

**CITY OF WHARTON
ORDINANCE NO. 2019- 29**

AN ORDINANCE TO DISANNEX CERTAIN TERRITORY FROM THE CORPORATE LIMITS OF THE CITY OF WHARTON, TO WIT: 98.71 ACRES IN THE JAMES TUMLINSON SURVEY, ABSTRACT 63, WHARTON COUNTY, TEXAS, AND AS DESCRIBED IN THE ATTACHED EXHIBIT “A”; FINDING THAT ALL REQUIRED LEGAL CONDITIONS HAVE BEEN SATISFIED; TERMINATING THE RIGHTS AND PRIVILEGES CONFERRED ON THE PROPERTY FROM THE CITY OF WHARTON; PROVIDING FOR AMENDING AND CORRECTING THE OFFICIAL BOUNDARIES OF THE CITY OF WHARTON, TEXAS, AS HERETOFORE ADOPTED; AUTHORIZING THE CITY MANAGER TO UNDERTAKE CERTAIN ACTIONS RELATIVE TO SAID DISANNEXATION; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING FOR SAID ORDINANCE TO TAKE EFFECT AND BE IN FORCE FROM AND AFTER ITS PASSAGE.

WHEREAS, the City of Wharton, Texas (“City”) is a home-rule city possessing the full power of local self-government pursuant to Article 11, Section 5 of the Texas Constitution, Section 51.072 of the Texas Local Government Code, and the home Rule Charter for the City of Wharton, Texas; and

WHEREAS, effective October 14, 2019, the City and Colorado Bend II Power, LLC (“CBII”) entered into an Industrial District Agreement which contains the agreement of the City to disannex the 98.71 acre tract described by metes and bounds in the attached Exhibit “A”

WHEREAS, pursuant to the authority granted in Section 43.142 of the Texas Local Government Code, a municipality may disannex an area from the municipality “as may be provided by the charter of the municipality and not inconsistent with the procedural rules prescribed by [Chapter 43 of the Texas Local Government Code]”; and

WHEREAS, Article I, Section 9 of the City of Wharton Charter authorizes the City to fix or adjust its boundaries; and

WHEREAS, the City, pursuant to Chapter 43 of the Texas Local Government Code, as amended, has instituted proceedings to disannex the Property from the City; and

WHEREAS, all statutory notices pursuant to Chapter 43 of the Texas Local Government Code have been published, delivered, or otherwise accomplished; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS, that:

Section I. The facts and recitations in the preamble and recitals of this ordinance are found and declared to be true and correct and adopted as part of this ordinance for all purposes.

Section II. The property that is the subject of the agreement referenced above and that is described in Exhibit “A”, attached to this Ordinance and incorporated herein for all

purposes is hereby disannexed from the corporate limits of the City of Wharton, Wharton County, Texas and the same is no longer a party of the City.

- Section III.** All rights, privileges, and responsibilities previously conferred on the property described in the attached Exhibit "A" and any citizens and inhabitants of that property are immediately terminated, and are of no force and effect, immediately upon the disannexation of the property from the City of Wharton.
- Section IV.** The official map and boundaries of the City heretofore adopted and amended are hereby amended to exclude the area described in Exhibit "A" so as to accurately reflect that said area no longer is a part of the City of Wharton, Wharton County, Texas.
- Section V.** The City Manager is directed and authorized to perform or cause to be performed all acts necessary to effectuate this Ordinance, including but not limited to any corrections to the official map of the City of Wharton so as to accurately reflect the City's boundaries, and to delete the area hereby disannexed as required by law.
- Section VI.** The City Manager is directed and authorized to file a certified copy of this Ordinance with any and all necessary governmental agencies or entities so affected by the acts described herein, including the United States Department of Justice.
- Section VII.** It is the intent of the City Council to disannex from the corporate limits of the City of Wharton the entirety of the property described in Exhibit "A" attached hereto, and the City Council hereby finds and determines that the provisions of Chapter 43 of the Texas Local Government Code have been fully complied with in effecting this disannexation. It is not the intent of the City of Wharton to disannex any territory that it has no legal right to disannex; rather, it is the intent of the City Council and the City of Wharton to disannex only such territory as may be legally disannexed by the City within the limits of the described property.
- Section VIII.** It is hereby declared to be the intention of the City Council that if any word, phrase, clause, sentence, paragraph, or section of this Ordinance is declared to be illegal, invalid, or unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such adjudication shall not affect the application of any remaining word, phrase, clause, sentence, paragraph, or section of this Ordinance. Similarly, the City Council declares this if a court of competent jurisdiction determines that any portion of said properties is incapable of being annexed by the City, the City Council would have adopted the valid portions and applications of this Ordinance and would have annexed the valid property without the invalid part and the invalid properties, and to this end the provisions of this Ordinance are declared to be severable.
- Section IX.** Any provision of any prior ordinance of the City, whether codified or uncoded, which is in conflict with any provision of this Ordinance, is hereby repealed to the extent of the conflict, but all other provisions of the ordinances of the City, whether codified or uncoded, which are not in conflict with the provisions of this Ordinance shall remain in full force and effect.

Section X. This Ordinance shall take effect and be in full force immediately from and after its passage as the law in such case provides.

PASSED, APPROVED, and ADOPTED by the City Council of the City of Wharton, Texas, on the 14th day of October 2019.

CITY OF WHARTON, TEXAS

By: *Tim Barker*
TIM BARKER
Mayor

ATTEST:
Paula Favors
PAULA FAVORS
City Secretary

APPROVED AS TO FORM:
Paul Webb
PAUL WEBB
City Attorney



Colorado Bend II
98.71 Acres

James Tumlinson Survey, Abstract 63

STATE OF TEXAS §

COUNTY OF WHARTON §

A **METES & BOUNDS** description of a 98.71 acre tract of land in the James Tumlinson Survey, Abstract 63, Wharton County, Texas, being comprised of all of Reserve "A" of Colorado Bend Power II Subdivision, according to map or plat thereof recorded under and Slide Number 3089, Plat Cabinet Records III, Wharton County, Texas, the residue of that certain called 71.049 acre tract recorded in Volume 967, Page 607, Official Records, Wharton County, Texas, being a portion of Reserve "A" of Colorado Bend Energy Center Subdivision, according to map or plat thereof recorded under Slide Numbers 2149 and 2150, Plat Cabinet Records II, Wharton County, Texas, and Lots 4, 29, 30, 31, 32, 33, 34 and 35 of Plantation Acres Section Number 2, according to map or plat thereof recorded under Slide Number 108-A, Plat Cabinet Records, Wharton County, Texas, with all bearings based upon the southwest line of an adjoining called 102.253 acre tract recorded in Volume 645, Page 319, Official Records, Wharton County, Texas, as being North 29 degrees 24 minutes 00 seconds West (called North 29 degrees 24 minutes 00 seconds West).

Beginning at the south corner of the first-mentioned Reserve "A" (Colorado Bend Power II Subdivision), same being the west corner of an adjoining called 4.23 acre tract (Parcel 3) recorded in Volume 715, Page 332, Official Records, Wharton County, Texas, for the south corner and **Place of Beginning** of the herein described tract, said point also being in the northeast right-of-way line of State Highway 60;

Thence North 29 degrees 20 minutes 09 seconds West along the southwest line of said Reserve "A", same being the northeast right-of-way line of State Highway 60, 532.99 feet to an angle point, said point being the lower west corner of said Reserve "A", same being the south corner of the second-mentioned Reserve "A" (Colorado Bend Energy Center Subdivision), and the south corner of the aforementioned residue of a called 71.049 acre tract;

Thence North 29 degrees 26 minutes 25 seconds West along the southwest line of said residue of a called 71.049 acre tract, same being the northeast right-of-way line of State Highway 60, 93.44 feet to a point for the lower west corner of the herein described tract, same being the lower west corner of said called 71.049 acre tract;

Thence North 60 degrees 40 minutes 35 seconds East along the westerly line of said called 71.049 acre tract, crossing said Reserve "A", 828.90 feet to a reentry corner to the herein described tract;

Thence North 29 degrees 03 minutes 41 seconds West continuing along said line, 309.11 feet to a point for corner;

Thence North 60 degrees 12 minutes 24 seconds East continuing along said line, 329.61 feet to a reentry corner to the herein described tract;

EXHIBIT "A"

Thence North 29 degrees 34 minutes 20 seconds West continuing along said line, 643.03 feet to a point for corner;

Thence North 59 degrees 40 minutes 11 seconds East continuing along said line, 953.98 feet to a reentry corner to the herein described tract;

Thence North 30 degrees 50 minutes 11 seconds West continuing along said line, 3.98 feet to a point for the upper west corner of the herein described tract, said point being the east corner of the aforementioned adjoining residue of a called 102.253 acre tract, same being the south corner of a called 52.774 acre tract recorded in Volume 758, page 402, Official Records, Wharton County, Texas, and being in the northwest line of the aforementioned Reserve "A";

Thence North 60 degrees 06 minutes 00 seconds East along the northwest line of said Reserve "A", same being the southeast line of said adjoining called 52.774 acre tract, 297.61 feet to an angle point, said point being the north corner of said Reserve "A", same being the west corner of the aforementioned Lot 4;

Thence North 60 degrees 18 minutes 55 seconds East along the northwest line of said Lot 4, same being the southeast line of said adjoining called 52.774 acre tract, 172.62 feet to a point for the most westerly north corner of the herein described tract, said point being the north corner of said Lot 4, same being the west corner of the adjoining Lot 3;

Thence South 30 degrees 07 minutes 43 seconds East along the common line of said Lot 4 and said adjoining Lot 3, 510.40 feet to a reentry corner to the herein described tract, said point being the common corner of said Lot 4, said adjoining Lot 3, the aforementioned Lot 30, and the aforementioned Lot 29, as located in Dyann Drive (80-foot wide);

Thence along the centerline of Dyann Drive with the following courses and distances;

North 59 degrees 52 minutes 18 seconds East, 426.86 feet to the beginning of a curve to the right;

Thence along said curve to the right having a central angle of 30 degrees 00 minutes 00 seconds, a radius of 373.20 feet, an arc length of 195.41 feet, and a chord bearing North 74 degrees 52 minutes 18 seconds East, 193.18 feet to the beginning of a reverse curve to the left;

Thence along said reverse curve to the left having a central angle of 60 degrees 00 minutes 00 seconds, a radius of 173.20 feet, an arc length of 181.37 feet, and a chord bearing North 59 degrees 52 minutes 18 seconds East, 173.20 feet to the end of said curve;

North 29 degrees 52 minutes 18 seconds East, 99.90 feet to a point for the most easterly north corner of the herein described tract, said point being the common corner of the aforementioned Lot 35, the adjoining Lot 1, and the adjoining Lot 15 and Lot 16 of Plantation Acres Section Number 1, according to map or plat thereof recorded Under Slide Number 107-A, Plat Cabinet Records, Wharton County, Texas;

Thence South 81 degrees 25 minutes 42 seconds East along the common line of said Lot 35 and said adjoining Lot 16, 362.26 feet to an angle point;

Thence South 57 degrees 11 minutes 42 seconds East continuing along said common line, 109.66 feet to an angle point;

Thence South 62 degrees 07 minutes 42 seconds East continuing along said common line, 217.58 feet to a point for the upper east corner of the herein described tract, being the east corner of said Lot 35, same being a south corner of the adjoining Lot 17, and being in the northwest line of an adjoining called 29.3729 acre tract (Item H-7) recorded in Volume 606, Page 134, Official Records, Wharton County, Texas;

Thence South 61 degrees 02 minutes 10 seconds West along the common line of the herein described tract and said adjoining called 29.3729 acre tract, 70.14 feet to a reentry corner to the herein described tract, said point being the most easterly north corner of the first-mentioned Reserve "A";

Thence South 30 degrees 40 minutes 38 seconds East continuing along said common line, 534.02 feet to a point for the lower east corner of the herein described tract, said point being the east corner of said Reserve "A", same being the south corner of said adjoining called 29.3729 acre tract, and being in the northwest line of an adjoining called 25.19 acre tract recorded in Volume 841, Page 720, Official Records, Wharton County, Texas;

Thence South 59 degrees 25 minutes 14 seconds West along the southeast line of said Reserve "A", 2,650.94 feet to an angle point, said point being in the northwest line of an adjoining called 130.409 acre tract (Parcel 1) recorded in Volume 715, Page 332, Official Records, Wharton County, Texas;

Thence South 60 degrees 00 minutes 29 seconds West continuing along the southeast line of said Reserve "A", 1,208.29 feet to the Place of Beginning and containing 98.71 acres of land, more or less.

This document was prepared under 22 TAC §663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

Colorado Bend II
98.71 Acres

James Tumlinson Survey, Abstract 63

For reference and further description see Drawing No. 13096 prepared by the undersigned on same date.

April 5, 2019

Job Number 05135-0221-00

Jones | Carter
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Texas Board of Professional Land
Surveying Registration No. 10046104



Acting By/Through Chris D. Kalkomey
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