S 19°19'34" E, 9.72 feet, to a 1/2" iron pin found, at the Southwest corner of said 13.00 acre tract, for an ell corner hereof, said point being a point in the North line of a 2 track lane, from which the Southeast corner of said 0.5551 acre tract, an unrecorded strip of land, bears: S 19°19'34" E, 12.08 feet,

THENCE, continuing with said boundary agreement, N 69°03'10" E, crossing the 2 track lane, in all a total distance of 1086.02 feet, to a 1/2" capped iron pin set, marked "FOREST RPLS 1847", for an ell corner hereof, said point being the Northeast corner of a 43.61 acre tract, of record to Cobb Springs Ranch, LTD, Document No. 2000083825, same being the Southeast corner of said 13.00 acre tract, said point being a point in the West Right-of-Way line of County Road 239, from which a 1/2" iron pin found, at the Northeast corner of said 13.00 acre tract, bears: N 21°04'32" W, 522.18 feet,

THENCE, with the East boundary line of said 43.61 acre tract and the West Right-of-Way line of County Road 239, along or near a fence, S 21°04'32" E, 1038.90 feet, to a 3/8" iron pin found, at the Southeast corner of said 43.61 acre tract, for the Southeast corner hereof, said point being the Northeast corner of a 99.49 acre tract, of record to Danek Construction, Document No. 2006027410, (OPRWCT), described in Volume 602, Page 888, Deed Records Williamson County, Texas (DRWCT),

THENCE, departing said Right-of-Way line, with South boundary line of said 43.61 acre trac, along or near a fence, S 68°51'36" W, 1842.80 feet, to a 1/2" capped iron pin set, marked "FOREST RPLS 1847", at the Southwest corner of said 43.61 acre tract, for an ell corner hereof, same being the Southeast corner of a 27.55 acre tract, of record to Robert A. Van Swelm and Patricia Van Swelm, Tract 2, Exhibit B, Document No. 2017095989, (OPRWCT), from which a 1/2" iron pin found, at the Northwest corner of said 99.49 acre tract, bears: S 68°32'49" W, 344.78 feet,

THENCE, with the common boundary line of said 43.61 acre tract and said 27.55 acre tract, N 21°01'56" W, passing at 1004.60 feet, a 1/2" iron pin found, at the South line of a road lane, said point being the Southeast corner of a 1.26 acre tract, of record to Amy Andrews, Exhibit A, Document No. 2000065741, (OPRWCT), and continuing in all a total distance of 1024.63 feet, to a 1/2" iron pin found, for an ell corner hereof, said point being the Northwest corner of said 43.61 acre tract, same being the Northeast corner of said 27.55 acre tract, same being the Northeast corner of said 1.26 acre tract, said point being a point in the South line of said 0.5551 acre tract, an unrecorded strip of land,

THENCE, with the common boundary line of said 27.55 acre tract and said 0.5551 acre tract, along the South line of a road lane, S 68°31'57" W, passing at 408.01 feet, the Southeast corner of said 97.7 acre tract, same being the Southwest corner of said 0.5551 acre tract, and continuing with the common boundary line of said 97.7 acre tract and said 27.55 acre tract, in all a total distance of 975.08 feet, to a 1/2" capped iron pin found, marked "FOREST RPLS 1847", at the Northeast corner of said 4.02 acre tract, for an angle point hereof,

THENCE, continuing with the common boundary line of said 97.7 acre tract and said 4.02 acre tract, S 69°19'55" W, 128.20 feet, to a 1/2" iron pin found, at the Southeast corner of a 10.00 acre tract, of record to Daniel Voss and Kathryn Voss, Exhibit A, Document No. 1999985405, (OPRWCT),

THENCE, over and across said 97.7 acre tract, following the perimeter of said 10.00 acre tract, the following three (3) courses and distances:

1. N 23°27'53" W, passing at 20.04 feet, a 1/2" iron pin found, in the North line of said Road lane, in all a total distance of 993.53 feet, to a 1/2" iron pin found, at the Northeast corner of said 10.00 acre tract, for an ell corner hereof,

2. S 68°27'28" W, 438.04 feet, to a 3/8" iron pin found, at the Northwest corner of said 10.00 acre tract, for an ell corner hereof,

3. S 23°25'00" E, passing at 974.00 feet, a 1/2" capped iron pin set, marked "FOREST RPLS 1847", in all a total distance of 993.98 feet, to a 1/2" iron pin found, at the Southwest corner of said 10.00 acre tract, for an ell corner hereof, said point being a point in the common boundary line of said 97.7 acre tract and said 4.02 acre tract, said point being in the approximate centerline of a gravel driveway,

THENCE, with the South boundary line of said 97.7 acre tract and North boundary line of said 4.02 acre tract, along or near the centerline of a gravel driveway, S 68°23'17" W, 1011.78 feet, to the POINT OF BEGINNING, and containing 261.35 acres, more or less.

TRACT "B"

All that certain tract or parcel of land situated in Williamson County, Texas, out of the Edmond Parsons Survey, Abstract No. 494, being a part of that tract described as 97.7 acres (Tract 2) in a Warranty Deed granted to Cobb Springs Ranch, Ltd., dated July 7, 1998, and recorded as Doc# 9838600, Official Records, Williamson County and further described by metes and bounds:

BEGINNING at a 1/2" iron pin set in the center line of a private road, said center line being the South line of said Cobb Springs Ranch, Ltd. tract for the Southwest corner of this tract; the Southwest corner of said Cobb Springs Ranch, Ltd. tract, marked by a 1/2" iron pin set at the intersection of the centerline of said private road and the East margin of County Road 234 bears S 70°54'32" W 1012.13 feet;

THENCE: N 20°54'22" W at 19.72 feet passing a 60d nail set in a fence post in the North margin of said private road, in all 994.14 feet into said Cobb Springs Ranch, Ltd. tract with a wire fence to a 1/2" iron pin set for the Northwest corner of this tract;

THENCE: N 71°00'00" E 438.56 feet to a 1/2" iron pin set for the Northeast corner of this tract;

THENCE: S 20°54'22" E, at 973.28 feet passing a 1/2" iron pin set in a wire fence line in the North margin of said private road, in all 993.44 feet to a 1/2" iron pin set in the center line of said private road for the Southeast corner of this tract;

THENCE: S 70°54'32" W 438.54 feet with the center line of said private road and the South line of said Cobb Springs Ranch, Ltd. tract to the point of Beginning and containing 10.00 acres of land.

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

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

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

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

SECTION 4.  (a)  If this Act does not receive a two-thirds vote of all the members elected to each house, Subchapter C, Chapter 7963A, Special District Local Laws Code, as added by Section 1 of this Act, is amended by adding Section 7963A.0306 to read as follows:

Sec. 7963A.0306.  NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

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

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