

RESOLUTION NO. _____

RESOLUTION OF CITY OF NEW BRAUNFELS, TEXAS, AMENDING RESOLUTION NO. 2021-R-38 BY EXTENDING THE DEADLINE FOR NEW BRAUNFELS UTILITIES AND SOUTHSTAR AT MAYFAIR, LP, DEVELOPER, TO EXECUTE A UTILITY AGREEMENT AS A CONDITION PRECEDENT TO THE CREATION OF COMAL COUNTY WATER IMPROVEMENT DISTRICT NO. 3, LOCATED IN THE CITY'S EXTRATERRITORIAL JURISDICTION.

WHEREAS, pursuant to Acts 2013, 83rd Leg., R.S., Ch. 1122, Sec. 1 (Chapter 8489 of the Texas Special District Local Laws Code) ("**Enabling Act**"), the Texas Legislature created Comal County Water Improvement District No. 3 ("**District**"), a water control and improvement district created pursuant to Article XVI, Section 59 of the Texas Constitution, with the powers and duties provided by Chapters 49 and 51 of the Texas Water Code;

WHEREAS, the District includes approximately 1,888 acres of real property in Comal County, Texas that was more fully described in Ex. A of Resolution 2021-R-38 ("**Property**"), which is located partially within the corporate limits and partially within the extraterritorial jurisdiction of the City of New Braunfels, Texas ("**City**");

WHEREAS, pursuant to Texas Local Government Code, Section 42.042, land within the extraterritorial jurisdiction of a city may not be included within a district without the written consent of such city;

WHEREAS, pursuant to Section 8489.004 of the Enabling Act, the temporary directors of the District may not hold an election confirming the creation of the District until the City has consented by ordinance or resolution to the creation of the District and to the inclusion of land within the District;

WHEREAS, the City and Southstar at Mayfair, LP ("**Developer**") entered into that certain dated ("**Development Agreement**"), which addresses, among other things, the development of the property within the District and the provision of water, wastewater, and other utilities to the District;

WHEREAS, pursuant to Section 8489.004(a)(2) of the Enabling Act, New Braunfels Utilities and Developer may enter into a utility agreement to govern the provision of water and wastewater services to the Property (the "**Utility Agreement**"), without which, the Development Agreement will be null and void;

WHEREAS, pursuant to the Development Agreement, Developer and the District requested the City's consent by resolution to the creation of the District and to the inclusion of the Property within the District under the terms and conditions below; and

WHEREAS, on June 28, 2021, the City Council adopted Resolution No. 2021-R-38 to grant its consent to the creation of the District contingent upon NBU and the Developer executing a Utility Agreement by October 1, 2021, however, the parties require additional time to negotiate and finalize that Utility Agreement; and

WHEREAS, the City Council desires to extend the deadline for the execution of the Utility Agreement from October 1, 2021, until January 1, 2022; and

WHEREAS, the Developer subsequently submitted a proposed sector plan application for Sector 1 on or about August 9, 2021.

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

1. That all of the matters and facts set out in the preamble hereof be true and correct.
2. That the City Council of the City hereby specifically gives its written consent, as provided by Texas Local Government Code, Section 42.042 and Texas Special District Local Laws Code, Section 8489.004, to the creation of Comal County Water Improvement District No. 3 and to the inclusion of Property within the District, subject to the following terms and conditions, with amendments indicated using strikethrough font for deletions and underlined font for new language:
 - a. The above consent is contingent on the Developer and New Braunfels Utilities negotiating and executing the Utility Agreement by ~~October 1, 2021~~ January 1, 2022.
3. Because the proposed Sector 1 Plan application was submitted prior to the full execution date of Development Agreement which includes the execution of the Utility Agreement, the Sector 1 Plan application is hereby stayed until full execution of said agreements and will not be submitted to the Planning Commission unless minimum sufficient time exists to provide the requisite notice for the Planning Commission hearing. The minimum sufficient time shall be no less than 20 days prior to the hearing date for the Planning Commission.

PASSED AND APPROVED on this ____ day of _____, 2021.

Mayor, City of New Braunfels, Texas

ATTEST:

City Secretary, City of New Braunfels, Texas

Exhibit A

(Property Description)