

RESTRICTIVE COVENANT AGREEMENT

THIS RESTRICTIVE COVENANT AGREEMENT (this "**Agreement**") is made and entered into as of the _____ day of _____, 2022, by and between Harris Hill Commercial Land Holdings, Ltd., (the "**Owner**"), and the City of San Marcos, Texas (the "**City**").

RECITALS:

A. Owner is the owner of a tract of land totaling approximately 52.51 acres situated in Hays County, Texas, more particularly described in Exhibit "A", attached hereto (the "**Property**").

B. Owner and the City desire to subject the Property to the terms of this Declaration.

NOW, THEREFORE, in consideration of the sum of Ten and No/100 Dollars (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge, the Owner and the City do hereby agree as follows:

1. Establishment of Restrictive Covenant. The Parties hereto agree and acknowledge that the Property shall be held, sold, transferred, conveyed and occupied subject to the following restrictive covenants:

a. The following are prohibited:

- i. Waste-Related Service Use Category** - Characterized by uses that receive solid or liquid wastes from others for transfer to another location and uses that collect sanitary wastes or that manufacture or produce goods or energy from the composting of organic material. Waste related service includes the following uses.
 - a. Animal waste processing.
 - b. Landfill.
 - c. Manufacture and production of goods from composting organic material.
 - d. Outdoor collection and storage of recyclable material.
 - e. Scrap Materials (indoor storage).
 - f. Solid or liquid waste transfer station, waste incineration.
- ii. Vehicle Service Use Category** - Repair and service to passenger vehicles, light and medium trucks and other consumer motor vehicles such as motorcycles, boats and recreational vehicles. Vehicle service includes the following uses.
 - a. Car Wash.
 - b. Vehicle Repair (minor).
 - c. Vehicle Repair (major).

- iii. **Manufacturing of Food and Beverage Products** – No manufacturing of food and beverage products shall be allowed.
 - iv. **Brewery and/or Winery** – Brewery and/or winery.
- b. The Property shall provide a Type C yard as described and identified in Exhibit B, to be 30 feet in width, 8 feet in height, and on the north side of the Property being rezoned.

2. **No Consent Required.** The Owner and the City each hereby represent and warrant to the other that they have full requisite power and authority to enter into this Agreement without the joinder or further consent of any other party, including without limitation that of any lender, lienholder or tenant, and that this Agreement will not be subordinate to any existing lien or other monetary encumbrance.

3. **Remedies.** The City may pursue any remedies available at law or in equity to enforce the provisions of this Agreement, including the recovery of reasonable attorney's fees and court costs.

4. **No Waiver.** The failure of the City or Owner to avail itself of any of the privileges, rights, covenants, agreements, terms and conditions of this Agreement for any period of time or at any time shall not be construed or deemed to be a waiver thereof, and nothing herein contained, nor anything done or omitted to be done by the City or Owner pursuant hereto, shall be deemed a waiver by the other of any of its rights and remedies hereunder or under the laws of the State of Texas. The enforcement of any right or remedy hereunder by the City, either prior to, simultaneously with, or subsequent to any other action taken hereunder, shall not be deemed an election of remedies.

5. **Modification.** This Agreement may not be modified or amended unless such modification or amendment has been reduced to writing approved by the city council of the City and signed by all of the then-existing owners of the Property or portions thereof, and by the City, and has been recorded in the Official Public Records of Hays County, Texas.

6. **Binding Effect.** The obligations created hereunder shall create mutual benefits and servitudes running with the land. This Agreement shall bind and inure to the benefit of the parties hereto and their respective successors, heirs and assigns.

7. **Partial Invalidity.** If any provision of this Declaration shall be or become invalid, illegal or unenforceable in any respect under any applicable law, the validity, legality and enforceability of the remaining provisions shall not be affected or impaired thereby.

[SIGNATURES ON NEXT PAGE]

HARRIS HILL COMMERCIAL LAND HOLDINGS, LTD.:

By: _____

Name: RW McDonald, IV

Title: Manager

ACKNOWLEDGMENT

STATE OF TEXAS §
 §
COUNTY OF _____ §

THIS INSTRUMENT was acknowledged before me this _____ day of _____, 2021, by _____, _____ of _____, in such capacity, on behalf of said entity.

Notary Public, State of Texas

CITY:

By: _____

Name: _____

Title: _____

ACKNOWLEDGMENT

STATE OF TEXAS §
 §
COUNTY OF HAYS §

THIS INSTRUMENT was acknowledged before me this _____ day of _____, 2021, by _____, _____ of the City of San Marcos, in such capacity, on behalf of said municipality.

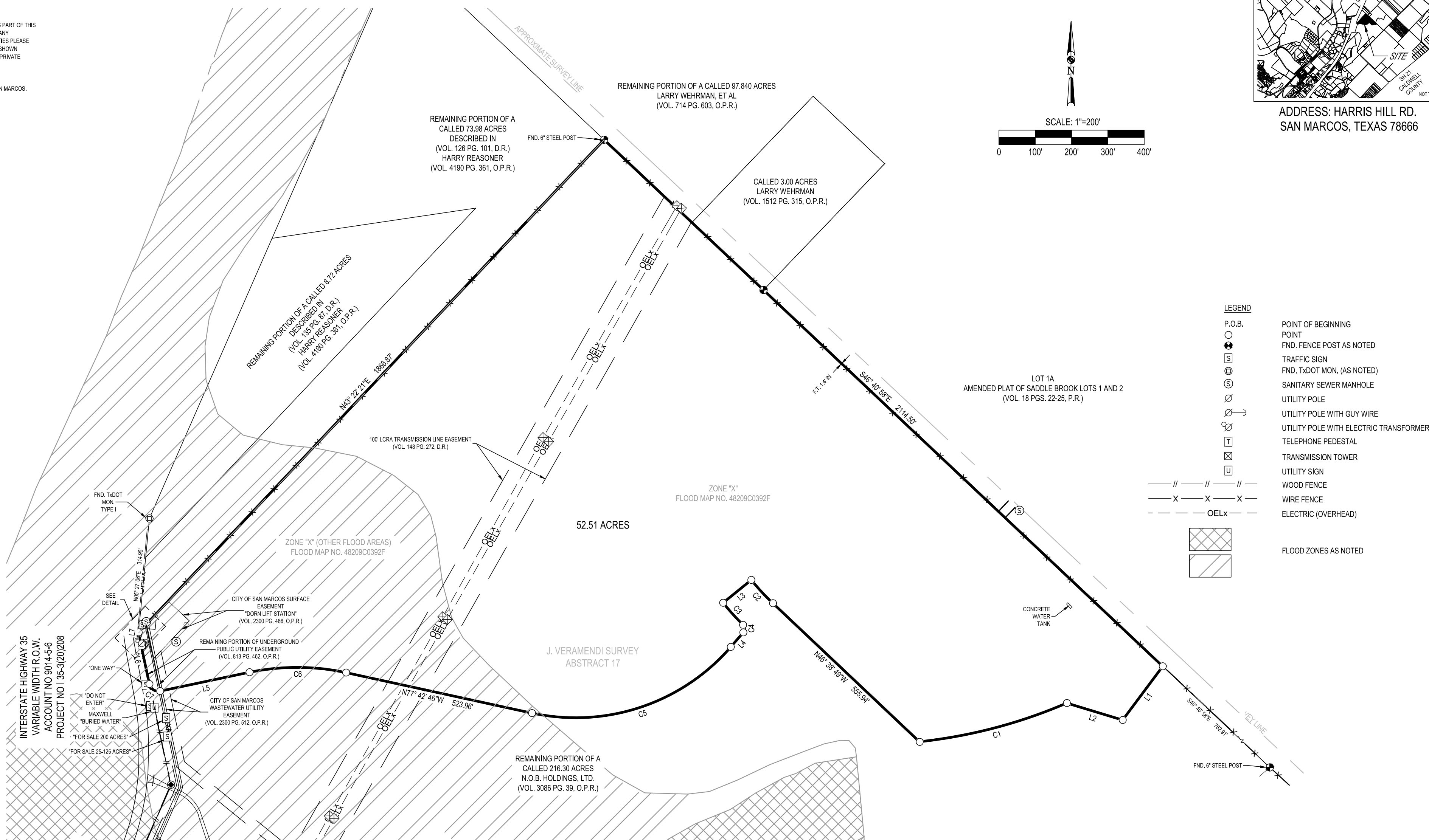
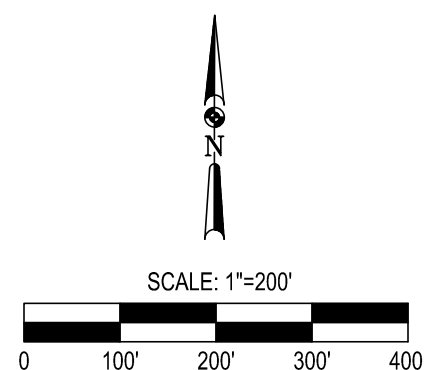
Notary Public, State of Texas

EXHIBIT A

7. THE SUBJECT TRACT IS LOCATED WITHIN THE CITY LIMITS OF THE CITY OF SAN MARCOS.

A 52.51 ACRE TRACT OF LAND, OUT OF THE J. VERAMENDI SURVEY, ABSTRACT 17, HAYS COUNTY, TEXAS AND BEING A PORTION OF A CALLED 216.30 ACRE TRACT OF LAND AS DESCRIBED IN VOLUME 3086, PAGE 39 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS.

ADDRESS: HARRIS HILL RD.
SAN MARCOS, TEXAS 78666



P.O.B.	POINT OF BEGINNING
○	POINT
●	FND, FENCE POST AS NOTED
⊕	TRAFFIC SIGN
Ⓢ	FND, TxDOT MON. (AS NOTED)
Ⓢ	SANITARY SEWER MANHOLE
∅	UTILITY POLE
∅→	UTILITY POLE WITH GUY WIRE
⊗	UTILITY POLE WITH ELECTRIC TRANSFORMER
Ⓣ	TELEPHONE PEDESTAL
⊗	TRANSMISSION TOWER
Ⓢ	UTILITY SIGN
— // —	WOOD FENCE
— X —	WIRE FENCE
Lx — —	ELECTRIC (OVERHEAD)

FLOOD ZONES AS NOTED

REMAINING PORTION OF A
CALLED 73.98 ACRES
DESCRIBED IN
(VOL. 126 PG. 101, D.R.)
HARRY REASONER
(VOL. 4190 PG. 361, O.P.R.)

INTERSTATE HIGHWAY 35
VARIABLE WIDTH R.O.W.
ACCOUNT NO 9014-5-6
PROJECT NO 135-3(20)208

INTERSTATE HIGHWAY 35
VARIABLE WIDTH R.O.W.
ACCOUNT NO 9014-5-6
PROJECT NO 135-3(20)208

"ONE WAY"
"DO NOT ENTER"
MAXWELL
"BURIED WATER"
"FOR SALE 200 ACRES"
"FOR SALE 25-125 ACRES"

CITY OF SAN MARCOS SURFACE EASEMENT

"DORN LIFT STATION"
(VOL. 2300 PG. 486, O.P.R.)

REMAINING PORTION OF UNDERGROUND
PUBLIC UTILITY EASEMENT
(VOL. 813 PG. 462, O.P.R.)

C6

L5

CITY OF SAN MARCOS
WASTEWATER UTILITY
EASEMENT
(VOL. 2300 PG. 512, O.P.R.)

REMAINING PORTION OF A
CALLED 216.30 ACRES
N.O.B. HOLDINGS, LTD.
(VOL. 3086 PG. 39, O.P.R.)

LINE TABLE		
LINE	BEARING	DISTANCE
L1	S36° 41' 56"W	184.77'
L2	N73° 06' 56"W	160.46'
L3	S51° 04' 41"W	100.00'
L4	S40° 52' 18"W	52.88'
L5	S78° 06' 50"W	251.46'
L6	N12° 02' 09"W	144.05'
L7	N05° 27' 06"E	1.78'

CURVE TABLE					
CURVE	RADIUS	LENGTH	DELTA	CHORD BEARING	CHORD LENGTH
C1	1399.78'	420.75'	17°13'20"	S75° 15' 11"W	419.17'
C2	650.00'	87.64'	7°43'29"	N42° 47' 04"W	87.57'
C3	750.00'	82.25'	6°17'00"	S42° 03' 49"E	82.21'
C4	15.00'	22.53'	86°04'37"	S02° 10' 01"E	20.47'
C5	565.00'	605.63'	61°24'56"	S89° 34' 46"W	577.05'
C6	635.00'	267.91'	24°10'24"	N77° 47' 58"W	265.93'
C7	25.00'	39.20'	89°51'10"	N56° 57' 39"W	35.31'



I HEREBY CERTIFY THAT THIS SURVEY WAS MADE ON THE GROUND, AND THAT TO THE BEST OF MY KNOWLEDGE AND BELIEF, THIS PLAT CORRECTLY REPRESENTS THE FACTS FOUND AT THE TIME OF THIS SURVEY.

KYLE L. PRESSLER DATE: MAY 26, 2021
REGISTERED PROFESSIONAL LAND SURVEYOR
TEXAS REGISTRATION NO. 6528
KYLE.PRESSLER@MATKINHOOVER.COM
JOB NO. 20-4003 - 52.51 AC.

FIELD NOTES FOR A 52.51 ACRE TRACT OF LAND

A **52.51 acre** tract of land, out of the J. Veramendi Survey, Abstract 17, Hays County, Texas and being a portion of a called 216.30 acre tract of land as described in Volume 3086, Page 39 of the Official Public Records of Hays County, Texas. Said **52.51 acre** tract being more particularly described by metes and bounds as follows:

BEGINNING at a point 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° 27' 06" E, a distance of 314.95 feet;

THENCE: N 43° 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 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 east corner of said 73.98 acre tract, the north corner of said 216.30 acre tract and the tract described herein;

THENCE: S 46° 40' 58" E, with the common lines between said 97.840 acre tract, a called 3.00 acre tract of land as described in Volume 1512, Page 315 of the Official Records of Hays County, Texas, Lot 1A of the Amended Plat of Saddle Brook Lots 1 and 2 as recorded in Volume 18, Pages 22-25 of the Plat Records of Hays County, Texas, and said 216.30 acre tract, a distance of **2114.50 feet** to a point for the east corner of the tract described herein, from which a found 6" steel post for an angle of said 216.30 acre tract bears, S 46° 40' 58" E, a distance of 762.91 feet;

THENCE: Into said 216.30 acre tract the following fourteen (14) courses:

1. S 36° 41' 56" W, a distance of **184.77 feet** to a point for a corner,
2. N 73° 06' 56" W, a distance of **160.46 feet** to a point for a point of curvature,
3. With a non-tangent curve to the right having a radius of **1399.78 feet**, an arc length of **420.75 feet**, a delta angle of **017° 13' 20"** and a chord which bears, S 75° 15' 11" W, a distance of **419.17 feet** to a point for a point of non-tangency,
4. N 46° 38' 49" W, a distance of **555.94 feet** to a point for a point of curvature,
5. With a tangent curve to the right having a radius of **650.00 feet**, an arc length of **87.64 feet**, a delta angle of **007° 43' 29"** and a chord which bears, N 42° 47' 04" W, a distance of **87.57 feet** to a point for a point of non-tangency,
6. S 51° 04' 41" W, a distance of **100.00 feet** to a point for a point of curvature,
7. With a non-tangent curve to the left having a radius of **750.00 feet**, an arc length of **82.25 feet**, a delta angle of **006° 17' 00"** and a chord which bears, S 42° 03' 49" E, a distance of **82.21 feet** to a point for a point of reverse curvature,
8. With a curve to the right having a radius of **15.00 feet**, an arc length of **22.53 feet**, a delta angle of **086° 04' 37"** and a chord which bears, S 02° 10' 01" E, a distance of **20.47 feet** to a point for a point of tangency,
9. S 40° 52' 18" W, a distance of **52.88 feet** to a point for a point of curvature,
10. With a curve to the right having a radius of **565.00 feet**, an arc length of **605.63 feet**, a delta angle of **061° 24' 56"** and a chord which bears, S 71° 34' 46" W, a distance of **577.05 feet** to a point for a point of tangency,
11. N 77° 42' 46" W, a distance of **523.96 feet** to a point for a point of curvature,
12. With a curve to the left having a radius of **635.00 feet**, an arc length of **267.91 feet**, a delta angle of **024° 10' 24"** and a chord which bears, N 89° 47' 58" W, a distance of **265.93 feet** to a point for a point of tangency,
13. S 78° 06' 50" W, a distance of **251.46 feet** to a point for a point of curvature, and

14. With a curve to the right having a radius of **25.00 feet**, an arc length of **39.20 feet**, a delta angle of **089° 51' 01"** and a chord which bears, **N 56° 57' 39" W**, a distance of **35.31 feet** to a point in the said easterly right-of-way line of Interstate Highway 35, the southwest line of said 216.30 acre tract, and for a point of tangency;

THENCE: With the said easterly right-of-way line of Interstate Highway 35 and the southwest line of said 216.30 acre tract the following two (2) courses:

1. **N 12° 02' 09" W**, a distance of **144.05 feet** to a found TxDOT Monument, Type I, for an angle, and
2. **N 05° 27' 06" E**, a distance of **1.78 feet** to the **POINT OF BEGINNING** and containing **52.51 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 52.51 Acres

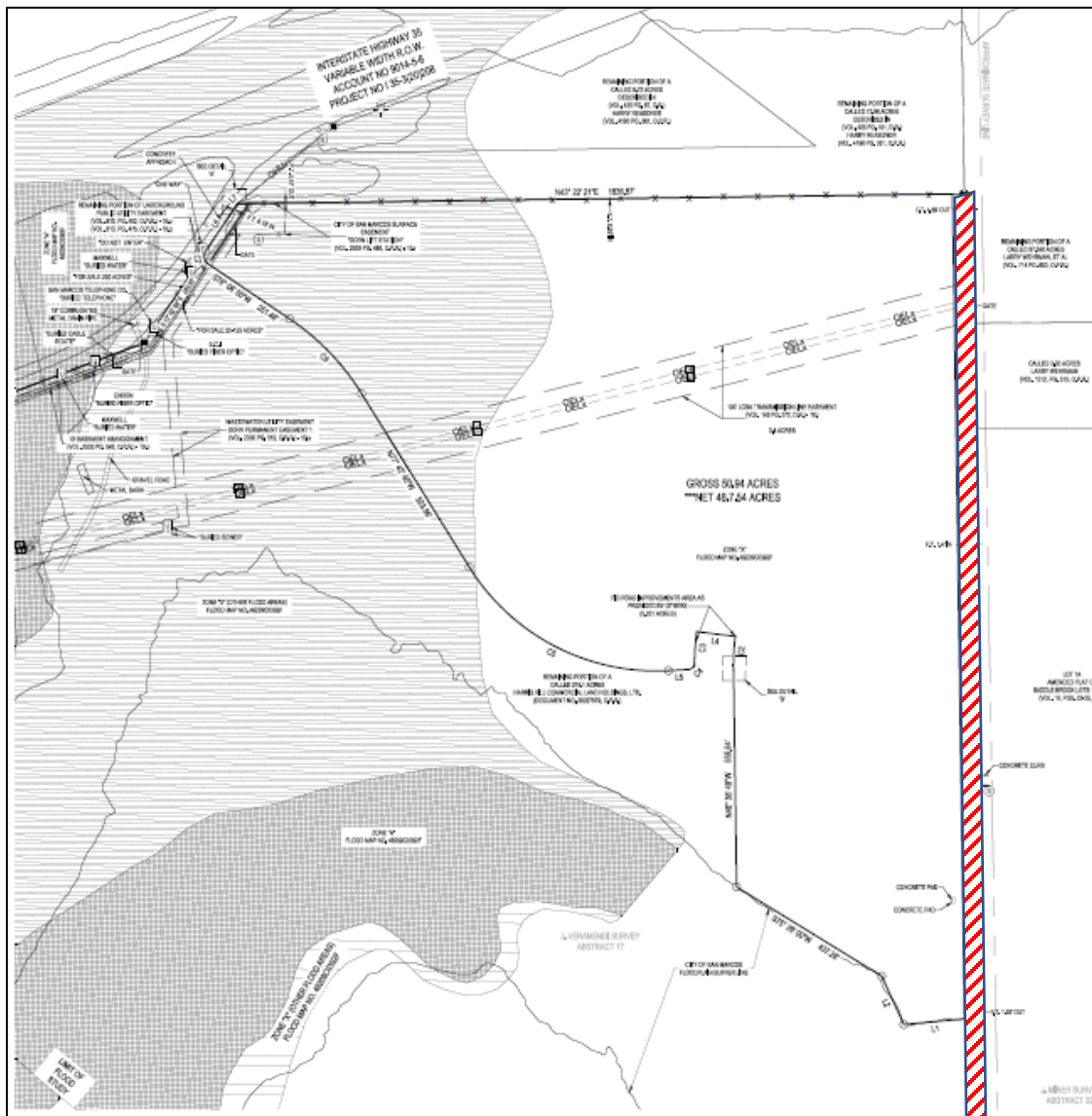
Date: May 27, 2021




EXHIBIT B

TABLE 7.8 TYPE C AND D PROTECTIVE YARD STANDARDS

	TYPE C	TYPE D
Depth (min)	30 ft 20 ft.	35 ft.
Fence Height (min)	Not Allowed	6 ft.
Wall Height (min)	8 ft 6 ft.	Not Required
Shade Trees (min per 100 ft.)	5 4	6
Understory Trees (min per 100 ft.)	4	6
Shrubs (min per 100 ft.)	40	60



 Location of setback