

**ORDINANCE NO. 2023-21**

AN ORDINANCE OF THE CITY OF IOWA COLONY, TEXAS, CONTAINING FINDINGS OF FACT; ANNEXING CERTAIN PROPERTY INTO THE CITY, COMMONLY KNOWN AS BHA INVESTMENTS, LLC, AS MORE FULLY DESCRIBED HEREIN; ADOPTING A MUNICIPAL SERVICES AGREEMENTS; AND PROVIDING A SEVERANCE CLAUSE AND AN EFFECTIVE DATE

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF IOWA COLONY, TEXAS:

SECTION 1. The City Council of the City of Iowa Colony, Texas (“the City”) hereby finds that all statements in any part of this ordinance are true.

SECTION 2. This annexation of land is authorized by Section 43.0671 of the Texas Local Government Code and all other applicable law.

SECTION 3. The owners of the property annexed by this ordinance have requested this annexation in writing.

SECTION 4. This entire ordinance is in the public interest.

SECTION 5. This ordinance does not cause any area to be completely surrounded by the City without annexing the surrounded area.

SECTION 6. The procedures and requirements of the Texas Local Government Code and any other applicable law have been duly followed and satisfied concerning this annexation.

SECTION 7. The property (herein called “**the Annexed Area**”) described on **Exhibit “A,”** which is attached hereto and incorporated herein in full, is hereby annexed into the City of Iowa Colony, Texas, and the boundary limits of the City of Iowa Colony are hereby extended to include the Annexed Area within the territorial limits of the City of Iowa Colony. The inhabitants of the Annexed Area shall hereafter be entitled to all the rights and privileges of citizens of the City of Iowa Colony and shall be bound by the acts, ordinances, resolutions, and regulations of this City.

SECTION 8. The City of Iowa Colony has adopted and entered into and hereby adopts and enters into the **Municipal Services Agreements** attached hereto as **Exhibit “B”** and incorporated herein in full.

SECTION 9. The City Secretary is hereby directed to file a certified copy of this ordinance with the Brazoria County Clerk and the Texas Comptroller of Public Accounts.

SECTION 10. If any portion of this ordinance, of whatever size, is ever held to be invalid for any reason, the remainder of this ordinance shall remain in full force and effect. Without limiting the generality of the foregoing, if this annexation is ever held invalid as to any portion, of whatever size, of the territory described on Exhibit "A" hereto, then this annexation shall remain valid as to the remainder of such territory.

SECTION 11. This ordinance shall be effective immediately upon its passage and approval. The Home Rule Charter of the City requires only one reading of this ordinance, because state law required a public hearing before the passage of this ordinance.

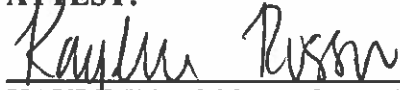
READ, PASSED, AND APPROVED on SEPTEMBER 18, 2023.

CITY OF IOWA COLONY, TEXAS

By: 

WIL KENNEBY, MAYOR

ATTEST:



KAYLEEN ROSSER, CITY SECRETARY

Iowa Colony/Ordinance/Annexation/Ord Annexing BHA Investments, MUD__ into City



**EXHIBIT “A”
TO ANNEXATION ORDINANCE –
ANNEXED AREA**

**Including Descriptions and Maps
of the Entire Annexed Area**

EXHIBIT 'A'

File No.: **1579299-H062 (CK)**

Property: **Vacant Land, Angleton, TX 77515**

A 15.624 ACRE TRACT OF LAND BEING THE SAME PROPERTY DESCRIBED IN A DEED RECORDED UNDER BRAZORIA COUNTY CLERK FILE NO. 2005069892, BEING OUT OF TRACTS 653 AND 654, SECTION 56, EMIGRATION LAND. CO. SUBDIVISION, RECORDED IN VOLUME 2, PAGE 113 OF THE BRAZORIA COUNTY PLAT RECORDS, LOCATED IN THE H.T. & B.R.R. CO. SURVEY, ABSTRACT 515, BRAZORIA COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A ½" IRON ROD FOUND AT THE SOUTHEAST CORNER OF THE HEREIN DESCRIBED TRACT, BEING THE SOUTHEAST CORNER OF SAID TRACT 654, SAME BEING THE NORTH LINE OF TRACT 655, A CALLED 10 ACRE TRACT DESCRIBED IN A DEED RECORDED UNDER BRAZORIA COUNTY CLERK FILE NO. 02051431, SAID POINT ALSO BEING ON THE WEST LINE OF A CALLED 53.889 ACRE TRACT DESCRIBED IN A DEED RECORDED UNDER BRAZORIA COUNTY CLERK FILE NO. 2008032761;

THENCE ALONG THE COMMON LINE OF SAID TRACT 654 AND SAID TRACT 655, WEST, A DISTANCE OF 659.61 FEET TO A ¾" IRON PIPE FOUND AT THE COMMON CORNER OF SAID TRACT 653, SAID TRACT 655 AND TRACT 652 DESCRIBED IN A DEED RECORDED UNDER BRAZORIA COUNTY, CLERK FILE NO. 93011992;

THENCE ALONG THE COMMON LINE OF SAID TRACT 653 AND SAID 652, SOUTH 89° 55' 04" WEST A DISTANCE OF 456.11 FEET TO A ½" IRON ROD FOUND ON THE EAST RIGHT OF WAY LINE OF STATE HIGHWAY 288, RECORDED IN VOLUME 1129, PAGE 424, DEED RECORDS, BRAZORIA COUNTY, TEXAS, SAID POINT BEING THE BEGINNING OF A NON-TANGENT CURVE CONCAVE EASTERLY HAVING A RADIUS OF 11249.16 FEET;

THENCE ALONG SAID EAST RIGHT OF WAY LINE AND ALONG SAID CURVE HAVING A CENTRAL ANGLE OF 03° 26' 26" PASSING AT AN ARC LENGTH OF 542.79 FEET A CONCRETE RIGHT-OF-WAY MONUMENT AND CONTINUING A TOTAL ARC DISTANCE OF 675.50 FEET, BEING SUBTENDED BY A CHORD BEARING NORTH 12° 13' 47" EAST A DISTANCE OF 675.40 FEET TO A 5/8" IRON ROD FOUND ON THE NORTH LINE OF SAID TRACT 653, SAME BEING THE CENTERLINE OF A 40 FOOT WIDE DEDICATED RIGHT-OF-WAY PER VOLUME 2, PAGE 113 OF THE BRAZORIA COUNTY MAP RECORDS;

THENCE ALONG THE NORTH LINE OF SAID TRACTS 653 AND 654, AND SAID CENTERLINE NORTH 89° 57' 45" EAST A DISTANCE OF 871.29 FEET TO A ½" IRON ROD WITH YELLOW PLASTIC CAP MARKED "1ST AMER 4053785800" SET;

THENCE ACROSS SAID TRACT 654, SOUTH 00° 16' 06" EAST, A DISTANCE OF 100.00 FEET TO A ½" IRON ROD FOUND;

THENCE CONTINUING ACROSS SAID TRACT 654, SOUTH 88° 59' 32" EAST, A DISTANCE OF 99.43 FEET TO A ½" IRON ROD FOUND ON THE EAST LINE OF SAID TRACT 654. SAID POINT BEING ON SAID WEST LINE OF A CALLED 53.889 ACRE TRACT;

THENCE ALONG THE COMMON LINE OF SAID CALLED 53.889 ACRE TRACT AND SAID TRACT 654, SOUTH 00° 06' 44" EAST, A DISTANCE OF 558.16 FEET TO THE POINT OF BEGINNING AND CONTAINING 680.562 SQUARE FEET OR 15.624 ACRES OF LAND MORE OR LESS.

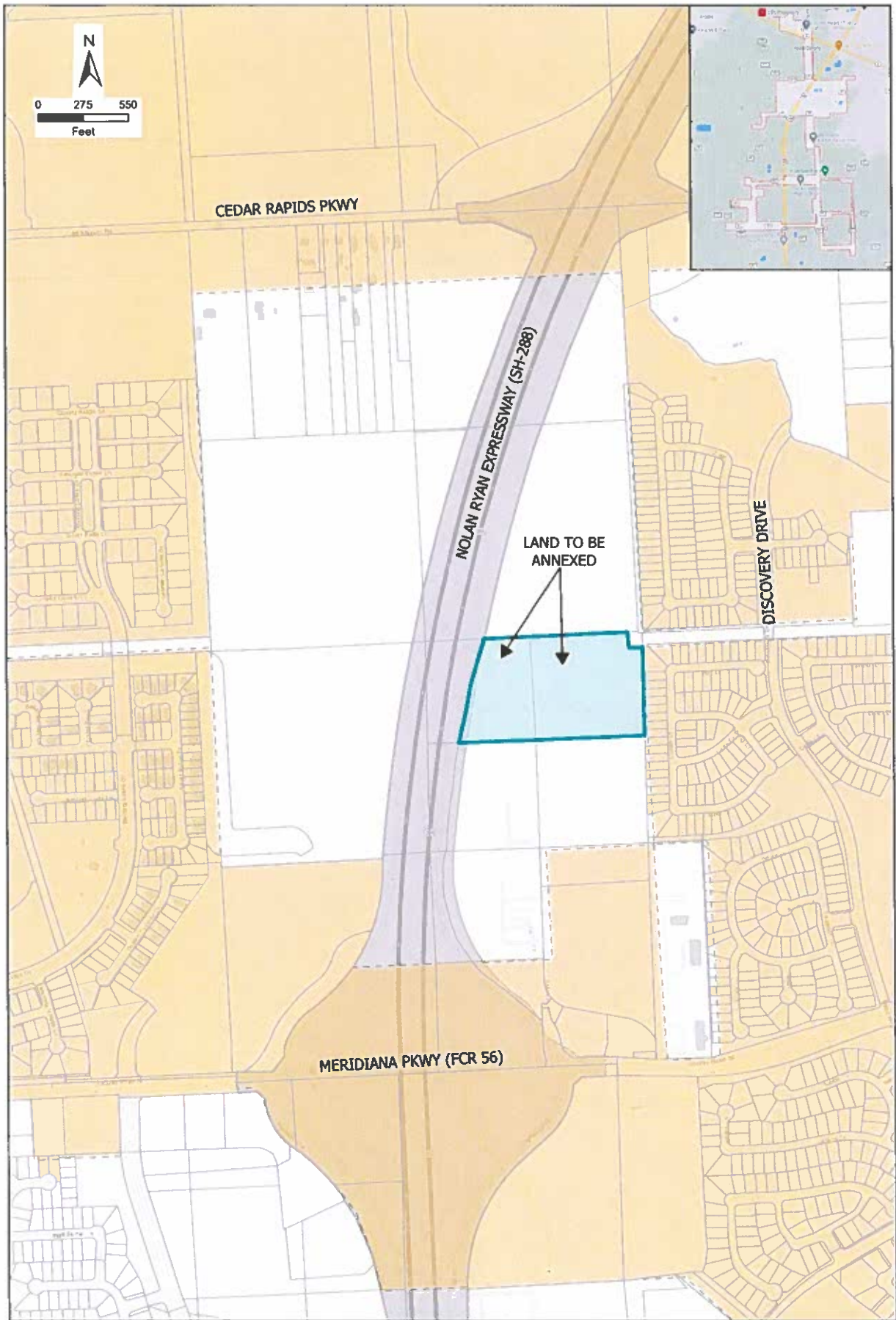


EXHIBIT “B”
TO ANNEXATION ORDINANCE -
MUNICIPAL SERVICE AGREEMENTS

**MUNICIPAL SERVICES AGREEMENT BETWEEN
THE CITY OF IOWA COLONY, TEXAS
AND BHA INVESTMENTS, LLC
(Authorized by Tex. Loc. Gov't Code sec. 43.0672)**

This Municipal Services Agreement ("Agreement") is entered into by the **CITY OF IOWA COLONY, TEXAS ("CITY"); and BHA INVESTMENT, LLC; ("OWNER").**

RECITALS

The parties agree that the following recitals are true and form the basis upon which the parties have entered into this Agreement.

This agreement is authorized by Section 43.0672 of the Texas Local Government Code and all applicable law.

Owner owns approximately 15.6385 acres of land located within the City's extraterritorial jurisdiction situated in Brazoria County, Texas, and the Property is described on **Exhibit "A"**, **which is attached** and incorporated herein by reference.

Each Owner(s) signing this agreement represents and warrants that the Owner(s) named herein are all of the Owners of the Property.

City and Owner desire to set out the City services to be provided for the Property on or after the effective date of the annexation of the Property by the City.

NOW, THEREFORE, in exchange for the mutual covenants, conditions, and promises contained herein, City and Owner agree as follows:

1. DEVELOPMENT AGREEMENT AND UTILITY SERVICES AGREEMENT.

There is no Development Agreement as the area is not appraised for ad valorem tax purposes as agricultural, wildlife management, or timber management which concerns the Property herein defined.

There is no Utility Functions Agreement between the City of Iowa Colony, Texas and BHA Investment, LLC which concerns the Property herein defined.

2. PROPERTY. This Agreement is only applicable to the Property.

3. METHODS OF PROVIDING SERVICES.

- a. This Agreement provides for the delivery of services to the Property as herein provided, in accordance with state law and applicable city ordinances, rules, regulations, and policies. The City may accomplish the delivery of any services required by this Agreement through any means permitted by law. Without limiting the generality of the foregoing, whenever this Agreement requires the City to provide a service, the City may do so either directly or by arranging for delivery of

that service through another governmental entity, a private entity, or any other person and in any lawful manner.

- b. Fees and charges for public services of any nature are beyond the scope of this Agreement and shall be determined in compliance with applicable law.

4. MUNICIPAL SERVICES.

- a. Commencing upon the annexation of the Property into the City for general purposes, the City will provide for the Property the municipal services set forth in this subsection, except as otherwise stated herein.
 - i. Police. The City's Police Department will provide law enforcement services.
 - ii. Building Inspection and Code Enforcement. The City will provide code enforcement services. This includes issuing building, electrical, plumbing, and other permits and providing inspection services for new construction and remodeling, and enforcing all other applicable codes that regulate building construction within the City. These include zoning enforcement, animal control, subdivision regulation, and junk vehicle compliance, among other City codes and ordinances.
 - iii. Planning and Zoning. The City will provide comprehensive planning, land development, land use, and building review and inspection services.
 - iv. Parks and Recreational Facilities. The Property will have the same rights as other, similar property in the City concerning publicly-owned parks and recreational facilities throughout the City.
 - v. Roads and Streets. Street construction in and adjoining the Property will be done by the developer or a public entity other than the City. The City will maintain any public city streets, streetlights, and regulatory signs over which the City has jurisdiction, beginning upon inspection of those items for compliance with city standards, and acceptance of those items by the City, except to the extent that another public entity or homeowners' association is obligated to provide those services.
- b. The City does not provide the following services to the Property and does not contract to do so:
 - i. Fire Protection. At this time, the Iowa Colony Volunteer Fire Department, which is not a part of the City, provides fire protection services to the Property. Brazoria County Emergency Services District No. 3 provides fire protection services to the Property.
 - ii. Emergency Medical Services. At this time, the Iowa Colony Volunteer Fire Department, which is not a part of the City, provides emergency medical services

to the Property. Brazoria County Emergency Services District No. 3 also provides emergency medical services to the Property.

iii. Stormwater Drainage. The City shall not be obligated to provide stormwater services. A Development Agreement for the Property governs the provision of those services.

iv. Water and Wastewater Utilities. The City shall not be obligated to provide stormwater services. A Development Agreement for the Property governs the provision of those services.

v. Solid Waste Services. At this time, the City does not provide solid waste services.

c. The City shall not be required to provide a service except as expressly provided by this Agreement.

d. Owner understands and acknowledges that any City departments listed above may change names or be re-organized by the City. Any reference to a specific department also includes any subsequent City department that will provide the same or similar services.

5. **SERVICE LEVEL.** Where this Agreement requires the City to provide a service, the City will provide the Property with a level of that service, related infrastructure, and related infrastructure maintenance that are generally comparable to the level of services, infrastructure, and infrastructure maintenance provided by the City in other parts of the City with topography, land use, population density, and other pertinent factors similar to those of the Property.

6. **NONWAIVER OF OTHER PERSONS' OBLIGATIONS.** Nothing herein shall waive or impair any obligation of any developer, property owner, municipal utility district, or any person or entity other than a party hereto to provide any services herein described or other services.

7. **AUTHORITY.** City and Owner represent that they have full power, authority, and legal right to execute, deliver, and perform their respective obligations pursuant to this Agreement. Owner acknowledges that approval of the annexation is within the sole jurisdiction of the City Council. Nothing in this Agreement guarantees favorable decisions by the City Council.

8. **SEVERABILITY.** If any part, term, or provision of this Agreement is held by a court to be illegal, invalid, or otherwise unenforceable, such illegality, invalidity, or unenforceability will not affect the validity of any other part, term or provision, and the rights of the parties will be construed as if the part, term, or provision was never part of the Agreement.

9. **INTERPRETATION.** The parties to this Agreement covenant and agree that in any litigation relating to this Agreement, the terms and conditions of the Agreement will be interpreted according to the laws of the State of Texas. The parties acknowledge that they are of equal bargaining power and that each of them was represented by legal counsel in the negotiation and drafting of this Agreement.
10. **GOVERNING LAW AND VENUE.** This Agreement shall be governed by Texas Law. Venue of any litigation concerning this Agreement or the subject matter hereof shall be only in the state courts located in Brazoria County, Texas or the United States District Court for the Southern District of Texas, Houston or Galveston Division.
11. **NONWAIVER BY NONENFORCEMENT.** The failure of either party to insist upon the performance of any term or provision of this Agreement or to exercise any right granted hereunder shall not constitute a waiver of that party's right to insist upon appropriate performance or to assert any such right on any future occasion.
12. **COUNTERPARTS.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.
13. **CAPTIONS.** The captions to the various clauses of this Agreement are for informational purposes only and shall not alter the substance of the terms and conditions of this Agreement.
14. **AGREEMENT BINDS BENEFITS SUCCESSORS AND RUNS WITH THE LAND.** This Agreement is binding on and inures to the benefit of the parties and their respective successors and assigns. The terms of this Agreement constitute covenants running with the land comprising the Property.
15. **NOT A THIRD-PARTY CONTRACT.** This is not a third-party contract and does not create any rights of any person except the parties and their respective successors and assigns.
16. **RECORDING OF AGREEMENT.** This Agreement shall be recorded in the Official Records of the Brazoria County Clerk.
17. **REMEDIES.** No party shall be liable for monetary damages for the breach of this Agreement. The sole remedy for a breach of this Agreement by the City shall be disannexation as provided in Section 43.141 of the Texas Local Government Code.
18. **DISCLOSURES BY CITY.** The City makes the following disclosures to Brazoria County, the Owner of the right of way being annexed:
 - a. The Owner is not required to enter into this Agreement.

- b. The City is authorized to annex the Annexation Area under Subchapter 43, C-3 of the Texas Local Government Code, subject to a request of the Owner.
- c. This subsection is a plain-language description of the annexation procedures applicable to the Annexation Area. The Owner must request the annexation in writing. Since the Annexation Area, a county road, is not taxed agriculturally, the City is not required to offer a non-annexation development agreement providing for non-annexation of the Annexation Area under certain terms and conditions. The annexation may be completed without a rejection by the Owner of such an offer. The City must enter into a municipal service agreement with the Owner. The City must hold a public hearing on the annexation, after giving notice of the hearing by publication in a newspaper and posting on the City's internet website. The City must also give notice of intent to annex to the school district with jurisdiction of the area to be annexed and to various public entities providing various services to the area to be annexed. The area may be annexed by a City ordinance at or after the conclusion of the public hearing.
- d. This Agreement, if accepted by the Owner, constitutes a waiver of governmental immunity by the City for purposes of the enforcement of this Agreement.

19. ENTIRE AGREEMENT.

- a. This Agreement constitutes the entire agreement between the parties and supersedes all prior oral and written agreements between the parties concerning the subject matter hereof, except that nothing herein shall impair any rights under the contract by which City sold the Property to Owner or the documents executed pursuant to that contract.
- b. This Agreement shall not be amended unless executed in writing by the parties.

20. EFFECTIVE DATE: This Agreement shall be effective upon the annexation of the Property by the City.

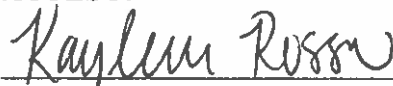
CITY OF IOWA COLONY, TEXAS

By:



Wil Kennedy,
Mayor

ATTEST:



Kayleen Rosser,
City Secretary

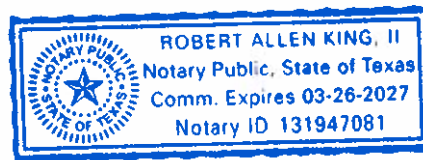


STATE OF TEXAS §

COUNTY OF BRAZORIA §

This instrument was acknowledged before me on the 18 day of September, 2023, by **Wil Kennedy**, as **Mayor of the City of Iowa Colony**, a Texas municipal corporation, on behalf of said corporation.

By: RAK
Notary Public, State of Texas

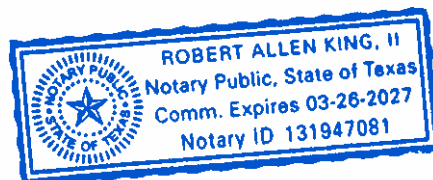


STATE OF TEXAS §

COUNTY OF BRAZORIA §

This instrument was acknowledged before me on the 18 day of September, 2023, by **Kayleen Rosser**, as **City Secretary of the City of Iowa Colony**, a Texas municipal corporation, on behalf of said corporation.

By: RAY
Notary Public, State of Texas



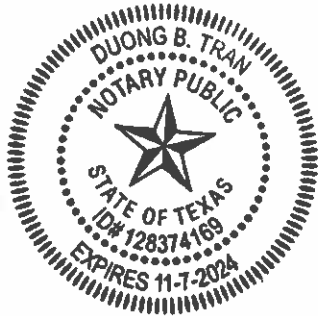
OWNER:

BHA Investments, LLC
Lynh Phan, Manager

Lynh Phan

THE STATE OF TEXAS §
COUNTY OF Harris §

This instrument was acknowledged before me, on the 14 day of September 2023, by **Lynh Phan**, as Manager of BHA Investments, LLC on behalf of said corporation.



D. B. Tran
Notary Public in and for the State of Texas

EXHIBIT “A”
TO MUNICIPAL SERVICES AGREEMENT

THE “PROPERTY”

EXHIBIT 'A'

File No.: 1579299-H062 (CK)
Property: Vacant Land, Angleton, TX 77515

A 15.624 ACRE TRACT OF LAND BEING THE SAME PROPERTY DESCRIBED IN A DEED RECORDED UNDER BRAZORIA COUNTY CLERK FILE NO. 2005069892, BEING OUT OF TRACTS 653 AND 654, SECTION 56, EMIGRATION LAND. CO. SUBDIVISION, RECORDED IN VOLUME 2, PAGE 113 OF THE BRAZORIA COUNTY PLAT RECORDS, LOCATED IN THE H.T. & B.R.R. CO. SURVEY, ABSTRACT 515, BRAZORIA COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A ½" IRON ROD FOUND AT THE SOUTHEAST CORNER OF THE HEREIN DESCRIBED TRACT, BEING THE SOUTHEAST CORNER OF SAID TRACT 654, SAME BEING THE NORTH LINE OF TRACT 655, A CALLED 10 ACRE TRACT DESCRIBED IN A DEED RECORDED UNDER BRAZORIA COUNTY CLERK FILE NO. 02051431, SAID POINT ALSO BEING ON THE WEST LINE OF A CALLED 53.889 ACRE TRACT DESCRIBED IN A DEED RECORDED UNDER BRAZORIA COUNTY CLERK FILE NO. 2008032761;

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CERTIFICATE FOR ORDINANCE

THE STATE OF TEXAS §
 §
COUNTY OF BRAZORIA §

I, the undersigned City Secretary of The City of Iowa Colony do hereby certify as follows:

The City Council of the City of Iowa Colony convened in a regular session on the 18th day of September 2023, at the regular meeting place thereof in the City Hall; and the roll was called of the duly constituted members of said Board, to-wit:

Wil Kennedy	Mayor
Arnetta Murray	Councilmember
Marquette Greene-Scott	Mayor Pro Tem
Tim Varlack	Councilmember
Sydney Hargroder	Councilmember
McLean Barnett	Councilmember

and none being absent, thus constituting a quorum. Whereupon, among other business, the following was transacted at said meeting: a written

AN ORDINANCE OF THE CITY OF IOWA COLONY, TEXAS, CONTAINING FINDINGS OF FACT; ANNEXING CERTAIN PROPERTY INTO THE CITY, COMMONLY KNOWN AS BHA INVESTMENTS, LLC, AS MORE FULLY DESCRIBED HEREIN; ADOPTING A MUNICIPAL SERVICES AGREEMENTS; AND PROVIDING A SEVERANCE CLAUSE AND AN EFFECTIVE DATE

was introduced for the consideration of the City Council. It was then duly moved and seconded that the Ordinance be adopted; and, after due discussion, the motion, carrying with it the adoption of the Ordinance, prevailed and carried by a vote of:

AYES: 6

NOES: 0

ABSTAIN: 0

That a true, full and correct copy of the aforesaid Ordinance adopted at the meeting described in the above and foregoing paragraph is attached to and follows this certificate; that the Ordinance has been duly recorded in the City Council's minutes of the meeting; that the persons named in the above and foregoing paragraph are the duly chosen, qualified and acting officers and members of the City Council as indicated therein; that each of the officers and members of the City Council were duly and sufficiently notified officially and personally, in advance, of the time, place and purpose of the aforesaid meeting, and that the Ordinance would be introduced and considered for adoption at the meeting, and each of the members consented, in advance, to the holding of the meeting for such purpose; that the meeting was open to the public as required by law; and that public notice of the time, place and subject of the meeting was given as required by Vernon's Texas Codes Annotated, Chapter 551, Government Code.

SIGNED this 19th day of September, 2023.


City Secretary

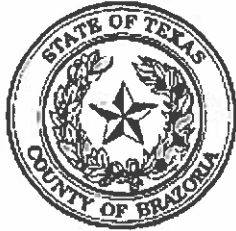


FILED and RECORDED

Instrument Number: 2023042501

Filing and Recording Date: 09/19/2023 03:24:57 PM Pages: 17 Recording Fee: \$86.00

I hereby certify that this instrument was FILED on the date and time stamped hereon and RECORDED in the OFFICIAL PUBLIC RECORDS of Brazoria County, Texas.



A handwritten signature in cursive script, reading "Joyce Hudman".

Joyce Hudman, County Clerk
Brazoria County, Texas

ANY PROVISION CONTAINED IN ANY DOCUMENT WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE REAL PROPERTY DESCRIBED THEREIN BECAUSE OF RACE OR COLOR IS INVALID UNDER FEDERAL LAW AND IS UNENFORCEABLE.

DO NOT DESTROY - Warning, this document is part of the Official Public Record.

cclerk-rachael