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December 22, 2023

City of San Antonio, Texas
ATTN: DEBBIE RACCA-SITTRE, City Clerk
City Tower
100 West Houston St.
P.O. Box 839966
San Antonio, TX 78205

*Sent via Hand Delivery &
CMRRR: 7006 3450 0002 9230 7912*

RE: Notice of Petition for Removal of Property located in **Comal County, Texas**, from City of San Antonio, Texas' ("City") Extraterritorial Jurisdiction ("ETJ") filed with the City Clerk's Office on December 22, 2023.

To Whom It May Concern:

Please let this correspondence serve as a formal notice of the petition filed by our client, **Heidelberg Materials Southwest Agg 1 LLC** ("Petitioner"), with the City Clerk's office on December 22, 2023, seeking removal of the property described therein from the City of San Antonio's ETJ (the "Petition"). The Petition has been filed in accordance with and pursuant to the authority granted under Chapter 42, Subchapter D, Texas Local Government Code.

Petitioner is qualified to submit the Petition and satisfies the requirements of TEX. LOC. GOV'T CODE § 42.104. Petitioner holds fee simple title to that certain real property described in the Petition, with such ownership constituting a majority in value of the holders of title of land described therein as indicated by the current tax rolls of the Comal Appraisal District. Pursuant to Chapter 42, Subchapter D, Texas Local Government Code, the property described in the Petition filed with the City is required to be immediately released from the City's ETJ by action of the City Council, or if no action is taken in the period of time described in TEX. LOC. GOV'T CODE § 42.105(d), such property is released by operation of law. A copy of the Petition and its corresponding exhibits is attached hereto as **Attachment 1**.

Thank you in advance for your prompt attention to this matter. Should you have any questions or concerns regarding the above or the attached please have your legal counsel contact me directly at (210) 868-6500 or john@earl-law.com.

Respectfully,

EARL & ASSOCIATES, P.C.

By: /s/ Johnathan L. Earl
Johnathan L. Earl, Attorney at Law

Enclosure(s): Attachment 1 (Petition)



STATE OF TEXAS

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COUNTY OF COMAL

**PETITION FOR RELEASE OF PROPERTY FROM THE
CITY OF SAN ANTONIO, TEXAS' EXTRATERRITORIAL JURISDICTION**

TO THE CITY OF SAN ANTONIO, TEXAS:

WHEREAS, Senate Bill 2038 was passed by the Texas Legislature in the 88th Regular Session, and signed by Governor Greg Abbott on May 19, 2023, and became effective on September 1, 2023; and

WHEREAS, upon the effective date of S.B. 2038, Chapter 42 of the Texas Local Government Code was amended to reflect the addition of Subchapters D and E, which provide landowners owning property within a municipality's extraterritorial jurisdiction with a process for attaining immediate release of such property therefrom; and

WHEREAS, the property that is the subject of this petition and sought to be removed from the City of San Antonio, Texas' Extraterritorial Jurisdiction ("City of San Antonio's ETJ"), is more fully described by the metes and bounds description and map contained in "Exhibit A," attached hereto and incorporated herein by reference (the "Property"); and

WHEREAS, the Property is not located within Five (5) miles of the boundary of a military base conducting an active training program; and

WHEREAS, the Property was not voluntarily annexed into the Extraterritorial Jurisdiction of the City of San Antonio, Texas; and the Property is neither: (i) located in a county in which the population grew by more than Fifty percent (50%) from the previous federal decennial census in the federal decennial census conducted in 2020; nor (ii) is the Property located in a county that has a population greater than Two Hundred and Forty Thousand (240,000); and

WHEREAS, the Property, being wholly located in Comal County, Texas, does not constitute an area within a portion of the City of San Antonio, Texas' Extraterritorial Jurisdiction that is: (i) within Fifteen (15) miles of the boundary of a military base, as defined by Section 43.0117; and (ii) in a county with a population of more than two million; and

WHEREAS, the county in which the Property is located, Comal County, has a population of less than Two Million (2,000,000); and

WHEREAS, the Property is not located within an area designated as an industrial district under TEX. LOC. GOV'T CODE § 42.044; and

WHEREAS, the Property is not located in an area subject to a strategic partnership agreement entered into under TEX. LOC. GOV'T CODE § 43.0751; and

WHEREAS, in accordance with TEX. LOC. GOV'T CODE § 42.102(b), the undersigned Petitioner is owner of the majority in value of an area consisting of one (1) or more parcels of land in the City of San Antonio's Extraterritorial Jurisdiction and, as such, files this *Petition for The Release of Property from the City of San Antonio's Extraterritorial Jurisdiction* (the "Petition") pursuant to such authority; and

WHEREAS, this Petition is submitted and signed in compliance with requirements for submitting a petition found under Chapter 277 of the Texas Election Code; and

WHEREAS, TEX. LOC. GOV'T CODE § 42.102 mandates that when a petition is verified to contain the required signatures to release the Property from the extraterritorial jurisdiction, the municipality "shall immediately release the [Property] from the municipality's extraterritorial jurisdiction."

NOW, THEREFORE, THE UNDERSIGNED PETITIONER HEREBY PETITIONS FOR THE RELEASE OF PROPERTY FROM THE CITY OF SAN ANTONIO, TEXAS' EXTRATERRITORIAL JURISDICTION AS FOLLOWS:

I. INCORPORATION OF RECITALS

The above recitals are hereby incorporated by reference for all intents and purposes as if fully restated herein.

II. PURPOSE & AUTHORITY

This Petition is submitted, filed, and executed by the undersigned Petitioner pursuant to and in accordance with the authority of Chapter 42, Subchapter D, of the Texas Local Government Code, for release of the Property from the City of San Antonio, Texas' Extraterritorial Jurisdiction.

III. QUALIFICATION OF PETITIONER & AUTHORITY UNDER TEX. LOC. GOV'T CODE § 42.104

Petitioner, **Heidelberg Materials Southwest Agg 1 LLC**, is qualified to submit this Petition under the authority of Chapter 42, Subchapter D, Texas Local Government Code, and satisfies the requirements of TEX. LOC. GOV'T CODE § 42.104, as Petitioner holds fee simple title to the Property described in "**Exhibit A**," attached hereto, and such ownership constitutes a majority in value of the holders of title of land in the area described by this Petition, as indicated by the tax rolls of the Comal Appraisal District. The date upon which this Petition is filed is within the One Hundred and Eightieth (180th) day after the date the first signature hereto was obtained, and as such, this Petition satisfies the signature requirement of TEX. LOC. GOV'T CODE § 42.104(a).

IV. PROPERTY SUBJECT TO PETITION FOR RELEASE FROM ETJ

The Property subject to this Petition constitutes one (1) or more parcels of land within a portion of the City of San Antonio's Extraterritorial Jurisdiction, of which Petitioner is the owner of the majority in value of such area, and with such portion **not being** located:

- a. Within Five (5) miles of the boundary of a military base, as defined by Section 43.0117, at which an active training program is conducted;
- b. In an area that was voluntarily annexed into the extraterritorial jurisdiction that is located in a county: (i) in which the population grew by more than Fifty Percent (50%) from the previous federal decennial census in the federal decennial census conducted in 2020; and (ii) that has a population greater than Two Hundred and Forty Thousand (240,000);
- c. Within the portion of the extraterritorial jurisdiction of a municipality with a population of more than One Million and Four Hundred Thousand (1,400,000) that is: (i) within Fifteen (15) miles of the boundary of a military base, as defined by TEX. LOC. GOV'T CODE § 43.0117, at which an active training program is conducted; and (ii) in a county with a population of more than Two Million (2,000,000);
- d. In an area designated as an industrial district under TEX. LOC. GOV'T CODE § 42.044; or
- e. In an area subject to a strategic partnership agreement entered into under TEX. LOC. GOV'T CODE § 43.0751.¹

The Property subject to this Petition is described by the metes and bounds description, and depicted in a map, which are attached hereto as "**Exhibit A.**" The Property being petitioned for release from the City of San Antonio's ETJ is situated entirely within **Comal County, Texas**. The Property may properly and legally be removed from the City of San Antonio's ETJ, as it meets each of the requirements prescribed by Chapter 42, Texas Local Government Code, Subchapter D. None of the land within the Property is within the city limits of any municipality and is located solely within the City of San Antonio's ETJ.

V. PETITIONER'S REQUEST

Attached to this Petition as "**Exhibit B**" is a sworn Affidavit of the holder(s) of fee simple title to more than Fifty Percent (50%) of the appraised value of taxable real property petitioned to be removed from the City of San Antonio's Extraterritorial Jurisdiction, as indicated by the tax rolls of the Comal Appraisal District. The duly authorized and executed Affidavit sets forth the Petitioner's request and consent to the release of the Property from the City of San Antonio's Extraterritorial Jurisdiction, as requested in this Petition. Additionally, attached to this Petition as "**Exhibit C**" is evidence of Petitioner's ownership of the Property in

¹ TEX. LOC. GOV'T CODE § 42.151

the form of: (i) a *Special Warranty Deed*, duly executed and recorded under Document No. 202306039361 in the Property Records of Comal County, Texas; and (ii) Certificate of Formation and Certificate of Filing from the Texas Secretary of State's Office.

VI. VERIFICATION BY CITY CLERK UNDER TEX. LOC. GOV'T CODE § 42.105

In accordance with TEX. LOC. GOV'T CODE § 42.105(a), this Petition is submitted and filed with the City Clerk for the City of San Antonio, Texas, as such person is designated by the City of San Antonio as the person responsible for verifying all signatures on the Petition.

VII. NOTICE TO LANDOWNER(S) BY CITY

In accordance with and pursuant to TEX. LOC. GOV'T CODE § 42.105(b), the City of San Antonio, Texas, is required to notify the landowner(s) of the Property subject to this Petition of the results of the same, being the release of the Property from the City of San Antonio's Extraterritorial Jurisdiction. Satisfaction of this requirement may be met by providing written notice to Petitioner at the following addresses:

Heidelberg Materials Southwest Agg 1 LLC
c/o Michael P. Comodeca
Senior Associate General Counsel
Southeast and Southwest Regions
Heidelberg Materials
300 E. John Carpenter Fwy,
Irving, Texas 75062
Email: michael.comodeca@heidelbergmaterials.com

With a Copy to the Law Firm of:
EARL & ASSOCIATES, P.C.
Attn: Johnathan L. Earl
Attn: Jennifer E. O'Steen
Attorneys for Petitioner
10007 Huebner Road, Ste. 303
San Antonio, Texas 78240
Telephone: (210) 868-6500
Email: john@earl-law.com
Email: josteen@earl-law.com

VIII. RELEASE OF PROPERTY FROM A CITY'S EXTRATERRITORIAL JURISDICTION MANDATED BY TEXAS LAW

Pursuant to TEX. LOC. GOV'T CODE § 42.105(c), with Petitioner having submitted this Petition and meeting the signature requirements under TEX. LOC. GOV'T CODE § 42.104, as well as having satisfied all other such other requirements as may be applicable under Chapter 42,

Subchapter D, Texas Local Government Code, the City of San Antonio, Texas, shall immediately release the Property from its Extraterritorial Jurisdiction.

A failure by the City of San Antonio, Texas, to take action releasing the Property from its Extraterritorial Jurisdiction by the later of: (i) the Forty-fifth (45th) day after the date the City of San Antonio receives this Petition; or (ii) the next meeting of the City of San Antonio, Texas' governing body that occurs after the Thirtieth (30th) day after the date the City of San Antonio receives this Petition, results in the Property being released from the City of San Antonio's Extraterritorial Jurisdiction by operation of law. TEX. LOC. GOV'T CODE § 42.105(d).

IX. REGULATION OF PROPERTY AFTER RELEASE FROM EXTRATERRITORIAL JURISDICTION

Pursuant to and in accordance with TEX. LOC. GOV'T CODE § 242.001(j), to the extent the Property described by this Petition is subject to an agreement under TEX. LOC. GOV'T CODE § 242.001(c), such agreement is terminated as to the Property. The County of Comal, Texas, is the political subdivision authorized to regulate subdivisions in the Property once removed from the City of San Antonio's Extraterritorial Jurisdiction as required by law.

RESPECTFULLY SUBMITTED and **FILED** on this 22nd day of
December, 2023.

Heidelberg Materials Southwest Agg 1 LLC,
A Texas Limited Liability Company

By: Christian Dennis Healy
Name: Christian Dennis Healy
Title: President
Date of Birth: 2/18/1971
Residential Address: 1251 Bolander Dr
Southlake, TX 76092
Date: 12/21/2023

[ACKNOWLEDGEMENT ON FOLLOWING PAGE]

ACKNOWLEDGEMENT

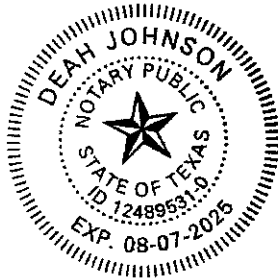
STATE OF TEXAS

COUNTY OF Dallas

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This instrument was signed before me on this the 21 day of December, 2023, by Christian Denis Hobby acting on behalf of **Heidelberg Materials Southwest Agg 1 LLC**, a Texas Limited Liability Company, for which he/she serves as President, with such company being the owner of Property (as defined above) included and described in this Petition.

SWORN AND SUBSCRIBED TO before me, the undersigned authority, on this the 21 day of December, 2023.



Deah Johnson
Notary Public in and for the State of Texas

*Petition for the Release of Property from the
City of San Antonio's ETJ*

EXHIBIT "A"

**METES AND BOUNDS DESCRIPTION AND MAP OF PROPERTY IN COMAL
COUNTY PETITIONED TO BE RELEASED FROM THE CITY OF SAN ANTONIO'S
EXTRATERRITORIAL JURISDICTION**



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San Antonio, TX 78232
Office: 210.490.7847

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Heidelberg Comal
Comal County, Texas

Job No. 2300000300.000
December 21, 2023

**POLITICAL SUBDIVISION DESCRIPTION
HEIDELBERG MATERIALS LANDS WITHIN
CITY OF SAN ANTONIO EXTRA-TERRITORIAL JURISDICTION**

BEING A 925.4-ACRE [40,312,029 SQ. FT.] TRACT COMPRISED OF THE GEORGE WB SIMMONS SURVEY SECTION 497, ABSTRACT 610, AND A PORTION OF THE SA & MA RR CO SURVEY SECTION 497.5, ABSTRACT 578, THE JOSEPH THOMPSON SURVEY SECTION 755, ABSTRACT 611, THE CHARLES HERMAN ARTZT SURVEY SECTION 318, ABSTRACT 10, THE SA & MA RR CO SURVEY SECTION 317, ABSTRACT 592, THE JOHANN WILLIAMSON SURVEY SECTION 576, ABSTRACT 677, THE FRITZ ZURCHER SURVEY, ABSTRACT 693, AND THE NICOLAUS ZUERCHER SURVEY SECTION 440, ABSTRACT 688, COMAL COUNTY, TEXAS, BEING A PORTION OF THAT CALLED 1022.21-ACRE TRACT DESCRIBED AS "TRACT I", AND A PORTION OF THAT CALLED 147.17-ACRE TRACT DESCRIBED AS "TRACT III" TO LYNDA DIERKS HOOVER, RENAY DIERKS HOMEWOOD, AND AUDRA K. DIERKS AS RECORDED IN DOCUMENT NUMBER 202206030458 OF THE OFFICIAL PUBLIC RECORDS OF COMAL COUNTY, TEXAS [O.P.R.C.C.T.], SAID 925.4-ACRE TRACT BEING FURTHER DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at an 8-inch cedar fence post in concrete (Texas Coordinate System, NAD 1983, South Central Zone, GRID Coordinates – N:13,790,831.77, E:2,193,430.66) found in the southeast right-of-way line of Schoenthal Road, an 80-foot wide right-of-way, described as 10.00-acre tract as recorded in Volume 153, Page 139 O.P.R.C.C.T., same being the northwest line of said 1,022.21-acre tract, for the northwest corner of the 925.4-acre tract described herein;

THENCE leaving said right-of-way line of Schoenthal Road, and said northwest line of the 1022.21-acre tract, crossing said 1,022.21-acre tract, and said 147.17-acre tract the following ten [10] courses and distances:

- 1) S69°15'58"E 78.71 feet to a 1/2-inch iron rod marked "BASELINE CORP." set for an angle point in the north line of the 925.4-acre tract described herein,
- 2) N71°22'12"E 131.14 feet to a 1/2-inch iron rod marked "BASELINE CORP." set for an angle point in the north line of the 925.4-acre tract described herein,
- 3) S85°05'58"E 2,484.56 feet to a 1/2-inch iron rod marked "BASELINE CORP." set for an angle point in the north line of the 925.4-acre tract described herein,

- 4) S28°13'57"E 303.96 feet to a 1/2-inch iron rod marked "BASELINE CORP." set for an angle point in the north line of the 925.4-acre tract described herein,
- 5) S81°01'35"E 265.45 feet to a 1/2-inch iron rod marked "BASELINE CORP." set for an angle point in the north line of the 925.4-acre tract described herein,
- 6) N65°44'39"E 303.61 feet to a 1/2-inch iron rod marked "BASELINE CORP." set for an angle point in the north line of the 925.4-acre tract described herein,
- 7) N21°42'30"E 486.95 feet to a 1/2-inch iron rod marked "BASELINE CORP." set for an angle point in the north line of the 925.4-acre tract described herein,
- 8) N08°00'45"W 431.98 feet to a 1/2-inch iron rod marked "BASELINE CORP." set for an angle point in the north line of the 925.4-acre tract described herein,
- 9) N63°15'39"W 133.99 feet to a 1/2-inch iron rod marked "BASELINE CORP." set for an angle point in the north line of the 925.4-acre tract described herein, and
- 10) S65°08'13"W 146.44 feet to an 8-inch cedar fence post in the south line of that called 249.7-acre tract described to Flying W Properties as recorded in Document Number 201706004645 O.P.R.C.C.T., same being the north line of said 147.17-acre tract, for an angle point in the north line of the 925.4-acre tract described herein;

THENCE continuing with said south line of the 249.7-acre tract, and said north line of the 147.17-acre tract the following two [2] courses and distances:

- 1) N11°48'19"E 174.32 feet to a 6-inch cedar fence post against a 19-inch forked live oak tree found for an angle point in the north line of the 925.4-acre tract described herein, and
- 2) N01°12'07"E 109.11 feet to a 60D nail in a 6-inch cedar fence post found for an angle point in the north line of the 925.4-acre tract described herein;

THENCE continuing with said south line of the 249.7-acre tract, same being said north line of the 147.17-acre tract, continuing with said south line of the 249.7-acre tract, same being the north line of said 1,022.21-acre tract the following ten [10] courses and distances:

- 1) N52°11'47"E 1,710.46 feet to a 1/2-inch iron rod found at the base of a 24-inch forked live oak for an angle point in the north line of the 925.4-acre tract described herein,

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- 2) S37°46'44"E 2,692.92 feet to a 1/2-inch iron rod marked "BASELINE CORP." set for an angle point in the north line of the 925.4-acre tract described herein,
- 3) N51°39'42"E 187.95 feet to a 4-inch wood fence post found for an angle point in the north line of the 925.4-acre tract described herein,
- 4) N52°39'22"E 627.55 feet to a 60D nail in a 16-inch elm tree found for an angle point in the north line of the 925.4-acre tract described herein,
- 5) N44°26'57"E 29.90 feet to a 60D nail in a 16-inch elm tree found for an angle point in the north line of the 925.4-acre tract described herein,
- 6) S64°08'37"E 44.70 feet to a 60D nail in a 17-inch elm tree found for an angle point in the north line of the 925.4-acre tract described herein,
- 7) S51°23'26"E 8.53 feet to a 9-inch elm tree found for an angle point in the north line of the 925.4-acre tract described herein,
- 8) S40°04'15"E 67.34 feet to a 60D nail in a 14-inch oak tree found for an angle point in the north line of the 925.4-acre tract described herein,
- 9) S36°38'12"E 279.59 feet to a cotton spindle in a 6-inch cedar fence post in a rock mound found for an angle point in the north line of the 925.4-acre tract described herein, and
- 10) N60°37'48"E 428.04 feet to the intersection of said south line of the 249.7-acre tract and the north line of said 1,022.21-acre tract with the City of San Antonio east extra-territorial jurisdiction line, same being the City of New Braunfels west extra-territorial jurisdiction line;

THENCE with said City of San Antonio east extra-territorial jurisdiction line and said City of New Braunfels west extra-territorial jurisdiction line, crossing said 1,022.21-acre tract, the following three [3] courses and distances:

- 1) S14°46'22"E 1,099.15 feet to an angle point,
S21°36'48"E 929.31 feet to an angle point, and
- 2) S44°54'13"E 382.70 feet to the southwest terminus of said City of New Braunfels west extra-territorial jurisdiction line, same being the northwest terminus of the City of Schertz west extra-territorial jurisdiction line;

THENCE continuing with said City of San Antonio east extra-territorial jurisdiction line, with said City of Schertz west extra-territorial jurisdiction line, continuing across said 1022.21-acre tract, S54°43'04"E 1125.88 feet to a 1/2-inch iron rod found in the south line of said 1,022.21-acre

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tract, for the northwest corner of that tract described as parcel ID "78747", "80507", "81351" to Lehigh Beazer East Inc. in Document Number 202106051393 O.P.R.C.C.T., being further described as a 350.194-acre tract described in Document Number 200706046979 O.P.R.C.C.T., same being the northeast corner of said 335.850-acre tract;

THENCE continuing with said south line of the 1,022.21-acre tract, same being the north line of said 335.850-acre tract the following six [6] courses and distances:

- 1) S73°40'34"W 169.27 feet to a 1/2-inch iron rod found at the base of a fence post for an angle point in the south line of the 925.4-acre tract described herein,
- 2) S85°05'16"W 77.09 feet to a 1/2-inch iron rod found at the base of a 14-inch cedar tree on top of bluff for an angle point in the south line of the 925.4-acre tract described herein,
- 3) S51°00'11"W 1,421.20 feet to a 1/2-inch iron rod marked "BASELINE CORP." set for an angle point in the south line of the 925.4-acre tract described herein,
- 4) S56°43'40"W 166.31 feet to a 1/2-inch iron rod found at base of 16-inch cedar tree for an angle point in the south line of the 925.4-acre tract described herein;
- 5) S52°16'48"W 2,108.59 feet to a 1/2-inch iron rod marked "BASELINE CORP." set for an angle point in the south line of the 925.4-acre tract described herein, and
- 6) N35°42'08"W 983.45 feet to a 1/2-inch iron rod found for the northwest corner of said 335.850-acre tract, the east corner of a tract described to Lehigh Hanson Materials South LLC as recorded in Document Number 202106050997 O.P.R.C.C.T., being further described as a 37-acre tract as recorded in Volume 66, Page 325 O.P.R.C.C.T., and an angle point in the south line of the 925.4-acre tract described herein;

THENCE continuing with said south line of the 1,022.21-acre tract, same being the north line of said 37-acre tract, and the north line of said Lehigh Hanson Materials South LLC tract, N37°19'08"W 94.91 feet to a 1/2-inch iron rod found for the north corner of said 37-acre tract, an angle point in said north line of Lehigh Hanson Materials South LLC tract, being further described as the east corner of that called 935.258-acre tract as recorded in Volume 628, Page 200 O.P.R.C.C.T., and an angle point in the south line of the 925.4-acre tract described herein;

THENCE continuing with said south line of the 1,022.21-acre tract, same being the north line of said 935.258-acre tract, and the north line of said Lehigh Hanson Materials South LLC tract, the following eleven [11] courses and distances:

- 1) N36°48'33"W 376.14 feet to a 1/2-inch iron rod marked "BASELINE CORP." set for an angle point in the south line of the 925.4-acre tract described herein,

Exhibit "A"

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- 2) N37°20'12"W 2,312.94 feet to a 1/2-inch iron rod found for an angle point in the south line of the 925.4-acre tract described herein,
- 3) S52°07'22"W 382.49 feet to a 1/2-inch iron rod marked "BASELINE CORP." set for an angle point in the south line of the 925.4-acre tract described herein,
- 4) S52°34'40"W 2,849.75 feet to a 1/2-inch iron rod found for an angle point in the south line of the 925.4-acre tract described herein,
- 5) S64°17'42"W 62.93 feet to a 1/2-inch iron rod marked "BASELINE CORP." set for an angle point in the south line of the 925.4-acre tract described herein,
- 6) S64°17'42"W 739.80 feet to a wire fence in a 16-inch live oak tree found for an angle point in the south line of the 925.4-acre tract described herein,
- 7) S60°11'09"W 577.00 feet to a 1/2-inch iron rod marked "BASELINE CORP." set for an angle point in the south line of the 925.4-acre tract described herein,
- 8) S60°11'10"W 534.23 feet to a 6-inch wood fence post found for an angle point in the south line of the 925.4-acre tract described herein,
- 9) S61°54'39"W 122.75 feet to a 6-inch wood fence post found for an angle point in the south line of the 925.4-acre tract described herein,
- 10) S60°07'23"W 539.77 feet to a 6-inch cedar fence post found for an angle point in the south line of the 925.4-acre tract described herein, and
- 11) S59°47'28"W 875.14 feet to a 1/4-inch iron rod found for the southeast corner of that called 17.359-acre tract described to Evelyn Teel Carlisle as recorded in Document Number 202006008822 O.P.R.C.C.T., the southwest corner of said 1,022.21-acre tract, and the southwest corner of the 925.4-acre tract described herein;

THENCE leaving said north line of said 935.258-acre tract, with the southwest line of said 1,022.21-acre tract, same being the northeast line of said 17.359-acre tract the following two [2] courses and distances:

- 1) N09°22'53"W 566.01 feet to a 8-inch wood fence post found for an angle point in the southwest line of the 925.4-acre tract described herein, and
- 2) N38°17'08"W 187.94 feet to a 1/4-inch iron rod found for the southeast corner of that called 3.067-acre tract described to Ronald Lee Classy, II and Jennifer Gail

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Classy as recorded in Document Number 200406014101 O.P.R.C.C.T., and an angle point in the southwest line of the 925.4-acre tract described herein;

THENCE continuing with said southwest line of the 1,022.21-acre tract, same being the northeast line of said 3.067-acre tract, N39°39'59"W 404.31 feet to a 1/2-inch iron rod marked "BASELINE CORP." set for the northeast corner of said 3.067-acre tract, the southeast corner of that called 2.113-acre tract described to Jack A. Efron as recorded in Document Number 200206038038 O.P.R.C.C.T., and an angle point in the southwest line of the 925.4-acre tract described herein;

THENCE continuing with said southwest line of the 1,022.21-acre tract, same being the northeast line of said 2.113-acre tract, N39°40'01"W 396.16 feet to a 1/2-inch iron rod found for the north corner of said 2.113-acre tract, the southeast corner of that called 5.762-acre tract described to James R. Lowe and Sandra L. Lowe as recorded in Document Number 200406006964 O.P.R.C.C.T., and an angle point in the southwest line of the 925.4-acre tract described herein,

THENCE continuing with said southwest line of the 1,022.21-acre tract, same being the northeast line of said 5.762-acre tract the following two [2] courses and distances:

- 1) N39°42'20"W 232.20 feet to a 1/2-inch iron rod found for an angle point in the southwest line of the 925.4-acre tract described herein, and
- 2) N10°18'45"W 296.34 feet to a 1/2-inch iron rod marked "BASELINE CORP." set in the southeast right-of-way line of Schoenthal Road, a varying width right-of-way, no record information found, for the west corner of said 1,022.21-acre tract, and the west corner of the 925.4-acre tract described herein, from which a 1/4-inch iron rod found for the north corner of said 5.762-acre tract, and an angle point in said southeast right-of-way of Schoenthal Road, bears N10°18'45"W 24.36 feet;

THENCE leaving said northeast line of the 5.762-acre tract, with said southeast right-of-way line of Schoenthal Road, and said northwest line of the 1,022.21-acre tract, N36°42'49"E 2,565.98 feet to a 1/2-inch iron rod marked "BASELINE CORP." set in said southeast right-of-way line of Schoenthal Road, an 80-foot wide right-of-way, described as 10.00-acre tract as recorded in Volume 153, Page 139 O.P.R.C.C.T., for a point of curvature of a non-tangent circular curve to the left, and a point in the northwest line of the 925.4-acre tract described herein;

THENCE with said southeast right-of-way of Schoenthal Road, and said northwest line of said 1,022.21-acre tract the following two [2] courses and distances:

- 1) with the arc of said curve to the left a distance of 735.41 feet, said curve having a radius of 2,904.90 feet, a central angle of 14°30'18" and a chord bearing

Exhibit "A"

BASELINE | DCCM

14350 Northbrook Drive, Suite 130
San Antonio, TX 78232
Office: 210.490.7847

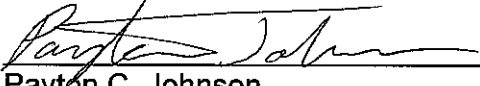
BaselineSurveyors.net
TxSurv F-10030200

N33°41'22"E 733.45 feet to a 1/2-inch iron rod marked "BASELINE CORP." set for a point of tangency, and

- 2) N26°26'13"E 1,356.51 feet to said **POINT OF BEGINNING** and containing 925.4 acres [40,312,029 SQ. FT.].

This document was prepared under 22 TAC 663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interest implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

I, Payton C. Johnson, Registered Professional Land Surveyor, hereby certify that this property description and accompanying plat of even date was prepared under my supervision.


Payton C. Johnson
Registered Professional Land Surveyor
Texas Registration No. 6961
Baseline | DCCM TxSurv F-10030200
pjohnson@baselinesurveyors.net

12/21/2023

Date

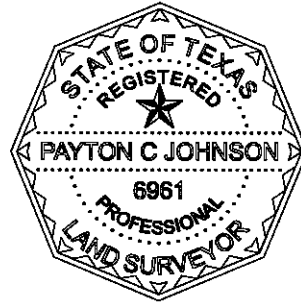




EXHIBIT B

**SWORN AFFIDAVIT OF HEIDELBERG MATERIALS SOUTHWEST AGG 1 LLC, THE
OWNER OF REAL PROPERTY THAT IS PETITIONING FOR THE PROPERTY'S RELEASE
FROM THE CITY OF SAN ANTONIO'S EXTRATERRITORIAL JURISDICTION**

STATE OF TEXAS

§
§
§

COUNTY OF Dallas

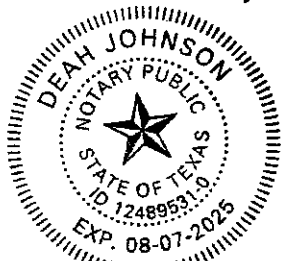
On this day, before me the undersigned authority, appeared Christian Dennis Hobby, acting in his/her capacity as President of Heidelberg Materials Southwest Agg 1 LLC, and on behalf of which, after first being duly sworn, Affiant so stated as follows:

"My name is Christian Dennis Hobby. I am over the age of eighteen (18), am under no disability, am competent to make this Affidavit, have personal knowledge of the facts stated herein, and swear the same are true and correct. I, the undersigned, am duly authorized to and are acting on behalf of Heidelberg Materials Southwest Agg 1 LLC, (the "Petitioner") of which I am President.

"I hereby affirm that Heidelberg Materials Southwest Agg 1 LLC, is the fee simple owner of certain real property located in Comal County, Texas, which is more particularly described by the map and metes and bounds description attached to the Petition as Exhibit A (the "Property"), that is the subject of the Petition to which this Affidavit is attached."

"The recorded instrument evidencing Petitioner's ownership is incorporated herein by reference and is attached to the Petition as "Exhibit C." I am verifying, for purposes of Chapter 42 of the Texas Local Government Code, that Heidelberg Materials Southwest Agg 1 LLC, is (i) the owner of the Property described in the Petition; (ii) that the Property constitutes more than Fifty Percent (50%) of the appraised value of taxable property that is the subject of this Petition, as indicated by the tax rolls of the Comal Appraisal District; and (iii) that Heidelberg Materials Southwest Agg 1 LLC requests and consents to the release of said Property from the City of San Antonio's ETJ by the filing of the Petition to which this Affidavit is attached."

Further Affiant Sayeth Naught.



Heidelberg Materials Southwest Agg 1 LLC
a Texas Limited Liability Company

By:

Name:

Title:

Christian Dennis Hobby
Christian Dennis Hobby
President

SWORN AND SUBSCRIBED TO before me, the undersigned authority, on this the 21 day of December, 2023.

Deah Johnson
Notary Public in and for the State of Texas

*Petition for the Release of Property from the
City of San Antonio's ETJ*

EXHIBIT C
Evidence of Ownership of Property

6F 9000702300088

FNT

202306039361 12/18/2023 03:04:22 PM 1/14

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER

SPECIAL WARRANTY DEED

THE STATE OF TEXAS

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF COMAL

THAT **LYNDA DIERKS HOOVER, RENAY DIERKS HOMEWOOD, AND AUDRA K. DIERKS** (hereinafter collectively "Grantor"), for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration in hand paid to the undersigned by **HEIDELBERG MATERIALS SOUTHWEST AGG 1 LLC**, a Texas limited liability company ("Grantee"), whose mailing address is 300 E. John Carpenter, Suite 1645, Irving, Texas 75062, the receipt and sufficiency of such consideration being hereby acknowledged by Grantor, and for the further consideration of the execution and delivery by Grantee of that certain promissory note (the "Note") dated of even date herewith, executed by Grantee payable to the order of Grantor, does hereby grant, bargain, sell, and convey unto Grantee that certain real property being more particularly described on Exhibit A attached hereto and made a part hereof for all purposes, together with all improvements and fixtures situated thereon (collectively, the "Property", which is Grantor's sole and separate property); **SUBJECT TO** the matters set forth on Exhibit B attached hereto and made a part hereof for all purposes (collectively, the "Permitted Exceptions"), the reference to which shall not operate to reimpose the same.

TO HAVE AND TO HOLD the Property and easements rights, with all and singular the rights, privileges, appurtenances and immunities thereto belonging or in any wise appertaining unto Grantee, its successors and assigns forever, Grantor hereby covenanting that the Property is free and clear from any encumbrance done or suffered by it, but is subject to the Permitted Exceptions; and Grantor hereby agrees to **WARRANT AND FOREVER DEFEND** all and singular the Property unto Grantee, its successors and assigns, against every person whomsoever lawfully claiming the same, or any part thereof, by, through, or under Grantor, but not otherwise, subject to the Permitted Exceptions.

Except for Grantor's special warranty of title to be contained in this Deed, and except for the express representations, covenants, agreements, promises and warranties expressly provided in the Contract to purchase the Property (collectively, the "Express Representations"), Grantee is not relying on any written, oral, implied, or other representations, statements, or warranties by Grantor or any agent of Grantor or any real estate broker or salesman. Except for the Express Representations, Grantor hereby specifically disclaims any warranty, guaranty, or representation, oral or written concerning (i) the nature and condition of the Property, including but not by way of limitation, the water, soil, geology and the suitability thereof, for any and all activities and uses which Grantee may elect to conduct thereon, income to be derived therefrom or expenses to be incurred with respect thereto, or any obligations or any other matter or thing relating to or affecting the same; (ii) the manner of construction and condition and state of repair or lack of repair of any improvements located thereon; (iii) the nature and extent of any easement, right-of-way, lien, encumbrance, restriction, license or reservation; and (iv) the compliance of the Property or the operation of the Property with any laws, rules, ordinances, or regulations of any government or other body. **EXCEPT FOR THE EXPRESS REPRESENTATIONS, GRANTOR HAS NOT MADE AND DOES NOT MAKE, ANY REPRESENTATIONS,**

WARRANTIES OR COVENANTS OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, WITH RESPECT TO THE QUALITY OR CONDITION OF THE PROPERTY, THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH GRANTEE MAY CONDUCT THEREON, COMPLIANCE BY THE PROPERTY WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR HABITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND SPECIFICALLY, GRANTOR DOES NOT MAKE ANY REPRESENTATIONS REGARDING HAZARDOUS WASTE, AS DEFINED BY THE LAWS OF THE STATE OF TEXAS AND ANY REGULATIONS ADOPTED PURSUANT THERETO OR THE U.S. ENVIRONMENTAL PROTECTION AGENCY REGULATIONS AT 40 C.F.R., PART 261, OR THE DISPOSAL OF ANY HAZARDOUS WASTE OR ANY OTHER HAZARDOUS OR TOXIC SUBSTANCES IN OR ON THE PROPERTY, EXCEPT FOR THOSE ENVIRONMENTAL REPRESENTATIONS AND WARRANTIES THAT ARE A PART OF THE EXPRESS REPRESENTATIONS. Except for the Express Representations, Grantee accepts the Property with the Property being in its present AS IS condition WITH ALL FAULTS. In addition, Grantee acknowledges that the disclaimer set forth in this Paragraph and the provisions of the Paragraph below are a material part of the consideration for this Deed and but for Grantee's agreement to accept the Property in its present AS IS condition WITH ALL FAULTS pursuant to the terms and provisions of this Disclaimer and Property Condition Grantor would not have entered into this Deed.

GRANTEE ACKNOWLEDGES AND AGREES THAT GRANTEE HAS ENGAGED AND IS, EXCEPT FOR THE EXPRESS REPRESENTATIONS, RELYING ON PERSONS (EXCLUDING GRANTOR) WHO ARE, EXPERIENCED IN THE OWNERSHIP, DEVELOPMENT AND/OR OPERATION OF PROPERTIES SIMILAR TO THE PROPERTY AND THAT GRANTEE PRIOR TO THE CLOSING INSPECTED THE PROPERTY OR CAUSED THE PROPERTY TO BE INSPECTED TO ITS SATISFACTION AND IS QUALIFIED TO MAKE SUCH INSPECTION. GRANTEE ACKNOWLEDGES THAT, EXCEPT FOR THE EXPRESS REPRESENTATIONS, IT IS FULLY RELYING ON GRANTEE'S (OR GRANTEE'S REPRESENTATIVES') INSPECTIONS OF THE PROPERTY AND EXCEPT FOR THE EXPRESS REPRESENTATIONS, NOT UPON ANY STATEMENT (ORAL OR WRITTEN) WHICH MAY HAVE BEEN MADE OR MAY BE MADE (OR PURPORTEDLY MADE) BY GRANTOR OR ANY OF ITS REPRESENTATIVES. GRANTEE ACKNOWLEDGES THAT GRANTEE HAS (OR GRANTEE'S REPRESENTATIVES HAD), THOROUGHLY INSPECTED AND EXAMINED THE PROPERTY TO THE EXTENT DEEMED NECESSARY BY GRANTEE IN ORDER TO ENABLE GRANTEE TO EVALUATE THE CONDITION OF THE PROPERTY AND ALL OTHER ASPECTS OF THE PROPERTY (INCLUDING, BUT NOT LIMITED TO, THE ENVIRONMENTAL CONDITION OF THE PROPERTY); AND GRANTEE ACKNOWLEDGES THAT GRANTEE IS RELYING SOLELY UPON ITS OWN (OR ITS REPRESENTATIVES') INSPECTION, EXAMINATION AND EVALUATION OF THE PROPERTY, EXCEPT FOR THE EXPRESS REPRESENTATIONS. EXCEPT FOR THE EXPRESS REPRESENTATIONS AND GRANTOR'S OBLIGATIONS HEREUNDER WITH RESPECT THERETO, GRANTEE HEREBY EXPRESSLY ASSUMES ALL RISKS, LIABILITIES, CLAIMS, DAMAGES AND COSTS (AND AGREES THAT GRANTOR SHALL NOT BE LIABLE FOR ANY SPECIAL, DIRECT, INDIRECT, CONSEQUENTIAL OR OTHER DAMAGES) RESULTING OR ARISING FROM OR RELATED TO THE OWNERSHIP, USE, CONDITION, LOCATION, MAINTENANCE, REPAIR OR OPERATION OF THE PROPERTY. GRANTEE FURTHER ACKNOWLEDGES THAT THE PROVISIONS OF

THIS DISCLAIMER AND RELEASE HAVE BEEN FULLY EXPLAINED TO GRANTEE AND THAT GRANTEE FULLY UNDERSTANDS AND ACCEPTS THE SAME.

✓ EXECUTED effective the 15 day of December, 2023.

GRANTOR:

LYNDA DIERKS HOOVER

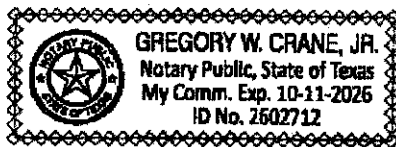
✓ Lynda Dierks Hoover
Lynda Dierks Hoover, individually

ACKNOWLEDGEMENT

STATE OF TEXAS
✓ COUNTY OF Bexar

Before me, (insert the name and character of the officer), on this day personally appeared **LYNDA DIERKS HOOVER**, known to me through driver's license to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this 15th day of December, 2023.



(Notary's Signature)
Notary Public, State of Texas
My Commission Expires:

GRANTOR:

RENAY DIERKS HOMEWOOD

✓ Renay Dierks Homewood
Renay Dierks Homewood, individually

ACKNOWLEDGEMENT

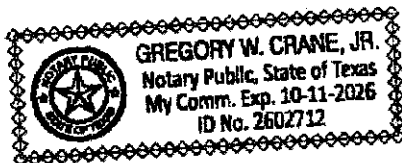
✓ STATE OF TEXAS

COUNTY OF Brewer

§
§
§

Before me, (insert the name and character of the officer), on this day personally appeared RENAY DIERKS HOMEWOOD, known to me through driver's license to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this 15th day of December, 2023.



[Signature]
(Notary's Signature)
Notary Public, State of Texas
My Commission Expires: _____

GRANTOR:

AUDRA K. DIERKS

✓ Audra K. Dierks

Audra K. Dierks, individually

ACKNOWLEDGEMENT

✓ STATE OF TEXAS

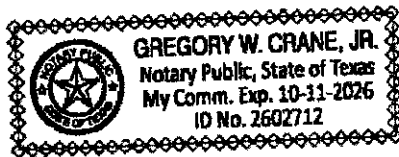
§

§
COUNTY OF Bexar

§

Before me, (insert the name and character of the officer), on this day personally appeared AUDRA K. DIERKS, known to me through driver's license to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this 15th day of December, 2023.



[Signature]
(Notary's Signature)
Notary Public, State of Texas
My Commission Expires: _____

EXHIBIT A

Legal Description

1,088 ACRES [47,373,679 SQ. FT.]

BEING A 1,088-ACRE [47,373,679 SQ. FT.] TRACT COMPRISED OF THE GEORGE WB SIMMONS SURVEY SECTION 497, ABSTRACT 610, AND A PORTION OF THE SA & MA RR CO SURVEY SECTION 497.5, ABSTRACT 578, THE JOSEPH THOMPSON SURVEY SECTION 765, ABSTRACT 611, THE CHARLES HERMAN ARTZT SURVEY SECTION 318, ABSTRACT 10, THE SA & MA RR CO SURVEY SECTION 317, ABSTRACT 592, THE JOHANN WILLIMSON SURVEY SECTION 576, ABSTRACT 677, THE FRITZ ZURCHER SURVEY, ABSTRACT 693, AND THE NICOLAUS ZUERCHER SURVEY SECTION 440, ABSTRACT 688, COMAL COUNTY, TEXAS, BEING A PORTION OF THAT CALLED 1022.21-ACRE TRACT DESCRIBED AS "TRACT I", AND A PORTION OF THAT CALLED 147.17-ACRE TRACT DESCRIBED AS "TRACT III" TO LYNDIA DIERKS HOOVER, RENAY DIERKS HOMEWOOD, AND AUDRA K. DIERKS AS RECORDED IN DOCUMENT NUMBER 202208030458 OF THE OFFICIAL PUBLIC RECORDS OF COMAL COUNTY, TEXAS [O.P.R.C.C.T.], SAID 1,088-ACRE TRACT BEING FURTHER DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at an 8-inch cedar fence post in concrete (Texas Coordinate System, NAD 1983, South Central Zone, GRID Coordinates – N:13,790,831.77, E:2,193,430.66) found in the southeast right-of-way line of Schoenthal Road, an 80-foot wide right-of-way, described as 10.00-acre tract as recorded in Volume 153, Page 139 O.P.R.C.C.T., same being the northwest line of said 1,022.21-acre tract, for the northwest corner of the 1,088-acre tract described herein;

THENCE leaving said right-of-way line of Schoenthal Road, and said northwest line of the 1022.21-acre tract, crossing said 1,022.21-acre tract, and said 147.17-acre tract the following ten [10] courses and distances:

- 1) S69°15'58"E 78.71 feet to a 1/2-inch iron rod marked "BASELINE CORP." set for an angle point in the north line of the 1,088-acre tract described herein,
- 2) N71°22'12"E 131.14 feet to a 1/2-inch iron rod marked "BASELINE CORP." set for an angle point in the north line of the 1,088-acre tract described herein,
- 3) S85°05'58"E 2,484.56 feet to a 1/2-inch iron rod marked "BASELINE CORP." set for an angle point in the north line of the 1,088-acre tract described herein,

- 4) S28°13'57"E 303.98 feet to a 1/2-inch iron rod marked "BASELINE CORP." set for an angle point in the north line of the 1,088-acre tract described herein,
- 5) S81°01'35"E 265.45 feet to a 1/2-inch iron rod marked "BASELINE CORP." set for an angle point in the north line of the 1,088-acre tract described herein,
- 6) N65°44'39"E 303.61 feet to a 1/2-inch iron rod marked "BASELINE CORP." set for an angle point in the north line of the 1,088-acre tract described herein,
- 7) N21°42'30"E 486.95 feet to a 1/2-inch iron rod marked "BASELINE CORP." set for an angle point in the north line of the 1,088-acre tract described herein,
- 8) N08°00'45"W 431.98 feet to a 1/2-inch iron rod marked "BASELINE CORP." set for an angle point in the north line of the 1,088-acre tract described herein,
- 9) N63°15'39"W 133.99 feet to a 1/2-inch iron rod marked "BASELINE CORP." set for an angle point in the north line of the 1,088-acre tract described herein, and
- 10) S65°08'13"W 146.44 feet to an 8-inch cedar fence post in the south line of that called 249.7-acre tract described to Flying W Properties as recorded in Document Number 201708004645 O.P.R.C.C.T., same being the north line of said 147.17-acre tract, for an angle point in the north line of the 1,088-acre tract described herein;

THENCE continuing with said south line of the 249.7-acre tract, and said north line of the 147.17-acre tract the following two [2] courses and distances:

- 1) N11°48'19"E 174.32 feet to a 6-inch cedar fence post against a 19-inch forked live oak tree found for an angle point in the north line of the 1,088-acre tract described herein, and
- 2) N01°12'07"E 109.11 feet to a 60D nail in a 6-inch cedar fence post found for an angle point in the north line of the 1,088-acre tract described herein;

THENCE continuing with said south line of the 249.7-acre tract, same being said north line of the 147.17-acre tract, continuing with said south line of the 249.7-acre tract, same being the north line of said 1,022.21-acre tract the following ten [10] courses and distances:

- 1) N52°11'47"E 1,710.46 feet to a 1/2-inch iron rod found at the base of a 24-inch forked live oak for an angle point in the north line of the 1,088-acre tract described herein,

- 2) S37°46'44"E 2,692.92 feet to a 1/2-inch iron rod marked "BASELINE CORP." set for an angle point in the north line of the 1,088-acre tract described herein,
- 3) N51°39'42"E 187.95 feet to a 4-inch wood fence post found for an angle point in the north line of the 1,088-acre tract described herein,
- 4) N52°39'22"E 627.55 feet to a 60D nail in a 16-inch elm tree found for an angle point in the north line of the 1,088-acre tract described herein,
- 5) N44°26'57"E 29.90 feet to a 60D nail in a 16-inch elm tree found for an angle point in the north line of the 1,088-acre tract described herein,
- 6) S64°08'37"E 44.70 feet to a 60D nail in a 17-inch elm tree found for an angle point in the north line of the 1,088-acre tract described herein,
- 7) S51°23'26"E 8.53 feet to a 9-inch elm tree found for an angle point in the north line of the 1,088-acre tract described herein,
- 8) S40°04'15"E 67.34 feet to a 60D nail in a 14-inch oak tree found for an angle point in the north line of the 1,088-acre tract described herein,
- 9) S36°38'12"E 279.59 feet to a cotton spindle in a 6-inch cedar fence post in a rock mound found for an angle point in the north line of the 1,088-acre tract described herein, and
- 10) N60°37'48"E 1,024.53 feet to a 1/2-inch iron rod found for the southeast corner of said 249.7-acre tract, the southwest corner of Lot 2A, Schoenthal Ranch Unit 5, a subdivision according to the plat of record in Volume 6, Page 200 of the Plat Records of Comal County, Texas [P.R.C.C.T.], and an angle point in the north line of the 1,088-acre tract described herein;

THENCE with said north line of the 1,022.21-acre tract, same being the south line of said Lot 2A, N60°25'59"E 320.89 feet to a 1/2-inch iron rod found for the southeast corner of said Lot 2A, the southwest corner of Lot 2B, of said Schoenthal Ranch Unit 5 subdivision, and an angle point in the north line of the 1,088-acre tract described herein;

THENCE continuing with said north line of the 1,022.21-acre tract, same being the south line of said Lot 2B, N60°34'18"E 747.40 feet to a 1/2-inch iron rod found for the southeast corner of said Lot 2B, the south corner of Lot 13, Schoenthal Ranch Unit 4, a subdivision according to the plat of record in Volume 6, Page 156 P.R.C.C.T., the west corner of Lot 12, of said Schoenthal Ranch Unit 4 subdivision, and the northeast corner of the 1,088-acre tract described herein;

THENCE with the east line of said 1,022.21-acre tract, same being the southwest line of said Schoenthal Ranch Unit 4 the following five [5] courses and distances:

- 1) with the southwest line of said Lot 12, S30°22'54"E 194.66 feet to a 5-inch wood fence post found for an angle point in the east line of the 1,088-acre tract described herein,

- 2) continuing with said southwest line of Lot 12, S30°22'29"E 203.35 feet to a 1/4-inch iron rod found for the south corner of said Lot 12, the west corner of Lot 11 of said Schoenthal Ranch Unit 4 subdivision, and an angle point in the east line of the 1,088-acre tract described herein,
- 3) with the southwest line of said Lot 11, S30°10'55"E 358.91 feet to a point for the south corner of said Lot 11 and the west corner of Lot 10 of said Schoenthal Ranch Unit 4 subdivision, for an angle point in the east line of the 1,088-acre tract described herein, from which a leaning 1/4-inch iron rod found bears S59°47'13"W 0.27 feet,
- 4) with the southwest line of said Lot 10, S30°12'51"E 305.72 feet to a 1/2-inch iron rod marked "BASELINE CORP." set for an angle point in said southwest line of Lot 10 and the east line of the 1,088-acre tract described herein, and
- 5) continuing with said southwest line of Lot 10, S29°50'35"E 313.25 feet to a 1/2-inch iron rod found for the south corner of said Lot 10, and an angle point in the east line of the 1,088-acre tract described herein;

THENCE continuing with said east line of the 1,022.21-acre tract, same being the south line of said Lot 10, N55°28'28"E 178.18 feet to an 80D nail found for the southeast corner of said Lot 10, the west corner of Lot 9 of said Schoenthal Ranch Unit 4 subdivision, and an angle point in the east line of the 1,088-acre tract described herein;

THENCE continuing with said east line of the 1,022.21-acre tract, same being the southwest line of said Lot 9, S32°20'15"E, passing at a distance of 86.61 feet a 4-inch cedar fence post for the south corner of said Lot 9, the southeast corner of said Schoenthal Ranch Unit 4 subdivision, and the west corner of the remainder of that called 300.00-acre tract described to Leroy E. Wilson and Dorthlin R. Wilson as recorded in Volume 211, Page 521 O.P.R.C.C.T., and continuing with said east line of the 1,022.21-acre tract, same being the southwest line of said 300.00-acre tract, for a cumulative distance of 197.61 feet to a 6-inch cedar fence post found for an angle point in the east line of the 1,088-acre tract described herein;

THENCE continuing with said east line of the 1,022.21-acre tract and said southwest line of the 300.00-acre tract, S30°34'04"E 1,457.81 feet to a 1/2-inch iron rod marked "BASELINE CORP." set for the south corner of said 300.00-acre tract, the northwest corner of a tract described as parcel ID "78747", "80507", "81351" to Lehigh Beazer East Inc. in Document Number 202106051393 O.P.R.C.C.T., being further described as a 350.194-acre tract described in Document Number 200706046979 O.P.R.C.C.T., and an angle point in the east line of the 1,088-acre tract described herein;

THENCE continuing with said east line of the 1,022.21-acre tract, same being the northwest line of said 350.194-acre tract, S30°07'08"E 748.64 feet to an 6-inch wood fence post found for an angle point in said northwest line of the 350.194-acre tract, the east corner of said 1,022.21-acre tract, and the east corner of the 1,088-acre tract described herein;

THENCE with the south line of said 1,022.21-acre tract, and said northwest line of the 350.194-acre tract, S73°21'15"W 1773.41 feet to a 1/2-inch iron rod found for the northwest corner of said 350.194-acre tract, the northeast corner of that called 335.850-acre tract described as "Tract 4" to 8364 Fordyce Property LLC as recorded in Document Number 201306052859 O.P.R.C.C.T., and an angle point in the south line of the 1,088-acre tract described herein;

THENCE continuing with said south line of the 1,022.21-acre tract, same being the north line of said 335.850-acre tract the following six [6] courses and distances:

- 1) S73°40'34"W 169.27 feet to a 1/2-inch iron rod found at the base of a fence post for an angle point in the south line of the 1,088-acre tract described herein,
- 2) S55°05'16"W 77.09 feet to a 1/2-inch iron rod found at the base of a 14-inch cedar tree on top of bluff for an angle point in the south line of the 1,088-acre tract described herein,
- 3) S51°00'11"W 1,421.20 feet to a 1/2-inch iron rod marked "BASELINE CORP." set for an angle point in the south line of the 1,088-acre tract described herein,
- 4) S56°43'40"W 166.31 feet to a 1/2-inch iron rod found at base of 16-inch cedar tree for an angle point in the south line of the 1,088-acre tract described herein;
- 5) S52°16'48"W 2,108.59 feet to a 1/2-inch iron rod marked "BASELINE CORP." set for an angle point in the south line of the 1,088-acre tract described herein, and
- 6) N35°42'08"W 983.45 feet to a 1/2-inch iron rod found for the northwest corner of said 335.850-acre tract, the east corner of a tract described to Lehigh Hanson Materials South LLC as recorded in Document Number 202106050997 O.P.R.C.C.T., being further described as a 37-acre tract as recorded in Volume 66, Page 325 O.P.R.C.C.T., and an angle point in the south line of the 1,088-acre tract described herein;

THENCE continuing with said south line of the 1,022.21-acre tract, same being the north line of said 37-acre tract, and the north line of said Lehigh Hanson Materials South LLC tract, N37°19'08"W 94.91 feet to a 1/2-inch iron rod found for the north corner of said 37-acre tract, an angle point in said north line of Lehigh Hanson Materials South LLC tract, being further described as the east corner of that called 935.258-acre tract as recorded in Volume 628, Page 200 O.P.R.C.C.T., and an angle point in the south line of the 1,088-acre tract described herein;

THENCE continuing with said south line of the 1,022.21-acre tract, same being the north line of said 935.258-acre tract, and the north line of said Lehigh Hanson Materials South LLC tract, the following eleven [11] courses and distances:

- 1) N36°48'33"W 376.14 feet to a 1/2-inch iron rod marked "BASELINE CORP." set for an angle point in the south line of the 1,088-acre tract described herein,
- 2) N37°20'12"W 2,312.94 feet to a 1/2-inch iron rod found for an angle point in the south line of the 1,088-acre tract described herein,
- 3) S52°07'22"W 382.49 feet to a 1/2-inch iron rod marked "BASELINE CORP." set for an angle point in the south line of the 1,088-acre tract described herein,
- 4) S52°34'40"W 2,849.75 feet to a 1/2-inch iron rod found for an angle point in the south line of the 1,088-acre tract described herein,
- 5) S64°17'42"W 62.93 feet to a 1/2-inch iron rod marked "BASELINE CORP." set for an angle point in the south line of the 1,088-acre tract described herein,
- 6) S64°17'42"W 739.80 feet to a wire fence in a 16-inch live oak tree found for an angle point in the south line of the 1,088-acre tract described herein,
- 7) S60°11'09"W 577.00 feet to a 1/2-inch iron rod marked "BASELINE CORP." set for an angle point in the south line of the 1,088-acre tract described herein,
- 8) S60°11'10"W 534.23 feet to a 6-inch wood fence post found for an angle point in the south line of the 1,088-acre tract described herein,
- 9) S61°54'39"W 122.75 feet to a 6-inch wood fence post found for an angle point in the south line of the 1,088-acre tract described herein,
- 10) S60°07'23"W 539.77 feet to a 6-inch cedar fence post found for an angle point in the south line of the 1,088-acre tract described herein, and
- 11) S59°47'28"W 875.14 feet to a 1/4-inch iron rod found for the southeast corner of that called 17,359-acre tract described to Evelyn Teel Carlisle as recorded in Document Number 202006008822 O.P.R.C.C.T., the southwest corner of said 1,022.21-acre tract, and the southwest corner of the 1,088-acre tract described herein;

THENCE leaving said north line of said 935.258-acre tract, with the southwest line of said 1,022.21-acre tract, same being the northeast line of said 17.359-acre tract the following two [2] courses and distances:

- 1) N09°22'53"W 566.01 feet to a 8-inch wood fence post found for an angle point in the southwest line of the 1,088-acre tract described herein, and

- 2) N38°17'08"W 187.94 feet to a 1/4-inch iron rod found for the southeast corner of that called 3.067-acre tract described to Ronald Lee Classy, II and Jennifer Gail Classy as recorded in Document Number 200406014101 O.P.R.C.C.T., and an angle point in the southwest line of the 1,088-acre tract described herein;

THENCE continuing with said southwest line of the 1,022.21-acre tract, same being the northeast line of said 3.067-acre tract, N39°39'59"W 404.31 feet to a 1/2-inch iron rod marked "BASELINE CORP." set for the northeast corner of said 3.067-acre tract, the southeast corner of that called 2.113-acre tract described to Jack A. Efron as recorded in Document Number 200206038038 O.P.R.C.C.T., and an angle point in the southwest line of the 1,088-acre tract described herein;

THENCE continuing with said southwest line of the 1,022.21-acre tract, same being the northeast line of said 2.113-acre tract, N39°40'01"W 396.16 feet to a 1/2-inch iron rod found for the north corner of said 2.113-acre tract, the southeast corner of that called 5.762-acre tract described to James R. Lowe and Sandra L. Lowe as recorded in Document Number 200406006964 O.P.R.C.C.T., and an angle point in the southwest line of the 1,088-acre tract described herein;

THENCE continuing with said southwest line of the 1,022.21-acre tract, same being the northeast line of said 5.762-acre tract the following two [2] courses and distances:

- 1) N39°42'20"W 232.20 feet to a 1/2-inch iron rod found for an angle point in the southwest line of the 1,088-acre tract described herein, and
- 2) N10°18'45"W 296.34 feet to a 1/2-inch iron rod marked "BASELINE CORP." set in the southeast right-of-way line of Schoenthal Road, a varying width right-of-way, no record information found, for the west corner of said 1,022.21-acre tract, and the west corner of the 1,088-acre tract described herein, from which a 1/4-inch iron rod found for the north corner of said 5.762-acre tract, and an angle point in said southeast right-of-way of Schoenthal Road, bears N10°18'45"W 24.36 feet;

THENCE leaving said northeast line of the 5.762-acre tract, with said southeast right-of-way line of Schoenthal Road, and said northwest line of the 1,022.21-acre tract, N36°42'49"E 2,565.98 feet to a 1/2-inch iron rod marked "BASELINE CORP." set in said southeast right-of-way line of Schoenthal Road, an 80-feet wide right-of-way, described as 10.00-acre tract as recorded in Volume 153, Page 139 O.P.R.C.C.T., for a point of curvature of a non-tangent circular curve to the left, and a point in the northwest line of the 1,088-acre tract described herein;

THENCE with said southeast right-of-way of Schoenthal Road, and said northwest line of said 1,022.21-acre tract the following two [2] courses and distances:

- 1) with the arc of said curve to the left a distance of 735.41 feet, said curve having a radius of 2,904.90 feet, a central angle of 14°30'18" and a chord bearing N33°41'22"E 733.45 feet to a 1/2-inch iron rod marked "BASELINE CORP." set for a point of tangency, and
- 2) N26°26'13"E 1,356.51 feet to said **POINT OF BEGINNING** and containing 1,088 acres [47,373,679 SQ. FT.] as surveyed by Payton C. Johnson, R.P.L.S. No. 6961.

EXHIBIT B

PERMITTED EXCEPTIONS

- a. Easement(s) for the purpose(s) shown below and rights incidental thereto as condemned by an instrument,

Entitled: Judgment
Court: County Court at Law of Comal County, Texas
Cause No.: 526C
In favor of: City of San Antonio
Purpose: a perpetual electrical transmission line easement and right-of-way, 100 feet in width
Recording Date: June 28, 1984
Recording No: in Volume 395, Page 752, Deed Records, Comal County, Texas

Shown and noted on revised survey dated October 17, 2023, prepared by Payton C. Johnson, Registered Professional Land Surveyor Number 6961, on behalf of Baseline - DCCM, under Project: 200000159.021

- b. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: Central Texas Regional Water Supply Corporation
Purpose: 85' wide Water Line Easement
Recording Date: November 1, 2016
Recording No: Document No. 20166036867; corrected by Document No. 201606041516, Official Public Records, Comal County, Texas.
Affects: As described therein. (Tract 1)

First Amendment to Water Line Easement Agreement filed March 28, 2018 and recorded in Document Number 201806011515, Official Public Records, Comal County, Texas.

Second Amendment to Water Line Easement Agreement filed October 18, 2018 and recorded in Document Number 201806041058, Official Public Records, Comal County, Texas.

Shown and noted on revised survey dated October 17, 2023, prepared by Payton C. Johnson, Registered Professional Land Surveyor Number 6961, on behalf of Baseline - DCCM, under Project: 200000159.021

- c. Terms, conditions and provisions of that certain Memorandum of Vista Ridge Regional Supply Project water Transmission and Purchase Agreement, recorded on November 14, 2016 in Document No. 201606043200, Official Public Records of Comal County, Texas.

Shown and noted on revised survey dated October 17, 2023, prepared by Payton C. Johnson, Registered Professional Land Surveyor Number 6961, on behalf of Baseline - DCCM, under Project: 200000159.021

d. All leases, grants, exceptions or reservations of coal, lignite, oil, gas and other minerals, together with all rights, privileges, and immunities relating thereto, appearing in the Public Records. There may be leases, grants, exceptions or reservations of mineral interest that are not listed.

e. Easement(s) and rights incidental thereto, as granted in a document:

Granted to: City of San Antonio, Texas
Purpose: electric transmission and distribution line
and appurtenances
Recording Date: November 29, 1946
Recording No: in Volume 85, Page 281, Deed Records of
Comal County, Texas

Noted on revised survey dated October 17, 2023, prepared by Payton C. Johnson, Registered Professional Land Surveyor Number 6961, on behalf of Baseline - DCCM, under Project: 200000159.021

f. All leases, grants, exceptions or reservations of the geothermal energy and associated resources below the surface of the Land, together with all rights, privileges, and immunities relating thereto, appearing in the Public Records. There may be leases, grants, exceptions or reservations of the geothermal energy and associated resources below the surface of the Land that are not listed.

g. Any rights, interests, or claims which may exist or arise by reason of the following matters disclosed by survey:

Project/Job No.: 200000159.021
Revised Survey Dated: October 17, 2023
Prepared by: Payton C. Johnson, Registered Professional Land
Surveyor Number 6961 on behalf of Baseline -
DCCM
Matters shown: Protrusion of fence over the central north
property line; encroachment/protrusion of gravel
roads over the westerly and central north property
lines

Filed and Recorded
Official Public Records
Bobbie Koepp, County Clerk
Comal County, Texas
12/18/2023 03:04:22 PM
TERRI 14 Pages(s)
202306039361



Bobbie Koepp

Corporations Section
P.O.Box 13697
Austin, Texas 78711-3697



Jane Nelson
Secretary of State

Office of the Secretary of State

December 12, 2023

Attn: Clark Hill PLC

Clark Hill PLC
901 Main Street, Suite 6000
Dallas, TX 75202 USA

RE: Heidelberg Materials Southwest Agg 1 LLC
File Number: 805335562

It has been our pleasure to file the certificate of formation and issue the enclosed certificate of filing evidencing the existence of the newly created domestic limited liability company (llc).

Unless exempted, the entity formed is subject to state tax laws, including franchise tax laws. Shortly, the Comptroller of Public Accounts will be contacting the entity at its registered office for information that will assist the Comptroller in setting up the franchise tax account for the entity. Information about franchise tax, and contact information for the Comptroller's office, is available on their web site at <https://window.state.tx.us/taxinfo/franchise/index.html>.

The entity formed does not file annual reports with the Secretary of State. Documents will be filed with the Secretary of State if the entity needs to amend one of the provisions in its certificate of formation. It is important for the entity to continuously maintain a registered agent and office in Texas. Failure to maintain an agent or office or file a change to the information in Texas may result in the involuntary termination of the entity.

If we can be of further service at any time, please let us know.

Sincerely,

Corporations Section
Business & Public Filings Division
(512) 463-5555

Enclosure

Phone: (512) 463-5555
Prepared by: Angie Hurtado

Come visit us on the internet at <https://www.sos.texas.gov/>

Fax: (512) 463-5709
TID: 10285

Dial: 7-1-1 for Relay Services
Document: 1313182070002



Office of the Secretary of State

CERTIFICATE OF FILING OF

Heidelberg Materials Southwest Agg 1 LLC
File Number: 805335562

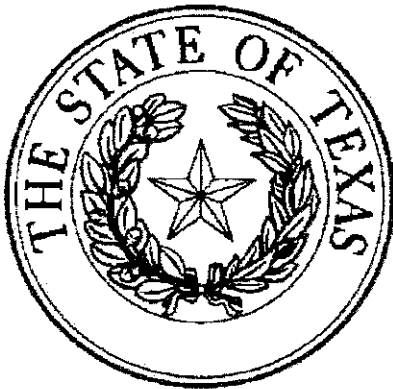
The undersigned, as Secretary of State of Texas, hereby certifies that a Certificate of Formation for the above named Domestic Limited Liability Company (LLC) has been received in this office and has been found to conform to the applicable provisions of law.

ACCORDINGLY, the undersigned, as Secretary of State, and by virtue of the authority vested in the secretary by law, hereby issues this certificate evidencing filing effective on the date shown below.

The issuance of this certificate does not authorize the use of a name in this state in violation of the rights of another under the federal Trademark Act of 1946, the Texas trademark law, the Assumed Business or Professional Name Act, or the common law.

Dated: 12/11/2023

Effective: 12/11/2023



A handwritten signature in black ink that reads "Jane Nelson".

Jane Nelson
Secretary of State

Secretary of State
P.O. Box 13697
Austin, TX 78711-3697
FAX: 512/463-5709



**Certificate of Formation
Limited Liability Company**

Filed in the Office of the
Secretary of State of Texas
Filing #: 805335562 12/11/2023
Document #: 1313182070002
Image Generated Electronically
for Web Filing

Filing Fee: \$300

Article 1 - Entity Name and Type

The filing entity being formed is a limited liability company. The name of the entity is:

Heidelberg Materials Southwest Agg 1 LLC

Article 2 - Registered Agent and Registered Office

☒ A. The initial registered agent is an organization (cannot be company named above) by the name of:

Corporation Service Company D/B/A CSC-Lawyers Incorporating Service Company

OR

☐ B. The initial registered agent is an individual resident of the state whose name is set forth below:

C. The business address of the registered agent and the registered office address is:

Street Address:

211 E. 7th Street, Ste. 620 Austin TX 78701

Consent of Registered Agent

☐ A. A copy of the consent of registered agent is attached.

OR

☒ B. The consent of the registered agent is maintained by the entity.

Article 3 - Governing Authority

☒ A. The limited liability company is to be managed by managers.

OR

☐ B. The limited liability company will not have managers. Management of the company is reserved to the members.

The names and addresses of the governing persons are set forth below:

Manager 1: **Chris D. Hobby**

Title: **Manager**

Address: **300 E John Carpenter Fwy Irving TX, USA 75062**

Manager 2: **Christopher J. Ward**

Title: **Manager**

Address: **300 E John Carpenter Fwy Irving TX, USA 75062**

Article 4 - Purpose

The purpose for which the company is organized is for the transaction of any and all lawful business for which limited liability companies may be organized under the Texas Business Organizations Code.

Supplemental Provisions / Information

[The attached addendum, if any, is incorporated herein by reference.]

Initial Mailing Address

Address to be used by the Comptroller of Public Accounts for purposes of sending tax information.

The initial mailing address of the filing entity is:

**300 E John Carpenter Fwy
Irving, TX 75062
USA**

Organizer

The name and address of the organizer are set forth below.

Monica Earnhart Clark Hill PLC 901 Main Street, Ste. 6000, Dallas, TX 75202

Effectiveness of Filing

☒ A. This document becomes effective when the document is filed by the secretary of state.

OR

☐ B. This document becomes effective at a later date, which is not more than ninety (90) days from the date of its signing. The delayed effective date is:

Execution

The undersigned affirms that the person designated as registered agent has consented to the appointment. The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument and certifies under penalty of perjury that the undersigned is authorized under the provisions of law governing the entity to execute the filing instrument.

Monica Earnhart

Signature of Organizer

FILING OFFICE COPY

0054 - CIVIL DIVISION
2022 JAN 02 12:21 PM