

STATE OF TEXAS

§

RESOLUTION # 052616-01

COUNTIES OF CALDWELL,
HAYS, AND TRAVIS

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A RESOLUTION OF THE BOARD OF DIRECTORS OF THE BARTON SPRINGS/EDWARDS AQUIFER CONSERVATION DISTRICT, APPROVING THE REDISTRICTING OF THE DISTRICT'S SINGLE-MEMBER DIRECTOR PRECINCTS AND ESTABLISHING NEW PRECINCT BOUNDARY LINES FOR BOARD OF DIRECTOR ELECTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the 84th Texas Legislature passed HB 3405 effective June 19, 2015 that included a new section 8802.0035 to the Special District Local Laws Code adding territory to the Barton Springs/Edwards Aquifer Conservation District (District) that is inside the boundaries of the Edwards Aquifer Authority and Hays County and not within the Plum Creek Conservation District as those boundaries existed February 1, 2015. The newly-added territory is referred to as the Shared Territory; and

WHEREAS, HB 3405 requires the Board of Directors (Board) of the District as soon as practicable and in conformance with Section 8802.053 of the Special Districts Local Laws Code to revise the single-member precincts as the board considers appropriate to reflect the addition of the Shared Territory; and

WHEREAS, the Shared Territory is contiguous with existing Director Precincts 1 and 3; and

WHEREAS, subsequent to November 17, 2011 adoption of the District's current director boundaries, the City of Austin annexed into portions of Director Precincts 1, 2 and 3; and

WHEREAS, Water Code § 36.059(b) provides that if any part a municipal corporation is part of one director precinct, then no part of the municipal corporation shall be included in another director precinct, except that a municipal corporation having a population of more than 200,000 may be divided between two precincts. In a multicounty district, not more than two of the five precincts may include the same municipal corporation or part of the same municipal corporation; and,

WHEREAS, The Cities of Austin, San Marcos, Buda, and Kyle are within the District, but only the City of Austin may be split between two director precincts because it has a population over 200,000; and

WHEREAS, Special Districts Local Law Code § 8802.053(b) provides the Board may revise the single-member districts as necessary and appropriate; and

WHEREAS, the Board finds it is necessary and appropriate to revise the boundaries of all five director precincts to comply with Special Districts Local Law Code § 8802.053(c), which provides that when the board revises the single member precincts, two of the precincts are to be entirely within the boundaries of the City of Austin, as those boundaries exist at that time; or within the boundaries of the City of Austin, as those boundaries exist at that time, but also including unincorporated areas or other municipalities that are surrounded wholly or partly by the boundaries of the City of Austin if the areas or municipalities are noncontiguous to the territory of any other single-member district; and

WHEREAS, the principle of “one-person, one-vote” (equal population) established by the U.S. Constitution is not implicated in this instance because the purpose and powers of the District are specialized and narrow. The U.S. Supreme Court in *Sayler Land Co. v. Tulare Lake Basin Water Storage District*, 410 U.S. 719, 728 (1973) has established an exception to the one-person-one vote principle for special purpose governmental entities exercising narrow governmental function and operating to the burden or benefit of one group of constituents more than others. The District was established for the special purpose of protecting the aquifers within its boundaries, and in the Shared Territory, the District has no authority over the Edwards Aquifer; and

WHEREAS, With the population distribution of the added Shared Territory including the municipal corporations of the Cities of San Marcos, Kyle, and Buda, of which each has a population of less than 200,000, there is no configuration of single-member director precinct numbers 1, 2 and 3 that can be sufficiently balanced to comply with “one-person, one-vote” (equal population) principle; and

WHEREAS, the established director precincts 1, 2 and 3 have always contained disproportionate populations when compared to precincts 4 and 5, which is unavoidable to comply with Special Districts Local Law Code § 8802.053(c) and with the addition of the Shared Territory disproportionate population among precinct 1,2, and 3 is unavoidable to comply with Water Code § 36.059(b); and

WHEREAS, the District lacks the general powers of a county or municipality such as the powers to impose ad valorem or sales taxes, and the District’s funding is derived from production fees imposed on nonexempt wells and a water use fee paid by the City of Austin; and

WHEREAS, by far the greater burden of the regulatory activity of the District falls on rural groundwater users who take water from regulated aquifers rather than on residents of the City of Austin who are on the City water system, which is not solely dependent on any aquifer; and

WHEREAS, the 70th Texas Legislature found in the passage of SB 988, which ratified the creation of the District, that the City of Austin received by way of the discharge of Barton Springs, contribution to its municipal water supply in an overall volume roughly equivalent to existing usage by other non-exempt users of the Barton Springs segment of the Edwards Aquifer thus justifying the City of Austin’s election of two directors; and

WHEREAS, little to none of the District's regulatory burden will fall on the residents of the City of San Marcos because the City of San Marcos does not rely on any groundwater production from the aquifers that would be regulated by the District and already prohibits the drilling of water wells that otherwise would be regulated by the District and, therefore, little to no regulation or production fees will be imposed upon wells within the City of San Marcos; and

WHEREAS, the Cities of Kyle and Buda produce water from, but are not solely dependent on, the groundwater produced from the Barton Springs segment of the Edwards Aquifer and each rely on sources in addition to the Barton Springs segment of the Edwards Aquifer and the Trinity Aquifer and, therefore, will bear less of the District's regulatory and financial burden than residents of rural areas that rely solely on groundwater produced from aquifers regulated by the District; and

WHEREAS, the Cities of San Marcos, Kyle, and Buda, have multiple sources of water supply, including substantial supplies of surface water from the Guadalupe Blanco River Authority; and

WHEREAS, exempt well owners who rely solely on groundwater and are located in less densely populated rural areas are dependent upon District's regulations to preserve and protect groundwater; and

WHEREAS, the Board believes an urban precinct 2 that contains the Cities of San Marcos, Kyle, and Buda which rely on conjunctive (groundwater and surface water) water supplies; a rural precinct 1, which contains users who rely mainly on Trinity Aquifer groundwater supplies from exempt wells and a rural precinct 3, which contains many nonexempt users that rely mainly on Edwards Aquifer groundwater supplies, justifies disproportionate populations among Director Precinct 1, 2, and 3; and

WHEREAS, the District engaged the law firm of Bickerstaff Heath Delgado Acosta LLP to act as the District's redistricting consultant, including advising and assisting the Board in preparation of a new redistricting plan in compliance with applicable requirements of state and federal law; and

WHEREAS, on December 17, 2015, the Board of Directors adopted redistricting criteria to assist the District and the public in developing redistricting plans which comply with applicable federal and state laws, and the adopted redistricting criteria were applied in the development of the District's new redistricting plan; and

WHEREAS, on December 17, 2015, the Board of Directors also adopted redistricting guidelines regarding the submission of comments and proposed plans by the public to ensure the ability of the District to timely receive and adequately consider them; and

WHEREAS, during the redistricting process, the District provided notice to the public of its proposed discussions and development of a redistricting plan through meeting agendas posted in compliance with the Texas Open Meetings Act, notices on the District's website, and

publication of newspaper notices, as well as providing certain individual notices regarding public hearings; and

WHEREAS, the Board of Directors has considered the proposed redistricting plan at its Board meeting on April 14, 2016 and at a public hearing held on April 28, 2016, and written comments were received on May 9, 2016, which the Board considered at its May 12, 2016 Board Meeting. The Board has considered oral testimony, written comments, and reports from the District's redistricting consultant, and various proposed plans regarding the appropriate reconfiguration of the director precincts; and

WHEREAS, the attached director precinct redistricting plan satisfies the adopted redistricting criteria of maintaining the rural Trinity Aquifer users (proposed Precinct 1), the urban conjunctive water supply users (proposed Precinct 2), and the rural Edwards Aquifer users (proposed Precinct 3), as communities with aligned interests in groundwater management; and

WHEREAS, oral testimony provided and written comments received indicated overwhelming support of the attached director precinct redistricting plan that maintains the communities with aligned interests in groundwater management; and

WHEREAS, the Board of Directors finds that the attached director precinct redistricting plan is in the best interest of the citizens of the District, complies with the adopted redistricting criteria, has the support of the majority of those providing comments, and complies with all state and federal requirements.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF BARTON SPRINGS/EDWARDS AQUIFER CONSERVATION DISTRICT, TEXAS:

A. That the existing single-member director precinct boundary lines for the Barton Springs/Edwards Aquifer Conservation District are hereby amended, and the new districting plan depicted on the map attached hereto as Exhibit A, defining new director precincts, as such new director precincts are further described in the tables attached hereto as Exhibit B reporting populations and demographic statistics for each such new director precinct, is hereby adopted and designated to define the District's five single-member director precincts from and after the Effective Date; that Exhibits A and B are incorporated by reference in and made a part of this resolution, and shall be kept on file in the District Office.

B. That this resolution shall take and be given effect immediately and that thereafter, all Barton Springs/Edwards Aquifer Conservation District elections shall be held under and in accordance with the new single-member director precinct districting plan here adopted by the Board of Directors, until such time as a subsequent lawfully-enacted districting plan shall be adopted to replace this plan.

PASSED AND APPROVED by the Board of Directors of Barton Springs/Edwards Aquifer Conservation District, Texas this 26th day of May, 2016.

BARTON SPRINGS/EDWARDS AQUIFER
CONSERVATION DISTRICT

ATTEST:

Blayne Stansberry
President, Board of Directors

Blake Dorsett
Secretary, Board of Directors

DRAFT

Exhibit A

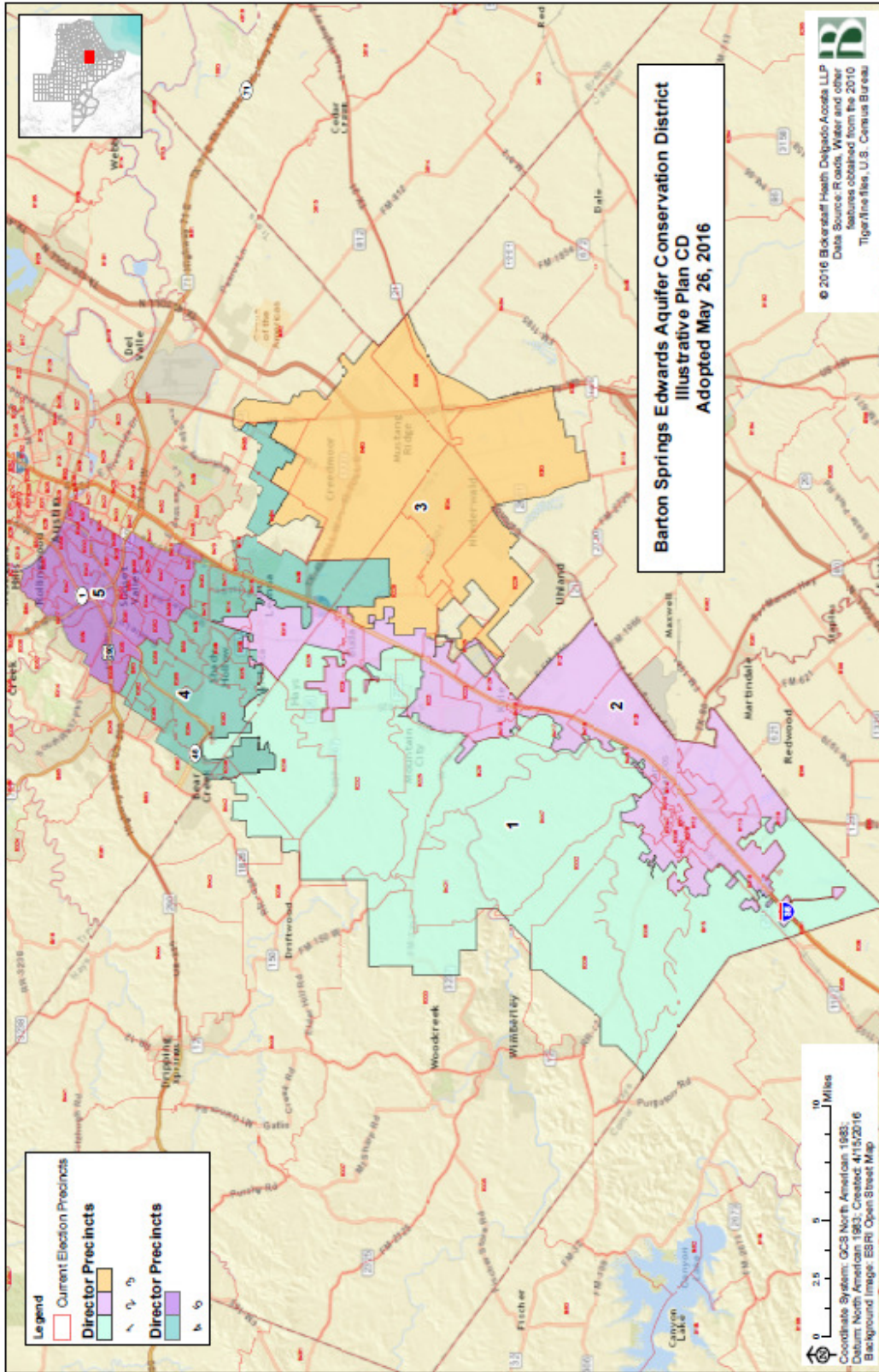


Exhibit B

<p align="center">Barton Springs Edwards Aquifer Conservation District Illustrative Plan CD - Adopted May 26, 2016 Summary 2010 Census Total and Voting Age Population</p>							
Precinct	Persons	Deviation	Hispanic % of Total Population	Non-Hispanic Anglo % of Total Population	Non-Hispanic Black % of Total Population	Non-Hispanic Asian % of Total Population	Non-Hispanic Other % of Total Population
1	21,461	-46.91%	23.37%	72.18%	1.85%	1.02%	1.57%
2	83,700	107.05%	40.92%	51.35%	4.46%	1.27%	1.98%
3	16,114	-60.14%	67.95%	27.74%	2.70%	0.48%	1.12%
4	89,121	-3.32%	28.72%	59.98%	3.85%	5.12%	2.34%
5	95,245	3.32%	31.04%	60.16%	3.37%	3.18%	2.25%
Totals	305,641		34.48%	56.83%	3.67%	2.93%	2.09%
Total Maximum Deviation = 107.05% - (-60.14%) = 167.19% Director Precincts 1 2 3 Total Maximum Deviation = 3.32% - (-3.32%) = 6.64% Director Precincts 4 5 Some percentages may be subject to rounding error.							
Precinct	Total VAP*		Hispanic % of Total VAP	Non-Hispanic Anglo % of Total VAP	Non-Hispanic Black % of Total VAP	Non-Hispanic Asian % of Total VAP	Non-Hispanic Other % of Total VAP
1	16,338		20.35%	75.58%	1.79%	0.95%	1.33%
2	65,265		36.41%	55.85%	4.58%	1.40%	1.74%
3	10,741		61.95%	33.62%	2.87%	0.50%	1.05%
4	66,896		25.74%	63.65%	3.87%	4.97%	1.79%
5	77,283		27.32%	64.50%	3.11%	3.14%	1.93%
Totals	236,523		30.47%	61.24%	3.63%	2.91%	1.76%
*Voting Age Population Some percentages may be subject to rounding error.							

5/17/2016

Barton Springs Edwards Aquifer Conservation District

Illustrative Plan CD - Adopted May 26, 2016

Detailed 2010 Census Total and Voting Age Population

Precinct	Persons	Ideal Size	Deviation	Hispanic Population	Anglo	% of Total Anglo Population	Black	% of Total Black Population	American Indian	% of Total American Indian Population	Asian	% of Total Asian Population	Hawaiian-Pacific Islander	% of Total Hawaiian-Pacific Islander Population	Other	% of Total Other Population	Two or More	% of Total Two or More Population
1	21,461	40,425	-46.91%	5,016	15,490	72.18%	390	1.85%	66	0.32%	269	1.02%	9	0.04%	20	0.09%	240	1.12%
2	83,700	40,425	107.05%	34,248	42,884	51.36%	3,737	4.46%	292	0.35%	1,065	1.27%	61	0.07%	121	0.14%	1,223	1.46%
3	16,114	40,425	-60.14%	10,850	4,478	27.74%	438	2.70%	42	0.26%	77	0.49%	13	0.08%	22	0.14%	103	0.64%
4	89,121	92,183	-3.32%	25,598	53,452	59.98%	3,436	3.85%	240	0.27%	4,360	5.12%	64	0.07%	164	0.18%	1,617	1.81%
5	65,245	92,183	-3.32%	29,561	57,304	60.16%	3,214	3.37%	291	0.31%	3,023	3.15%	30	0.03%	202	0.27%	1,619	1.70%
Totals	306,641			106,373	173,700	56.83%	11,217	3.67%	894	0.29%	8,946	2.93%	177	0.06%	529	0.17%	4,802	1.57%

Ideal Size for Director Precincts 1-3 is 40,425
 Ideal Size for Director Precincts 4-5 is 92,183
 Some percentages may be subject to rounding error.

Precinct	Total VAP	Hispanic VAP	% of Total Hispanic VAP	Anglo VAP	% of Total Anglo VAP	Black VAP	% of Total Black VAP	American Indian VAP	% of Total American Indian VAP	Asian VAP	% of Total Asian VAP	Hawaiian-Pacific Islander VAP	% of Total Hawaiian-Pacific Islander VAP	Other VAP	% of Total Other VAP	Two or More VAP	% of Total Two or More VAP
1	16,388	3,325	20.33%	12,346	75.58%	280	1.70%	56	0.36%	355	0.95%	8	0.05%	15	0.09%	135	0.83%
2	65,265	23,762	36.41%	36,452	55.85%	2,997	4.59%	206	0.31%	973	1.45%	53	0.08%	91	0.14%	755	1.20%
3	10,741	6,054	56.39%	3,611	33.62%	308	2.87%	30	0.31%	54	0.50%	9	0.09%	11	0.10%	60	0.56%
4	66,866	17,220	25.74%	42,581	63.65%	2,500	3.87%	180	0.28%	3,322	4.97%	49	0.07%	108	0.16%	851	1.27%
5	77,263	21,115	27.32%	48,546	64.50%	2,401	3.11%	296	0.34%	2,427	3.14%	27	0.03%	147	0.19%	1,058	1.37%
Totals	236,523	73,076	30.47%	144,942	61.24%	8,582	3.63%	745	0.31%	6,871	2.91%	146	0.06%	372	0.16%	2,890	1.22%

*Voting Age Population
 Some percentages may be subject to rounding error.