

RESOLUTION 2021-87R

A RESOLUTION OF THE CITY OF SAN MARCOS, TEXAS, MAKING FINDINGS AS TO THE ADVISABILITY OF THE IMPROVEMENTS PROPOSED IN THE WHISPER SOUTH PUBLIC IMPROVEMENT DISTRICT IN ACCORDANCE WITH CHAPTER 372 OF THE TEXAS LOCAL GOVERNMENT CODE.

WHEREAS, the City of San Marcos, Texas (the “City”), is authorized under Chapter 372 of the Texas Local Government Code, as amended (the “Act”), to create a public improvement district;

WHEREAS, on _____, 2021, Harris Hill Residential Land Holdings, Ltd., a Texas limited partnership, and Harris Hill Commercial Land Holdings, Ltd., a Texas limited partnership (collectively, the “Owner”), submitted and filed with the City Secretary of the City a petition (“Petition”) requesting the establishment of a public improvement district to be known as the Whisper South Public Improvement District (“District”);

WHEREAS, the Petition indicated that (i) the owners of more than 50% of the appraised value of the taxable real property liable for assessment and (ii) the owners of more than 50% of the area of all taxable real property liable for assessment within the District executed the Petition requesting that the governing body of the City (the “City Council”) create the District;

WHEREAS, the City has investigated and determined that the facts contained in the Petition are true and correct;

WHEREAS, the District will include the approximately 595.94 acres owned by the Owners and located within the City and the City’s extraterritorial jurisdiction (the “Property”), which Property is more particularly described and depicted on Exhibit “A” attached hereto and made a part hereof;

WHEREAS, after providing all notices required by Section 372.009 of the Act, the City Council on _____, 2021, conducted a public hearing on the advisability of the proposed improvements; and

WHEREAS, the City Council adjourned and closed such public hearing.

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

Section 1. The findings set forth in the recitals of this Resolution are hereby found to be true and correct.

Section 2. The Petition submitted to the City by the Owner was filed with the City Secretary of the City and complies with Subchapter A of the Act.

Section 3. Pursuant to the requirements of the Act, including, without limitation, Sections 372.006, 372.009(a), and 372.009(b), the City Council, after considering the Petition and the evidence and testimony presented at the public hearing on _____, 2021, hereby finds and declares:

(a) Advisability of the Proposed Improvements. It is advisable to provide the Authorized Improvements described in the Petition and this Resolution. The Authorized Improvements will promote the interests of the City and will confer a special benefit on the Property.

(b) General Nature of the Authorized Improvements. The purposes of the District include the design, acquisition, and construction of public improvement projects authorized by Section 372.003(b) of the Act that are necessary for development of the Property, which public improvements will include, but not be limited to, landscaping, streets, roadway construction, water, water tower, wastewater, drainage facilities and improvements, park improvements, trails, improvements related to the foregoing, payment of expenses incurred in the establishment, administration and operation of the District, and other improvement projects (collectively, the “Authorized Improvements”), as well as payment of costs associated with developing and financing the Authorized Improvements. These Authorized Improvements shall promote the interests of the City and confer a special benefit on the Property, and are described in further detail on the Term Sheet attached hereto as Exhibit “B” and incorporated herein.

(c) Estimated Cost of the Authorized Improvements. The Owner estimates the cost to design, acquire, and construct the Authorized Improvements is \$14,000,000.00. The foregoing estimate shall not limit or constrain the actual costs of the Authorized Improvements that may be financed by the District.

(d) Boundaries of the Proposed District. The boundaries of the proposed District shall contain the Property.

(e) Proposed Method of Assessment. The City shall levy an assessment on each tract within the District to pay the cost of the Authorized Improvements in a manner that results in imposing equal shares of the cost on property similarly benefitted. Each assessment may be paid in full at any time (including accrued and unpaid interest) or may be paid in annual installments (including interest and debt). The installments must be paid in amounts necessary to meet annual costs for the Authorized Improvements and must continue for a period necessary to retire the indebtedness on the Authorized Improvements.

(f) Apportionment of the Cost Between District and the City. The City shall not be obligated to provide any funds to finance the Authorized Improvements. The cost of the Authorized improvements will be paid from the assessments and from other sources of funds, if any, available to the Owner. Notwithstanding the foregoing, it is anticipated that the City may request oversizing of the Authorized Improvements, in which case, the City shall be responsible for the cost of all such oversizing.

(g) Management of the District. The District shall be managed by the City, with the assistance of a consultant, who shall, from time to time, advise the City regarding certain operations of the District.

(h) Advisory Board. The District shall be managed without the creation of an advisory board.

Section 4. City Council hereby makes the above findings as to the advisability of the Authorized Improvements contained in this Resolution, and the conclusion that the District is needed to fund such Authorized Improvements.

Section 5. This Resolution shall take effect immediately from and after its passage and publication as required by law.

PASSED AND APPROVED on this _____ day of _____, 2021.

ATTEST:

THE CITY OF SAN MARCOS, TEXAS

City Secretary

Mayor

EXHIBIT "A"

The Property

[EXHIBIT "A" follows.]

TRACT ONE:

NOB PARCEL

FIELD NOTES FOR A 216.1 ACRE TRACT OF LAND

A **216.1 acre** tract of land, out of the J. Veramendi Survey, Abstract 17, Hays County, Texas and being all of a called 216.30 acre tract of land as described and conveyed to N.O.B. Holdings, Ltd., of record in Volume 3086, Page 39 of the Official Public Records of Hays County, Texas. Said **216.1 acre** tract being more particularly described by metes and bounds as follows:

BEGINNING at a set $\frac{1}{2}$ " iron rod with a red plastic cap stamped "Matkin Hoover Eng. & Survey" at an angle in the easterly right-of-way line of Interstate Highway 35, a variable width right-of-way, as shown on the Texas Department of Transportation (TxDOT) Right-of-Way Map, Account No. 6014-5-6, in the southeast line of a called 73.98 acre tract of land as described in Volume 126, Page 101 of the Deed Records of Hays County, Texas, for a westerly exterior corner of said 216.30 acre tract and the tract described herein, from which a found TxDOT Monument, Type I, for an angle in the easterly right-of-way line of Interstate Highway 35 bears, N $05^{\circ} 27' 06''$ E, a distance of 314.95 feet;

THENCE: N $43^{\circ} 22' 21''$ E, departing the easterly right-of-way line of Interstate Highway 35 and with the common line between said 73.98 acre tract and said 216.30 acre tract, a distance of **1866.87 feet** to a found 6" steel post at the east corner of said 73.98 acre tract, in the southwest line of a called 97.840 acre tract of land as described in Volume 714, Page 603 of the Official Public Records of Hays County, Texas, for the north corner of said 216.30 acre tract and the tract described herein;

THENCE: With the northeast line of said 216.30 acre tract the following two (2) courses:

1. S $46^{\circ} 40' 58''$ E, a distance of **2877.42 feet** to a found 6" steel post for an angle, and
2. S $47^{\circ} 24' 10''$ E, a distance of **427.01 feet** to a found 6" steel post in the apparent northwest right-of-way line of County Road 160 (Harris Hill Road), for the east corner of said 216.30 acre tract and the tract described herein;

THENCE: S $44^{\circ} 09' 02''$ W, with the apparent northwest right-of-way line of Harris Hill Road and the southeast line of said 216.30 acre tract, a distance of **1601.39 feet** to a found 6" steel post at the east corner of a called 7.40 acre tract of land as described in Volume 219, Page 574 of the Official Public Records of Hays County, Texas, for a southeasterly corner of said 216.30 acre tract and the tract described herein;

THENCE: N $47^{\circ} 22' 10''$ W, departing the apparent northwest right-of-way line of Harris Hill Road and with the common line between said 7.40 acre tract and said 216.30 acre tract, a distance of **428.13 feet** to a found 6" steel post at the north corner of said 7.40 acre tract, an interior corner of said 216.30 acre tract and the tract described herein;

THENCE: With a southeast line of said 216.30 acre tract, the following two (2) courses:

1. S $44^{\circ} 12' 44''$ W, a distance of **2185.65 feet** to a set $\frac{1}{2}$ " iron rod with a red plastic cap stamped "Matkin Hoover Eng. & Survey" for an angle, and
2. S $44^{\circ} 14' 14''$ W, a distance of **939.19 feet** to a found $\frac{1}{2}$ " iron rod at the southwest corner of a called 10.409 acre tract of land as described in Volume 4252, Page 213 of the Official Public Records of Hays County, Texas, in a northeast line of a called 82.651 acre tract of land as described in Volume 2405, Page 387 of the Official Public Records of Hays County, Texas, for the most southerly corner of said 216.30 acre tract and the tract described herein;

THENCE: With the common line between said 216.30 acre tract and said 82.651 acre tract, the following four (4) courses:

1. N $48^{\circ} 14' 26''$ W, a distance of **48.48 feet** to a found $\frac{1}{2}$ " iron rod for a corner,
2. N $09^{\circ} 50' 28''$ E, a distance of **631.67 feet** to a found $\frac{1}{2}$ " iron rod for an angle.
3. N $28^{\circ} 58' 59''$ E, a distance of **267.64 feet** to a found $\frac{1}{2}$ " iron rod for an angle, and
4. N $25^{\circ} 02' 43''$ W, a distance of **94.55 feet** to a point in the approximate centerline of the Blanco River and for angle of the tract described herein;

THENCE: With the approximate centerline of Blanco River and the southwesterly lines of said 216.30 acre tract and the northeasterly lines of said 82.651 acre tract, the following courses:

1. N 18° 44' 06" E, a distance of **588.03 feet** to a point for an angle,
2. N 26° 47' 10" E, a distance of **329.18 feet** to a point for an angle,
3. N 06° 27' 57" W, a distance of **482.15 feet** to a point for an angle,
4. N 35° 20' 59" W, a distance of **321.44 feet** to a point for an angle,
5. N 27° 07' 59" W, a distance of **199.34 feet** to a point for an angle, and
6. N 75° 40' 13" W, a distance of **100.33 feet** to a point for the common north corner of said 82.651 acre tract and Lot 2 of the Gary Farm Subdivision, a plat of record in Volume 10, Page 46 of the Plat Records of Hays County, Texas, for an exterior corner of said 216.30 acre tract and the tract described herein;

THENCE: Continuing with the southwesterly lines of said 216.30 acre tract, and along the north bank of the Blanco River as called for in Volume 3086, Page 39 of the Official Public Records of Hays County, Texas, the following four (4) courses:

1. N 43° 49' 02" E, a distance of **61.55 feet** to a point for a corner,
2. N 68° 34' 31" W, a distance of **46.79 feet** to a point for a corner,
3. S 81° 50' 25" W, a distance of **143.29 feet** to a point for a corner, and
4. S 65° 44' 11" W, a distance of **348.47 feet** to a found ½" iron rod with a yellow plastic cap stamped "Byrn" in the easterly right-of-way line of Interstate Highway 35, for an angle in the north line of said Lot 2, the most westerly corner of said 216.30 acre tract and the tract described herein;

THENCE: With the easterly right-of-way line of Interstate Highway 35 and the westerly line of said 216.30 acre tract, the following three (3) courses:

1. N 23° 30' 30" E, a distance of **1000.55 feet** to a found TxDOT Monument, Type I, for an angle,
2. N 12° 02' 09" W, a distance of **428.00 feet** to a found TxDOT Monument, Type I, for an angle, and
3. N 05° 27' 06" E, a distance of **1.78 feet** to the **POINT OF BEGINNING** and containing **216.1 acres** of land situated in the City of San Marcos, Hays County, Texas.

Note: The basis of bearing was established using the Trimble VRS Network, NAD (83), Texas State Plane Coordinate System, South Central Zone, 4204, US Survey Foot, Grid. A survey plat was prepared by a separate document. Field work completed on January 23, 2020.

Job # 20-4003 216.1 Acres

Date: January 27, 2020



TRACT TWO:

**NICOLAI REUBEN
PARCEL**

FIELD NOTES FOR A 311.9 ACRE TRACT OF LAND

A **311.9 acre** tract of land, out of the J. Veramendi Survey, Abstract 17, Hays County, Texas and being all of a called 312.005 acre tract of land as conveyed to Reuben Nicolai Revocable Trust of record in Volume 2946, Page 47 of the Official Public Records of Hays County, Texas. Said **311.9 acre** tract being more particularly described by metes and bounds as follows:

BEGINNING at a found 1-1/2" iron pipe in the apparent northeast right-of-way line of County Road 160 (Harris Hill Road), for the most southerly corner of said 312.005 acre tract and the tract described herein;

THENCE: With the apparent northeast and easterly right-of-way line of Harris Hill Road and the southwest and northwest line of said 312.005 acre tract, the following three (3) courses:

1. **N 45° 55' 28" W**, a distance of **2602.87 feet** to a found 1/2" iron rod for a point of curvature,
2. With a curve to the right having a radius of **250.00 feet**, an arc length of **392.54 feet**, a delta angle of **089° 57' 48"** and a chord bears, **N 00° 52' 20" W**, a distance of **353.44 feet** to a found 1/2" iron rod for a point of non-tangency, and
3. **N 44° 07' 28" E**, a distance of **4516.12 feet** to a found 1/2" iron rod at the apparent west corner of a 33-2/5 acre tract of land as described in Volume 154, Page 504 of the Deed Records of Hays County, Texas, for the north corner of said 312.005 acre tract and the tract described herein;

THENCE: **S 45° 55' 33" E**, departing the apparent easterly right-of-way line of Harris Hill Road and with the northeast line of said 312.005 acre tract, a distance of **2853.29 feet** to a found 1/2" iron rod in the northwest line of a called 100.0 acre tract of land as described in Volume 154, Page 503 of the Deed Records of Hays County, Texas, for the east corner of said 312.005 acre tract and the tract described herein;

THENCE: **S 44° 07' 50" W**, with the common line between said 100.0 acre tract, the northwest line of a called 24.93 acre tract of land as described in Volume 4186, Page 253 of the Official Public Records of Hays County, Texas and said 312.005 acre tract, a distance of **4766.34 feet** to the **POINT OF BEGINNING** and containing **312.005 acres** of land situated in Hays County, Texas.

Note: The basis of bearing was established using the Trimble VRS Network, NAD (83), Texas State Plane Coordinate System, South Central Zone, 4204, US Survey Foot, Grid. A survey plat was prepared by a separate document. Field work completed on January 23, 2020.

Job # 20-4003 311.9 Acres

Date: January 27, 2020



TRACT THREE:

HOPSON PARCEL

FIELD NOTES FOR A 67.94 ACRE TRACT OF LAND

A **67.94 acre** tract of land, out of the J. Miner Survey, Abstract 321, and the T.G. McGehee Survey, Abstract 11, Hays County, Texas and being all of a called 33-2/5 acre tract of land, all of a called 17.76 acre tract of land, and a portion of a called 118-1/2 acre tract of land, all as described in Volume 154, Page 504 of the Deed Records of Hays County, Texas. Said **67.94 acre** tract being more particularly described by metes and bounds as follows:

BEGINNING at a found ½” iron rod in the apparent southeast right-of-way line of County Road 160 (Harris Hill Road), for the southwest corner of Lot 1 of the Northpoint Section 1 Subdivision, a plat of record in Volume 2, Pages 251-252 of the Plat Records of Hays County, Texas, at the apparent north corner of said 33-2/5 acre tract and for the northwest corner of the tract described herein;

THENCE: S 46° 24’ 00” E, departing the apparent southeast right-of-way line of Harris Hill Road, and with the southwest lines of said Northpoint Section 1 Subdivision, Northpoint Section 4 Subdivision, a plat of record in Volume 7, Pages 289-290 of the Plat Records of Hays County, Texas, and the apparent northeast lines of said 33-2/5 acre tract and the 17.76 acre tract, a distance of **2525.46 feet** to a found 1” iron pipe for the south corner of Lot 99 of said Northpoint Section 4 Subdivision, in the west line of said 118-1/2 acre tract, at the apparent east corner of said 17.76 acre tract and for an interior corner of the tract described herein;

THENCE: N 43° 13’ 46” E, with the southeast line of said Northpoint Section 4 Subdivision, Northpoint Section 3 Subdivision, a plat of record in Volume 3, Pages 281-282 of the Plat Records of Hays County, Texas, and the northwest line of said 118-1/2 acre tract, a distance of **1397.62 feet** to a found 1-1/2” iron pipe for the southeast corner of Lot 1 of the Harris Hill Road Sport Vehicle Track Subdivision, a plat of record in Volume 14, Pages 42-43 of Plat Records of Hays County, Texas, for the south corner of a R.O.W. Dedication as shown on said Harris Hill Road Sport Vehicle Track Subdivision Plat, for the east corner of Lot 69 of said Northpoint Section 3 Subdivision, for the southwest corner of a called 5.058 acre tract of land as described and conveyed to Hays County of record in Volume 5158, Page 87 of the Official Public Records of Hays County, Texas, for the north corner of said 118-1/2 acre tract and the most northerly northeast corner of the tract described herein;

THENCE: S 46° 28’ 36” E, with the common line between said 118-1/2 acre tract and said 5.058 acre tract, a distance of **10.95 feet** to a found ½” iron rod with an orange plastic cap stamped “McGray-McGray” for the northwest corner of a called 11.736 acre tract of land as described and conveyed to Hays County of record in Document No. 16008150 of the Official Public Records of Hays County, Texas, and for the most easterly northeast corner and a point of curvature of the tract described herein;

THENCE: Departing the northeast line of said 118-1/2 acre tract and with the westerly lines of said 11.736 acre tract, the following six (6) courses:

1. With a non-tangent curve to the left having a radius of **9110.00 feet**, an arc length of **60.14 feet**, a delta angle of **000° 22’ 42”** and a chord bears, **S 33° 27’ 18” W**, a distance of **60.14 feet** to a found ½” iron rod with an orange plastic cap stamped “McGray-McGray” for a point of tangency,
2. **S 33° 15’ 57” W**, a distance of **948.71 feet** to a found ½” iron rod with a yellow plastic cap stamped “Byrn” for an angle,
3. **S 36° 07’ 42” W**, a distance of **200.23 feet** to a found ½” iron rod with a yellow plastic cap stamped “Byrn” for an angle,
4. **S 33° 15’ 57” W**, a distance of **199.98 feet** to a found ½” iron rod with a yellow plastic cap stamped “Byrn” for an angle,
5. **S 27° 33’ 19” W**, a distance of **100.49 feet** to a found ½” iron rod for an angle, and
6. **S 33° 15’ 57” W**, a distance of **796.45 feet** to a set ½” iron rod with a red plastic cap stamped “Matkin Hoover Eng. & Survey” in the north line of a called 100.0 acre tract of land as described in Volume 154, Page 503 of the Deed Records of Hays County, Texas, for the southwest corner of said 11.736 acre tract, the northwest corner

of a called 19.083 acre tract of land as described and conveyed to Hays County of record in Document No. 17041297 of the Official Public Records of Hays County, Texas, in the southwest line of said 118-1/2 acre tract and for the most easterly southeast corner of the tract described herein;

THENCE: N 45° 24' 57" W, with the common line between said 100.0 acre tract and said 118-1/2 acre tract, a distance of **96.67 feet** to a set 1/2" iron rod with a red plastic cap stamped "Matkin Hoover Eng. & Survey" for the northwest corner of said 100.0 acre tract and an interior corner of the tract described herein;

THENCE: S 44° 07' 50" W, with the northwest line of said 100.0 acre tract, a distance of **112.31 feet** to a found 1/2" iron rod for the east corner of a called 312.005 acre tract of land as conveyed to Reuben Nicholai Revocable Trust of record in Volume 2946, Page 47 of the Official Public Records of Hays County, Texas, and for a southerly exterior corner of the tract described herein;

THENCE: N 45° 55' 33" W, with the northeast line of said 312.005 acre tract, a distance of **2853.29 feet** to a found 1/2" iron rod in the apparent southeast right-of-way line of Harris Hill Road, at the apparent west corner of said 33-2/5 acre tract, for the north corner of said 312.005 acre tract and for the west corner of the tract described herein;

THENCE: N 44° 12' 31" E, with the apparent southeast right-of-way line of Harris Hill Road and the apparent northwest line of said 33-2/5 acre tract, a distance of **957.35 feet** to the **POINT OF BEGINNING** and containing **67.94 acres** of land situated in Hays County, Texas.

Note: The basis of bearing was established using the Trimble VRS Network, NAD (83), Texas State Plane Coordinate System, South Central Zone, 4204, US Survey Foot, Grid. A survey plat was prepared by a separate document. Field work completed on January 23, 2020.

Job # 20-4003 67.94 Acres

Date: January 27, 2020

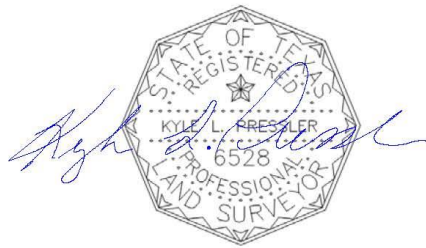


EXHIBIT “B”

Term Sheet

[EXHIBIT B follows.]