

**ORDINANCE NO. 06-1109E**

AN ORDINANCE OF THE TOWN OF NORTHLAKE, TEXAS, CONSENTING TO THE CREATION OF BELMONT FRESH WATER SUPPLY DISTRICT NO. 1 OF DENTON COUNTY, AND THE INCLUSION OF LAND THEREIN LOCATED WITHIN THE TOWN'S EXTRATERRITORIAL JURISDICTION; CONTAINING A SAVINGS CLAUSE; REPEALING ALL ORDINANCES IN CONFLICT THEREWITH; AND TO BECOME EFFECTIVE UPON ITS PASSAGE AND APPROVAL

WHEREAS, Section 42.042, Local Government Code, provides that a political subdivision, one purpose of which is to supply fresh water for domestic or commercial use or to furnish sanitary sewer services, roadways, or drainage, may not be created in the extraterritorial jurisdiction of a municipality unless the governing body of the municipality gives its written consent by ordinance or resolution in accordance with this section and the Water Code; and

WHEREAS, the Town of Northlake, Texas (the "Town"), has received a "Petition For Consent to Create A Fresh Water Supply District and to Include Certain Land Therein Located Within the Extraterritorial Jurisdiction of the Town of Northlake" relating to the proposed Belmont Fresh Water Supply District No. 1 of Denton County, dated November 9, 2006, a copy of which is attached hereto as Exhibit "A" (the "Petition"); and

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF NORTHLAKE, TEXAS:

SECTION 1. That the Town Council of the Town hereby grants its consent to and permission for the creation of Belmont Fresh Water Supply District No. 1 of Denton County (the "District") as the District is described in the Petition, and the inclusion therein of certain land located within the Town's extraterritorial jurisdiction, which is more fully described by field notes description attached hereto as Exhibit "B", and the Mayor and Town Secretary are hereby authorized to execute any documents necessary to effectuate this Ordinance.

SECTION 2. That as a condition of the consent given by the Town pursuant to this Ordinance, the District shall be subject to the following terms and provisions:

- (a) That the District shall construct all facilities in accordance with plans and specifications which have been approved by the Town.
- (b) That the Town shall have the right to inspect all facilities being constructed by the District.
- (c) The District may only issue bonds for the purchase, construction, acquisition, repair, extension and improvement of land, easements, works, improvements, facilities, plants, equipment and appliances necessary to:
  - (i) Provide a water supply for municipal uses, domestic uses and commercial purposes;

- (ii) Collect, transport, process, dispose of and control all domestic, industrial or communal wastes whether in fluid, solid or composite state;
  - (iii) Provide payment of organizational, administrative, and operating costs during creation and construction periods and interest during construction, subject to the applicable limitations of Section 49.155, Water Code.
  - (iv) Provide roads and improvements as permitted to road districts under Chapter 257, Transportation Code, subject to the applicable limitations of Section 53.029, Water Code;
  - (v) Provide a fire department subject to the applicable limitations of Section 49.351, Water Code;
  - (vi) Develop and maintain recreational facilities, subject to the applicable limitations of Section 49.464, Water Code; and
  - (vii) Fulfill any other purpose or function of the District authorized by the Water Code.
- (d) That the District shall comply with the conditions set forth on Exhibit "C" hereto.
  - (e) That the Town shall be entitled to injunctive relief or a writ of mandamus issued by a court of competent jurisdiction restraining, compelling or requiring the District and its officials to observe and comply with the terms and provisions prescribed by this ordinance.

SECTION 3. That this Ordinance has been adopted pursuant to the provisions of that Development Agreement, dated November 9, 2006, between the Town and Realty Capital Belmont, Ltd. (the "Development Agreement"). As a further condition of the consent given by the Town pursuant to this Ordinance, the District shall be required to comply with all applicable terms and provisions of the Development Agreement.

SECTION 4. That the District, or any new district that may be created by the future division of the District or a new district, may not add land into its boundaries without the prior written consent of the Town.

SECTION 5. That the Town Council of the Town hereby consents to the creation of no more than three (3) new districts that may be created by the future division of the District, or any new district, provided any such new district is located wholly within the boundaries of the land described in Exhibit "B". Each new district may contain no more than 500 acres and no less than 250 acres at its creation and shall be contiguous to the Town's corporate limits. However, any such new district shall be subject to the applicable provisions of the Development Agreement and all of the terms and provisions of this Ordinance.

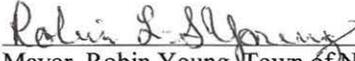
SECTION 6. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent

jurisdiction, such shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION 7. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

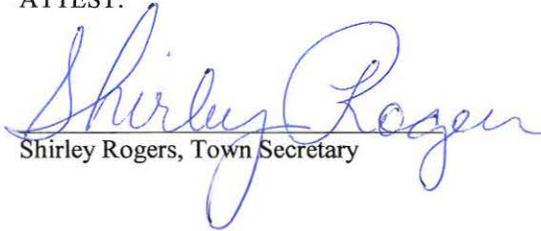
SECTION 8. That this Ordinance shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF NORTHLAKE, TEXAS, this the 9th day of November, 2006.



Mayor, Robin Young, Town of Northlake, Texas

ATTEST:

  
Shirley Rogers, Town Secretary



APPROVED AS TO FORM:

\_\_\_\_\_  
Robert C. Wendland, Town Attorney

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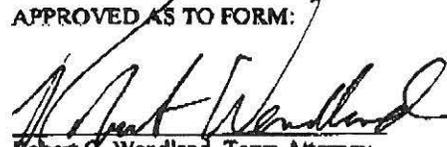
Mayor, Robin Young, Town of Northlake, Texas

ATTEST:

  
Shirley Rogers, Town Secretary



APPROVED AS TO FORM:

  
Robert C. Wendland, Town Attorney

**EXHIBIT "A"**

(“Petition For Consent to Create A Fresh Water Supply District and To Include Certain Land  
Therein Located Within the Extraterritorial Jurisdiction of the Town of Northlake”)

RECEIVED  
11-9-06  
S. Rogers

**PETITION FOR CONSENT TO CREATE A FRESH WATER SUPPLY  
DISTRICT AND TO INCLUDE CERTAIN LAND THEREIN**

THE STATE OF TEXAS                   §

COUNTY OF DENTON                   §

TO THE HONORABLE MAYOR AND TOWN COUNCIL OF THE TOWN OF  
NORTHLAKE:

We, the undersigned landowners of the territory hereinafter described by metes and bounds, being the owners of all of said territory, acting pursuant to the provisions of Chapter 53, Texas Water Code, as amended, together with all amendments and additions thereto, and Section 42.042, Local Government Code, respectively petition your Honorable Body for consent to the creation of a fresh water supply district and the inclusion of certain land within the extraterritorial jurisdiction of the Town of Northlake, and would respectfully show the following:

I.

The name of the proposed district shall be BELMONT FRESH WATER SUPPLY DISTRICT NO. 1 OF DENTON COUNTY (the "District").

II.

The District shall be created under the terms and provisions of Article XVI, Section 59, and Article III, Section 52(b)(3) of the Constitution of Texas and Chapter 53, Texas Water Code, as amended, together with all amendments and additions thereto.

III.

The District shall contain an area of approximately 697.86 acres of land, situated wholly within Denton County, Texas, described by metes and bounds in Exhibit "A" attached hereto and made a part hereof for all purposes. All of land proposed to be included within the District, is located within the extraterritorial jurisdiction of the Town of Northlake. No portion of such land is located within the extraterritorial jurisdiction or corporate limits of any other city, town or village.

IV.

The undersigned constitute the current landowners of all of the property to be included within the District.

V.

The District shall be created for all of the purposes set forth in Chapter 49 and 53, Texas Water Code, as amended, including, without limitation, to conserve, transport, and distribute fresh water from any sources for domestic and commercial purposes inside and/or outside the boundaries of the District. In addition, subject to compliance with the requirements of Section 53.121, Texas Water Code, as amended, the District may purchase, construct, acquire, own, operate, repair, improve, and extend sanitary sewer systems to control wastes; and, subject to compliance with the requirements of Section 53.029, Texas Water Code, as amended, may assume the rights, authority, privileges, and functions of a road district under Article III, Section 52(b)(3) of the Texas Constitution, Chapter 257, Transportation Code, and other general laws of the State relating to road districts.

The aforementioned purposes are to be accomplished by any and all mechanical and chemical means and processes incident, necessary or helpful to such purposes, to the end that public health and welfare may be conserved and promoted and the purity and sanitary condition of the State's waters protected, effected and restored.

VI.

The District shall have the powers of government and authority to exercise the rights, privileges, and functions given to it by Chapter 49 and 53, Texas Water Code, as amended, or by any other State law.

VII.

The general nature of the work to be done by the District at the present time is the acquisition, construction, maintenance and operation of a waterworks system, including the purchase and sale of water, for domestic and commercial purposes, the acquisition, construction, maintenance and operation of a sanitary sewer collection, treatment and disposal system, including the purchase and sale of sewer services, for domestic and commercial purposes, the acquisition, construction, maintenance and operation of macadamized, graveled or paved roads and turnpikes for residential and commercial purposes, and such other acquisition, construction, installation, maintenance, purchase and operation of such additional facilities, systems, plants and enterprises as shall be consonant with the purposes for which the District is organized.

VIII.

There is a necessity for the improvements above described because the District is located within an area which will experience a substantial and sustained residential and commercial growth, is urban in nature and is not supplied with adequate water and sanitary sewer facilities or services or with adequate roads and turnpikes. The health and welfare of the future inhabitants of the District and of the inhabitants of the area adjacent

thereto require the acquisition and installation of an adequate waterworks system and sanitary sewer collection system and disposal system together with roads and turnpikes.

The purchase, construction, extension, improvement, maintenance and operation of such waterworks system and sanitary sewer collection and disposal systems will conserve and preserve the natural resources of this State by promoting and protecting the purity and sanitary condition of the State's waters and will promote and protect the public health and welfare of the community; therefore, a public necessity exists for the organization of the District.

IX.

Said proposed improvements are practicable and feasible, in that the terrain of the territory to be included in the District is of such a nature that a waterworks and sanitary sewer system and roads and turnpikes can be constructed at a reasonable cost with reasonable tax rates and water and sewer rates, and said territory will be developed for residential and commercial purposes.

X.

Petitioners request consent and permission of the Town of Northlake for the inclusion of the land described in Exhibit "A" in the District, and in any new district that may be created by the future division of the District; provided any such new district is located wholly within the boundaries of the District as described in Exhibit "A" or as such boundaries may be expanded as approved by the Town of Northlake.

XI.

WHEREFORE, the undersigned respectfully pray that this petition be in all things granted, and that the Town give its written consent to the inclusion of the lands described in Exhibit "A" in the District and in any new district created by the future division of the District as provided herein, and for such other orders, acts, procedure and relief as are proper and necessary and appropriate to the purpose of organizing the District.

RESPECTFULLY SUBMITTED the 9 day of Nov., 2006.

SIGNATURE AND ACKNOWLEDGMENT OF LANDOWNER, AND LIENHOLDER CONSENTED TO:

REALTY CAPITAL BELMONT, Ltd.,  
a Texas limited partnership  
"Landowner"

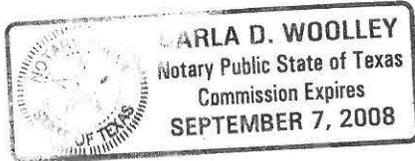
By its General Partner,  
RCC Belmont Gen Par Inc

By: [Signature]

Its: President

STATE OF TEXAS §  
COUNTY OF TARRANT §

This instrument was acknowledged before me on November 9, 2006, by RICHARD A. MYERS, PRESIDENT of RCC Belmont Gen Par Inc, a TEXAS CORPORATION, in its capacity as general partner of Realty Capital Belmont, Ltd, a Texas limited partnership, on behalf of said Corporation and partnership.



[Signature]  
Notary Public in and for the State of Texas

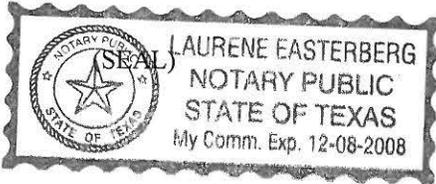
ACKNOWLEDGED AND AGREED:  
"LIENHOLDER"

By: [Signature]  
Name: J. Phil Donke  
Title: Vice President

STATE OF TEXAS §  
  §  
COUNTY OF DENTON §

On this 8<sup>th</sup> day of November <sup>2006</sup>~~2005~~, before me, a Notary Public in and for said Tarrant County, personally appeared Phil Donke, Vice President of Compass Bank as Lienholder, and acknowledged to me that he executed same on behalf of such entity.

[Signature]  
Notary Public, State of Texas



**EXHIBIT "B"**

(Metes and Bounds Description of Property)

## EXHIBIT "A"

Being a 697.86 acre tract of land situated in the jurisdiction of the City of North Lake, ETJ, Denton County, Texas, and being a part of the Patrick Rock Survey, Abstract No. 1063, and being a portion of those certain tracts of land described to Realty Capital Belmont, LTD. by Instrument No.'s 2005-130021, 2005-130022, and 2005-130025 of the Deed Records of Denton County, Texas, and being more particularly described by metes and bounds as follows:

Beginning at a point for the southwest corner of the herein described tract, said point being on the west line of the Realty Capital Belmont tract as described by deed in said Instrument No. 2005-130021, and being North 00°25'59" West, 470.00 feet of the southwest corner of said Realty Capital Belmont tract;

Thence along the west line of said Realty Capital Belmont tract, the following courses and distances:

North 00°25'59" West, a distance of 2240.39 feet to a point for corner;  
South 89°52'33" West, a distance of 249.99 feet to a point for corner;  
North 00°33'01" West, a distance of 1879.88 feet to a point for corner;  
North 00°27'52" West, a distance of 941.22 feet to a 1/2 inch iron rod found for corner;  
North 89°53'11" West, a distance of 2819.34 feet to a point for corner;  
South 89°57'05" West, a distance of 741.56 feet to a point for corner;  
North 00°28'58" West, a distance of 979.13 feet to a point for the western most northwest corner of the herein described tract;  
North 89°52'13" West, a distance of 452.30 feet to a point for corner;  
North 00°21'02" West, a distance of 1855.04 feet to a point for the northwest corner of the herein described tract;

Thence departing said west line, along the north line of said Realty Capital Belmont tract, the following courses and distances:

South 89°57'59" East, a distance of 275.28 feet to a point for corner;  
South 88°54'20" East, a distance of 1702.48 feet to a point for corner;  
South 89°43'16" East, a distance of 3069.27 feet to a point for corner;  
North 89°57'08" East, a distance of 1539.52 feet to a point for corner;  
South 89°57'13" East, a distance of 420.67 feet to a point for corner;

Thence South 02°03'14" East, departing said north line, over and across said Realty Capital Belmont tract, a distance of 1611.05 feet to a point for the northeast corner of a tract of land described to Forrest R. Stewart by deed recorded in Volume 772, Page 945 of said Deed Records.

Thence North 88°59'39" West, a distance of 686.17 feet to the northwest corner of said Stewart tract;

Thence South 00°30'12" East, a distance of 227.81 feet to the southwest corner of said Stewart tract;

Thence South 89°45'41" East, a distance of 837.62 feet to a point for corner on the west apparent prescriptive right-of-way line of Prairie Mound Cemetery Road;

Thence with said apparent prescriptive right-of-way, the following courses and distances:

South 00°53'56" East, a distance of 931.65 feet to a point for corner;  
South 88°48'00" West, a distance of 435.00 feet to a point for corner;  
South 00°26'33" East, a distance of 2335.07 feet to a point for corner on the west right-of-way line of said Prairie Mound Cemetery Road;

Thence with said west right-of-way, the following courses and distances:

South 89°33'16" West, a distance of 330.81 feet to a fence post for corner;  
South 00°10'06" West, a distance of 490.83 feet to a fence corner for corner;  
South 89°36'41" West, a distance of 608.91 feet to a point for corner;

Thence South 00°28'21" East, continuing along said west right-of-way line, a distance of 2239.59 feet to a point for the southeast corner of the herein described tract;

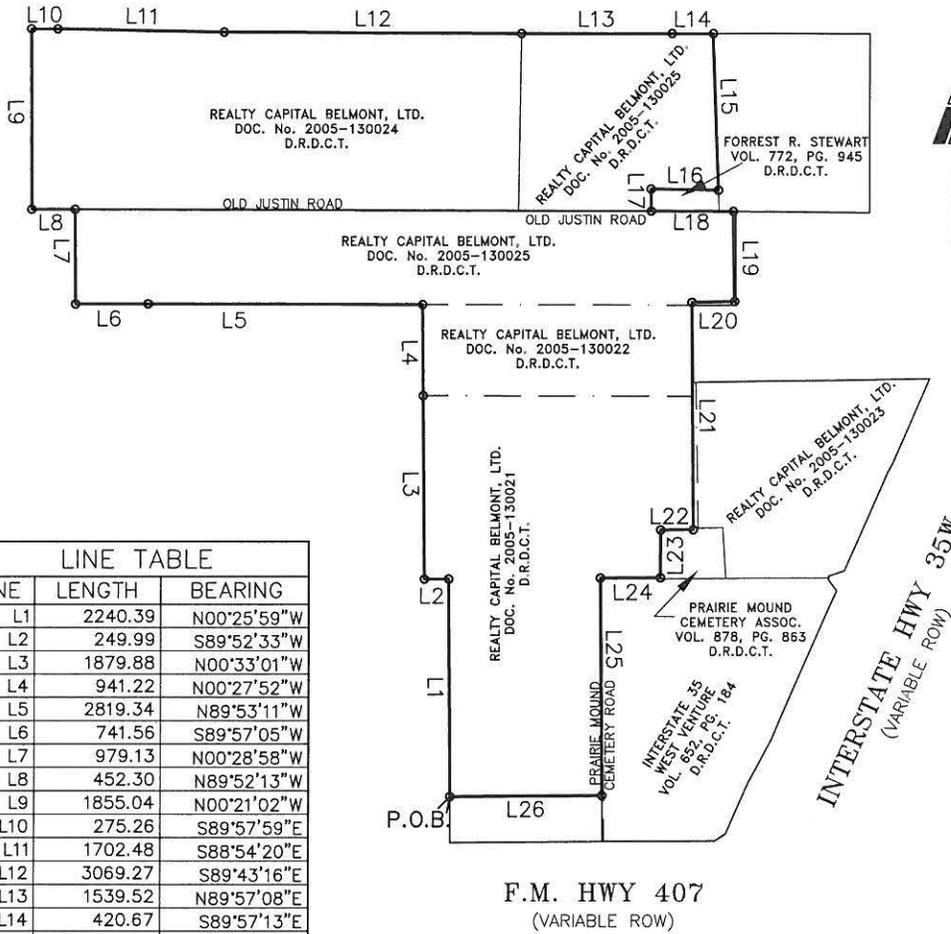
Thence South 89°34'01" West, a distance of 1567.86 feet to the Point of Beginning, and containing 697.86 acres, more or less, of land.

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

0 750 1500 3000



SCALE: 1" = 1500'



LINE TABLE		
LINE	LENGTH	BEARING
L1	2240.39	N00°25'59"W
L2	249.99	S89°52'33"W
L3	1879.88	N00°33'01"W
L4	941.22	N00°27'52"W
L5	2819.34	N89°53'11"W
L6	741.56	S89°57'05"W
L7	979.13	N00°28'58"W
L8	452.30	N89°52'13"W
L9	1855.04	N00°21'02"W
L10	275.26	S89°57'59"E
L11	1702.48	S88°54'20"E
L12	3069.27	S89°43'16"E
L13	1539.52	N89°57'08"E
L14	420.67	S89°57'13"E
L15	1611.05	S02°03'14"E
L16	686.17	N88°59'39"W
L17	227.81	S00°30'12"E
L18	837.62	S89°45'41"E
L19	931.65	S00°53'56"E
L20	435.00	S88°48'00"W
L21	2335.07	S00°26'33"E
L22	330.81	S89°33'16"W
L23	490.83	S00°10'06"W
L24	608.91	S89°36'41"W
L25	2239.59	S00°28'21"E
L26	1567.86	S89°34'01"W

**EXHIBIT SHOWING  
697.86 ACRES**

Situated in the  
City of Northlake ETJ,  
and being a part of the  
Patrick Rock Survey,  
Abstract No. 1063  
Denton County, Texas

NOTES:

- Bearings are based on the Texas State Plane Coordinate System, North Central Zone (NAD83).
- Integral parts of this survey:
  - Legal Description
  - Sketch

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

A. Brown  
Prepared By:  
November 8, 2006  
Date:



**TEAGUE NALL AND PERKINS**  
ENGINEERS ♦ SURVEYORS ♦ CONSULTANTS

1100 Macon Street  
Fort Worth, Texas 76102  
Phone: (817) 336-5773 Fax: (817) 336-2813

**EXHIBIT "C"**

SUPPLEMENTAL CONDITIONS TO CONSENT TO CREATION  
OF POLITICAL SUBDIVISION IN EXTRATERRITORIAL JURISDICTION  
OF TOWN OF NORTHLAKE, TEXAS

1. The District shall comply with all applicable terms of the Development Agreement approved pursuant to Town Ordinance No. 06-1109D.
2. Bonds, including refunding bonds issued by the District, shall, unless otherwise agreed to by the Town, comply with the following requirements, provided such requirements do not generally render the bonds unmarketable:
  - a. Maximum maturity of 25 years for any one series of bonds;
  - b. Interest rate that does not exceed 2% above the highest average interest rate reported by the Daily Bond Buyer in its weekly "20 Bond Index" during the one month period next preceding the date notice of the sale of such bonds is given; and
  - c. The bonds shall expressly provide that the District shall reserve the right to redeem bonds at any time subsequent to the tenth (10<sup>th</sup>) anniversary of the date of issuance, without premium. No variable rate bonds shall be issued by the District without Town Council approval.
3. The Town shall require the following information with respect to bond issuance:
  - a. At least 30 days before issuance of bonds, except refunding bonds, the District's financial advisor shall certify in writing that the bonds are being issued within the existing economic feasibility guidelines established by the TCEQ for districts issuing bonds for water, sewer or drainage facilities in the county in which the District is located and shall deliver the certification to the Town Manager.
  - b. At least 30 days before the issuance of bonds, the District shall deliver to the Town:
    - i. The amount of bonds being proposed for issuance;
    - ii. The projects to be funded by such bonds; and
    - iii. The proposed debt service tax rate after issuance of the bonds.

If the District is not required to obtain TCEQ approval of the issuance of the bonds (other than refunding bonds), the District shall deliver such notice to the Town Manager at least 60 days prior to issuing such bonds. Within 30 days after the District closes the sale of a series of bonds, the District shall deliver to the Town Manager a copy of the final official statement for such series of bonds. If the Town requests additional information regarding such issuance of bonds, the District shall promptly provide such information at no cost to Town.

4. The District shall send a copy of the order or other action setting its annual ad valorem tax rate to the Town Manager within 30 days after District adoption of the rate.

5. The District shall send a copy of its annual audit to the Town Manager within 30 days after approval.