

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



THE STATE OF TEXAS  
COUNTY OF TRAVIS  
HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY  
OF A TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
DOCUMENT, WHICH IS FILED IN THE PERMANENT RECORDS

AUG 24 2022

OF THE COMMISSIONER, GIVEN UNDER MY HANDS AND THE  
SEAL OF OFFICE ON  
*Lauree Graham*  
LAUREE GRAHAM, CLERK  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

## AN ORDER GRANTING THE PETITION FOR CREATION OF AUSTIN COUNTY MUNICIPAL UTILITY DISTRICT NO. 2 AND APPOINTING TEMPORARY DIRECTORS

A petition by Cane Belt Development, LLC, a Texas limited liability company (Petitioner), was presented to the Executive Director of the Texas Commission on Environmental Quality (TCEQ) for approval of the creation of Austin County Municipal Utility District No. 2 (District) pursuant to Article XVI, Section 59 of the TEXAS CONSTITUTION and TEX. WATER CODE Chapters 49 and 54.

The TCEQ, after having considered the petition, application material, and memorandum from the Executive Director dated August 4, 2022 (Memorandum), attached as Exhibit "B," finds that the petition for creation should be approved.

The TCEQ finds that the creation of the proposed District as set out in the application is feasible, practicable, and necessary, and would be a benefit to the land to be included in the proposed District.

The TCEQ further finds that the proposed District and its system and subsequent development within the proposed District will not have an unreasonable effect on land elevation, subsidence, and groundwater level within the region, recharge capability of a groundwater source, natural runoff rates and drainage, water quality, or total tax assessments on all land located within the proposed District.

All of the land and property proposed may properly be included within the proposed District.

All statutory and regulatory requirements for creation of Austin County Municipal Utility District No. 2 have been fulfilled in accordance with TEX. WATER CODE § 54.021 and 30 TEX. ADMIN. CODE §§ 293.11-293.12.

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY THAT:

1. The petition for the creation of Austin County Municipal Utility District No. 2 is hereby granted.
2. The District is created under the terms and conditions of Article XVI, Section 59 of the TEXAS CONSTITUTION and TEX. WATER CODE Chapters 49 and 54.
3. The District shall have, and shall be subject to, all of the rights, duties, powers, privileges, authority, and functions conferred and imposed by the TCEQ and the general laws of the State of Texas relating to municipal utility districts, including road powers under TEX. WATER CODE § 54.234, subject to the requirements of the TCEQ and the general laws of the State of Texas relating to the exercise of such powers.

4. The District shall be composed of the area situated within the corporate limits of the City of Sealy, Austin County, Texas, described by metes and bounds in Exhibit "A" attached hereto and incorporated herein for all purposes.

5. The Memorandum dated August 4, 2022, attached as Exhibit "B," is hereby incorporated as part of this Order.

6. The persons listed in Recommendation No. 4 of the Memorandum are hereby named and appointed as temporary directors and shall, as soon as practicable after the date of entry of this Order, execute their official bonds and take their official oaths of office. All such bonds shall be approved by the Board of Directors of the District, and each bond and oath shall be filed with the District and retained in its records.


7. This Order shall in no event be construed as an approval of any proposed agreements or of any particular items in any documents provided in support of the petition for creation, nor as a commitment or requirement of the TCEQ in the future to approve or disapprove any particular items or agreements in future applications submitted by the District for TCEQ consideration.

8. This Order shall not constitute approval or recognition of the validity of any provision in the City of Sealy Consent Resolution, Ordinance No. 2022-03, dated February 15, 2022, and any other ordinance/resolution incorporated therein by reference to the extent that such provisions exceed the authority granted to the City, by the laws of the State of Texas.

9. The Chief Clerk of the TCEQ shall forward a copy of this Order to all affected persons.

10. If any provision, sentence, clause, or phrase of this Order is for any reason held to be invalid, the invalidity of any portion shall not affect the validity of the remaining portions of the Order.

Issue Date: August 18, 2022



For the Commission

**EXHIBIT A**  
**KALUZA**  
INC

**Consulting Engineers & Surveyors**

Engineering Firm No. F-1339 | Surveying Firm No. 10010000

3014 Avenue I, Rosenberg, Texas 77471

(281) 341-0808 ■ FAX (281) 341-6333

October 12, 2020

**A FIELD NOTE DESCRIPTION** of 99.973 acres of Land being the remainder of an original call 95.24 acre tract (Volume 607, Page 233; Official Records of Austin County, Texas) being a portion of Lot Nos. Three, Four, and Five (3, 4, and 5), Block No. Fourteen (14) of Sealy Subdivision (Volume Y, Page 318; Deed Records of Austin County, Texas) being in the San Felipe de Austin Town Tract, Abstract No. 5, City of Sealy, Austin County, Texas. The bearing basis for this description is referenced to the Texas Coordinates System of 1983 (South Central Zone) and was determined by Global Positioning System methods.

**FOR CONNECTION**, begin at a three-quarter inch inside diameter iron pipe with plastic cap (Kalkomey) found for the North corner of said Lot No. 4 within the intersection of Brast Road (40 feet wide) and Eagle Lake Road (width varies); Said corner being the Northeast corner of a call 0.942 acre tract (Austin County Clerk's File No. 164747), bears North 42 degrees, 44 minutes, 28 seconds East – 678.01 feet from a one-half inch inside diameter iron rod with plastic cap (4194) found for reference in the Easterly line of the original Cane Belt Railroad Company right-of-way (called 3.60 acres; Austin County Clerk's File No. 165060) and bears North 42 degrees, 44 minutes, 28 seconds East – 1320.00 feet from a three-quarter inch inside diameter iron pipe with plastic cap (Kalkomey) found (disturbed) for the West corner of said Lot No. 4 and for the North corner of said Lot No. 3; **THENCE**; South 42 degrees, 44 minutes, 28 seconds West – 21.63 feet along the Northwesterly line of said Lot No. 4 along a line in said Eagle Lake Road to a point for reference; **THENCE**; South 47 degrees, 27 minutes, 48 seconds East – 11.32 feet to a 5/8 inch diameter iron rod with plastic cap set (labelled "1943 4349 5829", typical) at a fence corner post in the Southeasterly line of said Eagle Lake Road as occupied on the ground for the West corner of a call 0.298 acre tract of Land for road right-of-way for Brast Road (First Tract - Volume 299, Page 190; Deed Records of Austin County, Texas); Said corner being a point in the most Northerly Northwest line of said original call 95.24 acre tract and being the most Northerly corner of and **PLACE OF BEGINNING** for this 99.973 acre tract of Land;

**THENCE**; South 47 degrees, 27 minutes, 48 seconds East – 1299.99 feet crossing said original call 95.24 acre tract along the Southwesterly line of said Brast Road (40 feet wide) to a point in a six-inch diameter fence corner post found for the most Northerly Northeast corner of this tract; Said corner being the South corner of said call 0.298 acre road right-of-way tract and being the West corner of a call 0.116 acre tract of Land for road right-of-way for Brast Road (Volume 299, Page 188; Deed Records of Austin County, Texas);

**THENCE**; South 42 degrees, 0 minutes, 5 seconds West – 335.91 feet departing from said Brast Road along an interior line of said original call 95.24 acre tract with the Northwesterly line of a call 4 acre tract (Volume 148, Page 132; Deed Records of Austin County, Texas) being along the common lot line between said Lot No. 4 and said Lot No. 5 to a point in a six-inch diameter fence corner post found for interior corner of this tract;

**THENCE**; South 47 degrees, 11 minutes, 10 seconds East – 1302.82 feet crossing into said Lot No. 5 along an interior line of said original call 95.24 acre tract being along the Southwesterly line of said call 4 acre tract, then along a call 43,556.25 square foot tract (Volume 243, Page 616; Deed Records of Austin County, Texas), then along a reserved tract (Volume 262, Page 629; Deed Records of Austin County, Texas), and then along a call 3.3493 acre tract (Austin County Clerk's File No. 165354) to a one-half inch diameter iron rod found at a fence corner post for the most Easterly Northeast corner of this tract; Said corner being the South corner of said call 3.3493 acre tract, being the North corner of a

call 0.221 acre tract of Land for road right-of-way for Rexville Road (Second Tract – Volume 299, Page 190; Deed Records of Austin County, Texas), and being the lower Northwest corner of a call 0.193 acre tract of Land for road right-of-way for Rexville Road and for Brast Road (Second Tract – Volume 299, Page 185; Deed Records of Austin County, Texas); Said corner bears South 42 degrees, 22 minutes, 57 seconds West – 224.47 feet along the Northwesterly right-of-way line of said Rexville Road (40 feet wide) from a three-and-one-half inch diameter Texas Department of Transportation brass disk set in concrete found for cut-back corner in the Southerly right-of-way line of State Farm Market Highway No. 3538 (120 feet wide – call 0.4809 acre, Parcel 4; Austin County Clerk's File No. 057321);

**THENCE;** South 42 degrees, 34 minutes, 30 seconds West – 958.25 feet crossing said original call 95.24 acre tract along the Northwesterly right-of-way line of said Rexville Road to a 5/8 inch diameter iron rod with plastic cap set for the most Easterly Southeast corner of this tract; Said corner being the West corner of said call 0.221 acre road right-of-way tract;

**THENCE;** North 47 degrees, 20 minutes, 42 seconds West – 1293.18 feet departing from said Rexville Road along an interior line of said original call 95.24 acre tract with the Northeasterly line of a call 20.006 acre tract (Austin County Clerk's File No. 201351) being along the common lot line between said Lot No. 5 and Lot No. Six (6) of said Block No. 14 to a 5/8 inch diameter iron rod with plastic cap set for interior corner of this tract; Said corner being an interior corner of said original call 95.24 acre tract, being the North corner of said call 20.006 acre tract, and being the common corner of said Lot Nos. 3, 4, 5, and 6;

**THENCE;** South 42 degrees, 12 minutes, 31 seconds West, at 667.14 feet pass a 5/8 inch diameter iron rod with plastic cap found (RPK Land Service) for the West corner of said call 20.006 acre tract and for the North corner of a call 19.990 acre tract (Austin County Clerk's File No. 201352), in all 1334.28 feet along an interior line of said original call 95.24 acre tract to a one-half inch diameter iron rod with plastic cap (4194) found for the most Southerly Southwest corner of this tract; Said corner being the most Southerly Southwest corner of said original call 95.24 acre tract, being the West corner of said call 19.990 acre tract, being an angle point corner in the Northeasterly line of a call 126.354 acre tract (Austin County Clerk's File No. 143025) and being the common corner of said Lot Nos. 3 and 6 with Lot No. Two (2) and Lot No. Seven (7) of said Block No. 14; Said corner bears North 47 degrees, 55 minutes, 35 seconds West – 1291.16 feet from a one-half inch diameter iron rod with plastic cap (4194) found for reference;

**THENCE;** North 46 degrees, 53 minutes, 33 seconds West – 989.77 feet (called North 45 degrees West – 890 feet; Volume 607, Page 233; Official Records of Austin County, Texas; see Surveyor's Note attached) along a Southwesterly line of said original call 95.24 acre tract with the Northeasterly line of said call 126.354 acre tract being along the common line between said Lot No. 2 and Lot No. 3 to a three-quarter inch inside diameter iron pipe with plastic cap (Kalkomey) found for the most Westerly corner of this tract; Said corner being the most Westerly corner of said original call 95.24 acre tract and being the North corner of said call 126.354 acre tract in the Easterly line of said original Cane Belt Railroad Company right-of-way (call 9.309 acre tract – Austin County Clerk's File No. 001289);

**THENCE;** North 32 degrees, 37 minutes, 3 seconds East, at 1342.75 feet pass a three-quarter inch inside diameter iron pipe with plastic cap (Kalkomey) found for the East corner of said

call 9.309 acre tract and for the South corner of said call 3.60 acre tract, in all 1351.45 feet crossing said Lot No. 3 and then crossing into said Lot No. 4 along the Northwesterly line of said original call 95.24 acre tract with the Easterly line of said original Cane Belt Railroad Company right-of-way to a point in a six-inch diameter fence corner post found for angle point corner of this tract; Said corner being the apparent Southerly terminus of the Northwesterly right-of-way line of the extension of Eagle Lake Road as occupied on the ground (width varies - no dedication information available; called "Public Road" - Volume 607, Page 233; Official Records of Austin County, Texas);

**THENCE;** South 84 degrees, 13 minutes, 39 seconds East - 35.15 feet along an existing fence with an interior line of said original call 95.24 acre tract to a point in a railroad tie fence corner post for interior corner of this tract; Said corner being an interior corner of said original call 95.24 acre tract in the apparent Southerly terminus of the Southeasterly right-of-way line of said extension of Eagle Lake Road as occupied on the ground;

**THENCE;** Northeasterly, along an existing fence with the Northwesterly line of said original call 95.24 acre tract being along the apparent Southeasterly right-of-way line of said extension of Eagle Lake Road as occupied on the ground (width varies) with the following courses and distances:

North 32 degrees, 47 minutes, 39 seconds East - 710.22 feet to a point in a ten-inch diameter fence corner post found for angle point corner of this tract;

North 42 degrees, 0 minutes, 46 seconds East - 569.94 feet to the **PLACE OF BEGINNING** and containing 99.973 acres of Land.



**Brad L. Schodek, R.P.L.S. No. 6430**

This description prepared in conjunction with survey by this office of even date.



Surveyor's Note: The record written description of the original call 95.24 acre tract (Volume 607, Page 233; Official Records of Austin County, Texas and Volume 251, Page 84; Deed Records of Austin County, Texas) contains a mathematical error of closure of 97.4 feet, with a closing line bearing North 35 degrees West (calculated area as written= 95.36 acres). Based on field measurements and research of the public record by this office, a majority of the error in the written dimensions appears to be located along the most Westerly Southwest line of this tract (recorded deed call distance = 890 feet; on-the-ground measure distance per this survey = 989.77 feet; adjoining recorded deed call distance = 989.63 feet).



**Brad L. Schodek, R.P.L.S. No. 6430**

NULL-closure report 051121.txt

===== COGO ===== Tuesday May 11, 2021 2:43 PM

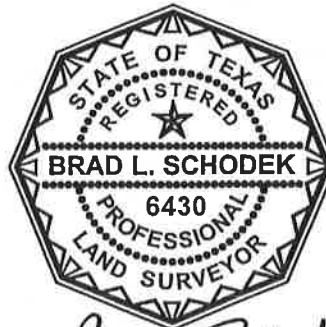
Coordinate File Name: DMD Lowest pt #: 1  
 Job # : 0  
 Description: CLOSURE REPORT 99.973 AC 10-12-20

FROM	TYPE	BEARING	DISTANCE	TO	NORTHING	EASTING
START				1	1000.000	1000.000
1	TRAV S	47-27-48.0 E	1299.990	2	121.126	1957.891
2	TRAV S	42-00-05.0 W	335.910	3	-128.498	1733.117
3	TRAV S	47-11-10.0 E	1302.820	4	-1013.919	2688.821
4	TRAV S	42-34-30.0 W	958.250	5	-1719.567	2040.512
5	TRAV N	47-20-42.0 W	1293.180	6	-843.332	1089.447
6	TRAV S	42-12-31.0 W	1334.280	7	-1831.638	193.035
7	TRAV N	46-53-33.0 W	989.770	8	-1155.259	-529.569
8	TRAV N	32-37-03.0 E	1351.450	9	-16.949	198.900
9	TRAV S	84-13-39.0 E	35.150	10	-20.485	233.872
10	TRAV N	32-47-39.0 E	710.220	11	576.542	618.543
11	TRAV N	42-00-46.0 E	569.940	12	1000.005	1000.002
				1	1000.000	1000.000

S 21-02-59.7 W 0.005 CLOSING LINE  
 10180.960 DISTANCE TRAVERSED  
 2056174.884 PRECISION

AREA: 4354831.48 Square Feet 99.9732 Acres

Coordinates stored Tuesday May 11, 2021 2:45 PM



05/11/21

*Brad L. Schodek*

Brad L. Schodek, R.P.L.S. No. 6430

Prepared by:  
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 Texas Licensed Surveying Firm No. 10010000  
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# Texas Commission on Environmental Quality

## TECHNICAL MEMORANDUM

**To:** Justin P. Taack, Manager  
Districts Section *JPT 8-4-2022*

**Date:** August 4, 2022

**Thru:** Daniel Finnegan, Team Leader  
Districts Bond Team

**From:** Bijaya Chalise  
Districts Bond Team

**Subject:** Petition by Cane Belt Development, LLC, a Texas limited liability company for Creation of Austin County Municipal Utility District No. 2; Pursuant to Texas Water Code Chapters 49 and 54.  
TCEQ Internal Control No. D-05162022-024 (TC)  
CN: 606019628 RN: 111502688

### A. GENERAL INFORMATION

The Texas Commission on Environmental Quality (TCEQ) received a petition requesting approval for the creation of Austin County Municipal Utility District No. 2 (District). The petition was signed by Scott E. Lease and James L. Garrett, as the Managing Members of Cane Belt Development, LLC, a Texas limited liability company (Petitioner). The petition states that the Petitioner holds title to a majority in value of the land in the proposed District, and it further states that there are two lienholders, NewFirst National Bank and K. Hovnanian of Houston II, LLC, on the property to be included in the proposed District and the aforementioned entities have consented to the petition.

The District is proposed to be created and organized according to the terms and provisions of Article XVI, Section 59 of the Texas Constitution and Chapters 49 and 54 of the Texas Water Code (TWC).

#### Location and Access

The proposed District will be located approximately 4.5 miles southwest of downtown Sealy ("City"), south of IH-10, west of FM 3538 and north of Rexville Road in Austin County. Access to the District will be provided by FM 3538 and Rexville Road. The petition states that the proposed District is within the corporate limits of the City.

#### Metes and Bounds Description

The proposed District contains 99.973 acres of land. The metes and bounds description of the proposed District has been reviewed and checked by TCEQ's staff and has been found to form an acceptable closure.

### City Consent

By Ordinance No. 2022-03, passed and approved on February 15, 2022, the City consents to the creation of the proposed District, pursuant to Texas Water Code Section 54.016. Accordingly, the requirements of Texas Water Code Section 54.016 and Texas Local Governmental Code Section 42.042 have been satisfied.

### Statements of Filing Petition

Evidence of filing a copy of the petition with the City Secretary's office, the Austin County Clerk's office, the TCEQ's Houston regional office, the Texas State Representative, and the Texas State Senator was included in the application.

### Type of Project

The proposed District will be considered a "developer project" as defined by 30 Texas Administrative Code (30 TAC) Section 293.44(a). Therefore, developer cost participation in accordance with 30 TAC Section 293.47 will be required.

### Developer Qualifications

Application material indicates that the proposed District will be developed by Cane Belt Development, LLC, a Texas limited liability company. Scott E. Lease and James L. Garrett, as managing members of Cane Belt Development, LLC, have extensive experience with residential development in the Houston area.

### Certificate of Ownership

By signed certificate dated May 3, 2022, the Austin County Appraisal District, has certified that the tax rolls indicate that the Petitioners are the owners of all of the land in the proposed District.

### Temporary Director Affidavits

The Petition requests TCEQ approval of the appointment of five initial directors, listed as follows:

Neal Spielman  
Richard C. Luebeck II

Tom Dans  
H. Troy Merrill, III

Donald K Martin

Each of the above persons named is qualified, as required by 30 TAC Section 293.32(a), to serve as a temporary director of the proposed District as each (1) is at least 18 years old, (2) is a resident of the State of Texas, and (3) either owns land subject to taxation within the proposed District or is a qualified voter within the proposed District. Additionally, as required by TWC Section 54.022, the majority are residents of the county in which the proposed District is located, a county adjacent to the county in which the proposed District is located, or if the proposed District is located in a county that is in a metropolitan statistical area designated by the United States Office of Management and Budget or its successor agency, a county in the same metropolitan statistical area as the county in which the proposed District is located.



### Notice Requirements

Proper notice of the application was published on June 17<sup>th</sup> and June 24<sup>th</sup>, 2022 in the *Houston Business Journal*, a newspaper regularly published or circulated in Austin County, the county in which the district is proposed to be located. Proper notice of the application was posted on June 21<sup>st</sup>, 2022, in the County Courthouse, the place where legal notices in Austin County are posted. Accordingly, the notice requirements of 30 TAC Section 293.12(b) have been satisfied. The opportunity for the public to request a contested case hearing (comment period) expired July 25<sup>th</sup>, 2022.

### **B. ENGINEERING ANALYSIS**

The creation engineering report contained the following information.

#### Availability of Comparable Service

The proposed District is located within the corporate limits of the City. The proposed District will receive retail water service from the City. The proposed District will construct its internal water distribution, wastewater collection, drainage and roadway facilities within its boundaries as well as necessary offsite facilities, if required. All infrastructure and utilities to serve the proposed District will be designed in accordance with criteria established by the City of Sealy, Austin County, and the TCEQ. The engineering report indicates no other comparable water and wastewater services are available in the area.

#### Water Supply Improvements

The engineering report states that the District will receive retail water service from the City. All water supply and distribution system improvements to serve the proposed District will be designed in accordance with criteria established by the TCEQ, the Texas Department of Health, Austin County, and the City.

#### Water Distribution Improvements

The water distribution system for full development of the proposed District will consist of a looped network of approximately 7,750 linear feet (LF) ranging from 6-inch to 8-inch diameter water lines, along with all related appurtenances. The distribution system will be designed to meet TCEQ, Austin County, and the City design criteria.

#### Wastewater Treatment Improvements

The District will receive wastewater service from the City. Wastewater will be collected by internal facilities constructed, maintained, and owned by the District or developer for connection to the City's wastewater system. The District's wastewater will gravity flow into a lift station before being pumped to the City's Wastewater Treatment Facility.

#### Wastewater Collection Improvements

The internal wastewater collection system at full development of the proposed District will consist of approximately 6,300 LF of 8-inch gravity lines, a lift stations, manholes and other appurtenances within the District. The collection system will be designed in accordance with the criteria established by the TCEQ, Austin County and the City design criteria.

### Storm Water Drainage System and Drainage Improvements

The storm water runoff within the proposed District will be directed along a proposed combination of a curb and gutter paved street system to convey runoff to flumes or inlets which will convey the flows overland or via underground culverts that outfall into detention ponds prior to entering into Little Bernard Creek via a proposed stormwater pump station. All proposed improvements will be designed and constructed in accordance with TCEQ, the City's, and Austin County design criteria.

### Road Improvements

Application materials indicate the proposed District will have a main point of access from Renville Road. The proposed District will construct internal road improvements, including primary local streets, within the proposed District. All proposed improvements will be designed in accordance with criteria established by Texas Department of Transportation, Austin County, and the City.

### Topography

The existing elevations throughout the tract range from approximately 197 feet above mean sea level (msl) in the eastern portion to approximately 185 feet above msl in the western portion. Most of the site currently drains towards the southwesterly direction, collecting at an existing culvert along a planned extension of Eagle Lake Road, and ultimately discharging into Little Bernard Creek.

### Floodplain

According to Federal Emergency Management Agency Flood Insurance Rate Map (FIRM) No. 48015C0400F effective October 18, 2019, the entire area of the proposed District is in Zone X. None of area within the proposed District is in the 100-year floodplain.

### Land Elevation

The fill and/or excavation associated with development of the proposed District's systems will not cause significant changes in the overall land elevations. Therefore, development within the proposed District is not expected to have any adverse effects on overall land elevations.

### Subsidence

The proposed District will receive its water service from the City of Sealy. Therefore, the District should have no effect on subsidence.

### Dam Safety Analysis

The TCEQ Dam Safety Program personnel reviewed the location of the District and confirmed by letter dated May 17, 2021, that there is a small dam within the proposed District which may be removed. However, if it is to remain a dam safety analysis may be required. A water rights permit may also be required if it is to remain, therefore, there should not be any dam safety issues associated with the proposed District.

Groundwater Levels/Recharge

Austin County is located within the Bluebonnet Groundwater Conservation District which regulates the groundwater use in the County. Furthermore, the proposed District will receive its water service from the City. Therefore, groundwater levels and recharge rates are not anticipated to be impacted within the proposed District.

Natural Run-off and Drainage

Runoff from the District will be collected in detention ponds before outfalling into Little Bernard Creek. Development of the District will increase the natural runoff rates when compared to the present undeveloped state of the land; however, the ponds will be designed to mitigate any effect on downstream runoff rates. Therefore, upstream and downstream landowners will not be adversely affected.

Water Quality

No adverse effect of the water quality of ground or surface water is anticipated as a result of this development. The treatment and disposal of wastewater from the proposed District will be provided by the City in compliance with the terms of the waste discharge permit obtained from the TCEQ.

**C. SUMMARY OF COSTS**

**WATER, WASTEWATER, AND DRAINAGE**

<u>CONSTRUCTION COSTS</u>	District's <sup>(1)</sup> <u>Share</u>
<b>A. Developer Contribution Items</b>	
1. Water	\$ 634,925
2. Wastewater	847,100
3. Drainage	1,181,616
4. Engineering (10% of item nos. 1-3)	<u>266,364</u>
Total Developer Contribution Items	\$ 2,930,005
<b>B. District Items</b>	
1. Lift Station and Force Main	\$ 250,000
2. Engineering (10% of item no. 1)	25,000
3. Land Cost for Detention Pond	<u>35,000</u>
Total District Items	\$ <u>310,000</u>
 TOTAL CONSTRUCTION COSTS (75.08% of Bond Issue)	 \$ 3,240,005

NON-CONSTRUCTION COSTS

A. Legal Fees (3.0%)	\$ 129,450
B. Fiscal Agent Fees (2.0%)	86,300
C. Interest Costs	

1. Capitalized Interest (2 yrs. @ 3.0%)	258,900
2. Developer Interest (2 yrs. @ 3.0%)	194,450 <sup>(2)</sup>
D. Bond Discount (3.0%)	129,400
E. Bond Issuance Expenses	41,392
F. Bond Application Report Costs	40,000
G. Creation Expenses	80,000
H. Operating Expenses	100,000
I. TCEQ Bond Issuance Fee (0.25%)	10,788
J. Attorney General Fee (0.10%)	<u>4,315</u>
TOTAL NONCONSTRUCTION COSTS	\$ <u>1,074,995</u>
TOTAL BOND ISSUE REQUIREMENT	\$ 4,315,000

Notes: (1) Assumes 100% funding of anticipated developer contribution items, where applicable.  
 (2) Based on developer advancing funds approximately two years prior to reimbursement.

Eligibility of costs for District funding and 30% developer contribution requirements will be determined in accordance with TCEQ rules in effect at the time bond applications are reviewed.

**ROAD IMPROVEMENT**

<u>CONSTRUCTION COSTS</u> (Developer/District Contribution Items)	District's <sup>(1)</sup> <u>Share</u>
1. Roads	\$ 1,419,940
2. Contingencies (5% of item no. 1)	70,997
3. Engineering (10% of item no. 1)	<u>141,994</u>
TOTAL CONSTRUCTION COSTS (79.7% of Bond Issue)	\$ 1,632,931
<u>NON-CONSTRUCTION COSTS</u>	
A. Legal Fees (3%)	\$ 61,500
B. Fiscal Agent Fees (2%)	41,000
C. Interest Costs	
1. Capitalized Interest (2 years @ 3.0%)	123,000
2. Developer Interest (2 years @ 3.0%)	97,976 <sup>(2)</sup>
D. Bond Discount (3.0%)	61,500
E. Bond Issuance Expenses	20,000
F. Bond Application Report Costs	10,043
G. Attorney General Fee (0.10%)	<u>2,050</u>
TOTAL NON-CONSTRUCTION COSTS	\$ <u>417,069</u>
TOTAL ROAD BOND ISSUE REQUIREMENT	\$ 2,050,000

- Notes:
- (1) Assumes 100% funding of anticipated developer contribution items, where applicable.
  - (2) Based on developer advancing funds approximately two years prior to reimbursement.

A preliminary layout of roads proposed for funding has been provided, and they appear to benefit the proposed District and the land included within the proposed District. TCEQ's review of eligibility of costs may be determined in accordance with TCEQ rules in effect at the time bond applications are reviewed.

**D. ECONOMIC ANALYSIS**

Land Use

The land use for the proposed District is intended to accommodate single-family residential and commercial development. Planned ultimate development in the proposed District, as shown in the land use plan provided, is as follows:

<u>Land Use</u>	<u>Acreage</u>	<u>ESFCs</u>
Single Family	75.673	99
Commercial	1.90	1
Open Space/Recreation	7.20	0
Lift Station	0.10	0
Future ROW	0.90	0
Detention/Drainage	<u>14.20</u>	<u>0</u>
<b>Total</b>	<b>99.973</b>	<b>100</b>

Market Study

A market study, prepared in May 2022, by Location Strategy, has been submitted in support of the creation of the proposed District. The market study indicates the proposed District is expected to include 99 single-family homes with average 0.65-acre lots. The average home values are expected to be \$330,000 for these single-family homes. The market study forecasts an average absorption of 30 sales/year and total sell-out period of first four years.

Project Financing

The projected taxable assessed valuation (AV) for the proposed District is as follows.

<u>Lot Description</u>	<u>No. of Units</u>	<u>Developed Unit Value (per home per lot)</u>	<u>Total Value at Buildout</u>
0.65-Acre Lots	99	\$ 330,000	\$ 32,670,000
<b>Total Assessed Valuation</b>			<b>\$ 32,670,000</b>

Considering the issuance of a total of \$6,365,000 (\$4,315,000 for utilities, plus \$2,050,000 for roads), assuming 100% financing, a bond coupon rate of 3.0%, and a 25-year bond life; therefore, the average annual debt service requirement would be \$365,528 (\$247,801 for water, wastewater, and drainage plus \$117,727 for roads). Assuming a 98% collection rate and an ultimate AV of \$32,670,000, a projected ultimate tax rate of approximately \$1.1417 (\$0.7740 for water, wastewater, and drainage plus \$0.3677 for roads) per \$100 AV was indicated to be necessary to meet the annual debt service requirements for the proposed District. Application material also indicates a maintenance tax of \$0.05 per \$100 assessed valuation is anticipated.

Further, application material indicates that in order to comply with tax rate feasibility limits of \$1.00 for Austin County, the proposed District could only reimburse \$981,000 of the road costs. As a result, the projected ultimate tax rate of approximately \$1.00 (\$0.7740 for water, wastewater, and drainage, plus \$0.1760 for roads, plus a \$0.05 maintenance tax) per \$100 AV would be required.

The total year 2021 overlapping tax rates on land within the proposed District are shown in the following table:

<u>Taxing Jurisdiction</u>	<u>Projected Overlapping Tax Rate<sup>(1)</sup></u>
Austin County Municipal Utility District No. 2 (District)	\$ 1.00000 <sup>(2)</sup>
Austin County	0.42677
City of Sealy	0.26994
Sealy ISD	1.26640
Austin County ESD No. 2	0.10000
Farm/Market Rd	0.07832
Special Road & Bridge	<u>0.06455</u>
<b>TOTAL TAX per \$100 AV:</b>	<b>\$ 3.20598</b>

Notes: (1) Tax rate per \$100 AV.

(2) Includes a \$0.95 debt service tax rate (utilities and road) and a \$0.05 maintenance tax rate.

Based on the proposed District tax rate and the year 2021 overlapping tax rate on land within the proposed District, the project is considered economically feasible. Each particular bond issue will be evaluated based on its own economic feasibility merits and the rules and regulations in place at the time prior to the issuance of any bonds by the District.

Water and Wastewater Rates

According to information provided, the City will provide retail water and wastewater services to the proposed District's customers. The current water and wastewater rates are as follow:

Water:

Base Monthly Charge	\$20.00 - Minimum Fee
Rate	\$2.00 per thousand gallons (0-2,000 gallons)
	\$3.75 per thousand gallons (2,001-8,000 gallons)
	\$4.70 per thousand gallons (8,001-23,000 gallons)
	\$5.90 per thousand gallons (23,001 or more gallons)

The projected average monthly bill is \$52.50 based on a water use of 10,000 gallons per month.

Wastewater:

The projected wastewater bill for the City is a flat monthly charge of \$45.10.

Based on the above rates, the estimated monthly fee for 10,000 gallons of water and wastewater would be \$97.60.

Comparative Water District Tax Rates

Based on the information provided, a tax rate of A tax rate of \$1.00 per \$100 assessed valuation for the proposed District when assuming, 100% financing, when possible, is comparable to other districts in the area. Each particular bond issue will be evaluated based on its own economic feasibility merits and the rules and regulations in place at the time prior to the issuance of any bonds by the District.

**E. SPECIAL CONSIDERATION**

1. Request for Road Powers

A request for approval of road powers was included in the petition for creation of the proposed District. Pursuant to TWC Section 54.234, approval of road powers may be requested at the time of creation. The engineering report provided with the application included a summary of the estimated costs. The proposed roads appear to benefit the proposed District, and financing appears feasible.

**F. CONCLUSIONS**

1. Based on TCEQ policy, compliance with TCEQ rules, and review of the engineering report and supporting documents, the proposed District is considered feasible, practicable, a benefit to the land within the proposed District, and necessary as a means to finance utilities and to provide utility service to future customers.
2. Based on a review of the preliminary engineering report; market study; the proposed District's water, wastewater, drainage facilities and roads, a combined projected tax rate of \$1.00 per \$100 AV when assuming 100% financing, when possible, the proposed District obtaining a 3.0% bond coupon interest rate, and other supporting data, the proposed District is considered feasible. Each particular bond issue will be evaluated based on its own economic feasibility merits and the rules and regulations in place at the time prior to the issuance of any bonds by the District.
3. The recommendations are made under authority delegated by the Executive Director of the TCEQ.

**G. RECOMMENDATIONS**

1. Grant the petition for creation of Austin County Municipal Utility District No. 2.

2. Grant the District's request to acquire road powers in accordance with TWC Section 54.234 and 30 TAC Sections 293.11(d)(11), 293.201(b) and 293.202 subject to the requirement imposed by the TCEQ and the general laws of the state relating to the exercise of such powers.

3. The Order granting the petition should include the following statements:

"This Order shall in no event be construed as an approval of any proposed agreements or of any particular items in any documents provided in support of the petition for creation, nor as a commitment or requirement of the TCEQ in the future to approve or disapprove any particular items or agreements in future applications submitted by the District for TCEQ consideration."

"This Order shall not constitute approval or recognition of the validity of any provision in the City of Sealy Consent Resolution, dated February 15, 2022, and any other ordinance/resolution incorporated therein by reference to the extent that such provisions exceed the authority granted to the City, by the laws of the State of Texas."

4. Appoint the following five persons to serve as temporary directors until permanent directors are elected and qualified:

Neal Spielman  
Richard C. Luebeck II

Tom Dans  
H. Troy Merrill, III

Donald K Martin

#### H. ADDITIONAL INFORMATION

The Petitioner's professional representatives are:

Attorney: Mr. Ryan E. LaRue - Sanford Kuhl Hagan Kugle Parker Kahn LLP  
Creation Engineer: Mr. Ken Heroy, P.E. - Jones-Heroy & Associates, Inc.