

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Kelly Keel, *Interim Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

September 14, 2023

TO: Persons on the attached mailing list

RE: 290 Betka Municipal Management District No. 1
TCEQ Docket No. 2023-0861-DIS; Internal Control No. D-11212022-033

Decision of the Commission on Petition.

The Texas Commission on Environmental Quality (“TCEQ” or “Commission”) has made a decision to grant the above-referenced petition. Enclosed with this letter is a copy of the Commission’s order. Unless a Motion for Rehearing (“MFR” or “motion”) is timely filed with the chief clerk, this action of the Commission will become final. A MFR is a request for the Commission to review its decision on the matter. Any motion must explain why the Commission should review the decision.

Deadline for Filing Motion for Rehearing.

A MFR must be received by the chief clerk’s office no later than the 25th day after the date that the Commission’s order on this application is signed. The date of signature is indicated on the last page of the enclosed order.

Motions may be filed with the chief clerk electronically at www.tceq.texas.gov/goto/efilings or by filing an original and 7 copies with the Chief Clerk at the following address:

Laurie Gharis, Chief Clerk
TCEQ, MC-105
P.O. Box 13087
Austin, Texas 78711-3087
Fax: 512/239-3311

In addition, a copy of the motion must be sent on the same day to each of the individuals on the attached mailing list. A certificate of service stating that copies of the motion were sent to those on the mailing list must also be sent to the chief clerk. The procedures for filing and serving a MFR and responses are located in 30 TAC § 80.272, Texas Governmental Code § 2001.146 as revised by Senate Bill 1267 (84th Regular Session, effective September 1, 2015), and 30 TAC §§ 1.10 and 1.11. The hardcopy filing requirement is waived by the General Counsel pursuant to 30 TAC § 1.10(h).

The written motion must contain (1) the name and representative capacity of the person filing the motion; (2) the style and official docket number assigned by SOAH and official docket number assigned by the Commission; (3) the date of the order; (4) the particular findings of fact or conclusions of law that are the subject of the complaint and any evidentiary or legal ruling claimed to be erroneous; and (5) the legal and factual basis for the claimed error.

Unless the time for the Commission to act on the MFR is extended, the MFR is overruled by operation of law at 5:00 p.m. on the 55th day after the date that the Commission's order on this matter is signed.

If you have any questions or need additional information about the procedures described in this letter, please call the Public Education Program, toll free, at 1-800-687-4040.

Sincerely,

A handwritten signature in cursive script that reads "Laurie Gharis". The signature is written in black ink and is positioned to the right of the typed name.

Laurie Gharis
Chief Clerk

LG/mt

Enclosure

MAILING LIST

290 Betka Municipal Management District No. 1
TCEQ Docket No. 2023-0861-DIS; TCEQ Internal Control No. D-11212022-033

<p>Jeffrey Earl Earl & Associates, PC 10007 Huebner Road, Suite 303 San Antonio, Texas 78240</p> <p>Jerry G. Ince, P.E. Ward, Getz & Associates 2500 Tanglewilde Street, Suite 120 Houston, Texas 77063</p> <p>The Honorable Tom Oliverson State Representative, District No. 130 12345 Jones Road, No. 221 Houston, Texas 77070</p> <p>The Honorable Lois Kolkhorst State Senator, District No. 18 P.O. Box 12068 Capitol Station Austin, Texas 78711</p> <p>City of Houston Attn: Pat J. Daniel, City Secretary 900 Bagby Street, Room P101 Houston, Texas 77002</p> <p>Harris County Clerk Attn: Teneshia Hudspeth, County Clerk 201 Caroline Street, 3rd Floor Houston, Texas 77002</p> <p>Chuck Wemple, Executive Director Houston-Galveston Area Council P.O. Box 22777 Houston, Texas 77227</p>	<p>Texas Commission on Environmental Quality <i>via electronic mail:</i></p> <p>Nicole Bealle, Regional Director, Region 12</p> <p>Todd Galiga, Senior Attorney, Environmental Law Division</p> <p>Bobby Salehi, Attorney, Environmental Law Division</p> <p>James Walker, Technical Manager, Water Supply Division</p> <p>Stephanie DeSouza, Districts Creation Review Team, Water Supply Division</p> <p>Justin P. Taack, Section Manager, Water Supply Division</p> <p>Sean Ables, Drinking Water Special Functions Section, Water Supply Division</p> <p>Garrett Arthur, Public Interest Counsel, Office of the Public Interest Counsel</p>
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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AN ORDER GRANTING THE PETITION FOR CREATION OF 290 BETKA MUNICIPAL MANAGEMENT DISTRICT NO. 1 AND APPOINTING INITIAL DIRECTORS

DOCKET NO. 2023-0861-DIS

On September 6, 2023, the Texas Commission on Environmental Quality (Commission) met in regular session at its offices in Austin, Texas, with notice of the meeting issued in compliance with the Open Meetings Act, Texas Government Code §§ 551.001-551.146, and the Administrative Procedure Act, Texas Government Code §§ 2001.001-2001.903, to consider the petition (Petition) filed by 290 Betka, LLC, as authorized, to create 290 Betka Municipal Management District No. 1 (District) of Harris County pursuant to Article XVI, § 59, and Article III, §§ 52 and 52(a) of the Texas Constitution and Chapter 375 Texas Local Government Code, and Chapter 49, Texas Water Code.

The Commission has jurisdiction to consider this matter and the following Findings of Fact and Conclusions of Law are appropriate after examining the application and supporting documentation:

FINDINGS OF FACT

1. On November 21, 2022, an application (including the Petition) by 290 Betka, LLC (Petitioner) was filed with the Commission pursuant to Chapter 375, Texas Local Government Code; Chapter 49, Texas Water Code; and Chapter 293, Title 30 Texas Administrative Code.
2. The Petition was signed by a duly authorized officer of the Petitioner.
3. The Petitioner holds a majority in value of title to the land to be included within the proposed District's boundaries.
4. Petitioner requested that the Commission hold a public hearing on the question of the creation of the District pursuant to Texas Local Government Code § 375.023; Chapter 49, Texas Water Code; and Title 30 Texas Administrative Code § 293.12(g).
5. The Petition contains a metes and bounds description of the boundaries of the District; states the specific purpose for which the District will be created; states the general nature of the work, the necessity for the work, and the approximate cost of the work; includes the name of the District; includes a proposed list of initial directors, their experience, and their initial term of service; and includes a Resolution by the City of Houston, which expresses the city's consent to create the District.
6. There are no lienholders on the land in the proposed District.
7. Harris County is the county in which the District is to be located.

8. Notice of the hearing on the application was published on August 2 and August 9, 2023, in the *Houston Chronicle*, a newspaper regularly published and generally circulated in Harris County, Texas, which is the county in which the proposed District is to be located.

9. The notices of the hearing on the application contained the statement, "Each person has a right to appear and present evidence and testify for or against the allegations in the petition, the form of the petition, the necessity and feasibility of the district's project, and the benefits to accrue."

10. Submitted within the petition were notarized affidavits for each of the proposed initial directors, listed as follows and indicating that each meets the qualification requirements of Texas Local Government Code § 375.063:

<u>Two-Year Term</u>	<u>Four-Year Term</u>
Alexandra Gendron	Doug Johnson
Maggie Carpenter	Mark Stewart
	Brett Barnes

Pursuant to Texas Local Government Code § 375.062, Petitioner requests that the Commission divide the initial directors into two groups, with two directors serving two-year terms and three directors serving four-year terms, as indicated above.

11. By Ordinance No. 2022-374, passed and adopted May 18, 2022, the City of Houston has consented to the creation of the District, as required by 30 Texas Administrative Code § 293.11(j)(1)(F).

12. The Executive Director conducted a review of the application and memorialized his findings in a technical memorandum dated March 31, 2023 (Memorandum). The Memorandum is attached as Exhibit "B" and is incorporated as part of this Order.

13. The creation of the District as set out in the Petition is feasible, would be necessary as a means to finance utilities and to provide utility service to future customers, and would be a benefit to the public.

14. The District and its system and subsequent development within the District will not have an unreasonable effect on the following: land elevations; subsidence; groundwater level within the region; recharge capability of a groundwater source; natural run-off rates and drainage; and water quality.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction to consider this Petition and is authorized to make and enter its Findings of Fact, Conclusions of Law, and Orders with respect to the creation of the proposed District.

2. All of the land and property proposed may properly be included within the District.

3. The Petition conforms to the requirement of Texas Local Government Code § 375.022.

4. Proper notice of this application was given pursuant to Texas Local Government Code §§ 375.023 and 375.024.

5. All statutory and regulatory requirements for creation of 290 Betka Municipal Management District No. 1 have been fulfilled in accordance with Chapter 375, Texas Local Government Code and Title 30 Texas Administrative Code § 293.11(j).

NOW THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY THAT:

1. The Petition for the creation 290 Betka Municipal Management District No. 1 is hereby granted.
2. The District is created under the terms and conditions of Article XVI, § 59, and Article III, §§ 52 and 52(a) of the Texas Constitution, and Chapter 375, Texas Local Government Code, and Chapter 49, Texas Water Code.
3. The District shall have, and shall be subject to, all of the rights, duties, powers, privileges, authority, and functions conferred and imposed by the Commission and the general laws of the State of Texas relating to municipal management districts.
4. The general nature of the work proposed to be done by the District at the present time is to purchase, lease, construct, acquire, improve, or extend inside or outside of its boundaries any and all works, improvements, facilities, plants, equipment, and appliances necessary or helpful to supply and distribute water for domestic, industrial and commercial purposes; to purchase, lease, construct, acquire, improve, or extend inside or outside of its boundaries any and all works, improvements, facilities, plants, equipment, and appliances necessary or helpful to collect, transport, process, dispose of and control domestic, industrial, and commercial wastes, all as more particularly described in an engineer's report filed simultaneously with the filing of this Petition, to which reference is made for a more detailed description, and such other purchase, design, acquisition, lease, improvement, maintenance, construction, and operation of such additional facilities, systems, plants, and enterprises as shall be consonant with the purposes for which the District is created.
5. The District shall be composed of the area situated within the extraterritorial jurisdiction of the City of Houston, Texas, described by metes and bounds in Exhibit "A" attached hereto and incorporated herein for all purposes.
6. The following five persons with terms, as noted, are hereby named, and appointed as initial directors of the District to serve until their successors are elected or have been appointed in accordance with applicable law:

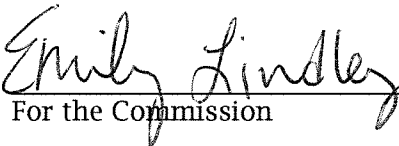
<u>Two-Year Term</u>	<u>Four-Year Term</u>
Alexandra Gendron	Doug Johnson
Maggie Carpenter	Mark Stewart
	Brett Barnes
7. The foregoing initial directors shall, as soon as practicable after the date of entry of this Order, execute their official bonds and take their official oath of office. All such bonds shall be approved by the Board of Directors of the District and each bond and oath shall be filed with the District and retained in its records.
8. This Order shall in no event be construed as an approval of any proposed agreements or of any particular items in any documents provided in support of the petition for creation, nor as a commitment or requirement of the Commission in the future to approve or disapprove any particular items or agreements in future applications submitted by the District for Commission consideration.

9. This order shall not constitute approval or recognition of the validity of any provision in the City of Houston consent Ordinance No. 2022-374, passed and adopted May 18, 2022, and any other ordinance/resolution incorporated therein by reference to the extent that such provisions exceed the authority granted to the City of Houston, by the laws of the State of Texas.

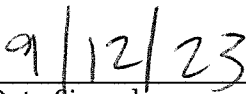
10. The Chief Clerk of the Texas Commission on Environmental Quality shall forward a copy of this Order to all affected persons.

11. If any provision, sentence, clause, or phrase of this Order is for any reason held to be invalid, the invalidity of any portion shall not affect the validity of the remaining portions of the Order.

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY



For the Commission



Date Signed

Exhibit A
Metes and Bounds Description

EXHIBIT A –
Description of the Property

Exhibit A

Legal Description of Land

**METES AND BOUNDS DESCRIPTION
265.572 ACRES (11,568,308 SQUARE FEET)
MOSES MERRITT SURVEY, ABSTRACT NUMBER 578
HARRIS COUNTY, TEXAS**

Being a tract or parcel containing 265.572 acres (11,568,308 square feet) of land situated in the Moses Merritt Survey, Abstract Number 578, Harris County, Texas, and being out of and a portion of the called 265.6310 acre tract as described in the deed to McAlister Opportunity Fund 2012, LP, recorded under Harris County Clerk's File Number 20130588048; said 265.572 acre tract being more particularly described by metes and bounds as follows (bearings stated herein are based on the Texas State Plane Coordinate System, South Central Zone);

BEGINNING at an Axle found in the south right-of-way line of the Southern Pacific Railroad (100 feet wide) marking the northeast corner of said called 265.6310 acre tract common with the northwest corner of the called 2.18 acre tract as described in the deed recorded under Harris County Clerk's File Number 20090473189 and the northeast corner of the herein described tract;

THENCE, South 24°01'08" West, along the northwest lines of those certain tracts of land as described in the deeds recorded under Harris County Clerk's File Numbers 20090473189, 20110004917, X570652, 20060027934, 20130140909, Z166989, 20090266422, H786791, 20120203875, 2017376459, 20060028695, Z308949, J509863, 20090208832, 20130181372, Z333393, 2016223747, and 20130062391 a distance of 2,046.25 feet (called 2,045.87 feet) to a 5/8-inch iron rod found marking an angle corner of the aforesaid called 265.6310 acre tract, common with an angle corner of the herein described tract;

THENCE, South 65°43'52" East, along the southwest lines of those certain tracts of land as described in the deeds recorded under Harris County Clerk's File Numbers 20130062391, H786791, and W949018 a distance of 737.40 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking an angle corner of the herein described tract;

THENCE, South 66°31'25" East, along the southwest lines of those certain tracts of land as described in the deeds recorded under Harris County Clerk's File Numbers 20120065537, 20130124992, V787189, 20150062006, V618847, 20060252010, W606386, W645670, Y608824, 20180182619, 20120108194, 2013017028, 20140141172, Y968323, 20110237611, H789678, W645670, Z166992, Lot 11-Block 1 (no recording info), and X805306 a distance of 2,615.65 feet (called 2615.71 feet) to an angle corner of the herein described tract in the west right-of-way line of Katy Hockley Road (60 feet wide public right-of-way), from which a found 5/8-inch iron rod bears North 01°41'21" West, 31.92, and a 3/4-inch iron pipe found in a tree bears South 34°30' East, 3.4 feet;

THENCE, South 01°41'21" East (called South 01°44'50" East), along said west right-of-way line, a distance of 465.14 feet (called 464.36 feet) to a 5/8-inch iron rod found marking the northeast corner of Tract 2 as described in the deed recorded under Harris County Clerk's File Number 2017245402 and the southeast corner of the herein described tract, from which a found 3/4-inch iron rod marking the southeast corner of said Tract 2 bears South 01°41'21" East, 1,702.17 feet;

THENCE, South 87°39'45" West (called South 87°39'14" West), along the north line of said Tract 2, a distance of 3,466.64 feet (called 3,467.87 feet) to a 1/2-inch iron rod found marking an angle corner of Tract 1 as described in the deed recorded under Harris County Clerk's File Number 2017245403 common with an angle corner of the herein described tract;

THENCE, North 01°43'29" West (called North 01°42'22" West), along the east line of said Tract 1, a distance of 1,935.29 feet (called 1934.77 feet) to a 1/2-inch iron rod with plastic cap stamped "RPLS 2085" found marking an angle corner of said Tract 1 common with an angle corner of the herein described tract;

THENCE, South 87°42'11" West (called South 87°41'12" West), along the northerly line of said Tract 1, a distance of 1,801.28 feet (called 1,803.41 feet) to a 1/2-inch iron rod with plastic cap stamped "RPLS 2085" found marking an angle corner of Tract 1 common with the southwest corner of the herein described tract, from which a found 1/2-inch capped iron rod bears South 85°27' West, 2.6 feet, and a found 5/8-inch iron rod bears South 01°42'17" East, 1,935.09 feet;

THENCE, North 01°42'17" West (called North 01°40'04" West), along the east line of said Tract 1 and thence along the west right-of-way line of Betka Road (non-standard width varies), a distance of 3,229.25 feet (called 3,229.72 feet) to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking in the aforesaid south right-of-way line of the Southern Pacific Railroad, from which a found pinch top 1-inch iron pipe bears North 68°09' West, 5.6 feet;

THENCE, South 68°08'52" East, along said south right-of-way line a distance of 3,410.81 feet (called 3,410.73 feet) to the POINT OF BEGINNING and containing 265.572 acres (11,568,308 square feet) of land. This description is based on the ALTA/NSPS Land Survey prepared by Terra Surveying Company, Inc., dated September 09, 2019, TSC Project Number 2539-1802-S.

Exhibit B
Staff Memorandum

Texas Commission on Environmental Quality

TECHNICAL MEMORANDUM

To: Justin P. Taack, Manager
Districts Section

Date: March 31, 2023

Thru: Andrew Paynter, Technical Specialist
Districts Section

From: James Walker
Districts Creation Review Team

Subject: Docket No. 2023-0861-DIS; Petition by 290 Betka, LLC for the Creation of 290 Betka Municipal Management District No. 1; Pursuant to Chapter 375, Texas Local Government Code and Chapter 49, Texas Water Code.
TCEQ Internal Control No. D-11212022-033 (TC)
CN: 606137214 RN: 111609301

A. GENERAL INFORMATION

The Texas Commission on Environmental Quality (TCEQ) received a petition within the application requesting approval for the creation of Betka Municipal Management District No. 1 (District) of Harris County. The petition was signed by Mark A. Stewart, as the manager of Stewart Betka 290, LLC, member of 290 Betka, LLC, a Texas limited liability company (Petitioner). In compliance with 30 Texas Administrative Code (30 TAC) Section 293.11(j)(1), the petition states that the Petitioner constitutes a majority of the value of the holders of title of the land within the proposed District, as indicated by the tax rolls of Harris Central Appraisal District. There are no lienholders on the property to be included in the proposed District.

The District is proposed to be created and organized according to the terms and provisions of Article XVI, Section 59, and Article III, Sections 52 and 52(a) of the Texas Constitution, and Chapter 375, Texas Local Government Code (TLGC), and Chapter 49, Texas Water Code (TWC).

Location and Access

The proposed District is located in Harris County, Texas. The proposed District includes one tract of land that totals 265.572 acres. The proposed district is located adjacent to and southwest of the intersection of Betka Road and Highway 290. The proposed District is located within the extraterritorial jurisdiction of the City of Houston, Texas. Access to the proposed District will be provided by Betka Road adjacent to the intersection of Betka Road and Highway 290.

Metes and Bounds Description

The proposed District contains one tract of land totaling 265.572 acres. The metes and bounds description of the proposed District has been checked by TCEQ staff and has been found to form an acceptable closure.

City Consent

By Ordinance No. 2022-374, passed and adopted May 18, 2022, the City granted its consent to the petition for creation of the proposed District. Accordingly, the requirement of 30 TAC Section 293.11(j)(1)(F) has been satisfied.

Statements of Filing Petition

Evidence of filing the petition with the City Secretary's office, Harris County, the TCEQ's Houston regional office, the Texas State Representative, and the Texas State Senator was included in the application.

Notice Requirements

Proper notice of the application was published on August 2 and August 9, 2023, in the *Houston Chronicle*, a newspaper regularly published or circulated in Harris County, the county in which the District is proposed to be located. Accordingly, the notice requirements of 30 TAC Section 293.12(g) have been satisfied.

Type of Project

The proposed District will be considered a "developer project" as defined by 30 TAC Section 293.44(a). Therefore, developer cost participation in accordance with 30 TAC Section 293.47 will be required.

Developer Qualifications

Application material indicates that 290 Betka, LLC is a single-purpose entity created to develop land in the proposed District. 290 Betka, LLC is comprised of four entities, as shown in the Amended and Restated Limited Liability Company Agreement. These entities and the individuals behind them have development and construction experience. Such individuals include Mark Stewart, Doug Johnson, and Brett Barnes. Mark Stewart and his brothers have formed and managed eight companies, each focused on individual sections of the construction market, from landscaping to development, over the last 30 years. Doug Johnson founded Texas Commercial Development in August 2017 and partnered with established national developers on five business parks to develop over 9.12 million square feet of quality logistics and manufacturing space. Brett Barnes started to work with the Stewart family to grow a design-build and development division within the Stewart Companies. Brett Barnes brings over 15 years of experience to the team, where his role is to lead all aspects of the division under the direct supervision of Mark Stewart.

Appraisal District Certificate

By certificate dated November 15, 2022, the Harris Central Appraisal District has certified that the appraisal roll indicates that the Petitioner represents the majority of value of the property in the proposed District.

Initial Director Affidavits

The TCEQ has received affidavits for consideration of the appointment of initial directors for the following:

<u>Two-Year Term</u>	<u>Four-Year Term</u>
Alexandra Gendron	Doug Johnson
Maggie Carpenter	Mark Stewart

Brett Barnes

Submitted within the application were notarized affidavits for each of the proposed initial directors, indicating that each meets the qualification requirements of Texas Local Government Code Section 375.063.

Pursuant to Texas Local Government Code Section 375.062, the Petitioner requests that the TCEQ divide the initial directors into two groups, with two directors serving two-year terms and three directors serving four-year terms, as indicated above.

B. ENGINEERING ANALYSIS

Availability of Comparable Service

The proposed District is within the extraterritorial jurisdiction of the City of Houston. According to the information provided, the proposed District is intended to serve approximately 265.572 acres of industrial park development. It is anticipated that the Developer will construct the water and sanitary sewer infrastructure for the entire development, and the proposed District will purchase such improvements through owner finance. All systems and facilities will be designed according to applicable criteria established by Harris County, the TCEQ, and all other applicable laws and regulations.

Water Supply and Distribution

The Developer will construct and sell to the District a ground water treatment plant consisting of two ground water wells capable of producing 250 gallons per minute each, one 165,464-gallon bolted steel ground storage tank, three 30-hp service pumps, two 8,000-gallon hydropneumatics tanks, and a liquid chlorine chemical disinfectant system. All proposed facilities and equipment are designed in accordance with all applicable TCEQ rules and regulations per 30 TAC Chapter 290. It is expected that the ground water treatment plant will deliver the necessary supply of water to the proposed District. The water distribution system for the full development will receive water from the ground water treatment plant and will consist of approximately 6,000 linear feet (LF) of 6-inch and 650 LF of 8-inch diameter water lines and various fittings, valves, and appurtenances as needed.

Wastewater Treatment and Collection

The proposed District will provide wastewater service to the development located within its boundary through a proposed activated sludge treatment facility that will be constructed in four phases. The plant is designed to treat an average daily flow of 0.06 million gallons per day (MGD) upon completion of Phase 1, 0.12 MGD for Phase 2, 0.18 MGD for Phase 3, and 0.24 MGD for Phase 4 or ultimate buildout with a 2-hour peaking factor of 4 times average daily flow. The construction of each subsequent phase will begin once the actual wastewater produced by the development exceeds 70% of the current phase's allowable daily discharge. The system is currently authorized to discharge the treated effluent water from the plant under the approved Texas Pollutant Discharge Elimination System permit number WQ0015879001. The wastewater collection system will consist of approximately 5,000 linear feet of 8-inch diameter gravity lines, manholes, and lift station(s).

Storm Water Drainage System and Drainage Improvements

The stormwater from the proposed District will be collected in private storm inlets and pipes and conveyed into a private detention pond system. The ponds will outfall into a tributary of Harris County Flood Control Channel, a tributary to Cypress Creek. The design and construction of these facilities will be in conformance with the Harris County Flood Control drainage criteria. The proposed District improvements are expected to have no unreasonable effect on natural runoff rates or drainage.

Topography/Land Elevation

The proposed District's existing elevations range from approximately 213 feet above mean sea level to 211 feet above mean sea level. The natural topography drains from north to south, into and through the neighboring tracts to the south. The fill and/or excavation associated with the development of the District's systems will not cause any changes in land elevation other than that normally associated with the construction of the underground utility systems.

Floodplain

According to the Federal Emergency Management Agency Flood Insurance Rate Map (FIRM) No. 48201C0190L effective June 18, 2007, none of the areas within the district is in the 100-year floodplain.

Subsidence

The proposed District is located within the Harris-Galveston Subsidence District's regulatory boundaries meaning that the proposed groundwater wells will be permitted, approved, and allotted a specified amount of groundwater to be produced annually by the water wells. Because of this, there should be no substantial effect on local subsidence within the proposed District's boundary.

Dam Safety Analysis

The TCEQ Dam Safety Program personnel reviewed the location of the proposed District and confirmed by letter dated November 3, 2022, that there are no dam safety issues associated with the proposed District.

Groundwater Level/Recharge

The proposed District improvements are expected to have no unreasonable effect on groundwater levels. The proposed District improvements are expected to have no unreasonable effect on the recharge capabilities of the groundwater source.

Water Quality

The proposed District improvements are expected to have no unreasonable effect on water quality.

C. SUMMARY OF COSTS

WATER, WASTEWATER, AND DRAINAGE

<u>Construction Costs</u>	District's ⁽¹⁾ Share
A. Water Plant	\$ 4,839,905
B. Wastewater Treatment Plant & Lift Station	5,333,168
C. Water and Wastewater Distribution	2,849,726
D. Engineering	<u>781,368</u>
TOTAL CONSTRUCTION COSTS	\$ 13,804,167
<u>Non-construction Costs</u>	
A. Legal Fees	\$ 913,645
B. Fiscal Agent Fees	304,548
C. Interest	4,623,981
D. Creation Costs	<u>139,999</u>
TOTAL NON-CONSTRUCTION COSTS	\$ 5,982,173
TOTAL W, WW, & D ESTIMATED COSTS	\$ 19,786,340

Notes:

(1) Assumes 100% funding of anticipated developer contribution items, where applicable.

D. ECONOMIC ANALYSIS

Land Use

The land use for the proposed District is projected in the following table:

<u>Development</u>	<u>Acres</u>
Industrial Lots - Phase 1	118.9
Industrial Lots - Phase 2	70.6
Open Space	61.0
Private Roads	<u>9.9</u>
Total	260.4

Market Study

A market study prepared on October 24, 2022, by Earl Development Consulting, LLC, has been submitted in support of the creation of the proposed District. The Subject, a planned contiguous 265.572-acre Class-A Industrial Park is in the path of growth along Texas State Highway 290 Northwest of Houston, Texas. The proposed District consists of five industrial warehouse buildings consisting of 3,661,295 square feet with 1,824 parking spaces for automobiles, 921 parking spaces for trailers, and planned extension of 400 parking spaces.

Project Financing

The proposed District intends to levy assessments in accordance with Local Government Code Chapter 375 Subchapter F.

Water and Wastewater Rates

According to information provided, the District will provide retail water and wastewater services to the proposed District's customers. The estimated monthly fee for 10,000 gallons of water and wastewater would be \$113.50.

E. SPECIAL CONSIDERATIONS

1. Hearing Action

Pursuant to Texas Local Government Code Section 375.023, the TCEQ shall conduct a hearing to consider the petition received requesting the creation of a municipal management district and its necessity, the feasibility of the proposed District's projects, and the benefit it represents for the land within its boundary.

2. Powers of Municipal Management Districts

Municipal management districts have the general powers granted to conservation and reclamation districts pursuant to Article XVI, Section 59 of the Texas Constitution, including those conferred by Chapter 49, Texas Water Code. Pursuant to Article III, Sections 52 and 52(a) of the Texas Constitution municipal management districts also have the powers and authorities granted to road utility districts which includes the power to levy ad valorem taxes for construction and maintenance of roads, and for the provision of mass transit services. Municipal management districts may borrow money, purchase, or lease property, enter into agreements for joint use of facilities, establish fees for use of district facilities or property, pursue grants from government or private entities, among other things. Municipal management districts do not have the power of eminent domain.

A municipal management district may levy assessments to finance improvements or services.

F. CONCLUSIONS

1. Based on TCEQ policy, compliance with TCEQ rules, and review of the engineering report and supporting documents, the proposed District is considered feasible, would be necessary as a means to finance utilities and to provide utility service to future customers, and would be a benefit to the public.
2. Based on a review of the preliminary engineering report and market study, the proposed District is considered feasible.

3. The recommendations are made under authority delegated by the Executive Director of the TCEQ.

G. RECOMMENDATIONS

1. Grant the petition for creation of 290 Betka Municipal Management District No. 1.
2. Appoint the following to serve as initial directors, with terms as noted, until permanent directors are elected and qualified:

<u>Two-Year Term</u>	<u>Four-Year Term</u>
Alexandra Gendron	Doug Johnson
Maggie Carpenter	Mark Stewart
	Brett Barnes

3. The order granting the petition should include the following statements:

“This Order shall in no event be construed as an approval of any proposed agreements or of any particular items in any documents provided in support of the petition for creation, nor as a commitment or requirement of the TCEQ in the future to approve or disapprove any particular items or agreements in future applications submitted by the District for TCEQ consideration.”

“This order shall not constitute approval or recognition of the validity of any provision in the City of Houston consent Ordinance No. 2022-374, passed and adopted May 18, 2022, and any other ordinance/resolution incorporated therein by reference to the extent that such provisions exceed the authority granted to the City of Houston, by the laws of the State of Texas.”

H. ADDITIONAL INFORMATION

The petitioner’s professional representatives are:

Attorney: Mr. Jeffrey Earl – Earl & Associates, PC
Engineer: Mr. Jerry G. Ince, P.E. – Ward, Getz & Associates