

ORDINANCE NO. 2016-16

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BOERNE,
TEXAS, APPROVING THE ANNEXATION BY KENDALL WATER
CONTROL AND IMPROVEMENTS DISTRICT NO. 2A OF 2.731 ACRES
OF LAND**

WHEREAS, Kendall County Water Control and Improvement District No. 2A (the "District") is located within the extraterritorial jurisdiction of the City of Boerne, Texas (the "City"); and

WHEREAS, Texas Water Code, Section 54.016, as amended, provides that no land within the corporate limits of a city or within the extraterritorial jurisdiction of a city, shall be included within a water control and improvement district unless such city grants its written consent, by resolution or ordinance, to the inclusion of the land within the district; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BOERNE, TEXAS:

SECTION 1. All of the matters and facts set forth in the preamble hereof are true and correct.

SECTION 2. The Petition for Consent to Annex Land into a Water Control and Improvement District (the "Petition") is attached hereto as Exhibit "A" and made a part hereof for all purposes.

SECTION 3. The City Council of the City hereby specifically gives its written consent to the annexation of the 2.731 acres described in the Petition and exhibit attached hereto, into the District.

SECTION 4. This Ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City and it is accordingly so resolved.

PASSED and APPROVED on first reading the 8th day of March, 2016.

PASSED, APPROVED and ADOPTED on second reading the 22nd day of March, 2016.

APPROVED:

s/s Michael D. Schultz
Mayor

ATTEST:

s/s Lori A. Carroll
City Secretary

APPROVED AS TO FORM:

s/s Kirsten B. Cohoon
City Attorney

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. 2A, a political subdivision of the State of Texas (the "District") and LOOKOUT BOERNE HOLDINGS, L.P., a Texas limited partnership (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 Prosperity Bank, (as lender to Petitioner, "Lender") pursuant to that certain Deed of Trust dated November 4, 2014, and recorded in Volume 1440, page 99, of the Official Public Records of Kendall County, Texas, as Document No. 00288177.

IV.

The District was organized, created, and established pursuant to an election held on May 9, 2009, approving the division of Kendall County Water Control and Improvement District No. 2 into Kendall County Water Control and Improvement District No. 2A and the District, operating 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 51, 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 \$200,000.

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.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

RESPECTFULLY SUBMITTED THIS 3rd DAY OF February, 2016.

“DISTRICT”

KENDALL COUNTY WATER CONTROL AND
IMPROVEMENT DISTRICT NO. 2A

By: 
Johnny Wright
Vice President



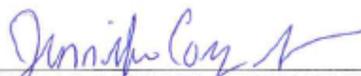
ADDRESS:
c/o Sanford Kuhl Hagan Kugle Parker Kahn LL.P.
1980 Post Oak Boulevard, Suite 1380
Houston, Texas 77056

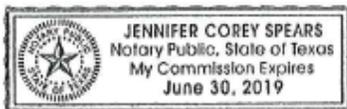
THE STATE OF TEXAS
COUNTY OF KENDALL

§
§
§

This instrument was acknowledged before me on the 3 day of February, 2016, by Johnny Wright as Vice President of the Board of Directors of Kendall County Water Control and Improvement District No. 2A, a political subdivision of the State of Texas, on behalf of said political subdivision.

STAMP NAME AND DATE OF
EXPIRATION OF COMMISSION
BELOW:

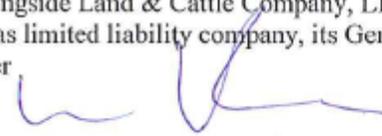

NOTARY PUBLIC, STATE OF TEXAS



"PROPERTY OWNER"

LOOKOUT BOERNE HOLDINGS, L.P.,
a Texas limited partnership

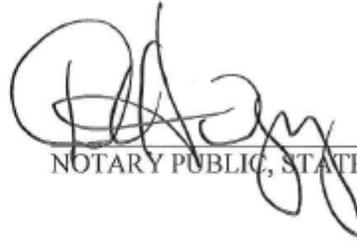
By: Morningside Land & Cattle Company, LLC,
a Texas limited liability company, its General
Partner

By: 
William R. Hinckley
Operating Manager

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 24 day of January, 2016, by **WILLIAM R. HINCKLEY**, Operating Manager of **MORNINGSIDE LAND & CATTLE CO., LLC**, a Texas limited liability company, General Partner of **LOOKOUT BOERNE HOLDINGS, L.P.**, a Texas limited partnership, in the capacity herein stated.

STAMP NAME AND DATE OF
EXPIRATION OF COMMISSION
BELOW:


NOTARY PUBLIC, STATE OF TEXAS

