

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF NEW BRAUNFELS, TEXAS, AUTHORIZING THE ACQUISITION OF A PERMANENT UTILITY EASEMENT OF 0.005 ACRES AND A TEMPORARY CONSTRUCTION EASEMENT OF 0.042 ACRES (COLLECTIVELY, THE “EASEMENTS”) BEING SITUATED OUT OF LOT 13, PLEASANT VIEW SUBDIVISION IN COMAL COUNTY, TEXAS ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 4, PAGE 54 OF THE MAP AND PLAT RECORDS OF COMAL COUNTY, TEXAS, AS CONVEYED TO LEONARDO HERNANDEZ III, HERMAN G. HERNANDEZ, YVETTE HERNANDEZ RODRIGUEZ, YVONNE HERNANDEZ GARCIA AND MICHAEL R. HERNANDEZ BY GIFT DEED RECORDED IN DOCUMENT NO. 201706012849, OFFICIAL PUBLIC RECORDS, COMAL COUNTY, TEXAS, AS IT MAY HAVE BEEN MODIFIED BY AFFIDAVIT OF CORRECTION CONCERNING INSTRUMENT RECORDED IN DOCUMENT NO. 202006016641, OFFICIAL PUBLIC RECORDS, COMAL COUNTY TEXAS, ALSO KNOWN AS COMAL COUNTY PARCEL NO. 44948. THESE ACQUISITIONS ARE NECESSARY TO ADVANCE AND ACHIEVE THE PUBLIC USE OF EXPANDING THE NEW BRAUNFELS UTILITIES’ WATER SYSTEM TO INCREASE WATER CAPACITY TO MEET EXISTING AND FUTURE NEEDS AND ENSURE RELIABILITY. THIS RESOLUTION AUTHORIZES THE INSTITUTION OF CONDEMNATION PROCEEDINGS TO ACQUIRE THE NECESSARY LAND RIGHTS TO THE EXTENT NEGOTIATIONS ARE UNSUCCESSFUL.

WHEREAS, the Board of Trustees of New Braunfels Utilities (“NBU”) is charged with managing and operating the water, sanitary sewer, and electric systems of the City of New Braunfels (the “City”) pursuant to Chapter 130, Article II, Section 130-26 of the City Code of Ordinances; and

WHEREAS, as provided in Section 11.08 of the City’s Home Rule Charter, the City has reserved the right to exercise the power of eminent domain to acquire NBU utility property; and

WHEREAS, the Board of Trustees of NBU adopted resolution R-2026-209 on April 30th, 2026, recommending that the City acquire the Easements on certain privately-owned real property described in **Exhibits A and B** by purchase or through the use of eminent domain as part of the Western Downtown to Morningside Pressure Zone Conversion Project to install approximately 17,000 linear feet of 8-inch up to 18-inch water main and related appurtenances needed to convert a portion of the Downtown Pressure Zone to the Morningside Pressure Zone to address existing pressure issues, extend water supply to the new Solms Pump Station, and Ground Storage Tank, and provide additional capacity to serve current and future growth and ensure reliability (the “Project”); and

WHEREAS, the Project and acquisition of the Easements is necessary to locate, construct,

utilize, and maintain an approximately 17,000 linear feet of 8-inch up to 18-inch water main, and other related appurtenances to advance and achieve the public use of expanding the NBU water system to address existing pressure issues, extend water supply to the new Solms Pump Station and Ground Storage Tank, and provide additional capacity to serve current and future growth and ensure reliability; and

WHEREAS, the Project is in the best interest of the health, safety, and welfare of the public;

WHEREAS, NBU, acting as an agent of the City, has been unable to acquire the necessary Easements by negotiation and/or further negotiations may become futile, and therefore, the City must exercise its power of eminent domain; and

WHEREAS, to acquire the Easements, it may be necessary for the City and/or NBU or one of its agents or contractors to enter upon the property to investigate and survey the needed land so that it may be defined and described with specificity for inclusion in any deed, easement document, or, if necessary, as part of any filings to institute proceedings in eminent domain to acquire the necessary land.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, THAT:

SECTION 1.

The above caption and recitals are incorporated herein for all purposes.

SECTION 2.

The City Council declares a public use and necessity for the City of New Braunfels, acting by and through NBU, to locate, construct, utilize, and maintain the Project and to acquire the Easements on the properties described in **Exhibits A and B**, which are needed for the Project.

SECTION 3.

The City Council declares that acquiring the Easements is necessary to complete the Project, which has the public use of expanding the NBU water system to address existing pressure issues, extend water supply to the new Solms Pump Station and Ground Storage Tank, and provide additional capacity to serve current and future growth, and ensure reliability.

The City Council authorizes the use of the power of eminent domain to acquire the Easements, to the extent the City and/or NBU, acting as the City's agent, is unable to acquire the lands by negotiation and/or further negotiations with the landowner become futile.

SECTION 4.

The City Council authorizes NBU and its authorized officers or their designees and retained

attorneys to create, execute, and deliver such further documents, instruments, certificates, opinions, consents, pleadings, and other papers, for and on behalf of the City, and to do and cause to be done such further acts and things as may be necessary, appropriate, or advisable to effect the intent of this Resolution, including, but not limited to:

- (a) filing temporary injunctions or other causes of action necessary to obtain access to the property impacted by the acquisitions;
- (b) performing lineal surveys for metes and bounds purposes and conducting archaeological, species and environmental walk-throughs, inspections and/or testing (including obtaining water and soil samples, if necessary), as required by applicable state and federal laws (collectively the "Preliminary Surveys"), appraising, designing, planning, obtaining title information, and specifying the preparation, location, and routing or re-rerouting of the Project should such become necessary for any reason;
- (c) participating in good-faith negotiations with the landowner to make a bona fide offer for the property interests;
- (d) appraising the properties and property interests to be acquired;
- (e) causing eminent domain proceedings to be filed should the bona-fide offer and good-faith negotiations fail; and
- (f) obtaining, or causing to be applied for and obtained, surety bonds as may be necessary or desirable regarding any eminent domain proceedings hereinabove authorized or any injunctive proceedings necessary or related to or as a condition precedent to any such eminent domain proceedings.

Such documents, instruments, certificates, opinions, consents, pleadings, and other papers, and any amendments, supplements, or modifications thereto shall be in such form and contain such terms and conditions, whether material or non-material, as such officers, or any of them, shall deem necessary, appropriate, or advisable, and all that such officers, their designees, employees, and retained attorneys have done or may do under or by reason of this and any foregoing resolutions are hereby approved, confirmed, and ratified. The City Council finds that it is in the best interest to obtain the Easements from whomever holds legal and equitable title as identified according to the procedure adopted through this Resolution and if necessary, the Director of Finance or NBU, acting as an agent of the City, is directed to disburse funds in accordance herewith.

SECTION 5.

The determination of necessity to exercise the power of eminent domain in this matter is made according to reason and judgment with due regard and consideration of the relevant facts, circumstances, and alternatives, and the knowledge, which existed at this time. Therefore, the City, acting by and through NBU and its contractual eminent domain attorneys, is hereby directed and authorized to institute and prosecute to conclusion all necessary proceedings in eminent

domain to condemn the land described herein and to acquire such interest in land if the City and NBU, acting as an agent for the City, is unable to acquire such through negotiation, and to take any other legal action necessary or incidental to such acquisition or eminent domain proceeding to investigate, survey, specify, define, and secure the necessary property rights and interests.

All acts and proceedings done or initiated by the employees, agents, and attorneys of the City and NBU, acting as an agent for the City, for the acquisition of such lands are hereby authorized, ratified, approved, confirmed and validated and declared to be valid in all respects as of the respective dates of such acts and proceedings, with and in regard to the grantors from whom such lands are being purchased or acquired.

SECTION 6.

Severability: If any provision, section, subsection, sentence, clause, or phrase of this Resolution, or the application of the same to any person or set of circumstances is for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portions of this Resolution shall not be affected thereby, it being the intent of the City Council in adopting this Resolution that no portion hereof, or provisions, or regulations contained herein, shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion hereof and all provisions of this Resolution are declared to be severable for that purpose.

SECTION 7.

This Resolution shall become effective from and after its passage.

PASSED AND APPROVED this the _____ day of _____, 2026.

Neal Linnartz, Mayor

ATTEST:

Gayle Wilkinson
City Secretary

Exhibit A – Page 1 of 3

NBU- I.H. 35
PARCEL NO. 22



METES AND BOUNDS DESCRIPTION
FOR A
0.005 OF AN ACRE TRACT OF LAND
(VARIABLE WIDTH UTILITY EASEMENT)

BEING a 0.005 of an acre, or 220 square feet, tract of land out of the remainder of Lot 13, Pleasant View Subdivision, a subdivision situated in Comal County, Texas, according the plat thereof recorded in Volume 4, Page 54, of the Map and Plat Records of Comal County, Texas, as conveyed to Leonardo Hernandez III, Herman G. Hernandez, Yvette Hernandez Rodriguez, Michael Hernandez and Yvonne Hernandez Garcia, and recorded in Document No. 202006016641, of the Official Public Records of Comal County, Texas, and said 0.005 of an acre tract of land being more particularly described by metes and bounds as follows:

COMMENCING at a TXDOT Type-II monument found in the cut-back of the Northerly Right-of-Way (R.O.W.) line of Interstate Highway 35 South (I.H. 35) (a variable width R.O.W.), being in the Easterly line of Rusch Lane, and being the Southwesterly corner of said remainder of Lot 13;

THENCE departing the cut-back corner in the Northerly R.O.W. line of said I.H. 35, and with the Easterly line of Rusch Lane, N 22° 29' 04" W, a distance of 12.30 feet to a point and being the Northwesterly corner of an existing 10-wide waterline easement as described in Volume 130, page 309 of the Deed Records of Comal County, Texas and being the Southwesterly corner and POINT OF BEGINNING of this herein described tract of land;

THENCE continuing with the Easterly line of Rusch lane. N 22° 29' 04" W, a distance of 4.52 feet to a point for the Southwesterly corner of a remainder of a 20-foot waterline easement as described in Volume 681, Page 178 of the Deed Records of Comal County, Texas and being the Northwesterly corner of this herein described tract of land;

THENCE departing Rusch Lane and across and through said Lot 13, and with the Southerly line of said 20-foot waterline easement, S 75° 37' 30" E, a distance of 80.87 feet to a point in the Northwesterly Right-Of-Way line of said IH-35 for an Easterly corner of this herein described tract of land;

THENCE with the Northwesterly Right-Of-Way line of said IH 35, S 50° 22' 47" W, a distance of 2.43 feet to a point, and being the Northeasterly corner of said 10-foot waterline easement and the Southeasterly corner of this herein described tract of land;


Exhibit A – Page 2 of 3

NBU- IH. 35
PARCEL NO. 22

THENCE departing said Northwesterly Right-Of-Way line of said IH 35, and across and through said Lot 13, with the Northerly line of said 10-foot waterline easement, N 76° 51' 21" W, a distance of 76.74 feet to the POINT OF BEGINNING, and containing 0.005 of an acre of land.

Bearings based on the Texas State Plane Coordinate System, Texas South Central Zone (4204), N.A.D. 1983.

Exhibit prepared this the 20th day of January, 2025.


Drew A. Mawyer
Registered Professional Land Surveyor No. 5348
TBPLS Firm Registration #10191500
5151 W. SH 46, NEW BRAUNFELS, TX 78132
QUI003-TRACT 22-HERNANDEZ-0.005 AC-012025

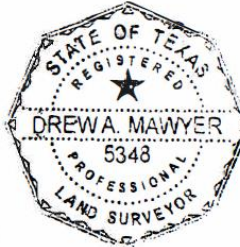
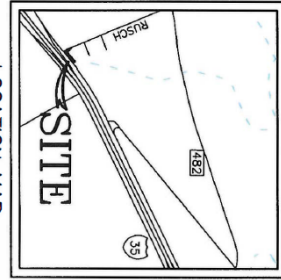


EXHIBIT A – PAGE 3 OF 3

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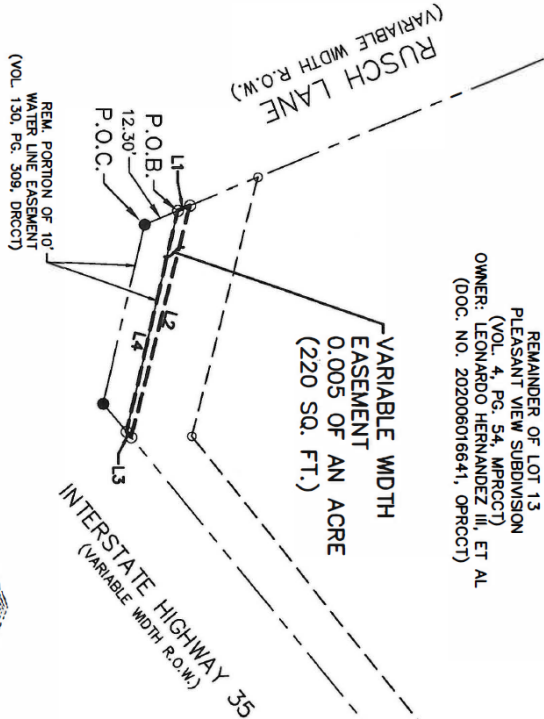


LOCATION MAP
N.T.S.

- LEGEND:**
- = FOUND TYPOT TYPE-II MONUMENT UNLESS OTHERWISE NOTED
 - () = RECORD INFORMATION
 - MPRCCCT = MAP AND PLAT RECORDS OF COMAL COUNTY, TEXAS
 - OPRCCCT = OFFICIAL PUBLIC RECORDS OF COMAL COUNTY, TEXAS
 - DRCCCT = DEED RECORDS OF COMAL COUNTY, TEXAS
 - R.O.W. = RIGHT-OF-WAY
 - P.O.B. = POINT OF BEGINNING
 - = EASEMENT CORNER

DAMMAYER
LAND SURVEYOR
 5151 W. SH 46
 NEW BRAUNFELS, TX 78132
 PH: 830.730.4449
 DREMA@DAM-TX.COM
 FIRM #10191900
 DATE: JANUARY 2025 JOB: QUI003

- NOTES:**
- BEARINGS BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, TEXAS SOUTH CENTRAL ZONE (4204), NORTH AMERICAN DATUM 1983.
 - THE PROFESSIONAL SERVICES PROVIDED HEREWITH INCLUDE THE PREPARATION OF A FIELD NOTE DESCRIPTION.



BEING A 0.005 OF AN ACRE (220 SQUARE FEET) EASEMENT OUT OF THE REMAINDER OF LOT 13, PLEASANT VIEW SUBDIVISION, A SUBDIVISION SITUATED IN COMAL COUNTY, TEXAS, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 4, PAGE 54, OF THE MAP AND PLAT RECORDS OF COMAL COUNTY, TEXAS, AS CONVEYED TO LEONARDO HERNANDEZ III, HERMAN G. HERNANDEZ, YVETTE HERNANDEZ RODRIGUEZ, MICHAEL HERNANDEZ AND YVONNE HERNANDEZ GARCIA, AND RECORDED IN DOCUMENT NO. 202006016641, OF THE OFFICIAL PUBLIC RECORDS OF COMAL COUNTY, TEXAS.

EXHIBIT
 FOR A 0.005 OF AN ACRE
 (VARIABLE WIDTH UTILITY EASEMENT)

REMAINDER OF LOT 13
 PLEASANT VIEW SUBDIVISION
 (VOL. 4, PG. 54, MPRCCCT)
 OWNER: LEONARDO HERNANDEZ III, ET AL
 (DOC. NO. 202006016641, OPRCCCT)

CALLLED 6.73 ACRES
 R.O.W. AND CLEAR CARRILLO
 (DOC. NO. 200406002195, OPRCCCT)

SCALE: 1"=50'



LINE	LENGTH	BEARING
L1	4.52'	N22°29'04"W
L2	80.87'	S75°37'30"E
L3	2.43'	S50°22'47"W
L4	76.74'	N76°51'21"W



STATE OF TEXAS
 COUNTY OF BEXAR
 THIS 31ST DAY OF JANUARY 2025
 Drew A. Mawyer
 Registered Professional Land Surveyor N.L. 5348

EXHIBIT B – PAGE 1 OF 2

NBU- I.H. 35
PARCEL NO. 22-Temp



**METES AND BOUNDS DESCRIPTION
FOR A
0.042 OF AN ACRE TRACT OF LAND
(10-FOOT WIDE TEMPORARY CONSTRUCTION EASEMENT)**

BEING a 0.042 of an acre, or 1,821 square feet, tract of land out of the remainder of Lot 13, Pleasant View Subdivision, a subdivision situated in Comal County, Texas, according the plat thereof recorded in Volume 4, Page 54, of the Map and Plat Records of Comal County, Texas, as conveyed to Leonardo Hernandez III, Herman G. Hernandez, Yvette Hernandez Rodriguez, Michael Hernandez and Yvonne Hernandez Garcia, and recorded in Document No. 202006016641, of the Official Public Records of Comal County, Texas, and said 0.042 of an acre tract of land being more particularly described by metes and bounds as follows:

COMMENCING at a TXDOT Type-II monument found in the Northwestern Right-of-Way (R.O.W.) line of Interstate Highway 35 South (I.H. 35) (a variable width R.O.W.), for the Southerly corner of Lot 1, Block 1, Senaido Dual Crossing Subdivision, as recorded in Document No. 202206008368 of the Official Public Records of Comal County, Texas, and being the Easterly corner of said Lot 13, Pleasant View Subdivision;

THENCE departing the Northwestern Right-Of-Way line of said IH 35, and with the common line of said lot 1 and Lot 13, N 22° 21' 05" W, a distance of 14.28 feet to a point for the most Easterly corner of this herein described 0.042 of an acre tract of land, and THE POINT OF BEGINNING;

THENCE departing said Westerly line of Lot 1, and across and through said Lot 13, S 51° 13' 00" W, a distance of 176.91 feet to a point for a Southerly corner of this herein described 0.042 of an acre tract of land;

THENCE N 75° 37' 30" W, a distance of 12.50 feet to a point for the Westerly corner of this herein described 0.042 of an acre tract of land;

THENCE N 51° 13' 00" E, a distance of 187.36 feet to a point in the common line of said Lot 13, Pleasant View Subdivision and Lot 1 of Senaido Dual Crossing Subdivision for the Northeasterly corner of this herein described 0.042 of an acre tract of land;

THENCE With the common line of said Lot 13, Pleasant View Subdivision and Lot 1 of Senaido Dual Crossing Subdivision, S 22° 21' 05" E, a distance of 10.43 feet to the POINT OF BEGINNING, and containing 0.042 of an acre of land.

Bearings based on the Texas State Plane Coordinate System, Texas South Central Zone (4204), N.A.D. 1983.

Exhibit prepared this the 12th day of May, 2025.

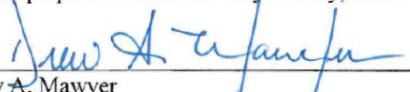

Drew A. Mawyer
Registered Professional Land Surveyor No. 5348
TBPLS Firm Registration #10191500
5151 W. SH 46, NEW BRAUNFELS, TX 78132
QUI003- TRACT 22-TEMP- HERNANDEZ- 0.042 AC-051225



EXHIBIT B – PAGE 2 OF 2

Drawing Name: C:\Users\DrewMayer\AM Survey\Dropbox\Draw\DA Mower Land Surveying\PROJECTS\QUIDDITY\QUI003-IH 35 NBU\FROM MAND\QUI003-US81-TRACT 22-HERNANDEZ-TEMP ESMT.dwg User: DrewMayer May 12, 2025 - 1:01pm

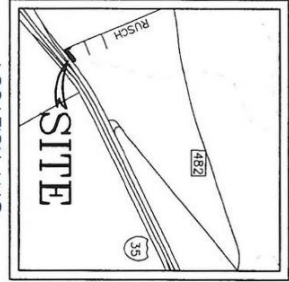
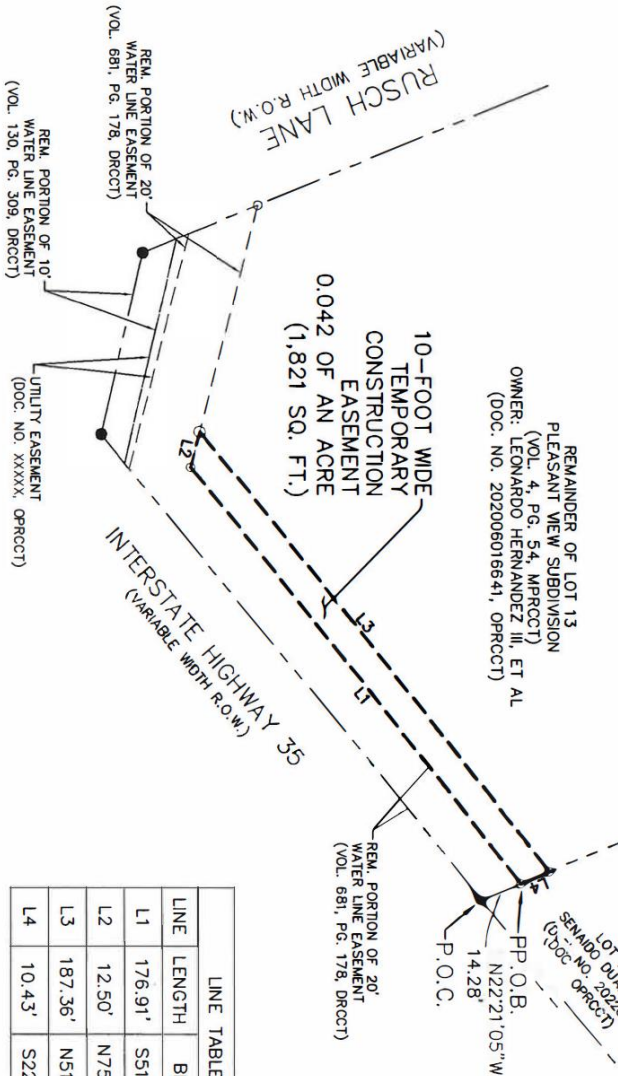


EXHIBIT
FOR A 0.042 OF AN ACRE
(10-FOOT WIDE TEMPORARY CONSTRUCTION EASEMENT)
BEING A 0.042 OF AN ACRE (1,821 SQUARE FEET) EASEMENT OUT OF THE REMAINDER OF LOT 13, PLEASANT VIEW SUBDIVISION, A SUBDIVISION SITUATED IN COMAL COUNTY, TEXAS, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 4, PAGE 54, OF THE MAP AND PLAT RECORDS OF COMAL COUNTY, TEXAS, AS CONVEYED TO LEONARDO HERNANDEZ III, HERMAN G. HERNANDEZ, YVETTE HERNANDEZ RODRIGUEZ, MICHAEL HERNANDEZ AND YVONNE HERNANDEZ GARCIA, AND RECORDED IN DOCUMENT NO. 202006016641, OF THE OFFICIAL PUBLIC RECORDS OF COMAL COUNTY, TEXAS.

SCALE: 1" = 50'



REMAINDER OF LOT 13
PLEASANT VIEW SUBDIVISION
(VOL. 4, PG. 54, MPRCCT)
OWNER: LEONARDO HERNANDEZ III, ET AL
(DOC. NO. 202006016641, OPRCCT)



LINE	LENGTH	BEARING
L1	176.91'	S51°13'00"W
L2	12.50'	N75°37'30"W
L3	187.36'	N51°13'00"E
L4	10.43'	S22°21'05"E

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 - R.O.W. = RIGHT-OF-WAY
 - P.O.B. = POINT OF BEGINNING
 - O = EASEMENT CORNER

DREW MAWYER
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DREW@DM-TX.COM
TXRN #0919500
DATE: MAY 2025 JOB: QUID003

- NOTES:**
- BEARINGS BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, TEXAS SOUTH CENTRAL ZONE (4204), NORTH AMERICAN DATUM 1983.
 - THE PROFESSIONAL SERVICES PROVIDED HEREWITH INCLUDE THE PREPARATION OF A FIELD NOTE DESCRIPTION.

TRACT NO.	22-TEMP
TRACT SQ. FT.	1,821 SQ. FT.



STATE OF TEXAS
COUNTY OF BEKAR
THIS 12th DAY OF May 2025
Drew A. Mawyer
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5348