

CHAPTER 1122

H.B. No. 3941

AN ACT

relating to the creation of the Comal County Water Improvement District No. 3; granting a limited power of eminent domain; providing authority to issue bonds; providing authority to impose assessments, fees, or taxes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8489 to read as follows:

CHAPTER 8489. COMAL COUNTY WATER IMPROVEMENT DISTRICT NO. 3

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8489.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "Commission" means the Texas Commission on Environmental Quality.

(3) "Director" means a board member.

(4) "District" means the Comal County Water Improvement District No. 3.

Sec. 8489.002. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8489.003. CONFIRMATION AND DIRECTORS' ELECTION REQUIRED. The temporary directors shall hold an election to confirm the creation of the district and to elect five permanent directors as provided by Section 49.102, Water Code.

1 Sec. 8489.004. CONSENT OF MUNICIPALITY AND DEVELOPMENT
2 AGREEMENT REQUIRED. (a) The temporary directors may not hold an
3 election under Section 8489.003 until each municipality in whose
4 corporate limits or extraterritorial jurisdiction the district is
5 located has:

6 (1) consented by ordinance or resolution to the
7 creation of the district and to the inclusion of land in the
8 district; and

9 (2) entered into a development agreement under Section
10 212.172, Local Government Code, with the retail public utility
11 owned by the municipality that addresses water and wastewater
12 issues and with the owners of land in the district that addresses
13 relevant issues, including:

14 (A) the provision of services other than water or
15 wastewater services to land in the district, including emergency
16 services and solid waste collection;

17 (B) traffic and roadway impacts caused by the
18 creation of the district;

19 (C) the amount of debt to be issued by the
20 district or any new district created by the division of the
21 district;

22 (D) a plan for dividing the district, including
23 the number, location, and size of any new districts created by the
24 division of the district;

25 (E) fire flow;

26 (F) a prohibition against a retail public
27 utility, as defined by Section 13.002, Water Code, other than the

1 retail public utility owned by the municipality, from providing
2 retail water or wastewater service to the property in the district
3 or a new district created by the division of the district except
4 with respect to any lands in the district or a new district created
5 by division of the district that are included within the
6 certificated service territory of another retail public utility, as
7 defined by a certificate of public convenience and necessity;

8 (G) an agreement to comply with the
9 municipality's most current building codes and ordinances, public
10 health and safety codes and ordinances, and environmental
11 regulation codes and ordinances; and

12 (H) an agreement to comply with the
13 municipality's most current land use regulations.

14 (b) The development agreement may not contain a provision
15 prohibited by Section 212.174, Local Government Code, in relation
16 to the provision of utility service.

17 (c) A confirmation election held in violation of this
18 section is void.

19 Sec. 8489.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a)
20 The district is created to serve a public purpose and benefit.

21 (b) The district is created to accomplish the purposes of:

22 (1) a municipal utility district as provided by
23 general law and Section 59, Article XVI, Texas Constitution; and

24 (2) Section 52, Article III, Texas Constitution, that
25 relate to the construction, acquisition, improvement, operation,
26 or maintenance of macadamized, graveled, or paved roads, or
27 improvements, including storm drainage, in aid of those roads.

1 Sec. 8489.006. INITIAL DISTRICT TERRITORY. (a) The
2 district is initially composed of the territory described by
3 Section 2 of the Act enacting this chapter.

4 (b) The boundaries and field notes contained in Section 2 of
5 the Act enacting this chapter form a closure. A mistake made in the
6 field notes or in copying the field notes in the legislative process
7 does not affect the district's:

8 (1) organization, existence, or validity;

9 (2) right to issue any type of bond for the purposes
10 for which the district is created or to pay the principal of and
11 interest on a bond;

12 (3) right to impose a tax; or

13 (4) legality or operation.

14 SUBCHAPTER B. BOARD OF DIRECTORS

15 Sec. 8489.051. GOVERNING BODY; TERMS. (a) The district is
16 governed by a board of five elected directors.

17 (b) Except as provided by Section 8489.052, directors serve
18 staggered four-year terms.

19 Sec. 8489.052. TEMPORARY DIRECTORS. (a) The temporary
20 board consists of:

21 (1) William McLean;

22 (2) Michael Morrill;

23 (3) Lance Sallis;

24 (4) Noah Shaffer; and

25 (5) Stephen Delgado.

26 (b) Temporary directors serve until the earlier of:

27 (1) the date permanent directors are elected under

1 Section 8489.003; or

2 (2) the fourth anniversary of the effective date of
3 the Act enacting this chapter.

4 (c) If permanent directors have not been elected under
5 Section 8489.003 and the terms of the temporary directors have
6 expired, successor temporary directors shall be appointed or
7 reappointed as provided by Subsection (d) to serve terms that
8 expire on the earlier of:

9 (1) the date permanent directors are elected under
10 Section 8489.003; or

11 (2) the fourth anniversary of the date of the
12 appointment or reappointment.

13 (d) If Subsection (c) applies, the owner or owners of a
14 majority of the assessed value of the real property in the district
15 may submit a petition to the commission requesting that the
16 commission appoint as successor temporary directors the five
17 persons named in the petition. The commission shall appoint as
18 successor temporary directors the five persons named in the
19 petition.

20 SUBCHAPTER C. POWERS AND DUTIES

21 Sec. 8489.101. GENERAL POWERS AND DUTIES. The district has
22 the powers and duties necessary to accomplish the purposes for
23 which the district is created.

24 Sec. 8489.102. MUNICIPAL UTILITY DISTRICT POWERS AND
25 DUTIES. The district has the powers and duties provided by the
26 general law of this state, including Chapters 49 and 54, Water Code,
27 applicable to municipal utility districts created under Section 59,

1 Article XVI, Texas Constitution.

2 Sec. 8489.103. AUTHORITY FOR ROAD PROJECTS. Under Section
3 52, Article III, Texas Constitution, the district may design,
4 acquire, construct, finance, issue bonds for, improve, operate,
5 maintain, and convey to this state, a county, or a municipality for
6 operation and maintenance macadamized, graveled, or paved roads, or
7 improvements, including storm drainage, in aid of those roads.

8 Sec. 8489.104. ROAD STANDARDS AND REQUIREMENTS. (a) A road
9 project must meet all applicable construction standards, zoning and
10 subdivision requirements, and regulations of each municipality in
11 whose corporate limits or extraterritorial jurisdiction the road
12 project is located.

13 (b) If a road project is not located in the corporate limits
14 or extraterritorial jurisdiction of a municipality, the road
15 project must meet all applicable construction standards,
16 subdivision requirements, and regulations of each county in which
17 the road project is located.

18 (c) If the state will maintain and operate the road, the
19 Texas Transportation Commission must approve the plans and
20 specifications of the road project.

21 Sec. 8489.105. WATER AND WASTEWATER INFRASTRUCTURE. (a)
22 The district may not construct a water or wastewater facility
23 unless any municipality in whose corporate limits or
24 extraterritorial jurisdiction the facility is located at the time
25 of construction has approved the plans and specifications of the
26 facility.

27 (b) On completion of a water or wastewater facility

described in a development agreement between the district and a municipality, the district shall convey the facility to the municipality or to the retail public utility owned by the municipality, free of all liens, claims, or encumbrances, in the form and manner acceptable to the municipality or retail public utility.

Sec. 8489.106. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE OR RESOLUTION AND DEVELOPMENT AGREEMENT. (a) The district shall comply with all applicable requirements of any ordinance or resolution that is adopted under Section 54.016 or 54.0165, Water Code, and that consents to the creation of the district or to the inclusion of land in the district.

(b) Notwithstanding other law, a municipality may place a condition or restriction on the creation of the district or inclusion of land in the district that is:

(1) expressly permitted by Sections 54.016(e) and (i), Water Code; or

(2) contained in the development agreement entered into under Section 212.172, Local Government Code, and this chapter.

Sec. 8489.107. DIVISION OF DISTRICT. (a) The district may be divided into two or more new districts only if the district:

(1) has no outstanding bonded debt; and

(2) is not imposing ad valorem taxes.

(b) This chapter applies to any new district created by the division of the district, and a new district has all the powers and duties of the district.

1 (c) Any new district created by the division of the district
2 may not, at the time the new district is created, contain any land
3 outside the area described by Section 2 of the Act enacting this
4 chapter.

5 (d) The board, on its own motion or on receipt of a petition
6 signed by the owner or owners of a majority of the assessed value of
7 the real property in the district, may adopt an order dividing the
8 district.

9 (e) The board may adopt an order dividing the district
10 before or after the date the board holds an election under Section
11 8489.003 to confirm the district's creation.

12 (f) An order dividing the district shall:

13 (1) name each new district;

14 (2) include the metes and bounds description of the
15 territory of each new district;

16 (3) appoint temporary directors for each new district;
17 and

18 (4) provide for the division of assets and liabilities
19 between or among the new districts.

20 (g) On or before the 30th day after the date of adoption of
21 an order dividing the district, the district shall file the order
22 with the commission and record the order in the real property
23 records of each county in which the district is located.

24 (h) Any new district created by the division of the district
25 shall hold a confirmation and directors' election as required by
26 Section 8489.003.

27 (i) Municipal consent to the creation of the district and to

1 the inclusion of land in the district granted under Section
2 8489.004 acts as municipal consent to the creation of any new
3 district created by the division of the district and to the
4 inclusion of land in the new district.

5 (j) Any new district created by the division of the district
6 must hold an election as required by this chapter to obtain voter
7 approval before the district may impose a maintenance tax or issue
8 bonds payable wholly or partly from ad valorem taxes.

9 Sec. 8489.108. LIMITATION ON ANNEXATION OF LAND BY
10 DISTRICT. The district or any new district created by the division
11 of the district may not annex land outside the area described by
12 Section 2 of the Act enacting this chapter without the consent of
13 each municipality in whose corporate limits or extraterritorial
14 jurisdiction any of the land in the area described by Section 2 of
15 the Act enacting this chapter is located.

16 Sec. 8489.109. MUNICIPAL ANNEXATION ADJACENT TO DISTRICT.
17 For the purposes of Section 43.021(2), Local Government Code, or
18 other law, including a municipal charter or ordinance relating to
19 annexation, an area adjacent to the district or any new district
20 created by the division of the district is considered adjacent to a
21 municipality in whose corporate limits or extraterritorial
22 jurisdiction any of the land in the area described by Section 2 of
23 the Act enacting this chapter is located.

24 Sec. 8489.110. LIMITS ON DISTRICT SERVICES. Inside the
25 corporate limits or extraterritorial jurisdiction of a
26 municipality, the district may not provide without the
27 municipality's consent:

1 (1) solid waste collection, treatment, or disposal
2 services; or

3 (2) fire protection services.

4 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

5 Sec. 8489.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The
6 district may issue, without an election, bonds and other
7 obligations secured by:

8 (1) revenue other than ad valorem taxes; or

9 (2) contract payments described by Section 8489.153.

10 (b) The district must hold an election in the manner
11 provided by Chapters 49 and 54, Water Code, to obtain voter approval
12 before the district may impose an ad valorem tax or issue bonds
13 payable from ad valorem taxes.

14 (c) The district may not issue bonds payable from ad valorem
15 taxes to finance a road project unless the issuance is approved by a
16 vote of a two-thirds majority of the district voters voting at an
17 election held for that purpose.

18 Sec. 8489.152. OPERATION AND MAINTENANCE TAX. (a) If
19 authorized at an election held under Section 8489.151, the district
20 may impose an operation and maintenance tax on taxable property in
21 the district in accordance with Section 49.107, Water Code.

22 (b) The board shall determine the tax rate. The rate may not
23 exceed the rate approved at the election.

24 Sec. 8489.153. CONTRACT TAXES. (a) In accordance with
25 Section 49.108, Water Code, the district may impose a tax other than
26 an operation and maintenance tax and use the revenue derived from
27 the tax to make payments under a contract after the provisions of

1 the contract have been approved by a majority of the district voters
2 voting at an election held for that purpose.

3 (b) A contract approved by the district voters may contain a
4 provision stating that the contract may be modified or amended by
5 the board without further voter approval.

6 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

7 Sec. 8489.201. AUTHORITY TO ISSUE BONDS AND OTHER
8 OBLIGATIONS. The district may issue bonds or other obligations
9 payable wholly or partly from ad valorem taxes, impact fees,
10 revenue, contract payments, grants, or other district money, or any
11 combination of those sources, to pay for any authorized district
12 purpose.

13 Sec. 8489.202. TAXES FOR BONDS. At the time the district
14 issues bonds payable wholly or partly from ad valorem taxes, the
15 board shall provide for the annual imposition of a continuing
16 direct ad valorem tax, without limit as to rate or amount, while all
17 or part of the bonds are outstanding as required and in the manner
18 provided by Sections 54.601 and 54.602, Water Code.

19 Sec. 8489.203. BONDS FOR ROAD PROJECTS. At the time of
20 issuance, the total principal amount of bonds or other obligations
21 issued or incurred to finance road projects and payable from ad
22 valorem taxes may not exceed one-fourth of the assessed value of the
23 real property in the district.

24 SECTION 2. The Comal County Water Improvement District No.
25 3 initially includes all the territory contained in the following
26 area:

27 TRACT ONE:

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1 1252.958 acres of land located in the Antonio Maria Esnaurizar
2 Eleven League Grant, Survey No. 1, Abstract No. 1, Subdivisions 13,
3 14, 15, 16, 17, 18, 19, 20, 21, 22, and 31, Comal County, Texas, and
4 being comprised of the following parcels: 1015.410 acre tract as
5 described as a 1015.701 acre tract by a SPECIAL WARRANTY DEED from
6 NORMANDY TERRACE, INC., a Texas Corporation, JAMES C. NORMAN, NANCY
7 NORMAN and SUSAN N. SMITH to LAMROCK 3-2001 LIMITED, a Texas limited
8 partnership, executed on April 30, 2001, and recorded in Document
9 No. 200106014380 of the Official Public Records of Comal County,
10 Texas, and an 85.763 acre tract comprised of a 57.133 acre tract as
11 described in a PARTITION DEED between LEE E. JOHNSON and wife JEN
12 MEI JOHNSON, executed on September 7, 1983, and recorded in Volume
13 351, Pages 931-939 of the Deed Records of Comal County, Texas, and a
14 28.500 acre tract as conveyed by SPECIAL WARRANTY DEED dated
15 November 3, 1998, and recorded in Document No. 9806027705 of the
16 Official Public Records of Comal County, Texas, and 28.477 acres of
17 land being out of and a part of a 28.632 acre tract as conveyed by
18 SPECIAL WARRANTY DEED from the RESOLUTION TRUST CORPORATION (RTC)
19 to M.W. KRAFT, JR., executed on January 14, 1983, and recorded in
20 Volume 874, Pages 72-76 of the Official Public Records of Comal
21 County, Texas, and 27.474 acres of land being out of and a part of a
22 27.611 acre tract as conveyed by GENERAL WARRANTY DEED from MICHAEL
23 PAYNTER and wife THETA SCHUG PAYNTER, to MARY EVELYN FREEMAN, filed
24 for record on June 10, 1985, and recorded in Volume 451, Pages
25 695-697 of the Official Public Records of Comal County, Texas, and
26 20.035 acres of land being out of and a part of a 26.6 acre tract as
27 conveyed by WARRANTY DEED WITH VENDOR'S LIEN from EGON KOHLENBERG

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1 ET UX to LAWRENCE KOHLENBERG, and filed for record on October 18,
2 1949, and recorded in Volume 92, Pages 43-44 of the Deed Records of
3 Comal County, Texas, and also being out of and a part of a 103.75
4 acre tract as conveyed by WARRANTY DEED WITH VENDOR'S LIEN from J.M.
5 SMITH to EGON KOHLENBERG ET UX, filed for record June 21, 1943, and
6 Recorded in Volume 77, Pages 442-443 of the Deed Records of Comal
7 County, Texas, and 74.803 acres of land being out of and a part of a
8 74.44 acre tract as conveyed by DEED OF GIFT from DORACILLE
9 KOHLENBERG, a widow, to KAREN WESCH and FAYE COOLEY, and filed for
10 record on March 4, 1993, and recorded in Volume 873, Pages 228-229
11 of the Official Public Records of Comal County, Texas, and being out
12 of and a part of a 103.75 acre tract as described in a WARRANTY DEED
13 with VENDOR'S LIEN, filed for record June 21, 1943, and recorded in
14 Volume 77, Pages 442-443 of the Deed Records of Comal County, Texas,
15 and 1.002 acres of land being out of and a part of a 74.44 acre tract
16 as conveyed by DEED OF GIFT from DORACHILLE KOHLENBERG, a widow, to
17 KAREN WESCH and FAYE COOLEY and filed for record on March 4, 1993,
18 and recorded in Volume 873, Pages 228-229 of the Official Public
19 Records of Comal County, Texas, and being out of and a part of a
20 103.75 acre tract as described in a WARRANTY DEED with VENDOR'S
21 LIEN, filed for record June 21, 1943, and recorded in Volume 77,
22 Pages 442-443 of the Deed Records of Comal County, Texas, and being
23 the same parcel designated as TRACT NO. 2 (1.003 acres) by DEED OF
24 GIFT from FAYE COOLEY to KAREN HESTAND, executed on March 14, 1996,
25 and recorded in Document No. 9606005988 of the Official Public
26 Records of Comal County, Texas, said 1252.958 acres of land being
27 more particularly described as follows:

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1 BEGINNING: at a set 1/2" iron pin with plastic cap in the Southeast
2 Right of Way Line of I.H.35 and being the Northernmost corner of
3 this parcel and said 1015.701 acre tract and the Westernmost corner
4 of a 69.569 acre tract as recorded in Document No. 9506481804 of the
5 Official Public Records of Comal County, Texas; and
6 THENCE: (1) SOUTH 45 deg. 00' 03" East, (all bearings in this
7 description are based on Grid North of the Texas Coordinate System,
8 NAD 83 (93) Zone 4204), a distance of 2148.79 feet along the
9 Northwest line of this parcel and said 1015.701 acre tract and the
10 Southwest line of said 69.569 acre tract to a found 2" iron pipe
11 being the Southernmost corner of said 69.569 acre tract;
12 THENCE: the following courses along the Northeast line of this
13 parcel and said 1015.701 acre tract and the Southwest line of an
14 18.092 acre tract as recorded in Volume 972, Page 676 of the
15 Official Public Records of Comal County, Texas, and the CUATRO
16 AMIGOS SUBDIVISION as recorded in Volume 11, Page 100 of the Map and
17 Plat Records of Comal County, Texas, and an 18.062 acre tract as
18 recorded in Document No. 9906009211 of the Official Public Records
19 of Comal County, Texas, and a 35.370 acre tract as recorded in
20 Volume 85, Pages 564-565 of the Deed Records of Comal County, Texas,
21 and a 27.00 acre tract as recorded in Volume 433, Page 473 of the
22 Deed Records of Comal County, Texas, and a 27.00 acre tract as
23 recorded in Volume 433, Page 475 of the Deed Records of Comal County
24 Texas, and a 27.00 acre tract as recorded in Volume 433, Page 471 of
25 the Deed Records of Comal County, Texas, and a 15.00 acre tract as
26 recorded in Volume 862, Page 417 of the Official Public Records of
27 Comal County, Texas:

1 (2) SOUTH 44 deg. 45' 25" East, a distance of 1675.16 feet to
2 a found 60d nail being an angle point;

3 (3) SOUTH 44 deg. 16' 57" East, a distance of 243.82 feet to
4 a found 60d nail being an angle point;

5 (4) SOUTH 46 deg. 04' 58" East, a distance of 1040.03 feet to
6 a found 60d nail being an angle point; and

7 (5) SOUTH 45 deg. 39' 04" East, a distance of 2159.39 feet to
8 a found 1/2" iron pin being the Northernmost corner of a 125.571
9 acre tract as recorded in Volume 744, Page 126 of the Official
10 Public Records of Comal County, Texas;

11 THENCE: the following courses along the Southeast line of this
12 parcel and said 1015.701 acre tract and the Northwest line of said
13 125.571 acre tract:

14 (6) SOUTH 47 deg. 05' 12" West, a distance of 1402.22 feet to
15 a found 1/2" iron pin being an angle point;

16 (7) SOUTH 41 deg. 11' 48" East, a distance of 52.89 feet to a
17 set 1/2" iron pin with plastic cap being an angle point; and

18 (8) SOUTH 29 deg. 55' 10" West, a distance of 3.91 feet to a
19 set 1/2" iron pin with plastic cap, being an interior corner of this
20 parcel and said 1015.701 acre tract and the Westernmost corner of
21 said 125.571 acre tract;

22 THENCE: (9) SOUTH 44 deg. 18' 16" East, a distance of 759.93 feet
23 along the Northeast line of this parcel and said 1015.701 acre tract
24 and the Southwest line of said 125.571 acre tract to a set 1/2" iron
25 pin with plastic cap being an angle point; and

26 (10) SOUTH 44 deg. 50' 59" East, a distance of 2402.27 feet
27 along the Northeast line of this parcel and said 1015.701 acre tract

1 and the Southwest line of said 125.571 acre tract to a found 1/2"
2 iron pin being the Northernmost corner of a 2.301 acre tract as
3 recorded in Volume 341, Page 63 of the Deed Records of Comal County,
4 Texas;

5 THENCE: the following courses along the Southeast line of this
6 parcel and said 1015.701 acre tract and the Northwest line of said
7 2.301 acre tract and a 2.00 acre tract as recorded in Volume 62,
8 Page 862 of the Deed Records of Comal County, Texas:

9 (11) SOUTH 44 deg. 34' 13" West, a distance of 633.91 feet to
10 a found 1/2" iron pin being an angle point; and

11 (12) SOUTH 02 deg. 51' 44" East, a distance of 89.86 feet to
12 a set 1/2" iron pin with plastic cap being the Southeast corner of
13 this parcel and said 1015.701 acre tract and the Southwest corner of
14 said 2.00 acre tract and being in the North Right of Way Line of F.M.
15 1101, and being a point of curvature;

16 THENCE: the following courses along the South line of this parcel
17 and said 1015.701 acre tract and the North Right of Way Line of F.M.
18 1101:

19 (13) 493.60 feet along the arc of a curve to the right,
20 having a radius of 3769.80 feet, and a central angle of 07 deg. 30'
21 07", and whose chord bears South 84 deg. 31' 13" West, a distance of
22 493.25 feet to a found concrete highway monument (Type I);

23 (14) SOUTH 88 deg. 19' 44" West, a distance of 800.02 feet to
24 a found concrete highway monument (Type I) being an angle point;

25 (15) SOUTH 88 deg. 19' 51" West, a distance of 1598.80 feet
26 to a found concrete highway monument (Type I) being an angle point;

27 (16) NORTH 86 deg. 11' 44" West, a distance of 295.61 feet to

1 a found concrete monument (Type I) being an angle point;

2 (17) SOUTH 88 deg. 44' 07" West, a distance of 169.63 feet to
3 a found concrete highway monument (Type I) being an angle point; and

4 (18) SOUTH 79 deg. 04' 08" West, a distance of 298.47 feet to
5 a found steel fence post being the Southwest corner of said 1015.701
6 acre tract and the Easternmost corner of an 119.882 acre tract as
7 recorded in Volume 1015, Page 444 of the Official Public Records of
8 Comal County, Texas;

9 THENCE: the following courses along the Southwest line of this
10 parcel and said 1015.701 acre tract and the Northeast line of said
11 119.882 acre tract:

12 (19) NORTH 45 deg. 28' 52" West, a distance of 1565.19 feet
13 to a found 1/4" iron pin being an interior corner of this parcel and
14 said 1015.701 acre tract;

15 (20) SOUTH 57 deg. 43' 21" West, a distance of 155.81 feet to
16 a found fence post being an angle point;

17 (21) SOUTH 57 deg. 21' 38" West, a distance of 836.82 feet to
18 a found 3/8" iron pin being an exterior corner of this parcel and
19 said 1015.701 acre tract;

20 (22) NORTH 44 deg. 02' 14" West, a distance of 507.09 feet to
21 a found fence post being an angle point; and

22 (23) NORTH 45 deg. 03' 47" West, a distance of 469.71 feet to
23 a found 3/8" iron pin being the Easternmost corner of a 57.133 acre
24 tract as recorded in Volume 351, Pages 931-939 of the Deed Records
25 of Comal County, Texas; and

26 THENCE: (24) SOUTH 56 deg. 54' 03" West, a distance of 1110.45
27 feet along the Southeast line of this parcel and said 57.133 acre

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1 tract and said 28.500 acre tract and the Northeast line of said
2 119.882 acre tract to a found 1/2" iron pin being the Southernmost
3 corner of said 28.500 acre tract and the Easternmost corner of a
4 28.632 acre tract as recorded in Volume 874, Pages 72-76 of the Deed
5 Records of Comal County, Texas;

6 THENCE: (25) SOUTH 56 deg. 54' 03" West, a distance of 439.45 feet
7 along the Southeast line of this parcel and said 28.632 acre tract
8 and the Northwest line of said 119.882 acre tract to a found 1/2"
9 iron pin being the Southernmost corner of said 28.632 acre tract and
10 the Easternmost corner of a 27.611 acre tract as recorded in Volume
11 451, Pages 695-697 of the Deed Records of Comal County, Texas;

12 THENCE: (26) SOUTH 56 deg. 53' 33" West, a distance of 320.67 feet
13 along the Southeast line of this parcel and said 27.611 acre tract
14 and the Northwest line of said 119.882 acre tract to a found 3/8"
15 iron pin in the Northeast line of a 74.44 acre tract as recorded in
16 Volume 873, Pages 228-229 of the Official Public Records of Comal
17 County, Texas, and being the Southernmost corner of this parcel and
18 said 27.611 acre tract;

19 THENCE: (27) SOUTH 44 deg. 49' 00" East, a distance of 291.65 feet
20 along the Northeast line of this parcel and said 74.44 acre tract
21 and the Southwest line of said 119.882 acre tract to a wood corner
22 post being the Easternmost corner of said 74.44 acre tract;

23 THENCE: (28) SOUTH 45 deg. 08' 03" West, a distance of 1414.62
24 feet along the Southeast line of this parcel and said 74.44 acre
25 tract and the Northwest line of a 49.18 acre tract as recorded in
26 Document No. 200006018425 of the Official Public Records of Comal
27 County, Texas, and a 3.00 acre tract as recorded in Volume 512, Page

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1 254 of the Deed Records of Comal County, Texas, to a set 1/2" iron
2 pin with plastic cap in the Northeast Right of Way Line of
3 Kohlenberg Road, and being the Southernmost corner of said 74.44
4 acre tract and the Westernmost corner of said 3.000 acre tract;
5 THENCE: (29) NORTH 44 deg. 37' 29" West, a distance of 1423.84
6 feet along the Southwest line of this parcel and said 74.44 acre
7 tract and said 103.75 acre tract and the Northeast Right of Way Line
8 of Kohlenberg Road to a set 1/2" iron pin with plastic cap being the
9 Southernmost corner of a 1.736 acre tract and designated as TRACT
10 NO. 1, and recorded in Document No. 9606005988 of the Official
11 Public Records of Comal County, Texas;
12 THENCE: (30) NORTH 33 deg. 57' 40" East, a distance of 411.84 feet
13 along the Northwest line of this parcel and the Southeast line of
14 said 1.736 acre tract to a found 3/8" iron pin being the Easternmost
15 corner of this parcel;
16 THENCE: (31) NORTH 68 deg. 19' 31" West, a distance of 242.07 feet
17 along the Southwest line of this parcel and the Northeast line of
18 said 1.736 acre tract to a found 1/2" iron pin being the
19 Northernmost corner of said 1.736 acre tract; and
20 THENCE: (32) SOUTH 22 deg. 37' 45" West, a distance of 332.23 feet
21 along the Southeast line of this parcel and the Northwest line of
22 said 1.736 acre tract to a found 1/2" iron pin in the Northeast
23 Right of Way Line of Kohlenberg Road, and being the Westernmost
24 corner of said 1.736 acre tract;
25 THENCE: the following courses along the Southwest line of this
26 parcel and said 74.44 acre tract and the Northeast Right of Way Line
27 of said Kohlenberg Road, and the cutback Right of Way Line to

1 I.H.35:
2 (33) NORTH 44 deg. 37' 29" West, a distance of 399.53 feet to
3 a found concrete highway monument (Type I) and being an angle point;
4 (34) NORTH 34 deg. 38' 01" West, a distance of 102.61 feet to
5 a found concrete highway monument (Type I) being an angle point;
6 (35) NORTH 44 deg. 39' 10" West, a distance of 149.81 feet to
7 a found concrete highway monument (Type I) being an angle point;
8 (36) NORTH 32 deg. 12' 31" West, a distance of 174.23 feet to
9 said 74.44 acre tract and the Southernmost corner of a 19.31 acre
10 tract as recorded in Volume 92, Pages 43-44 of the Deed Records of
11 Comal County, Texas;
12 (37) NORTH 32 deg. 12' 31" West, a distance of 48.81 feet to
13 a found concrete highway monument (Type I) being an angle point;
14 (38) NORTH 17 deg. 45' 14" West, a distance of 210.69 feet to
15 a found concrete highway monument (Type I) being an angle point;
16 (39) NORTH 06 deg. 34' 20" West, a distance of 302.39 feet to
17 a found concrete highway monument (Type I) being an angle point; and
18 (40) NORTH 58 deg. 18' 56" West, a distance of 173.56 feet to
19 a found concrete highway monument (Type I) at the intersection of
20 the Southeast Right of Way Line of I.H. 35 with the Northeast
21 cutback line of Kohlenberg Road and being the Westernmost corner of
22 this parcel and said 19.31 acre tract;
23 THENCE: (41) NORTH 31 deg. 26' 12" East, a distance of 1091.64
24 feet along the Northwest line of this parcel and the Southeast Right
25 of Way Line of said I.H.35 to a set 1/2" iron pin with plastic cap
26 being the Northernmost corner of this parcel and the Westernmost
27 corner of a 3.560 acre tract as recorded in Document No.

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1 200406003961 of the Official Public Records of Comal County, Texas;
2 THENCE: (42) SOUTH 45 deg. 19' 36" East, a distance of 610.43 feet
3 along the Northeast line of this parcel and said 19.31 acre tract
4 and said 103.75 acre tract and the Southwest line of said 3.560 acre
5 tract to a found 1/2" iron pin being the Southernmost corner of said
6 3.560 acre tract;
7 THENCE: (43) NORTH 38 deg. 14' 02" East, a distance of 296.28 feet
8 along the Northwest line of this parcel and said 27.611 acre tract
9 and the Southeast line of said 3.560 acre tract to a found 1/2" iron
10 pin being the Easternmost corner of said 3.560 acre tract;
11 THENCE: (44) NORTH 53 deg. 45' 08" West, a distance of 631.50 feet
12 along the Southwest line of this parcel and said 27.611 acre tract
13 and the Northeast line of said 3.560 acre tract to a found 1/2" iron
14 pin in the Southeast Right of Way Line of said I.H. 35, and being the
15 Northernmost corner of said 3.560 acre tract;
16 THENCE: (45) NORTH 31 deg. 26' 12" East, a distance of 245.64 feet
17 along the Northwest line of this parcel and said 27.611 acre tract
18 and the Southeast Right of Way Line of said I.H. 35 to a found 1/2"
19 iron pin being the Westernmost corner of the remainder of a 2.35
20 acre tract as recorded in Volume 293, Pages 371-373 of the Deed
21 Records of Comal County, Texas;
22 THENCE: (46) SOUTH 41 deg. 20' 52" East, a distance of 507.94 feet
23 along the Northeast line of this parcel and said 27.611 acre tract
24 and the Southwest line of said 2.35 acre tract to a found 1/2" iron
25 pin being the Southernmost corner of said 2.35 acre tract;
26 THENCE: (47) NORTH 53 deg. 30' 10" East, a distance of 151.22 feet
27 along the Northwest line of this parcel and said 27.611 acre tract

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1 and the Southeast line of said 2.35 acre tract to a found 1/2" iron
2 pin being the Easternmost corner of said 2.35 acre tract and the
3 Southwest line of said 28.632 acre tract;
4 THENCE: (48) NORTH 41 deg. 10' 27" West, a distance of 567.95 feet
5 along the Southwest line of this parcel and said 28.632 acre tract
6 and the Northeast line of said 2.35 acre tract to a found 1/2" iron
7 pin in the Southeast Right of Way Line of I.H.35;
8 THENCE: (49) NORTH 31 deg. 26' 12" East, a distance of 249.72 feet
9 along the Northwest line of this parcel and said 28.632 acre tract
10 and the Southeast Right of Way Line of I.H.35 to a set 1/2" iron pin
11 with plastic cap being a point of curvature;
12 THENCE: (50) 152.44 feet along the arc of a curve to the right,
13 having a radius of 22784.31 feet, and a central angle of 00 deg. 23'
14 00", and whose chord bears North 31 deg. 37' 42" East, a distance of
15 152.44 feet to a found concrete highway monument being a point of
16 tangency;
17 THENCE: (51) NORTH 31 deg. 50' 19" East, a distance of 263.09 feet
18 along the Northwest line of this parcel and said 28.500 acre tract
19 and the Southeast Right of Way Line of I.H.35 to a found 1/2" iron
20 pin being the Northernmost corner of said 28.500 acre tract and the
21 Westernmost corner of said 57.133 acre tract;
22 THENCE: (52) NORTH 31 deg. 50' 19" East, a distance of 663.99 feet
23 along the Northwest line of this parcel and said 57.133 acre tract
24 and the Southeast Right of Way Line of I.H.35 to a found 1/2" iron
25 pin being the Northernmost corner of said 57.133 acre tract and the
26 Westernmost corner of said 1015.707 acre tract;
27 THENCE: the following courses along the Northwest line of this

1 parcel and said 1015.707 acre tract and the Southeast Right of Way
2 Line of I.H.35:

3 (53) NORTH 31 deg. 50' 19" East, a distance of 1855.01 feet
4 to a found concrete highway monument (Type I) being an angle point;

5 (54) NORTH 35 deg. 26' 30" East, a distance of 301.34 feet to
6 a found concrete highway monument (Type I) being an angle point;

7 THENCE: (55) NORTH 32 deg. 05' 44" East, a distance of 72.07 feet
8 to a found concrete highway monument (Type I) being a point of
9 curvature;

10 THENCE: (56) 543.39 feet along the arc of a curve to the left,
11 having a radius of 23072.30 feet, and a central angle of 01 deg. 20'
12 58", and whose chord bears North 31 deg. 12' 58" East, a distance of
13 543.37 feet to a found concrete highway monument (Type I) being a
14 point of tangency;

15 THENCE: (57) NORTH 30 deg. 26' 03" East, a distance of 789.05 feet
16 to a found concrete highway monument (Type I) being an angle point;

17 THENCE: (58) NORTH 26 deg. 48' 12" East, a distance of 299.65 feet
18 to a found concrete highway monument (Type I) being an angle point;
19 and

20 THENCE: (59) NORTH 30 deg. 29' 02" East, a distance of 2033.01
21 feet to a set 1/2" iron pin with plastic cap being the POINT OF
22 BEGINNING, containing 1252.958 acres of land.

23 TRACT TWO

24 PART 1:

25 635.060 acres (27,663,214 sq. ft.) of land out of the NANCY KENNER
26 LEAGUE survey No. 3, Abstract No. 306, Comal County, Texas and being
27 designated as a 236.949 acre tract (McDONOUGH) tract as conveyed by

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1 SPECIAL WARRANTY DEED from NATIONSBANK OF TEXAS, N.A. TRUSTEE to
2 JAMES P. McDONOUGH, JR., dated December 31, 1996 and recorded in
3 Document No. 9706001893 of the Official Public Records of Comal
4 County, Texas and also being comprised of TRACT I (63.024 acre
5 tract) and TRACT III (164.150 acre tract) as conveyed by a SPECIAL
6 WARRANTY DEED from Bank of America, N.A., as Successor Trustee to
7 Nations / Bank of Texas, N.A., Trustee of the Bill and Darolyn Worth
8 Living Trust under Agreement dated January 9, 1987 and as Trustee
9 under Agreement of the Irvin Management Trust and Larry Irvin to
10 James P. McDonough, Jr., dated April 14, 2006 and recorded in
11 Document No. 200606016820 of the Official Public Records of Comal
12 County, Texas, and also being all of a 170.902 acre tract described
13 in a SUBSTITUTE TRUSTEE'S DEED from CECIL W. TALLEY, Trustee to
14 CECIL EARL HILLBURN, dated August 6, 1991 and recorded in Volume
15 777, Pages 581-586 of the Official Public Records of Comal County,
16 Texas said 635.060 acres (27,663,214 sq. ft.) of land being more
17 particularly described as follows:

18 BEGINNING: at a set 1/2" iron pin with plastic cap "stamped 4233" in
19 the Northwest Right of Way Line of I.H. 35 and being Easternmost
20 corner of a 9.785 acre tract conveyed by Archie Ladshaw, et al to
21 John Ladshaw by Deed dated March 28, 1984 and recorded in Volume
22 378, Pages 799-801 of the Official Public Records of Comal County,
23 Texas, and the Southernmost corner of this parcel and said 236.949
24 acre tract (Grid N = 13,826,036.7772, Grid E = 2,270,776.7688,
25 Scale factor of 1.00014 for surface adjustment);

26 THENCE: (1) NORTH 46 deg 00'07" West, (all bearings in this
27 descriptions are referenced to Grid North of the Texas Coordinate

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1 System, Zone 4204, NAD 83 (93)), a distance of 3310.77 feet along
2 the Southwest line of this parcel and the Northeast line of said
3 9.785 acre tract to a found 1/2" iron pin being the Northernmost
4 corner of said 9.785 acre tract and an interior corner of this
5 parcel;

6 THENCE: the following courses along the Southeast line of this
7 parcel and said 236.949 acre tract and the Northwest line of said
8 9.785 acre tract and a 240.485 acre tract conveyed by Elizabeth
9 Wagner, a widow to Archie Ladshaw, et al by Deed dated January 14,
10 1967 and recorded in Volume 153, Pages 331-333 of the Deed Records
11 of Comal County, Texas and the Northwest line of a 44.290 acre tract
12 conveyed by HARVEY PAPE and wife, LEORA PAPE to PAPE'S FAMILY FARM,
13 LTD, a Texas Limited Partnership, dated February 27, 2004 and
14 recorded in Document No. 200406007834 of the Official Public
15 Records of Comal County, Texas:

16 (2) SOUTH 44 deg 34'57" West, a distance of 1355.26 feet to a
17 found 1/2" iron pin being an angle point;

18 (3) SOUTH 45 deg 11'30" East, a distance of 43.65 feet to a
19 found 1/2" iron pin being an angle point; and

20 (4) SOUTH 44 deg 30'57" West, a distance of 1742.25 feet to a
21 found 1/2" iron pin being the Easternmost corner of a 70.688 acre
22 tract conveyed by ALAN ROMPLE also known as ALAN E. ROMPEL, SR. and
23 wife LINDA ROMPEL to CONRADS ROAD, LTD, dated January 9, 2004, and
24 recorded in Document No. 200406000885 of the Official Public
25 Records of Comal County, Texas;

26 THENCE: (5) NORTH 45 deg 23'39" West, a distance of 3537.43 feet
27 along the Southwest line of this parcel and said 236.949 acre tract

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1 and the Northeast line of said 70.688 acre tract to a set 1/2" iron
2 pin with plastic cap "stamped 4233" in the Southeast Right of Way of
3 the Union Pacific Railroad (formerly known as the INTERNATIONAL &
4 GT NORTHERN RY. CO.) and being the Westernmost corner of this parcel
5 and said 236.949 acre tract and the Northernmost corner of said
6 70.688 acre tract; and being a point of curvature;

7 THENCE: the following courses along the Northwest line of this
8 parcel and the Southeast Right of Way line of the Union Pacific
9 Railroad:

10 (6) 1319.73 feet along the arc of a curve to the right,
11 having a radius of 5679.65 feet, and a central angle of 13 deg
12 18'48", and whose chord bears North 56 deg 11'48" East, a distance
13 of 1316.76 feet to a set 1/2" iron pin with plastic cap "stamped
14 4233" being a point of tangency;

15 (7) NORTH 62 deg 51'12" East, a distance of 1677.18 feet to a
16 set 1/2" iron pin with plastic cap "stamped 4233" being a point of
17 curvature; and

18 (8) 1022.68 feet along the arc of a curve to the left, having
19 a radius of 2914.93 feet and a central angle of 20 deg 06'06", and
20 whose chord bears North 52 deg 48'09" East, a distance of 1017.43
21 feet to a set 1/2" iron pin with plastic cap "stamped 4233" being a
22 point of tangency; and

23 (9) NORTH 42 deg. 45' 06" East, a distance of 385.90 feet to
24 a set 1/2" iron pin with plastic cap "stamped 4233" being the
25 Northernmost corner of this parcel and said 63.024 acre tract and
26 the Westernmost corner of a 200.240 acre tract as conveyed by
27 SPECIAL WARRANTY DEED WITH VENDOR'S LIEN from MARTIN MARIETTA

1 MATERIALS SOUTHWEST, LTD. to BLUEGREEN SOUTHWEST ONE, L.P., A
2 Delaware Limited Partnership, executed July 19, 2005 and recorded
3 in Document No. 200506026533 of the Official Public Records of
4 Comal County, Texas;

5 THENCE: (10) SOUTH 45 deg. 58' 46" East, a distance of 2471.01
6 feet along the Northeast line of this parcel and said 63.024 acre
7 tract and the Southwest line of said 200.240 acre tract to a found
8 1/2" iron pin being an interior corner of this parcel and the
9 Westernmost corner of said 170.902 acre tract and the Southernmost
10 of said 200.240 acre tract;

11 THENCE: the following courses along the Northwest line of this
12 parcel and said 170.902 acre tract and the Southeast line of said
13 200.240 acre tract and a 7.46 acre tract conveyed by MCDONOUGH
14 BROTHER'S, INCORPORATED to CITY OF NEW BRAUNFELS (UTILITIES)
15 executed June 8, 1979 and recorded in Volume 283, Pages 775-776 of
16 the Deed Records of Comal County, Texas;

17 (11) NORTH 43 deg 09'01" East, a distance of 2596.32 feet to
18 a wood fence post being an angle point; and

19 (12) NORTH 42 deg 57'44" East, a distance of 1556.85 feet to
20 a found 1/2" iron pin with plastic cap stamped "OVERBY-DESCAMPS"
21 being the Northernmost corner said 170.902 acre tract and an
22 interior corner of said 200.240 acre tract;

23 THENCE: the following courses along the Northeast line of this
24 parcel and said 170.902 acre tract and the Southwest line of said
25 200.240 acre tract:

26 (13) SOUTH 46 deg 50'12" East, a distance of 702.27 feet to a
27 set 1/2" iron pin with plastic cap "stamped 4233" being an angle

1 point;

2 (14) SOUTH 46 deg 29'50" East, a distance of 817.93 feet to a
3 wood fence post being an angle point; and

4 (15) SOUTH 47 deg 00'31" East, a distance of 722.97 feet to a
5 set 1/2" iron pin with plastic cap "stamped 4233" in the Northwest
6 Right of Way Line of I.H. 35 and being the Easternmost corner of
7 this parcel and said 170.902 acre tract and a re-entrant corner of
8 said 200.240 acre tract;

9 THENCE: (16) SOUTH 32 deg 08'27" West, a distance of 1684.15 feet
10 along the Southeast line of this parcel and said 170.902 acre tract
11 and the Northwest Right of Way Line of I.H. 35 to a set 1/2" iron pin
12 with plastic cap "stamped 4233" being a re-entrant corner to said
13 170.902 acre tract and the Easternmost corner of a 164.150 acre
14 tract (designated TRACT III) conveyed by SPECIAL WARRANTY DEED to
15 James P. McDonough, Jr., dated April 14, 2006 and recorded in
16 Document No. 200606016820 of the Official Public Records of Comal
17 County, Texas;

18 THENCE: the following courses along the Southeast line of this
19 parcel and said 164.150 acre tract and the Northwest Right of Way
20 Line of I.H. 35:

21 (17) SOUTH 32 deg. 08' 27" West, a distance of 704.69 feet to
22 a found Type I TxDOT concrete monument being a point of curvature;

23 (18) 338.16 feet along the arc of a curve to the left, having
24 a radius of 11,625.15 feet, and a central angle of 01 deg. 40' 00",
25 and whose chord bears South 31 deg. 15' 06" West, a distance of
26 338.15 feet to a found Type I TxDOT concrete monument being a point
27 of tangency;

1 (19) SOUTH 30 deg. 29' 02" West, a distance of 1147.92 feet
2 to a set 1/2" iron pin with plastic cap "stamped 4233" being an
3 angle point;

4 (20) SOUTH 34 deg. 18' 02" West, a distance of 300.46 feet to
5 a set 1/2" iron pin with plastic cap "stamped 4233" being an angle
6 point;

7 (21) SOUTH 30 deg. 29' 02" West, a distance of 1000.00 feet
8 to a found Type I TxDOT concrete monument being an angle point; and

9 (22) SOUTH 26 deg. 39' 57" West, a distance of 266.94 feet to
10 a set 1/2" iron pin with plastic cap "stamped 4233" being the
11 Southernmost corner of said 164.150 acre tract and the Easternmost
12 corner of a 236.949 acre tract as conveyed by SPECIAL WARRANTY DEED
13 from NATIONSBANK OF TEXAS, N.A., TRUSTEE to JAMES P. McDONOUGH JR.,
14 dated December 31, 1996, and recorded in Document No. 9706001893 of
15 the Official Public Records of Comal County, Texas;

16 THENCE: the following courses along the Southeast line of this
17 parcel and said 236.949 acre tract and the Northwest Right of Way
18 Line of said I.H. 35:

19 (23) SOUTH 26 deg 39'57" East, a distance of 33.42 feet to a
20 set 1/2" iron pin with plastic cap "stamped 4233" being an angle
21 point; and

22 (24) SOUTH 30 deg 29'02" East, a distance of 49.00 feet to a
23 set 1/2" iron pin with plastic cap "STAMPED 4233" being the POINT OF
24 BEGINNING, containing 635.060 acres (27,663,214 sq. ft.) of land.

25 PART 2:

26 96.074 acres (4,184,983 sq. ft.) of land out of the NANCY KENNER
27 LEAGUE SURVEY NO. 3, Abstract No. 306, Comal County, Texas, and

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1 comprising of TRACT II (0.529 of an acre tract), TRACT IV (53.350
2 acre tract) and TRACT V (14.423 acre tract) as conveyed by said
3 SPECIAL WARRANTY DEED dated April 14, 2006, and recorded in
4 Document No. 200606016820 of the Official Public Records of Comal
5 County, Texas, and also being all of a 27.593 acre tract as conveyed
6 NATIONSBANK OF TEXAS, N.A., TRUSTEE to JAMES P. McDONOUGH, JR.,
7 dated December 31, 1996 and recorded in Document No. 9706001893 of
8 the Official Public Records of Comal County, Texas, said 96.074
9 acres (4,184,983 sq. ft.) of land being more particularly described
10 as follows:

11 BEGINNING: at a found 1" diameter iron pipe in the Southeast Right
12 of Way Line of F.M. Road 1102 and being the Northernmost corner of
13 this parcel and said 14.423 acre tract and being the Westernmost
14 corner of an 88.193 acre tract (designated as TRACT 3) conveyed by
15 SPECIAL WARRANTY DEED WITH VENDOR'S LIEN, to BLUEGREEN SOUTHWEST
16 ONE, L.P., a Delaware Partnership, executed on July, 19, 2005 and
17 recorded in Document No. 200506026533 of the Official Public
18 Records of Comal County, Texas (Grid N = 13,832,027.6173, Grid E =
19 2,266,296.3350, Scale factor of 1.00014 for surface adjustment);

20 THENCE: (1) SOUTH 46 deg. 01' 39" East, a distance of 1319.31 feet
21 along the Northeast line of this parcel and said 14.423 acre tract
22 and the Southwest line of said 88.193 acre tract to a found 1/2"
23 iron pin in the Northwest Right of Way Line of the Union Pacific
24 Railroad (formerly known as the Missouri Kansas and Texas Railroad)
25 and being the Easternmost corner of this parcel and said 14.423 acre
26 tract and the Southernmost corner of said 88.193 acre tract;

27 THENCE: the following courses along the Southeast line of this

1 parcel and said TRACT V, TRACT II and TRACT IV and the Northwest
2 Right of Way Line of said Union Pacific Railroad:

3 (2) SOUTH 42 deg. 45' 06" West, a distance of 365.33 feet to
4 a set 1/2" iron pin with plastic cap "stamped 4233" being a point of
5 curvature;

6 (3) 986.76 feet along the arc of a curve to the right, having
7 a radius of 2814.90 feet, and a central angle of 20 deg. 05' 06", and
8 whose chord bears South 52 deg. 47' 39" West, a distance of 981.71
9 feet to a set 1/2" iron pin with plastic cap "stamped 4233" being a
10 point of tangency;

11 (4) SOUTH 62 deg. 50' 12" West, a distance of 832.41 feet to
12 a set 1/2" iron pin with plastic cap "stamped 4233" being an angle
13 point;

14 (5) NORTH 45 deg. 03' 04" West, a distance of 52.54 feet to a
15 found 1/2" iron pin being an angle point, and

16 (6) SOUTH 62 deg. 50' 12" West, a distance of 799.35 feet to
17 a set 1/2" iron pin with plastic cap "stamped 4233" being the
18 Southernmost corner said 53.350 acre tract and the Easternmost
19 corner of a 27.593 acre tract as conveyed by SPECIAL WARRANTY DEED
20 from NATIONSBANK OF TEXAS, N.A., TRUSTEE to JAMES P. McDONOUGH,
21 JR., dated December 31, 1996 and recorded in Document No.
22 9706001893 of the Official Public Records of Comal County, Texas;

23 THENCE: the following courses along the Southeast line of this
24 parcel and said 27.593 acre tract and the Northwest Right of Way of
25 said Union Pacific Railroad:

26 (7) SOUTH 62 deg 50'12" West, a distance of 113.44 feet to a
27 set 1/2" iron pin with plastic cap "stamped 4233" being a point of

1 curvature

2 (8) 293.35 feet along the arc of a curve to the left having a
3 radius of 5829.65 feet and a central angle of 02 deg 52'59", and
4 whose chord bears South 61 deg 23'42" West, a distance of 293.32
5 feet to a found 1/2" iron pin being an angle point;

6 (9) SOUTH 30 deg 16'22" East, a distance of 50.00 feet to a
7 set 1/2" iron pin with plastic cap "stamped 4233" being a point of
8 curvature;

9 (10) 417.76 feet along the arc of a curve to the left, having
10 a radius of 5779.65 feet, and a central angle of 04 deg 08'29", and
11 whose chord bears South 57 deg 53'05" West, a distance of 417.67
12 feet to a set 1/2" iron pin with plastic cap "stamped 4233" being an
13 angle point

14 (11) NORTH 44 deg 21'29" West, a distance of 30.48 feet to a
15 found 1/2" iron pin being a point of curvature

16 (12) 736.56 feet along the arc of a curve to the left, having
17 a radius of 5809.65 feet, and a central angle of 07 deg 15'51", and
18 whose chord bears South 52 deg 07'44" West, a distance of 736.07
19 feet to found 1/2" iron pin being an angle point;

20 (13) SOUTH 43 deg 16'40" East, a distance of 30.01 feet to
21 set 1/2" iron pin with plastic cap "stamped 4233" being a point of
22 curvature;

23 (14) 66.71 feet along the arc of a curve to the left, having
24 a radius of 5779.65 feet, and a central angle of 00 deg 39'41", and
25 whose chord bears South 48 deg 10'31" West, a distance of 66.71 feet
26 to a set 1/2" iron pin with plastic cap "stamped 4233" being a point
27 of tangency; and

1 (15) SOUTH 47 deg 50'41" West, a distance of 437.51 feet to a
2 found 1/2" iron pin being the Southernmost corner of the parcel and
3 said 27.593 acre tract and the Easternmost corner of a 3 acre tract
4 conveyed by SHERMAN W. WEST ET UX TO CLAUDIO MENDEZ ET UX executed
5 on May 17, 1962, and recorded in Volume 128, Pages 374-376 of the
6 Deed Records of Comal County, Texas.

7 THENCE: (16) NORTH 45 deg 40'16" West, a distance of 654.40 feet
8 along the Southwest line of this parcel and said 27.593 acre tract
9 and the Northeast line of said 3 acre tract to a found 1/2" iron pin
10 in the Southeast Right of Way Line of F.M. Road 1102 and being the
11 Westernmost corner of this parcel and said 27.593 acre tract and the
12 Northernmost corner of said 3 acre tract.

13 THENCE: the following courses along the Northwest line of this
14 parcel and said 27.593 acre tract and the Southeast Right of Way
15 Line of said F.M. Road 1102:

16 (17) NORTH 44 deg 22'56" East, a distance of 133.92 feet to a
17 found 1/2" iron pin being a point of curvature;

18 (18) 645.06 feet along the arc of a curve to the right,
19 having a radius of 2824.90 feet, and a central angle of 13 deg
20 05'00", and whose chord bears north 50 deg 57'36" East, a distance
21 of 643.66 feet to a found 1/2" iron pin being a point of tangency;

22 (19) NORTH 57 deg 26'58" East, a distance of 149.84 feet to a
23 found 1/2" iron pin being an angle point;

24 (20) NORTH 61 deg 11'34" East, a distance of 365.34 feet to a
25 found 1/2" iron pin being an angle point;

26 (21) NORTH 64 deg 42'33" East, a distance of 388.56 feet to a
27 found 1/2" iron pin being a point of curvature; and

1 (22) 470.90 feet along the arc of a curve to the left, having
2 a radius of 1472.70 feet, and a central angle of 18 deg 19'14", and
3 whose chord bears North 55 deg 55'39" East, a distance of 468.90
4 feet to a found 1/2" iron pin being the Northernmost corner of said
5 27.593 acre tract and the Westernmost corner of said 53.350 acre
6 tract (designated as TRACT IV) of said SPECIAL WARRANTY DEED;
7 THENCE: the following courses along the Northwest line of this
8 parcel and said 53.350 acre tract, said 0.529 of an acre tract, and
9 said 14.423 acre tract and the Southeast Right of Way Line of said
10 F.M. 1102:

11 (23) NORTH 46 deg. 34' 14" East, a distance of 419.44 feet to
12 a found 1/2" iron pin being a point of curvature;

13 (24) 296.68 feet along the arc of a curve to the left, having
14 a radius of 1950.10 feet, and a central angle of 08 deg. 43' 00", and
15 whose chords bears North 42 deg. 13' 24" East, a distance of 296.39
16 feet to a found 1/2" iron pin being a point of tangency;

17 (25) NORTH 37 deg. 52' 39" East, a distance of 625.38 feet to
18 a found 1/2" iron pin being a point of curvature;

19 (26) 392.79 feet along the arc of a curve to the right,
20 having a radius of 5689.70 feet, and a central angle of 03 deg. 57'
21 19", and whose chord bears North 39 deg. 59' 23" East, a distance of
22 392.71 feet to a set 1/2" iron pin with plastic cap "stamped 4233"
23 being a point of tangency;

24 (27) NORTH 40 deg. 31' 03" East, a distance of 46.82 feet to
25 a found 3/8" iron pin being an angle point;

26 (28) NORTH 41 deg. 54' 40" East, a distance of 651.39 feet to
27 a found 1/2" iron pin being an angle point;

1 (29) NORTH 47 deg. 13' 29" East, a distance of 350.23 feet to
2 a found 1/2" iron pin being an angle point; and

3 (30) NORTH 52 deg. 37' 59" East, a distance of 47.66 feet to
4 a found 1" diameter iron pipe being the POINT OF BEGINNING, and
5 containing 96.074 acres (4,184,983 sq. ft.) of land.

6 SECTION 3. (a) The legal notice of the intention to
7 introduce this Act, setting forth the general substance of this
8 Act, has been published as provided by law, and the notice and a
9 copy of this Act have been furnished to all persons, agencies,
10 officials, or entities to which they are required to be furnished
11 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
12 Government Code.

13 (b) The governor, one of the required recipients, has
14 submitted the notice and Act to the Texas Commission on
15 Environmental Quality.

16 (c) The Texas Commission on Environmental Quality has filed
17 its recommendations relating to this Act with the governor, the
18 lieutenant governor, and the speaker of the house of
19 representatives within the required time.

20 (d) All requirements of the constitution and laws of this
21 state and the rules and procedures of the legislature with respect
22 to the notice, introduction, and passage of this Act are fulfilled
23 and accomplished.

24 SECTION 4. (a) If this Act does not receive a two-thirds
25 vote of all the members elected to each house, Subchapter C, Chapter
26 8489, Special District Local Laws Code, as added by Section 1 of
27 this Act, is amended by adding Section 8489.111 to read as follows:

1 Sec. 8489.111. NO EMINENT DOMAIN POWER. The district may
2 not exercise the power of eminent domain.

3 (b) This section is not intended to be an expression of a
4 legislative interpretation of the requirements of Section 17(c),
5 Article I, Texas Constitution.

6 SECTION 5. This Act takes effect immediately if it receives
7 a vote of two-thirds of all the members elected to each house, as
8 provided by Section 39, Article III, Texas Constitution. If this
9 Act does not receive the vote necessary for immediate effect, this
10 Act takes effect September 1, 2013.

H.B. No. 3941

David Dewhurst

President of the Senate

Joe Straus

Speaker of the House

I certify that H.B. No. 3941 was passed by the House on May 14, 2013, by the following vote: Yeas 143, Nays 0, 2 present, not voting.

Robert Haney

Chief Clerk of the House

I certify that H.B. No. 3941 was passed by the Senate on May 21, 2013, by the following vote: Yeas 31, Nays 0.

Betsy Spaw

Secretary of the Senate

APPROVED:

14 JUNE '13

Date

Rick Perry

Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE

10 PM O'CLOCK

JUN 14 2013

[Signature]

Secretary of State