

**PETITION FOR CONSENT TO
ANNEX LAND INTO A WATER CONTROL AND IMPROVEMENT DISTRICT**

THE STATE OF TEXAS §
 §
COUNTY OF KENDALL §

TO THE HONORABLE MAYOR AND CITY
COUNCIL OF THE CITY OF BOERNE, TEXAS:

The undersigned, KENDALL COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 3A, a political subdivision of the State of Texas (the “District”) and BOERNEBAK II, LLC., a Texas limited company (the “Property Owner”), respectfully petition the City of Boerne, Texas for its consent to the addition of land to the District. In support of this Petition, the District would show the following:

I.

The land sought to be added to the District (the “Tract”) is described by metes and bounds in Exhibit “A”, attached hereto and made a part hereof for all purposes.

II.

The Tract lies wholly within Kendall County, Texas, and not within the boundaries of any incorporated city or town. The Tract lies wholly within the exclusive extraterritorial jurisdiction of the City of Boerne, Texas, as such term is determined pursuant to Chapter 42 V.T.C.A. Local Government Code.

III.

Property Owner is the holder of title to the Tract as shown by the Kendall County Tax Rolls and conveyances of record. No person or entity holds a lien on the Tract, except for Texas Bank, (as lender to Petitioner, “Lender”) pursuant to that certain Deed of Trust dated January 16, 2018, and recorded in Volume 1617, page 552, of the Official Public Records of Kendall County, Texas, as Document No. 00318248.

IV.

The District was duly created by Act of May 24, 2017, 85th Legislature, Regular Session, Senate Bill 914 (codified at Texas Special District Local Laws Code Ann. §9072), in accordance with Article XVI, Section 59 and Article III, Section 52 of the Constitution of the State of Texas and operates pursuant to Chapters 49 and 54, Texas Water Code, as amended, to provide for:



- (1) the control, storage, preservation, and distribution of its storm water and floodwater, the water of its rivers and streams for irrigation, power and all other useful purposes;
- (2) the reclamation and irrigation of its arid, semiarid, and other land needing irrigation;
- (3) the reclamation and drainage of its overflowed land and other land needing drainage;
- (4) the conservation and development of its forests, water, and hydroelectric power;
- (5) the navigation of its inland and coastal water;
- (6) the control, abatement, and change of any shortage or harmful excess of water;
- (7) the protection, preservation, and restoration of the purity and sanitary condition of water within the state;
- (8) the preservation of all natural resources of the state;
- (9) the collection, transportation, processing, disposal, and control of all domestic, industrial, or communal wastes, whether fluids, solids, or composites,
- (10) to gather, conduct, divert, and control local storm water or other local harmful excesses of water; and
- (11) the construction, acquisition, improvement, operation, or maintenance of macadamized, graveled, or paved roads, or improvements, including storm drainage, in aid of those roads, to the extent authorized by Article III, Section 52, of the Texas Constitution.

The District is empowered and authorized to purchase, construct, acquire, own, operate, maintain, repair, improve, or extend inside and outside its boundaries any and all works, improvements, facilities, plants, equipment, and appliances necessary to accomplish the purposes of its creation.

V.

The general nature of the work to be done by and within the District at the present time is the (i) construction, maintenance and operation of a waterworks system for residential and commercial purposes; (ii) the construction, maintenance and operation of a sanitary sewer collection system; (iii) the control, abatement and amendment of the harmful excess of waters and the reclamation and drainage of overflowed lands within the District; (iv) the construction, acquisition, improvement, operation, or maintenance of macadamized, graveled, or paved roads, or improvements, including storm drainage, in aid of those roads, to the extent authorized by Article III, Section 52, of the Texas Constitution; and (v) such other construction, installation,

maintenance, purchase and operation of such additional facilities, systems, plants and enterprises as shall be consonant with the purposes for which the District is organized.

VI.

There is a necessity for the improvements above described because the Tract is located within an area that is experiencing substantial and sustained residential and commercial growth, is urban in nature and is not supplied with adequate water, sanitary sewer, drainage facilities, road facilities and services. The health and welfare of the future inhabitants of the Tract require the acquisition and installation of an adequate waterworks, sanitary sewer, storm drainage and road system. The purchase, construction, extension, improvement, maintenance and operation of such waterworks, sanitary sewer, storm drainage and road systems will conserve and preserve the natural resources of this State by promoting and protecting the purity and sanitary condition of the State's waters and will promote and protect the public health and welfare of the community; therefore, a public necessity exists for the inclusion of the Tract within the District.

VII.

Said proposed improvements are practicable and feasible, in that the terrain of the Tract is of such a nature that a waterworks, sanitary sewer, storm drainage and road systems can be constructed at a reasonable cost; and said land will be rapidly developed for commercial, multi-family and residential purposes.

VIII.

A preliminary investigation has been instituted to determine the cost of the project attributable to the Tract, and it is now estimated by those filing this Petition, from such information as they have at this time, that the ultimate cost of the development contemplated will be approximately \$16,800,000.

WHEREFORE, the undersigned respectfully pray that this Petition be granted in all respects and that the City Council of the City of Boerne, Texas, adopt a resolution giving its written consent to the addition of the Tract to the District.

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RESPECTFULLY submitted this 29 day of November, 2018.

“DISTRICT”

KENDALL COUNTY WATER CONTROL AND
IMPROVEMENT DISTRICT NO. 3A

By: R. Hunt Winton III
Name: R. Hunt Winton III
Title: President

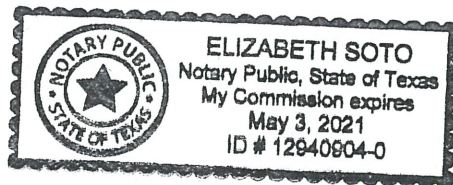
ADDRESS:
c/o Sanford Kuhl Hagan Kugle Parker Kahn LL.P.
1980 Post Oak Boulevard, Suite 1380
Houston, Texas 77056

THE STATE OF TEXAS §
 §
COUNTY OF ~~KENDALL~~ Bexar §

This instrument was acknowledged before me on the 29 day of November, 2018, by R. Hunt Winton III, as President of the Board of Directors of Kendall County Water Control and Improvement District No. 3A, a political subdivision of the State of Texas, on behalf of said political subdivision.


Elizabeth Soto
NOTARY PUBLIC, STATE OF TEXAS

(SEAL)



"PROPERTY OWNER"

BOERNEBAK II, LLC,
a Texas limited company

By: 
Phil P. Bakke, President

THE STATE OF TEXAS

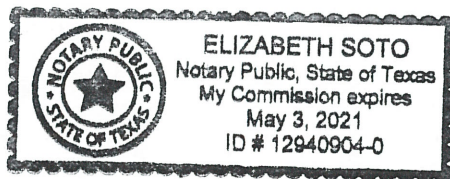
COUNTY OF Bexar

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This instrument was acknowledged before me on the 29 day of November, 2018, by **PHIL P. BAKKE**, President of **BOERNEBAK II, LLC**, a Texas limited liability company, in the capacity herein stated.

(SEAL)


NOTARY PUBLIC, STATE OF TEXAS



PETITION FOR
WATER AND SANITARY SEWER SERVICE

THE STATE OF TEXAS

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COUNTY OF KENDALL

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TO THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF BOERNE, TEXAS:

The undersigned, BOERNEBAK II, LLC, a Texas limited liability company, the owner of the approximately 42.451 acre tract of land described in the attached Exhibit "A" (the "Petitioner"), acting pursuant to Section 42.0425, Texas Local Government Code, as amended, respectfully petitions this Honorable Council of the City of Boerne, Texas (the "City") for water and sanitary sewer service to serve the land described below and located partially within the City's extraterritorial jurisdiction.

I.

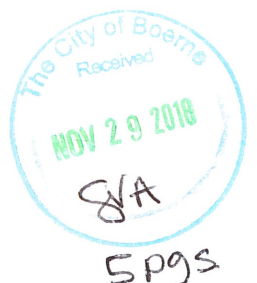
On 29 November 2018, the Petitioner submitted to the City, a Petition for Consent to Annex Land into a Water Control and Improvement District of the approximately 42.451 acres described in the attached Exhibit "A" (the 42.451 acres described in the attached Exhibit "A" referred to herein as the "Land").

II.

The City has failed or refused or has indicated its intent to give its consent for the annexation of land into the District.

III.

Petitioner requests that the City make water and sanitary sewer service available to the Land referenced in Exhibit "A" and as also depicted in Exhibit "B" attached hereto.



IV.

There are no qualified voters residing on the Land.

V.

Petitioner hereby petitions the Honorable Council of the City and requests that the City make available to the Land the water and sanitary sewer service contemplated to be provided by the District by entering into a mutually agreeable contract with the undersigned to provide for the requested water and sanitary sewer service as provided under Section 42.042(b) and (c), Texas Local Government Code, as amended.

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RESPECTFULLY SUBMITTED THIS 29 November, 2018.

“PETITIONER”

BOERNEBAK II, LLC

A Texas limited liability company

BY: Phil P. Babke

NAME: Phil P Babke

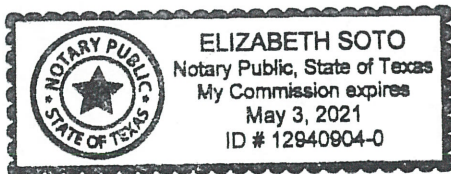
TITLE: President/manager

STATE OF TEXAS

COUNTY OF Bexar

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This instrument was acknowledged before on 29 November 2018, by Phil P. Babke, Manager of Boernebak II, LLC, a Texas limited liability company.



Elizabeth Soto
Notary Public, State of Texas

EXHIBIT "A"
LEGAL DESCRIPTION – 42.451 ACRES

FIELDNOTE DESCRIPTION

OF A 42.451 ACRE TRACT OUT OF THE ANTONIO CRUZ SURVEY NO. 170, ABSTRACT NO. 97, KENDALL COUNTY, TEXAS, BEING THAT 42.451 ACRE TRACT CONVEYED TO DIMITRI NICOLAS HADJOPULOS COINDREAU BY DEED OF RECORD IN VOLUME 1317, PAGE 299 OF THE OFFICIAL PUBLIC RECORDS OF KENDALL COUNTY, TEXAS, SAID 42.451 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING, AT A FOUND ½ INCH IRON ROD IN THE EASTERLY RIGHT-OF-WAY LINE OF VALERIE LANE, BEING THE SOUTHWESTERLY CORNER OF THAT CERTAIN 10 ACRE TRACT CONVEYED TO GARTH GOMBERT AND TERRY GOMBERT AS DESCRIBED IN VOLUME 69, PAGE 431 OF THE DEED RECORDS OF KENDALL COUNTY, TEXAS, FOR THE NORTHWESTERLY CORNER OF SAID 42.451 ACRE TRACT AND **POINT OF BEGINNING** HEREOF;

THENCE, S 88° 51' 24" E, LEAVING THE EASTERLY RIGHT-OF-WAY LINE OF VALERIE LANE, ALONG THE COMMON BOUNDARY LINE OF SAID 10 ACRE TRACT AND SAID 42.451 ACRE TRACT, A DISTANCE OF 1204.03 FEET TO A FOUND ½ INCH IRON ROD WITH POLLOCK CAP IN THE WESTERLY RIGHT-OF-WAY LINE OF SCENIC LOOP ROAD, BEING THE NORTHEASTERLY CORNER OF SAID 42.451 ACRE TRACT AND HEREOF;

THENCE, ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SCENIC LOOP ROAD, BEING THE EASTERLY LINE OF SAID 42.451 ACRE TRACT AND HEREOF, THE FOLLOWING COURSES:

S 01° 22' 14" W, A DISTANCE OF 731.27 FEET TO A FOUND ½ INCH IRON ROD;

S 00° 41' 52" W, A DISTANCE OF 891.44 FEET TO A FOUND PK NAIL AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF SCENIC LOOP ROAD AND THE NORTHERLY RIGHT-OF-WAY LINE OF CORLEY ROAD, BEING THE SOUTHEASTERLY CORNER OF SAID 42.451 ACRE TRACT AND HEREOF;

THENCE, N 82° 36' 27" W, ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF CORLEY ROAD, A DISTANCE OF 90.95 FEET TO A FOUND ½ INCH IRON ROD WITH CEC CAP MARKING THE SOUTHEASTERLY CORNER OF THAT CERTAIN 0.136 ACRE TRACT CONVEYED TO CPS ENERGY BY DEED OF RECORD IN VOLUME 1202, PAGE 991 OF SAID OFFICIAL PUBLIC RECORDS;

THENCE, LEAVING THE NORTHERLY RIGHT-OF-WAY LINE OF CORLEY ROAD, ALONG THE COMMON BOUNDARY LINE OF SAID 42.451 ACRE TRACT AND SAID 0.136 ACRE TRACT, THE FOLLOWING COURSES:

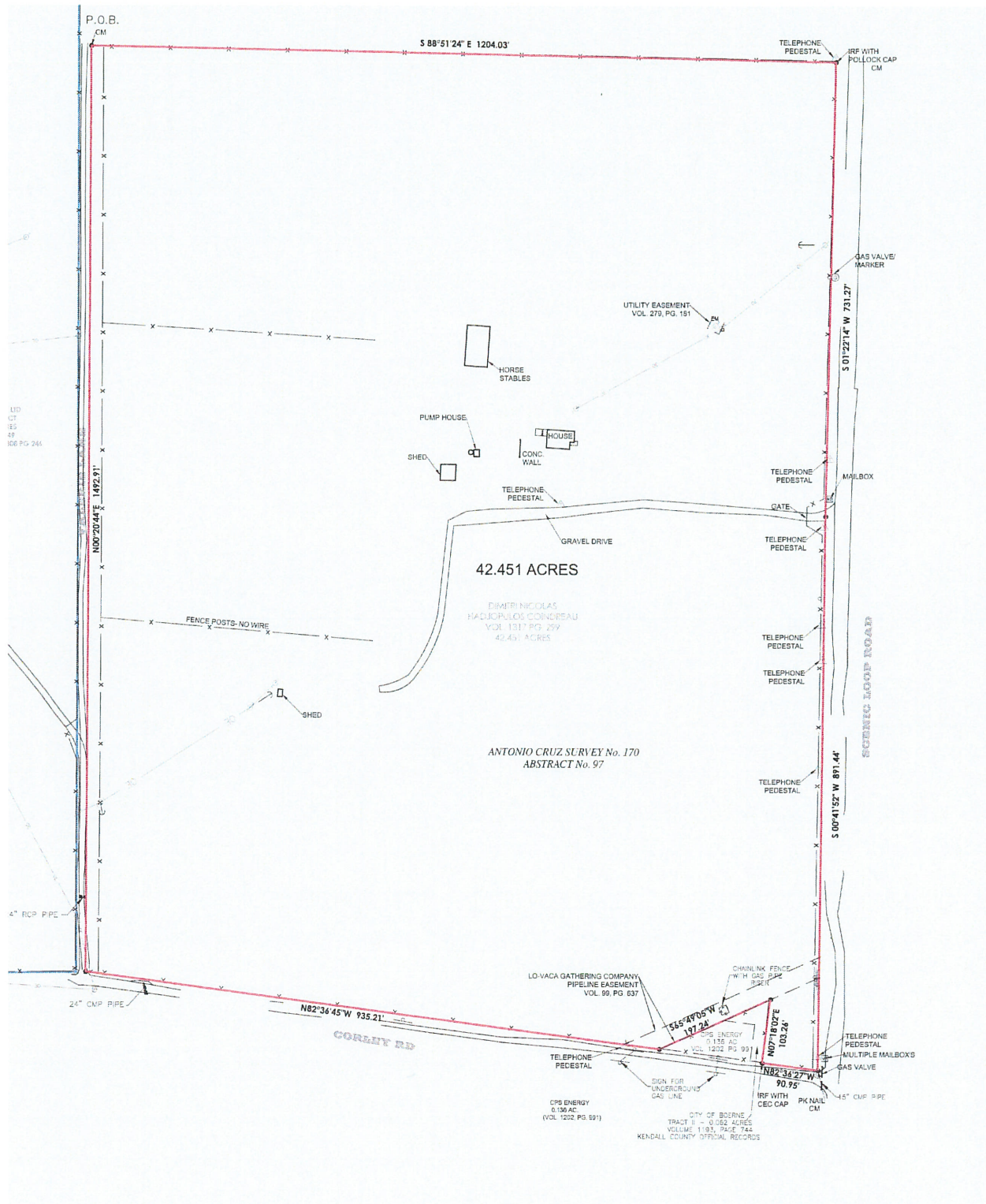
N 07° 18' 02" E, A DISTANCE OF 103.26 FEET TO A FOUND ½ INCH IRON ROD;

S 65° 49' 05" W, A DISTANCE OF 197.24 FEET TO A FOUND ½ INCH IRON ROD IN THE NORTHERLY RIGHT-OF-WAY LINE OF CORLEY ROAD, BEING THE SOUTHWESTERLY CORNER OF SAID 0.136 ACRE TRACT;

THENCE, N 82° 36' 45" W, ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF CORLEY ROAD, A DISTANCE OF 935.21 FEET TO A FOUND ½ INCH IRON ROD AT THE INTERSECTION OF THE NORTHERLY RIGHT-OF-WAY LINE OF CORLEY ROAD AND THE EASTERLY RIGHT-OF-WAY LINE OF VALERIE LANE, BEING THE SOUTHWESTERLY CORNER OF SAID 42.451 ACRE TRACT AND HEREOF;

THENCE, N 00° 20' 44" E, ALONG THE EASTERLY RIGHT-OF-WAY LINE OF VALERIE LANE, A DISTANCE OF 1492.91 FEET TO THE **POINT OF BEGINNING**, CONTAINING AN AREA OF 42.451 ACRES OF LAND, MORE OR LESS.

EXHIBIT "B"
DEPICTION - 42.451 ACRES



PETITION FOR ADDITION OF CERTAIN LAND TO THE DISTRICT

THE STATE OF TEXAS

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COUNTY OF KENDALL

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TO THE BOARD OF DIRECTORS OF
KENDALL COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 3A

BOERNEBAK II, LLC, a Texas limited company (herein "Petitioner"), hereby petitions the Board of Directors (the "Board") of Kendall County Water Control and Improvement District No. 3A (the "District") for inclusion within the District of the land hereinafter described, so that such land shall be added to, and become a part of, the District.

In support of this Petition, Petitioner would respectfully show unto the Board the following:

I.

Petitioner is the owner of a 42.451 acre tract of land described by metes and bounds in Exhibit "A" and depicted in Exhibit "B" (the "Tract") attached hereto and made a part hereof for all purposes.

II.

No person or entity holds a lien on the Tract, except for Texas Capital Bank, National Association, (as lender to Petitioner, "Lender") pursuant to that certain Deed of Trust dated January 16, 2018, and recorded in Volume 1617, page 552, of the Official Public Records of Kendall County, Texas, as Document No. 00318248.

III.

There are no Tenants on the Tract.

IV.

The Tract lies contiguous to the District, lies wholly within the extraterritorial jurisdiction of the City of Boerne, Kendall County, Texas, and is not located within the boundaries of any incorporated city or town.

V.

Petitioner agrees and states that the addition of the Tract to the District is feasible, practicable and to the advantage of the District, and the water, sewer, drainage systems, roads and other improvements of the District are or will be sufficient to supply the Tract without injuring land already in the District.



VI.

This Petition shall constitute an election on the part of Petitioner, its successors and assigns, for the aforesaid land and any improvements which are now or may hereafter be constructed thereon to become liable for all present and future debts of the District in the same manner and to the same extent as other lands and improvements in the District are liable for the District's debts.

VII.

Petitioner, its successors and assigns, hereby agrees that the Tract and all improvements thereon, presently existing or to be constructed, shall be liable for its pro rata share of all voted but unissued bonds of the District which were authorized at various elections held within the District, and which may hereafter be issued and sold by the District. This Petition constitutes authorization by Petitioner, its successors and assigns, for the Board of Directors of the District to issue and sell all of the remaining voted but unissued bonds for the purposes and upon the terms and conditions such bonds were voted, in one or more issues or series, at a future date or dates, when the Board's judgment such amounts are required for the authorized purposes.

VIII.

This Petition shall further be considered the consent and authorization of Petitioner, its successors and assigns, for all the taxable land described in Exhibit "A " and all improvements thereon, presently existing or to be constructed, to be taxed uniformly and equally on an ad valorem basis with all other taxable property within the District for: (1) the payment of principal and interest on the District's voted but unissued bonds; and (2) all other purposes for which the District may lawfully levy taxes, including taxes levied for maintenance purposes.

IX.

For and in consideration of the addition of the Tract to the District, Petitioner agrees that the covenants contained herein shall become fixed with the land, shall run with the land, and shall be binding on Petitioner, its successors and assigns.

WHEREFORE, PREMISES CONSIDERED, Petitioner prays that this Petition be filed with the Secretary of the Board; that, thereafter this Petition be heard by the Board and granted in all respects; that, the Tract be added to and become a part of the District, as provided by law, including particularly Chapters 49 and 51, Texas Water Code, as amended; that, after it has been heard and granted, this Petition and the Board's action hereon be filed of record in the Office of the County Clerk of Kendall County, Texas; and that Petitioner have such other Orders and relief to which it may show itself entitled.

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RESPECTFULLY submitted this 29th day of November, 2018.

“PETITIONER”

BOERNEBAK II, LLC,
a Texas limited liability company

By: *Phil P. Bakke, President*
Phil P. Bakke, President

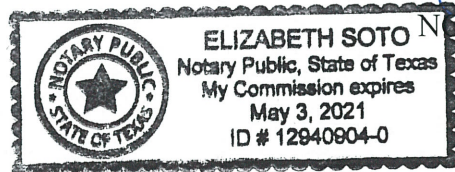
THE STATE OF TEXAS

COUNTY OF Bexar

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This instrument was acknowledged before me on the 29 day of November, 2018, by **PHIL P. BAKKE**, President of **BOERNEBAK II, LLC**, a Texas limited liability company, in the capacity herein stated.

(SEAL)



Elizabeth Soto
NOTARY PUBLIC, STATE OF TEXAS