

RESOLUTION NO. 2021-R-38

RESOLUTION OF CITY OF NEW BRAUNFELS, TEXAS CONSENTING TO THE
CREATION OF COMAL COUNTY WATER IMPROVEMENT DISTRICT NO. 3,
WHICH IS IN THE EXTRATERRITORIAL JURISDICTION OF THE CITY

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 described in the attached Exhibit A (“**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, the City Council of the City desires to adopt this Resolution for the purpose of consenting to the creation of the District.

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:

- a. The above consent is contingent on the Developer and New Braunfels Utilities negotiating and executing the Utility Agreement by October 1, 2021.

PASSED AND APPROVED on this 28 day of June 2021.

ATTEST:

Mayor, City of New Braunfels, Texas

City Secretary, City of New Braunfels, Texas

Exhibit A

(Property Description)