

1-1 By: Bell of Montgomery (Senate Sponsor - Kolkhorst) H.B. No. 5391
 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 15, 2023, reported favorably by the following
 1-5 vote: Yeas 7, Nays 0; May 15, 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. 218; 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 8025A to read as follows:

1-26 CHAPTER 8025A. MONTGOMERY COUNTY MUNICIPAL UTILITY

1-27 DISTRICT NO. 218

1-28 SUBCHAPTER A. GENERAL PROVISIONS

1-29 Sec. 8025A.0101. DEFINITIONS. In this chapter:

1-30 (1) "Board" means the district's board of directors.

1-31 (2) "Commission" means the Texas Commission on
 1-32 Environmental Quality.

1-33 (3) "Director" means a board member.

1-34 (4) "District" means the Montgomery County Municipal
 1-35 Utility District No. 218.

1-36 Sec. 8025A.0102. NATURE OF DISTRICT. The district is a
 1-37 municipal utility district created under Section 59, Article XVI,
 1-38 Texas Constitution.

1-39 Sec. 8025A.0103. CONFIRMATION AND DIRECTOR ELECTION
 1-40 REQUIRED. The temporary directors shall hold an election to
 1-41 confirm the creation of the district and to elect five permanent
 1-42 directors as provided by Section 49.102, Water Code.

1-43 Sec. 8025A.0104. CONSENT OF MUNICIPALITY REQUIRED. The
 1-44 temporary directors may not hold an election under Section
 1-45 8025A.0103 until each municipality in whose corporate limits or
 1-46 extraterritorial jurisdiction the district is located has
 1-47 consented by ordinance or resolution to the creation of the
 1-48 district and to the inclusion of land in the district as required by
 1-49 applicable law.

1-50 Sec. 8025A.0105. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.
 1-51 (a) The district is created to serve a public purpose and benefit.

1-52 (b) The district is created to accomplish the purposes of:

1-53 (1) a municipal utility district as provided by
 1-54 general law and Section 59, Article XVI, Texas Constitution; and

1-55 (2) Section 52, Article III, Texas Constitution, that
 1-56 relate to the construction, acquisition, improvement, operation,
 1-57 or maintenance of macadamized, graveled, or paved roads, or
 1-58 improvements, including storm drainage, in aid of those roads.

1-59 Sec. 8025A.0106. INITIAL DISTRICT TERRITORY. (a) The
 1-60 district is initially composed of the territory described by
 1-61 Section 2 of the Act enacting this chapter.

2-1 (b) The boundaries and field notes contained in Section 2 of
 2-2 the Act enacting this chapter form a closure. A mistake made in the
 2-3 field notes or in copying the field notes in the legislative process
 2-4 does not affect the district's:

- 2-5 (1) organization, existence, or validity;
- 2-6 (2) right to issue any type of bond for the purposes
 2-7 for which the district is created or to pay the principal of and
 2-8 interest on a bond;
- 2-9 (3) right to impose a tax; or
- 2-10 (4) legality or operation.

2-11 SUBCHAPTER B. BOARD OF DIRECTORS

2-12 Sec. 8025A.0201. GOVERNING BODY; TERMS. (a) The district
 2-13 is governed by a board of five elected directors.

2-14 (b) Except as provided by Section 8025A.0202, directors
 2-15 serve staggered four-year terms.

2-16 Sec. 8025A.0202. TEMPORARY DIRECTORS. (a) The temporary
 2-17 board consists of:

- 2-18 (1) Timothy Jones;
- 2-19 (2) Chris Howard;
- 2-20 (3) Jennifer Cleveland;
- 2-21 (4) Nikki Williams; and
- 2-22 (5) Jake Trice.

2-23 (b) Temporary directors serve until the earlier of:

- 2-24 (1) the date permanent directors are elected under
 2-25 Section 8025A.0103; or
- 2-26 (2) the fourth anniversary of the effective date of
 2-27 the Act enacting this chapter.

2-28 (c) If permanent directors have not been elected under
 2-29 Section 8025A.0103 and the terms of the temporary directors have
 2-30 expired, successor temporary directors shall be appointed or
 2-31 reappointed as provided by Subsection (d) to serve terms that
 2-32 expire on the earlier of:

- 2-33 (1) the date permanent directors are elected under
 2-34 Section 8025A.0103; or
- 2-35 (2) the fourth anniversary of the date of the
 2-36 appointment or reappointment.

2-37 (d) If Subsection (c) applies, the owner or owners of a
 2-38 majority of the assessed value of the real property in the district
 2-39 may submit a petition to the commission requesting that the
 2-40 commission appoint as successor temporary directors the five
 2-41 persons named in the petition. The commission shall appoint as
 2-42 successor temporary directors the five persons named in the
 2-43 petition.

2-44 SUBCHAPTER C. POWERS AND DUTIES

2-45 Sec. 8025A.0301. GENERAL POWERS AND DUTIES. The district
 2-46 has the powers and duties necessary to accomplish the purposes for
 2-47 which the district is created.

2-48 Sec. 8025A.0302. MUNICIPAL UTILITY DISTRICT POWERS AND
 2-49 DUTIES. The district has the powers and duties provided by the
 2-50 general law of this state, including Chapters 49 and 54, Water Code,
 2-51 applicable to municipal utility districts created under Section 59,
 2-52 Article XVI, Texas Constitution.

2-53 Sec. 8025A.0303. AUTHORITY FOR ROAD PROJECTS. Under
 2-54 Section 52, Article III, Texas Constitution, the district may
 2-55 design, acquire, construct, finance, issue bonds for, improve,
 2-56 operate, maintain, and convey to this state, a county, or a
 2-57 municipality for operation and maintenance macadamized, graveled,
 2-58 or paved roads, or improvements, including storm drainage, in aid
 2-59 of those roads.

2-60 Sec. 8025A.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A
 2-61 road project must meet all applicable construction standards,
 2-62 zoning and subdivision requirements, and regulations of each
 2-63 municipality in whose corporate limits or extraterritorial
 2-64 jurisdiction the road project is located.

2-65 (b) If a road project is not located in the corporate limits
 2-66 or extraterritorial jurisdiction of a municipality, the road
 2-67 project must meet all applicable construction standards,
 2-68 subdivision requirements, and regulations of each county in which
 2-69 the road project is located.

3-1 (c) If the state will maintain and operate the road, the
3-2 Texas Transportation Commission must approve the plans and
3-3 specifications of the road project.

3-4 Sec. 8025A.0305. COMPLIANCE WITH MUNICIPAL CONSENT
3-5 ORDINANCE OR RESOLUTION. The district shall comply with all
3-6 applicable requirements of any ordinance or resolution that is
3-7 adopted under Section 54.016 or 54.0165, Water Code, and that
3-8 consents to the creation of the district or to the inclusion of land
3-9 in the district.

3-10 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

3-11 Sec. 8025A.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)
3-12 The district may issue, without an election, bonds and other
3-13 obligations secured by:

- 3-14 (1) revenue other than ad valorem taxes; or
- 3-15 (2) contract payments described by Section
3-16 8025A.0403.

3-17 (b) The district must hold an election in the manner
3-18 provided by Chapters 49 and 54, Water Code, to obtain voter approval
3-19 before the district may impose an ad valorem tax or issue bonds
3-20 payable from ad valorem taxes.

3-21 (c) The district may not issue bonds payable from ad valorem
3-22 taxes to finance a road project unless the issuance is approved by a
3-23 vote of a two-thirds majority of the district voters voting at an
3-24 election held for that purpose.

3-25 Sec. 8025A.0402. OPERATION AND MAINTENANCE TAX. (a) If
3-26 authorized at an election held under Section 8025A.0401, the
3-27 district may impose an operation and maintenance tax on taxable
3-28 property in the district in accordance with Section 49.107, Water
3-29 Code.

3-30 (b) The board shall determine the tax rate. The rate may not
3-31 exceed the rate approved at the election.

3-32 Sec. 8025A.0403. CONTRACT TAXES. (a) In accordance with
3-33 Section 49.108, Water Code, the district may impose a tax other than
3-34 an operation and maintenance tax and use the revenue derived from
3-35 the tax to make payments under a contract after the provisions of
3-36 the contract have been approved by a majority of the district voters
3-37 voting at an election held for that purpose.

3-38 (b) A contract approved by the district voters may contain a
3-39 provision stating that the contract may be modified or amended by
3-40 the board without further voter approval.

3-41 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

3-42 Sec. 8025A.0501. AUTHORITY TO ISSUE BONDS AND OTHER
3-43 OBLIGATIONS. The district may issue bonds or other obligations
3-44 payable wholly or partly from ad valorem taxes, impact fees,
3-45 revenue, contract payments, grants, or other district money, or any
3-46 combination of those sources, to pay for any authorized district
3-47 purpose.

3-48 Sec. 8025A.0502. TAXES FOR BONDS. At the time the district
3-49 issues bonds payable wholly or partly from ad valorem taxes, the
3-50 board shall provide for the annual imposition of a continuing
3-51 direct ad valorem tax, without limit as to rate or amount, while all
3-52 or part of the bonds are outstanding as required and in the manner
3-53 provided by Sections 54.601 and 54.602, Water Code.

3-54 Sec. 8025A.0503. BONDS FOR ROAD PROJECTS. At the time of
3-55 issuance, the total principal amount of bonds or other obligations
3-56 issued or incurred to finance road projects and payable from ad
3-57 valorem taxes may not exceed one-fourth of the assessed value of the
3-58 real property in the district.

3-59 SECTION 2. The Montgomery County Municipal Utility District
3-60 No. 218 initially includes all the territory contained in the
3-61 following area:

3-62 A METES & BOUNDS description of a certain 155.6 acre
3-63 (6,780,048 square feet) tract of land situated in the Archibald M.
3-64 Alexander Survey, Abstract No. 1, in Montgomery County, Texas,
3-65 being all of the called 155.6 acre tract conveyed to Magnolia Forest
3-66 TX, LLC, by deed recorded Clerk's File No. 2021020708, Montgomery
3-67 County Official Public Records, also being a portion of the
3-68 remainder of a called 190.65 acre tract conveyed to Randal A.
3-69 Hendricks, Trustee, by deed recorded in Volume 768, Page 535,

4-1 Montgomery County Deed Records; said 155.6 acre (6,780,048 square
 4-2 feet) tract of land being more particularly described as follows
 4-3 with all bearings being based on the Texas Coordinate System,
 4-4 Central Zone, NAD 83:

4-5 BEGINNING at a 1/2-inch pinched iron pipe found, being an
 4-6 interior corner of the remainder of said called 190.65 acre tract,
 4-7 being the north corner of a called 9.5937 acre tract conveyed to
 4-8 Matthew Christopher Doetsch and Sara-Anne Doetsch by deed recorded
 4-9 in Clerk's File No. 2020013669, Montgomery County Official Public
 4-10 Records, being on the southwest right-of-way line of Jackson Road
 4-11 (based on a width of 100 feet) recorded in Volume 340, Page 175,
 4-12 Montgomery County Deed Records, and being the easterly northeast
 4-13 corner of the herein described tract;

4-14 THENCE, South 59°58'02" West, 929.16 feet to a 1-inch pinched
 4-15 iron pipe found, being the northwest corner of said called 9.5937
 4-16 acre tract and being an interior corner of the remainder of said
 4-17 called 190.65 acre tract;

4-18 THENCE, South 25°02'43" West, 330.15 feet to a 1-inch pinched
 4-19 iron pipe found, being an interior corner of the remainder of said
 4-20 called 190.65 acre tract, being the southwest corner of said called
 4-21 9.5937 acre tract, and being on the northeast line of the remainder
 4-22 of said called 190.65 acre tract;

4-23 THENCE, South 64°02'02" East, at 366.28 feet passing the most
 4-24 southerly corner of said called 9.5937 acre tract and the northwest
 4-25 corner of a called 15.0463 acre tract conveyed to Yibiao Lu and Yi
 4-26 Zhou by deed recorded in Clerk's File No. 2013103816, Montgomery
 4-27 County Official Public Records, from which a 5/8- inch iron rod
 4-28 (with cap) found bears North 34°04' East, 0.4 feet, at 1,102.42 feet
 4-29 passing a 1/2-inch pinched iron pipe found, continuing for a total
 4-30 distance of 1,583.62 feet to a 5/8-inch iron rod with cap found,
 4-31 being the southeast corner of said called 15.0463 acre tract and
 4-32 being the southwest corner of a called 10.011 acre tract conveyed to
 4-33 Gunther Von Gynz-Rekowski and Kathrin Von Gynz-Rekowski by deed
 4-34 recorded in Clerk's File No. 99005077, Montgomery County Official
 4-35 Public Records of Real Property;

4-36 THENCE, North 76°39'11" East, at 653.42 feet passing a point
 4-37 on the south line of said called 10.011 acre tract, from which a
 4-38 5/8-inch iron rod found bears South 13°21' East, 1.8 feet,
 4-39 continuing for a total distance of 742.36 feet to the southeast
 4-40 corner of said called 10.011 acre tract, being an interior corner of
 4-41 the remainder of said called 190.65 acre tract and being on the
 4-42 southwest right-of-way line of said Jackson Road, from which a
 4-43 5/8-inch iron rod found bears South 16°43' East, 1.6 feet;

4-44 THENCE, South 43°03'37" East, 1,745.92 feet to a 5/8-inch iron
 4-45 rod with cap found, being the southeast corner of the remainder of
 4-46 said called 190.65 acre tract, being the northeast corner of a
 4-47 called 15.5190 acre tract (Tract I) conveyed to Charles Saunders by
 4-48 deed recorded in Clerk's File No. 2020142207, Montgomery County
 4-49 Official Public Records, being the northeast corner of a called
 4-50 0.5487 acre tract (Tract II) conveyed to Charles Saunders by deed
 4-51 recorded in Clerk's File No. 2020142207, Montgomery County
 4-52 Official Public Records, being on the southwest right-of-way line
 4-53 of said Jackson Road, and being the southeast corner of the herein
 4-54 described tract, from which a 1/2-inch iron rod (with cap) found
 4-55 bears South 87°57' West, 5.2 feet;

4-56 THENCE, South 87°56'36" West, 4,133.89 feet to a 1/2-inch iron
 4-57 rod (with cap) found, being the northwest corner of said called
 4-58 15.5190 acre tract (Tract I), being an interior corner of the
 4-59 remainder of a called 7,395.018 acre tract conveyed to Charles
 4-60 Eugene Campbell, individually and as independent executor of the
 4-61 estate of Margie Campbell, deceased and as trustee of the exempt
 4-62 Charles Eugene Campbell Marital Trust and as trustee of the
 4-63 non-exempt Charles Eugene Campbell Marital Trust, by deed recorded
 4-64 in Clerk's File No. 2002-136821, Montgomery County Official Public
 4-65 Records of Real Property, being the southwest corner of the
 4-66 remainder of said called 190.65 acre tract, and being the southwest
 4-67 corner of the herein described tract;

4-68 THENCE, North 02°18'24" West, 1,349.49 feet to a 5/8-inch iron
 4-69 rod with cap found, being on the east line of the remainder of said

5-1 called 7,395.018 acre tract and being on the west line of the
5-2 remainder of said called 190.65 acre tract;

5-3 THENCE, North 03°13'24" West, at 1,040.41 feet passing the
5-4 southwest corner of the remainder of a called 45.000 acre tract
5-5 described in substitute trustee's deed to Randal A. Hendricks,
5-6 Trustee recorded in Clerk's File No. 8820944, Montgomery County
5-7 Official Public Records of Real Property, being on the east line of
5-8 the remainder of said called 7,395.018 acre tract and being the
5-9 northwest corner of the remainder of said called 190.65 acre tract,
5-10 from which a 1/2-inch iron rod found bears South 86°47' West, 2.8
5-11 feet, continuing for a total distance of 1,488.14 feet to a 5/8-inch
5-12 iron rod found, being on the east line of the remainder of said
5-13 called 7,395.018 acre tract, being the northwest corner of the
5-14 remainder of said called 190.65 acre tract, being the southwest
5-15 corner of a called 11.67 acre tract conveyed to Walter Jewell Bell,
5-16 Jr. by deed recorded in Volume 825, Page 383, Montgomery County Deed
5-17 Records, and being the northwest corner of the herein described
5-18 tract;

5-19 THENCE, North 86°15'07" East, 1,661.40 feet to the southeast
5-20 corner of said called 11.67 acre tract, being the northeast corner
5-21 of the remainder of said called 190.65 acre tract, being on the
5-22 southwest right-of-way line of said Jackson Road, and being the
5-23 northerly northeast corner of the herein described tract, from
5-24 which a 1/2-inch iron rod found bears North 86°15' East, 0.5 feet;

5-25 THENCE, South 43°03'37" East, 318.43 feet to the POINT OF
5-26 BEGINNING, CONTAINING 155.6 acres (6,780,048 square feet) of land
5-27 in Montgomery County, Texas filed in the offices of Elevation Land
5-28 Solutions in The Woodlands, Texas.

5-29 SECTION 3. (a) The legal notice of the intention to
5-30 introduce this Act, setting forth the general substance of this
5-31 Act, has been published as provided by law, and the notice and a
5-32 copy of this Act have been furnished to all persons, agencies,
5-33 officials, or entities to which they are required to be furnished
5-34 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
5-35 Government Code.

5-36 (b) The governor, one of the required recipients, has
5-37 submitted the notice and Act to the Texas Commission on
5-38 Environmental Quality.

5-39 (c) The Texas Commission on Environmental Quality has filed
5-40 its recommendations relating to this Act with the governor, the
5-41 lieutenant governor, and the speaker of the house of
5-42 representatives within the required time.

5-43 (d) All requirements of the constitution and laws of this
5-44 state and the rules and procedures of the legislature with respect
5-45 to the notice, introduction, and passage of this Act are fulfilled
5-46 and accomplished.

5-47 SECTION 4. (a) If this Act does not receive a two-thirds
5-48 vote of all the members elected to each house, Subchapter C, Chapter
5-49 8025A, Special District Local Laws Code, as added by Section 1 of
5-50 this Act, is amended by adding Section 8025A.0306 to read as
5-51 follows:

5-52 Sec. 8025A.0306. NO EMINENT DOMAIN POWER. The district may
5-53 not exercise the power of eminent domain.

5-54 (b) This section is not intended to be an expression of a
5-55 legislative interpretation of the requirements of Section 17(c),
5-56 Article I, Texas Constitution.

5-57 SECTION 5. This Act takes effect immediately if it receives
5-58 a vote of two-thirds of all the members elected to each house, as
5-59 provided by Section 39, Article III, Texas Constitution. If this
5-60 Act does not receive the vote necessary for immediate effect, this
5-61 Act takes effect September 1, 2023.

5-62 * * * * *