

Interlocal Cooperation Agreement Setting Boundary and Extraterritorial Jurisdiction

This Interlocal Cooperation Agreement Setting Boundary and Extraterritorial Jurisdiction with Exhibits A and B attached hereto (hereinafter "Agreement") is entered into by and between the City of New Braunfels Texas, a home rule municipality located in Comal, and Guadalupe Counties, Texas ("New Braunfels") and the City of Seguin, a home rule municipality located in Guadalupe County, Texas, ("Seguin") (collectively the "Cities") each acting through their duly authorized representatives.

WHEREAS, New Braunfels and Seguin recognize that both the public interest and good government are best served by long-term, mutual cooperative relationships between neighboring cities; and

WHEREAS, New Braunfels and Seguin are adjacent municipalities that share common boundaries, some of which split property under common ownership, and that are empowered by state law and the Constitution to establish their respective corporate boundaries; and

WHEREAS, agreements that establish boundaries within which specific duties are performed and standards applied in a convenient and cost effective manner to assure quality urban planning and development serve the best interest of all citizens; and

WHEREAS, an agreement regarding areas adjacent to the cities' respective extra-territorial jurisdiction, and potentially future corporate limits, will assist in the planning and development of those areas; and

WHEREAS, this Agreement will accomplish legitimate public purpose of both cities and will promote dependable urban planning that will benefit the environment and the public health, safety and welfare of our respective present and future citizens; and

WHEREAS, New Braunfels, through approval by its City Council's action on _____, has agreed to release approximately 1,362.86 acres identified in Exhibit "A" from the extraterritorial jurisdiction ("ETJ") of New Braunfels into the ETJ of Seguin ("New Braunfels Release Area") and

WHEREAS, Seguin, through approval by its City Council's action on _____, has agreed to release approximately 1,088.77 acres identified in Exhibit "A" from the ETJ of Seguin into the ETJ of New Braunfels ("Seguin Main Release Area") with an additional area comprising 745.38 acres (Seguin Secondary Release Area) to be held in trust and released to New Braunfels as New Braunfels increases its corporate limits such that their 3.5 mile ETJ encompasses the Secondary Release Area, or alternatively released when New Braunfels increases to 100,000 in population inside its city limits which

automatically increases its extraterritorial jurisdiction to 5 miles encompassing the Secondary Release Area or as otherwise authorized by state law

NOW THEREFORE, pursuant to Chapter 791 of the Texas Government Code and Chapter 42 of the Texas Local Government Code, as otherwise authorized and permitted by the City Charter of New Braunfels, the City Charter of Seguin and the laws of the State of Texas, for and in consideration of the covenants and conditions hereinafter described, and to the benefits to accrue to the citizens of the cities, and subject to each and every term and condition of this Agreement the parties contract, covenant and agree as follows:

SECTION 1 INCORPORATION OF PREMISES

The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

SECTION 2 TERM AND NATURE OF AGREEMENT

2.1. Effective Date. The effective date of this Agreement is the date when the fully executed Agreement is filed in the Official Records of Guadalupe County, Texas.

2.2 Intent and Purpose. The intent and purpose of this Agreement is to provide for effective and efficient urban planning and the exchange of ETJ as set out in this Agreement. The Cities further agree that this Agreement is not severable once the initial ETJ exchange is effective.

2.3 Map. References in this Agreement to any geographic areas refer to areas named and shown on the Map attached hereto as Exhibit "A" incorporated herein for all purposes.

SECTION 3 Release of ETJ

3.1. ETJ Exchange. New Braunfels and Seguin agree to mutually release portions of their ETJ as identified on the attached Exhibit "A," with New Braunfels releasing the New Braunfels Release Area and Seguin releasing the Seguin Main Release area. The line set out in Exhibit "A" shall be the boundary between the New Braunfels and Seguin ETJ from and after adoption.

3.2 Secondary Exchange. The area denoted on Exhibit "A" designated as the Seguin Secondary Release Area shall remain in the Seguin

ETJ until such time that the New Braunfels ETJ reaches the Secondary Release Area. The Secondary Release Area shall be automatically released to New Braunfels as each property therein fall within the 3.5 mile New Braunfels ETJ, or alternatively automatically released when New Braunfels increases to 100,000 in population inside its city limits which increases its extraterritorial jurisdiction to 5 miles encompassing the Secondary Release Area pursuant to Chapter 42 of the Texas Local Government Code or as otherwise authorized by state law.

3.3 Existing Development Agreement. Exhibit B to this Agreement is a Development Agreement that Seguin entered into with Mark and Beverly Carter. This property is located within the Secondary Release Area. The City of Seguin will maintain the validity of the Agreement until said area becomes encompassed into the New Braunfels ETJ at which time Seguin shall assign the Agreement to New Braunfels.

SECTION 4 GENERAL PROVISIONS

4.1 Governmental Immunity. Nothing in this Agreement shall be deemed to waive, modify or amend any legal defense available at law or in equity to either of the cities nor to create any legal rights or claims on behalf of any third party. Neither New Braunfels or Seguin waives, or alters to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas.

4.2. Third Party Beneficiaries. Nothing in this Boundary Contract shall be construed to create any right in any third party not a signatory to this Boundary Contract and the parties do not intend to create any third party beneficiaries by entering into this Boundary Contract.

4.3 Gender, Number and Headings. Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context requires otherwise. The heading and section numbers are for convenience only and shall not be considered in interpreting or construing this Agreement.

4.4 Execution in Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall be considered fully executed with all the parties have executed an identical counterpart.

4.5 Recordation. After execution this Agreement shall be filed of record in the Official Records of Guadalupe County and Comal County, Texas

IN WITNESS WHEREOF, the authorized representative of New Braunfels and Seguin have executed this Agreement.

City of New Braunfels

Robert Camareno, City Manager

STATE OF TEXAS §
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COUNTY OF COMAL §

THIS INSTRUMENT was acknowledged before me on this ____ day of _____, 2018, by Robert Camareno, City Manager of the City of New Braunfels, Texas on behalf of said city.

Notary Public for and in the State of Texas

City of Seguin

Douglas G. Faseler, City Manager

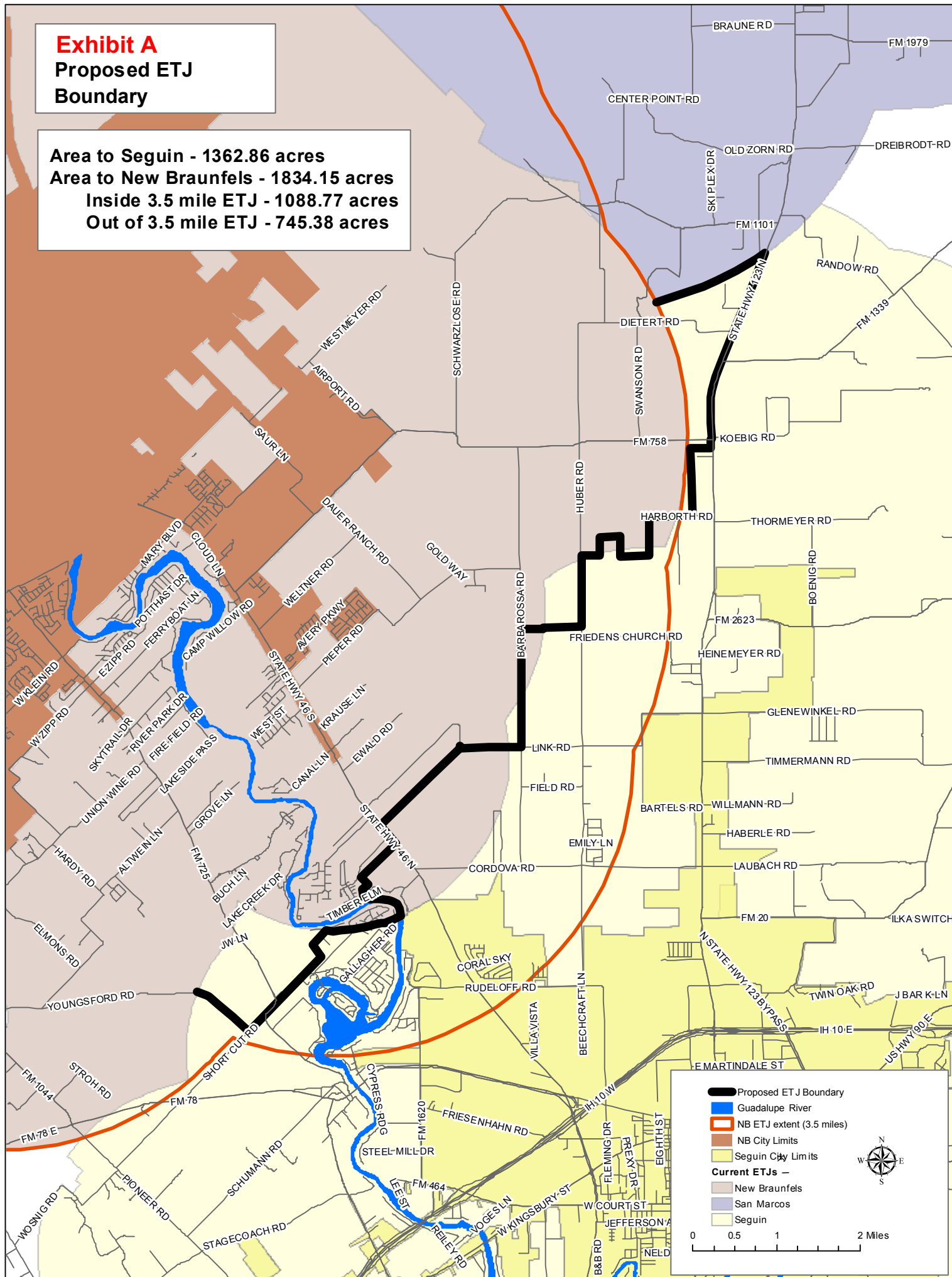
STATE OF TEXAS §
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COUNTY OF GUADALUPE §

THIS INSTRUMENT was acknowledged before me on this ____ day of _____, 2018, by Douglas G. Faseler, City Manager of the City of Seguin, Texas on behalf of said city.

Notary Public for and in the State of Texas

Exhibit A Proposed ETJ Boundary

Area to Seguin - 1362.86 acres
Area to New Braunfels - 1834.15 acres
Inside 3.5 mile ETJ - 1088.77 acres
Out of 3.5 mile ETJ - 745.38 acres



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STATE OF TEXAS§
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COUNTY OF GUADALUPE

Exhibit B

CHAPTER 43 TEXAS LOCAL GOVERNMENT CODE
DEVELOPMENT AGREEMENT

This Agreement is entered into pursuant to Sections 43.035 and 212.172 of the Texas Local Government Code by and between the City of Seguin, Texas (the "City") and the undersigned property owner(s) (the "Owner"). The term "Owner" includes all owners of the Property.

WHEREAS, the Owner owns a parcel of real property (the "Property") in Guadalupe County, Texas, which is more particularly and separately described in the attached Exhibit "A"; and

WHEREAS, the Owner desires to have the Property remain in the City's extraterritorial jurisdiction, in consideration for which the Owner agrees to enter into this Agreement; and

WHEREAS, this Agreement is entered into pursuant to Sections 43.035 and 212.172 of the Texas Local Government Code, in order to address the desires of the Owner and the procedures of the City; and

WHEREAS, the Owner and the City acknowledge that this Agreement is binding upon the City and the Owner and their respective successors and assigns for the term (defined below) of this Agreement; and

WHEREAS, this Development Agreement is to be recorded in the Real Property Records of Guadalupe County, Texas.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

Section 1. The City guarantees the continuation of the extraterritorial status of the Owner's Property, its immunity from annexation by the City, and its immunity from City property taxes, for the term of this Agreement, subject to the provisions of this Agreement. Except as provided in this Agreement, the City agrees not to annex the Property, agrees not to involuntarily institute proceedings to annex the Property, and further agrees not to include the Property in a statutory annexation plan for the Term of this Agreement.

Section 2. The Owner covenants and agrees not to use the Property for any use other than for agriculture, wildlife management, and/or timberland consistent with Chapter 23 of the Texas Tax Code, except for any now-existing single-family residential use of the property, without the prior written consent of the City.

The Owner covenants and agrees that the Owner will not file any type of subdivision plat or related development document for the Property with Guadalupe County or the City until the Property has been annexed into, and zoned by, the City.

During the duration of this Agreement, the Owner covenants and agrees not to construct, or allow to be constructed, any buildings on the Property that would require a building permit if the Property were in the city limits, subject to the exceptions set forth herein. The Owner reserves the right to construct, repair, or renovate buildings on the Property that are consistent with its agricultural use without obtaining a building permit or triggering annexation. Further, the Owner may construct an accessory structure to an existing single-family dwelling. Additionally, Owner reserves the right to construct a new residence on the Property, provided that Owner provides written notice of the construction to the City so that the parties can modify the description of the land subject to this Agreement.

The Owner acknowledges that each and every owner of the Property must sign this Agreement in order for the Agreement to take full effect, and the Owners who sign this Agreement covenants and agrees, jointly and severably, to indemnify, hold harmless, and defend the City against any and all legal claims, by any person claiming an ownership interest in the Property who has not signed the Agreement, arising in any way from the City's reliance on this Agreement.

Section 3. The Owner acknowledges that if any plat or related development document is filed in violation of this Agreement, or if the Owner commences development of the Property in violation of this Agreement, then in addition to the City's other remedies, such act will constitute a petition for voluntary annexation by the Owner, and the Property will be subject to annexation at the discretion of the City Council. The Owner agrees that such annexation shall be voluntary and the Owner hereby consents to such annexation as though a petition for such annexation had been tendered by the Owner.

If annexation proceedings begin pursuant to this Section, the Owner acknowledges that this Agreement serves as an exception to Local Government Code Section 43.052, requiring a municipality to use certain statutory procedures under an annexation plan. Furthermore, the Owner hereby waives any and all vested rights and claims that they may have under Section 43.002(a)(2) and Chapter 245 of the Texas Local Government Code that would otherwise exist by virtue of any actions Owner has taken in violation of Section 2 herein.

Section 4. Pursuant to Sections 43.035(b)(1)(B) of the Texas Local Government Code, the City is authorized to enforce all of the City's regulations and planning authority that do not materially interfere with the use of the Property for agriculture, wildlife management, or timber, in the same manner the regulations are enforced within the City's boundaries. The City states and specifically reserves its authority pursuant to Chapter 251 of the Texas Local Government Code to exercise eminent domain over property that is subject to a Chapter 43 and/or Chapter 212 development agreement.

Section 5. In accordance with Texas Local Government Code 212.172(d), the initial term of this Agreement (the "Initial Term") is fifteen (15) years from the date that the City Manager's signature to this Agreement is acknowledged by a public notary. Unless each party agrees to a subsequent term, the City may commence the annexation of the Property at the end of the Initial Term. In connection with annexation pursuant to this section, the Owners hereby waive any vested rights they may have under Section 43.002(a)(2) and Chapter 245 of the Texas Local Government Code that would otherwise exist by virtue of any plat or construction any of the owners may initiate during the time between the expiration of this Agreement and the institution of annexation proceedings by the City.

Section 6. Any person who sells or conveys any portion of the Property shall, prior to such sale or conveyance, give written notice of this Agreement to the prospective purchaser or grantee, and shall give written notice of the sale or conveyance to the City. Furthermore, the Owners and the Owners' heirs, successors, and assigns shall give the City written notice within 14 days of any change in the agricultural exemption status of the Property. A copy of either notice required by this section shall be forwarded to the City at the following address:

City of Seguin
Attn: City Manager
210 E. Gonzales St.
Seguin, TX 78155

Section 7. This Agreement shall run with the Property and be recorded in the Real Property Records of Guadalupe County, Texas.

Section 8. If a court of competent jurisdiction determines that any covenant of this Agreement is void or unenforceable, including the covenants regarding involuntary annexation, then the remainder of this Agreement shall remain in full force and effect.

Section 9. This Agreement may be enforced by any Owner or the City by any proceeding at law or in equity. Failure to do so shall not be deemed a waiver to enforce the provisions of this Agreement thereafter.

Section 10. No subsequent change in the law regarding annexation shall affect the enforceability of this Agreement or the City's ability to annex the properties covered herein pursuant to the terms of this Agreement.

Section 11. Venue for this Agreement shall be in Guadalupe County, Texas.

Section 12. This Agreement may be separately executed in individual counterparts and, upon execution, shall constitute one and same instrument.

Section 13. This Agreement shall survive its termination to the extent necessary for the implementation of the provisions of Sections 3, 4 and 5 herein.

Entered into this 15 day of October, 2012.



Owner

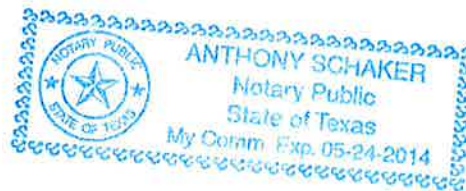
Printed Name: MART C CARTER

Beverly Carter
Owner

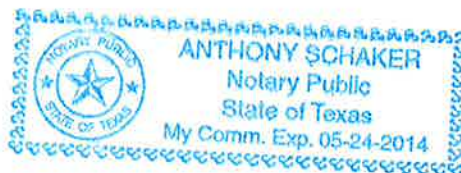
Printed Name: BEVERLY CARTER

Douglas G. Faseler
Douglas G. Faseler, City Manager
City of Seguin, Texas

THE STATE OF TEXAS §

COUNTY OF Guadalupe §This instrument was acknowledged before me on the 15th day of October, 2012,by MARY K. CARTER, Owner.Anthony Schaker
Notary Public, State of Texas

THE STATE OF TEXAS §

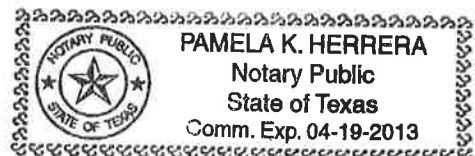
COUNTY OF Guadalupe §This instrument was acknowledged before me on the 15th day of October, 2012by Beverly Carter, Owner.Anthony Schaker
Notary Public, State of TexasNOTARY SEAL
NOT REPRODUCIBLE

THE STATE OF TEXAS §

COUNTY OF GUADALUPE §

This instrument was acknowledged before me on the 19th day of October, 2012,

by Douglas G. Faseler, City Manager, City of Seguin, Texas.

Pamela K. Herrera
Notary Public, State of TexasNOTARY SEAL
NOT REPRODUCIBLE

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This page has been added by the Guadalupe County Clerk's office to comply with the statutory requirement that the clerk shall stamp the recording information at the foot of the last page of the document.

This page becomes a part of the document identified by Document Number 12-20454 affixed on the first page of this document.

→ City of Seguin

FILED FOR RECORD

12 OCT 24 AM 10:20

TERESA KIEL
COUNTY CLERK GUADALUPE COUNTY

BY *[Signature]*

STATE OF TEXAS
COUNTY OF GUADALUPE
I certify this instrument was FILED on the
date and at the time stamped thereon and
was duly recorded in the Official Public
Records of Guadalupe County, Texas.



Teresa Kiel
TERESA KIEL
Guadalupe County Clerk