

ORDINANCE NO. 3628

AN ORDINANCE APPROVING AND AUTHORIZING THE ISSUANCE AND SALE OF THE CITY OF NORTH RICHLAND HILLS, TEXAS, SPECIAL ASSESSMENT REVENUE BONDS, SERIES 2019 (CITY POINT PUBLIC IMPROVEMENT DISTRICT IMPROVEMENT ZONE B PROJECT); APPROVING AND AUTHORIZING RELATED AGREEMENTS, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of North Richland Hills, Texas (the "City"), pursuant to and in accordance with the terms, provisions and requirements of the Public Improvement District Assessment Act, Chapter 372, Texas Local Government Code (the "PID Act"), has established the "City Point Public Improvement District", pursuant to Resolution No. 2019-035 adopted by the City Council of the City (the "City Council") on September 9, 2019; and

WHEREAS, pursuant to the PID Act, the City Council published notice of and held a public hearing regarding the levy of special assessments against benefitted property designated as Improvement Zone B of the District on November 12, 2019 and recessed that public hearing until December 9, 2019, and at the December 9, 2019 meeting of the City Council, after hearing testimony at such public hearing, the City Council closed the public hearing and adopted Ordinance No. 3626 (the "Improvement Zone B Assessment Ordinance"); and

WHEREAS, in the Improvement Zone B Assessment Ordinance, the City Council approved and accepted the City Point Public Improvement District Service and Assessment Plan, dated December 9, 2019, (the "Service and Assessment Plan") relating to the District and levied the Improvement Zone B Assessments (as defined in the Improvement Zone B Assessment Ordinance, the "Improvement Zone B Assessments") against the Improvement Zone B Assessed Property as shown in the Improvement Zone B Assessment Roll (as defined and described in the Improvement Zone B Assessment Ordinance); and

WHEREAS, the City is authorized by the PID Act to issue its revenue bonds payable from the Improvement Zone B Assessments and other revenues received for the purposes of paying (a) a portion of the Actual Costs (as defined in the Service and Assessment Plan) of the Public Improvements (as defined in the Service and Assessment Plan) allocable to Improvement Zone B and (b) District Formation and Bond Issuance Costs (as defined in the Service and Assessment Plan) allocable to Improvement Zone B; and

WHEREAS, the City Council hereby finds and determines that it is in the best interests of the City to issue its bonds to be designated "City of North Richland Hills, Texas, Special Assessment Revenue Bonds, Series 2019 (City Point Public Improvement District Improvement Zone B Project)" (the "Bonds"),

such series to be payable from and secured by the Pledged Revenues, as defined in the Indenture (as defined herein); and

WHEREAS, the City Council hereby finds and determines to (i) approve the issuance of the Bonds to finance a portion of the costs of the Public Improvements allocable to Improvement Zone B, as identified in the Service and Assessment Plan, (ii) approve the form, terms and provisions of an indenture of trust securing the Bonds, (iii) approve the form, terms and provisions of a Bond Purchase Agreement (defined below) between the City and the purchaser of the Bonds, (iv) approve a Preliminary Limited Offering Memorandum (defined below) and a Limited Offering Memorandum (defined below), (v) approve the form, terms and provisions of a Continuing Disclosure Agreement (defined below), (vi) approve the form, terms and provisions of a Construction, Funding and Acquisition Agreement (defined below), and (vii) approve the form, terms and provisions of a Landowner Agreement (defined below); and

WHEREAS, the meeting at which this Ordinance is considered is open to the public as required by law, and the public notice of the time, place and purpose of such meeting was given as required by Chapter 551, Texas Government Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTH RICHLAND HILLS, TEXAS, THAT:

SECTION 1: (a) The issuance of the Bonds in the principal amount of \$_____ for the purpose of paying (a) a portion of the Actual Costs of the Public Improvements allocable to Improvement Zone B and (b) District Formation and Bond Issuance Costs allocable to Improvement Zone B is hereby authorized and approved.

(b) The Bonds shall be issued and secured under that certain Indenture of Trust (the "Indenture") dated as of December 1, 2019, between the City and Wilmington Trust, National Association, as trustee (the "Trustee"), with such changes as may be necessary or desirable to carry out the intent of this Ordinance and as approved by the City Manager, the City Attorney and the Bond Counsel (as defined below), such approval to be evidenced by the execution and delivery of the Indenture by the Mayor of the City. The Indenture is hereby approved in substantially the form attached hereto as **Exhibit A** which is incorporated herein as a part hereof for all purposes. The Mayor of the City is hereby authorized and directed to execute the Indenture and the City Secretary is hereby authorized and directed to attest such signature of the Mayor.

(c) The Bonds shall be dated, shall mature on the date or dates and in the principal amounts, shall bear interest, shall be subject to redemption

and shall have such other terms and provisions as set forth in the Indenture. The Bonds shall be in substantially the form set forth in the Indenture with such insertions, omissions and modifications as may be required to conform the form of bond to the actual terms of the Bonds. The Bonds shall be payable from and secured by the Pledged Revenues (as defined in the Indenture) and other assets of the Trust Estate (as defined in the Indenture) pledged to such series, and shall never be payable from ad valorem taxes.

SECTION 2: The Bonds shall be sold to FMSbonds, Inc. (the "Underwriter") under that certain Bond Purchase Agreement (the "Bond Purchase Agreement"), dated the date hereof, between the City and the Underwriter, substantially in the form attached hereto as **Exhibit B** which is incorporated herein as a part hereof for all purposes. The terms of sale are declared to be in the best interests of the City at the price and on the terms and provisions set forth in the Bond Purchase Agreement. The form, terms and provisions of the Bond Purchase Agreement are hereby authorized and approved with such changes as may be necessary or desirable to carry out the intent of this Ordinance and as approved by the City Manager, the City Attorney and Bond Counsel, such approval to be evidenced by the execution and delivery of the Bond Purchase Agreement by the Mayor. The Mayor of the City is hereby authorized and directed to execute and deliver the Bond Purchase Agreement.

SECTION 3: The form and substance of the Preliminary Limited Offering Memorandum for the Bonds (the "Preliminary Limited Offering Memorandum") and any addenda, supplement or amendment thereto and the final Limited Offering Memorandum for the Bonds (the "Limited Offering Memorandum") are hereby in all respects approved and adopted. The Mayor is hereby authorized and directed to execute such Limited Offering Memorandum with such changes and alterations therein as the Mayor, the City Manager, and Bond Counsel may approve, such approval to be conclusively evidenced by such execution thereof. The Limited Offering Memorandum as thus approved, executed and delivered, with such appropriate variations as shall be approved by the Mayor, City Manager, Bond Counsel and the Underwriter, may be used by the Underwriter in the offering and sale of the Bonds. The City Secretary is hereby authorized and directed to include and maintain a copy of the Preliminary Limited Offering Memorandum and Limited Offering Memorandum and any addenda, supplement or amendment thereto thus approved among the permanent records of this meeting. The use and distribution of the Preliminary Limited Offering Memorandum in the offering of the Bonds is hereby ratified, approved and confirmed and the Preliminary Limited Offering Memorandum is hereby deemed "final" as of its date, within the meaning of Rule 15c2-12 of the Securities and Exchange Commission. Notwithstanding the execution, approval and delivery of such Preliminary

Limited Offering Memorandum and Limited Offering Memorandum by the Mayor, this City Council, including the Mayor, is not responsible for and proclaim no specific knowledge of the information contained in the Preliminary Limited Offering Memorandum and Limited Offering Memorandum pertaining to the Development (as defined in the Limited Offering Memorandum), the Developer (as defined in the Indenture) or their financial ability to perform the obligations set forth therein, or pertaining to any builders, any landowners, or the appraisal of the property in the District.

SECTION 4: That certain "City of North Richland Hills, Texas, Special Assessment Revenue Bonds, Series 2019 (City Point Public Improvement District Improvement Zone B Project) Continuing Disclosure Agreement of Issuer" dated as of December 1, 2019 (the "Continuing Disclosure Agreement") among the City, P3Works, LLC and HTS Continuing Disclosure Services, a division of Hilltop Securities Inc. is hereby authorized and approved in substantially the form attached hereto as **Exhibit C** which is incorporated herein as a part hereof for all purposes. The Mayor of the City is authorized and directed to execute and deliver the Continuing Disclosure Agreement with such changes as may be required to carry out the purpose of this Ordinance and as approved by the City Manager, City Attorney, and Bond Counsel, such approval to be evidenced by the execution thereof.

SECTION 5: That certain "City Point Public Improvement District Improvement Zone B Construction, Funding, and Acquisition Agreement" dated as of December 9, 2019 (the "Construction, Funding and Acquisition Agreement") between the City and MM City Point 53, LLC (the "Developer") is hereby authorized and approved in substantially the form attached hereto as **Exhibit D** which is incorporated herein as a part hereof for all purposes. The City Manager is authorized and directed to execute and deliver the Construction, Funding and Acquisition Agreement with such changes as may be required to carry out the purpose of this Ordinance and as approved by the City Manager, the City Attorney, and the Bond Counsel, such approval to be evidenced by the execution thereof.

SECTION 6: That certain "Improvement Zone B Landowner Agreement" dated as of December 9, 2019 (the "Landowner Agreement") between the City and the Developer is hereby authorized and approved in substantially the form attached hereto as **Exhibit E** which is incorporated herein as a part hereof for all purposes. The City Manager is authorized and directed to execute and deliver the Landowner Agreement with such changes as may be required to carry out the purpose of this Ordinance and as approved by the City Manager, the City Attorney, and Bond Counsel, such approval to be evidenced by the execution thereof.

- SECTION 7:** The Mayor, Mayor Pro Tem, the City Manager, the City Attorney, and the City Secretary are each hereby authorized and directed to take any and all actions on behalf of the City necessary or desirable to carry out the intent and purposes of this Ordinance and to issue the Bonds in accordance with the terms of this Ordinance. The City Council also hereby confirms the prior engagement of Norton Rose Fulbright US LLP ("Bond Counsel") as the City's bond counsel. The Mayor, Mayor Pro Tem, the City Manager, City Attorney, and the City Secretary are each hereby authorized and directed to execute and deliver any and all certificates, agreements, notices, instruction letters, requisitions, easements and other land use agreements, and other documents which may be necessary or advisable in connection with the sale, issuance and delivery of the Bonds and the carrying out of the purposes and intent of this Ordinance or any other certificates, agreements, easements and other land use agreements, or other documents subsequent to the delivery of the Bonds which may be necessary or appropriate to carry out or fulfill the purpose and intent of the Service and Assessment Plan and the acquisition and construction of the Public Improvements.
- SECTION 8:** This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.
- SECTION 9:** The Section headings herein are for convenience only and shall not affect the construction hereof.
- SECTION 10:** If any provision of this Ordinance or the application thereof to any circumstance shall be held to be invalid, the remainder of this Ordinance or the application thereof to other circumstances shall nevertheless be valid, and this governing body hereby declares that this Ordinance would have been enacted without such invalid provision.
- SECTION 11:** If appropriate in the context of this Ordinance, words of the singular number shall be considered to include the plural, words of the plural number shall be considered to include the singular, and words of the masculine, feminine or neuter gender shall be considered to include the other genders.
- SECTION 12:** The findings and determinations of the City Council contained in the preamble of this Ordinance are hereby incorporated by reference and made a part of this Ordinance for all purposes as if the same were restated in full in this Section.
- SECTION 13:** This Ordinance shall take effect and be in force immediately from and after its adoption on the date shown below in accordance with Texas Government Code, Section 1201.028, as amended.

AND IT IS SO ORDAINED.

PASSED AND APPROVED on this 9th day of December, 2019.

CITY OF NORTH RICHLAND HILLS

By: _____
Oscar Trevino, Mayor

ATTEST:

Alicia Richardson, City Secretary

APPROVED AS TO FORM AND LEGALITY:

Maleshia B. McGinnis, City Attorney

APPROVED AS TO CONTENT:

Craig Hulse, Director of Economic Development

EXHIBIT A
INDENTURE OF TRUST

EXHIBIT B
BOND PURCHASE AGREEMENT

EXHIBIT C
CONTINUING DISCLOSURE AGREEMENT

EXHIBIT D
CONSTRUCTION, FUNDING AND ACQUISITION AGREEMENT

EXHIBIT E
LANDOWNER AGREEMENT