

**DEVELOPMENT AGREEMENT BETWEEN
THE CITY OF NEW BRAUNFELS, TEXAS,
AND
HIGHLANDER NB ONE, LLC**

This DEVELOPMENT AGREEMENT (the “Agreement”) is entered into between Highlander NB One, LLC, their successors or assigns (the “Developer”), and the City of New Braunfels, Texas (the “City”), a home-rule municipal corporation in Comal and Guadalupe Counties, Texas, acting by and through its governing body, the City Council of New Braunfels, Texas (Developer and City herein referred to as individually a “Party” and collectively, the “Parties”) to be effective on the date of _____ (the “Effective Date”).

RECITALS

WHEREAS, the Developer owns approximately 299.78 acres of land (defined herein as the “Tract”) in Guadalupe County, Texas and currently within the extra-territorial jurisdiction of the City, and a copy of the metes and bounds description and survey of the Tract are attached as Exhibit A; and,

WHEREAS, the City of New Braunfels has adopted a Comprehensive Plan, Envision New Braunfels, that includes policies encouraging balanced and fiscally responsible land use patterns, utilizing public/private partnerships to guide growth and investment within the City’s jurisdictional and extraterritorial limits, balancing available resources in an equitable manner that does not lead to disinvestment in existing development, assuring the long-term fiscal health of New Braunfels and preventing undue fiscal burdens on the City and others, and ensuring that decisions result in outcomes that aid in achieving Envision New Braunfels; and

WHEREAS, The Tract lies within the Dunlap Sub-Area, which bridges together many communities east of IH 35 and includes the scenic landscape along both banks of the Guadalupe River between Highway 46 and FM 725, and is identified for balancing future growth with protection of the landscape; and

WHEREAS, the City has consented to the inclusion of the Tract within a municipal utility district to be named Guadalupe County Municipal Utility District No. 5 (the “District”) to be developed for residential and commercial use; and

WHEREAS, the Developer and the City wish to enter into this Agreement to provide certainty of regulatory requirements throughout the term of this Agreement and encourage the creation of high-quality development for the benefit of the District and the City; and

WHEREAS, it is the intent of this Agreement to establish certain restrictions and commitments imposed and made in connection with the development of the Tract; and

WHEREAS, the authority for this Agreement exists under Chapter 212, Subchapter G, Texas Local Government Code; Chapter 42, Texas Local Government Code; Chapter 245, Texas Local

Government Code; and Section 212.172 of the Texas Local Government Code and Chapter 54 of the Texas Water Code; and

WHEREAS, the City has provided the owner of the Tract a written disclosure as required by Texas Local Government Code Section 212.172(b-1);

NOW THEREFORE, in consideration of the mutual promises, obligations, and benefits contained herein as well as other good and valuable consideration, the sufficiency of which is acknowledged by the Parties, the City and Developer agree as follows:

ARTICLE I DEFINITIONS AND EXHIBITS

Section 1.1 Definitions. Unless the context indicates others, the following words as used in this Agreement shall have the following meanings:

“City” means the City of New Braunfels, Texas, a home rule municipal corporation situated in Comal and Guadalupe Counties, Texas, acting by and through its governing body, the City Council of New Braunfels, Texas.

“City Code” means the New Braunfels City Code and other ordinances and regulations adopted by the City of New Braunfels, as such ordinances may be amended, changed, supplemented, or repealed from time to time.

“Developer” means Highlander NB One, LLC and their successor and assigns.

“Development Regulations” means those Chapters of the City of New Braunfels Code of Ordinances related to the Development of the Tract and listed in the attached Exhibit C.

“District” means Guadalupe County Municipal Utility District No. 5 or other named municipal utility district created pursuant to the petition attached here as Exhibit B.

“GBRA” means Guadalupe-Blanco River Authority.

“GVSUD” means Green Valley Special Utility District.

“Tract” means the approximately 299.78 acres of land to be developed by Developer, as described in Exhibit A.

“TCEQ” means the Texas Commission on Environmental Quality or its successor agency.

Section 1.2. Exhibits. The following Exhibits attached to this Agreement are a part of the Agreement as though fully incorporated herein:

Exhibit A	Metes and Bounds Description and Survey Survey of the Tract
Exhibit B	Petition for Consent to the Creation of a Municipal Utility District

Exhibit C	Development Regulations
Exhibit D	Mandatory Disclosure
Exhibit E	Regional Transportation and Hike and Bike Trails Plans

ARTICLE II
GENERAL PLAN; LAND USE AND VESTED RIGHTS

Developer hereby agrees that the Tract will be developed for residential and commercial use only. As consideration for the City's obligations under this Agreement, the Developer intends to proceed to develop the Tract as expeditiously as possible as determined by real estate and financial market and legal conditions. This Article does not require and shall not be construed as requiring the Developer to develop the Tract on any particular schedule or timetable.

Developer's rights established under Chapter 245, Texas Local Government Code, are effective as of the Effective Date of this Agreement and rights which may have existed or accrued prior to the Effective Date of this Agreement are hereby null and void.

ARTICLE III
DEVELOPER'S DEVELOPMENT OBLIGATIONS

Section 3.1. Development of Tract.

- a. Development of the Tract shall comply with the Development Regulations, except where modified or otherwise specified herein.
- b. Package wastewater treatment plants are prohibited within the District, unless the proposed package wastewater treatment plant meets the minimum design and construction specifications of GBRA, the utility provider, with a long-term maintenance plan approved by GBRA.
- c. Private water distribution systems are specifically prohibited within the District, unless the proposed water distribution system meets the minimum design and construction specifications of GVSUD, the utility provider, with a long-term maintenance plan approved by GVSUD.
- e. Development of the Tract shall comply with the City's Regional Transportation and Hike and Bike Trails Plan attached hereto as Exhibit E.
- f. Internal mid-block trail connections may count as block breaks for the maximum block length requirement as outlined in the City of New Braunfels Subdivision Platting Ordinance for development within the Tract; however, development within the Tract shall comply with a minimum street connectivity ratio of 1.20.
- h. Parks and trails that are required by the Development Regulations may be dispersed throughout the Tract, as approved by the City, rather than concentrated in one location, such approval by the City to be based on locally adopted policies and not to be unreasonably withheld.
- i. Outdoor/external lighting within the District shall comply with "Dark Skies" standards.

- j. Pedestrian lighting is required within the District for trail connections between neighborhoods and parks and commercial development. Lighting fixtures shall be fully shielded and be designed, arranged and screened so that the point light source shall not be visible from adjoining lots or streets; however, lighting fixtures are allowed with no additional “house side” shielding in accordance with the following formula: Height (H) < 3 + (D/3); where D equals the distance in feet from the light source to the nearest residential lot line (extended vertically).
- k. Residential housing diversity shall be required within the District with a mixture of at least three different lot sizes and three different house sizes/floorplans.
- l. Street trees shall be required on collector classification and above streets (minimum of one 3-inch caliper tree every 40 feet maximum) internal to the District and shall be maintained in good health/condition. Tree replacement shall be required in conformance with this subsection should any required street tree die during the life of the MUD.
- m. Tree preservation that exceeds City standards shall be required within the District (applicant may propose standards).
- n. Tree planting and landscaping requirements for all uses within the District shall exceed City standards (applicant may propose standards).
- o. The Developer must identify any archeological or historical resources within the District and establish methods for proposed protection/remediation of such resources.
- p. To enhance public safety and ensure quality of development for future residents, builders shall obtain and pay corresponding fees for City building permits and inspections. All structures built on individual lots shall be required to comply with the applicable Development Regulations identified in Exhibit C in effect at the time of permitting.
- q. Riparian Buffers shall be required as follows:

STREAM	MINIMUM BUFFER
Identified streams draining 640 acres or greater	300 ft. from the centerline
Identified streams draining 320-639 acres	200 ft. from the centerline
Identified streams draining 128-319 acres	100 ft. from the centerline
Identified steams draining 64-128 acres	50 ft. from the centerline
Identified streams draining less than 64 acres	No buffer requirement

Roads, facilities, structures and improvements such as paths, trails, utilities, stormwater management facilities and water quality measures are permitted within buffer areas.

Where steam buffers are located within parks, or are subject to a public easement, the buffer shall count towards overall park acreage.

Section 3.2. Utilities

- a. Water. Developer shall commence negotiations with GVSUD, within 120 days of the effective date of this Agreement to come to an agreement on the provision of

176 water services. If an agreement with GVSUD is not reached and water is provided
177 to the Tract or individual lots by a source other than GVSUD, then Developer
178 agrees:

- 179
- 180 i. That the design, construction and installation of any internal water
181 distribution system shall be built in accordance with GVSUD standards.
182
 - 183 ii. That the Developer shall submit to GVSUD and the City their plan for long
184 term maintenance of the water distribution infrastructure.
185

186 Section 3.3. Associations. The Developer will create a homeowners association for the
187 residential development (the "Association"). The District and/or the Association shall maintain all
188 common areas, park, trail, and recreational facilities.
189

190 Section 3.4. Park and Recreational Facilities. The Developer will comply with the City's
191 parkland dedication ordinance as set forth in the City Code, with approval of the City.
192

193 Section 3.5. Waiver of Actions Under Private Real Property Rights Preservation Act.
194 The Developer hereby waives its right, if any, to assert any causes of action against the City
195 accruing under the Private Real Property Rights Preservation Act, Chapter 2007, Texas
196 Government Code (the "Act"), that the City's execution or performance of this Agreement or any
197 authorized amendment or supplements thereto may constitute, either now or in the future, a
198 "Taking" of Developer's, Developer's grantee's, or a grantee's successor's "Private Real
199 Property," as such terms are defined in the Act. Provided, however, that this waiver does not apply
200 to, and the Developer and Developer's grantees and successors do not waive their rights under the
201 Act to assert, a claim under the Act for any action taken by the City beyond the scope of this
202 Agreement which otherwise may give rise to a cause of action under the Act.
203
204

205 ARTICLE IV

206 DEFAULT AND TERMINATION

207

208 Section 4.1. Material Breach of Agreement. It is the intention of the Parties to this
209 Agreement that the Tract be developed in accordance with the terms of this Agreement. In
210 the event that a party to this Agreement believes that another party has, by act or omission,
211 committed a material breach of this Agreement, the provisions of this Article V shall
212 provide the remedies for such default.
213

- 214 (a) The Parties acknowledge and agree that any substantial deviation by the Developer
215 from the material terms of this Agreement would frustrate the intent of this
216 Agreement, and, therefore, would be a material breach of this Agreement. A
217 material breach of this Agreement by the Developer shall be deemed to have
218 occurred in the event of failure of the Developer to comply with a provision of this
219 Agreement.
220

- 221 (b) The Parties acknowledge and agree that any substantial deviation by the City from
222 the material terms of this Agreement would frustrate the intent of this Agreement
223 and, therefore, would be a material breach of this Agreement. A material breach of
224 this Agreement by the City shall be deemed to have occurred in the event of failure
225 of the City to comply with a provision of this Agreement.
226

227 Section 4.2. Notice of Developer's Default.
228

- 229 (a) The City shall notify Developer in writing of an alleged failure by the Developer to
230 comply with a provision of this Agreement, describing the alleged failure with
231 reasonable particularity. Developer shall, within thirty (30) days after receipt of the
232 notice or a longer period of time as the City may specify in the notice, either cure
233 the alleged failure or, in a written response to the City, either present facts and
234 arguments in refutation or excuse of the alleged failure or state that the alleged
235 failure will be cured and set forth the method and time schedule for accomplishing
236 the cure.
237
- 238 (b) The City shall determine: (i) whether a failure to comply with a provision has
239 occurred; (ii) whether the failure is excusable; and (iii) whether the failure has been
240 cured or will be cured by Developer. The Developer shall make available to the
241 City, if requested, any records, documents, or other information necessary to make
242 the determination, except to the extent that such information is protected by
243 attorney/client privilege.
244
- 245 (c) If the City determines that the failure has not occurred, or that the failure either has
246 been or will be cured in a manner and in accordance with a schedule reasonably
247 satisfactory to the City, or that the failure is excusable, the determination shall
248 conclude the investigation.
249
- 250 (d) If the City determines that a failure to comply with a provision has occurred and
251 that the failure is not excusable and has not been or will not be cured by Developer
252 in a manner and in accordance with a schedule reasonably satisfactory to the City,
253 then the City shall notify the Developer and may pursue any and all remedies it has
254 at law or equity.
255

256 Section 4.3. Notice of City's Default.
257

- 258 (a) Developer shall notify the City Manager in writing specifying any alleged failure
259 by the City to comply with a provision of this Agreement, describing the alleged
260 failure with reasonable particularity. The City shall, within thirty (30) days after
261 receipt of the notice or the longer period of time as Developer may specify in the
262 notice, either cure the alleged failure or, in a written response to Developer, either
263 present facts and arguments in refutation or excuse of the alleged failure or state
264 that the alleged failure will be cured and set forth the method and time schedule for
265 accomplishing the cure.
266

- (b) Developer shall determine: (i) whether a failure to comply with a provision has occurred; (ii) whether the failure is excusable; and (iii) whether the failure has been cured or will be cured by the City. The City shall make available to the Developer, if requested, any records, documents, or other information necessary to make the determination that are subject to the Public Information Act, Chapter 552, Texas Government Code.
- (c) If Developer determines that the failure has not occurred, or that the failure either has been or will be cured in a manner and in accordance with a schedule reasonably satisfactory to Developer, or that the failure is excusable, the determination shall conclude the investigation.
- (d) If Developer determines a failure to comply with a provision has occurred and that the failure is not excusable and has not been or will not be cured by the City in a manner and in accordance with a schedule reasonably satisfactory to Developer, then Developer shall notify the City and may pursue any and all remedies it has at law or equity.

Section 4.4. Remedies. In addition to all the rights and remedies provided under the laws of the State of Texas, because of the peculiar damage each party hereto might suffer by virtue of a default by another party, each party shall be entitled to the equitable remedy of specific performance or mandamus, as well as all other legal and equitable remedies available.

Section 4.5. Termination. This Agreement may be terminated by mutual agreement of the City and the Developer.

ARTICLE V ANNEXATION

Section 5.1. The Parties acknowledge that Developer is voluntarily requesting annexation of the Tract to occur upon the dissolution of the District and that this Agreement satisfies the requirements for a service agreement as required by Texas Local Government Code Section 43.0672.

Section 5.2. The City Council may after dissolution of the District and after a public hearing on the matter annex the Tract by adoption of an ordinance. Upon annexation of the Tract into the City, the City shall provide those municipal services to the annexed lands in the same manner as those services are provided to other areas of the City with similar characteristics of topography, land, use, and population density. Notwithstanding, the foregoing, the City agrees that it will not annex any portion of the Tract without Developer's consent until (1) the expiration or termination of this Agreement, or (2) the completion of at least 90% of the construction of the public infrastructure necessary to serve the Tract with water, wastewater, drainage facilities, road improvements, and other facilities eligible for reimbursement under the rules of TCEQ or other law, and either (i) bonds have been issued by the District to finance the eligible costs of all such infrastructure in accordance with the rules of the TCEQ, or (ii) the City has expressly agreed to assume the obligation to reimburse the Developer under the TCEQ rules.

313
314 Section 5.3. The Parties acknowledge that the foregoing annexation provisions have
315 been agreed upon pursuant to the authority set forth in Section 212.172 of the Texas Local
316 Government Code, which authorizes the governing body of a municipality to make a written
317 contract with an owner of land that is located in the extraterritorial jurisdiction of the municipality
318 to provide for the annexation of the land as a whole or in parts and to provide for the terms of
319 annexation, if annexation is agreed to by the parties, and further provides for the parties to such
320 agreement to specify the uses and development of the land before and after annexation, if
321 annexation is agreed to by the parties. The Parties acknowledge a written disclosure regarding
322 annexation, as established in the attached Exhibit D, was provided to the Developer pursuant to
323 Section 212.172(b-1) of the Texas Local Government Code.

324
325 Section 5.4. The voluntary request for annexation of the Tract shall survive the
326 termination and term of this Agreement.

327
328 Section 5.5. Section 43.0751, Texas Local Government Code (the “Act”), provides for the
329 negotiation and implementation of “strategic partnership agreements” between cities and
330 municipal utility districts. Upon assumption hereof and creation of the District, the developer
331 agrees to use good faith efforts to cause the District to enter into a strategic partnership agreement
332 with the City containing terms approved by both parties that are consistent with terms of this
333 Agreement.

334
335 ARTICLE VI
336 MISCELLANEOUS
337

338 Section 6.1. Sale of Tract; Assignability. Any Agreement by Developer to sell the
339 entirety or any portion of the Tract to a person intending to develop the tract or such portion thereof
340 (a “Successor Developer,” whether one or more) and any instrument of conveyance for the entirety
341 or any portion of the Tract to such Successor Developer shall recite and incorporate this Agreement
342 and provide that this Agreement be binding on such Successor Developer. This Agreement is not
343 intended to be, and shall not be, binding on the ultimate purchasers of fully developed residential
344 lots or fully developed residential parcels out of the Tract. This Agreement is assignable upon
345 written notice to the City; such notice of assignment shall be given within 30 days of an assignment
346 and such notice shall include evidence that the assignee has assumed the obligations under this
347 Agreement.

348
349 Section 6.2. Force Majeure. In the event a party is rendered unable, wholly or in part, by
350 force majeure, to carry out any of its obligations under this Agreement, it is agreed that on such
351 party’s giving notice and full particulars of such force majeure in writing to the other party as soon
352 as possible after the occurrence of the cause relied upon, then the obligations of the party giving
353 such notice, to the extent it is affected by force majeure and to the extent that due diligence is being
354 used to resume performance at the earliest practicable time, shall be suspended during the
355 continuance of any inability so caused to the extent provided, but for no longer period. Such cause
356 shall as far as possible be remedied with all reasonable dispatch.

The term “force majeure” as used herein shall include, but not be limited to, acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy or of terrorism, war, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, washouts, droughts, tornadoes, hurricanes, arrests and restraints of governments and people, suspension of issuance of permits by environmental agencies outside the control of any party, explosions, breakage or damage to machinery or pipelines and any other inability of any party similar to those enumerated and not within the control of the party claiming such inability.

Section 6.3. Law Governing. This Agreement shall be governed by the laws of the State of Texas, and no lawsuit shall be prosecuted on this Agreement except in a federal or state court of competent jurisdiction. Any disputes or proceedings arising out of this Agreement shall be subject to the exclusive jurisdiction of the Texas State courts in Guadalupe County, Texas.

Section 6.4. Non-Waiver of Immunity. Notwithstanding any other provision of this Agreement, the City, on behalf of itself, its officers, employees, and agents, does not waive or relinquish any immunity from liability, limitation of liability, or defense provided by the Constitution and the laws of the State of Texas as a result of its execution of this Agreement and the performance of the covenants contained herein.

Section 6.5. No Additional Waiver Implied. No waiver or waivers of any breach or default (or any breaches or defaults) by any party hereto of any term, covenant, condition, or liability hereunder, or the performance by any party of any duty or obligation hereunder, shall be deemed or construed to be a waiver of subsequent breaches or defaults of any kind, under any circumstances.

Section 6.6. Addresses and Notice. Unless otherwise provided in this Agreement, any notice, communication, request, reply, or advise (herein severally and collectively, for convenience, called “Notice”) herein provided or permitted to be given, made, or accepted by any party to another (except bills), must be in writing and may be given or be served by depositing the same in the United States mail postpaid and registered or certified and addressed to the party to be notified. Notice deposited in the mail in the manner hereinabove described shall be conclusively deemed to be effective, unless otherwise stated in this Agreement, from and after the expiration of three (3) days after it is deposited. Notice given in any such other manner shall be effective when received by the party to be notified. For the purpose of notice, addresses of the parties shall, until changed as hereinafter provided, be as follows:

If to the City, to:
City of New Braunfels
Attn: City Manager
550 Landa Street
New Braunfels, TX 78130

With a copy to the City Attorney:
City of New Braunfels
Attn: City Attorney
550 Landa Street

404 New Braunfels, TX 78130

405
406 If to the Developer, to:

407 _____
408 _____
409 _____
410 _____
411 _____
412 _____

413
414 With a copy to:

415 _____
416 _____
417 _____
418 _____

419
420 The Parties shall have the right from time to time and at any time to change their respective
421 addresses and each shall have the right to specify any other address by at least fifteen (15) days'
422 written notice to the other parties.
423

424 Section 6.7. Merger and Modification. This Agreement, including the exhibits that are
425 attached hereto and incorporated herein for all purposes, and, except as otherwise provided in this
426 Agreement, embodies the entire Agreement between the Parties relative to the subject hereof. This
427 Agreement shall be subject to change or modification only with the mutual written consent of both
428 Parties.
429

430 Section 6.8. Severability. The provisions of this Agreement are severable, and if any part
431 of this Agreement or the application thereof to any person or circumstances shall ever be held by
432 any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder
433 of this Agreement and the application of part of this Agreement to other persons or circumstances
434 shall not be affected thereby.
435

436 Section 6.9. Benefits of Agreement. This Agreement is for the benefit of the City and
437 Developer and shall not be construed to confer any benefit on any other person except as expressly
438 provided for herein.
439

440 Section 6.10. Recordation. The City shall record this Agreement and any amendments
441 thereof in the deed records of Guadalupe County. In addition, any assignments of this Agreement
442 shall be recorded in the deed records of Guadalupe County. This Agreement, when recorded, shall
443 be a covenant running with the land and binding upon the Tract, the parties and their assignees
444 during the term of this Agreement. However, this Agreement shall not be binding upon and shall
445 not constitute any encumbrance to title as to any purchaser of a tract or lot within the Tract who
446 does not intend to resell, subdivide, or develop the tract or lot in the ordinary course of business.
447

448 Section 6.11. Term. This Agreement shall be in force and effect from the Effective Date
449 and continue for a term of forty-five (45) years unless otherwise previously terminated pursuant

450 to some term or condition of this Agreement or by express written agreement by the City and
451 Developer.

452
453 Section 6.12. Cooperation. The City and Developer each agree to cooperate with each
454 other as may be reasonably necessary to carry out the intent of this Agreement, including but not
455 limited to, the execution of such further documents as maybe reasonably necessary.

456
457 Section 6.13. Authority for Execution. The City hereby certifies, represents and warrants
458 that the execution of this Agreement is duly authorized and adopted in conformity with the City
459 Charter and City Code. The Developer hereby certifies, represents and warrants that the execution
460 of this Agreement is duly authorized and adopted in conformity with the articles of incorporation
461 and bylaws or partnership agreement of such entity.

462
463 Section 6.14. Incorporation of Exhibits and Other Documents by Reference. All Exhibits
464 and other documents attached to or referred to in this Agreement are incorporated herein by
465 reference for the purposes set forth in this Agreement, except as otherwise provided.

466
467 (Signature Pages to Follow)
468

Executed by the Developer and the City to be effective on the Effective Date.

DEVELOPER

By: _____

By: _____

Name: _____

Title: _____

STATE OF TEXAS

§

§

COUNTY OF _____

§

This instrument was acknowledged before me this _____ day of _____, 2022,
by _____.

Notary Public, State of Texas

(NOTARY SEAL)

CITY OF NEW BRAUNFELS, TEXAS

ATTEST:

_____, City Secretary

APPROVED AS TO FORM:

_____, City Attorney

STATE OF TEXAS

COUNTY OF COMAL

§
§
§

This instrument was acknowledged before me this ____ day of _____, 2022, by
_____, Mayor, City of New Braunfels, on behalf of said City.

Notary Public, State of Texas

(NOTARY SEAL)



EXHIBIT B**PETITION FOR CONSENT TO THE CREATION
OF A MUNICIPAL UTILITY DISTRICT**

TO THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS:

HIGHLANDER NB ONE, LLC, a Texas limited liability company (the "Petitioner"), acting pursuant to the provisions of Chapters 49 and 54, Texas Water Code, respectfully petitions the City Council of the City of New Braunfels, Texas, for its written consent to the creation of a municipal utility district and would show the following:

I.

The name of the proposed District shall be GUADALUPE COUNTY MUNICIPAL UTILITY DISTRICT NO. 5 (the "District").

II.

The District shall be created and organized under the terms and provisions of Article XVI, Section 59 of the Constitution of Texas and Chapters 49 and 54, Texas Water Code, together with all amendments and additions thereto.

III.

The District shall contain an area of 299.778 acres of land, more or less, situated in Guadalupe County, Texas as described by metes and bounds in Exhibit A (the "Land"). The Land to be included in the District is within the extraterritorial jurisdiction of the City of New Braunfels, Texas (the "City"). All of the Land proposed to be included may properly be included in the District.

IV.

The Petitioner holds fee simple title to the Land. The Petitioner hereby represents that it owns a majority in value of the Land which is proposed to be included in the District, as indicated by the certificate of ownership provided by the Guadalupe Appraisal District.

V.

The Petitioner represents that there are no lienholders on the Land, except First Financial Bank, N.A., and that there are no residents on the Land.

VI.

The general nature of the work proposed to be done by the District at the present time is the purchase, design, construction, acquisition, maintenance, ownership, operation, repair, improvement and extension of a waterworks and sanitary sewer system for residential and commercial purposes, and the construction, acquisition, improvement, extension, maintenance and operation of works, improvements, facilities, plants, equipment and appliances helpful or necessary to provide more adequate drainage for the District, and to control, abate and amend local storm waters or other harmful excesses of waters, and such other purchase, construction, acquisition, maintenance, ownership, operation, repair, improvement and extension of such additional facilities, including roads, systems, and enterprises as shall be consistent with all of the purposes for which the District is created.

VII.

There is, for the following reasons, a necessity for the above-described work. The area proposed to be within the District is urban in nature, is within the growing environs of the City, and is in close proximity to populous and developed sections of Guadalupe County, Texas. There is not now available within the area, which will be developed for residential and commercial uses, an adequate waterworks system, sanitary sewer system, or drainage and storm sewer system, or roads. The health and welfare of the present and future inhabitants of the area and of the territories adjacent thereto require the purchase, design, construction, acquisition, ownership, operation, repair, improvement and extension of an adequate waterworks system, sanitary sewer system, and drainage and storm sewer system, or roads. A public necessity, therefore, exists for the creation of the District, to provide for the purchase, design, construction, acquisition, maintenance, ownership, operation, repair, improvement and extension of such waterworks system, sanitary sewer system, and drainage and storm sewer system, and roads to promote the purity and sanitary condition of the State's waters and the public health and welfare of the community.

VIII.

The Petitioner, by submission of this Petition, requests the City's consent to the creation of the District containing the Land under the same conditions as set forth in Exhibit "B," which is attached hereto and incorporated herein for all purposes. The Petitioner hereby covenants that if the requested consent to the creation of the District is given, the Petitioner will adopt and abide by said conditions.

IX.

A preliminary investigation has been made to determine the cost of the proposed District's waterworks system, sanitary sewer system, and drainage and storm sewer

system projects, and it is now estimated by the Petitioner, from such information as it has at this time, that such cost will be approximately \$54,310,000.

X.

A preliminary investigation has been made to determine the cost of the proposed District's road projects, and it is now estimated by the Petitioner, from such information as it has at this time, that such cost will be approximately \$22,850,000.

XI.

The total cost of the proposed District's projects is estimated by the Petitioner to be approximately \$77,160,000.

WHEREFORE, the Petitioner prays that this petition be heard and that the City Council duly pass and approve an ordinance or resolution granting the consent to the creation of the District and authorizing the inclusion of the Land within the District.

[EXECUTION PAGE FOLLOWS]

RESPECTFULLY SUBMITTED this 28th day of March, 2022.

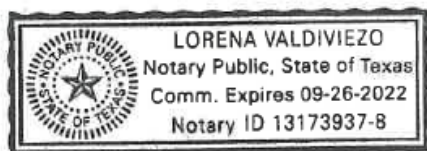
HIGHLANDER NB ONE, LLC
a Texas limited liability company

By: Highlander Real Estate Partners, LLC
a Delaware limited liability company
its Sole Manager

By: 
John Maberry, Manager

THE STATE OF TEXAS §
 §
COUNTY OF Travis §

This instrument was acknowledged before me on this 25th day of March, 2022, by John Maberry as Manager of Highlander Real Estate Partners, LLC, a Delaware limited liability company, Sole Manager of **HIGHLANDER NB ONE, LLC**, a Texas limited liability company, on behalf of said Texas limited liability company and Delaware limited liability company



(NOTARY SEAL)


Notary Public, State of Texas

EXHIBIT A

Mullins M.U.D.
299.778 acresMETES & BOUNDS DESCRIPTION

FIELD NOTES FOR A 299.778 ACRE TRACT OF LAND IN THE GREENBERRY PATE SURVEY NUMBER 46, ABSTRACT NO. 260, AND THE WILLIAM BRACKEN SURVEY, ABSTRACT NO. 52, GUADALUPE COUNTY, TEXAS; BEING A PORTION OF THE REMAINDER OF A CALLED 80 ACRE TRACT OF LAND AS DEVISED TO RENO DAMMANN UNDER THE LAST WILL AND TESTAMENT DATED JANUARY 27, 1931, AND RECORDED IN VOLUME 4, PAGE 387 OF THE PROBATE MINUTES OF GUADALUPE COUNTY, TEXAS, ALL OF A CALLED 65 ACRE TRACT OF LAND AS CONVEYED UNTO JACQUELINE E. SINGSAAS IN VOLUME 1770, PAGE 992 OF THE OFFICIAL PUBLIC RECORDS OF GUADALUPE COUNTY, TEXAS, AND ALL OF A CALLED 234.152 ACRE TRACT OF LAND AS CONVEYED UNTO JAMES D. MULLINS AND RANDY L. MULLINS IN DOCUMENT NUMBER 2014018594 OF THE OFFICIAL PUBLIC RECORDS OF GUADALUPE COUNTY, TEXAS; SAID 299.778 ACRE TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2-inch iron rod with a cap stamped "MATKIN-HOOVER" found on the original easterly right-of-way line of Farm to Market (F.M.) Road 725 as shown on the Texas Department of Transportation (TxDOT) right-of-way map dated June 1948, at the northwest corner of said 234.152 acre tract, the westerly corner of said remainder of the 80 acre tract, for a point on line and **POINT OF BEGINNING** of the herein described tract;

THENCE, N 13° 59' 56" W, coincident with the common line of the remainder of the 80 acre tract and said original right-of-way line, a distance of 52.99 feet to a 1/2-inch iron rod with a cap stamped "BGE INC" set for an angle point of the herein described tract;

THENCE, N 38° 24' 34" W, continuing coincident with said common line, a distance of 573.76 feet to a 1/2-inch iron rod with a cap stamped "BGE INC" set at the common corner of the remainder of the 80 acre tract and a called 10.808 acre tract of land as conveyed unto SCH Development, LLC in Document Number 202199006162 of the Official Public Records of Guadalupe County, Texas, for the northwesterly corner of the herein described tract;

THENCE, N 47° 36' 02" E, departing said original right-of-way line, coincident with the common line of the remainder of the 80 acre tract and said 10.808 acre tract, a distance of 17.92 feet to a 1/2-inch iron rod with a cap stamped "BGE INC" set at the common corner of the remainder of the 80 acre tract and the aforementioned 65 acre tract, for an angle point of the herein described tract;

THENCE, N 44° 15' 08" E, coincident with the common line of said 65 acre tract and the 10.808 acre tract, a distance of 735.62 feet to a 1/2-inch iron rod with a cap stamped "B&A" found for an angle point of the herein described tract;

THENCE, N 44° 10' 03" E, continuing coincident with said common line, passing at a distance of 1,430.32 feet a 1/2-inch iron rod found at the common corner of the 10.808 acre tract and a remainder of a called 50.536 acre tract of land as conveyed unto Southern Central Holdings, LLC in Volume 2678, Page 165 of the Official Public Records of Guadalupe County, Texas, and continuing coincident with the common line of the 65 acre tract and said remainder of the 50.536 acre tract, a total distance of 2,848.19 feet to a 1/2-inch iron rod with a cap stamped "BGE INC" set for an angle point of the herein described tract;

THENCE, N 44° 06' 05" E, continuing coincident with said common line, a distance of 726.58 feet to a 1/2-inch iron rod with a cap stamped "B&A" found at the common corner of the remainder of the 50.536 acre tract and a called 11.453 acre tract of land as conveyed unto Michael D. Kriewaldt in Volume 3119, Page 778 of the Official Public Records of Guadalupe County, Texas, for an angle point of the herein described tract;

THENCE, N 43° 53' 53" E, coincident with the common line of the 65 acre tract and said 11.453 acre tract, a distance of 850.30 feet to a 1/2-inch iron rod with a cap stamped "BGE INC" set on the apparent high bank of the Guadalupe River, for the most northerly corner of the herein described tract;

THENCE, along the apparent high bank of the Guadalupe River the following fifteen (15) courses:

- 1) S 07° 29' 32" W, a distance of 37.51 feet to a 1/2-inch iron rod with a cap stamped "BGE INC" set for an angle point of the herein described tract;
- 2) S 02° 43' 43" E, a distance of 70.21 feet to a 1/2-inch iron rod with a cap stamped "BGE INC" set for an angle point of the herein described tract;
- 3) S 01° 30' 40" E, a distance of 64.50 feet to a 1/2-inch iron rod with a cap stamped "BGE INC" set for an angle point of the herein described tract;
- 4) S 10° 50' 35" W, a distance of 97.22 feet to a 1/2-inch iron rod with a cap stamped "BGE INC" set for an angle point of the herein described tract;
- 5) S 22° 02' 48" W, a distance of 121.32 feet to a 1/2-inch iron rod with a cap stamped "BGE INC" set for an angle point of the herein described tract;
- 6) S 05° 50' 22" W, a distance of 52.21 feet to a 1/2-inch iron rod with a cap stamped "BGE INC" set for an angle point of the herein described tract;
- 7) S 18° 45' 56" W, a distance of 80.90 feet to a 1/2-inch iron rod with a cap stamped "BGE INC" set for an angle point of the herein described tract;
- 8) S 00° 05' 04" W, a distance of 42.82 feet to a 1/2-inch iron rod with a cap stamped "BGE INC" set for an angle point of the herein described tract;
- 9) S 05° 33' 40" W, a distance of 93.75 feet to a 1/2-inch iron rod with a cap stamped "BGE INC" set for an angle point of the herein described tract;
- 10) S 08° 34' 55" W, a distance of 74.18 feet to a 1/2-inch iron rod with a cap stamped "BGE INC" set for an angle point of the herein described tract;

- 11) S 13° 30' 17" W, a distance of 90.56 feet to a 1/2-inch iron rod with a cap stamped "BGE INC" set for an angle point of the herein described tract;
- 12) S 10° 57' 27" W, a distance of 53.24 feet to a 1/2-inch iron rod with a cap stamped "BGE INC" set for an angle point of the herein described tract;
- 13) S 08° 42' 17" W, a distance of 33.23 feet to a 1/2-inch iron rod with a cap stamped "BGE INC" set for an angle point of the herein described tract;
- 14) S 39° 56' 38" E, a distance of 28.02 feet to a 1/2-inch iron rod with a cap stamped "BGE INC" set for an angle point of the herein described tract;
- 15) S 04° 56' 42" E, a distance of 61.00 feet to a 1/2-inch iron rod found on the northwest line of the aforementioned 234.152 acre tract, at an apparent corner of the aforementioned 65 acre tract, for a re-entrant corner of the herein described tract;

THENCE, N 43° 46' 38" E, departing said apparent high bank, coincident with the common line of said 234.15 acre tract and the west line of the Guadalupe River, a distance of 67.21 feet to a calculated point at the northwest corner of the 234.152 acre tract, for a corner of the herein described tract;

THENCE, continuing coincident with the common line of the 234.152 acre tract and the Guadalupe River the following fourteen (14) courses:

- 1) S 17° 30' 18" E, a distance of 70.84 feet to a calculated point for an angle point of the herein described tract;
- 2) S 24° 51' 17" E, a distance of 272.78 feet to a calculated point for an angle point of the herein described tract;
- 3) S 35° 22' 59" E, a distance of 300.10 feet to a calculated point for an angle point of the herein described tract;
- 4) S 60° 42' 36" E, a distance of 160.17 feet to a calculated point for an angle point of the herein described tract;
- 5) N 81° 52' 28" E, a distance of 51.70 feet to a calculated point for an angle point of the herein described tract;
- 6) S 88° 52' 21" E, a distance of 225.72 feet to a calculated point for an angle point of the herein described tract;
- 7) S 82° 58' 18" E, a distance of 202.91 feet to a calculated point for an angle point of the herein described tract;
- 8) S 86° 57' 23" E, a distance of 265.58 feet to a calculated point for an angle point of the herein described tract;
- 9) N 87° 03' 22" E, a distance of 287.79 feet to a calculated point for an angle point of the herein described tract;

- 10) N 81° 03' 47" E, a distance of 621.83 feet to a calculated point for an angle point of the herein described tract;
- 11) N 54° 59' 02" E, a distance of 46.46 feet to a calculated point for an angle point of the herein described tract;
- 12) N 77° 53' 32" E, a distance of 76.28 feet to a calculated point for an angle point of the herein described tract;
- 13) S 78° 13' 33" E, a distance of 31.97 feet to a calculated point for an angle point of the herein described tract;
- 14) S 20° 33' 23" E, a distance of 43.87 feet to a calculated point on the northwesterly line of the remainder of a called 259.065 acre tract of land as conveyed unto Golf Association, LTD in Volume 1202, Page 428 of the Official Public Records of Guadalupe County, Texas, at the northeasterly corner of the 234.152 acre tract for the northeasterly corner of the herein described tract;

THENCE, S 43° 57' 01" W, coincident with the common line of the 234.152 acre tract and said remainder of the 259.065 acre tract, passing at a distance of 138.70 feet a 1/2-inch iron rod with a cap stamped "MATKIN-HOOVER" found on the apparent top of bank, and continuing coincident with said common line, passing at a distance of 268.26 feet the common corner of the remainder of the 259.065 acre tract and a called 94.053 acre tract of land as conveyed unto Foresight Golf Partners 2001, LTD in Volume 1576, Page 412 of the Official Public Records of Guadalupe County, Texas, and continuing coincident with the common line of the 234.152 acre tract and said 94.053 acre tract, a total distance of 5,949.63 feet to a 3-inch iron fence post filled with concrete found at the common corner of the 234.152 acre tract and a called 14.866 acre tract of land as conveyed unto Curtis Koehler in Document Number 201999022951 of the Official Public Records of Guadalupe County, Texas, for a southerly corner of the 234.152 acre tract and the herein described tract;

THENCE, N 22° 06' 44" W, coincident with the common line of the 234.152 acre tract and said 14.866 acre tract, a distance of 840.68 feet (Deed= N 22° 53' 56" W, 834.51 feet) to a 1/2-inch iron rod found at the common corner of the 234.152 acre tract and the 14.866 acre tract, for a re-entrant corner of the herein described tract;

THENCE, S 43° 46' 01" W, continuing coincident with said common line, a distance of 838.36 feet (Deed = S 43° 50' 17" W, 825.34 feet) to a 1/2-inch iron rod with a cap stamped "BGE INC" set on the current easterly right-of-way line of F.M. 725 as shown on the TxDOT right-of-way map dated August 1967, and November 2004, at the common corner of the 234.152 acre tract and the 14.866 acre tract for a southerly corner of the herein described tract;

THENCE, coincident with the common line of the 234.152 acre tract and said current right-of-way the following five (5) courses:

- 1) N 19° 30' 28" W, a distance of 476.63 feet to a 1/2-inch iron rod with a cap stamped "BGE INC" set for an angle point of the herein described tract;
- 2) N 16° 43' 28" W, a distance of 585.00 feet to a 1/2-inch iron rod with a cap stamped "BGE INC" set for an angle point of the herein described tract;

- 3) N 11° 56' 24" W, a distance of 201.93 feet to a 1/2-inch iron rod with a cap stamped "BGE INC" set for an angle point of the herein described tract;
- 4) N 03° 51' 15" E, a distance of 95.23 feet to a 1/2-inch iron rod with a cap stamped "BGE INC" set for an angle point of the herein described tract;
- 5) N 13° 59' 56" W, a distance of 85.28 feet to the **POINT OF BEGINNING** and containing 299.778 acres of land, more or less.

This document was prepared under 22 Texas administrative Code § 138.95 and does 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.

The Basis of Bearing recited herein is the Texas State Plane Coordinate System, South Central Zone, NAD 83. A plat of survey accompanies this description.



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BGE, Inc.
7330 San Pedro Ave, Suite 202
San Antonio TX 78216
Telephone: 210-581-3600
TBPELS Licensed Surveying Firm Number 10194490



1/4/2022

Date

Date: January 4, 2022
Job No: 9396-00

The District may issue bonds for any purpose authorized by law. Such bonds will expressly provide that the District reserves the right to redeem the bonds not later than any date subsequent to the fifteenth (15th) anniversary of the date of issuance without premium and (with the exception of refunding bonds) will be sold only after the taking of public bids therefor, and none of such bonds, other than refunding bonds, will be sold for less than 95% of par, provided that the net effective interest rate on bonds so sold, taking into account any discount or premium as well as the interest rate borne by such bonds, will not exceed two percent (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 that bids for the bonds will be received not more than forty-five (45) days after notice of sale of the bonds is given.

EXHIBIT C

DEVELOPMENT REGULATIONS

- a. Chapter 14 Buildings and Building Regulations of the City of New Braunfels Code of Ordinances.
- b. Chapter 118 Subdivision Platting of the City of New Braunfels Code of Ordinances

DRAFT

577 **EXHIBIT D**

578
579 **LOCAL GOVERNMENT CODE CHAPTER 212.172 MANDATORY DISCLOSURE**
580

581 A. At the time a municipality makes an offer to a landowner to enter into a development
582 agreement pursuant to Chapter 212.172, the municipality must provide the landowner with a
583 written disclosure that includes

- 584 (1) a statement that the landowner is not required to enter into the agreement;
585 (2) the authority under which the municipality may annex the land with references to
586 relevant law;
587 (3) a plain-language description of the annexation procedures applicable to the land;
588 (4) whether the procedures require the landowner's consent; and
589 (5) a statement regarding the municipality's waiver of immunity to suit.
590

591 B. You, the landowner, are not required to enter into this Agreement. The consent provided
592 by the City of New Braunfels for creation of the District was, however, predicated upon the District
593 and those who develop within the District abiding by certain conditions included within the
594 consent Resolution. One such condition was entering into a development agreement with the City
595 of New Braunfels.
596

597 C. But for the Agreement or a strategic partnership agreement with the District, the City of
598 New Braunfels may only annex your property as provided by Local Government Code Chapter 43
599 Subchapter C-3, Annexation of Area on Request of Owners; Subchapter C-4, Annexation of Areas
600 with Population of Less Than 200 by Petition; or, Subchapter C-5, Annexation of Areas with
601 Population of At Least 200 by Election.
602

603 D. Annexation Procedures, Generally
604

605 Local Government Code Chapter 43 Subchapter C-3, Annexation of Area on Request of Owners
606 requires that each owner of land in the area requests the annexation. Before adopting an ordinance
607 to complete an annexation under Subchapter C-3, the City would first negotiate with the
608 landowners for the provision of services to the area and hold one public hearing where persons
609 from within the area could be heard.
610

611 Subchapter C-4, Annexation of Areas with Population of Less Than 200 by Petition requires that,
612 before annexing an area with a population of less than 200, the City must first receive a petition

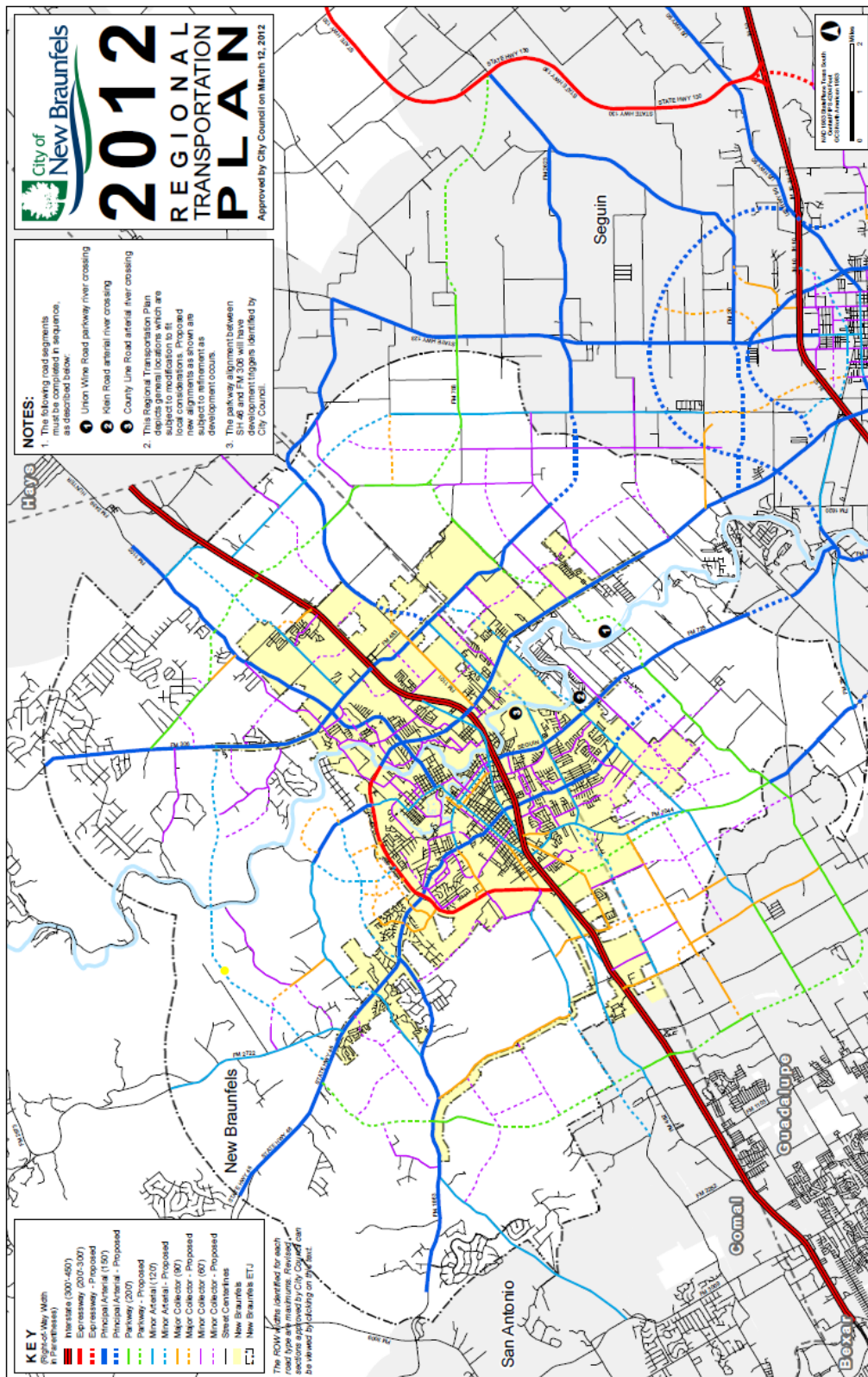
consenting to the annexation signed by more than 50% of the registered voters of the area or more than 50% of the owners of land in the area. The City must then pass a resolution detailing services to be provided within the area after annexation, mail notice of the proposed annexation along with the services to be provided, date of the public hearing to be held, and an explanation of the 180 day petition period.

Subchapter C-5, Annexation of Areas with Population of At Least 200 by Election requires that the municipality holds an election in the area proposed to be annexed at which the qualified voters of the area may vote on the question of the annexation and a majority of the votes received at the election approve the annexation; and if the registered voters of the area do not own more than 50 percent of the land in the area, the municipality obtains consent to annex the area through a petition signed by more than 50 percent of the owners of land in the area.

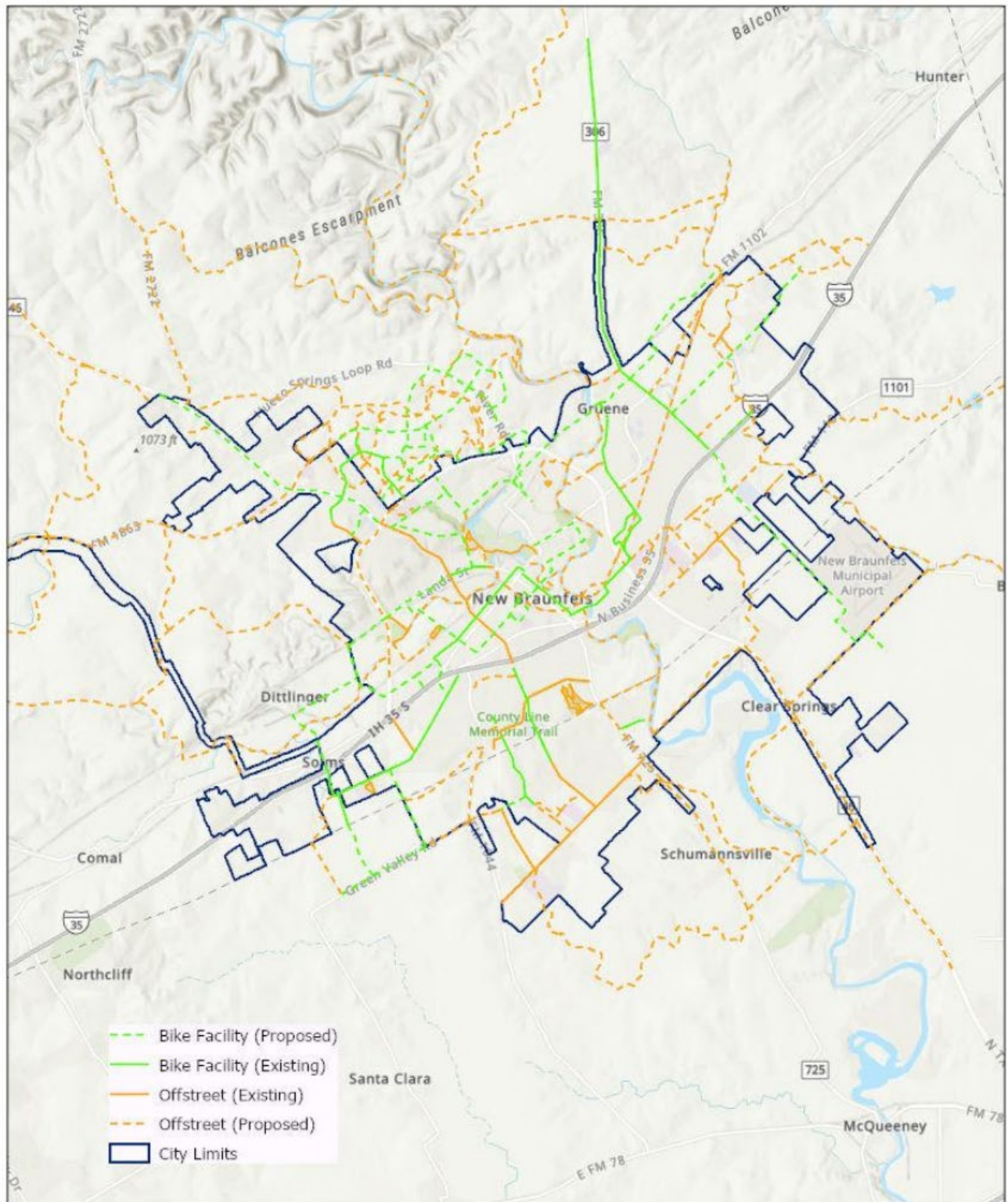
E. A municipality that enters a contract waives immunity from suit for the purpose of adjudicating a claim for breach of the contract. A development agreement entered into pursuant to Local Government Code Chapter 212.172 is a contract and constitutes a permit under Local Government Code Chapter 245.

649
650

EXHIBIT E



651



Hike and Bike Trail Plan



Document Path:
 \\file-03\users\parks\jacob@csd.com\Documents\ArcGIS\Projects\HBT Plan Map - Update\HBT Plan Map - Update.aprx Source: City of New Braunfels GIS
 Date: 7/10/2020

DISCLAIMER: This map and information contained in it were developed exclusively for use by the City of New Braunfels. Any use or reliance on this map by anyone else is at that party's risk and without liability to the City of New Braunfels, its officials or employees for any discrepancies, errors, or variances which may exist.