

STATE OF TEXAS

COUNTY OF TYLER

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TYLER COUNTY COMMISSIONERS COURT RESOLUTION

APPROVING ARTICLES OF INCORPORATION AND BYLAWS FOR A LOCAL GOVERNMENT CORPORATION TO ENGAGE IN PLANNING CONCERNING DISASTER MITIGATION AND OTHER PROJECTS OR PROGRAMS TO PROTECT THE RESIDENTS OF OUR COMMUNITY, INFRASTRUCTURE, INDUSTRY, BUSINESSES AND HOUSING AGAINST FLOODING; TO DESIGN, DEVELOP, CONSTRUCT, OPERATE, MANAGE, REPAIR, MAINTAIN, FINANCE, EQUIP, IMPROVE, ENLARGE, EXTEND, ACQUIRE AND IMPROVE INTEGRATED FLOOD DAMAGE REDUCTION SYSTEMS; AND TO CONDUCT ANY AND ALL OTHER LAWFUL BUSINESS AND PERFORM ANY OTHER RELATED FUNCTION OR OPERATION

WHEREAS, Tyler County, Texas, ("*Sponsor*"), acting through its governing body, the Tyler County Commissioners Court (the "*Commissioners Court*"), has determined that establishing a local government corporation with neighboring counties and special purpose districts in order to plan, design, develop, construct, operate, manage, repair, maintain, finance, equip, improve, enlarge, extend, acquire, and improved integrated flood damage reduction systems is desirable to protect Tyler County residents; and

WHEREAS, the Commissioners Court has considered the proposed Articles of Incorporation and bylaws of a local government corporation named 'Southeast Texas Flood Control District, LGC' (the "*Corporation*"), to act on behalf of the Sponsor and other Texas local governments; and determined that the formation of the Corporation is wise, expedient, necessary and desirable, and that the Sponsor and its residents will benefit from the Corporation engaging in planning concerning disaster mitigation and other projects or programs to protect infrastructure, industry, businesses and housing against storm surge induced flooding; designing, developing, constructing, operating, managing, repairing, maintaining, financing, equipping, improving, enlarging, extending, acquiring and improving integrated storm surge induced flood damage reduction systems; and conducting any and all other lawful business and perform any other function or operation related to any of the foregoing in all the Corporation's sponsoring counties of Jefferson, Hardin, Orange, Jasper, Newton, Chambers, Tyler and Liberty; and

WHEREAS, a majority of the Commissioners Court has adopted this Resolution and approves the form of the Articles of Incorporation, which includes persons specified as initial directors in such Articles of Incorporation as the initial directors of the Corporation for the respective terms specified in such Articles of Incorporation; and

WHEREAS, the approvals and appointments are solely for purposes of satisfying a condition to the filing of Articles of Incorporation of the Corporation with the Secretary of State of Texas and shall not be construed as a representation, warranty, or other undertaking of any kind by the Commissioners Court or the Sponsor in respect of the Corporation, and whereas no

obligation of the Corporation shall constitute an obligation of the Commissioners Court or the Sponsor or a pledge of the faith or credit of the Sponsor; and

WHEREAS, the meeting at which the Commissioners Court adopted the Articles of Incorporation and bylaws was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551, Texas Government Code; and

WHEREAS, the Commissioners Court finds that formation of the Corporation in accordance with the article and bylaws approved by the Commissioners Court serves a public purpose of Tyler County, Texas;

NOW, THEREFORE, BE IT RESOLVED BY THE TYLER COUNTY COMMISSIONERS COURT, THAT:

1. The Tyler County Commissioners Court hereby APPROVES the formation of the 'Southeast Texas Flood Control District, LGC' under authority of Subchapter D, Texas Transportation Corporation Act, TEX. TRANSP. CODE ANN. § 431.101 *et seq.* and Texas Local Government Code Ann § 394.001 *et seq.* and the Texas Nonprofit Corporation Act Article § 1396-101 *et seq.*, TEXAS REV. CIV. STAT. ANN., as amended, to act on behalf of the Sponsor and other Texas local governments; and
2. The Tyler County Commissioners Court hereby APPROVES and authorizes the form of the Articles of Incorporation of the Corporation attached hereto as Exhibit "A", and the Bylaws of the Corporation attached hereto as Exhibit "B", both of which are incorporated herein for all purposes, and has determined that the approval of these forms is wise, expedient, necessary and desirable;
3. The County Judge is hereby authorized to execute the Articles of Incorporation of the Corporation and all related documents on behalf of Tyler County, Texas. The County Clerk is hereby authorized to attest to all such signatures, affix the seal of the County to all such documents and verify that the Tyler County Commissioners Court has approved same;
4. The Tyler County Commissioners Court hereby grants the authority necessary for the County Judge, as a director of the Corporation, to approve the adoption of the Articles of Incorporation and Bylaws in the form attached hereto; and
5. The Tyler County Commissioners Court hereby appoints the director of the Corporation for which Tyler County, Texas is the sponsor, as set forth in the Articles of Incorporation of the Corporation.

Upon Motion Duly Made and Seconded, the above Resolution is hereby ADOPTED,
by the Commissioners Court of Tyler County, on this, the ____ day of _____, 2019.

COUNTY OF TYLER, TEXAS, By:

JACQUES L. BLANCHETTE
COUNTY JUDGE

MARTIN NASH
COMMISSIONER, PRECINCT NO.1

STEVAN STURROCK
COMMISSIONER, PRECINCT NO.2

MIKE MARSHALL
COMMISSIONER, PRECINCT NO.3

CHARLES "BUCK" HUDSON
COMMISSIONER, PRECINCT NO.4

ATTEST:

DONECE GREGORY
COUNTY CLERK OF TYLER COUNTY, TEXAS

**ARTICLES OF INCORPORATION
OF
SOUTHEAST TEXAS FLOOD CONTROL DISTRICT, LGC**

Pursuant to TEXAS LOCAL GOVERNMENT CODE §394.014, and under the provisions of Subchapter D of Chapter 431, Texas Transportation Code (The Act), with the approval of a majority vote of the governing body's members in office of the Texas counties of Jefferson County, Hardin County, Orange County, Jasper County, Newton County, Chambers County, Tyler County, and Liberty County (the "Sponsors"), We the undersigned natural persons, each of whom is at least 18 years of age and a resident and qualified voter of the Sponsors and a citizen of the State of Texas, acting as incorporators of a corporation do adopt these Articles of Incorporation of the Southeast Texas Flood Control District, LGC:

ARTICLE ONE

NAME

The name of the Corporation is Southeast Texas Flood Control District, LGC.

ARTICLE TWO

CHARACTER

The Corporation is a public, nonprofit corporation.

ARTICLE THREE

DURATION

The period of duration of the Corporation is perpetual.

ARTICLE FOUR

PURPOSE

The Corporation is organized and is to be operated to aid, assist and act on behalf of the Sponsors for the following purposes: (a) to engage in coordinated planning with governmental entities and local communities concerning disaster mitigation and other projects or programs to protect residents, infrastructure, industry, businesses and housing within the boundaries of the Sponsors and watersheds impact areas within the boundaries of the sponsors. against flooding; (b) to design, develop, construct, operate, manage, repair, maintain, finance, equip, improve, enlarge, extend, acquire and improve integrated flood damage reduction systems within the boundaries of the Sponsors; and (c) to conduct any and all other lawful business and perform any other function or operation related to any of the foregoing. Flood damage reduction systems may include stormwater detention, drainage facilities, bulkheads, levees, seawalls, berms, barriers, pumps, gates and other structural, nonstructural or nature-based systems to suppress flooding and storm surge or reduce rainfall and storm surge-related flood damage. Those systems may also include ancillary improvements, such as measures to protect and improve the quality of storm water or mitigate environmental effects; paved,

macadamized or graveled roads; demolition of improvements or clearing of land; highway right-of-way improvements or beautification measures; utility relocation; hiking and cycling paths or sidewalks; beach replenishment measures; and parks or open space improvements.

The Corporation was formed pursuant to Subchapter D, Texas Transportation Corporation Act, TEX. TRANSP. CODE ANN. § 431.101 *et seq.* (the "Act") and Texas Local Government Code Ann § 394.001 *et seq.* ("Local Government Code") and the Texas Nonprofit Corporation Act Article § 1396-101 *et seq.*, TEXAS REV. CIV. STAT. ANN., as amended (the "Non-Profit Corporation Act"), which authorizes the Corporation to assist and act on behalf of the Sponsors and to engage in activities in the furtherance of the purposes for its creation.

The Corporation shall have and exercise all of the rights, powers, privileges, authority, and functions given by the general laws of Texas to nonprofit corporations incorporated under the Texas Nonprofit Corporation Act which are consistent with the provisions of the Act. The Corporation will not exercise any rights, powers, privileges and authority or function contrary to federal mandates, Army Corps of Engineers, Flood Control Districts or Drainage, or Conservation Districts of sponsoring counties or entities or emergency management/homeland security responsibilities of Commissioners Court or Judges of sponsoring counties.

The Corporation shall have all other powers of a like or different nature not prohibited by law which are available to nonprofit and local government corporations in Texas and which are necessary or useful to enable the Corporation to perform the purposes for which it is created.

The Corporation is created as a local government corporation pursuant to the Act and shall be a governmental unit within the meaning of Chapter 101, Texas Civil Practice and Remedies Code. The operations of the Corporation are governmental and not proprietary functions.

ARTICLE FIVE

MEMBERS

The Corporation shall have no members and no stock.

ARTICLE SIX

INITIAL REGISTERED OFFICE AND AGENT

The street address of the initial registered office of the Corporation is 1149 Pearl St, Beaumont, Texas 77701. The name of the initial registered agent of the Corporation at that address is Jeff Branick.

ARTICLE SEVEN

DIRECTORS AND VOTING

All powers of the Corporation shall be vested in a Board of Directors ("*Board*") consisting of twelve (12) persons. Each Sponsor shall appoint one (1) Director and the Board shall appoint four (4) At Large Directors. The initial Directors named herein shall serve for the term expiring on the date set forth opposite his or her name. Subsequent appointments shall be made by the Commissioners Court of each sponsoring county, with each Director serving a three (3) year term. Subsequent At Large appointments shall be made by a majority of the Sponsors. Any At Large Director may be removed from office at any time, with or without cause, by the Board and any Director may be removed from office at any time, with or respective Commissioners Court who appointed them and each Commissioners Court shall have the right to appoint a replacement for such removed Director. Any such removal by a Commissioners Court shall be effective immediately and that Commissioners Court shall appoint a replacement within sixty (60) days following such removal. In the event a director is not appointed by the Commissioners Court, the County Judge shall serve as the Director for that Sponsor.

To be qualified to serve as a Director, a person must be at least eighteen (18) years old and reside within the boundaries of the Sponsors. However, a person need not reside within the boundary of the appointing Sponsor in order to be appointed to the Board of Directors.

All matters pertaining to the internal affairs of the Corporation shall be governed by the Bylaws of the Corporation, so long as such Bylaws are not inconsistent with this Articles of Incorporation and the laws of the State of Texas.

The names and addresses of the persons who are to serve as the initial Directors are as follows, each of whom resides within the boundaries of the Sponsors:

Name	Address	Expiration of Term	Sponsor
Jeff Branick	1149 Pearl Street Beaumont, Texas 77701	12/31/2022	Jefferson County
Wayne McDaniel	300 West Monroe Street Kountze, Texas 77625	12/31/2022	Hardin County
John Gothia	123 South 6th St., Orange, Texas 77630	12/31/2022	Orange County
Mark Allen	121 N. Austin, Room 106 Jasper, Texas 75951	12/31/2022	Jasper County
Kenneth Weeks	110 Court St., Room 125 Newton, Texas 75966	12/31/2022	Newton County
Jimmy Sylvia	404 Washington P.O. Box 939 Anahuac, Texas 77514	12/31/2022	Chambers County

Jacques L. Blanchette	100 W. Bluff St. Woodville, Texas 75979	12/31/2022	Tyler County
Jay H. Knight	1923 Sam Houston St. Liberty, Texas 77575	12/31/2022	Liberty County
Jerry Shadden At Large	2500 SH 124 Stowell, Texas 77661	12/31/2022	Trinity Bay Conservation District
Joshua W. Allen, Sr. At Large	6550 Walden Rd. Beaumont, Texas 77720	12/31/2022	Jefferson County Drainage District No. 6
Phil Kelley At Large	4401 Ninth Avenue Port Arthur, Texas 77642	12/31/2022	Jefferson County Drainage District No. 7
Don Carona At Large	8081 Old Highway 90 Orange, Texas 77630	12/31/2022	Orange County Drainage District

ARTICLE EIGHT

INDEMNIFICATION AND RELEASE

To the maximum extent authorized by applicable law, the Corporation shall indemnify each director, officer, former director, and former officer of the Corporation for expenses and costs, including attorney's fees, actually and necessarily incurred by the director or officer in connection with, and each such person is released by the Corporation from, a claim asserted against the director or officer, by action in court or other forum, because of the person's being or having been a director or officer.

ARTICLE NINE

NOT FOR PROFIT

No part of the Corporation's net earnings shall inure to the benefit of, or be distributable to, any director, officer, or other private person, but the Corporation may pay reasonable compensation for services rendered or property acquired. No part of the Corporation's net earnings remaining after payment of its liabilities and expenses in accomplishing its public purpose may benefit any person other than the Sponsors.

No substantial part of the Corporation's activities shall be carrying on propaganda or otherwise attempting to influence legislation. The Corporation shall not participate in, or intervene (including by publishing or distributing of statements) in, any political campaign on behalf of or in opposition to any candidate for public office.

The Corporation is a constituted authority and a public instrumentality within the meaning of the regulations of the United States Treasury Department and the rulings of the

Internal Revenue Service prescribed and promulgated pursuant to §103 of the Internal Revenue Code (or the corresponding section of any future federal tax code), and the Corporation is authorized to act on behalf of the Sponsors as provided in these Articles of Incorporation. However, the Corporation is not a political subdivision or political corporation of the State of Texas within the meaning of its constitution and laws, including, without limitation, Article III, §52 of said constitution, and no agreements, bonds, debts, or obligations of the Corporation are or shall ever be deemed to be the agreements, bonds, debts, or obligations, or the lending of credit, or a grant of public money or thing of value, of or by the Sponsors or any other political corporation, subdivision, or agency of the State of Texas, or a pledge of the faith and credit of any of them.

ARTICLE TEN

SPONSOR

The counties and districts set forth below are the Sponsors of the Corporation. Each Sponsor has adopted a resolution approving the form of this Articles of Incorporation by a majority vote of its Commissioners Court, as follows:

<u>Sponsor</u>	<u>Date of Adoption</u>
Jefferson County	_____, 2019
Hardin County	_____, 2019
Orange County	_____, 2019
Jasper County	_____, 2019
Newton County	_____, 2019
Chambers County	_____, 2019
Tyler County	_____, 2019
Liberty County	_____, 2019

ARTICLE ELEVEN

AMENDMENTS

This Articles of Incorporation may not be changed or amended unless approved by the Commissioners Court of each of the Sponsors.

ARTICLE TWELVE

DISSOLUTION

Subject to any restrictions in applicable state law, if each of the Sponsors considers and approves a resolution directing the Board to proceed with dissolution or if the Board determines by resolution that the purposes for which the Corporation was formed have been substantially met and all the obligations incurred by the Corporation or on behalf of the Corporation have been fully paid, the Board shall execute a certificate of dissolution to that effect and declare the Corporation dissolved in accordance with the requirements of Section 394.026 of Texas Local Government Code, or with applicable law.

Upon dissolution of the Corporation,:

A. the assets of the Corporation shall be distributed among the Sponsors in accordance with the percentage of each Sponsor's contribution to the purchase of the assets of the Corporation; and

B. any remaining liabilities of the Corporation shall be allocated as follows:

(1) if the liability was incurred for the benefit of fewer than all of the Sponsors, the liability shall be allocated to those Sponsors for whom the benefit was incurred based on the agreement of the benefitted Sponsors; and

(2) if the liability was incurred for the benefit of all the Sponsors, the liability shall be based on the percentage of the each Sponsor's contributions to the purchase of the assets of the Corporation.

Nothing in this Certificate shall prohibit the Sponsors from agreeing to an allocation of assets and liabilities contrary to this Section, provided such allocation is not contrary to state law.

EFFECTIVENESS OF FILING

This document becomes effective when the document is filed by the Secretary of State.

EXECUTION

The undersigned affirms that the person designated as registered agent has consented to the appointment. The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument and certifies under penalty of perjury that the undersigned is authorized to execute the filing instrument.

Tyler County Incorporators

Date _____

Signature of Incorporator

Printed or typed name of Incorporator

Address of Incorporator

Date _____

Signature of Incorporator

Printed or typed name of Incorporator

Address of Incorporator

Date _____

Signature of Incorporator

Printed or typed name of Incorporator

Address of Incorporator

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COUNTY OF TYLER §

Before me on this ___ day of ~~November~~ ^{December} 2019, appeared _____, and _____, and _____, known to be to be the persons whose names are subscribed to the foregoing document and, being first duly sworn, declared that the statements therein contained are true and correct.

Notary Public, State of Texas

My Commission Expires:

VERIFICATION

BEFORE ME, the undersigned authority, personally appeared Donece Gregory, Tyler County Clerk, known to me to be the person whose name is subscribed below, who, after being by me duly sworn, upon her oath, did depose and say that she is the County Clerk of Tyler County, Texas; that she has examined the foregoing Articles of Incorporation of Southeast Texas Flood Control District, LGC and that the same was approved by a majority of the Commissioners Court members in office by Resolution _____, at a meeting of the Commissioners Court of Tyler County, Texas, held on _____, 2019; and as such she is duly authorized to make this verification.

Donece Gregory, Tyler County Clerk

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SUBSCRIBED AND SWORN TO BEFORE ME by Donece Gregory, Tyler County Clerk on this _____ day of _____, 2019.

Notary Public in and for the State of Texas

(Stamped or Printed Name of Notary)

My Commission Expires:

EXHIBIT B
BYLAWS
OF
SOUTHEAST TEXAS FLOOD CONTROL DISTRICT, LGC

BYLAWS

OF

SOUTHEAST TEXAS FLOOD CONTROL DISTRICT, LGC

**a Texas local government corporation created by and for
Jefferson, Hardin, Orange, Jasper, Newton, Chambers, Tyler and Liberty Counties**

Date of Adoption: _____, 2019

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BYLAWS
OF
Southeast Texas Flood Control District, LGC
a Texas local government corporation

ARTICLE 1

NAME AND PURPOSES

Section 1.1 Name.

The name of the corporation is Southeast Texas Flood Control District, LGC (the "Corporation").

Section 1.2 Purposes.

The Corporation is organized and is to be operated to aid, assist and act on behalf of Jefferson, Hardin, Orange, Jasper, Newton, Chambers, Tyler, and Liberty Counties (the "Sponsors") for the following purposes: (a) to engage in planning concerning disaster mitigation and other projects or programs to protect residents, infrastructure, industry, businesses and housing within the boundaries of the Sponsors against flooding; (b) to design, develop, construct, operate, manage, repair, maintain, finance, equip, improve, enlarge, extend, acquire and improve integrated flood damage reduction systems within the boundaries of the Sponsors; and (c) to conduct any and all other lawful business and perform any other function or operation related to any of the foregoing. Flood damage reduction systems may include bulkheads, levees, seawalls, berms, barriers, pumps, gates and other structural, nonstructural or nature-based systems to suppress storm surge or reduce storm surge-related flood damage. Those systems may also include ancillary improvements, such as measures to protect and improve the quality of storm water or mitigate environmental effects; paved, macadamized or graveled roads; demolition of improvements or clearing of land; highway right-of-way improvements or beautification measures; utility relocation; hiking and cycling paths or sidewalks; beach replenishment measures; and parks or open space improvements.

In accordance with the provisions of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), and regardless of any other provisions of these Bylaws or the laws of the State of Texas, the Corporation: (a) shall not permit any part of the net earnings of the Corporation to inure to the benefit of any private individual (except that reasonable compensation may be paid for services rendered to or for the Corporation in effecting one or more of its purposes); (b) shall not devote more than an insubstantial part of its activities or income to attempting to influence legislation by propaganda or otherwise; (c) shall not participate in, or intervene in (including the publication or distribution of statements) any political campaign on behalf of any candidate for public office; and (d) shall not attempt to influence the outcome of any public election or election for public office or to carry on, directly or indirectly, any voter registration drives. Any income earned by the Corporation after payment of reasonable expenses, debt and establishing a reserve shall be used for the benefit of the Corporation.

ARTICLE 2

BOARD OF DIRECTORS

Section 2.1 General Powers.

All powers of the Corporation are vested in the Board of Directors (the "Board").

Section 2.2 Appointment, Qualifications and Removal.

The Board shall consist of twelve (12) Directors. The number of Directors may be increased or decreased by the Board, except that the number of Directors may never be less than one Director for each Sponsor. All other matters relating to Director appointment, qualifications, removal and vacancies shall be governed by the Articles of Incorporation of the Corporation and the laws of the State of Texas.

Section 2.3 Terms of Office.

Each Director shall hold office for a term of three (3) years, or until the Director's earlier death, resignation, disqualification or removal from office, and until the Director's successor shall have been duly selected and qualified; provided, however, that the initial terms of the initial Directors are specified in Article Seven of the Articles of Incorporation of the Corporation. If a Director has been appointed to fill an unexpired term, then such Director's term shall expire on the expiration date of the term of the Director he or she was appointed to fill.

Section 2.4 Resignations.

Any Director or Board officer may resign at any time. Such resignations shall be made in writing and shall take effect at the time specified therein, or, if no time be specified, at the time of its receipt by the Chair or Secretary. The acceptance of a resignation shall not be necessary to make it effective, unless expressly so provided in the resignation.

Section 2.5 Meetings.

The annual meeting of the Board shall be held at the time and at the location designated by resolution of the Board. Other regular meetings of the Board shall be held at such times and places as shall be designated, from time to time, by resolution of the Board. Failure to hold the annual meeting at the designated time shall not work dissolution of the Corporation nor impair the powers, rights and duties of the Corporation's officers and Directors. Special and emergency meetings of the Board shall be held whenever called by the Chair of the Board or by any two Directors. Meetings of the Board may be held by telephone conference, videoconference, interne broadcast or other means of communications technology as permitted under and in conformance with Chapter 551, Texas Government Code, as amended from time to time (the "Open Meetings Act").

Section 2.6 Notices of Meetings.

The Board shall meet in accordance with and file notice of each meeting of the Board for the same length of time and in the same manner and location as is required of a county under the Open Meetings

Section 2.7 Quorum.

A majority of the Board shall constitute a quorum for the consideration of matters pertaining to the purposes of the Corporation. The act of a majority of the Directors present and voting at a meeting at which a quorum is in attendance shall constitute the act of the Board, unless the act of a greater number is required by law, by the Articles of Incorporation, or by these Bylaws.

Section 2.8 Conduct of Business.

At its meetings, the Board shall consider matters pertaining to the purposes of the Corporation in such order as from time to time the Board may determine. The Chair shall preside at all meetings of the Board, and in the absence of the Chair, the Vice Chair shall preside. In the absence of the Chair and the Vice Chair, a chair shall be chosen by the Board from among the Directors present. The Secretary of the Corporation shall act as secretary of all meetings of the Board, but in the absence of the Secretary, the presiding officer may appoint any person to act as secretary of the meeting.

Section 2.9 Voting.

A vote of the Board to approve the annual budget requires approval by a majority vote of the board. A vote of the board to approve a project located in an individual Sponsor requires the affirmative vote of the Director representing that individual Sponsor. For interim budget amendments and all other matters, a vote of a majority of the directors present and voting is required. In all matters, if there is no Director representing an individual Sponsor or if the Director representing an individual Sponsor is absent or is present and abstains from a vote, a majority of the Directors present and voting is required.

Section 2.10 Committees.

The Board may designate three (3) or more Directors to constitute a committee.

Section 2.11 Compensation.

No part of the income or revenues of the Corporation shall ever be paid to or inure to the benefit of any Director except for reimbursement of actual expenses incurred in connection with the business affairs of the Corporation, and no such reimbursement of expenses shall be made unless approved by the Board

ARTICLE 3

BOARD OFFICERS

Section 3.1 Board Officers.

The officers of the Board shall be the Chair, a Vice Chair, and such other Board officers as the Board may from time to time appoint. One person may not hold more than one Board office. The term of office for each officer of the Board shall be three (3) years. The officers of the Board shall be elected by the Board. All officers of the Board shall be subject to removal, with or without cause, at any time by a vote of two-thirds (2/3) of all Directors then in office.

Section 3.2 Chair.

The Chair shall preside at all meetings of the Board. In furtherance of the purposes of the Corporation and subject to the limitations contained in the Articles of Incorporation, the Chair, may, upon authorization by resolution of the Board, sign and execute all bonds, notes, deeds, conveyances, franchises, assignments, mortgages, notes, contracts and other instruments of any kind in the name of the Corporation. The Chair may call special or emergency meetings of the Board.

Section 3.3 Vice Chair.

The Vice Chair shall perform the duties and exercise the powers of the Chair upon the Chair's death, absence, disability, or resignation, or upon the Chair's inability to perform the duties of his or her office. Any action taken by the Vice Chair in the performance of the duties of the Chair shall be conclusive evidence of the absence or inability to act of the Chair at the time such action was taken.

ARTICLE 4

OFFICERS OF THE CORPORATION

Section 4.1 President.

The Board shall appoint the President of the Corporation, who shall be the chief executive officer of the Corporation and shall in general supervise and control all of the business and affairs of the Corporation. The President may sign, with the Secretary or any other proper officer of the Corporation authorized by the Board, all bonds, notes, deeds, conveyances, franchises, assignments, mortgages, notes, contracts and other instruments of any kind in the name of the Corporation which the Board has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board, or by these Bylaws, or by statute, to some other officer or agent of the Corporation. In general, the President shall perform all duties prescribed by the Board from time to time. The President of the Corporation shall serve at the discretion of the Board, and may be removed by the Board at any time, with or without cause.

Section 4.2 Secretary.

The Board shall appoint the Secretary of the Board of the Corporation to keep the minutes of the meetings of the Board of Directors in one or more books provided for that purpose, see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law, be custodian of the Corporation records, and in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned by the Board or the President. The Secretary of the Corporation shall serve at the discretion of the Board, and may be removed by the Board at any time, with or without cause.

Section 4.3 Treasurer.

The Board shall appoint the Treasurer of the Corporation, who shall have charge and custody of and be responsible for all funds and securities of the Corporation, receive and give receipts for monies due and payable to the Corporation from any source whatsoever, deposit all such monies in the name of the Corporation in such banks as shall be selected in accordance with the provisions of these Bylaws, and in general perform all duties incident to the office of Treasurer and such other duties as from time to time may be assigned by the President or by the Board. The Treasurer of the Corporation shall serve at the discretion of the Board, and may be removed by the Board at any time, with or without cause.

Section 4.4 Other Officers.

The Board may appoint other officers of the Corporation, including assistant secretaries and assistant treasurers.

ARTICLE 5

CONTRACTS, HANDLING OF FUNDS, AUDITS, AND RECORDS

Section 5.1 Contracts.

The Board may authorize any officer or officers or agent or agents of the Corporation to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances. No contract or other transaction between the Corporation and any Director may be entered into by the Corporation except (1) on terms no more favorable to the Director than if such contract or transaction were entered into with a third party, and (2) when approved and authorized by a majority of the Board, and provided that any Director with whom such contract or transaction is proposed to be entered into shall not vote in such Board approval and authorization. Notwithstanding the foregoing, all transactions between the Corporation and any Director shall be in strict compliance with the laws of the State of Texas.

Section 5.2 Payment of Funds.

All checks, drafts, or orders for the payment of money, notes, or other evidences of indebtedness issued in the name of the Corporation shall be signed by such officer or officers or agent or agents of the Corporation and in such manner as shall from time to time be determined by resolution of the Board. In the absence of such determination by the Board, such instruments shall be signed by the Secretary or Treasurer and countersigned by the President or the Chair in absence of the President.

Section 5.3 Deposits.

All funds of the Corporation shall be deposited from time to time to the credit of the Corporation in a state or national bank or other federally insured depository institution selected as a depository of the funds of the Corporation.

Section 5.4 Gifts and Grants.

The Board may accept on behalf of the Corporation any contribution, gift, bequest, or devise for the general purposes or for any special purpose of the Corporation. The Corporation shall also have the power to request and accept any appropriation, grant, contribution, donation, or other form of aid from the federal government, the State, any political subdivision, or municipality in the State.

Section 5.5 Fiscal Year.

The fiscal year of the Corporation shall commence on January 1st.

Section 5.6 Audits.

The Board shall cause to be maintained a proper and complete system of records and accounts of all transactions, business, and affairs of the Corporation. After the close of each fiscal year, the Corporation shall cause financial statements to be prepared which shall be audited by an independent certified public accountant or firm of independent certified public accountants. The Corporation shall furnish a copy of such audited financial statements, together with the independent certified accountants' report thereon, without cost to each sponsoring county. Each sponsoring county or their County Auditor shall have the right to conduct an independent audit or study of the Corporation at any time, and the Corporation shall assist and cooperate in such audits or studies.

Section 5.7 Books and Records.

The Corporation shall keep correct and complete books and records of accounts and shall also keep minutes of the proceedings of its Board of Directors. All books and records may be inspected by representatives of any Sponsor at any reasonable time.

ARTICLE 6

GENERAL PROVISIONS

Section 6.1 Amendments.

These Bylaws shall be effective from and after their adoption. These Bylaws may be amended by the affirmative vote of a majority of the Directors of the Corporation at any meeting of the Board of Directors, provided that notice of the proposed amendment shall have been mailed to each Director at least 72 hours prior to such meeting, and that such notice shall also be given in accordance with the Open Meetings Act.

Section 6.2 Articles of Incorporation.

These Bylaws are subject to, and governed by, the Articles of Incorporation.

CERTIFICATE OF ADOPTION OF BYLAWS

The undersigned hereby certifies that these Bylaws are the true and correct Bylaws of the Corporation duly adopted on _____, 2019.

Dated and executed this __ day of _____, 2019.

By: _____

Name: _____

Title: Secretary of the Corporation

HUSCH BLACKWELL

What is a Local Government Corporation (LGC) and how can Texas Counties join together through the Southeast Texas Flood Control District, LGC to protect our communities from flooding?

In 1984, the legislature passed the Texas Transportation Corporation Act to "encourage donations of right of way for state highways and donations of funds for preliminary planning and design of those highways..." and authorized creation of Texas non-profit corporations to act on behalf of the Texas Transportation Commission. These corporations were limited to development of transportation facilities and systems.

In 1989 the local government corporation (LGC) was created for cities and counties to have an additional vehicle to enter into public/private partnerships (P3's) for transportation projects. This was codified in 1995 into Chapter 431 of the Texas Transportation Code. Under § 431.101, a local government corporation may be created to aid and act on behalf of one or more local governments to accomplish any governmental purpose of those local governments.

A LGC is like a non-profit corporation subject to Chapter 22 of the Business Organizations Code except, because it is government, it must comply with the Open Meetings Act, Public Information Act, it is deemed a "governmental unit" for purposes of the Texas Tort Claims Act, it is exempt from payment of sales and franchise tax and property of the LGC is exempt from property tax. All acts of the LGC are "Governmental." There are no proprietary acts.

Among other provisions, The Texas Transportation Code § 431.101 states that:

A local government corporation may be created to aid and act on behalf of one or more local governments to accomplish any governmental purpose of those local governments;

A local government corporation has the powers of a corporation authorized for creation by the commission;

The provisions of the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) relating to powers, standards of conduct, and interests in contracts apply to the directors and officers of the local government corporation;

A local government corporation must comply with all state law related to the design and construction of projects, including the procurement of design and construction services that applies to the local government that created the corporation.

Texas Transportation Code § 431.102 adds requirements that apply Chapter 394, Local Government Code (Housing Finance Corporations) to the manner in which a LGC is created or dissolved, the board is appointed, and the form, execution, approval, filing, and amending of the articles of incorporation and bylaws of a local government corporation.

Chambers County, Jefferson County and Orange County are familiar with local government corporations through their membership in the Gulf Coast Community Protection and Recovery District that was organized by six counties on the upper Texas coast to study and plan for storm surge risk reduction and mitigation. This corporation was funded with HUD funds through the Texas GLO. Other LGCs include the North Texas Emergency Communications Center, Inc., Harris

County Sports and Convention Corporation that manages the NRG Center/Astrodome NRG Park, and Dallas Area Rapid Transit Bus Service LGC.

A challenge for the Southeast Texas coalition is that Drainage Districts and Conservation Districts are not "local government" under the Act.

The Transportation Code in §431.003 defines "local government" as: a municipality, a county, a navigation district, hospital district, or hospital authority, a regional transportation authority governed by Chapter 452 (e.g., DART and Ft Worth Transportation Authority), a rapid transit authority governed by Chapter 451 (e.g., MTA of Harris County (Houston METRO, VIA San Antonio, CAP METRO (Austin), or a coordinated county transportation authority governed by Chapter 460 (e.g., Denton County).

The creation of an LGC requires approval of the "Articles of Incorporation" by the sponsoring local governments. After discussion with many of the parties involved we have included representatives of Jefferson County Drainage District 6, Jefferson County Drainage District 7, Chambers County Drainage District and Trinity Bay Conservation District as "At Large" board members of the proposed Southeast Texas Flood Control District, LGC to maintain the cooperative relationship among the principal entities responsible for flood control in the region. The "districts" will be on the board but not be required to act as "sponsors" of the LGC.

As discussed earlier, the LGC is a separate entity from the sponsors and the sponsors are not responsible for debts and obligations of the LGC. The LGC has no taxing authority and will rely upon contracts with the sponsors, other governmental entities, the state through the GLO, Water Development Board or other agencies and any other grants or available funding sources.

While the LGC must follow state law regarding design and construction of "projects," generally state purchasing requirements do not apply to require competitive bidding and there are no restrictions relating to purchase and sale of real property. As a separate entity the acts of the LGC are not acts of the county. The LGC has immunity granted by statute and limited waiver of immunity under the Texas Tort Claims Act like that of counties.

Based on our review, comments and suggestions, the previously circulated resolutions, and Articles of Incorporation and Bylaws have been amended to reflect these changes, add appropriate references to the various codes and to add a process for dissolution of the LGC.

The previously circulated agenda item to meet posting requirements is unchanged.

At the organizational meeting scheduled for December 12, we will need to:

- approve the bylaws, select the board chair, board officers and corporate officers;
- establish the location for the board meetings, set the schedule for board meetings and the locations where those meeting notices will be posted (required as other postings at each sponsoring county); and
- approve initial agreements and or policies related to the operation of the LGC.

Tyler County Incorporators

Date _____

Signature of Incorporator

Printed or typed name of Incorporator

Address of Incorporator

Date _____

Signature of Incorporator

Printed or typed name of Incorporator

Address of Incorporator

Date _____

Signature of Incorporator

Printed or typed name of Incorporator

Address of Incorporator

STATE OF TEXAS §
 §
COUNTY OF TYLER §

Before me on this ____ day of December 2019, appeared _____, and _____, and _____, known to be to be the persons whose names are subscribed to the foregoing document and, being first duly sworn, declared that the statements therein contained are true and correct.

Notary Public, State of Texas

My Commission Expires:
