

1-1 By: Bell of Montgomery H.B. No. 4687
 1-2 (Senate Sponsor - Creighton)
 1-3 (In the Senate - Received from the House May 6, 2019;
 1-4 May 6, 2019, read first time and referred to Committee on
 1-5 Intergovernmental Relations; May 15, 2019, reported favorably by
 1-6 the following vote: Yeas 7, Nays 0; May 15, 2019, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
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 A BILL TO BE ENTITLED
 1-17 AN ACT

1-18 relating to the creation of the Montgomery County Municipal Utility
 1-19 District No. 174; granting a limited power of eminent domain;
 1-20 providing authority to issue bonds; providing authority to impose
 1-21 assessments, fees, and taxes.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-23 SECTION 1. Subtitle F, Title 6, Special District Local Laws
 1-24 Code, is amended by adding Chapter 8066 to read as follows:

1-25 CHAPTER 8066. MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 174

1-26 SUBCHAPTER A. GENERAL PROVISIONS

1-27 Sec. 8066.0101. DEFINITIONS. In this chapter:

1-28 (1) "Board" means the district's board of directors.
 1-29 (2) "Commission" means the Texas Commission on
 1-30 Environmental Quality.

1-31 (3) "Director" means a board member.
 1-32 (4) "District" means the Montgomery County Municipal
 1-33 Utility District No. 174.

1-34 Sec. 8066.0102. NATURE OF DISTRICT. The district is a
 1-35 municipal utility district created under Section 59, Article XVI,
 1-36 Texas Constitution.

1-37 Sec. 8066.0103. CONFIRMATION AND DIRECTOR ELECTION
 1-38 REQUIRED. The temporary directors shall hold an election to
 1-39 confirm the creation of the district and to elect five permanent
 1-40 directors as provided by Section 49.102, Water Code.

1-41 Sec. 8066.0104. CONSENT OF MUNICIPALITY REQUIRED. The
 1-42 temporary directors may not hold an election under Section
 1-43 8066.0103 until each municipality in whose corporate limits or
 1-44 extraterritorial jurisdiction the district is located has
 1-45 consented by ordinance or resolution to the creation of the
 1-46 district and to the inclusion of land in the district.

1-47 Sec. 8066.0105. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.
 1-48 (a) The district is created to serve a public purpose and benefit.

1-49 (b) The district is created to accomplish the purposes of:
 1-50 (1) a municipal utility district as provided by
 1-51 general law and Section 59, Article XVI, Texas Constitution; and
 1-52 (2) Section 52, Article III, Texas Constitution, that
 1-53 relate to the construction, acquisition, improvement, operation,
 1-54 or maintenance of macadamized, graveled, or paved roads, or
 1-55 improvements, including storm drainage, in aid of those roads.

1-56 Sec. 8066.0106. INITIAL DISTRICT TERRITORY. (a) The
 1-57 district is initially composed of the territory described by
 1-58 Section 2 of the Act enacting this chapter.

1-59 (b) The boundaries and field notes contained in Section 2 of
 1-60 the Act enacting this chapter form a closure. A mistake made in the
 1-61 field notes or in copying the field notes in the legislative process

- 2-1 does not affect the district's:
- 2-2 (1) organization, existence, or validity;
- 2-3 (2) right to issue any type of bond for the purposes
- 2-4 for which the district is created or to pay the principal of and
- 2-5 interest on a bond;
- 2-6 (3) right to impose a tax; or
- 2-7 (4) legality or operation.

SUBCHAPTER B. BOARD OF DIRECTORS

2-9 Sec. 8066.0201. GOVERNING BODY; TERMS. (a) The district is

2-10 governed by a board of five elected directors.

2-11 (b) Except as provided by Section 8066.0202, directors

2-12 serve staggered four-year terms.

2-13 Sec. 8066.0202. TEMPORARY DIRECTORS. (a) The temporary

2-14 board consists of:

- 2-15 (1) Lynnette Tujague;
- 2-16 (2) Andy Mersmann;
- 2-17 (3) Julia Russell;
- 2-18 (4) Monica Pena; and
- 2-19 (5) Madeline Berry.

2-20 (b) Temporary directors serve until the earlier of:

- 2-21 (1) the date permanent directors are elected under
- 2-22 Section 8066.0103; or
- 2-23 (2) the fourth anniversary of the effective date of
- 2-24 the Act enacting this chapter.

2-25 (c) If permanent directors have not been elected under

2-26 Section 8066.0103 and the terms of the temporary directors have

2-27 expired, successor temporary directors shall be appointed or

2-28 reappointed as provided by Subsection (d) to serve terms that

2-29 expire on the earlier of:

- 2-30 (1) the date permanent directors are elected under
- 2-31 Section 8066.0103; or
- 2-32 (2) the fourth anniversary of the date of the
- 2-33 appointment or reappointment.

2-34 (d) If Subsection (c) applies, the owner or owners of a

2-35 majority of the assessed value of the real property in the district

2-36 may submit a petition to the commission requesting that the

2-37 commission appoint as successor temporary directors the five

2-38 persons named in the petition. The commission shall appoint as

2-39 successor temporary directors the five persons named in the

2-40 petition.

SUBCHAPTER C. POWERS AND DUTIES

2-41 Sec. 8066.0301. GENERAL POWERS AND DUTIES. The district

2-42 has the powers and duties necessary to accomplish the purposes for

2-43 which the district is created.

2-44 Sec. 8066.0302. MUNICIPAL UTILITY DISTRICT POWERS AND

2-45 DUTIES. The district has the powers and duties provided by the

2-46 general law of this state, including Chapters 49 and 54, Water Code,

2-47 applicable to municipal utility districts created under Section 59,

2-48 Article XVI, Texas Constitution.

2-49 Sec. 8066.0303. AUTHORITY FOR ROAD PROJECTS. Under Section

2-50 52, Article III, Texas Constitution, the district may design,

2-51 acquire, construct, finance, issue bonds for, improve, operate,

2-52 maintain, and convey to this state, a county, or a municipality for

2-53 operation and maintenance macadamized, graveled, or paved roads, or

2-54 improvements, including storm drainage, in aid of those roads.

2-55 Sec. 8066.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A

2-56 road project must meet all applicable construction standards,

2-57 zoning and subdivision requirements, and regulations of each

2-58 municipality in whose corporate limits or extraterritorial

2-59 jurisdiction the road project is located.

2-60 (b) If a road project is not located in the corporate limits

2-61 or extraterritorial jurisdiction of a municipality, the road

2-62 project must meet all applicable construction standards,

2-63 subdivision requirements, and regulations of each county in which

2-64 the road project is located.

2-65 (c) If the state will maintain and operate the road, the

2-66 Texas Transportation Commission must approve the plans and

2-67 specifications of the road project.

2-68 Sec. 8066.0305. COMPLIANCE WITH MUNICIPAL CONSENT

2-69

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

3-6 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

3-7 Sec. 8066.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)
 3-8 The district may issue, without an election, bonds and other
 3-9 obligations secured by:

3-10 (1) revenue other than ad valorem taxes; or

3-11 (2) contract payments described by Section 8066.0403.

3-12 (b) The district must hold an election in the manner
 3-13 provided by Chapters 49 and 54, Water Code, to obtain voter approval
 3-14 before the district may impose an ad valorem tax or issue bonds
 3-15 payable from ad valorem taxes.

3-16 (c) The district may not issue bonds payable from ad valorem
 3-17 taxes to finance a road project unless the issuance is approved by a
 3-18 vote of a two-thirds majority of the district voters voting at an
 3-19 election held for that purpose.

3-20 Sec. 8066.0402. OPERATION AND MAINTENANCE TAX. (a) If
 3-21 authorized at an election held under Section 8066.0401, the
 3-22 district may impose an operation and maintenance tax on taxable
 3-23 property in the district in accordance with Section 49.107, Water
 3-24 Code.

3-25 (b) The board shall determine the tax rate. The rate may not
 3-26 exceed the rate approved at the election.

3-27 Sec. 8066.0403. CONTRACT TAXES. (a) In accordance with
 3-28 Section 49.108, Water Code, the district may impose a tax other than
 3-29 an operation and maintenance tax and use the revenue derived from
 3-30 the tax to make payments under a contract after the provisions of
 3-31 the contract have been approved by a majority of the district voters
 3-32 voting at an election held for that purpose.

3-33 (b) A contract approved by the district voters may contain a
 3-34 provision stating that the contract may be modified or amended by
 3-35 the board without further voter approval.

3-36 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

3-37 Sec. 8066.0501. AUTHORITY TO ISSUE BONDS AND OTHER
 3-38 OBLIGATIONS. The district may issue bonds or other obligations
 3-39 payable wholly or partly from ad valorem taxes, impact fees,
 3-40 revenue, contract payments, grants, or other district money, or any
 3-41 combination of those sources, to pay for any authorized district
 3-42 purpose.

3-43 Sec. 8066.0502. TAXES FOR BONDS. At the time the district
 3-44 issues bonds payable wholly or partly from ad valorem taxes, the
 3-45 board shall provide for the annual imposition of a continuing
 3-46 direct ad valorem tax, without limit as to rate or amount, while all
 3-47 or part of the bonds are outstanding as required and in the manner
 3-48 provided by Sections 54.601 and 54.602, Water Code.

3-49 Sec. 8066.0503. BONDS FOR ROAD PROJECTS. At the time of
 3-50 issuance, the total principal amount of bonds or other obligations
 3-51 issued or incurred to finance road projects and payable from ad
 3-52 valorem taxes may not exceed one-fourth of the assessed value of the
 3-53 real property in the district.

3-54 SECTION 2. The Montgomery County Municipal Utility District
 3-55 No. 174 initially includes all the territory contained in the
 3-56 following area:

3-57 Being a tract containing 148.435 acres of land situated in
 3-58 the W.T. Dunlavy Survey, Abstract No. 168, the W. Hillhouse Survey,
 3-59 Abstract No. 260 and the J. Pierpont Survey, Abstract No. 426, in
 3-60 Montgomery County, Texas. Said 148.435 acres being a call 149.849
 3-61 acre tract of land recorded in the name of Stacy Elizabeth Smith
 3-62 Dudevszky under Montgomery County Clerk's File (M.C.C.F.)
 3-63 No. 2005083316, LESS AND EXCEPT a call 1.420 acre tract of land
 3-64 recorded in the name of State of Texas under M.C.C.F.
 3-65 No. 2010040292. Said 148.435 acres being more particularly
 3-66 described by metes and bounds as follows (bearings are referenced
 3-67 to the Texas Coordinate System of 1983, Central Zone, based on GPS
 3-68 observations):

3-69 BEGINNING at a TXDOT disc found at the southwest corner of the

4-1 herein described tract and northwest corner of said 1.420 acre
 4-2 tract, same being on the north Right-of-Way line of F.M. 1774 (width
 4-3 varies) and the east line of a call 12.15 acre tract of land
 4-4 recorded in the name of James Lamar O'Neal in Volume 745, Page 775
 4-5 of the Montgomery County Deed Records (M.C.D.R.);

4-6 THENCE, with said east line and the east line of a call 12.15
 4-7 acre tract of land recorded in the name of Edgar Leon O'Neal in
 4-8 Volume 745, Page 783 of the M.C.D.R., North 01 degrees 28 minutes 01
 4-9 seconds West, a distance of 1,583.43 feet to a 1/2 inch square iron
 4-10 rod found;

4-11 THENCE, with the upper south line of said Edgar Leon O'Neal
 4-12 12.15 acre tract, North 87 degrees 53 minutes 08 seconds East, a
 4-13 distance of 132.46 feet to an iron bolt found;

4-14 THENCE, with aforesaid east line, the east line of those two
 4-15 (2) call 5.756 acre tracts of land recorded in the names of Leon
 4-16 Charles O'Neal and Norman Leslie O'Neal under M.C.C.F.
 4-17 No. 2003039490, and the east line of a call 2.2817 acre tract of
 4-18 land recorded in the name of Alice Law Johnson under M.C.C.F.
 4-19 No. 98102399, North 01 degrees 56 minutes 32 seconds West, a
 4-20 distance of 1,355.78 feet to a 1 inch iron pipe (bent) found on the
 4-21 common line between aforesaid Pierpont and Hillhouse Surveys and
 4-22 being at the northeast corner of said 2.2817 acre tract;

4-23 THENCE, North 03 degrees 15 minutes 53 seconds West, a
 4-24 distance of 454.86 feet to a 5/8 inch iron rod found at the
 4-25 southwest corner of a call 7.505 acre tract of land recorded in the
 4-26 name of Rondle L. Hartley and Pat A. Hartley under M.C.C.F.
 4-27 No. 2000012801;

4-28 THENCE, with the south line of said 7.505 acre tract and a
 4-29 call 7.500 acre tract of land recorded in the name of Edmond R.
 4-30 Shanks and Amanda D. Shanks under M.C.C.F. No. 2000012802, North 87
 4-31 degrees 16 minutes 27 seconds East, a distance of 1,315.32 feet to a
 4-32 1/2 inch iron rod found at the southeast corner of said 7.500 acre
 4-33 tract;

4-34 THENCE, with the east line of said 7.500 acre tract, North 03
 4-35 degrees 14 minutes 39 seconds West, a distance of 496.57 feet to a
 4-36 point at a fence corner post found at the northeast corner of said
 4-37 7.500 acre tract, the southwest corner of a call 3.0445 acre tract
 4-38 of land recorded in the name of Magnolia Castland, Inc. under
 4-39 M.C.C.F. No. 99019783, and being at the centerline terminus of
 4-40 Sandra Dee Lane, a 60 foot road easement;

4-41 THENCE, with the south line of said 3.0445 acre tract, North
 4-42 87 degrees 14 minutes 28 seconds East, at a distance of 30 feet
 4-43 passing the east line of said Sandra Dee Lane, and continuing for a
 4-44 total distance of 437.37 feet to a 1/2 inch iron rod found at the
 4-45 southeast corner of said 3.0445 acre tract and being on the west
 4-46 line of a call 12.4782 acre tract of land recorded in the name of
 4-47 Charles W. Tatom and Barbara D. Tatom under M.C.C.F. No. 9805419;

4-48 THENCE, with said west line and the west line of a call 3.0690
 4-49 acre tract of land recorded in the name of Jessica Manwaring under
 4-50 M.C.C.F. No. 2017101365, South 03 degrees 19 minutes 34 seconds
 4-51 East, a distance of 496.83 feet to a 5/8 inch capped iron rod
 4-52 stamped "GBI Partners" set;

4-53 THENCE, continuing with the west line of said 3.0690 acre
 4-54 tract, South 03 degrees 06 minutes 29 seconds East, a distance of
 4-55 457.74 feet to a 3/4 inch iron rod found at the northwest corner of a
 4-56 call 17.845 acre tract of land recorded in the name of Diane M Daleo
 4-57 under M.C.C.F. No. 2011008721 and being on the common line between
 4-58 aforesaid Pierpont and Dunlavy Surveys;

4-59 THENCE, with the west line of said 17.845 acre tract and a
 4-60 call 8.6122 acre tract of land (styled "Tract 2") recorded in the
 4-61 name of DMJ Kachel, LLC under M.C.C.F. No. 2016105309, South 02
 4-62 degrees 08 minutes 18 seconds East, a distance of 1,117.06 feet to a
 4-63 point in Kachel Lake, said point being the common corner between
 4-64 aforesaid 149.849 acre tract, 8.6122 acre tract, and a call 35.151
 4-65 acre tract of land recorded in the name of Christopher H. Osborne
 4-66 and Gail J. Osborne under M.C.C.F. No. 2012070459;

4-67 THENCE, through and across said Kachel Lake and with a north
 4-68 line of said 35.151 acre tract, South 75 degrees 12 minutes 08
 4-69 seconds West, a distance of 181.21 feet to a point in said Kachel

5-1 Lake;

5-2 THENCE, with the west line of said 35.151 acre tract, South 02
5-3 degrees 28 minutes 35 seconds West, at a distance of 250.97 feet
5-4 passing a found 1 inch iron pipe for reference, and continuing for a
5-5 total distance of 1,125.43 feet to a 5/8 inch iron rod found at the
5-6 southwest corner of said 35.151 acre tract and the northwest corner
5-7 of Undesignated Reserve "A", Block 1 of Final Plat of Magnolia Road
5-8 Investments, a subdivision recorded in M.C.C.F. No. 2018013113
5-9 (Cabinet 00Z, Sheet 4961);

5-10 THENCE, with the west line of said Undesignated Reserve "A",
5-11 South 07 degrees 40 minutes 10 seconds East, a distance of 1,225.58
5-12 feet to a TXDOT disc found at the southwest corner of said
5-13 Undesignated Reserve "A", the northeast corner of aforesaid 1.420
5-14 acre tract of land and being on the aforesaid north R.O.W. line of
5-15 F.M. 1774, from which point a found TXDOT disc bears South 74
5-16 degrees 45 minutes 48 seconds East, a distance of 243.20 feet;

5-17 THENCE, with said north R.O.W. line and the north line of said
5-18 1.420 acre tract, the following two (2) courses:

5-19 1.) North 74 degrees 45 minutes 48 seconds West, a distance
5-20 of 733.80 feet to a TXDOT disc found;

5-21 2.) North 75 degrees 03 minutes 25 seconds West, at a
5-22 distance of 136.05 feet passing a found TXDOT disc for reference at
5-23 the common line between aforesaid Dunlavy and Hillhouse Surveys,
5-24 and continuing for a total distance of 1,107.06 feet to the POINT OF
5-25 BEGINNING and containing 148.435 acres of land, more or less.

5-26 SECTION 3. (a) The legal notice of the intention to
5-27 introduce this Act, setting forth the general substance of this
5-28 Act, has been published as provided by law, and the notice and a
5-29 copy of this Act have been furnished to all persons, agencies,
5-30 officials, or entities to which they are required to be furnished
5-31 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
5-32 Government Code.

5-33 (b) The governor, one of the required recipients, has
5-34 submitted the notice and Act to the Texas Commission on
5-35 Environmental Quality.

5-36 (c) The Texas Commission on Environmental Quality has filed
5-37 its recommendations relating to this Act with the governor, the
5-38 lieutenant governor, and the speaker of the house of
5-39 representatives within the required time.

5-40 (d) All requirements of the constitution and laws of this
5-41 state and the rules and procedures of the legislature with respect
5-42 to the notice, introduction, and passage of this Act are fulfilled
5-43 and accomplished.

5-44 SECTION 4. (a) If this Act does not receive a two-thirds
5-45 vote of all the members elected to each house, Subchapter C, Chapter
5-46 8066, Special District Local Laws Code, as added by Section 1 of
5-47 this Act, is amended by adding Section 8066.0306 to read as follows:

5-48 Sec. 8066.0306. NO EMINENT DOMAIN POWER. The district may
5-49 not exercise the power of eminent domain.

5-50 (b) This section is not intended to be an expression of a
5-51 legislative interpretation of the requirements of Section 17(c),
5-52 Article I, Texas Constitution.

5-53 SECTION 5. This Act takes effect immediately if it receives
5-54 a vote of two-thirds of all the members elected to each house, as
5-55 provided by Section 39, Article III, Texas Constitution. If this
5-56 Act does not receive the vote necessary for immediate effect, this
5-57 Act takes effect September 1, 2019.

5-58

* * * * *