

**RESOLUTION NO. 2022-**

**A RESOLUTION OF THE CITY OF SAN MARCOS, TEXAS, AUTHORIZING THE ACQUISITION OF AN EASEMENT ACROSS A TRACT OF LAND LOCATED AT 230 RAMSEY STREET, SAN MARCOS, HAYS COUNTY, TEXAS FOR PUBLIC UTILITY PURPOSES AS GENERALLY DEPICTED IN THE EXHIBIT ATTACHED HERETO AND INCORPORATED HEREIN FOR ALL PURPOSES; THIS ACQUISITION BEING NECESSARY TO ADVANCE AND ACHIEVE THE PUBLIC USE OF MAINTAINING EXISTING AND FUTURE PUBLIC UTILITY SYSTEMS, INCLUDING ELECTRIC AND WATER UTILITIES TO MEET EXISTING AND FUTURE NEEDS; AUTHORIZING THE INSTITUTION OF CONDEMNATION PROCEEDINGS TO ACQUIRE THE NECESSARY LAND RIGHTS TO THE EXTENT NEGOTIATIONS ARE UNSUCCESSFUL; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of San Marcos, (the “City”) pursuant to the authority granted in Chapter 251 of the Texas Local Government Code and Section 2.02 of the City’s Home Rule Charter has reserved the right to exercise the power of eminent domain to acquire real property interests, including, but not limited to the right to easement interests; and

**WHEREAS**, the City operates certain existing public utility facilities to serve its residents, institutions and businesses, including, but not limited to, electric and water utilities; and

**WHEREAS**, it is necessary to acquire a public utility easement for the installation, maintenance and operation of facilities connected to the City’s electric, water and other utility systems across that certain tract of land at 230 Ramsey Street, the area and location of such easement being further described in **Exhibit A** (the “Easement”) by purchase or through the use of eminent domain, in furtherance of the City’s public purposes and necessity in operation, maintenance and providing increased capacity of its public utility system to serve area residents, institutions and businesses (the “Project”); and

**WHEREAS**, the Project and acquisition of the Easement are necessary to locate, construct, utilize, maintain and provide reliable and continuous public utility services, including, but not limited to, electric, water and other public utility services to residents, institutions and businesses to achieve the public use of expanding these utilities to meet existing needs and to serve future growth within the service area and is in the best interest of the health, safety, and welfare of the public; and

**WHEREAS**, the City, has been unable to acquire the necessary Easement by negotiation and/or further negotiations may become futile, and therefore, the City must exercise its power of eminent domain; and

**WHEREAS**, to acquire Easement, it may be necessary for the City or one of its agents or contractors to enter upon the tract of land upon which the area encumbered by the Easement is located to investigate and survey the needed land area so that it may be defined and described with

specificity for inclusion in any easement document, or, if necessary, as part of any filings to institute proceedings in eminent domain to acquire the necessary Easement.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS, THAT:**

**SECTION 1.**

The caption and recitals above are incorporated herein for all purposes.

**SECTION 2.**

The City Council declares a public use and necessity for the City of San Marcos, to locate, utilize, and maintain the Project and to acquire the Easement described in **Exhibit A**.

**SECTION 3.**

The City Council declares that acquiring the Easement is necessary for the Project, which has the public use of providing reliable and continuous public utility services to residents, institutions and businesses in the City.

**SECTION 4.**

The City Council authorizes the use of the power of eminent domain to acquire the necessary Easement, to the extent the City is unable to acquire the land by negotiation and/or further negotiations with the landowner become futile.

**SECTION 5.**

The City Council authorizes its authorized officers or their designees and retained attorneys to create, execute, and deliver such further documents, instruments, certificates, opinions, consents, pleadings, and other papers, for and on behalf of the City, and to do and cause to be done such further acts and things as may be necessary, appropriate, or advisable to affect the intent of this resolution, including, but not limited to:

(a) filing temporary injunctions or other causes of action necessary to obtain access to the land area impacted by the acquisition;

(b) performing lineal surveys for metes and bounds purposes and conducting archaeological, species and environmental walk-throughs, inspections and/or testing (including obtaining water and soil samples, if necessary), as required by applicable state and federal laws (collectively the "Preliminary Surveys"), appraising, designing, planning, obtaining title information, and specifying the preparation, location, and routing or rerouting of the Project should such become necessary for any reason;

(c) participating in good-faith negotiations with the landowner to make a bona fide offer for the Easement;

(d) appraising the value Easement;

(e) causing eminent domain proceedings to be filed should the bona-fide offer and good-faith negotiations fail; and

(f) obtaining, or causing to be applied for and obtained, surety bonds as may be necessary or desirable regarding any eminent domain proceedings hereinabove authorized or any injunctive proceedings necessary or related to or as a condition precedent to any such eminent domain proceedings.

Such documents, instruments, certificates, opinions, consents, pleadings, and other papers, and any amendments, supplements, or modifications thereto shall be in such form and contain such terms and conditions, whether material or non-material, as such officers, or any of them, shall deem necessary, appropriate, or advisable, and all that such officers, their designees, employees, and retained attorneys have done or may do under or by reason of this and any foregoing resolutions are hereby approved, confirmed, and ratified. The City Council finds that it is in the best interest to acquire fee simple title to the tracts described in the Exhibits appended hereto from whomever holds legal and equitable title as identified according to the procedure adopted through this Resolution and to disburse funds in accordance herewith.

## **SECTION 6.**

The determination of necessity to exercise the power of eminent domain in this matter is made according to reason and judgment with due regard and consideration of the relevant facts, circumstances, and alternatives, and the knowledge, which existed at this time. Therefore, the City, acting by and through its contractual eminent domain attorneys, is hereby directed and authorized to institute and prosecute to conclusion all necessary proceedings in eminent domain to condemn the land described herein and to acquire such interest in land if the City is unable to acquire such through negotiation, and to take any other legal action necessary or incidental to such acquisition or eminent domain proceeding to investigate, survey, specify, define, and secure the necessary property rights.

All acts and proceedings done or initiated by the employees, agents, and attorneys of the City, acting as an agent for the City, for the acquisition of such land are hereby authorized, ratified, approved, confirmed and validated and declared to be valid in all respects as of the respective dates of such acts and proceedings, with and in regard to the grantors from whom such land is being purchased or acquired.

## **SECTION 7.**

Severability: If any provision, section, subsection, sentence, clause, or phrase of this Resolution, or the application of the same to any person or set of circumstances is for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portions of this

Resolution shall not be affected thereby, it being the intent of the City Council in adopting this Resolution that no portion hereof, or provisions, or regulations contained herein, shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion hereof and all provisions of this Resolution are declared to be severable for that purpose.

**SECTION 8.**

This Resolution shall become effective from and after its passage.

**ADOPTED** on September 20, 2022.

Jane Hughson  
Mayor

ATTEST:

Elizabeth Trevino  
City Clerk

APPROVED:

Michael Cosentino  
City Attorney

## EXHIBIT A

DESCRIPTION OF 0.265 ACRES, MORE OR LESS, OF LAND AREA IN THE T. J. CHAMBERS SURVEY, ABSTRACT NO. 2, CITY OF SAN MARCOS, HAYS COUNTY, TEXAS, BEING A PORTION OF THAT 1.85 ACRE TRACT OF LAND CONVEYED IN A DEED FROM LUPE CRUZ, CONSTABLE TO KIM GUNNARSON DATED FEBRUARY 6, 2004 AND RECORDED IN VOLUME 2401, PAGE 165 OF THE HAYS COUNTY OFFICIAL PUBLIC RECORDS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING** at an "X" found in concrete for the west corner of the Gunnarson tract at the northeast end of Ramsey Street, a publicly used roadway, and being in the southeast line of an 11 foot wide strip of land dedicated as additional right-of-way for Ramsey Street by the plat of Ramsey Student Housing Subdivision, as recorded in Volume 15, Page 311 of the Hays County Plat Records;

**THENCE** leaving the **PLACE OF BEGINNING** and Ramsey Street with the common northwest line of the Gunnarson tract and the southeast line of the 11 foot wide strip as shown on that plat numbered 27540-18-2-b dated June 26, 2018 as prepared for the City of San Marcos by Byrn & Associates of San Marcos, Texas **N 44° 44' 41" E 17.78 feet** to a 1/2" iron rod found for the east corner of the 11 foot wide strip and being the south corner of that 2.959 acre tract conveyed in a deed from the Lower Colorado River Authority to the City of San Marcos dated June 14, 1994 and recorded in Volume 1080, Page 874 of the Hays County Official Public Records;

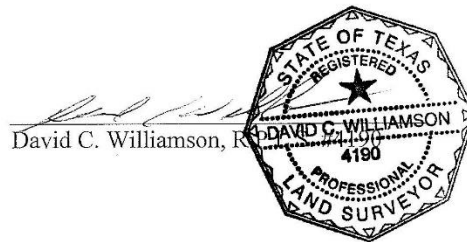
**THENCE** with the common northwest line of the Gunnarson tract and southeast line of the City of San Marcos tract **N 45° 25' 15" E 337.93 feet** to a point for the north corner of this tract and the Gunnarson tract being at the southwest end of a different section of Ramsey Street (formerly shown as Lamar Avenue on the plat of Spring Lake Hills Estate, Unit 4) as recorded in Volume 1, Page 63 of the Hays County Plat Records;

**THENCE** with the northeast line of the Gunnarson tract and southwest end of the old Lamar Avenue **S 46° 06' 47" E 30.80 feet** to a point for the east corner of this tract, from which a concrete monument found for the south corner of the old Lamar Avenue and west corner of Lot 1, Spring Lake Hills Estate, Unit 4 as recorded in Volume 181, Page 146 of the Hays County Deed Records bears **S 46° 06' 47" E 0.86 feet**;

**THENCE** crossing the Gunnarson tract **S 44° 52' 55" W 355.48 feet** to a point for the south corner of this tract in the common southwest line of the Gunnarson tract and northeast line of that 3.867 acre tract conveyed in a deed from San Marcos Les Chateaux Apartments, Ltd to San Marcos Meadows Apartments, Ltd dated January 21, 2010 and recorded in Volume 3812, Page 607 of the Hays County Official Public Records;

**THENCE** with said common line **N 45° 16' 02" W 3.24 feet** to a 1/2" iron rod found for the north corner of the San Marcos Meadows Apartments, Ltd. tract and being the east corner of the  
aforereferenced Ramsey Street;

**THENCE** with the southwest line of the Gunnarson tract and the northeast end of Ramsey Street  
**N 46° 30' 47" W 30.69 feet** to the **PLACE OF BEGINNING**. There are contained within these metes and bounds 0.265 acres, more or less, as prepared from public records and a survey made on the ground during June, 2018 by Byrn & Associates, Inc., of San Marcos, Texas. All 1/2" iron rods set are capped with a plastic cap stamped "Byrn Survey". Bearing Basis for this description was determined from GPS observations and refers to Grid North of the Texas State Plane Coordinate System, NAD 83, South Central Zone.

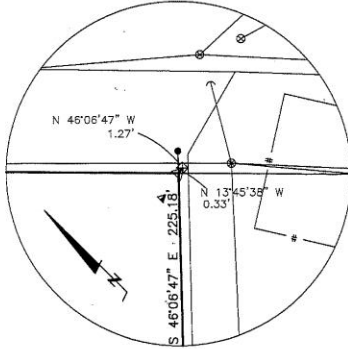


Client: City of San Marcos  
Date: June 26, 2018  
Survey: Chambers, T. J.  
County: Hays, TX  
Job No.: 27540-18-2  
FND 0.265 ac

# **SURVEYORS NOTES**

1. FENCES MEANDER.
2. BEARINGS, DISTANCES AND AREAS IN PARENTHESES ARE FROM RECORD INFORMATION.
3. THIS TRACT IS SUBJECT TO AN ELECTRICAL EASEMENT FROM MAGGIE L. JONES TO LOWER COLORADO RIVER AUTHORITY, DATED 10/4/1982 RECORDED IN VOLUME 382, PAGE 716 OF THE HAYS COUNTY DEED RECORDS. THIS EASEMENT COVERS "3 POLES AND 2 GUYS" BUT THERE IS NOT SUFFICIENT INFORMATION TO PLOT HEREON.
4. THE BEARING BASIS FOR THIS SURVEY PLAT WAS DETERMINED FROM GPS OBSERVATIONS AND REFERS TO GRID NORTH OF THE TEXAS STATE PLANE COORDINATE SYSTEM, NAD 83, SOUTH CENTRAL ZONE.

DETAIL "A" -  
NOT TO SCALE



LCRA TO  
THE CITY OF SAN MARCOS  
6/14/1994 (2.959 AC.)

## **DEED REFERENCE:**

3812  
407 SAN MARCOS LES CHATEAUX APARTMENTS LTD TO  
SAN MARCOS MEADOWS APARTMENTS LTD  
1/21/2010 (3.867 AC.)

98  
193 APPROXIMATE CENTERLINE OF:  
MONROE WILLIAMS, ET UX TO  
TEXAS POWER & LIGHT COMPANY  
4/29/1929 (ELECTRIC EASEMENT)

## **LINE TABLE**

LINE	BEARING	DISTANCE
L1	N 44°44'41\"	17.78'
L2	N 45°18'02\"	3.24'

△ REVISED 10/18/2018  
CLIENT: CITY OF SAN MARCOS  
DATE: JUNE 26, 2018  
OFFICE: HADEN  
CREW: HADEN  
FB/Pg: 736/59  
PLAT NO. 27540-18-2-b

SPRING LAKE HILLS  
ESTATES, UNIT 6

SPRING LAKE HILLS  
ESTATES, UNIT 4

ORIGINAL SCALE  
1" = 30'

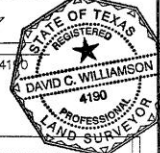
## **LEGEND**

- HAYS COUNTY DEED, REAL PROPERTY OR OFFICIAL PUBLIC RECORDS
- HAYS COUNTY PLAT RECORDS
- 1/2" IRON ROD FOUND OR DIAMETER NOTED
- 1/2" IRON ROD FOUND WITH PLASTIC CAP STAMPED "BYRN SURVEY"
- CALCULATED POINT
- CONCRETE NAIL FOUND IN CONCRETE
- CONCRETE MONUMENT FOUND
- 1/2" IRON ROD FOUND WITH PLASTIC CAP STAMPED "RPLS 5687"
- "X" FOUND IN CONCRETE
- WOOD FENCE
- CHAIN LINK FENCE
- WIRE FENCE
- UTILITY LINE, POLE AND GUY
- UTILITY POLE
- UTILITY PEDESTAL
- BLUE PAINT
- FIRE HYDRANT

TO CITY OF SAN MARCOS, EXCLUSIVELY, AND FOR USE WITH THIS TRANSACTION ONLY:

I HEREBY STATE TO THE BEST OF MY SKILL AND KNOWLEDGE: THAT THIS PLAT IS TRUE AND CORRECT ACCORDING TO AN ACTUAL SURVEY MADE ON THE GROUND ON JUNE 26, 2018. THAT ALL PROPERTY CORNERS ARE MONUMENTED AS SHOWN HEREON.

DAVID C. WILLIAMSON, R.P.L.S. 4190



**BYRN & ASSOCIATES, INC.**

**SURVEYING**

P.O. BOX 1433 SAN MARCOS, TEXAS 78667  
PHONE 512-396-2270 FAX 512-392-2945  
FIRM NO. 10070500

0.265 ACRES, MORE OR LESS, IN THE, T.J.  
CHAMBER SURVEY, ABSTRACT NO. 2,  
CITY OF SAN MARCOS, HAYS COUNTY, TEXAS