

RESOLUTION NO. 2021- R74

A RESOLUTION OF THE CITY OF NEW BRAUNFELS, TEXAS CONSENTING TO THE CREATION, AND INCLUSION OF LAND WITHIN, COMAL COUNTY MUNICIPAL UTILITY DISTRICT NO. 4

WHEREAS, the City of New Braunfels, Texas (the "City") has received a request for its consent to the creation of, and inclusion of land within, a municipal utility district (the "District") in the extraterritorial jurisdiction of the City pursuant to Section 54.016, Texas Water Code and Section 42.042, Texas Local Government Code, a copy of which request is attached hereto as Exhibit "A" (the "Petition"); and

WHEREAS, pursuant to Texas Water Code, Section 54.016, and Texas Local Government Code, Section 42.0425, land within the extraterritorial jurisdiction of a city may not be included within a district without the written consent of such city;

WHEREAS, the City has received a request for its consent to the inclusion of the tract of real property encompassing approximately 349.7 acres being more particularly described by metes and bounds and by survey in Exhibit "A" attached hereto (the "Land"), into the boundaries of the District;

WHEREAS, all of the Land is located within the extraterritorial jurisdiction of the City; and,

WHEREAS, the City Council of the City of New Braunfels desires to grant its written consent to the creation of the District and the inclusion of the Land within the District.

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

Section 1. The City of New Braunfels, Texas hereby consents to the creation of the District and inclusion of the Land within the District in accordance with Section 54.016, Texas Water Code, and Section 42.0425 of the Texas Local Government Code.

Section 2. As a condition of the City's consent to the creation of the District and inclusion of Land within the District, the developer of land within the District shall:

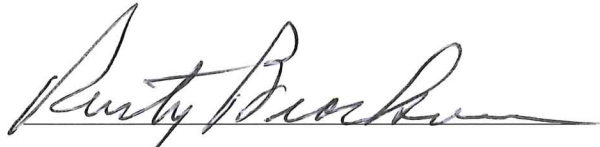
1. Enter into a development agreement with the City that includes, at a minimum, the following:
 - a. Residential lots within the District shall be a minimum of 1-acre in size, which will accommodate individual septic systems and shall align with New Braunfels Utility's goal of low-density development over the Edwards Aquifer Recharge Zone.
 - b. There shall be no package treatment plants for sewage within the District.
 - c. Master plans and plats within the District shall comply with the City's Regional Transportation Plan and Hike and Bike Trails Plan.

- d. Development within the District shall comply with the City's Subdivision Platting Ordinance.
 - e. Internal mid-block trail connections may count as block breaks for the maximum block length requirement (encouraging multi-modal transportation connections) for development within the District.
 - f. Parks and trails shall be dispersed throughout the development within the District rather than concentrated in one location, to enhance access and quality of life to all residents.
 - g. 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 to comply with the City's building, fire, etc. codes adopted at the time of permit application.
 - h. The developer of property within the District shall waive any Chapter 245 rights (vested rights) existing prior to entering into the development agreement with the City.
 - i. To minimize traffic and public safety concerns, homes within the District shall not front onto collector streets unless they have semicircular front driveways with more than one vehicular entrance.
 - j. Expiration of the District automatically triggers a voluntary annexation request with the City of New Braunfels; however, the City reserves the right to annex or not annex at any point thereafter.
 - k. The District may only issue bonds after the City and New Braunfels Utilities have reviewed and approved the issuance.
2. Commence communications with New Braunfels Utilities (NBU) on a potential agreement, and discussions on options for water provision. If the developer proceeds with a well and water distribution system to serve the future homes, the developer agrees:
- a. The design, construction and installation of the internal water distribution system shall be built in accordance with NBU standards.
 - b. The developer shall submit to NBU and the City their plan for long term maintenance of the water distribution infrastructure.
3. If a centralized sewer system is extended and made available to the property in the future, homeowners will be required to connect to the sewer system at their expense.

Section 3. This Resolution shall become effective from and after the date of its passage.

PASSED, ADOPTED AND APPROVED THIS 13th DAY OF DECEMBER 2021

CITY OF NEW BRAUNFELS, TEXAS

A handwritten signature in black ink, appearing to read "Rusty Brockman", written over a horizontal line.

RUSTY BROCKMAN, Mayor

ATTEST:

A handwritten signature in blue ink, appearing to read "Ckrobot", written over a horizontal line.

CAITLIN KROBOT, City Secretary

EXHIBIT "A" PG. 1

PETITION FOR CONSENT TO THE
CREATION OF A MUNICIPAL UTILITY DISTRICT

THE STATE OF TEXAS

§

COUNTY OF COMAL

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

The undersigned (herein referred to as the "Petitioners"), holders of title to all land within the territory hereinafter described by metes and bounds, and acting pursuant to Section 54.016, Texas Water Code, and Section 42.042, Texas Local Government Code, respectfully petition the City Council of the City of New Braunfels, Texas, for its written consent to the inclusion of land in, and the creation of, a conservation and reclamation district and would respectfully show the following:

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The name of the proposed district shall be Comal County Municipal Utility District No. 4 or some other name as required or permitted by law {the "District").

II.

The land shall be included within the District by creation and organization of the District as provided above. The District shall be organized under the terms and provisions of Article III, Section 52 and Article XVI, Section 59 of the Constitution of Texas, Chapters 49 and 54 of the Texas Water Code, and any special act of the Texas Legislature either creating the District or otherwise applicable thereto, together with all amendments and additions thereto.

III.

The District will contain approximately 348.7 acres of land, more or less, situated in Comal County, Texas. The land proposed to be included within the District is described by metes and bounds in Exhibit "A" attached hereto, and by survey sketch in Exhibit "B" attached hereto, and is located within the extraterritorial jurisdiction of the City of New Braunfels, Texas. All of the territory proposed to be included may properly be included in the District.

IV.

The undersigned are the owners of and hold title to all of the lands within the proposed District as indicated by the tax rolls of Comal County, Texas.

V.

The purposes of and the general nature of the work proposed to be done by the District shall be the

EXHIBIT "A" PG. 2

purchase, construction, acquisition, repair, extension and improvement of land, easements, works, improvements, facilities, plants, equipment and appliances necessary to:

1. provide a water supply for municipal and domestic uses;
2. collect, transport, process, dispose of and control all domestic or communal wastes whether in fluid, solid, or composite state;
3. gather, conduct, divert and control local storm water or other local harmful excesses of water in the District and the payment of organization expenses, operational expenses during construction and interest during construction;
4. design, acquire, construct, finance, improve, operate, and maintain macadamized, graveled, or paved roads, or improvements in aid of those roads; and
5. to provide such other facilities, systems, plants and enterprises as shall be consonant with the purposes for which the District is created and permitted under state law.

VI.

There is, for the following reasons, a necessity for the above-described work, services and improvements: The area proposed to be within the District will experience substantial and sustained residential growth. There is not now available within the area, which will be developed as a master-planned single-family residential, an adequate waterworks system, drainage and storm sewer system, or road system. The health and welfare of the present and future inhabitants of the area and of territories adjacent thereto require the construction, acquisition, maintenance, and operation of an adequate waterworks system and drainage and storm sewer system, and roadway system. A public necessity therefore exists for the organization, extension, improvement, maintenance, and operation of such waterworks system, drainage and storm sewer system, and road system, so as to promote the purity and sanitary condition of the State's waters and the public health and welfare of the community.

A preliminary investigation has been instituted to determine the cost of the project, and it is now estimated by the Petitioner, from such information as it has at this time, that the ultimate costs of the development contemplated will be approximately \$20,000,000. The project will be financed by the issuance of bonds by the District.

EXHIBIT "A" PG. 3

WHEREFORE, the Petitioners respectfully pray that this request be heard and that your Honorable Body duly pass and approve an ordinance or resolution granting the consent to the creation of the District and authorizing the inclusion of the land described herein within the District.

RESPECTFULLY SUBMITTED, this 11th day of November, 2021.

PETITIONERS:

Rhonda Vollbrecht
Rhonda Vollbrecht

ACKNOWLEDGEMENT

STATE OF TEXAS §
COUNTY OF Tarrant

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This instrument was acknowledged before me on the 11th day of November, 2021, by Rhonda Vollbrecht.

(Seal and Expiration)

Tera Jerulle
Notary Public, State of Texas

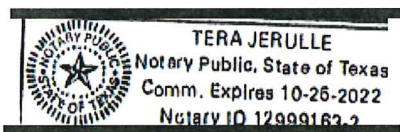
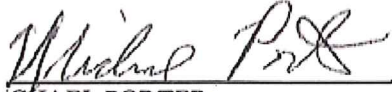


EXHIBIT "A" PG. 4



MICHAEL PORTER

ACKNOWLEDGEMENT

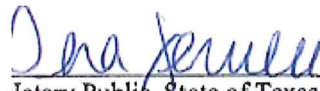
STATE OF TEXAS

COUNTY OF LOGAN

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This instrument was acknowledged before me on the 11 day of January, 2021, by Michael Porter.

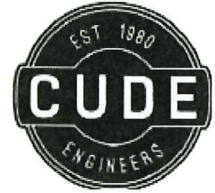
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Notary Public, State of Texas



EXHIBIT "A" PG. 5



LEGAL DESCRIPTION 349.7 ACRES OF LAND

349.7 ACRES OF LAND LOCATED IN THE PHILLIP ENGELBACH SURVEY 388, ABSTRACT 139, THE SA&MG RR CO SURVEY S86, ABSTRACT S82, THE GEORGE ULLRICH SURVEY 392, ABSTRACT 634, AND THE CONRAD SEABAUGH SURVEY 449, ABSTRACT 535, COMAL COUNTY, TEXAS AND OUT OF A CALLED 597.818 ACRES OF LAND AS DESCRIBED IN DOCUMENT 200106001597 OF THE OFFICIAL RECORDS OF COMAL COUNTY, TEXAS. SAID 349.7 ACRES BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING, AT A FOUND 1/2 INCH IRON ROD ON THE NORTH RIGHT-OF-WAY LINE OF F.M. 1863, AN 80-FOOT WIDE RIGHT-OF-WAY, AT A SOUTHWEST CORNER OF SAID 597.818 ACRE TRACT, AND THE EAST CORNER OF A CALLED 71.759 ACRE TRACT AS DESCRIBED IN VOLUME 704, PAGE 909 OF THE OFFICIAL RECORDS OF COMAL COUNTY, TEXAS;

THENCE, ALONG AND WITH THE COMMON LINE OF SAID 597.818 ACRE TRACT AND SAID 71.759 ACRE TRACT, THE FOLLOWING BEARINGS AND DISTANCES:

N 41°41'01" W, A DISTANCE OF 196.27 FEET TO A FOUND 1/2 INCH IRON ROD;

N 46°05'54" W, A DISTANCE OF 115.40 FEET TO A FOUND 1/2 INCH IRON ROD;

N S5°21'35" W, A DISTANCE OF 178.85 FEET TO A FOUND 1/2 INCH IRON ROD;

N 38°33'07" W, A DISTANCE OF 146.15 FEET TO A FOUND 1/2 INCH IRON ROD;

N 37°36'38" W, A DISTANCE OF 673.28 FEET TO A FOUND 1/2 INCH IRON ROD;

N 37°28'54" W, A DISTANCE OF 1122.80 FEET TO A FOUND 1/2 INCH IRON ROD AT THE NORTH CORNER OF SAID 71.759 ACRE TRACT AND THE EAST CORNER OF LOT 8 OF COMAL COUNTRY ESTATES UNIT 2 RECORDED IN VOLUME 2, PAGE 23 OF THE PLAT RECORDS OF COMAL COUNTY, TEXAS;

THENCE, ALONG AND WITH THE COMMON LINE OF SAID 597.818 ACRE TRACT AND SAID COMAL COUNTRY ESTATES UNIT 2, THE FOLLOWING BEARING AND DISTANCES:

N 36°56'32" W, A DISTANCE OF 846.53 FEET TO A FOUND 1/2 INCH IRON ROD, THE WEST CORNER OF SAID 597.818 ACRE TRACT;

N 52°32'46" E, A DISTANCE OF 2544.81 FEET TO A FOUND 1/2 INCH IRON ROD AT A NORTH CORNER OF SAID 597.818 ACRE TRACT, THE EAST CORNER OF SAID COMAL COUNTRY ESTATES UNIT 2 AND THE WEST LINE OF A CALLED S14.36 ACRE TRACT DESCRIBED IN DOCUMENT 9806007947 OF THE OFFICIAL RECORDS OF COMAL COUNTY, TEXAS;

THENCE, ALONG AND WITH THE COMMON LINE OF SAID 597.818 ACRE TRACT AND SAJO 514.36 ACRE TRACT, THE FOLLOWING BEARINGS AND DISTANCES:

S 35°40'24" E, A DISTANCE OF 124.85 FEET TO A SET 1/2 INCH IRON ROD WITH "CUDE" CAP;

S 35°00'07" E, A DISTANCE OF 311.11 FEET TO A FOUND 1/2 INCH IRON ROD;

EXHIBIT "A" PG. 1

CUDE ENGINEERS

SAN ANTONIO | AUSTIN | SAN MARCOS

4122 POND MILL ROAD STE 101
SAN ANTONIO, TEXAS 78231

PHONE: (210) 681-2951
CUDEENGINEERS.COM

TSPE NO 455
TSPELS NO 10048500

EXHIBIT "A" PG. 6

S 34°50'31" E, A DISTANCE OF 433.90 FEET TO A FOUND 1/2 INCH IRON ROD;

S 49°11'08" E, A DISTANCE OF 31.19 FEET TO A FOUND 1/2 INCH IRON ROD, THE WEST CORNER OF A CALLED 140.5 ACRE TRACT DESCRIBED IN DOCUMENT 201906042446 OF THE OFFICIAL PUBLIC RECORDS OF COMAL COUNTY, TEXAS;

THENCE, S 72°11'14" E, ALONG AND WITH THE SOUTH LINE OF SAID 140.5 ACRE TRACT, A DISTANCE OF 4420.09 FEET TO A FOUND 1/2 INCH IRON ROD, THE SOUTH CORNER OF SAID 140.5 ACRE TRACT;

THENCE, S 48°49'22" W, OVER AND ACROSS SAID 597.818 ACRE TRACT, A DISTANCE OF 3326.64 FEET TO A SET 1/2" IRON ROD WITH "CUDE" CAP ON THE SOUTH LINE OF SAID 597.818 ACRE TRACT AND THE NORTH RIGHT-OF-WAY LINE OF SAID F.M. 1863;

THENCE, ALONG AND WITH THE NORTH RIGHT-OF-WAY LINE OF SAID F.M. 1863, AND THE SOUTH LINE OF SAID 597.818 ACRE TRACT, THE FOLLOWING BEARINGS AND DISTANCES:

N 71°09'24" W, A DISTANCE OF 85.47 FEET TO A FOUND TXDOT TYPE III MONUMENT;

NORTHWESTERLY, ALONG A TANGENT CURVE TO THE LEFT, WITH A RADIUS OF 2904.79 FEET, A CENTRAL ANGLE OF 19°00'00", AN ARC LENGTH OF 963.26 FEET, AND A CHORD BEARING AND DISTANCE OF N 80°39'24" W, 958.86 FEET, TO A FOUND TXDOT TYPE III MONUMENT;

S 89°50'36" W, A DISTANCE OF 1015.50 FEET TO A FOUND TXDOT TYPE III MONUMENT;

THENCE, NORTHWESTERLY, ALONG A TANGENT CURVE TO THE RIGHT, WITH A RADIUS OF 2824.79 FEET, A CENTRAL ANGLE OF 03°02'32", AN ARC LENGTH OF 149.99 FEET, AND A CHORD BEARING AND DISTANCE OF N 88°38'08" W, 149.97 FEET, TO A POINT OF BEGINNING AND CONTAINING 349.7 ACRES OF LAND, MORE OR LESS.

BASIS OF BEARINGS IS THE TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE (4204), NAD 83 (2011).

 07-13-21

YURI V. BALMACEDA WHEELOCK
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 6815
CUDE ENGINEERS
4122 PONDHILL ROAD, SUITE 101
SAN ANTONIO, TEXAS 78231
TBPELS FIRM NO. 10048500
TBPE FIRM NO. 455
JOB NO. 03632.000

**EXHIBIT "A" PG. 2**

EXHIBIT "A" PG. 7

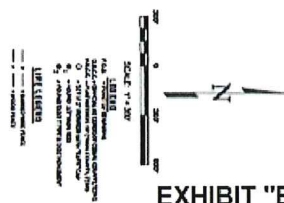
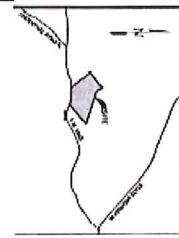
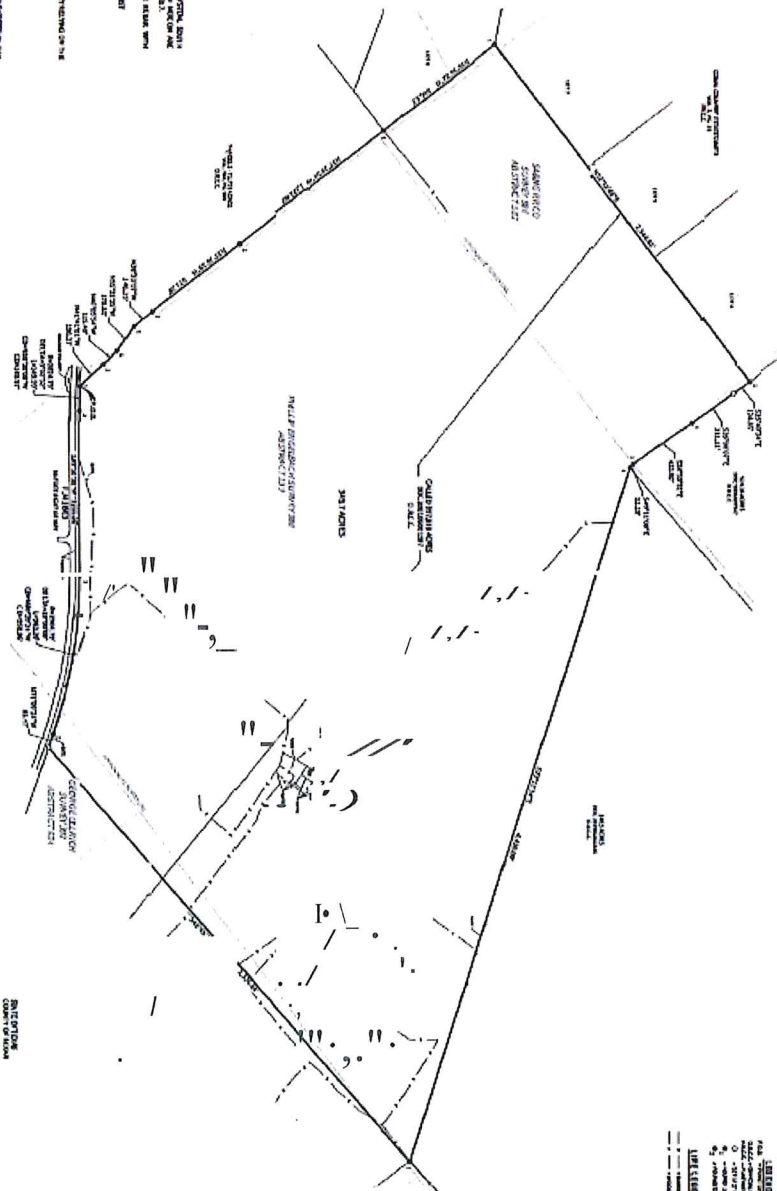
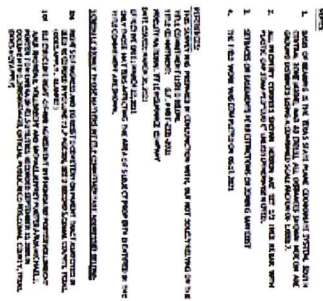


EXHIBIT "B"



T-1

DATE
JAN 7 1968
FBI - NEW YORK
RECEIVED
DEC 27
DEPT OF JUSTICE

343.7 ACRES OF LAND LOCATED IN THE PHILIP ENGELBACH SURVEY 318, ABSTRACT 819, THE SAINGER CO SURVEY 518, ABSTRACT 382, THE GEORGE LARICH SURVEY 382, ABSTRACT 618, AND THE GORDON REARDETH SURVEY 448, ABSTRACT 618, TIOGUA COUNTY, TEXAS AND 3 ACRES OF LAND ACRES OF LAND AS DESCRIBED IN DOCUMENT 20010691593 OF THE OFFICIAL RECORDS OF COMAL COUNTY, TEXAS.

