

**NOTICE OF REGULAR CITY COUNCIL MEETING
CITY OF TOMBALL, TEXAS**



**Monday, April 03, 2023
6:00 PM**

Notice is hereby given of a Regular meeting of the Tomball City Council, to be held on Monday, April 03, 2023 at 6:00 PM, City Hall, 401 Market Street, Tomball, Texas 77375, for the purpose of considering the following agenda items. All agenda items are subject to action. The Tomball City Council reserves the right to meet in a closed session for consultation with attorney on any agenda item should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS, WILL CONDUCT THE MEETING SCHEDULED FOR DATE APRIL 3, 2022, 6:00 PM, AT 401 MARKET STREET, TOMBALL, TEXAS, 77375. THIS MEETING AGENDA AND THE AGENDA PACKET ARE POSTED ONLINE AT:

[HTTPS://TOMBALLTX.GOV/ARCHIVE.ASPX?AMID=38](https://tomballtx.gov/archive.aspx?amid=38)

A RECORDING OF THE MEETING WILL BE MADE AND WILL BE AVAILABLE TO THE PUBLIC IN ACCORDANCE WITH THE OPEN MEETINGS ACT UPON WRITTEN REQUEST.

The public toll-free dial-in numbers to participate in the telephonic meeting are any one of the following (dial by your location): +1 312 626 6799 US (Chicago); +1 646 876 9923 US (New York); +1 301 715 8592 US; +1 346 248 7799 US (Houston); +1 408 638 0968 US (San Jose); +1 669 900 6833 US (San Jose); or +1 253 215 8782 US (Tahoma) - Meeting ID: 913 738 3458 Passcode: 103650. The public will be permitted to offer public comments telephonically, as provided by the agenda and as permitted by the presiding officer during the meeting.

- A. Call to Order
- B. Invocation - Led by Pastor Adam McIntosh – St. David’s Church
- C. Pledges to U.S. and Texas Flags

- D. Public Comments and Receipt of Petitions; *[At this time, anyone will be allowed to speak on any matter other than personnel matters or matters under litigation, for length of time not to exceed three minutes. No Council/Board discussion or action may take place on a matter until such matter has been placed on an agenda and posted in accordance with law - GC, 551.042.]*
- E. Presentations
1. Recognition of Municipal Court staff members on receiving Level 1 of the Texas Court Clerk Certification program.
- F. Reports and Announcements
1. April 7, 2023 – City offices will be closed, in observance of Good Friday
- April 15, 2023 – Tomball Rails and Tails Crawfish Festival at the Depot
- April 21, 2023 – Tomball Rotary Fish Fry at Juergens Park
- April 17-22, 2023 – Tomball Annual Spring Clean-Up and Chipping Week
- April 22, 2023 – Tomball Consolidated Recycling Day – Lone Star College-
Tomball Campus, 30555 Tomball Parkway, South Entrance – 10:00 a.m.-2:00
p.m.
- May 4, 2023- National Day of Prayer at the Community Center at 6 -7 pm
- G. Old Business Consent Agenda: *[All matters listed under Consent Agenda are considered to be routine and will be enacted by one motion. There will be no separate discussion of these items. If discussion is desired, the item in question will be removed from the Consent Agenda and will be considered separately. Information concerning Consent Agenda items is available for public review.]*
1. Approve, on Second Reading, Resolution No. 2023-10-TEDC, a Resolution of the City Council of the City of Tomball, Texas, authorizing and approving the Tomball Economic Development Corporation’s Project to Expend Funds in accordance with an Economic Development Agreement by and between the Corporation and the City of Tomball to make direct incentives to, or expenditures for, improvements to Jerry Matheson Park located at 1240 Ulrich Rd., Tomball, Texas 77375, as authorized under Sections 505.152 and 505.154 of the Texas Local Government Code. The estimated amount of expenditures for such Project is \$200,000.00.

2. Approve, on Second Reading, Resolution No. 2023-11-TEDC, a Resolution of the City Council of the City of Tomball, Texas, authorizing and approving the Tomball Economic Development Corporation's Project to Expend Funds in accordance with an Economic Development Agreement by and between the Corporation and the City of Tomball to make direct incentives to, or expenditures for, improvements to the North and South 100 Block Alleyways located in the City of Tomball, Texas, as authorized under Sections 505.152 and 505.154 of the Texas Local Government Code. The estimated amount of expenditures for such Project is \$600,000.00.
3. Approve, on Second Reading, Resolution No. 2023-12-TEDC, a Resolution of the City Council of the City of Tomball, Texas, authorizing and approving the Tomball Economic Development Corporation's Project to Expend Funds in accordance with an Economic Development Agreement by and between the Corporation and the City of Tomball to make direct incentives to, or expenditures for, improvements to Louie's Together Playground located at 1331 Ulrich Rd., Tomball, Texas 77375, as authorized under Sections 505.152 and 505.154 of the Texas Local Government Code. The estimated amount of expenditures for such Project is \$200,000.00.
4. Approve, on Second Reading, Resolution No. 2023-13-TEDC, a Resolution of the City Council of the City of Tomball, Texas, authorizing and approving the Tomball Economic Development Corporation's Project to Expend Funds in accordance with an Economic Development Agreement by and between the Corporation and the City of Tomball to make direct incentives to, or expenditures for, design of the South Wastewater Treatment Plant expansion located in the City of Tomball, Texas, as authorized under Sections 505.152 and 505.154 of the Texas Local Government Code. The estimated amount of expenditures for such Project is \$415,000.00.
5. Adopt, on Second Reading, Ordinance No. 2023-04, an Ordinance of the City of Tomball, Texas, amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by issuing a Conditional Use Permit for approximately 0.46 acres of land legally described as being Lots 17 through 24 in Block 18 of the Revised Map of Tomball. Located at the southwest corner of Commerce Street and Oak Street at 401-409 Commerce Street, within the City of Tomball, Harris County, Texas; providing for the amendment of the Official Zoning Map of the City; providing for severability; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters.
6. Adopt, on Second Reading, Ordinance Number 2023-06, an Ordinance of the City Council of Tomball, Texas, Approving a Service and Assessment Plan and Assessment Roll for Authorized Improvements for the Seven Oaks Public Improvement District (the "District"); Making a Finding of Special Benefit to Certain Property in the District; Levying Assessments against Certain Property

within the District and Establishing a Lien on Such Property; Providing for Payment of the Assessment in Accordance with Chapter 372, Texas Local Government Code, as Amended; Providing for the Method of Assessment and the Payment of the Assessments; Providing for Penalties and Interest on Delinquent Assessments; Providing for Severability and Providing an Effective Date. The proposed Service and Assessment Plan complies with the requirements of the approved Development Agreement as approved by City Council on August 15, 2022.

7. Adopt on Second Reading Ordinance No. 2023-07, an Ordinance Amending The Code of Ordinances of The City of Tomball, Texas, By Adding a New Subsection (ff-1) to Section 20-28, Amendments to The 2015 International Fire Code, of Article II, Fire Code, of Chapter 20, Fire Prevention And Protection; Regulating The Installation, Operation, Maintenance, Repair, Retrofitting, Testing, Commissioning And Decommissioning Of Energy Systems Used for Generating or Storing Energy; Providing A Penalty In An Amount Not To Exceed \$2,000.00 Per Day for Violation of Any Provision Hereof, With Each Day Constituting a Separate Offense; Providing a Repealer; Providing For Severability, And Making Other Findings Related Thereto.
- H. New Business Consent Agenda: *[All matters listed under Consent Agenda are considered to be routine and will be enacted by one motion. There will be no separate discussion of these items. If discussion is desired, the item in question will be removed from the Consent Agenda and will be considered separately. Information concerning Consent Agenda items is available for public review.]*

 1. Approve the Minutes of the March 20, 2023, Regular City Council Meeting
 2. Approve Resolution No. 2023-20, a Resolution of the City of Tomball, Texas, authorizing the acceptance of American Rescue Plan Act (ARPA) – Coronavirus Local Fiscal Recovery Funds (CLFRF) and authorizing the City Manager and Assistant City Manager to act as the City’s Executive Officer and Authorized Representative in all matters pertaining to the City’s implementation of the ARPA-CLFRF Funds.
 3. Approve Resolution No. 2023-21, a Resolution of the City of Tomball, Texas, adopting the policies in connection with the City of Tomball Texas participation in federally funded projects associated with the American Rescue Plan Act (ARPA) – Coronavirus Local Fiscal Recovery Funds (CLFRF) and adherence to the regulations described therein.
 4. Approve a purchase from Hydra-Shield Manufacturing, Inc. for the purchase of Hydra Storz adaptors, as a sole source provider (United States Patent Number 7,128,091), for a not-to-exceed amount of \$70,839.34, approve the expenditure of

funds therefor, and authorize the City Manager to execute any and all documents related to the purchase. This expenditure is included in the FY 2022-2023 Budget.

5. Approve a Professional Services Agreement with Paypoint HR, for Administrative Contract Number 0000-10090, Classification and Compensation Study, for a not-to-exceed amount of \$37,500 (RFP 2023-04R), authorize the expenditure of funds therefor, and authorize the City Manager to execute the agreement. This amount is included in the FY 2022-2023 budget.

I. New Business

1. Discussion and Possible Action regarding Legislative Items at the 2023 Texas Legislative Session on items including:

Resolution No. 2023-17, a Resolution of the City Council of the City of Tomball, Texas, adopting legislative priorities for the 88th Session of the Texas Legislature to include any special called sessions; and providing an effective date.

Resolution No. 2023-18, a Resolution of the City Council of the City of Tomball, Texas, expressing opposition to House Bill 3921 and Senate Bill 1787 which are being considered in the 88th Texas Legislature, that would adversely impact the ability of Texas cities to make decisions directly impacting their residents and communities; and providing an effective date.

Resolution No. 2023-19, a Resolution of the City Council of the City of Tomball, Texas, expressing support for legislation that promotes local farmers, cottage food production, and farmers markets which are being considered in the 88th Texas Legislature; and providing an effective date.

2. Adopt On First Reading Ordinance No. 2023-08, An Ordinance Of The City Of Tomball, Texas Amending Section 48-139 Of Its Code Of Ordinances, Storage Lot Requirements, Of Division 1, Generally, Of Article III, Tow Trucks And Tows, Of Chapter 48, Vehicles For Hire, By Allowing Wrecker Storage Lots To Be Located Within The City, Its Extraterritorial Jurisdiction Or Within Five (5) Miles Of The Extraterritorial Jurisdiction Of The City; Containing findings and Other Provisions Relating To The Subject; Declaring Certain Conduct To Be Unlawful; Providing A Penalty In An Amount Not To Exceed \$2,000.00 For Each Violation Of This Ordinance With Every Day Constituting A New Violation; Providing For Severability; Providing for Publication; and Providing An Effective Date.

J. Adjournment

CERTIFICATION

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall, City of Tomball, Texas, a place readily accessible to the general public at all times, on the 31st day of March 2023 by 5:00 PM, and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Tracylynn Garcia, TRMC, CPM, CMC
City Secretary

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary's office at (281) 290-1002 or FAX (281) 351-6256 for further information.

AGENDAS MAY BE VIEWED ONLINE AT www.ci.tomball.tx.us.

City Council Meeting Agenda Item Data Sheet

Meeting Date: 04/03/2023

Topic:

Recognition of Municipal Court staff members on receiving Level 1 of the Texas Court Clerk Certification program.

Background:

To qualify for this certification, a clerk must complete 40 hours of continuing education and pass a three-part, four-hour exam given by Texas Court Clerk Association (TCCA) a nonprofit professional association of municipal and justice courts court clerks and administrators. Our Assistant Court Clerks Daniela Carrillo Sanchez and Fae Morris of the Tomball Municipal Court have completed all the requirements for Level 1 certification.

Origination: Municipal Court

Recommendation:

Party(ies) responsible for placing this item on agenda: Maria Morris, Court Administrator

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____ If yes, specify Account Number: # _____

If no, funds will be transferred from account # _____ To account # _____

Signed _____ Approved by _____
Staff Member Date City Manager Date

City Council Meeting Agenda Item Data Sheet

Meeting Date: April 3, 2023

Topic:

- April 7, 2023 – City offices will be closed, in observance of Good Friday
- April 15, 2023 – Tomball Rails and Tails Crawfish Festival at the Depot
- April 21, 2023 – Tomball Rotary Fish Fry at Juergens Park
- April 17-22, 2023 – Tomball Annual Spring Clean-Up and Chipping Week
- April 22, 2023 – Tomball Consolidated Recycling Day – Lone Star College-Tomball Campus, 30555 Tomball Parkway, South Entrance – 10:00 a.m.-2:00 p.m.
- May 4, 2023- National Day of Prayer at the Community Center at 6 -7 pm

Background:

Origination: City Secretary

Recommendation:

n/a

Party(ies) responsible for placing this item on agenda: Tracylynn Garcia, City Secretary

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: March 20, 2023

Topic:

Approve, on Second Reading, Resolution No. 2023-10-TEDC, a Resolution of the City Council of the City of Tomball, Texas, authorizing and approving the Tomball Economic Development Corporation's Project to Expend Funds in accordance with an Economic Development Agreement by and between the Corporation and the City of Tomball to make direct incentives to, or expenditures for, improvements to Jerry Matheson Park located at 1240 Ulrich Rd., Tomball, Texas 77375, as authorized under Sections 505.152 and 505.154 of the Texas Local Government Code. The estimated amount of expenditures for such Project is \$200,000.00.

Background:

First Reading approved on March 20, 2023. All expenditures of the Tomball Economic Development Corporation (TEDC) sales tax revenue must first be approved as a "Project". At its meeting on March 7, 2023 the TEDC Board of Directors did take formal action to approve, as a Project of the TEDC, an agreement with the City of Tomball, for improvements to Jerry Matheson Park located at 1240 Ulrich Rd., Tomball, Texas 77375, as authorized under Sections 505.152 and 505.154 of the Texas Local Government Code. The Tomball City Council has final approval authority over all projects and agreements of the TEDC.

Origination: Drew Huffman, Public Works Director, City of Tomball

Recommendation:

Approval of the proposed Economic Development Agreement with the City of Tomball

Party(ies) responsible for placing this item on agenda: Kelly Violette

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: Yes No: If yes, specify Account Number: # Project Grants

If no, funds will be transferred from account # To account #

Signed Kelly Violette Approved by
Executive Director-TEDC Date City Manager Date



TO: Honorable Mayor and City Council

FROM: Kelly Violette
Executive Director

MEETING DATE: March 20, 2023

SUBJECT: Jerry Matheson Park Improvement Project

At the November 10, 2020 Board Meeting, the TEDC Board of Directors approved a request from the City of Tomball for funding assistance related to a Texas Parks and Wildlife (TPWD) Grant Application for improvements to Jerry Matheson Park for \$300,000.00. The initial request indicated that the total project cost was \$1.5 million and included new play structures, a splashpad, pickleball courts, and a walking trail. The TPWD grant is a 50% matching grant with the local requirement being \$750,000.00.

The attached request letter from David Esquivel, City Manager, indicated that the City of Tomball has received the TPWD grant and approved a contract in November 2022, the additional \$200,000.00 is being requested due to rising inflation.

This is an eligible project under the legislation that governs Type B sales tax corporations. If approved as a Project of the TEDC, it will go to the city council for final approval by resolution.



City of Tomball

*Lori Klein Quinn
Mayor*

*David Esquivel, PE
City Manager*

February 27, 2023

Kelly Violette, Executive Director
Tomball Economic Development Corporation
29201 Quinn Road, Suite B
Tomball, Texas 77375

RE: Matheson Park

Kelly,

The City of Tomball would like to request financial assistance from the Tomball Economic Development Corporation for Matheson Park Rebuild. Previously the TEDC Board approved \$300,000 in assistance toward the rebuild of Matheson Park contingent upon the City receiving a grant from Texas Parks and Wildlife (TPWD). The City did receive the grant and approved contract in November 2022. During the budget process for the current fiscal year, the City requested an additional \$200,000 due to additional costs associated with the project and the rising cost of materials.

The Jerry Matheson Park project is partially funded through a grant totaling \$750,000. The grant was awarded in May 2021, and we experienced a major delay getting our federal agreement due to COVID and the federal government operations being limited. The City received and approved our grant agreement in November 2022, and we have already begun construction on the new playground structure and are working to finalize the construction documents to be submitted for review and approval for TPWD.

To continue our efforts of developing our parks and complete a much needed rebuild of this park, the City of Tomball is requesting the funding of \$500,000 that was allocated during the budget process for fiscal year 2021-2022 and 2022-2023.

Funding Source	Funding Amount	Element
Texas Parks & Wildlife Department Grant	\$750,000	Splash Pad: \$475,000 Baseball Field Improvements: \$140,000 Pickleball Courts: \$135,000
City of Tomball	\$600,000	Engineering: \$147,630 Construction: \$125,000 Misc. Expenses: \$6,000 Lighting: \$30,000 Shade Structures: \$50,000
Tomball Regional Health Foundation	\$490,000	Playground Equipment: \$490,000
Tomball Economic Development Corporation	\$500,000	Playground Equipment: \$171,760 Pickleball Courts: \$15,000 Pool Renovations: \$70,000



City of Tomball

*Lori Klein Quinn
Mayor*

*David Esquivel, PE
City Manager*

		Walking Trail: \$100,000 Fencing Upgrades: \$80,000
HCA – Tomball	\$30,000	Pool Renovations: \$30,000

This project is a great example of our community partners coming together to provide the community much needed recreation opportunities, and we are grateful for the TEDC continued support.

Please let me know if you need any additional information regarding this project and the City's funding request.

Sincerely,

David Esquivel
City Manager

March 1, 2023

**The Honorable Mayor and City Council
City of Tomball
401 West Market Street
Tomball, Texas 77375**

Re: Letter of Agreement for Partial Funding of Matheson Park Rebuild

Dear Mayor and Councilmembers:

The City of Tomball (the “City”), by letter dated February 27, 2023 (the “Request Letter”), which is attached hereto as “Exhibit A”, requested financial assistance from the Tomball Economic Development Corporation (the “TEDC”) for the rebuild of the City’s Matheson Park (the “Project”). Through the Request Letter, the City has requested that the TEDC provide five hundred thousand dollars (\$500,000) to fund the portions of the Project listed in “Exhibit A” (the “Funds”).

The TEDC hereby agrees to provide the Funds subject to the City’s acknowledgement and compliance with the following conditions:

1. The transfer of Funds contemplated in this Letter of Agreement are subject to all applicable rules associated with a project of the TEDC as provided in Chapter 505 of the Texas Local Government Code;
2. The Funds shall be deposited in a City account dedicated to the Project and shall not be commingled with any other City funds;
3. The Funds shall only be used for the Project as provided herein;
4. The City shall keep a complete and accurate accounting of all expenditures of the Funds and make such records available to the TEDC;
5. In the event the total amount of the Funds transferred by the TEDC to the City are not used to fund the Project as provided herein, then upon completion of the Project, the City shall remit the remaining portion of the Funds to the TEDC; and,
6. That this Letter of Agreement supersedes and replaces any previous arrangement between the City and the TEDC regarding Matheson Park.

If the above terms and conditions are acceptable to the City, please have an authorized officer of the City sign below acknowledging the City’s agreement and return this Letter of Agreement to the undersigned. Upon receipt of this signed Letter of Agreement, the TEDC’s Treasurer will be directed to transfer the Funds as provided above.

Yours very truly,

By: _____
**Gretchen Fagan, President
Board of Directors**

AGREED AND ACCEPTED:

CITY OF TOMBALL, TEXAS

Lori Klein Quinn, Mayor

ATTEST:

Doris Speer, City Secretary

EXHIBIT A: City's Request for Funding



City of Tomball

Lori Klein Quinn
Mayor

David Esquivel, PE
City Manager

February 27, 2023

Kelly Violette, Executive Director
Tomball Economic Development Corporation
29201 Quinn Road, Suite B
Tomball, Texas 77375

RE: Matheson Park

Kelly,

The City of Tomball would like to request financial assistance from the Tomball Economic Development Corporation for Matheson Park Rebuild. Previously the TEDC Board approved \$300,000 in assistance toward the rebuild of Matheson Park contingent upon the City receiving a grant from Texas Parks and Wildlife (TPWD). The City did receive the grant and approved contract in November 2022. During the budget process for the current fiscal year, the City requested an additional \$200,000 due to additional costs associated with the project and the rising cost of materials.

The Jerry Matheson Park project is partially funded through a grant totaling \$750,000. The grant was awarded in May 2021, and we experienced a major delay getting our federal agreement due to COVID and the federal government operations being limited. The City received and approved our grant agreement in November 2022, and we have already begun construction on the new playground structure and are working to finalize the construction documents to be submitted for review and approval for TPWD.

To continue our efforts of developing our parks and complete a much needed rebuild of this park, the City of Tomball is requesting the funding of \$500,000 that was allocated during the budget process for fiscal year 2021-2022 and 2022-2023.

Funding Source	Funding Amount	Element
Texas Parks & Wildlife Department Grant	\$750,000	Splash Pad: \$475,000 Baseball Field Improvements: \$140,000 Pickleball Courts: \$135,000
City of Tomball	\$600,000	Engineering: \$147,630 Construction: \$125,000 Misc. Expenses: \$6,000 Lighting: \$30,000 Shade Structures: \$50,000
Tomball Regional Health Foundation	\$490,000	Playground Equipment: \$490,000
Tomball Economic Development Corporation	\$500,000	Playground Equipment: \$171,760 Pickleball Courts: \$15,000 Pool Renovations: \$70,000



City of Tomball

Lori Klein Quinn
Mayor

David Esquivel, PE
City Manager

		Walking Trail: \$100,000 Fencing Upgrades: \$80,000
HCA – Tomball	\$30,000	Pool Renovations: \$30,000

This project is a great example of our community partners coming together to provide the community much needed recreation opportunities, and we are grateful for the TEDC continued support.

Please let me know if you need any additional information regarding this project and the City's funding request.

Sincerely,

David Esquivel
City Manager

RESOLUTION NO. 2023-10-TEDC

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS, AUTHORIZING AND APPROVING THE TOMBALL ECONOMIC DEVELOPMENT CORPORATION’S PROJECT TO EXPEND FUNDS IN ACCORDANCE WITH AN ECONOMIC DEVELOPMENT AGREEMENT BY AND BETWEEN THE CORPORATION AND THE CITY OF TOMBALL, TEXAS TO MAKE DIRECT INCENTIVES TO, OR EXPENDITURES FOR, IMPROVEMENTS TO JERRY MATHESON PARK; CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT; AND PROVIDING FOR SERVABILITY.

* * * * *

WHEREAS, the Tomball Economic Development Corporation (the “TEDC”), created pursuant to the Development Corporation Act, now Chapter 501 of the Texas Local Government Code, as amended (the “Act”), desires to adopt projects and provide incentives for economic development within the City; and

WHEREAS, the Board of Directors of the TEDC had adopted as a specific project the expenditure of the estimated amount of Two Hundred Thousand Dollars (\$200,000.00) found by the Board to be required or suitable for improvements to Jerry Matheson Park located at 1240 Ulrich Rd., Tomball, Texas 77375; and

WHEREAS, pursuant to the Act, the TEDC may not undertake such project without the approval of Tomball City Council; and

WHEREAS, City Council finds and determines that such project is authorized by Section 505.152 and 505.154 of the Act; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS:

Section 1. The facts and matters set forth in the preamble of this Resolution are hereby found to be true and correct.

Section 2. The City Council hereby authorizes and approves the adoption, by the Board of Directors of the Tomball Economic Development Corporation, as a specific project for the economic development of the City, an expenditure of the estimated amount of Two Hundred Thousand Dollars (\$200,000.00) to the City of Tomball, in accordance with an economic development agreement by and between the TEDC and The City of Tomball, to make direct incentives to, or expenditures for, improvements to Jerry Matheson Park.

Section 3. In the event any clause, phrase, provision, sentence, or part of this Resolution or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Resolution as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional, whether there be one or more parts.

PASSED AND APPROVED on first reading this 20th day of March, 2023.

PASSED, APPROVED, AND RESOLVED on second and final reading this 3rd day of April, 2023.

Lori Klein Quinn, Mayor

ATTEST:

Tracylynn Garcia, City Secretary



TO: Honorable Mayor and City Council

FROM: Kelly Violette
Executive Director

MEETING DATE: March 20, 2023

SUBJECT: North and South 100 Block Alleyways

The attached request letter from David Esquivel, City Manager, indicates that the City of Tomball is requesting additional funding due to an increase in the scope of the project (addition of a public restroom) and rising prices for construction material. The aesthetic enhancements related to the project are still under design and have not received opinion on probable costs for those elements.

This is an eligible project under the legislation that governs Type B sales tax corporations. If approved as a Project of the TEDC, it will go to the city council for final approval by resolution.



City of Tomball

*Lori Klein Quinn
Mayor*

*David Esquivel, PE
City Manager*

February 27, 2023

Kelly Violette, Executive Director
Tomball Economic Development Corporation
29201 Quinn Road, Suite B
Tomball, Texas 77375

RE: Alley Improvement Project

Kelly,

The City of Tomball would like to request financial assistance from the Tomball Economic Development Corporation for the Alley Improvement Project. During the budget process for fiscal year 2023, the City requested funding for four projects, including the Alley Improvement Project. To continue our efforts to increase walkability in downtown, the City of Tomball is requesting the funding of \$600,000 that was allocated during the budget process.

The Request for Proposals has been issued for the 100 block north and south, with responses due March 7, 2023. We are requesting \$600,000 from the EDC due an increase in the scope of the project (addition of a public restroom) and rising prices for construction material. The aesthetic enhancements related to the project are still under design, and we have not received an opinion of probable cost for those elements. As we currently have agreed, the cost of the aesthetic enhancements will be the responsibility of the EDC. A breakdown of the estimated project budget is below.

Project Element	Estimated Cost
100 block north & south	\$595,000
Public restroom facility	\$85,000
200 block north	\$240,000
Engineering	\$305,819
Misc. Expenses	\$1,500
300 & 400 blocks north & south	TBD – pending design

Please let me know if you need any additional information regarding this project and the City's funding request.

Sincerely,

David Esquivel
City Manager

March 1, 2023

**The Honorable Mayor and City Council
City of Tomball
401 West Market Street
Tomball, Texas 77375**

Re: Letter of Agreement for Partial Funding of the City of Tomball’s Alley Improvements

Dear Mayor and Councilmembers:

The City of Tomball (the “City”), by letter dated February 27, 2023 (the “Request Letter”), which is attached hereto as “Exhibit A”, requested financial assistance from the Tomball Economic Development Corporation (the “TEDC”) for the partial funding of the City’s Alley Improvement Project (the “Project”). Through the Request Letter, the City has requested that the TEDC provide six hundred thousand dollars (\$600,000) to fund the Project as listed in “Exhibit A” (the “Funds”).

The TEDC hereby agrees to provide the Funds subject to the City’s acknowledgement and compliance with the following conditions:

- 1.** The transfer of Funds contemplated in this Letter of Agreement are subject to all applicable rules associated with a project of the TEDC as provided in Chapter 505 of the Texas Local Government Code;
- 2.** The Funds shall be deposited in a City account dedicated to the Project and shall not be commingled with any other City funds;
- 3.** The Funds shall only be used for the Project as provided herein;
- 4.** The City shall keep a complete and accurate accounting of all expenditures of the Funds and make such records available to the TEDC; and,
- 5.** In the event the total amount of the Funds transferred by the TEDC to the City are not used to fund the Project as provided herein, then upon completion of the Project, the City shall remit the remaining portion of the Funds to the TEDC.

If the above terms and conditions are acceptable to the City, please have an authorized officer of the City sign below acknowledging the City’s agreement and return this Letter of Agreement to the undersigned. Upon receipt of this signed Letter of Agreement, the TEDC’s Treasurer will be directed to transfer the funds as provided above.

Yours very truly,

By: _____
**Gretchen Fagan, President
Board of Directors**

AGREED AND ACCEPTED:

CITY OF TOMBALL, TEXAS

Lori Klein Quinn, Mayor

ATTEST:

Doris Speer, City Secretary

EXHIBIT A: City's Request for Funding



City of Tomball

*Lori Klein Quinn
Mayor*

*David Esquivel, PE
City Manager*

February 27, 2023

Kelly Violette, Executive Director
Tomball Economic Development Corporation
29201 Quinn Road, Suite B
Tomball, Texas 77375

RE: Alley Improvement Project

Kelly,

The City of Tomball would like to request financial assistance from the Tomball Economic Development Corporation for the Alley Improvement Project. During the budget process for fiscal year 2023, the City requested funding for four projects, including the Alley Improvement Project. To continue our efforts to increase walkability in downtown, the City of Tomball is requesting the funding of \$600,000 that was allocated during the budget process.

The Request for Proposals has been issued for the 100 block north and south, with responses due March 7, 2023. We are requesting \$600,000 from the EDC due an increase in the scope of the project (addition of a public restroom) and rising prices for construction material. The aesthetic enhancements related to the project are still under design, and we have not received an opinion of probable cost for those elements. As we currently have agreed, the cost of the aesthetic enhancements will be the responsibility of the EDC. A breakdown of the estimated project budget is below.

Project Element	Estimated Cost
100 block north & south	\$595,000
Public restroom facility	\$85,000
200 block north	\$240,000
Engineering	\$305,819
Misc. Expenses	\$1,500
300 & 400 blocks north & south	TBD – pending design

Please let me know if you need any additional information regarding this project and the City's funding request.

Sincerely,


David Esquivel
City Manager

RESOLUTION NO. 2023-11-TEDC

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS, AUTHORIZING AND APPROVING THE TOMBALL ECONOMIC DEVELOPMENT CORPORATION’S PROJECT TO EXPEND FUNDS IN ACCORDANCE WITH AN ECONOMIC DEVELOPMENT AGREEMENT BY AND BETWEEN THE CORPORATION AND THE CITY OF TOMBALL, TEXAS TO MAKE DIRECT INCENTIVES TO, OR EXPENDITURES FOR, IMPROVEMENTS TO THE NORTH AND SOUTH 100 BLOCK ALLEYWAYS; CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT; AND PROVIDING FOR SERVABILITY.

* * * * *

WHEREAS, the Tomball Economic Development Corporation (the “TEDC”), created pursuant to the Development Corporation Act, now Chapter 501 of the Texas Local Government Code, as amended (the “Act”), desires to adopt projects and provide incentives for economic development within the City; and

WHEREAS, the Board of Directors of the TEDC had adopted as a specific project the expenditure of the estimated amount of Six Hundred Thousand Dollars (\$600,000.00) found by the Board to be required or suitable for improvements to the North and South 100 Block Alleyways located in the City of Tomball, Texas; and

WHEREAS, pursuant to the Act, the TEDC may not undertake such project without the approval of Tomball City Council; and

WHEREAS, City Council finds and determines that such project is authorized by Section 505.152 and 505.154 of the Act; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS:

Section 1. The facts and matters set forth in the preamble of this Resolution are hereby found to be true and correct.

Section 2. The City Council hereby authorizes and approves the adoption, by the Board of Directors of the Tomball Economic Development Corporation, as a specific project for the economic development of the City, an expenditure of the estimated amount of Six Hundred Thousand Dollars (\$600,000.00) to the City of Tomball, in accordance with an economic development agreement by and between the TEDC and The City of Tomball, to make direct incentives to, or expenditures for, improvements to the North and South 100 Block Alleyways located in the City of Tomball, Texas.

Section 3. In the event any clause, phrase, provision, sentence, or part of this Resolution or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Resolution as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional, whether there be one or more parts.

PASSED AND APPROVED on first reading this 20th day of March, 2023.

PASSED, APPROVED, AND RESOLVED on second and final reading this 3rd day of April, 2023.

Lori Klein Quinn, Mayor

ATTEST:

Tracylynn Garcia, City Secretary



TO: Honorable Mayor and City Council

FROM: Kelly Violette
Executive Director

MEETING DATE: March 20, 2023

SUBJECT: Louie's Together Playground

The attached request letter from David Esquivel, City Manager, indicates that the City of Tomball is requesting funds for the enhancement of Louie's Together Playground which will be Tomball's first inclusive playground. The total cost for the project is anticipated to be \$800,000.00. The City of Tomball has committed \$200,000.00 to the project and the Munson family has continued their fundraising efforts for the remainder of the funding.

This is an eligible project under the legislation that governs Type B sales tax corporations. If approved as a Project of the TEDC, it will go to the city council for final approval by resolution.



City of Tomball

Lori Klein Quinn
Mayor

David Esquivel, PE
City Manager

February 27, 2023

Kelly Violette, Executive Director
Tomball Economic Development Corporation
29201 Quinn Road, Suite B
Tomball, Texas 77375

RE: Louie's Together Playground

Kelly,

The City of Tomball would like to request financial assistance from the Tomball Economic Development Corporation for Louie's Together Playground. During the budget process for fiscal year 2023, the City requested funding for four projects, including Louie's Together Playground. To continue our efforts of developing our parks, the City of Tomball is requesting the funding of \$200,000 that was allocated during the budget process.

The Munson family has continued their fundraising, and between funds committed by the City, TEDC, and donations we are approximately half-way to being fully funded. As you are aware, the development of this playground will be the first inclusive playground in our area, and we are excited to begin this project. The total cost for the proposed inclusive playground structure is \$800,000. The City has also committed \$200,000 to the project.

Please let me know if you need any additional information regarding this project and the City's funding request.

Sincerely,

David Esquivel
City Manager

March 1, 2023

**The Honorable Mayor and City Council
City of Tomball
401 West Market Street
Tomball, Texas 77375**

Re: Letter of Agreement for Partial Funding of Louie’s Together Playground

Dear Mayor and Councilmembers:

The City of Tomball (the “City”), by letter dated February 27, 2023 (the “Request Letter”), which is attached hereto as “Exhibit A”, requested financial assistance from the Tomball Economic Development Corporation (the “TEDC”) for the construction of the Louie’s Together Playground (the “Project”). Through the Request Letter, the City has requested that the TEDC provide two hundred thousand dollars (\$200,000) to fund one-quarter of the cost of the Project (the “Funds”).

The TEDC hereby agrees to provide the Funds subject to the City’s acknowledgement and compliance with the following conditions:

- 1.** The transfer of Funds contemplated in this Letter of Agreement are subject to all applicable rules associated with a project of the TEDC as provided in Chapter 505 of the Texas Local Government Code;
- 2.** The Funds shall be deposited in a City account dedicated to the Project and shall not be commingled with any other City funds;
- 3.** The Funds shall only be used for the Project as provided herein;
- 4.** The City shall keep a complete and accurate accounting of all expenditures of the Funds and make such records available to the TEDC; and,
- 5.** In the event the total amount of the Funds transferred by the TEDC to the City are not used to fund the Project as provided herein, then upon completion of the Project, the City shall remit the remaining portion of the Funds to the TEDC.

If the above terms and conditions are acceptable to the City, please have an authorized officer of the City sign below acknowledging the City’s agreement and return this Letter of Agreement to the undersigned. Upon receipt of this signed Letter of Agreement, the TEDC’s Treasurer will be directed to transfer the Funds as provided above.

Yours very truly,

By: _____
**Gretchen Fagan, President
Board of Directors**

AGREED AND ACCEPTED:

CITY OF TOMBALL, TEXAS

Lori Klein Quinn, Mayor

ATTEST:

Doris Speer, City Secretary

EXHIBIT A: City's Request for Funding



City of Tomball

*Lori Klein Quinn
Mayor*

*David Esquivel, PE
City Manager*

February 27, 2023

Kelly Violette, Executive Director
Tomball Economic Development Corporation
29201 Quinn Road, Suite B
Tomball, Texas 77375

RE: Louie's Together Playground

Kelly,

The City of Tomball would like to request financial assistance from the Tomball Economic Development Corporation for Louie's Together Playground. During the budget process for fiscal year 2023, the City requested funding for four projects, including Louie's Together Playground. To continue our efforts of developing our parks, the City of Tomball is requesting the funding of \$200,000 that was allocated during the budget process.

The Munson family has continued their fundraising, and between funds committed by the City, TEDC, and donations we are approximately half-way to being fully funded. As you are aware, the development of this playground will be the first inclusive playground in our area, and we are excited to begin this project. The total cost for the proposed inclusive playground structure is \$800,000. The City has also committed \$200,000 to the project.

Please let me know if you need any additional information regarding this project and the City's funding request.

Sincerely,

David Esquivel
City Manager

RESOLUTION NO. 2023-12-TEDC

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS, AUTHORIZING AND APPROVING THE TOMBALL ECONOMIC DEVELOPMENT CORPORATION'S PROJECT TO EXPEND FUNDS IN ACCORDANCE WITH AN ECONOMIC DEVELOPMENT AGREEMENT BY AND BETWEEN THE CORPORATION AND THE CITY OF TOMBALL, TEXAS TO MAKE DIRECT INCENTIVES TO, OR EXPENDITURES FOR, IMPROVEMENTS TO LOUIE'S TOGETHER PLAYGROUND; CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT; AND PROVIDING FOR SERVABILITY.

* * * * *

WHEREAS, the Tomball Economic Development Corporation (the "TEDC"), created pursuant to the Development Corporation Act, now Chapter 501 of the Texas Local Government Code, as amended (the "Act"), desires to adopt projects and provide incentives for economic development within the City; and

WHEREAS, the Board of Directors of the TEDC had adopted as a specific project the expenditure of the estimated amount of Two Hundred Thousand Dollars (\$200,000.00) found by the Board to be required or suitable for improvements to Louie's Together Playground located at 1331 Ulrich Rd., Tomball, Texas 77375; and

WHEREAS, pursuant to the Act, the TEDC may not undertake such project without the approval of Tomball City Council; and

WHEREAS, City Council finds and determines that such project is authorized by Section 505.152 and 505.154 of the Act; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS:

Section 1. The facts and matters set forth in the preamble of this Resolution are hereby found to be true and correct.

Section 2. The City Council hereby authorizes and approves the adoption, by the Board of Directors of the Tomball Economic Development Corporation, as a specific project for the economic development of the City, an expenditure of the estimated amount of Two Hundred Thousand Dollars (\$200,000.00) to the City of Tomball, in accordance with an economic development agreement by and between the TEDC and The City of Tomball, to make direct incentives to, or expenditures for, improvements to Louie's Together Playground.

Section 3. In the event any clause, phrase, provision, sentence, or part of this Resolution or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Resolution as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional, whether there be one or more parts.

PASSED AND APPROVED on first reading this 20th day of March, 2023.

PASSED, APPROVED, AND RESOLVED on second and final reading this 3rd day of April, 2023.

Lori Klein Quinn, Mayor

ATTEST:

Tracylynn Garcia, City Secretary



TO: Honorable Mayor and City Council

FROM: Kelly Violette
Executive Director

MEETING DATE: March 20, 2023

SUBJECT: South Wastewater Treatment Plant Expansion

The attached request letter from David Esquivel, City Manager, indicates that the City of Tomball is requesting funds for Phase I of the design for the South Wastewater Treatment Plan expansion. The City of Tomball has not currently received any grant funding for this project. The total estimated project cost with design and construction is approximately \$60,000,000.00.

This is an eligible project under the legislation that governs Type B sales tax corporations. If approved as a Project of the TEDC, it will go to the city council for final approval by resolution.



City of Tomball

Lori Klein Quinn
Mayor

David Esquivel, PE
City Manager

February 27, 2023.

Kelly Violette, Executive Director
Tomball Economic Development Corporation
29201 Quinn Road, Suite B
Tomball, Texas 77375

RE: South Wastewater Treatment Plant Expansion

Kelly,

The City of Tomball would like to request financial assistance from the Tomball Economic Development Corporation for the design of the South Wastewater Treatment Plant expansion. During the budget process for Fiscal Year 2023, the City requested funding for four projects, including the treatment plant expansion and the City of Tomball is requesting the funding of \$415,000 that was allocated during the budget process.

Currently the South Wastewater Treatment Plan is permitted for 1.5 million gallons per day, and due to the rapid growth within the City, we are nearing our permitted capacity. The City had previously engaged Freese & Nichols, Inc. to determine the timeframe for the expansion and given the extended time for not only the design but construction, this will be a multi-phase project with the first phase consisting of preliminary design to ensure the expansion will meet the long-term growth of the City.

The total estimated project cost, with design, is approximately \$60 million, and the City is in the process of determining the best solution for funding. We do not have a grant for this project, and there are no other funding sources currently available on the state or federal level. The \$415,000 that the City is requesting from the EDC is for Phase I of the design, with total design services estimated at \$2,700,000.

Please let me know if you need any additional information regarding this project and the City's funding request.

Sincerely,

David Esquivel
City Manager

March 1, 2023

**The Honorable Mayor and City Council
City of Tomball
401 West Market Street
Tomball, Texas 77375**

Re: Letter of Agreement for Funding of South Wastewater Treatment Plant Expansion

Dear Mayor and Councilmembers:

The City of Tomball (the “City”), by letter dated February 27, 2023 (the “Request Letter”), which is attached hereto as “Exhibit A”, requested financial assistance from the Tomball Economic Development Corporation (the “TEDC”) for the expansion of the City’s South Wastewater Treatment Plant (the “Project”). Through the Request Letter, the City has requested that the TEDC provide four hundred fifteen thousand dollars (\$415,000) to fund a portion of the design phase of the Project (the “Funds”).

The TEDC hereby agrees to provide the Funds subject to the City’s acknowledgement and compliance with the following conditions:

1. The transfer of Funds contemplated in this Letter of Agreement are subject to all applicable rules associated with a project of the TEDC as provided in Chapter 505 of the Texas Local Government Code;
2. The Funds shall be deposited in a City account dedicated to the Project and shall not be commingled with any other City funds;
3. The Funds shall only be used for the Project as provided herein;
4. The City shall keep a complete and accurate accounting of all expenditures of the Funds and make such records available to the TEDC; and
5. In the event the total amount of the Funds transferred by the TEDC to the City are not used to fund the design phase of the Project as provided herein, then upon completion of the Project, the City shall remit the remaining portion of the Funds to the TEDC.

If the above terms and conditions are acceptable to the City, please have an authorized officer of the City sign below acknowledging the City’s agreement and return this Letter of Agreement to the undersigned. Upon receipt of this signed Letter of Agreement, the TEDC’s Treasurer will be directed to transfer the Funds as provided above.

Yours very truly,

By: _____
**Gretchen Fagan, President
Board of Directors**

AGREED AND ACCEPTED:

CITY OF TOMBALL, TEXAS

Lori Klein Quinn, Mayor

ATTEST:

Doris Speer, City Secretary

EXHIBIT A: City's Request for Funding



City of Tomball

Lori Klein Quinn
Mayor

David Esquivel, PE
City Manager

February 27, 2023.

Kelly Violette, Executive Director
Tomball Economic Development Corporation
29201 Quinn Road, Suite B
Tomball, Texas 77375

RE: South Wastewater Treatment Plant Expansion

Kelly,

The City of Tomball would like to request financial assistance from the Tomball Economic Development Corporation for the design of the South Wastewater Treatment Plant expansion. During the budget process for Fiscal Year 2023, the City requested funding for four projects, including the treatment plant expansion and the City of Tomball is requesting the funding of \$415,000 that was allocated during the budget process.

Currently the South Wastewater Treatment Plan is permitted for 1.5 million gallons per day, and due to the rapid growth within the City, we are nearing our permitted capacity. The City had previously engaged Freese & Nichols, Inc. to determine the timeframe for the expansion and given the extended time for not only the design but construction, this will be a multi-phase project with the first phase consisting of preliminary design to ensure the expansion will meet the long-term growth of the City.

The total estimated project cost, with design, is approximately \$60 million, and the City is in the process of determining the best solution for funding. We do not have a grant for this project, and there are no other funding sources currently available on the state or federal level. The \$415,000 that the City is requesting from the EDC is for Phase I of the design, with total design services estimated at \$2,700,000.

Please let me know if you need any additional information regarding this project and the City's funding request.

Sincerely,

David Esquivel
City Manager

RESOLUTION NO. 2023-13-TEDC

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS, AUTHORIZING AND APPROVING THE TOMBALL ECONOMIC DEVELOPMENT CORPORATION'S PROJECT TO EXPEND FUNDS IN ACCORDANCE WITH AN ECONOMIC DEVELOPMENT AGREEMENT BY AND BETWEEN THE CORPORATION AND THE CITY OF TOMBALL, TEXAS TO MAKE DIRECT INCENTIVES TO, OR EXPENDITURES FOR, DESIGN OF THE SOUTH WASTEWATER TREATMENT PLANT EXPANSION; CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT; AND PROVIDING FOR SERVABILITY.

* * * * *

WHEREAS, the Tomball Economic Development Corporation (the "TEDC"), created pursuant to the Development Corporation Act, now Chapter 501 of the Texas Local Government Code, as amended (the "Act"), desires to adopt projects and provide incentives for economic development within the City; and

WHEREAS, the Board of Directors of the TEDC had adopted as a specific project the expenditure of the estimated amount of Four Hundred and Fifteen Thousand Dollars (\$415,000.00) found by the Board to be required or suitable for design of the South Wastewater Treatment Plant expansion located in the City of Tomball, Texas; and

WHEREAS, pursuant to the Act, the TEDC may not undertake such project without the approval of Tomball City Council; and

WHEREAS, City Council finds and determines that such project is authorized by Section 505.152 and 505.154 of the Act; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS:

Section 1. The facts and matters set forth in the preamble of this Resolution are hereby found to be true and correct.

Section 2. The City Council hereby authorizes and approves the adoption, by the Board of Directors of the Tomball Economic Development Corporation, as a specific project for the economic development of the City, an expenditure of the estimated amount of Four Hundred and Fifteen Thousand Dollars (\$415,000.00) to the City of Tomball, in accordance with an economic development agreement by and between the TEDC and The City of Tomball, to make direct incentives to, or expenditures for, design of the South Wastewater Treatment Plant expansion.

Section 3. In the event any clause, phrase, provision, sentence, or part of this Resolution or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Resolution as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional, whether there be one or more parts.

PASSED AND APPROVED on first reading this 20th day of March, 2023.

PASSED, APPROVED, AND RESOLVED on second and final reading this 3rd day of April, 2023.

Lori Klein Quinn, Tomball

ATTEST:

Tracylynn Garcia, City Secretary

City Council Agenda Item Data Sheet

Meeting Date: April 3, 2023

Topic:

Adopt, on Second Reading, Ordinance No. 2023-04, an Ordinance of the City of Tomball, Texas, amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by issuing a Conditional Use Permit for approximately 0.46 acres of land legally described as being Lots 17 through 24 in Block 18 of the Revised Map of Tomball. Located at the southwest corner of Commerce Street and Oak Street at 401-409 Commerce Street, within the City of Tomball, Harris County, Texas; providing for the amendment of the Official Zoning Map of the City; providing for severability; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters.

Background:

First Reading adopted on March 20, 2023. City staff recommends approval of Case CUP23-01. Planning and Zoning Commission recommends approval (4 Votes Aye, 1 Vote Nay).

Origination:

Recommendation:

Approval

Party(ies) responsible for placing this item on agenda: Nathan Dietrich (Community Development Director)

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____ If yes, specify Account Number: # _____

If no, funds will be transferred from account: # _____ To Account: # _____

Signed: _____ **Approved by:** _____
Staff Member Date City Manager Date

City Council Agenda Item Data Sheet

Meeting Date: 03/20/2023

Topic:

Consideration to approve **Case CUP23-01**: Request by Ideaco Investments, LLC. represented by Michael Pierce for a Conditional Use Permit to allow “Market, Open Air” land use within Old Town & Mixed Use (OT & MU) zoning. The property is legally described as being Lots 17 through 24 in Block 18 of the Revised Map of Tomball. Located at the southwest corner of Commerce Street and Oak Street at 401-409 Commerce Street, within the City of Tomball, Harris County, Texas.

Conduct Public Hearing on **Case CUP23-01**

Adopt, on First Reading, Ordinance No. 2023-04, an Ordinance of the City of Tomball, Texas, amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by issuing a Conditional Use Permit for approximately 0.46 acres of land legally described as being Lots 17 through 24 in Block 18 of the Revised Map of Tomball. Located at the southwest corner of Commerce Street and Oak Street at 401-409 Commerce Street, within the City of Tomball, Harris County, Texas; providing for the amendment of the Official Zoning Map of the City; providing for severability; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters.

Background:

City staff recommends approval of Case CUP23-01. Planning and Zoning Commission recommends approval (4 Votes Aye, 1 Vote Nay).

Origination:

Recommendation:

Approval

Party(ies) responsible for placing this item on agenda: Nathan Dietrich (Community Development Director)

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____ If yes, specify Account Number: # _____

If no, funds will be transferred from account: # _____ To Account: # _____

Signed: _____ **Approved by:** _____
Staff Member Date City Manager Date

**NOTICE OF PUBLIC HEARING
CITY OF TOMBALL
PLANNING & ZONING COMMISSION (P&Z)
MARCH 13, 2023
&
CITY COUNCIL
MARCH 20, 2023**



Notice is Hereby Given that a Public Hearing will be held by the P&Z of the City of Tomball on **Monday, March 13, 2023 at 6:00 P.M.** and by the City Council of the City of Tomball on **Monday, March 20, 2023 at 6:00 P.M.** at City Hall, 401 Market Street, Tomball Texas. On such dates, the P&Z and City Council will consider the following:

Case CUP-23-01: Request by Ideaco Investments, LLC. represented by Michael Pierce for a Conditional Use Permit to allow “Market, Open Air” land use within Old Town & Mixed Use (OT & MU) zoning. The property is legally described as being Lots 17 through 24 in Block 18 of the Revised Map of Tomball. Located at the southwest corner of Commerce Street and Oak Street at 401-409 Commerce Street, within the City of Tomball, Harris County, Texas.

Case CUP-23-02: Request by Ideaco Investments, LLC. represented by Michael Pierce for a Conditional Use Permit to allow “Mobile Food Court” land use within Old Town & Mixed Use (OT & MU) zoning. The property is legally described as being Lots 17 through 24 in Block 18 of the Revised Map of Tomball. Located at the southwest corner of Commerce Street and Oak Street at 401-409 Commerce Street, within the City of Tomball, Harris County, Texas.

At the public hearings, parties of interest and citizens will have the opportunity to be heard. All citizens of the City of Tomball, and any other interested parties, are invited to attend. Applications are available for public inspection Monday through Friday, except holidays, and the Public Works Buildings, located at 501 James Street, Tomball, TX 77375. Further information may be obtained by contact the City Planner, Jared Smith, at (281) 290-1491 or at jasmith@tomballtx.gov.

C E R T I F I C A T I O N

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall; City of Tomball, Texas, a place readily accessible to the general public at all times, on the 10th day of March 2023 by 5:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Jared Smith
Jared Smith
City Planner

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please feel free to contact the City Secretary's office at (281) 290-1002 or FAX (281) 351-6256 for further information. AGENDAS MAY ALSO BE VIEWED ONLINE AT www.tomballtx.gov.



Notice of Public Hearing

YOU ARE INVITED TO ATTEND the Public Hearing before the **PLANNING & ZONING COMMISSION** and **CITY COUNCIL** of the City of Tomball regarding the following item:

CASE NUMBER: CUP-23-01

APPLICANT/OWNER: Ideaco Investments, LLC
represented by Michael Pierce.

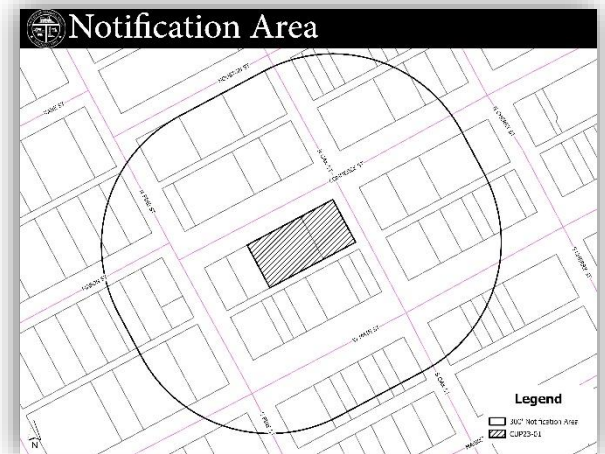
LOCATION: The property is Located at the southwest corner of Commerce Street and Oak Street at 401-409 Commerce Street, within the City of Tomball, Harris County, Texas.

PROPOSAL: A request to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, affecting approximately 0.46 acres of land legally described as being Lot 17 through 24, in Block 18 of the Revised Map of Tomball by receiving a Conditional Use Permit (CUP) to allow “Market, Open Air”.

CONTACT: Jared Smith, City Planner
PHONE: (281) 290-1491
E-MAIL: tomballtxcd@gmail.com

Interested parties may contact the City of Tomball between 8:00 a.m. and 5:00 p.m. Monday through Friday for further information. The application is available for public review Monday through Friday, except holidays, between the hours of 8:00 a.m. and 5:00 p.m. in the Community Development Department office, located at 501 James Street, Tomball, TX 77375. The staff report will be available no later than 4:00 p.m. on the Friday preceding the meeting.

This notice is being mailed to all owners of real property within 300 feet of the request as such ownership appears on the last approved Harris County Appraisal District tax roll.



Planning & Zoning Commission Public Hearing:

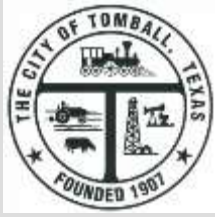
Monday, March 13, 2023 @ 6:00 P.M

City Council Public Hearing:

***Monday, March 20, 2023 @ 6:00 P.M.**

**The Public Hearings will be held in the
City Council Chambers, City Hall 401
Market Street, Tomball, Texas.**

*Should the Planning & Zoning Commission vote to table the recommendation on the case, the date and time of a future meeting will be specified, and the City Council will not review the subject case until such a recommendation is forwarded to the City Council by the Planning & Zoning Commission.



**Conditional Use Permit (CUP)
Staff Report**

Planning & Zoning Commission Public Hearing Date: March 13, 2023
City Council Public Hearing Date: March 20, 2023

Rezoning Case: CUP23-01
Property Owner(s): Ideaco Investments, LLC
Legal Description: Lots 17 through 24, Block 18 of the Revised Map of Tomball
Location: 401-409 Commerce Street (Exhibit “A”)
Area: 0.46 acres
Comp Plan Designation: Old Town (Exhibit “B”)
Present Zoning and Use: Old Town & Mixed Use (OT&MU) / Vacant, Retail & Drinking Establishment (Exhibit “D”)
Proposed Use(s): *Market, Open Air*
Request: Conditional Use Permit (CUP) to permit Market, Open Air land use.
Adjacent Zoning & Land Uses:
North: Old Town & Mixed Use / Single-family residences
South: Old Town & Mixed Use / Retail, Restaurant, Hair Salon
West: Old Town & Mixed Use/ Office & Residence
East: Old Town & Mixed Use / Single-family residence

BACKGROUND

The subject properties have been located within the city limits since 1907. Lots 17 through 21 have remained vacant since that time. Lots 22 through 24 are currently occupied by three structures. According to the Harris County Appraisal District records, these structures have existed on these lots since at least 1941. These structures are currently occupied by retail, drinking establishment, and dance hall uses. In 2022, the City Council adopted Ordinance No. 2022-43 amending the Code of Ordinance to define the Open-Air Market land use and require a Conditional Use Permit (CUP) for open air market uses within Old Town & Mixed Use (OT&MU) zoning. Conditional Use Permits provide opportunities to further consider whether a location is appropriate for an open-air market, and where said use is deemed appropriate, a CUP provides an opportunity to apply enforceable conditions that promote the compatibility of the proposed use with the surrounding properties and land uses.

ANALYSIS

According to Section 50-81 (f) of the Chapter 50 (Zoning), when considering applications for a CUP, the City shall, on the basis of the concept plan and other information submitted, evaluate the impact of the conditional use on and the compatibility of the use with surrounding properties and neighborhoods to ensure the appropriateness of the use at a particular location. Specific considerations shall include the extent to which:

1. The proposed use at the specified location is consistent with the goals, objectives, and policies contained in the adopted Comprehensive Plan;

The property is designated as Old Town by the Comprehensive Plan Future Land Use Map. This category is intended to promote a highly walkable environment that promotes a distinct sense of place. Land use should consist of a mixture of residential, office, retail, entertainment, restaurants, and public facilities. The desire to establish an open air market at this location will promote the Comprehensive Plans community livability goals, specifically by providing a variety of retail, and entertainment opportunities within Old Town Tomball and in close proximity to nearby residential neighborhoods. This proximity to existing residential neighborhoods further encourages the Comprehensive Plans objective of creating a mixture of land uses within a walkable environment. Additionally, the request achieves the goal of creating opportunities to promote Old Town Tomball and local entrepreneurship within the Old Town area. Furthermore, the allowance of an open air market within Old Town Tomball, achieves the community livability goal outlined in the Comprehensive Plan by promoting an event that will attract people to the community and provide opportunities for residents to socialize and fellowship.

2. The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;

According to the Zoning Ordinance, “a conditional use is a land use which, because of its unique nature, is compatible with the permitted land uses in a given zoning district only upon a determination that the external effects of the use in relation to the existing and planned uses of adjoining property and the neighborhood can be mitigated through the imposition of certain standards and conditions.”

The property has been zoned Old Town & Mixed Use since the inception of zoning in 2008. All surrounding properties within the immediate area also fall within this Old Town & Mixed-Use zoning district. According to Section 50-79 (Old Town and Mixed-Use District), the Old Town is an area in which many diverse land uses currently exist. The nature of the area, therefore, is a mixture of retail, commercial and other non-residential uses, along with single-family and multi-family uses. The Comprehensive Plan endorses the continuation of the mixture of uses in this area of the city, and specifically states that retail, office, single-family, duplex, and multifamily are the most appropriate uses in the area. The Old Town and Mixed Use District is intended to provide a zoning mechanism for a variety of uses within the original town site.

3. The proposed use meets all supplemental standards specifically applicable to the use as set forth in the Zoning Ordinance;

Yes, the proposed use will meet all supplemental standards outlined in Chapter 50 of the Code of Ordinance. Prior to operation, an official site plan shall be submitted to the City of Tomball Community Development Office identifying the planned arrangement of the open-air market to ensure all standards applicable by the code of ordinance and/or required by this Conditional Use Permit are met.

- 4. The proposed use is compatible with and preserves the character and integrity of adjacent development and neighborhoods and, as required by the particular circumstances, includes improvements or modifications either on-site or within the public rights-of-way to mitigate development-related adverse impacts;**

The proposed use is consistent with surrounding existing land uses currently found within Old Town Tomball, such as the existing farmers market. It is customary to find retail uses near the existing neighborhoods immediately surrounding Old Town Tomball, particularly given the properties proximity to West Main Street (FM 2920). Further, with this Conditional Use Permit the City is recommending conditions that are aimed to help alleviate potential nuisances that could be presented by having outdoor retail uses near the surrounding residential land uses. Said conditions may include but are not limited to screening, hours of operation, and limitation on the number of vendors that can be at this location.

- 5. The proposed use is not materially detrimental to the public health, safety, convenience and welfare, or results in material damage or prejudice to other property in the vicinity.**

Staff does not anticipate any adverse effects on surrounding properties.

PUBLIC COMMENT

Property owners within 300 feet of the project site were mailed notification of this proposal and a Notice of Public Hearing was published in the paper on March 1, 2023. Any public comment forms will be provided in the Planning & Zoning Commission and City Council packets or during the public hearing.

RECOMMENDATION

Based on the findings outlined in the analysis section of this staff report, City staff recommends approval of CUP23-01 with the following condition(s):

- Hours of operation: 7:00 AM to 10:00 PM
- No more than 12 outdoor vendors/booths/tents shall be permitted in total on Lots 17 through 24, Block 18 in Revised Map of Tomball.
- Restroom facilities must be provided during the open-air market hours of operation. Said restrooms may be provided on site or within adjacent businesses located within the boundaries of this Conditional Use Permit. Portable restroom facilities are prohibited.
- Adhere to Section 50-116 (d.2.a) *Temporary Outdoor Sales*, with an exception on the required distances from “main building”.
 - “Shall not be placed/located more than 30 feet from the main building in GR, and C Districts, and not more than 12 feet from the main building in the Old Town area.”
- An opaque fence/wall must be provided along the western boundary of Lot 17.
- Booths/tents and outdoor sales/displays must adhere to non-residential setback standards in OT & MU. Being the following:
 - Front & Rear setback – No Minimum

- Side Setback (adjacent to commercial use) – No Minimum
- Side Setback (adjacent to residential use) – 20 feet (20') Minimum

EXHIBITS

- A. Location Map
- B. Future Land Use Plan Map
- C. Current Zoning Map
- D. Site Photo
- E. CUP Application
- F. Concept Plan

Exhibit "A"
Location Map



Exhibit "B"
Zoning Map



Exhibit "C"
Future Land Use Map



**Exhibit “D”
Site Photo**



Exhibit "E"
CUP Application



Revised: 10/1/2022

\$1,000 Paid 1/31/2023

**APPLICATION FOR
CONDITIONAL USE PERMIT**
Planning Division

A conditional use is a land use which, because of its unique nature, is compatible with the permitted land uses in a given zoning district only upon a determination that the external effects of the use in relation to the existing and planned uses of adjoining property and the neighborhood can be mitigated through imposition of certain standards and conditions. This Section sets forth the standards used to evaluate proposed conditional uses and the procedures for approving conditional use permit (CUP) applications.

APPLICATION SUBMITTAL: Applications will be *conditionally* accepted on the presumption that the information, materials and signatures are complete and accurate. If the application is incomplete or inaccurate, your project may be delayed until corrections or additions are received.

There is a \$1,000.00 application fee that must be paid at time of submission or the application will not be processed.

DIGITAL PLAN SUBMITTALS:

PLEASE SUBMIT YOUR APPLICATIONS AND PLANS DIGITALLY IN A SINGLE PDF BY FOLLOWING THE WEBSITE BELOW:

WEBSITE: tomballtx.gov/secure/send
USERNAME: tombalredd
PASSWORD: Tomball1

Applicant

Name: Michael Pierce Title: Owner
Mailing Address: 13607 ARLOTT BEND City: Tomball State: TX
Zip: 77377 Contact: 832-474-4440 Michael Pierce
Phone: (832) 474-4440 Email: _____

Owner

Name: Michael Pierce Title: Owner
Mailing Address: 13607 ARLOTT BEND City: Tomball State: TX
Zip: 77377 Contact: Michael Pierce
Phone: () _____ Email: Michael Pierce Michael Dean Pierce @ Gmail com
Michael Dean Pierce @ Gmail . com

Engineer/Surveyor (if applicable)

Name: _____ Title: _____
Mailing Address: _____ City: _____ State: _____
Zip: _____ Contact: _____
Phone: () _____ Fax: () _____ Email: _____

(Mobile food cart) (Open Air Market) Revised: 10/1/2022

Description of Proposed Project: Fam. l. Food Park & MARKET SPACE

Physical Location of Property: 401-409 Commerce ST.

[General Location - approximate distance to nearest existing street corner]

Legal Description of Property: _____

[Survey/Abstract No. and Tracts, or platted Subdivision Name with Lots/Block]

HCAD Identification Number: _____ Acreage: _____

Current Use of Property: CAT STORAGE - Bm Sleeping - (Vacant / Commercial buildings)

Proposed Use of Property: A Family Friendly - Fair Price - Food Truck PARK - MARKET SPACE

Please note: A courtesy notification sign will be placed on the subject property during the public hearing process and will be removed when the case has been processed.

This is to certify that the information on this form is COMPLETE, TRUE, and CORRECT and the under signed is authorized to make this application. I understand that submitting this application does not constitute approval, and incomplete applications will result in delays and possible denial.

[Signature]
X
Signature of Applicant _____ Date _____

[Signature]
X
Signature of Owner _____ Date _____

Submittal Requirements

The following summary is provided for the applicant's benefit. However, fulfilling the requirements of this summary checklist does not relieve the applicant from the responsibility of meeting the regulations in the Zoning Ordinance, subdivision regulations, and other development related ordinances of the City of Tomball.

Applications must be delivered to the City at least 40 calendar days prior to the City Planning and Zoning Commission hearing date.

- Application Fee: \$1,000 (Non-Refundable) ✓
- Completed application form ✓
- *Copy of Recorded/Final Plat ✓
- Concept/Site Plan _____
- Letter stating reason for request and issues relating to request. ✓
- Metes & Bounds of property ✓
- Payment of all indebtedness attributed to subject property must be paid with application or an arrangement in accordance with Sec. 12.1 C of the Zoning Ordinance as cited below: ✓

(No person who owes delinquent taxes, delinquent paving assessments, or any other fees, delinquent debts or obligations or is otherwise indebted to the City of Tomball, and which are directly attributed to a piece of property shall be allowed to submit any application for any type of rezoning, building permit, or plan review until the taxes, assessments, debts, or obligations directly attributable to said property and owed by the owner or previous owner thereof to the City of Tomball shall have been first fully discharged by payment, or until an arrangement satisfactory to the City has been made for the payment of such debts or obligations. It shall be the applicant's responsibility to provide evidence of proof that all taxes, fees, etc. have been paid, or that other arrangements satisfactory to the City have been made for payment of said taxes, fees, etc.)

The City's staff may require other information and data for specific required plans. Approval of a required plan may establish conditions for construction based upon such information.

***Legal Lot Information:** If property is not platted, a plat will be required to be filed with the Planning Department unless evidence of a legal lot is provided. To be an un-platted legal lot, the applicant is required to demonstrate that the tract existed in the same shape and form (same metes and bounds description) as it currently is described prior to August 15, 1983, the date the City adopted a subdivision ordinance.

Application Process

1. The official filing date is the date the application and fee are received by the City.
2. The City will review the application for completeness and will notify the applicant in writing within 10 days if the application is deemed incomplete.
3. Property owners within two-hundred (300) feet of the project site will be notified by letter within 10 calendar days prior to the public hearing date and legal notice will appear in the official newspaper of the City before the eighth calendar day prior to the date of the hearing.
4. A public hearing will be held by the Planning and Zoning Commission at 6:00 p.m. in the City Council chambers, unless otherwise noted. The Planning and Zoning Commission meetings are scheduled on the second Monday of the month. The purpose of the public hearing is to allow the Planning and Zoning Commission to conduct a fact finding process. The staff will review the request with the Commission and after staff presentations the chair will open the public hearing. The applicant will have ten (10) minutes to present the request. The chair will then allow those present in favor of the request and those in opposition to the request to speak. The Commission may then ask staff or anyone present additional questions, after which the Commission may close or table the public hearing. The Commission may then vote to recommend approval or denial to the City Council. The Commission may also table the request to a future date before a recommendation is sent to the City Council.
5. A second public hearing will be scheduled before the City Council after fifteen (15) days of legal notice. The Council meetings are held on the first (1st) and third (3rd) Mondays of the month at 6:00 p.m. in the City Council chambers (401 Market Street, Tomball, Texas, 77375).
6. The City Council will conduct a public hearing on the request in the same manor as the Planning and Zoning Commission. In the event there has been filed with the City Secretary a petition of twenty percent (20%) of the adjoining property owners in opposition to the subject zoning request, it will require a three fourths (3/4) vote of the full Council to approve the request. Upon approval of the request by the City Council, an amended ordinance shall be prepared and adopted.

FAILURE TO APPEAR: It is the applicant/property owner's responsibility to attend all Planning and Zoning Commission and City Council meetings regarding their case. Failure of the applicant or his/her authorized representative to appear before the Planning and Zoning Commission or the City Council for more than one (1) hearing without approved delay by the City Manager, or his/her designee, shall constitute sufficient grounds for the Planning and Zoning Commission or the City Council to table or deny the application unless the City Manager or his/her designee is notified in writing by the applicant at least seventy-two (72) hours prior to the hearing. If the agenda item is tabled the Planning and Zoning Commission shall specify a specific date at which it will be reconsidered.

Dear City of Tomball Council

My name is Michael Pierce, and I am a Tomball resident and business owner and property owner in Old town Tomball mixed use area. I have lived in Tomball for 20 years and have loved watching our city grow.

We want to be a part of that growth and so on top of our other developments in town we have purchased property on commerce st between oak and pine. Approx. 401-409 commerce St. and have a fun plan for the area.

We are told we need a special use permit for this use so that is what we are applying for.

This area has been abandon for as long as I have been in Tomball and we are excited to revitalize this dead corner of old town. All other corners of old town are fully developed save this location and we want to fix that and round off the square of old tomabl with a fun new development.

Currently the spot is used mainly as a feline breeding ground & a place for cat lovers to feed stray cats. There are cats on the property as big as dogs. However unlike a duck pond or bird feeding area It smells of cat urine and if you get too close they will hiss at you for fear you are taking their food. To date no small children have been bit or contracted cat scratch fever. The space is also a nice spot for homeless to get a bite to eat from the community fridge and take a quick nap in the wooded area there. We have had to call the police a few times to wake the slumbering vagrant and remove them.

We think we can do better than the current use.

We would like to put a family friendly **market space & small food truck court** there instead and we are calling it "Commerce street market space" that will tie in the German heritage and be our small version of Luckenbach, Fredericksburg etc. and round top ere in Old Tomball. All bustling historic and travel destination in Texas. We think Old Tomball can be as popular as those areas with just a little work.

We already have had two business move on the location that are thriving and with the reminder of the location we want to build the commerce street market space. Eventually to have a unified identity and name to fit in with those iconic towns of old as mentioned above.

Art & craft weekend vendor area

Approx. 10-12 local vendors per weekend selling the things they make.

Face painting, balloon animals light out door acoustic music, flutes etc.

This is a space for local vendors who may not have the means to join the farmers market to still show off their wares. This in the trial run was wildly praised by the community

Play area

outdoor games, Corn hole court. Our door connect 4 and other fun engaging activities for passersby to play while they enjoy the space

Sitting area

There is plenty of sitting and tables and chairs in the space already, but we will be adding more

Parking

There is parking on the property , graveled in and ready to go to lessen the impact on the street parking in the area.

Restrooms

There are already 3 restrooms on the property, and we will be adding a 4th if approval is confirmed

Food truck court area

Approx. 2-3 food trucks of very style & taste

- Parking on site. Separate from city parking
- 3 restrooms on site. With a 4th to be added upon approval
- Plenty of seating area with more to be added upon approval.
- More than 10' space between trucks

Music Room

small indoor music room we are calling the " Old Tomball Honky Tonk" that we think will be as iconic as Luckenbach itself in time. Here locals can hear songs like " old Tomball" and "Tomball Saturday night" & "queen of old Tomball" this gathering place will be used for local musicians to meet up , play and share with the community on certain evenings.

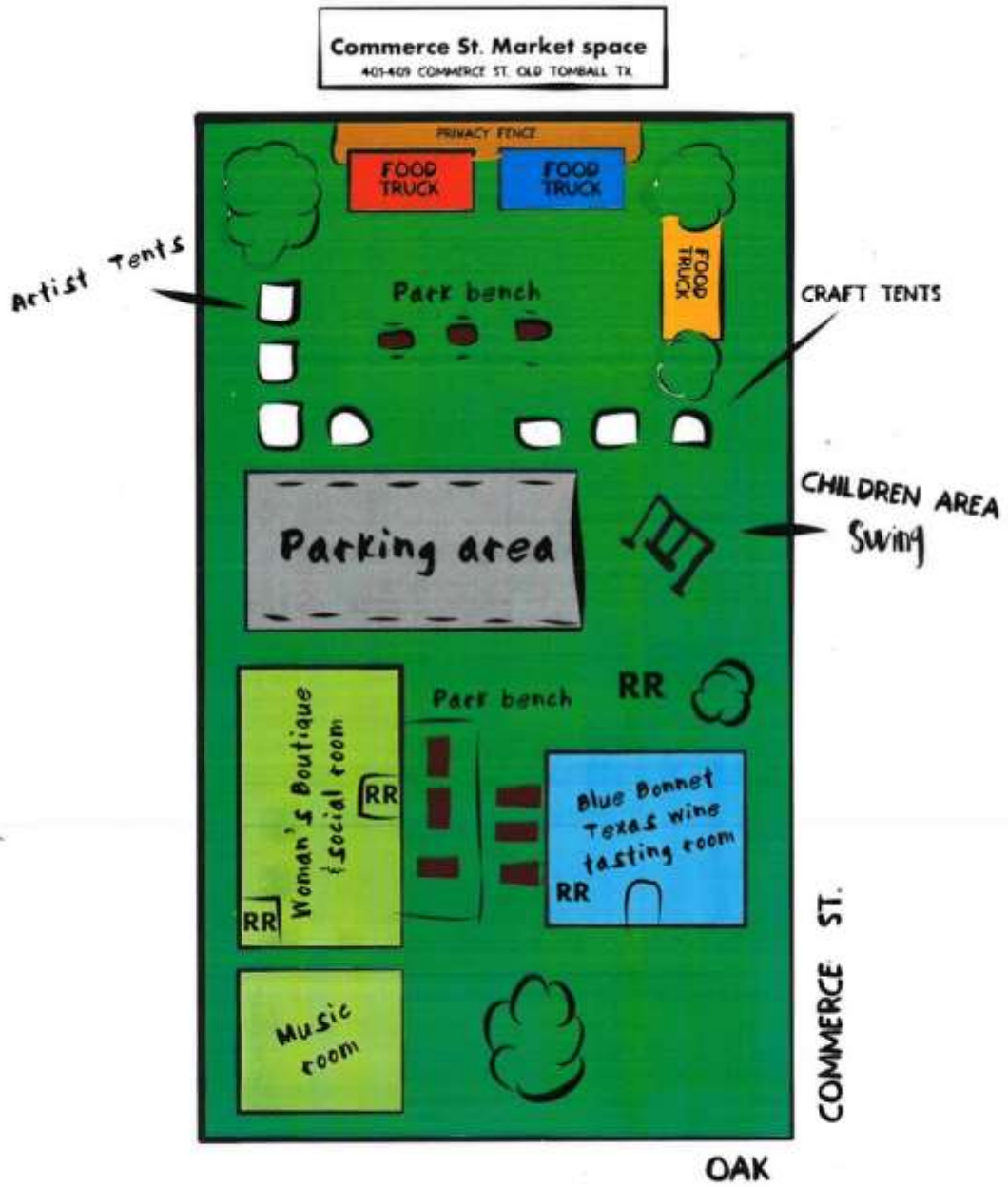
We hope you share with us the vision for this space and old Tomball and will grant us approval to go froward. We promise to be good stewards of the area and make it a community gather in place for all ages.

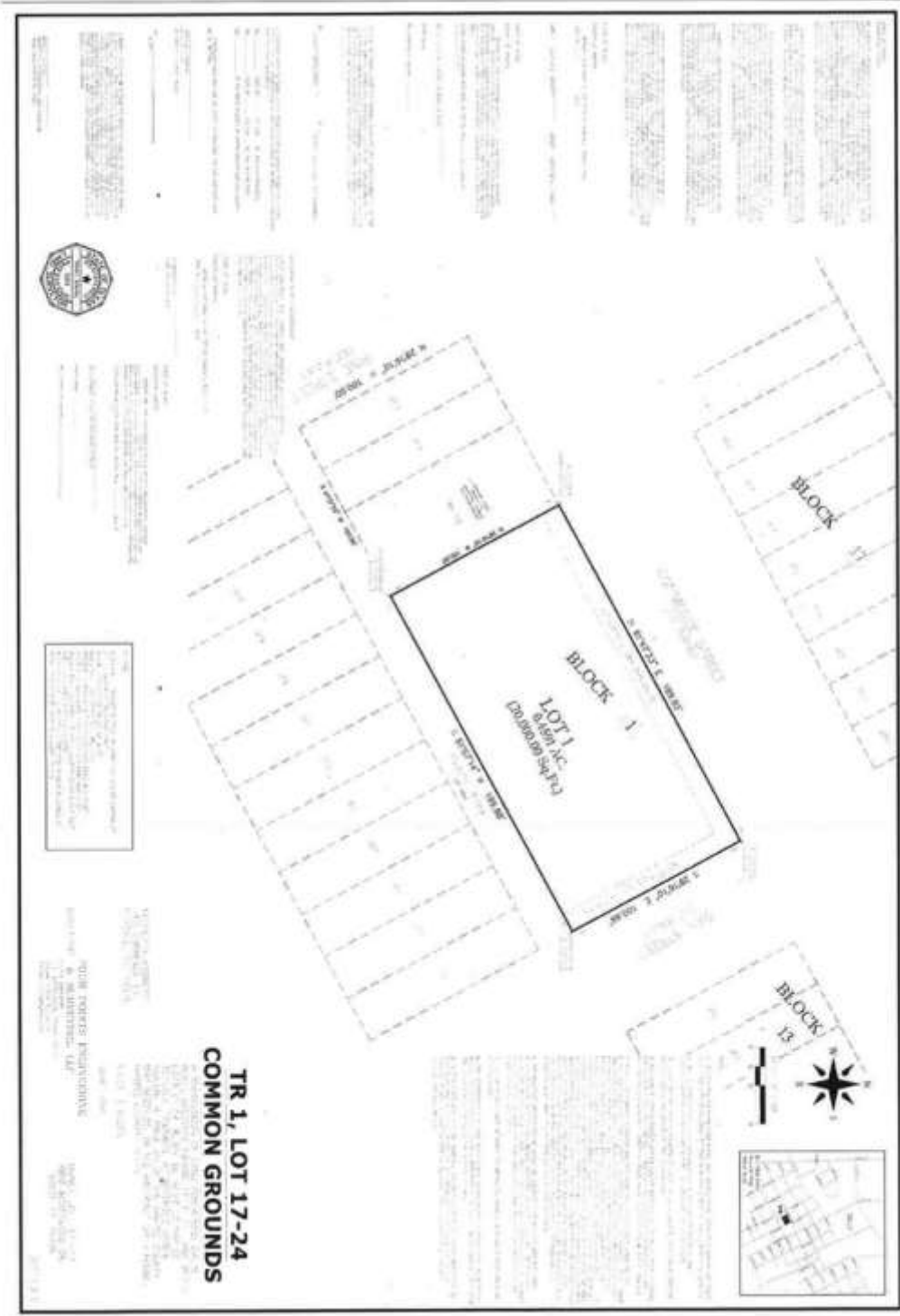
Also we are a little confused how this process works so if you could have someone reach out to guide us thru it would be helpful we are very nervous about missing any meeting or requirement from us on you side.

Thanks!

Michael Pierce
832-474-4440
13607 arcott bend Tomball tx 77377

Figure "F"
Concept Plan





ORDINANCE NO. 2023-04

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING CHAPTER 50 (ZONING) OF THE TOMBALL CODE OF ORDINANCES BY GRANTING A CONDITIONAL USE PERMIT (CUP) TO ALLOW “MARKET, OPEN AIR” WITHIN THE OLD TOWN & MIXED USE (OT & MU) ZONING DISTRICT; SAID PROPERTY BEING APPROXIMATELY 0.46 ACRES OF LAND LEGALLY DESCRIBED AS BEING LOTS 17 THROUGH 24, BLOCK 18 OF THE REVISED MAP OF TOMBALL. LOCATED AT 401-409 COMMERCE STREET, WITHIN THE CITY OF TOMBALL, HARRIS COUNTY, TEXAS; PROVIDING FOR PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF, MAKING FINDINGS OF FACT; AND PROVIDING FOR OTHER RELATED MATTERS.

Whereas, Ideaco Investments, LLC, represented by Michael Pierce has requested that approximately 0.46 acres of land legally described as being Lots 17 through 24, Block 18 of the Revised Map of Tomball, located at the southwest corner of Commerce Street and Oak Street at 401-409 Commerce Street, within the City of Tomball, Harris County, Texas (the “Property”), receive a CUP; and

Whereas, at least fifteen (15) days after publication in the official newspaper of the City of the time and place of a public hearing and at least ten (10) days after written notice of that hearing was mailed to the owners of land within three hundred feet of the Property in the manner required by law, the Planning & Zoning Commission held a public hearing on the requested CUP; and

Whereas, the public hearing was held before the Planning & Zoning Commission at least forty (40) calendar days after the City’s receipt of the requested CUP; and

Whereas, the Planning & Zoning Commission recommended in its final report that City Council approve the requested CUP; and

Whereas, at least fifteen (15) days after publication in the official newspaper of the City of the time and place of a public hearing for the requested CUP, the City Council held the public hearing for the requested CUP and the City Council considered the final report of the Planning & Zoning Commission; and

Whereas, the City Council deems it appropriate to grant the requested CUP.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS, THAT:

Section 1. The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. A CUP to allow a “Market, Open Air” at the property and subject to the terms and conditions set forth below is hereby granted.

Section 3. The Official Zoning Map of the City of Tomball, Texas shall be revised and amended to show the designation of the Property as hereby stated, with the appropriate reference thereon to the number and effective date of this Ordinance and a brief description of the nature of the change.

Section 4. This Ordinance shall in no manner amend, change, supplement or revise any provision of any ordinance of the City of Tomball, save and except the granting of the CUP as herein provided.

Section 5. The CUP granted hereby shall be null and void after the expiration of two (2) years from the date of adoption hereon unless the Property is being used in accordance with the CUP herein authorized within said two-year period, or unless an extension of time is approved by City Council.

Section 5. The CUP is subject to the following additional imitations, restrictions and conditions:

- 1) The site shall be developed and operated in substantial compliance with Exhibit “A”,
- 2) Hours of operation shall be limited to 7:00 AM to 10:00 PM.
- 3) No more than 12 outdoor vendors/booths/tents shall be permitted in total on Lots 17 through 24, Block 18 in Revised map of Tomball.
- 4) Restroom facilities must be provided during the open-air market hours of operation. Said restrooms may be provided on site or within adjacent businesses owned and operated by the same owner of the open air market, located within the boundaries of this Conditional Use Permit. Portable restroom facilities are prohibited.
- 5) Adhere to Section 50-116 (d.2.a) Temporary Outdoor Sales, with an exception on the required distance from “main building”.
 - a. “Shall not be placed/located more than 30 feet from the main building in GR, and C Districts, and not more than 12 feet from the main building in the Old Town area.”
- 6) An opaque fence/wall with a minimum height of 6-feet must be provided along the western boundary of Lot 17 to minimize sound and visibility of the adjacent land use;
- 7) Booths/tents and outdoor sales/displays must adhere to non-residential setback standards in OT & MU. Being the following:
 - a. Front & Rear Setback = N/A
 - b. Side Setback (adjacent to commercial use) = N/A
 - c. Side Setback (adjacent to residential use) = 20-feet (20’) Minimum

Section 7. Any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction, shall be fined in an amount not to exceed \$2,000. Each day of violation shall constitute a separate offense.

Section 8. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON 20th DAY OF MARCH 2023.

COUNCILMAN FORD AYE
COUNCILMAN STOLL AYE
COUNCILMAN DUNAGIN AYE
COUNCILMAN TOWNSEND AYE
COUNCILMAN PARR AYE

SECOND READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON 3rd DAY OF APRIL 2023.

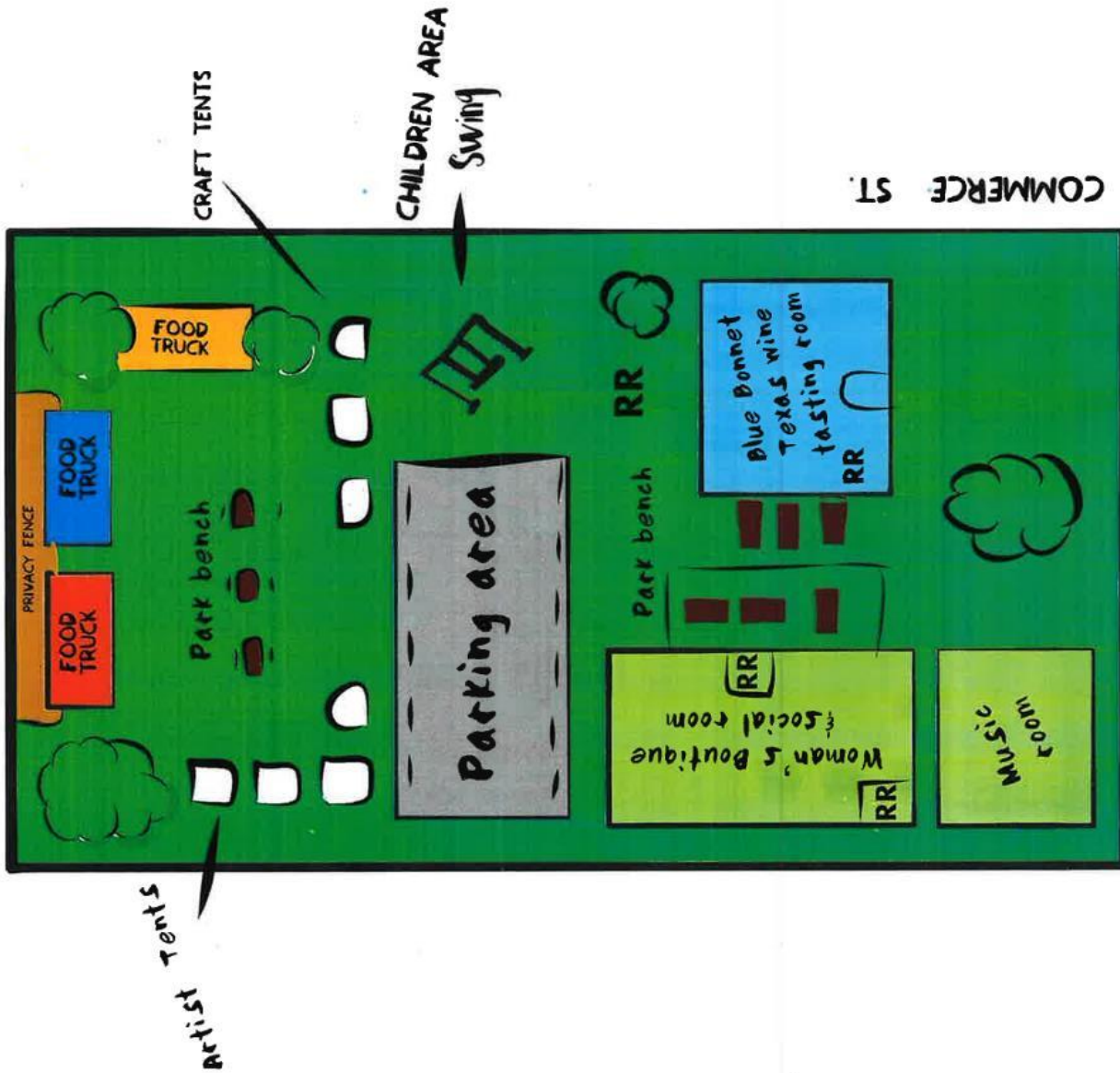
COUNCILMAN FORD _____
COUNCILMAN STOLL _____
COUNCILMAN DUNAGIN _____
COUNCILMAN TOWNSEND _____
COUNCILMAN PARR _____

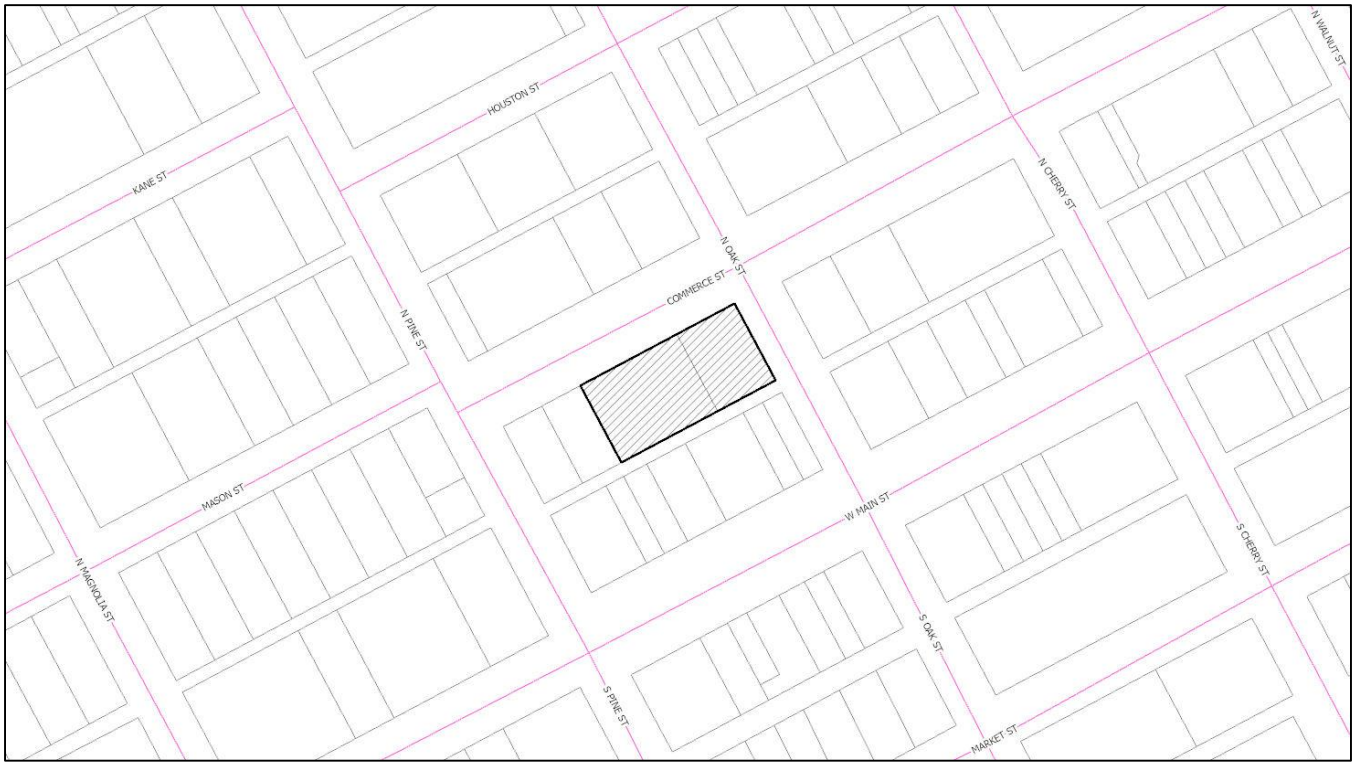
LORI KLEIN QUINN, Mayor

ATTEST:

Tracylynn Garcia, City Secretary

Commerce St. Market space
401-409 COMMERCE ST. OLD TOMBALL TX





Location: 400 block (south side) of Commerce Street. Being Lots 17 through 24, Block 18 of Revised Map of Tomball, City of Tomball, Harris County, Texas

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: April 3, 2023

Topic:

Adopt, on Second Reading, Ordinance Number 2023-06, an Ordinance of the City Council of Tomball, Texas, Approving a Service and Assessment Plan and Assessment Roll for Authorized Improvements for the Seven Oaks Public Improvement District (the “District”); Making a Finding of Special Benefit to Certain Property in the District; Levying Assessments against Certain Property within the District and Establishing a Lien on Such Property; Providing for Payment of the Assessment in Accordance with Chapter 372, Texas Local Government Code, as Amended; Providing for the Method of Assessment and the Payment of the Assessments; Providing for Penalties and Interest on Delinquent Assessments; Providing for Severability and Providing an Effective Date. The proposed Service and Assessment Plan complies with the requirements of the approved Development Agreement as approved by City Council on August 15, 2022.

Background:

The property within the Seven Oaks Public Improvement District Fourteen (PID 14), and as described in the Service and Assessment Plan, have substantially completed the public infrastructure improvements for the Improvement Area. Following the Public Hearing, it is necessary to levy assessments on the property within PID 14, as set forth in the Service and Assessment Plan.

Per Chapter 372 of the Local Government Code, Ordinance Number 2023-06 approves the Service and Assessment Plan and Assessment Roll for Seven Oaks Public Improvement District Number Fourteen.

Origination: Project Management

Recommendation:

Adopt Ordinance Number 2023-06, levying an assessment against properties located within Public Improvement District Number Fourteen (PID 14), Seven Oaks, on First Reading.

Party(ies) responsible for placing this item on agenda: Meagan Mageo, Project Manager

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____ If yes, specify Account Number: # _____
If no, funds will be transferred from account # _____ To account # _____

Signed Meagan Mageo Approved by _____
Staff Member Date City Manager Date

ORDINANCE NO. 2023-06

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS APPROVING A SERVICE AND ASSESSMENT PLAN AND ASSESSMENT ROLL FOR AUTHORIZED IMPROVEMENTS FOR THE SEVEN OAKS PUBLIC IMPROVEMENT DISTRICT (THE “DISTRICT”); MAKING A FINDING OF SPECIAL BENEFIT TO CERTAIN PROPERTY IN THE DISTRICT; LEVYING ASSESSMENTS AGAINST CERTAIN PROPERTY WITHIN THE DISTRICT AND ESTABLISHING A LIEN ON SUCH PROPERTY; PROVIDING FOR PAYMENT OF THE ASSESSMENT IN ACCORDANCE WITH CHAPTER 372, TEXAS LOCAL GOVERNMENT CODE, AS AMENDED; PROVIDING FOR THE METHOD OF ASSESSMENT AND THE PAYMENT OF THE ASSESSMENTS; PROVIDING PENALTIES AND INTEREST ON DELINQUENT ASSESSMENTS; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

* * * * *

WHEREAS, the City of Tomball, Texas (the “City”) received a petition meeting the requirements of Sec. 372.005 of the Public Improvement District Assessment Act (the “Act”) requesting the creation of a public improvement district over a portion of the area within the corporate limits of the City to be known as the Seven Oaks Public Improvement District (the “District”); and

WHEREAS, on July 18, 2022, the City Council accepted the Petition and called a public hearing for August 15, 2022 on the creation of the District and the advisability of the improvements; and

WHEREAS, notice of the hearing was published in a newspaper of general circulation in the City in which the District is to be located on July 27, 2022; and,

WHEREAS, notice to the owners of property within the proposed District was sent by first-class mail to the owners of 100% of the property subject to assessment under the proposed District containing the information required by the Act such that such owners had actual knowledge of the public hearing to be held on August 15, 2022; and

WHEREAS, on August 15, 2022 the City Council opened and conducted such public hearing on the advisability of the improvements and the creation of the District and approved the creation of the PID by Resolution; and

WHEREAS, the District is to be developed in single phase and assessments are anticipated to be levied on all property within the PID; and

WHEREAS, pursuant to Sections 372.013, 372.014, and 372.016 of the Act, the City Council has directed the preparation of a Preliminary Service and Assessment Plan for Authorized Improvements within the District (the “Service and Assessment Plan”) and an assessment roll for of the District (the “Assessment Roll”) that states the assessment against each parcel of land within the District (the “Assessments”); and

WHEREAS, the City called a public hearing regarding the proposed levy of Assessments pursuant to the Service and Assessment Plan and the proposed Assessment Roll on property within the District, pursuant to Section 372.016 of the Act; and

WHEREAS, the City, pursuant to Section 372.016(b) of the Act, published notice in a newspaper of general circulation within the City to consider the proposed Service and Assessment Plan for the District and the levy of the Assessments, as defined in the Service and Assessment Plan, on property in the District; and

WHEREAS, the City Council, pursuant to Section 372.016(c) of the Act caused the mailing of notice of the public hearing to consider the proposed Service and Assessment Plan and the Assessment Roll attached to the Service and Assessment Plan and the levy of Assessments on property in the District to the last known address of the owners of the property liable for the Assessments; and

WHEREAS, the City Council convened the public hearing at 6:00 p.m. on the 20th day of March, 2023, at which all persons who appeared, or requested to appear, in person or by their attorney, were given the opportunity to contend for or contest the Service and Assessment Plan, the Assessment Roll, and the proposed Assessments, and to offer testimony pertinent to any issue presented on the amount of the Assessments, the allocation of the costs of the Authorized Improvements, the purposes of the Assessments, the special benefits of the Assessments, and the penalties and interest on annual installments and on delinquent annual installments of the Assessments; and

WHEREAS, the developer of property within the District as described in the Service and Assessment Plan for the District has substantially completed the Authorized Improvements within the District; and

WHEREAS, the City wishes to levy assessments on the property within the District for the Authorized Improvements as set forth in the Service and Assessment Plan; and

WHEREAS, the City Council finds and determines that the Service and Assessment Plan and Assessment Roll attached thereto should be approved and that the Assessments should be levied on property within the District as provided in this Ordinance and the Service and Assessment Plan and Assessment Roll; and

WHEREAS, the City Council further finds that there were no written objections or evidence submitted to the City Secretary in opposition to the Service and Assessment Plan, the allocation of the costs of the Authorized Improvements, the Assessment Roll or the levy of Assessments; and

WHEREAS, the City Council closed the hearing, and, after considering all written and documentary evidence presented at the hearing, including all written comments and statements filed with the District, determined to proceed with the adoption of this Ordinance in conformity with the requirements of the Act.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS, THAT:

Section 1. Findings. The findings and determinations set forth in the preambles hereto are hereby incorporated by reference for all purposes.

Section 2. Terms. Terms not otherwise defined herein are defined in the Service and Assessment Plan attached hereto as Exhibit A.

Section 3. Findings. The findings and determinations set forth in the preambles are hereby incorporated by reference for all purposes. The City Council hereby finds, determined and orders, as follows:

- a. The apportionment of the costs of the Authorized Improvements, and the Annual Collection Costs pursuant to the Service and Assessment Plan is fair and reasonable, reflects an accurate presentation of the special benefit each property will receive from the Authorized Improvements identified in the Service and Assessment Plan, and is hereby approved;
- b. The Service and Assessment Plan covers a period of at least five years and defines the annual indebtedness and projected costs for the Authorized Improvements;
- c. The Service and Assessment Plan apportions the costs of the Authorized Improvements to be assessed against each Assessed Property in the District and such apportionment is made on the basis of special benefits accruing to each Assessed Property because of the Authorized Improvements;
- d. All of the real property in the District which is being assessed in the amounts shown in the Service and Assessment Plan and Assessment Roll will be benefited by the Authorized Improvements proposed to be provided through the District in the Service and Assessment Plan, and each parcel of real property in the District will receive special benefits during the term of the Assessments equal to or greater than the total amount assessed;
- e. The method of apportionment of the costs of the Authorized Improvements and Annual Collection Costs set forth in the Service and Assessment Plan results in imposing equal shares of the costs of the Authorized Improvements and Annual Collection Costs on property similarly benefited, and results in a reasonable classification and formula for the apportionment of the costs;
- f. The Service and Assessment Plan should be approved as the service plan and assessment plan for the District, as described in Sections 372.013 and 372.014 of the Act;
- g. The Assessment Roll in the form attached to the Service and Assessment Plan should be approved as the assessment roll for the District;
- h. The provisions of the Service and Assessment Plan relating to due and delinquency dates for the Assessments, interest on Annual Installments, interest and penalties on delinquent Assessments and delinquent Annual Installments, and procedures in connection with the imposition and collection of Assessments should be approved

and will expedite collection of the Assessments in a timely manner in order to provide the improvements needed and required for the area within the District; and

- i. A written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public for the time required by law preceding this meeting, as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended, and that this meeting has been open to the public as required by law at all times during which this Ordinance and the subject matter hereof has been discussed, considered and formally acted upon.

Section 4. Assessment Plan. The Service and Assessment Plan is hereby accepted and approved pursuant to Sections 372.013 and 372.014 of the Act as a service plan and an assessment plan for the Authorized Improvements within the District.

Section 5. Assessment Roll. The Assessment Roll is hereby accepted and approved pursuant to Section 372.016 of the Act as the assessment roll for the Authorized Improvements within the District.

Section 6. Levy and Payment of Assessments for Costs of Authorized Improvements.

- a. The City Council hereby levies Assessments on each Assessed Property located within the District, as shown and described in the Service and Assessment Plan and the Assessment Roll, in the respective amounts shown on the Assessment Roll, as special assessments on the properties within the District as set forth in the Service and Assessment Plan and the Assessment Roll.
- b. The levy of the Assessments shall be effective on the date of execution of this Ordinance levying Assessments and strictly in accordance with the terms of the Service and Assessment Plan.
- c. The collection of the Assessments shall be as described in the Service and Assessment Plan.
- d. Each Assessment may be pre-paid or paid in Annual Installments pursuant to the terms of the Service and Assessment Plan.
- e. Each Assessment shall bear interest at the rate or rates specified in the Service and Assessment Plan.
- f. Each Annual Installment shall be collected each year in the manner set forth in the Service and Assessment Plan.
- g. The Annual Collection Costs for Assessed Properties shall be calculated pursuant to the terms of the Service and Assessment Plan.

Section 7. Method of Assessment. The method of apportioning the costs of the Authorized Improvements is as set forth in the Service and Assessment Plan.

Section 8. Penalties and Interest on Delinquent Assessments. Delinquent Assessments shall be subject to the penalties, interest, procedures and foreclosure sales set forth in the Service and Assessment Plan. The Assessments shall have lien priority as specified in the Act and the Service and Assessment Plan.

Section 9. Prepayments of Assessments. As provided in Section 372.018(f) of the Act and in the Service and Assessment Plan, the owner (the “Owner”) of any Assessed Property may prepay the Assessments levied by this Ordinance as set forth in the Service and Assessment Plan.

Section 10. Lien Priority. As provided in the Act, the City Council and owners of the Assessed Property intend for the obligations, covenants and burdens on the owners of Assessed Property, including without limitation such owner’s obligations related to payment of the Assessments and the Annual Installments, to constitute a covenant running with the land. The Assessments and the Annual Installments levied hereby shall be binding upon the Assessed Property, and the owners of Assessed Properties, and their respective transferees, legal representatives, heirs, devisees, successors and assigns in the same manner and for the same period as such parties would be personally liable for the payment of ad valorem taxes under applicable law. Assessments shall have lien priority as specified in the Act.

Section 11. Administrator and Collector of Assessments.

- a. Administrator. The City shall administer the Service and Assessment Plan and the Assessments levied by this Ordinance. The City has appointed a third-party administrator (the “Administrator”) to administer the Service and Assessment Plan and the Assessments. The Administrator shall perform the duties of the Administrator described in the Service and Assessment Plan and in this Ordinance. The Administrator’s fees, charges and expenses for providing such services shall constitute an Annual Collection Cost.
- b. Collector. The City may collect the assessments or may, by future action, appoint a third-party collector of the Assessments. The City is hereby authorized to enter into an agreement with a third-party for the collection of the Assessments. The City may also contract with any other qualified collection agent selected by the City or may collect the Assessments on its own behalf. The costs of such collection contracts shall constitute an Annual Collection Cost.

Section 12. Applicability of Tax Code. To the extent not inconsistent with this Ordinance and the Act or other laws governing public improvement districts, the provisions of the Texas Tax Code shall be applicable to the imposition and collection of Assessments by the City.

Section 13. Severability. If any provision, section, subsection, sentence, clause or phrase of this Ordinance, or the application of 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 Ordinance or the application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council that no portion hereof, or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 14. Effective Date. This Ordinance shall take effect, and the levy of the Assessments, and the provisions and terms of the Service and Assessment Plan shall be and become effective upon passage and execution thereof.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 20TH DAY OF MARCH 2023.

COUNCILMAN FORD	<u>AYE</u>
COUNCILMAN STOLL	<u>AYE</u>
COUNCILMAN DUNAGIN	<u>AYE</u>
COUNCILMAN TOWNSEND	<u>AYE</u>
COUNCILMAN PARR	<u>AYE</u>

SECOND READING:

READ, PASSED, APPROVED AND ORDAINED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 3RD DAY OF APRIL 2023.

COUNCILMAN FORD	_____
COUNCILMAN STOLL	_____
COUNCILMAN DUNAGIN	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN PARR	_____

Lori Klein Quinn, Mayor

ATTEST:

Tracy Garcia, City Secretary

Seven Oaks Public Improvement District

SERVICE AND ASSESSMENT PLAN

MARCH 20, 2023



AUSTIN. TX | NORTH RICHLAND HILLS. TX | HOUSTON. TX

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INTRODUCTION

Capitalized terms used in this Service and Assessment Plan shall have the meanings given to them in **Section I** unless otherwise defined in this Service and Assessment Plan or unless the context in which a term is used clearly requires a different meaning. Unless otherwise defined, a reference to a “Section” an “Exhibit,” or an “Appendix” shall be a reference to a Section of this Service and Assessment Plan or an Exhibit or Appendix attached to and made a part of this Service and Assessment Plan for all purposes.

On August 15, 2022, the City passed and approved Resolution No. 2022-27 authorizing the establishment of the District in accordance with the PID Act, as amended, which authorization was effective upon approval in accordance with the PID Act. The purpose of the District is to finance the Actual Costs of Authorized Improvements that confer a special benefit on approximately 19.34 acres located within the City, as described by the legal description on **Exhibit I** and depicted on **Exhibit A**.

The PID Act requires a service plan must (i) cover a period of at least five years; (ii) define the annual indebtedness and projected cost of the Authorized Improvements; and (iii) include a copy of the notice form required by Section 5.014 of the Texas Property Code, as amended. The Service Plan is contained in **Section IV** and the notice form is attached as **Appendix B**.

The PID Act requires that the Service Plan include an Assessment Plan that assesses the Actual Costs of the Authorized Improvements against the Assessed Property within the District based on the special benefits conferred on such property by the Authorized Improvements. The Assessment Plan is contained in **Section V**.

The PID Act requires an Assessment Roll that states the Assessment against each Parcel determined by the method chosen by the City Council. The Assessment against each Parcel of Assessed Property must be sufficient to pay the share of the Actual Costs of Authorized Improvements apportioned to such Parcel and cannot exceed the special benefit conferred on the Parcel by such Authorized Improvements. The Assessment Roll is included as **Exhibit F-1**.

SECTION I: DEFINITIONS

“Actual Costs” mean, with respect to Authorized Improvements, the actual costs paid or incurred by or on behalf of the Owner[s], (either directly or through affiliates), including : (1) the costs for the design, planning, financing, administration/management, acquisition, installation, construction and/or implementation of such Authorized Improvements; (2) the fees paid for obtaining permits, licenses, or other governmental approvals for such Authorized Improvements; (3) the costs for external professional services, such as engineering, geotechnical, surveying, land planning, architectural landscapers, appraisals, legal, accounting, and similar professional services; (4) the costs for all labor, bonds, and materials, including equipment and fixtures, owing to contractors, builders, and materialmen engaged in connection with the acquisition, construction, or implementation of the Authorized Improvements; (5) all related permitting and public approval expenses, and architectural, engineering, consulting, and other governmental fees and charges and (6) costs to implement, administer, and manage the above-described activities including, but not limited to, a construction management fee equal to four percent (4%) of construction costs if managed by or on behalf of the Owner[s].

“Additional Interest” means the amount collected by the application of the Additional Interest Rate.

“Additional Interest Rate” means the 0.50% additional interest rate that may be charged on Assessments securing PID Bonds pursuant to Section 372.018 of the PID Act. The Additional Interest Rate is not charged on Assessments securing the Reimbursement Obligation.

“Administrator” means the City or independent firm designated by the City who shall have the responsibilities provided in this Service and Assessment Plan, any Indenture, or any other agreement or document approved by the City related to the duties and responsibilities of the administration of the District. The initial Administrator is P3Works, LLC.

“Annual Collection Costs” mean the actual or budgeted costs and expenses related to the operation of the District, including, but not limited to, costs and expenses for: (1) the Administrator; (2) City staff; (3) legal counsel, engineers, accountants, financial advisors, and other consultants engaged by the City; (4) calculating, collecting, and maintaining records with respect to Assessments and Annual Installments; (5) preparing and maintaining records with respect to Assessment Rolls and Annual Service Plan Updates; (6) paying and redeeming PID Bonds; (7) investing or depositing Assessments and Annual Installments; (8) complying with this Service and Assessment Plan, the PID Act, and any Indenture, with respect to the PID Bonds, including the City’s continuing disclosure requirements; and (9) the paying agent/registrar and Trustee in connection with PID Bonds, including their respective legal counsel. Annual Collection

Costs collected but not expended in any year shall be carried forward and applied to reduce Annual Collection Costs for subsequent years.

“Annual Installment” means the annual installment payment on an Assessment as calculated by the Administrator and approved by the City Council, that includes: (1) principal; (2) interest; (3) Annual Collection Costs; and (4) Additional Interest related to the PID Bonds, if applicable.

“Annual Service Plan Update” means an update to this Service and Assessment Plan prepared no less frequently than annually by the Administrator and approved by the City Council.

“Assessed Property” means any Parcel within the District against which an Assessment is levied.

“Assessment” means an assessment levied against Assessed Property, and imposed pursuant to an Assessment Ordinance and the provisions herein, as shown on an Assessment Roll, subject to reallocation upon the subdivision of such Assessed Property or reduction according to the provisions herein and in the PID Act.

“Assessment Ordinance” means an ordinance adopted by the City Council in accordance with the PID Act that levies an Assessment on the Assessed Property, as shown on any Assessment Roll.

“Assessment Plan” means the methodology employed to assess the Actual Costs of the Authorized Improvements against the Assessed Property based on the special benefits conferred on such property by the Authorized Improvements, more specifically set forth and described in **Section V**.

“Assessment Roll” means any assessment roll for the Assessed Property, as updated, modified or amended from time to time in accordance with the procedures set forth herein and in the PID Act, including updates prepared in connection with the issuance of PID Bonds or in any Annual Service Plan Updates.

“Authorized Improvements” means improvements authorized by Section 372.003 of the PID Act, and described in **Section III**.

“Bond Issuance Costs” means the costs associated with issuing PID Bonds, including but not limited to attorney fees, financial advisory fees, consultant fees, appraisal fees, printing costs, publication costs, City costs, capitalized interest, reserve fund requirements, underwriter discount, fees charged by the Texas Attorney General, and any other cost or expense directly associated with the issuance of PID Bonds.

“City” means the City of Tomball, Texas.

“City Council” means the governing body of the City.

“County” means Harris County, Texas.

“Delinquent Collection Costs” mean costs related to the foreclosure on Assessed Property and the costs of collection of delinquent Assessments, delinquent Annual Installments, or any other delinquent amounts due under this Service and Assessment Plan including penalties and reasonable attorney’s fees actually paid, but excluding amounts representing interest and penalty interest.

“District” means the Seven Oaks Public Improvement District containing approximately 19.34 acres located within the City as shown on **Exhibit A** and more specifically described on **Exhibit I**.

“District Formation Expenses” means costs related to the formation of the District and the levy of Assessments including attorney fees, financial consultant fees, and other fees.

“Engineer’s Report” means the report provided by a licensed professional engineer that describes the Authorized Improvements, including their costs, location, and benefit, and is attached hereto as **Appendix A**.

“Estimated Buildout Value” means the estimated value of an Assessed Property with fully constructed buildings, as provided by the Owner and confirmed by the City Council, by considering such factors as density, lot size, proximity to amenities, view premiums, location, market conditions, historical sales, builder contracts, discussions with homebuilders, reports from third party consultants, or any other factors that, in the judgment of the City, may impact value. The Estimated Buildout Value for each Lot Type is shown on **Exhibit E**.

“Indenture” means an Indenture of Trust entered into between the City and the Trustee in connection with the issuance of each series of PID Bonds, as amended from time to time, setting forth the terms and conditions related to a series PID Bonds.

“Initial Parcel” means all of the Assessed Property within the District against which the entire Assessment is initially levied, as shown on the Assessment Roll.

“Lot” means (1) for any portion of the District for which a final subdivision plat has been recorded in the Plat or Official Public Records of the County, a tract of land described by “lot” in such subdivision plat; and (2) for any portion of the District for which a subdivision plat has not been recorded in the Plat or Official Public Records of the County, a tract of land anticipated to be described as a “lot” in a final recorded subdivision plat as shown on a concept plan or a preliminary plat. A “Lot” shall not include real property owned by a government entity, even if such property is designated as a separate described tract or lot on a recorded Subdivision Plat.

“Lot Type” means a classification of final building Lots with similar characteristics (e.g. lot size, home product, Estimated Buildout Value, etc.), as determined by the Administrator and confirmed by the City Council. In the case of single-family residential Lots, the Lot Type shall be further defined by classifying the residential Lots by the Estimated Buildout Value of the Lot as provided by the Owner, and confirmed by the City Council.

“Lot Type 1” means a Lot within the District marketed to homebuilders as a residential townhome Lot with an Estimated Buildout Value of \$310,000 as of the date of adoption of this Service and Assessment Plan. The buyer disclosure for Lot Type 1 is included in **Appendix B**.

“Maximum Assessment” means, for each Lot Type, an Assessment equal to the lesser of (1) the amount calculated pursuant to **Section VI.A**, or (2) the amount shown on **Exhibit E**.

“Non-Assessed Property” means Parcels within the boundaries of the District that accrue special benefit from the Authorized Improvements as determined by the City Council but are not assessed.

“Non-Benefited Property” means Parcels within the boundaries of the District that accrue no special benefit from the Authorized Improvements as determined by the City Council.

“Notice of Assessment Termination” means a document that shall be recorded in the Official Public Records of the County evidencing the termination of an Assessment, a form of which is attached as **Exhibit H**.

“Owner” means the HMH Tomball Townhomes, LLC, a Texas limited liability company, and any successors or assigns thereof that intends to develop the property in the District for the ultimate purpose of transferring title to end users.

“Parcel” or “Parcels” means a specific property within the District identified by either a tax parcel identification number assigned by the Harris County Appraisal District for real property tax purposes, by legal description, or by lot and block number in a final subdivision plat recorded in the official public records of the County, or by any other means determined by the City.

“PID Act” means Chapter 372, Texas Local Government Code, as amended.

“PID Bonds” means any bonds issued by the City in one or more series and secured in whole or in part by Assessments.

“Prepayment” means the payment of all or a portion of an Assessment before the due date of the final Annual Installment thereof. Amounts received at the time of a Prepayment which represent a payment of principal, interest, or penalties on a delinquent installment of an Assessment are not to be considered a Prepayment, but rather are to be treated as the payment of the regularly scheduled Annual Installment.

“Prepayment Costs” means interest, including Additional Interest and Annual Collection Costs, to the date of Prepayment.

“Private Improvements” means improvements required to be constructed by the Owner that are not Public Improvements, as shown on **Exhibit B** and depicted on **Exhibit G-2**.

“Public Improvements” means those Authorized Improvements, including District Formation Expenses, specifically described in **Section III.A** and depicted on **Exhibit G-1**.

“Reimbursement Agreement” means that certain “Seven Oaks Public Improvement District Reimbursement Agreement” effective October 17, 2022 entered into by and between the City and Owner, whereby all or a portion of the Actual Costs not paid to the Owner from the proceeds of PID Bonds will be paid to the Owner from Assessments to reimburse the Owner for Actual Costs paid by the Owner, plus interest, that are eligible to be paid with Assessments.

“Reimbursement Obligation” means the amount to be paid to the Developer pursuant to a Reimbursement Agreement.

“Service and Assessment Plan” means this Seven Oaks Public Improvement District Service and Assessment Plan as updated, amended, or supplemented from time to time.

“Service Plan” means the plan described in **Section IV** which covers a period of at least five years and defines the annual indebtedness and projected costs of the Authorized Improvements.

“Trustee” means the trustee or successor trustee under an Indenture.

SECTION II: THE DISTRICT

The District includes approximately 19.34 contiguous acres located within the corporate limits of the City, the boundaries of which are more particularly described on **Exhibit I** and depicted on **Exhibit A**. Development of the District is anticipated to include approximately 141 Lots developed with townhomes.

SECTION III: AUTHORIZED IMPROVEMENTS

Based on information provided by the Owner and its engineer and reviewed by the City staff and by third-party consultants retained by the City, the City has determined that the Authorized Improvements confer a special benefit on the Assessed Property. Authorized Improvements will be designed and constructed in accordance with the City's standards and specifications and will be owned and operated by the City or by a third party pursuant to a qualified management contract. The budget for the Authorized Improvements is shown on **Exhibit B**.

A. Public Improvements

- *Paving*

Improvements include subgrade stabilization (including excavation and drainage), concrete and reinforcing steel for roadways, handicapped ramps, and streetlights. Intersections, signage, lighting, and re-vegetation of all disturbed areas within the right of way are included. These paving improvements will provide street access to each Lot within the District.

- *Water Distribution*

Improvements including trench excavation and embedment, trench safety, PVC piping, manholes, service connections, testing, related earthwork, excavation, erosion control, and all necessary appurtenances required to provide water service to each Lot within the District.

- *Sanitary Sewer*

Improvements including trench excavation and embedment, trench safety, PVC piping, manholes, service connections, testing, related earthwork, excavation, erosion control, and all necessary appurtenances required to provide wastewater service to each Lot within the District.

- *Drainage*

Improvements including earthen channels, swales, curb and drop inlets, RCP piping and

boxes, headwalls, concrete flumes, rock rip rap, concrete outfalls, and testing as well as all related earthwork, excavation, and erosion control necessary to provide storm drainage for each Lot within the District.

- *Clearing and Grubbing*

Costs related to removal of trees, stumps, logs, vegetation, fences, rubbish, debris, organic matter and other objectionable material, and disposal of material at an off-site location.

- *Detention and Grading*

Costs related to basin and spoils excavation, construction of swales, cut abandoned oil well and plug and turf establishment.

- *Soft Costs*

Costs related to designing, constructing, and installing the Public Improvements including land planning and design, City fees, engineering, soil testing, survey, construction management, District Formation Expenses, and contingency.

B. Bond Issuance Costs

- *Debt Service Reserve Fund*

Equals the amount to be deposited in a debt service reserve fund under an applicable Indenture in connection with the issuance of PID Bonds.

- *Delinquency and Prepayment Fund*

Equals the amount to be deposited in a debt service reserve fund under an applicable Indenture in connection with the issuance of PID Bonds.

- *Underwriter's Discount*

Equals a percentage of the par amount of a particular series of PID Bonds related to the costs of underwriting such PID Bonds (including a fee for underwriter's counsel).

- *Cost of Issuance*

Includes costs of issuing a particular series of PID Bonds, including but not limited to issuer fees, attorney's fees, financial advisory fees, consultant fees, appraisal fees, printing costs, publication costs, City's costs, fees charged by the Texas Attorney General, and any other cost or expense directly associated with the issuance of PID Bonds.

C. First Year Annual Collection Costs

- *Deposit to Administrative Fund*

Equals the amount necessary to fund the first year's Annual Collection Costs for a particular series of PID Bonds.

SECTION IV: SERVICE PLAN

The PID Act requires the Service Plan to cover a period of at least five years. The Service Plan is required to define the annual projected costs and indebtedness for the Authorized Improvements undertaken within the District during the five-year period. The Service Plan is also required to include a copy of the buyer disclosure notice form required by Section 5.014 of the Texas Property Code, as amended. The Service Plan must be reviewed and updated in each Annual Service Plan Update. **Exhibit C** summarizes the Service Plan for the District. Per the PID Act and Section 5.014 of the Texas Property Code, as amended, this Service and Assessment Plan, and any future Annual Service Plan Updates, shall include a form of the buyer disclosure for the District. The buyer disclosures are attached hereto as **Appendix B**.

Exhibit D summarizes the sources and uses of funds required to construct the Public Improvements. The sources and uses of funds shown on **Exhibit D** shall be updated in an Annual Service Plan Update to show the amount required to fund the required reserves and issue the PID Bonds at the time the PID Bonds are issued.

SECTION V: ASSESSMENT PLAN

The PID Act allows the City Council to apportion the costs of the Authorized Improvements to the Assessed Property based on the special benefit received from the Authorized Improvements. The PID Act provides that such costs may be apportioned: (1) equally per front foot or square foot; (2) according to the value of property as determined by the City Council, with or without regard to improvements constructed on the property; or (3) in any other manner approved by the City Council that results in imposing equal shares of such costs on property similarly benefited. The PID Act further provides that the City Council may establish by ordinance or order reasonable classifications and formulas for the apportionment of the cost between the City and the area to be assessed and the methods of assessing the special benefits for various classes of improvements.

This section of this Service and Assessment Plan describes the special benefit received by each Parcel within the District as a result of the Authorized Improvements and provides the basis and justification for the determination that this special benefit equals or exceeds the amount of the Assessments to be levied on the Assessed Property for such Authorized Improvements.

The determination by the City Council of the assessment methodologies set forth below is the result of the discretionary exercise by the City Council of its legislative authority and

governmental powers and is conclusive and binding on the Owner and all future owners of the Assessed Property.

A. Assessment Methodology

Acting in its legislative capacity and based on information provided by the Owner and its engineer and reviewed by the City staff and by third-party consultants retained by the City, the City Council has determined that the costs of the Authorized Improvements shall be allocated entirely to the Initial Parcel. Upon subdivision of an Assessed Property, the Actual Costs of the Authorized Improvements shall be reallocated based on Estimated Buildout Value as further described in **Section VI**.

B. Assessments

Assessments will be levied on the Assessed Property according to the Assessment Roll, attached hereto as **Exhibit F-1**. The projected Annual Installments are shown on **Exhibit F-2**, and are subject to revisions made during any Annual Service Plan Update. Upon division or subdivision of the Initial Parcel, the Assessments will be reallocated pursuant to **Section VI**.

The Maximum Assessment for each Lot Type is shown on **Exhibit E**. In no case will the Assessment for Lots classified as Lot Type 1 exceed the corresponding Maximum Assessment for the Lot classification.

C. Findings of Special Benefit

Acting in its legislative capacity and based on information provided by the Owner and its engineer and reviewed by the City staff and by third-party consultants retained by City, the City Council has found and determined the following:

- The cost of the Authorized Improvements equals \$5,498,402 as shown on **Exhibit B**; and
- The Assessed Property receives special benefit from the Authorized Improvements equal to or greater than the Actual Cost of the Authorized Improvements; and
- The Initial Parcel shall be allocated 100% of the Assessments levied for the Authorized Improvements which equal \$3,483,000, as shown on the Assessment Roll attached hereto as **Exhibit F-1**; and
- The special benefit (\$5,498,402) received by the Initial Parcel from the Authorized Improvements, is equal to or greater than the amount of the Assessment (\$3,483,000) levied on the Initial Parcel for the Authorized Improvements; and
- At the time the City Council approved this Service and Assessment Plan, the Owner owned 100% of the Initial Parcel. The Owner acknowledged that the Authorized

Improvements confer a special benefit on the Initial Parcel and consented to the imposition of the Assessment to pay for the Actual Costs associated therewith. The Owner ratified, confirmed, accepted, agreed to, and approved: (1) the determinations and findings by the City Council as to the special benefits described herein and the applicable Assessment Ordinance, (2) the Service and Assessment Plan and the applicable Assessment Ordinance; and (3) the levying of the Assessment on the Initial Parcel.

D. Annual Collection Costs

The Annual Collection Costs shall be paid annually by the owner of each Parcel pro rata based on the ratio of the amount of outstanding Assessment remaining on the Parcel to the total outstanding Assessment. The Annual Collection Costs shall be collected as part of and in the same manner as the Annual Installments in the amounts shown on the Assessment Roll, which may be revised based on Actual Costs incurred in Annual Service Plan Updates.

E. Additional Interest

The interest rate on the Assessments securing each respective series of PID Bonds may exceed the interest rate on each respective series of PID Bonds by the Additional Interest Rate. To the extent required by any Indenture, upon the issuance of PID Bonds, Additional Interest shall be collected as part of each Annual Installment and shall be deposited pursuant to the applicable Indenture.

The interest on the Assessment securing the Reimbursement Obligation shall be set at a rate of 6.25% pursuant to the PID Act. The PID Act requires the rate set on unpaid amounts due under a Reimbursement Agreement may not exceed five percent above the highest average index rate for tax-exempt bonds for a period of not more than five years and may not exceed two percent above the same index rate for the following two-year period. The index rate utilized to set the rate on the Reimbursement Obligation is the S&P Municipal Bond High Yield Index, which rate is 5.92% as of March 6, 2023. The rate set by this Service and Assessment Plan of 6.25% for the seven-year period is less than 2% above the S&P Municipal Bond High Yield Index. Once PID Bonds are issued, the interest rate on the Assessments will equal the interest rate on the bonds plus additional interest. The Annual Installment pursuant to the Reimbursement Agreement will not include Additional Interest unless and until PID Bonds secured by the Assessment are issued.

SECTION VI: TERMS OF THE ASSESSMENTS

Any reallocation of Assessments as described in **Section VI** shall be considered an administrative action of the City and will not be subject to the notice or public hearing requirements under the PID Act.

A. Reallocation of Assessments

1. Upon Division Prior to Recording of Subdivision Plat

Upon the division of any Assessed Property (without the recording of a subdivision plat), the Administrator shall reallocate the Assessment for the Assessed Property prior to the division among the newly divided Assessed Properties according to the following formula:

$$A = B \times (C \div D)$$

Where the terms have the following meanings:

A = the Assessment for the newly divided Assessed Property

B = the Assessment for the Assessed Property prior to division

C = the Estimated Buildout Value of the newly divided Assessed Property

D = the sum of the Estimated Buildout Value for all for the newly divided Assessed Properties

The calculation of the Assessment of an Assessed Property shall be performed by the Administrator and shall be based on the Estimated Buildout Value of that Assessed Property, as provided by the Owner, relying on information from homebuilders, market studies, appraisals, official public records of the County, and any other relevant information regarding the Assessed Property. The Estimated Buildout Value for Lot Type 1 is shown on **Exhibit E** and will not change in future Annual Service Plan Updates. The calculation as confirmed by the City Council shall be conclusive and binding.

The sum of the Assessments for all newly divided Assessed Properties shall equal the Assessment for the Assessed Property prior to subdivision. The calculation shall be made separately for each newly divided Assessed Property. The reallocation of an Assessment for an Assessed Property that is a homestead under Texas law may not exceed the Assessment prior to the reallocation. Any reallocation pursuant to this section shall be reflected in the Annual Service Plan Update immediately following such reallocation.

2. Upon Subdivision by a Recorded Subdivision Plat

Upon the subdivision of any Assessed Property based on a recorded subdivision plat, the Administrator shall reallocate the Assessment for the Assessed Property prior to the subdivision among the new subdivided Lots based on Estimated Buildout Value according to the following formula:

$$A = [B \times (C \div D)]/E$$

Where the terms have the following meanings:

A = the Assessment for the newly subdivided Lot

B = the Assessment for the Parcel prior to subdivision

C = the sum of the Estimated Buildout Value of all newly subdivided Lots with same Lot Type

D = the sum of the Estimated Buildout Value for all of the newly subdivided Lots excluding Non-Benefitted Property

E = the number of newly subdivided Lots with same Lot Type

Prior to the recording of a subdivision plat, the Owner shall provide the City an Estimated Buildout Value as of the date of the recorded subdivision plat for each Lot created by the recorded subdivision plat. The calculation of the Assessment for a Lot shall be performed by the Administrator and confirmed by the City Council in an Annual Service Plan Update, based on Estimated Buildout Value information provided by the Owner, homebuilders, third party consultants, and/or the official public records of the County regarding the Lot. The Estimated Buildout Value for Lot Type 1 is shown on **Exhibit E** and will not change in future Annual Service Plan Updates. The calculation as confirmed by the City Council shall be conclusive and binding.

The sum of the Assessments for all newly subdivided Parcels shall not exceed the Assessment for the portion of the Assessed Property subdivided prior to subdivision. The calculation shall be made separately for each newly subdivided Assessed Property. The reallocation of an Assessment for an Assessed Property that is a homestead under Texas law may not exceed the Assessment prior to the reallocation. Any reallocation pursuant to this section shall be reflected in the Annual Service Plan Update immediately following such reallocation.

3. *Upon Consolidation*

If two or more Lots or Parcels are consolidated into a single Parcel or Lot, the Administrator shall allocate the Assessments against the Lots or Parcels before the consolidation to the consolidated Lot or Parcel, which allocation shall be approved by the City Council in the next Annual Service Plan Update immediately following such consolidation.

The Assessment for any resulting Lot will not exceed the Maximum Assessment, shown on **Exhibit E** for the applicable Lot Type, and compliance may require a mandatory Prepayment of Assessments pursuant to **Section VI.B**.

B. Mandatory Prepayment of Assessments

If Assessed Property is transferred to a person or entity that is exempt from payment of the Assessment, the Owner transferring the Assessed Property shall pay to the City the full amount of the Assessment, plus Prepayment Costs and Delinquent Collection Costs, prior to the transfer. If the Owner of the Assessed Property causes the Assessed Property to become Non-Benefitted

Property, the Owner causing the change in status shall pay to the City the full amount of the Assessment, plus Prepayment Costs and Delinquent Collection Costs, prior to the change in status.

C. True-up of Assessments if Maximum Assessment Exceeded

Prior to the approval of a final subdivision plat, the Administrator shall certify that the final plat will not cause the Assessment for any Lot Type to exceed the Maximum Assessment. If the subdivision of any Assessed Property by a final subdivision plat causes the Assessment per Lot for any Lot Type to exceed the applicable Maximum Assessment for such Lot Type, the Owner must partially prepay the Assessment for each Assessed Property that exceeds the applicable Maximum Assessment for such Lot Type. The City's approval of a final subdivision plat without payment of such amounts does not eliminate the obligation of the Owner to pay such Assessments.

D. Reduction of Assessments

If, as a result of cost savings or a PID Project not being constructed, the Actual Costs of completed Authorized Improvements are less than the Assessments, (i) in the event PID Bonds are not issued, the Assessments and the Reimbursement Obligation shall be reduced on a pro-rata basis such that the sum of the resulting reduced Assessments for all Assessed Property equal the reduced Actual Costs, or (ii) in the event that PID Bonds have been issued, the City shall direct the Trustee to apply amounts on deposit in the applicable account of the project fund, relating to the applicable series of PID Bonds, that are not expected to be used to pay Actual Costs of Authorized Improvements to be used to redeem outstanding PID Bonds, in accordance with the applicable Indenture.

The City Council may reduce the Assessments and the Annual Installments for Assessed Property (1) in an amount that represents the Actual Costs of the Authorized Improvements provided for each property; (2) by an equal percentage per Lot; or (3) in any other manner determined by the City Council to be the most fair and practical means of reducing the Assessments for Assessed Property, such that the sum of the resulting reduced Assessments equals the amount required to repay the PID Bonds and Reimbursement Obligation, including interest on the PID Bonds and Reimbursement Obligation, Additional Interest, and the Annual Collection Costs portion of the Assessment, as reduced pursuant to this Section.

The Administrator shall update (and submit to the City Council for review and approval as part of the next Annual Service Plan Update) the Assessment Roll and corresponding Annual Installments to reflect the reduced Assessments.

E. Prepayment of Assessments

The Owner of the Assessed Property may pay, at any time, all or any portion of an Assessment in accordance with the PID Act, including all Prepayment Costs. Interest costs from the date of Prepayment to the date of redemption of the applicable PID Bonds, if any, may be paid from a fund established under the applicable Indenture for such purpose. If an Annual Installment has been billed prior to the Prepayment, the Annual Installment shall be due and payable and shall be credited against the Prepayment.

If the principal portion of an Assessment is paid in full, with interest accrued to the date of Prepayment: (1) the Administrator shall cause the Assessment to be reduced to zero and the Assessment Roll to be revised accordingly; (2) the Administrator shall prepare the revised Assessment Roll and submit to the City Council for review and approval as part of the next Annual Service Plan Update; (3) the obligation to pay the Assessment and corresponding Annual Installments shall terminate; and (4) the City shall provide the Owner with a recordable "Notice of PID Assessment Termination," a form of which is attached hereto as **Exhibit H**.

If an Assessment is paid in part, with interest: (1) the Administrator shall cause the Assessment to be reduced and the Assessment Roll to be revised accordingly; (2) the Administrator shall prepare the revised Assessment Roll and submit to the City Council for review and approval as part of the next Annual Service Plan Update; and (3) the obligation to pay the Assessment and corresponding Annual Installments shall be reduced to the extent of the Prepayment made.

For purposes of the payment of Annual Installments, the Reimbursement Obligation is and will remain subordinated to (i) the PID Bonds and (ii) any additional PID Bonds secured by a parity lien on the Assessments issued to refinance all or a portion of the Reimbursement Obligation. Prepayments shall be allocated pro rata to any outstanding PID Bonds and any outstanding Reimbursement Obligation.

F. Payment of Assessment in Annual Installments

Exhibit F-2 shows the projected Annual Installments. Assessments that are not paid in full shall be due and payable in Annual Installments. Annual Installments are subject to adjustment in each Annual Service Plan Update.

Prior to the recording of a final subdivision plat, if any Parcel shown on the Assessment Roll is assigned multiple tax identification numbers, the Annual Installment shall be allocated pro rata based on the acreage of the property as shown by Harris County Appraisal District for each tax identification number.

The Administrator shall prepare and submit to the City Council for its review and approval an Annual Service Plan Update to allow for the billing and collection of Annual Installments. Each Annual Service Plan Update shall include updated Assessment Rolls and updated calculations of Annual Installments. Annual Collection Costs shall be allocated pro rata among Assessed

Property for which Assessments remain unpaid based on the amount of the outstanding Assessment on each Assessed Property. Annual Installments shall be collected in the same manner and at the same time as ad valorem taxes. Annual Installments shall be subject to the penalties, procedures, and foreclosure sale in case of delinquencies as set forth in the PID Act and in the same manner as ad valorem taxes for the City. The City Council may provide for other means of collecting Annual Installments. Assessments shall have the lien priority specified in the PID Act.

Foreclosure sales of the Assessed Property for nonpayment of Annual Installments shall be subject to the lien for the remaining unpaid Annual Installments against the Assessed Property, and the Assessed Property may again be sold at a judicial foreclosure sale if the purchaser fails to timely pay the non-delinquent Annual Installments as they become due and payable.

The City reserves the right to refund PID Bonds in accordance with the PID Act and the applicable Indenture. In the event of a refunding, the Administrator shall recalculate the Annual Installments so that total Annual Installments will be sufficient to pay the refunding bonds, and the refunding bonds shall constitute "PID Bonds."

Each Annual Installment of an Assessment, including interest on the unpaid principal of the Assessment, shall be updated annually. Each Annual Installment shall be due when billed and shall be delinquent if not paid prior to February 1 of the following year. The initial Annual Installments shall be due when billed and shall be delinquent if not paid prior to February 1, 2024.

Failure of an Owner to receive an invoice for an Annual Installment on the property tax bill shall not relieve the Owner of the responsibility for payment of the Assessment. Assessments, or Annual Installments thereof, that are delinquent shall incur Delinquent Collection Costs. The City may provide for other means of collecting the Annual Installments to the extent permitted by the PID Act.

G. Prepayment as a result of Eminent Domain Proceeding or Taking

If any portion of any Parcel of Assessed Property is taken from an Owner as a result of eminent domain proceedings or if a transfer of any portion of any Parcel of Assessed Property is made to an entity with the authority to condemn all or a portion of the Assessed Property in lieu of or as a part of an eminent domain proceeding (a "**Taking**"), the portion of the Assessed Property that was taken or transferred (the "**Taken Property**") shall be reclassified as Non-Benefited Property.

For the Assessed Property that is subject to the Taking as described in the preceding paragraph, the Assessment that was levied against the Assessed Property prior to the Taking shall remain in force against the remaining Assessed Property (the Assessed Property less the Taken Property), (the "**Remaining Property**") following the reclassification of the Taken Property as Non-Benefited

Property. The Owner of the Remaining Property will remain liable to pay in Annual Installments, or payable as otherwise provided by this Service and Assessment Plan, as updated, or the PID Act, the Assessment that remains due on the Remaining Property.

Following the initiation of the Taking, the Administrator will be required to determine the portion of the Assessment that was levied against the Assessed Property that would have been allocated to the Taken Property prior to its reclassification as Non-Benefitted Property based on a manner that results in imposing equal shares of the Actual Costs of the applicable Authorized Improvements on property similarly benefitted.

The Owner shall make a Prepayment of the Assessment in an amount equal to the amount determined by the Administrator in the preceding paragraph prior to the transfer of ownership of the Taken Property.

By way of illustration, if an Owner owns 100 acres of Assessed Property subject to a \$100 Assessment and 10 acres is taken through a Taking, the 10 acres of Taken Property shall be reclassified as Non-Benefitted Property and the remaining 90 acres of Remaining Property shall be subject to the \$100 Assessment, and the Owner shall owe \$10 as a Prepayment for the Taken Property.

Notwithstanding the previous paragraphs in this subsection if the Administrator determines that the Taking prevents the Remaining Property from being developed as shown on the final plat, the Owner shall be required to prepay the total amount of the Assessment levied against the Remaining Property within sixty (60) days of such determination.

SECTION VII: ASSESSMENT ROLL

The Assessment Roll is attached as **Exhibit F-1**. The Administrator shall prepare and submit to the City Council for review and approval proposed revisions to the Assessment Roll and Annual Installments for each Parcel as part of each Annual Service Plan Update. The Lots shown on the Assessment Roll will receive the bills for the 2023 Annual Installments which will be delinquent if not paid by January 31, 2024.

SECTION VIII: ADDITIONAL PROVISIONS

A. Administrative Review

If the owner of a Parcel claims that error has been made in any calculation required by this Service and Assessment Plan, including, but not limited to, any calculation made as part of any Annual Service Plan Updates, the owner's sole and exclusive remedy shall be to submit a written notice of error to the Administrator by December 1st of each year following City Council's approval of the calculation. Otherwise, the owner shall be deemed to have unconditionally approved and

accepted the calculation. The Administrator shall provide a written response to the City Council and the owner not later than 30 days after receipt of such written notice of error by the Administrator. The City Council shall consider the owner's notice of error and the Administrator's response at a public meeting, and, not later than 30 days after closing such meeting, the City Council shall make a final determination as to whether an error has been made. If the City Council determines that an error has been made, the City Council shall take such corrective action as is authorized by the PID Act, this Service and Assessment Plan, the applicable Assessment Ordinance, the applicable Indenture, or as otherwise authorized by the discretionary power of the City Council. The determination by the City Council as to whether an error has been made, and any corrective action taken by the City Council, shall be final and binding on the owner and the Administrator.

B. Amendments

Amendments to this Service and Assessment Plan must be made by the City Council in accordance with the PID Act. To the extent permitted by the PID Act, this Service and Assessment Plan may be amended without notice to owners of the Assessed Property: (1) to correct mistakes and clerical errors; (2) to clarify ambiguities; and (3) to provide procedures to collect Assessments, Annual Installments, and other charges imposed by this Service and Assessment Plan.

C. Administration and Interpretation

The Administrator shall: (1) perform the obligations of the Administrator as set forth in this Service and Assessment Plan; (2) administer the District for and on behalf of and at the direction of the City Council; and (3) interpret the provisions of this Service and Assessment Plan. Interpretations of this Service and Assessment Plan by the Administrator shall be in writing and shall be appealable to the City Council by owners or developers of the Assessed Property adversely affected by the interpretation. Appeals shall be decided by the City Council after holding a public meeting at which all interested parties have an opportunity to be heard. Decisions by the City Council shall be final and binding on the owners of Assessed Property and developers and their successors and assigns.

D. Form of Buyer Disclosure; Filing in Real Property Records

Per Section 5.014 of the Texas Property Code, as amended, this Service and Assessment Plan, and any future Annual Service Plan Updates, shall include a form of the buyer disclosures for the District. The buyer disclosures are attached hereto as **Appendix B**.

Within seven days of approval by the City Council, the City Secretary shall file and record in the official public records of the County the executed Assessment Ordinance and this Service and Assessment Plan. In addition, the City Secretary shall similarly file each Annual Service Plan

Update approved by the City Council, with each such filing to occur within seven days of the date each respective Annual Service Plan Update is approved.

E. Severability

If any provision of this Service and Assessment Plan is determined by a governmental agency or court to be unenforceable, the unenforceable provision shall be deleted and, to the maximum extent possible, shall be rewritten to be enforceable. Every effort shall be made to enforce the remaining provisions.

LIST OF EXHIBITS

The following Exhibits are attached to and made a part of this Service and Assessment Plan for all purposes:

Exhibit A	Map of the District
Exhibit B	Authorized Improvements
Exhibit C	Service Plan
Exhibit D	Sources and Uses of Funds
Exhibit E	Maximum Assessment and Tax Rate Equivalent
Exhibit F-1	Assessment Roll
Exhibit F-2	Annual Installments
Exhibit G-1	Maps of Public Improvements
Exhibit G-2	Maps of Private Improvements
Exhibit H	Form of Notice of Assessment Termination
Exhibit I	Legal Description

LIST OF APPENDICES

The following Appendices are attached to and made a part of this Service and Assessment Plan for all purposes:

Appendix A	District Engineer's Report
Appendix B	Buyer Disclosures

EXHIBIT A – MAP OF THE DISTRICT

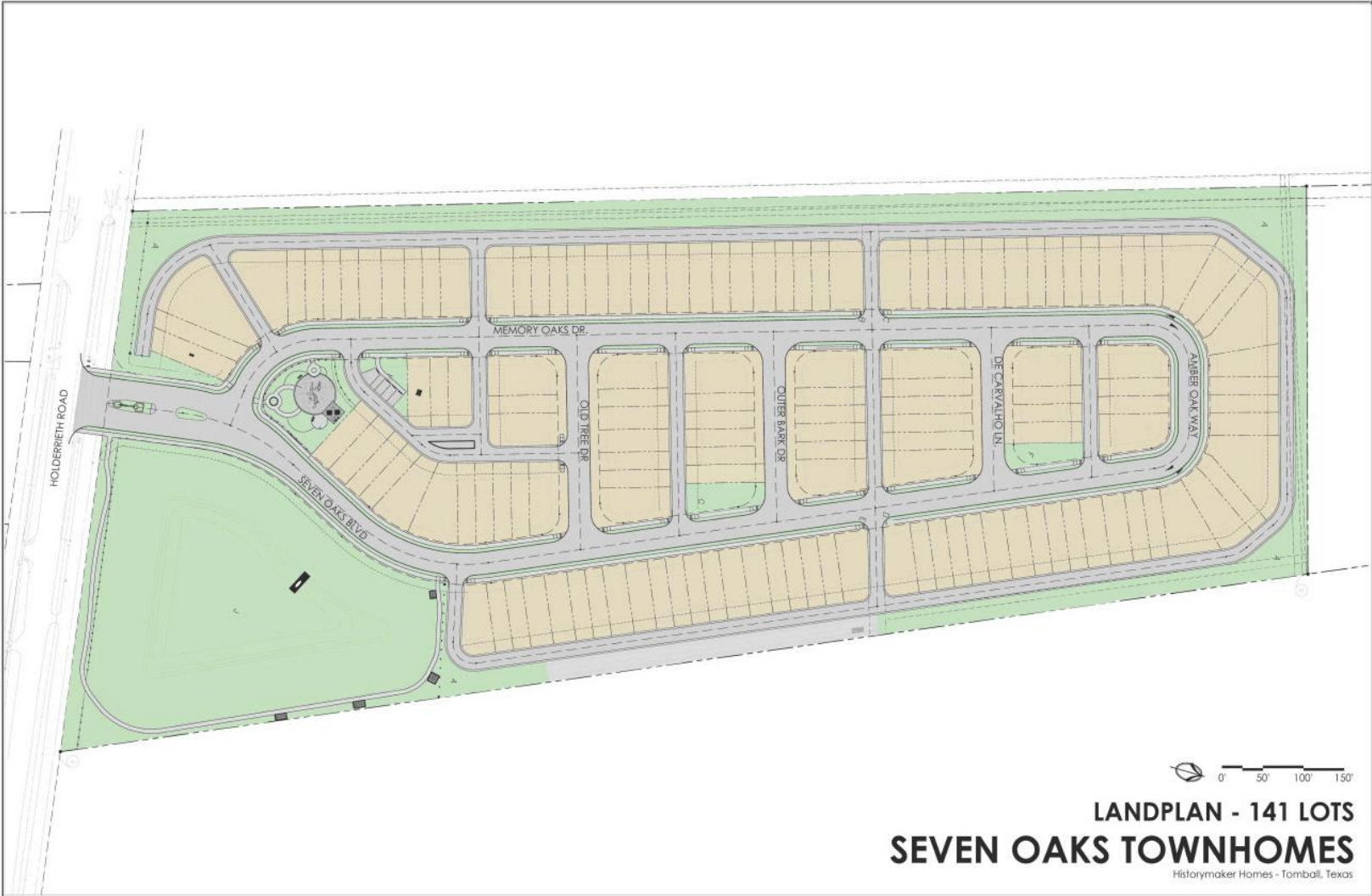


EXHIBIT B – AUTHORIZED IMPROVEMENTS

	Total Costs ^[a]	Private Improvements	Authorized Improvements	
			%	Cost
<i>Public Improvements</i>				
Paving	\$ 1,225,318	\$ -	100.00%	\$ 1,225,318
Water Distribution	340,222	-	100.00%	340,222
Sanitary Sewer	657,229	-	100.00%	657,229
Drainage	1,814,810	-	100.00%	1,814,810
Clearing & Grubbing	118,005	-	100.00%	118,005
Detention and Grading	338,650	-	100.00%	338,650
Soft Costs ^[b]	359,135	-	100.00%	359,135
	<u>\$ 4,853,370</u>	<u>\$ -</u>		<u>\$ 4,853,370</u>
<i>Private Improvements ^[c]</i>				
Paving	\$ 774,388	\$ 774,388	0.00%	\$ -
Drainage	170,738	170,738	0.00%	-
Softscape ^[e]	361,656	361,656	0.00%	-
Hardscape ^[f]	722,988	722,988	0.00%	-
Soft Costs	45,365	45,365	0.00%	-
	<u>\$ 2,075,136</u>	<u>\$ 2,075,136</u>		<u>\$ -</u>
<i>Bond Issuance Costs ^[d]</i>				
Debt Service Reserve Fund	\$ 270,688	\$ -		\$ 270,688
Underwriter Discount	104,490	-		104,490
Delinquency & Prepayment Fund	17,415	-		17,415
Cost of Issuance	208,980	-		208,980
	<u>\$ 601,573</u>	<u>\$ -</u>		<u>\$ 601,573</u>
<i>First Year Annual Collection Costs</i>				
Deposit to Administrative Fund	\$ 43,460	-		\$ 43,460
	<u>\$ 43,460</u>	<u>\$ -</u>		<u>\$ 43,460</u>
Total	\$ 7,573,538	\$ 2,075,136		\$ 5,498,402

Footnotes:

[a] Per the Owner the Public and Private Improvements are complete. The Costs were determined by the Engineer's Report attached hereto as **Appendix A**.

[b] Soft Costs include Topographic Survey, Construction Control Staking, Drainage Impact Study, Traffic Impact Analysis, Engineering, Construction Management, Regulatory Plan Review Fees, Permit Fees, Delivery Fees, and District Formation Expenses.

[c] Private Improvements are not eligible for reimbursement by PID Bonds or PID Assessments. See Exhibit G-2 for the Paving and Drainage Private Improvements.

[d] PID Bonds are not being issued at this time. Bond Issuance Costs are illustrated as estimates and subject to change if PID Bonds are issued.

[e] Softscape costs are not eligible for reimbursement by PID Bonds or PID Assessments per the Development Agreement dated August 15, 2022. The Softscape costs are shown as Private Improvements as required by the City Council on August 15, 2022 and include Grading & Drainage, Irrigation, Mulch, Shade Tree, Shrubs & Groundcover and Sod.

[f] Hardscape costs are not eligible for reimbursement by PID Bonds or PID Assessments per the Development Agreement dated August 15, 2022. The Hardscape costs are shown as Private Improvements as required by the City Council on August 15, 2022 and include Grading & Drainage, Pedestrian Concrete Walks, Playground, Fencing, Site Furniture, Outdoor Fitness Stations, Site Utilities, Site Electrical and Site Architecture.

EXHIBIT C – SERVICE PLAN

		District				
Annual Installments Due		1/31/2024	1/31/2025	1/31/2026	1/31/2027	1/31/2028
Principal		\$ 42,154.18	\$ 44,788.82	\$ 47,588.12	\$ 50,562.38	\$ 53,722.52
Interest		\$ 217,687.50	\$ 215,052.86	\$ 212,253.56	\$ 209,279.31	\$ 206,119.16
	(1)	\$ 259,841.68	\$ 259,841.68	\$ 259,841.68	\$ 259,841.68	\$ 259,841.68
Annual Collection Costs	(2)	\$ 43,460.00	\$ 44,329.20	\$ 45,215.78	\$ 46,120.10	\$ 47,042.50
Additional Interest ^[a]	(4)	\$ -	\$ -	\$ -	\$ -	\$ -
Total Annual Installments	(3) = (1) + (2)	\$ 303,301.68	\$ 304,170.88	\$ 305,057.46	\$ 305,961.78	\$ 306,884.18

Footnotes:

[a] PID Bonds are not being issued at this time. The levy is pursuant to the Reimbursement Agreement and Additional Interest will be collected if PID bonds are issued.

EXHIBIT D – SOURCES AND USES OF FUNDS

	District	
Sources of Funds		
Reimbursement Obligation	\$	3,483,000
Developer Contribution ^[a]		2,015,402
Developer Contribution - Private Improvements ^[c]		2,075,136
Total Sources of Funds	\$	7,573,538
Uses of Funds		
Public Improvements	\$	4,853,370
Private Improvements		2,075,136
	\$	6,928,505
<i>Bond Issuance Costs ^[b]</i>		
Debt Service Reserve Fund	\$	270,688
Underwriter Discount		104,490
Delinquency & Prepayment Fund		17,415
Cost of Issuance		208,980
	\$	601,573
<i>First Year Annual Collection Costs</i>		
Deposit to Administrative Fund		43,460
	\$	43,460
Total Uses of Funds	\$	7,573,538

Footnotes:

[a] Non-reimbursable to the Developer through PID Bonds or Assessments.

[b] PID Bonds are not being issued at this time, thus Bond Issuance Costs are estimates of potential future costs and are subject to change if PID Bonds are issued.

[c] Private Improvements will be funded privately by the Developer and are not reimbursable by PID Bonds or Assessments.

EXHIBIT E – MAXIMUM ASSESSMENT AND TAX RATE EQUIVALENT

Lot Type	Units ^[a]	Estimated Buildout Value		Maximum Assessment		Average Annual Installment	
		Per Unit	Total	Per Unit	Total	Per Unit	Total
One	141	\$ 310,000	\$ 43,710,000	\$ 24,702	\$ 3,483,000	\$ 2,263	\$ 319,139
Total	141		43,710,000		\$ 3,483,000		\$ 319,139

Footnotes:

[a] Provided by Owner as of February 3, 2023.

EXHIBIT F-1 – ASSESSMENT ROLL

Property ID	Lot Type	Outstanding Assessment ^[b]	Annual Installment Due 1/31/2024				
			Principal	Interest	Additional Interest	Annual Collection Costs ^[a]	Annual Installment Due 1/31/2024 ^[b]
0440580000104	Initial Parcel	\$ 3,342,974.58	\$ 40,459.48	\$ 208,935.91	\$ -	\$ 41,712.80	\$ 291,108.19
0440580000266	Initial Parcel	\$ 140,025.42	\$ 1,694.70	\$ 8,751.59	\$ -	\$ 1,747.20	\$ 12,193.50
District Total		\$ 3,483,000.00	\$ 42,154.18	\$ 217,687.50	\$ -	\$ 43,460.00	\$ 303,301.68

Footnotes:

[a] Includes \$60 per lot City Development Fee.

[b] The outstanding annual installment is allocated pro rata based on acreage for billing purposes only.

EXHIBIT F-2 – ANNUAL INSTALLMENTS FOR ASSESSMENT ROLL

Installment Due 1/31	Principal	Interest ^[a]	Additional Interest ^[b]	Annual Collection Costs	Additional Interest ^[b]	Total Annual Installment Due ^[c]
2024	\$ 42,154.18	\$ 217,687.50	-	\$ 43,460.00	\$ -	\$ 303,301.68
2025	\$ 44,788.82	\$ 215,052.86	-	\$ 44,329.20	\$ -	\$ 304,170.88
2026	\$ 47,588.12	\$ 212,253.56	-	\$ 45,215.78	\$ -	\$ 305,057.46
2027	\$ 50,562.38	\$ 209,279.31	-	\$ 46,120.10	\$ -	\$ 305,961.78
2028	\$ 53,722.52	\$ 206,119.16	-	\$ 47,042.50	\$ -	\$ 306,884.18
2029	\$ 57,080.18	\$ 202,761.50	-	\$ 47,983.35	\$ -	\$ 307,825.03
2030	\$ 60,647.69	\$ 199,193.99	-	\$ 48,943.02	\$ -	\$ 308,784.70
2031	\$ 64,438.17	\$ 195,403.51	-	\$ 49,921.88	\$ -	\$ 309,763.56
2032	\$ 68,465.56	\$ 191,376.12	-	\$ 50,920.32	\$ -	\$ 310,762.00
2033	\$ 72,744.66	\$ 187,097.02	-	\$ 51,938.72	\$ -	\$ 311,780.40
2034	\$ 77,291.20	\$ 182,550.48	-	\$ 52,977.50	\$ -	\$ 312,819.18
2035	\$ 82,121.90	\$ 177,719.78	-	\$ 54,037.05	\$ -	\$ 313,878.73
2036	\$ 87,254.52	\$ 172,587.16	-	\$ 55,117.79	\$ -	\$ 314,959.47
2037	\$ 92,707.92	\$ 167,133.76	-	\$ 56,220.14	\$ -	\$ 316,061.83
2038	\$ 98,502.17	\$ 161,339.51	-	\$ 57,344.55	\$ -	\$ 317,186.23
2039	\$ 104,658.56	\$ 155,183.13	-	\$ 58,491.44	\$ -	\$ 318,333.12
2040	\$ 111,199.72	\$ 148,641.97	-	\$ 59,661.27	\$ -	\$ 319,502.95
2041	\$ 118,149.70	\$ 141,691.98	-	\$ 60,854.49	\$ -	\$ 320,696.17
2042	\$ 125,534.05	\$ 134,307.63	-	\$ 62,071.58	\$ -	\$ 321,913.26
2043	\$ 133,379.93	\$ 126,461.75	-	\$ 63,313.01	\$ -	\$ 323,154.69
2044	\$ 141,716.18	\$ 118,125.50	-	\$ 64,579.27	\$ -	\$ 324,420.95
2045	\$ 150,573.44	\$ 109,268.24	-	\$ 65,870.86	\$ -	\$ 325,712.54
2046	\$ 159,984.28	\$ 99,857.40	-	\$ 67,188.28	\$ -	\$ 327,029.96
2047	\$ 169,983.30	\$ 89,858.38	-	\$ 68,532.04	\$ -	\$ 328,373.72
2048	\$ 180,607.25	\$ 79,234.43	-	\$ 69,902.68	\$ -	\$ 329,744.36
2049	\$ 191,895.21	\$ 67,946.48	-	\$ 71,300.74	\$ -	\$ 331,142.42
2050	\$ 203,888.66	\$ 55,953.03	-	\$ 72,726.75	\$ -	\$ 332,568.43
2051	\$ 216,631.70	\$ 43,209.98	-	\$ 74,181.29	\$ -	\$ 334,022.97
2052	\$ 230,171.18	\$ 29,670.50	-	\$ 75,664.91	\$ -	\$ 335,506.59
2053	\$ 244,556.88	\$ 15,284.80	-	\$ 77,178.21	\$ -	\$ 337,019.89
Total	\$ 3,483,000.00	\$ 4,312,250.43	\$ -	\$ 1,763,088.72	\$ -	\$ 9,558,339.15

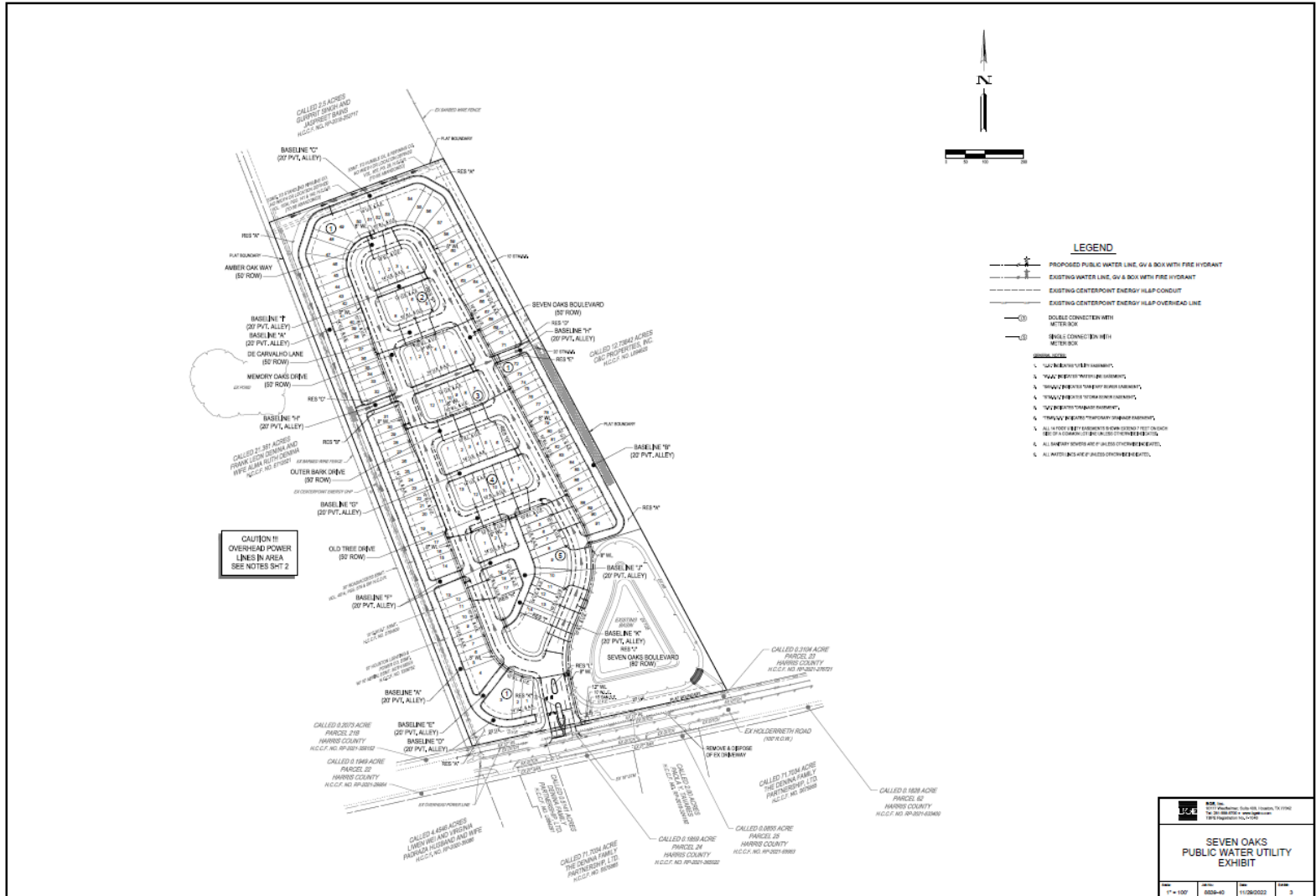
Footnotes:

[a] Interest is calculated at a rate of 6.25% which is less than 2% above the S&P Municipal Bond High Yield Index, which was 5.92% as of March 6, 2023, as required by the PID Act. If PID Bonds are issued, the interest rate on the Assessment will adjust to the interest rate on the Bonds plus the Additional Interest.

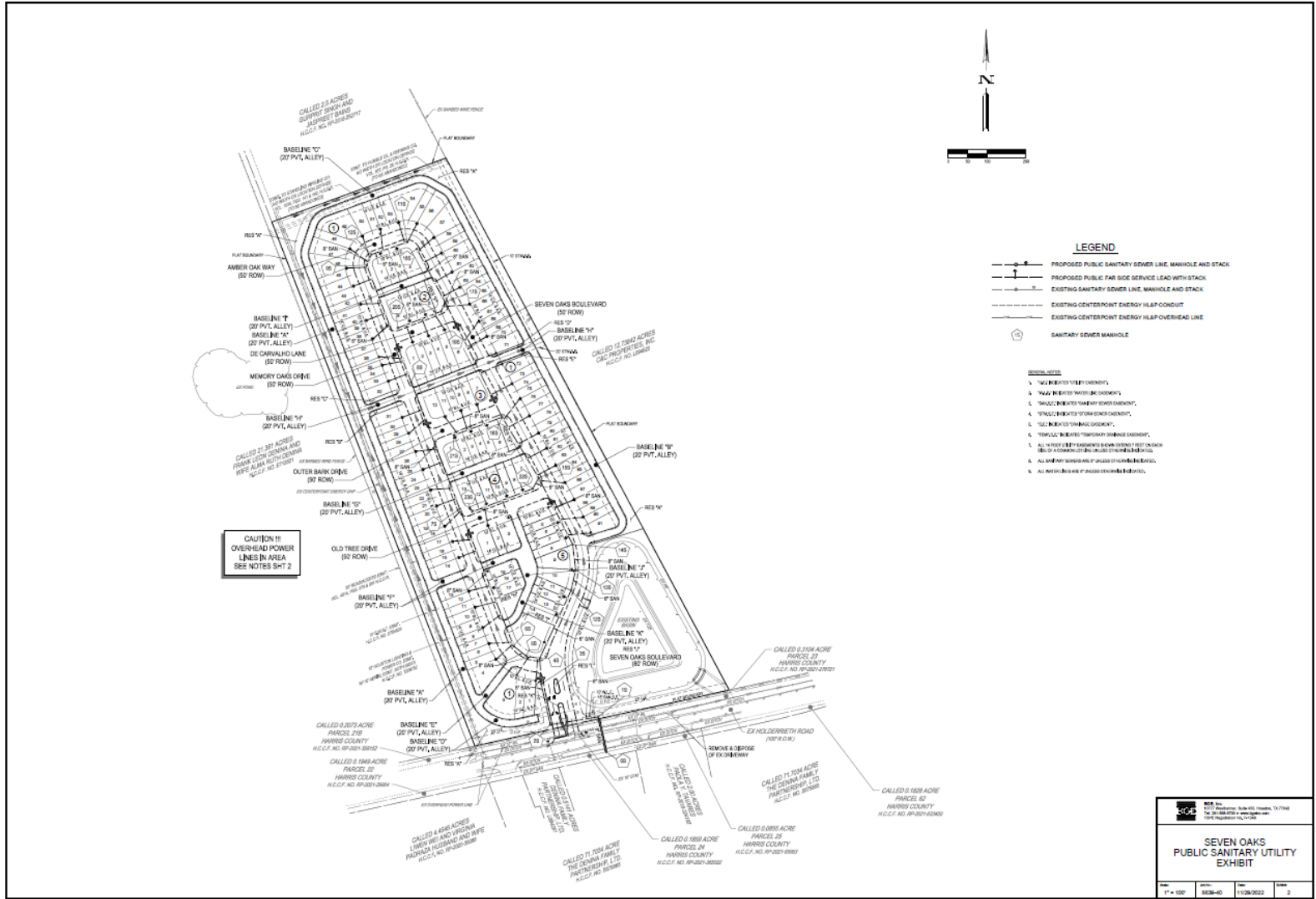
[b] Additional Interest will be collected if PID Bonds are issued.

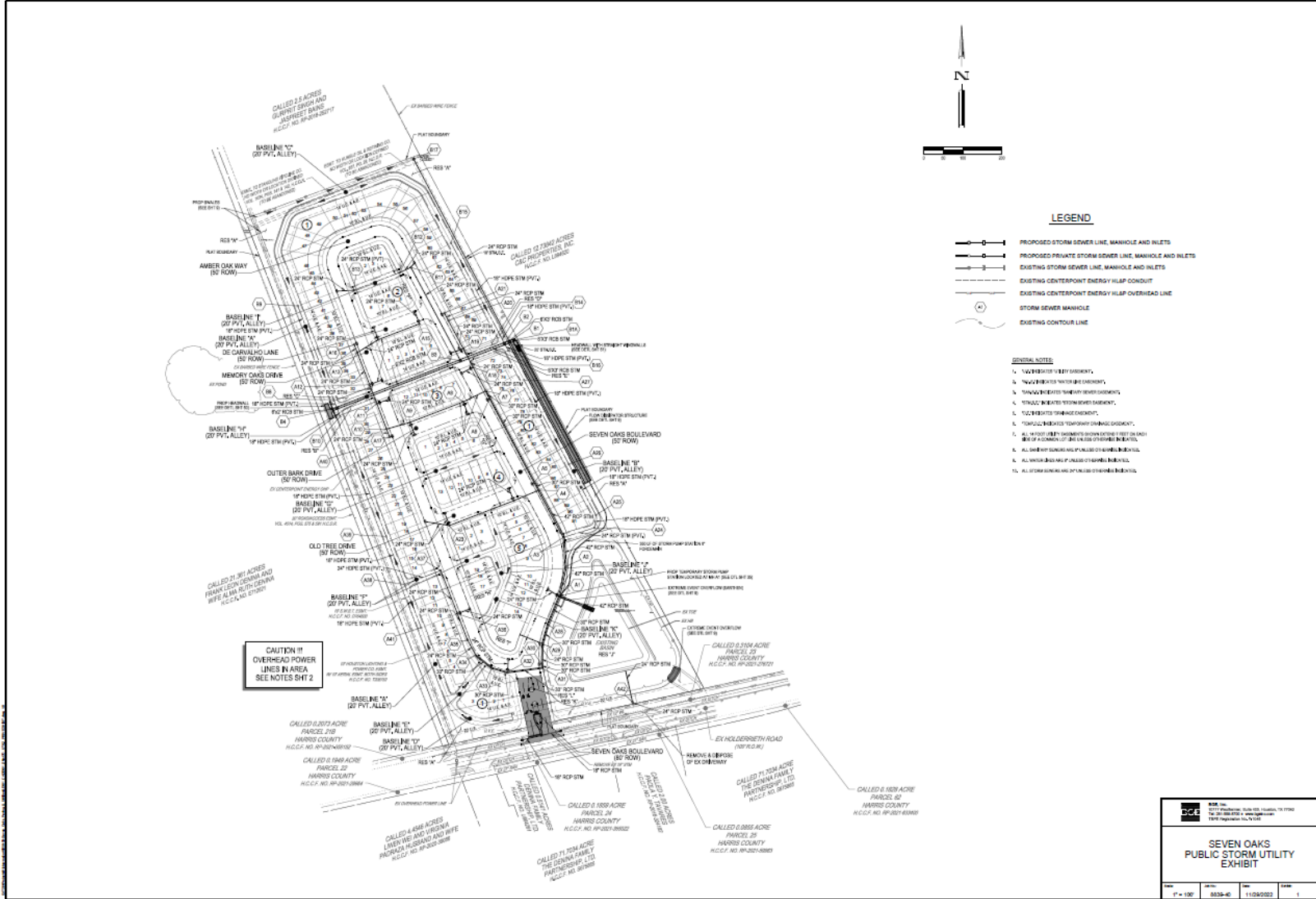
[c] The figures shown above are estimates only and subject to change in Annual Service Plan Updates. Changes in Annual Collection Costs, Additional Interest, or other available offsets could increase or decrease the amounts shown.

EXHIBIT G-1 – MAPS OF PUBLIC IMPROVEMENTS



FILE NAME: C:\Users\j\OneDrive\Documents\Projects\7-11-2022\11-03.dwg
 FILE TITLE: B.E.C.-099-2018-4
 PLOT DATE: 11/17/2022 11:03 AM





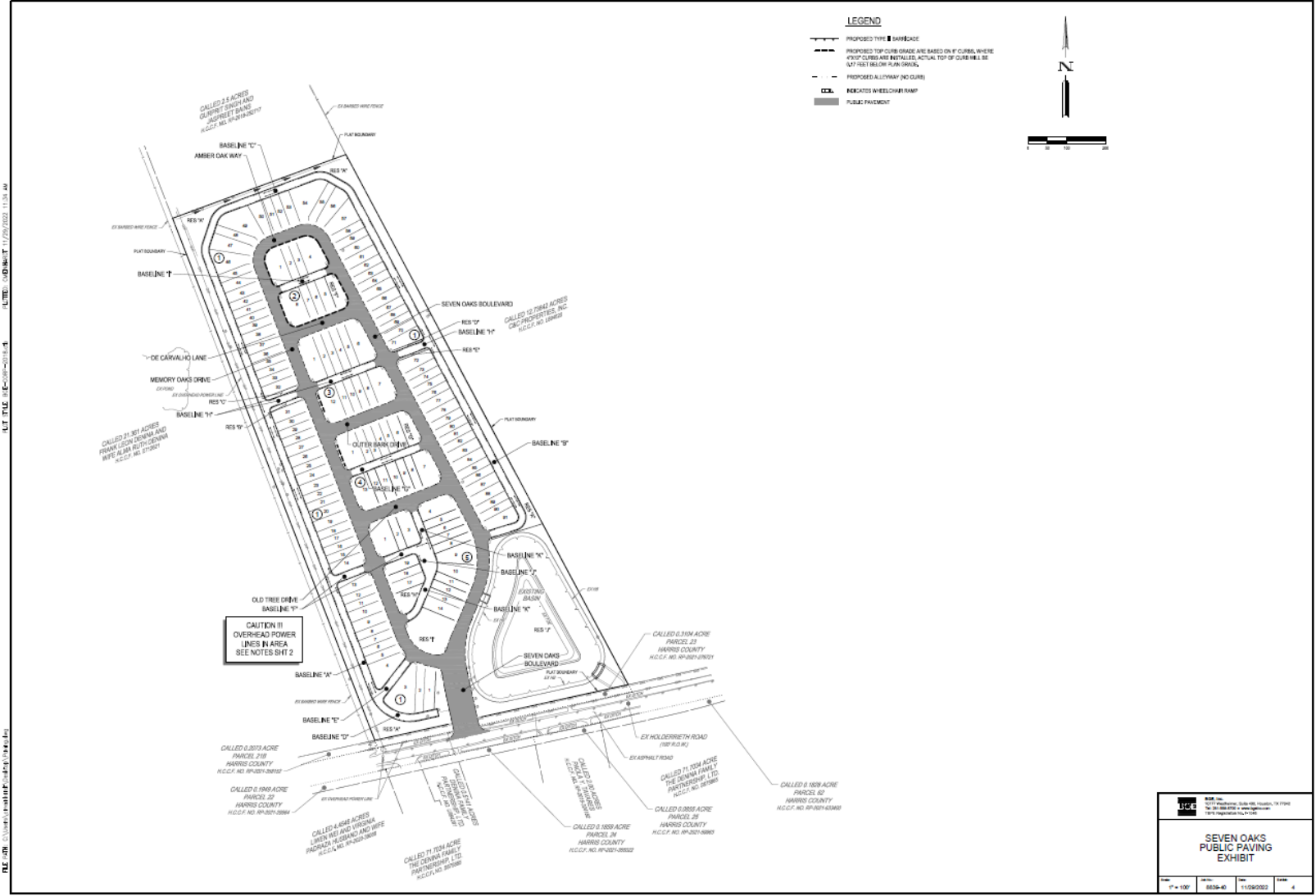
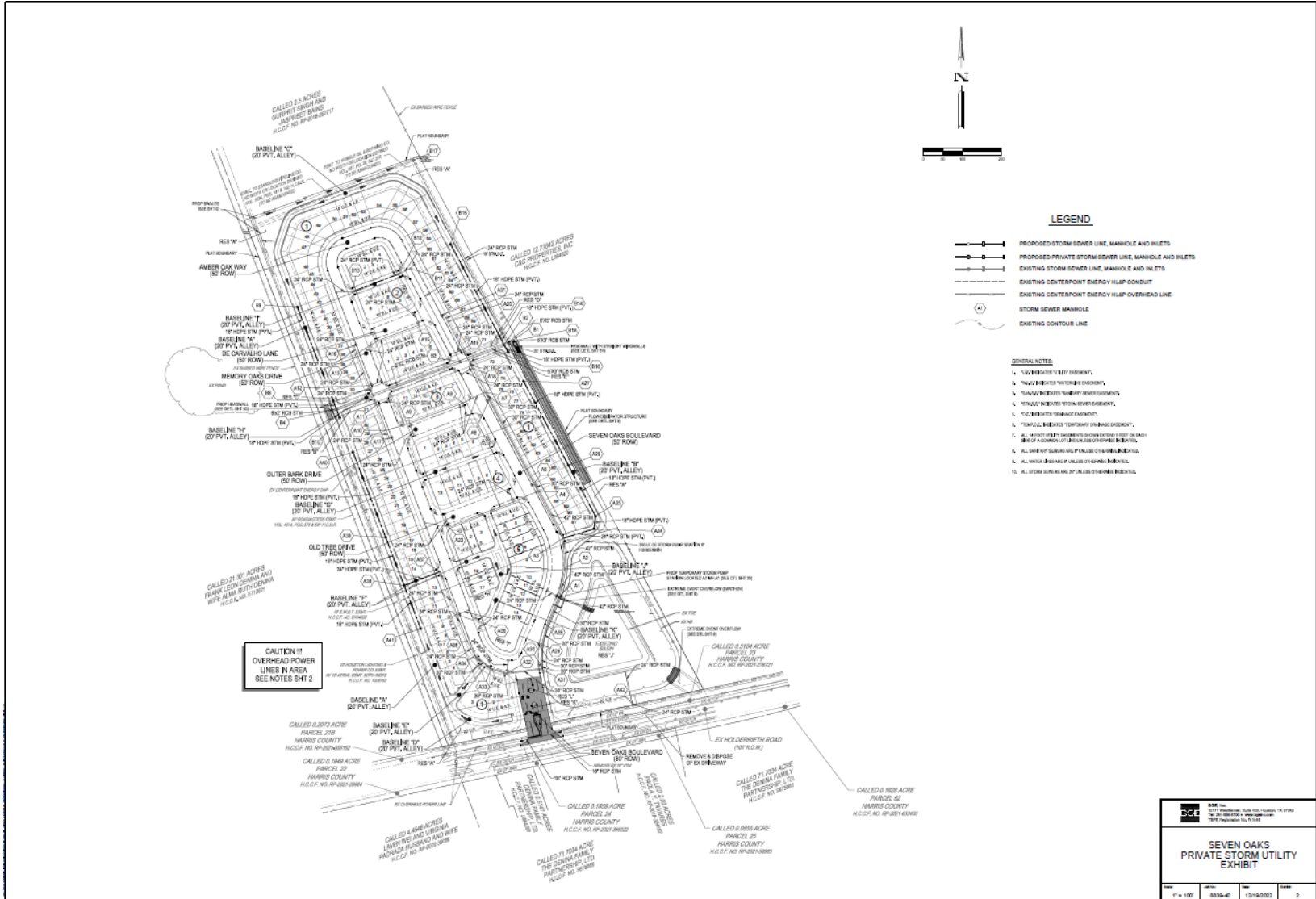


EXHIBIT G-2 – MAPS OF PRIVATE IMPROVEMENTS



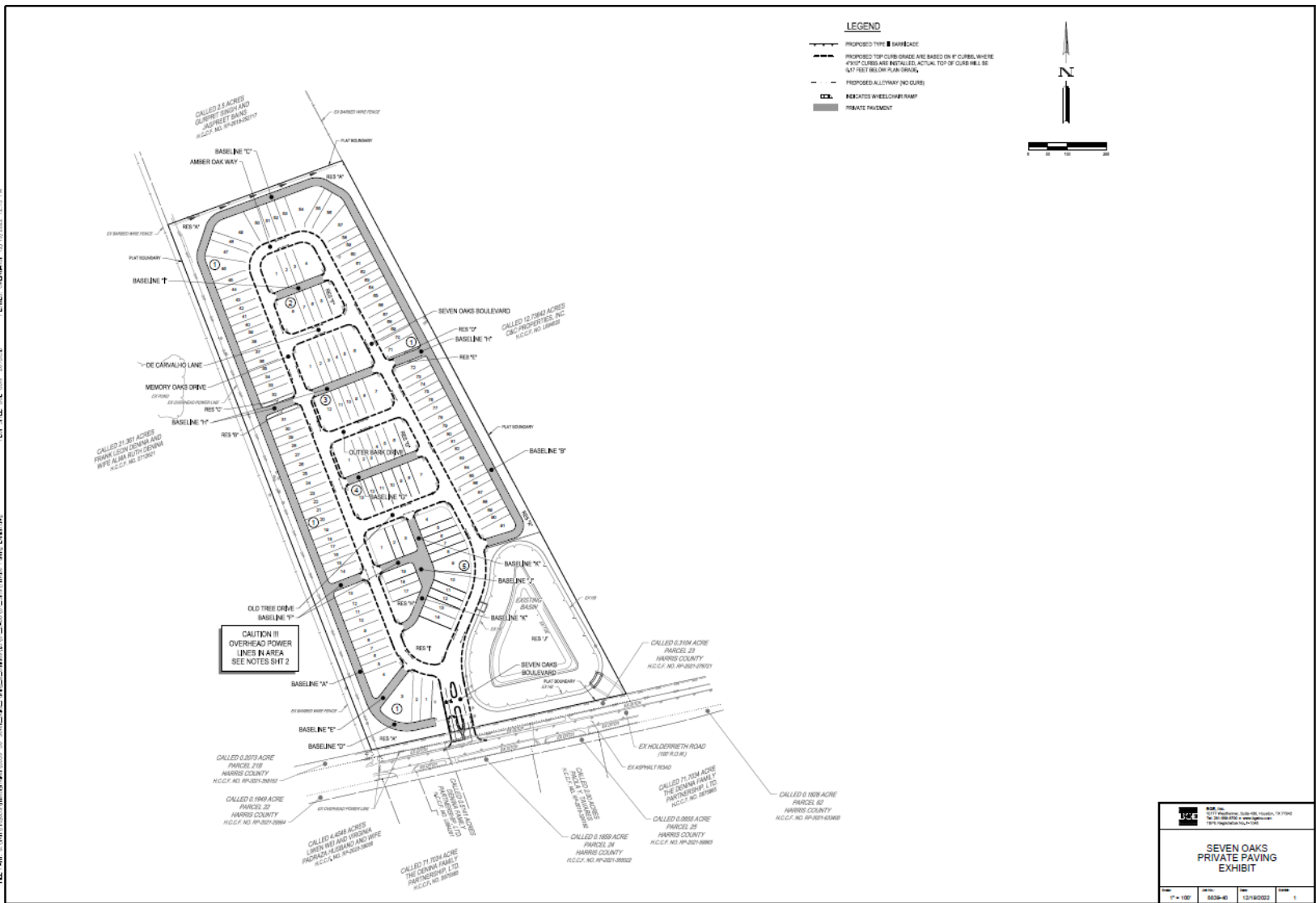


EXHIBIT H – FORM OF NOTICE OF ASSESSMENT TERMINATION



P3Works, LLC
9284 Huntington Square, Suite 100
North Richland Hills, TX 76182

[Date]
Harris County Civil Courthouse
[County Clerk Name]
P.O. Box 4622
Houston, Texas 77210-4622

Re: City of Tomball Lien Release documents for filing

Dear Ms./Mr. [County Clerk Name],

Enclosed is a lien release that the City of Tomball is requesting to be filed in your office. Lien release for [insert legal description]. Recording Numbers: [Plat]. Please forward copies of the filed documents below:

City of Tomball
Attn: City Secretary
401 Market Street
Tomball, Texas 77375

Please contact me if you have any questions or need additional information.

Sincerely,
[Signature]

P3Works, LLC
P: (817)393-0353
admin@p3-works.com

WHEREAS, the property owners of the Property have paid unto the City the Lien Amount.

RELEASE

NOW THEREFORE, the City, the owner and holder of the Lien, as established by Ordinance No. _____, which levied the Assessment in the amount of the Lien Amount against the Property releases and discharges, and by these presents does hereby release and discharge, the above-described Property from said lien held by the undersigned securing said indebtedness.

EXECUTED to be **EFFECTIVE** this the ____ day of _____, 20__.

CITY OF TOMBALL, TEXAS,

By: _____
[Name], [Title]

ATTEST:

[Secretary Name], City Secretary

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the ____ day of _____, 20__, by [Name], [Title] for the City of Tomball, Texas, on behalf of said municipality.

Notary Public, State of Texas

EXHIBIT I – LEGAL DESCRIPTION

Being a 19.34 acre (842,341 square foot) tract of land situated in the C. Pillot survey, Abstract No. 632 City of Tomball of Harris County, Texas and being the remainder of a called 5.0000 acre tract of land as described in an instrument to Franklin L. Cox and wife Karen M. Cox recorded under Harris County Clerk's File Number (H.C.C.F. No.) N337110, all of a called 2.0000 acre tract of land as described in an instrument to Franklin L. Cox and wife Karen M. Cox recorded under H.C.C.F. No. N325685 and the remainder of a called 22.1454 acre tract as described in an instrument to Franklin L. Cox and wife Karen M. Cox recorded under H.C.C.F. No. M269425, said 19.34 acre tract of land described by metes and bounds as follows, with all bearings based on the Texas coordinate system of 1983 (NAD83), South Central Zone 4204 and referenced to monuments found along the north right-of-Way line of Holderrieth Road as cited herein and as shown on a survey plat of even date prepared by the undersigned in conjunction with this metes and bounds description:

BEGINNING at a 5/8-Inch iron rod with cap stamped "GORRONDONA & ASSOC." found for the southwest corner of the herein described tract, lying on the north right-of-way line of Holderrieth Road (80 feet wide), said point being the northwest corner of a called 0.3104 acre tract (Parcel 23) as described in an instrument to Harris County recorded under H.C.C.F. No. RP-2021-276721 for the widening of said Holderrieth Road, same being the northeast corner of a called 0.2073 acre tract (Parcel 21B) as described in an instrument to Harris County recorded under H.C.C.F. No. RP-2021-358152, from which a 5/8-inch iron rod with cap stamped "EE COON" bears S 21°13' E, 20.75 feet, found for the southwest corner of said 22.1454 acre tract and the southeast corner of a called 21.361 acre tract as described in an instrument to Frank Leon Denina and wife Alma Ruth Denina recorded under H.C.C.F. No. E712621, Thence, N 21°13'03" W, along and with the common line of said 21.361 acre tract and said 22.1454 acre tract, at a distance of 1,216.08 feet passing a 2-Inch iron pipe found for the southwest corner of said 2.0000 acre tract and continuing for a total distance of 1,442.32 feet to a 1/2-Inch iron rod inside a 5-Inch metal pipe found for the northwest corner of the herein described tract and the southwest corner of a called 2.5 acre tract as described in an instrument to Gurprit Singh and Jaspreet Bains recorded under H.C.C.F. No. RP-2018-252717;

THENCE, N 69°48'38" E, along and with the southerly line of said 2.5 acre tract, a distance of 476.61 feet to a 1/2-Inch iron pipe with cap stamped "BGE INC" set for the northeast corner of the herein described tract and the southeast corner of said 2.5 acre tract, lying on the east line of said 22.1454 acre tract, same being the west line of a called 12.73942 acre tract as describe in an instrument to C & C Properties, Inc. recorded under H.C.C.F. No. L894620;

THENCE, S 28°04'44" E, along and with the common line of said 22.1454 acre tract and said 12.73942 acre tract, a distance of 1,547.71 feet to a 1/2-Inch iron pipe with cap stamped "BGE INC" set for the southeast corner of the herein described tract and the northeast corner of said 0.3104 acre tract (Parcel 23), lying on the north right-of-way line of said Holderrieth Road, from which a 5/8-Inch iron rod with cap stamped "EE COON" bears S 25°56' E, 20.9 feet, found for the common south corner of said 22.1454 acre tract and said 12.73942 acre tract;

THENCE, S 77°37'17" W, along and with the north right-of-way line of said Holderrieth Road, same being the north line of said 0.3104 acre tract (Parcel 23), a distance of 669.39 feet to the POINT OF BEGINNING and containing 19.34 acres (842,341 square feet) of land, more or less.

006394.000008\4865-0975-1837.v1

APPENDIX A – DISTRICT ENGINEER’S REPORT



HMH Lifestyles LP (dba Historymaker Homes)

**Seven Oaks Development
Public Improvement District
Reimbursement Costs Summary**

November 22, 2022

<u>Construction Contracts</u>			<u>Pro Rata Share</u>	<u>Notes</u>
Clearing and Grubbing				
	Public Share	\$118,005.00	100.00%	(1)
	Private Share	<u>\$0.00</u>	0.00%	
	Subtotal	\$118,005.00		
Retention and Grading				
	Public Share	\$338,650.30	100.00%	(2)
	Private Share	<u>\$0.00</u>	0.00%	
	Subtotal	\$338,650.30		
Water, Sanitary Sewer & Drainage				
	Public Facilities	<u>\$2,812,261.55</u>	94.28%	(3)
	Water	\$340,222.43		
	Sanitary Sewer	\$657,228.74		
	Drainage	\$1,814,810.38		
	Private Facilities	<u>\$170,738.45</u>	5.72%	
	Water	\$0.00		
	Sanitary Sewer	\$0.00		
	Drainage	\$170,738.45		
	Subtotal	\$2,983,000.00		
Reinforced Concrete Paving				
	Public Facilities	\$1,176,127.75	60.30%	(4)
	Private Facilities	<u>\$774,388.00</u>	39.70%	
	Subtotal	\$1,950,515.75		
Holderrith & Seven Oaks Blvd Intersection Paving				
	Public Facilities	\$49,190.00		(5)
	Private Facilities	<u>\$0.00</u>		
	Subtotal	\$49,190.00		
			<u>Pro Rata Share</u>	
	Total Construction Costs - Public	\$4,494,234.60	82.62%	
	Total Construction Costs - Private	<u>\$945,126.45</u>	17.38%	
	Total Construction Costs	\$5,439,361.05		

<u>Engineering Fees</u>		<u>Public Share</u>	<u>Private Share</u>	<u>Notes</u>
1. Design Phase Services				
	Clearing and Grubbing	\$6,000.00	\$6,000.00	\$0.00 (6)
	Detention & Grading	\$40,000.00	\$40,000.00	\$0.00 (6)
	Water, Sewer and Drainage	\$95,000.00	\$89,562.47	\$5,437.53 (6)
	Streets and Alleys	\$60,000.00	\$36,178.98	\$23,821.02 (6)
	Holderrieth & Seven Oaks Blvd Intersection Paving	<u>\$12,000.00</u>	<u>\$12,000.00</u>	<u>\$0.00</u> (6)
	Subtotal	\$213,000.00	\$183,741.45	\$29,258.55
2. Construction Phase Services				
	Detention & Grading	\$11,500.00	\$11,500.00	\$0.00 (6)
	Water, Sewer and Drainage	\$22,500.00	\$21,212.16	\$1,287.84 (6)
	Streets and Alleys	<u>\$15,000.00</u>	<u>\$9,044.74</u>	<u>\$5,955.26</u> (6)
	Subtotal	\$49,000.00	\$41,756.91	\$7,243.09
3. Surveying Services				
	Topographic Survey	\$10,000.00	\$10,000.00	\$0.00 (6)
	Construction Control Staking	<u>\$15,000.00</u>	<u>\$15,000.00</u>	<u>\$0.00</u> (6)
	Subtotal	\$25,000.00	\$25,000.00	\$0.00
4. Project Representation				
	Detention & Grading	\$14,000.00	\$14,000.00	\$0.00 (6)
	Water, Sewer and Drainage	\$30,000.00	\$28,282.89	\$1,717.11 (6)
	Streets and Alleys	<u>\$18,000.00</u>	<u>\$10,853.69</u>	<u>\$7,146.31</u> (6)
	Subtotal	\$62,000.00	\$53,136.58	\$8,863.42
5. Additional Services				
	Drainage Impact Study	\$19,500.00	\$19,500.00	\$0.00 (6)
	Traffic Impact Analysis	\$20,000.00	\$20,000.00	\$0.00 (6)
	Reimbursable Expenses	<u>\$16,000.00</u>	<u>\$16,000.00</u>	<u>\$0.00</u> (6)
	Subtotal	\$55,500.00	\$55,500.00	\$0.00
	Total Engineering Fees	\$404,500.00	\$359,134.93	\$45,365.07
	Grand Total Public	\$4,853,369.53		
	Grand Total Private	\$990,491.52		

Notes:

1. Construction amounts shown are reflected in attached Seven Oaks Basin and Mass Grading Final Pay Estimate.
2. Construction amounts shown are reflected in attached Seven Oaks Clearing and Grubbing Final Pay Estimate.
3. Construction amounts shown are reflected in attached Seven Oaks Holderrieth Water, Sanitary and Storm Facilities Bid Tabulation.
4. Construction amounts shown are reflected in attached Seven Oaks Holderrieth Reinforced Concrete Paving Bid Tabulation.
5. Construction amounts shown are reflected in attached Holderrieth & Seven Oaks Blvd Intersection Paving Cost Estimate.
6. Engineering fee shown per executed proposals attached.



11/28/2022

Darrin Fentress

APPENDIX B – BUYER DISCLOSURES

Buyer disclosures for the following Lot Types are found in this Appendix:

- Initial Parcel
- Lot Type 1

**SEVEN OAKS PUBLIC IMPROVEMENT DISTRICT – INITIAL PARCEL BUYER
DISCLOSURE**

NOTICE OF OBLIGATIONS RELATED TO PUBLIC IMPROVEMENT DISTRICT

A person who proposes to sell or otherwise convey real property that is located in a public improvement district established under Subchapter A, Chapter 372, Local Government Code (except for public improvement districts described under Section 372.0035), or Chapter 382, Local Government Code, shall first give to the purchaser of the property this written notice, signed by the seller.

For the purposes of this notice, a contract for the purchase and sale of real property having a performance period of less than six months is considered a sale requiring the notice set forth below.

This notice requirement does not apply to a transfer:

- 1) under a court order or foreclosure sale;
- 2) by a trustee in bankruptcy;
- 3) to a mortgagee by a mortgagor or successor in interest or to a beneficiary of a deed of trust by a trustor or successor in interest;
- 4) by a mortgagee or a beneficiary under a deed of trust who has acquired the land at a sale conducted under a power of sale under a deed of trust or a sale under a court-ordered foreclosure or has acquired the land by a deed in lieu of foreclosure;
- 5) by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust;
- 6) from one co-owner to another co-owner of an undivided interest in the real property;
- 7) to a spouse or a person in the lineal line of consanguinity of the seller;
- 8) to or from a governmental entity; or
- 9) of only a mineral interest, leasehold interest, or security interest

The following notice shall be given to a prospective purchaser before the execution of a binding contract of purchase and sale, either separately or as an addendum or paragraph of a purchase contract. In the event a contract of purchase and sale is entered into without the seller having provided the required notice, the purchaser, subject to certain exceptions, is entitled to terminate the contract.

A separate copy of this notice shall be executed by the seller and the purchaser and must be filed in the real property records of the county in which the property is located at the closing of the purchase and sale of the property.

AFTER RECORDING¹ RETURN TO:

NOTICE OF OBLIGATION TO PAY IMPROVEMENT DISTRICT ASSESSMENT TO
TOMBALL, TEXAS
CONCERNING THE FOLLOWING PROPERTY

PROPERTY ADDRESS

INITIAL PARCEL PRINCIPAL ASSESSMENT: \$3,483,000.00

As the purchaser of the real property described above, you are obligated to pay assessments to Tomball, Texas, for the costs of a portion of a public improvement or services project (the "Authorized Improvements") undertaken for the benefit of the property within the *Seven Oaks Public Improvement District* (the "District") created under Subchapter A, Chapter 372, Local Government Code.

AN ASSESSMENT HAS BEEN LEVIED AGAINST YOUR PROPERTY FOR THE AUTHORIZED IMPROVEMENTS, WHICH MAY BE PAID IN FULL AT ANY TIME. IF THE ASSESSMENT IS NOT PAID IN FULL, IT WILL BE DUE AND PAYABLE IN ANNUAL INSTALLMENTS THAT WILL VARY FROM YEAR TO YEAR DEPENDING ON THE AMOUNT OF INTEREST PAID, COLLECTION COSTS, ADMINISTRATIVE COSTS, AND DELINQUENCY COSTS.

The exact amount of the assessment may be obtained from the City of Tomball. The exact amount of each annual installment will be approved each year by the Tomball City Council in the annual service plan update for the district. More information about the assessments, including the amounts and due dates, may be obtained from the City of Tomball.

Your failure to pay any assessment or any annual installment may result in penalties and interest being added to what you owe or in a lien on and the foreclosure of your property.

¹ To be included in separate copy of the notice required by Section 5.0143, Tex. Prop. Code, to be executed at the closing of the purchase and sale and to be recorded in the deed records of Harris County when updating for the Current Information of Obligation to Pay Improvement District Assessment.

[The undersigned purchaser acknowledges receipt of this notice before the effective date of a binding contract for the purchase of the real property at the address described above.

DATE:

DATE:

SIGNATURE OF PURCHASER

SIGNATURE OF PURCHASER

The undersigned seller acknowledges providing this notice to the potential purchaser before the effective date of a binding contract for the purchase of the real property at the address described above.

DATE:

DATE:

SIGNATURE OF SELLER

SIGNATURE OF SELLER]²

² To be included in copy of the notice required by Section 5.014, Tex. Prop. Code, to be executed by seller in accordance with Section 5.014(a-1), Tex. Prop. Code.

[The undersigned purchaser acknowledges receipt of this notice before the effective date of a binding contract for the purchase of the real property at the address described above. The undersigned purchaser acknowledged the receipt of this notice including the current information required by Section 5.0143, Texas Property Code, as amended.

DATE:

DATE:

SIGNATURE OF PURCHASER

SIGNATURE OF PURCHASER

STATE OF TEXAS

§

COUNTY OF HARRIS

§

§

The foregoing instrument was acknowledged before me by _____ and _____, known to me to be the person(s) whose name(s) is/are subscribed to the foregoing instrument, and acknowledged to me that he or she executed the same for the purposes therein expressed.

Given under my hand and seal of office on this _____, 20__.

Notary Public, State of Texas]³

³ To be included in separate copy of the notice required by Section 5.0143, Tex. Prop. Code, to be executed at the closing of the purchase and sale and to be recorded in the deed records of Harris County.

[The undersigned seller acknowledges providing a separate copy of the notice required by Section 5.014 of the Texas Property Code including the current information required by Section 5.0143, Texas Property Code, as amended, at the closing of the purchase of the real property at the address above.

DATE:

DATE:

SIGNATURE OF SELLER

SIGNATURE OF SELLER

STATE OF TEXAS

§

§

COUNTY OF HARRIS

§

The foregoing instrument was acknowledged before me by _____ and _____, known to me to be the person(s) whose name(s) is/are subscribed to the foregoing instrument, and acknowledged to me that he or she executed the same for the purposes therein expressed.

Given under my hand and seal of office on this _____, 20__.

Notary Public, State of Texas]⁴

⁴ To be included in separate copy of the notice required by Section 5.0143, Tex. Prop. Code, to be executed at the closing of the purchase and sale and to be recorded in the deed records of Harris County.

ANNUAL INSTALLMENTS - INITIAL PARCEL

Installment Due 1/31	Principal	Interest ^[a]	Additional Interest ^[b]	Annual Collection Costs	Additional Interest ^[b]	Total Annual Installment Due ^[c]
2024	\$ 42,154.18	\$ 217,687.50	-	\$ 43,460.00	\$ -	\$ 303,301.68
2025	\$ 44,788.82	\$ 215,052.86	-	\$ 44,329.20	\$ -	\$ 304,170.88
2026	\$ 47,588.12	\$ 212,253.56	-	\$ 45,215.78	\$ -	\$ 305,057.46
2027	\$ 50,562.38	\$ 209,279.31	-	\$ 46,120.10	\$ -	\$ 305,961.78
2028	\$ 53,722.52	\$ 206,119.16	-	\$ 47,042.50	\$ -	\$ 306,884.18
2029	\$ 57,080.18	\$ 202,761.50	-	\$ 47,983.35	\$ -	\$ 307,825.03
2030	\$ 60,647.69	\$ 199,193.99	-	\$ 48,943.02	\$ -	\$ 308,784.70
2031	\$ 64,438.17	\$ 195,403.51	-	\$ 49,921.88	\$ -	\$ 309,763.56
2032	\$ 68,465.56	\$ 191,376.12	-	\$ 50,920.32	\$ -	\$ 310,762.00
2033	\$ 72,744.66	\$ 187,097.02	-	\$ 51,938.72	\$ -	\$ 311,780.40
2034	\$ 77,291.20	\$ 182,550.48	-	\$ 52,977.50	\$ -	\$ 312,819.18
2035	\$ 82,121.90	\$ 177,719.78	-	\$ 54,037.05	\$ -	\$ 313,878.73
2036	\$ 87,254.52	\$ 172,587.16	-	\$ 55,117.79	\$ -	\$ 314,959.47
2037	\$ 92,707.92	\$ 167,133.76	-	\$ 56,220.14	\$ -	\$ 316,061.83
2038	\$ 98,502.17	\$ 161,339.51	-	\$ 57,344.55	\$ -	\$ 317,186.23
2039	\$ 104,658.56	\$ 155,183.13	-	\$ 58,491.44	\$ -	\$ 318,333.12
2040	\$ 111,199.72	\$ 148,641.97	-	\$ 59,661.27	\$ -	\$ 319,502.95
2041	\$ 118,149.70	\$ 141,691.98	-	\$ 60,854.49	\$ -	\$ 320,696.17
2042	\$ 125,534.05	\$ 134,307.63	-	\$ 62,071.58	\$ -	\$ 321,913.26
2043	\$ 133,379.93	\$ 126,461.75	-	\$ 63,313.01	\$ -	\$ 323,154.69
2044	\$ 141,716.18	\$ 118,125.50	-	\$ 64,579.27	\$ -	\$ 324,420.95
2045	\$ 150,573.44	\$ 109,268.24	-	\$ 65,870.86	\$ -	\$ 325,712.54
2046	\$ 159,984.28	\$ 99,857.40	-	\$ 67,188.28	\$ -	\$ 327,029.96
2047	\$ 169,983.30	\$ 89,858.38	-	\$ 68,532.04	\$ -	\$ 328,373.72
2048	\$ 180,607.25	\$ 79,234.43	-	\$ 69,902.68	\$ -	\$ 329,744.36
2049	\$ 191,895.21	\$ 67,946.48	-	\$ 71,300.74	\$ -	\$ 331,142.42
2050	\$ 203,888.66	\$ 55,953.03	-	\$ 72,726.75	\$ -	\$ 332,568.43
2051	\$ 216,631.70	\$ 43,209.98	-	\$ 74,181.29	\$ -	\$ 334,022.97
2052	\$ 230,171.18	\$ 29,670.50	-	\$ 75,664.91	\$ -	\$ 335,506.59
2053	\$ 244,556.88	\$ 15,284.80	-	\$ 77,178.21	\$ -	\$ 337,019.89
Total	\$ 3,483,000.00	\$ 4,312,250.43	\$ -	\$ 1,763,088.72	\$ -	\$ 9,558,339.15

Footnotes:

[a] Interest is calculated at a rate of 6.25% which is less than 2% above the S&P Municipal Bond High Yield Index, which was 5.92% as of March 6, 2023, as required by the PID Act. If PID Bonds are issued, the interest rate on the Assessment will adjust to the interest rate on the Bonds plus the Additional Interest.

[b] Additional Interest will be collected if PID Bonds are issued.

[c] The figures shown above are estimates only and subject to change in Annual Service Plan Updates. Changes in Annual Collection Costs, Additional Interest, or other available offsets could increase or decrease the amounts shown.

SEVEN OAKS PUBLIC IMPROVEMENT DISTRICT – LOT TYPE 1 BUYER DISCLOSURE

NOTICE OF OBLIGATIONS RELATED TO PUBLIC IMPROVEMENT DISTRICT

A person who proposes to sell or otherwise convey real property that is located in a public improvement district established under Subchapter A, Chapter 372, Local Government Code (except for public improvement districts described under Section 372.0035), or Chapter 382, Local Government Code, shall first give to the purchaser of the property this written notice, signed by the seller.

For the purposes of this notice, a contract for the purchase and sale of real property having a performance period of less than six months is considered a sale requiring the notice set forth below.

This notice requirement does not apply to a transfer:

- 1) under a court order or foreclosure sale;
- 2) by a trustee in bankruptcy;
- 3) to a mortgagee by a mortgagor or successor in interest or to a beneficiary of a deed of trust by a trustor or successor in interest;
- 4) by a mortgagee or a beneficiary under a deed of trust who has acquired the land at a sale conducted under a power of sale under a deed of trust or a sale under a court-ordered foreclosure or has acquired the land by a deed in lieu of foreclosure;
- 5) by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust;
- 6) from one co-owner to another co-owner of an undivided interest in the real property;
- 7) to a spouse or a person in the lineal line of consanguinity of the seller;
- 8) to or from a governmental entity; or
- 9) of only a mineral interest, leasehold interest, or security interest

The following notice shall be given to a prospective purchaser before the execution of a binding contract of purchase and sale, either separately or as an addendum or paragraph of a purchase contract. In the event a contract of purchase and sale is entered into without the seller having provided the required notice, the purchaser, subject to certain exceptions, is entitled to terminate the contract.

A separate copy of this notice shall be executed by the seller and the purchaser and must be filed in the real property records of the county in which the property is located at the closing of the purchase and sale of the property.

AFTER RECORDING¹ RETURN TO:

NOTICE OF OBLIGATION TO PAY IMPROVEMENT DISTRICT ASSESSMENT TO
TOMBALL, TEXAS
CONCERNING THE FOLLOWING PROPERTY

PROPERTY ADDRESS

LOT TYPE 1 PRINCIPAL ASSESSMENT: \$24,702.13

As the purchaser of the real property described above, you are obligated to pay assessments to Tomball, Texas, for the costs of a portion of a public improvement or services project (the "Authorized Improvements") undertaken for the benefit of the property within the *Seven Oaks Public Improvement District* (the "District") created under Subchapter A, Chapter 372, Local Government Code.

AN ASSESSMENT HAS BEEN LEVIED AGAINST YOUR PROPERTY FOR THE AUTHORIZED IMPROVEMENTS, WHICH MAY BE PAID IN FULL AT ANY TIME. IF THE ASSESSMENT IS NOT PAID IN FULL, IT WILL BE DUE AND PAYABLE IN ANNUAL INSTALLMENTS THAT WILL VARY FROM YEAR TO YEAR DEPENDING ON THE AMOUNT OF INTEREST PAID, COLLECTION COSTS, ADMINISTRATIVE COSTS, AND DELINQUENCY COSTS.

The exact amount of the assessment may be obtained from the City of Tomball. The exact amount of each annual installment will be approved each year by the Tomball City Council in the annual service plan update for the district. More information about the assessments, including the amounts and due dates, may be obtained from the City of Tomball.

Your failure to pay any assessment or any annual installment may result in penalties and interest being added to what you owe or in a lien on and the foreclosure of your property.

¹ To be included in separate copy of the notice required by Section 5.0143, Tex. Prop. Code, to be executed at the closing of the purchase and sale and to be recorded in the deed records of Harris County when updating for the Current Information of Obligation to Pay Improvement District Assessment.

[The undersigned purchaser acknowledges receipt of this notice before the effective date of a binding contract for the purchase of the real property at the address described above.

DATE:

DATE:

SIGNATURE OF PURCHASER

SIGNATURE OF PURCHASER

The undersigned seller acknowledges providing this notice to the potential purchaser before the effective date of a binding contract for the purchase of the real property at the address described above.

DATE:

DATE:

SIGNATURE OF SELLER

SIGNATURE OF SELLER]²

² To be included in copy of the notice required by Section 5.014, Tex. Prop. Code, to be executed by seller in accordance with Section 5.014(a-1), Tex. Prop. Code.

[The undersigned purchaser acknowledges receipt of this notice before the effective date of a binding contract for the purchase of the real property at the address described above. The undersigned purchaser acknowledged the receipt of this notice including the current information required by Section 5.0143, Texas Property Code, as amended.

DATE:

DATE:

SIGNATURE OF PURCHASER

SIGNATURE OF PURCHASER

STATE OF TEXAS

§

COUNTY OF HARRIS

§

§

The foregoing instrument was acknowledged before me by _____ and _____, known to me to be the person(s) whose name(s) is/are subscribed to the foregoing instrument, and acknowledged to me that he or she executed the same for the purposes therein expressed.

Given under my hand and seal of office on this _____, 20__.

Notary Public, State of Texas]³

³ To be included in separate copy of the notice required by Section 5.0143, Tex. Prop. Code, to be executed at the closing of the purchase and sale and to be recorded in the deed records of Harris County.

[The undersigned seller acknowledges providing a separate copy of the notice required by Section 5.014 of the Texas Property Code including the current information required by Section 5.0143, Texas Property Code, as amended, at the closing of the purchase of the real property at the address above.

DATE:

DATE:

SIGNATURE OF SELLER

SIGNATURE OF SELLER

STATE OF TEXAS

§

§

COUNTY OF HARRIS

§

The foregoing instrument was acknowledged before me by _____ and _____, known to me to be the person(s) whose name(s) is/are subscribed to the foregoing instrument, and acknowledged to me that he or she executed the same for the purposes therein expressed.

Given under my hand and seal of office on this _____, 20__.

Notary Public, State of Texas]⁴

⁴ To be included in separate copy of the notice required by Section 5.0143, Tex. Prop. Code, to be executed at the closing of the purchase and sale and to be recorded in the deed records of Harris County.

ANNUAL INSTALLMENTS - LOT TYPE 1

Installment Due 1/31	Principal	Interest ^[a]	Annual Collection Costs	Additional Interest ^[b]	Total Annual Installment Due ^[c]
2024	\$ 298.97	\$ 1,543.88	\$ 308.23	\$ -	\$ 2,151.08
2025	\$ 317.65	\$ 1,525.20	\$ 314.39	\$ -	\$ 2,157.24
2026	\$ 337.50	\$ 1,505.34	\$ 320.68	\$ -	\$ 2,163.53
2027	\$ 358.60	\$ 1,484.25	\$ 327.09	\$ -	\$ 2,169.94
2028	\$ 381.01	\$ 1,461.84	\$ 333.63	\$ -	\$ 2,176.48
2029	\$ 404.82	\$ 1,438.02	\$ 340.31	\$ -	\$ 2,183.16
2030	\$ 430.13	\$ 1,412.72	\$ 347.11	\$ -	\$ 2,189.96
2031	\$ 457.01	\$ 1,385.84	\$ 354.06	\$ -	\$ 2,196.90
2032	\$ 485.57	\$ 1,357.28	\$ 361.14	\$ -	\$ 2,203.99
2033	\$ 515.92	\$ 1,326.93	\$ 368.36	\$ -	\$ 2,211.21
2034	\$ 548.16	\$ 1,294.68	\$ 375.73	\$ -	\$ 2,218.58
2035	\$ 582.42	\$ 1,260.42	\$ 383.24	\$ -	\$ 2,226.09
2036	\$ 618.83	\$ 1,224.02	\$ 390.91	\$ -	\$ 2,233.76
2037	\$ 657.50	\$ 1,185.35	\$ 398.72	\$ -	\$ 2,241.57
2038	\$ 698.60	\$ 1,144.25	\$ 406.70	\$ -	\$ 2,249.55
2039	\$ 742.26	\$ 1,100.59	\$ 414.83	\$ -	\$ 2,257.68
2040	\$ 788.65	\$ 1,054.20	\$ 423.13	\$ -	\$ 2,265.98
2041	\$ 837.94	\$ 1,004.91	\$ 431.59	\$ -	\$ 2,274.44
2042	\$ 890.31	\$ 952.54	\$ 440.22	\$ -	\$ 2,283.07
2043	\$ 945.96	\$ 896.89	\$ 449.03	\$ -	\$ 2,291.88
2044	\$ 1,005.08	\$ 837.77	\$ 458.01	\$ -	\$ 2,300.86
2045	\$ 1,067.90	\$ 774.95	\$ 467.17	\$ -	\$ 2,310.02
2046	\$ 1,134.64	\$ 708.21	\$ 476.51	\$ -	\$ 2,319.36
2047	\$ 1,205.56	\$ 637.29	\$ 486.04	\$ -	\$ 2,328.89
2048	\$ 1,280.90	\$ 561.95	\$ 495.76	\$ -	\$ 2,338.61
2049	\$ 1,360.96	\$ 481.89	\$ 505.68	\$ -	\$ 2,348.53
2050	\$ 1,446.02	\$ 396.83	\$ 515.79	\$ -	\$ 2,358.64
2051	\$ 1,536.40	\$ 306.45	\$ 526.11	\$ -	\$ 2,368.96
2052	\$ 1,632.42	\$ 210.43	\$ 536.63	\$ -	\$ 2,379.48
2053	\$ 1,734.45	\$ 108.40	\$ 547.36	\$ -	\$ 2,390.21
Total	\$ 24,702.13	\$ 30,583.34	\$ 12,504.18	\$ -	\$ 67,789.64

Footnotes:

[a] Interest is calculated at a rate of 6.25% which is less than 5% above the S&P Municipal Bond High Yield Index for years 1-5, which was 5.92% as of March 6, 2023 and less than 2% above for the remainder years as required by Texas Statute.

[b] Additional Interest will be collected if PID Bonds are issued.

[c] The figures shown above are estimates only and subject to change in Annual Service Plan Updates. Changes in Annual Collection Costs, additional interest, or other available offsets could increase or decrease the amounts shown.

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: April 3, 2023

Topic:

Adopt on Second Reading Ordinance No. 2023-07, an Ordinance Amending The Code of Ordinances of The City of Tomball, Texas, By Adding a New Subsection (ff-1) to Section 20-28, Amendments to The 2015 International Fire Code, of Article II, Fire Code, of Chapter 20, Fire Prevention And Protection; Regulating The Installation, Operation, Maintenance, Repair, Retrofitting, Testing, Commissioning And Decommissioning Of Energy Systems Used for Generating or Storing Energy; Providing A Penalty In An Amount Not To Exceed \$2,000.00 Per Day for Violation of Any Provision Hereof, With Each Day Constituting a Separate Offense; Providing a Repealer; Providing For Severability, And Making Other Findings Related Thereto.

Background:

First Reading adopted on March 20, 2023. Recent additions to the definitions in the CUP process, approved by Council at the February 20, 2023 meeting, added standards pertaining to “Energy Storage Systems” brought forth a review of the current adopted fire code. Presently, the 2015 International Fire Code does not regulate “Energy Storage Systems”; Chapter 12 of the 2021 International Fire Code does however, address and provide design, installation, repair and maintenance regulations to these types of systems.

While adoption of this Fire Code Amendment does not approve any particular land site or project, it does provide staff with a groundwork and means for the regulation of the installation, operation, maintenance, repair, retrofitting, testing, commissioning and decommissioning of these Energy Storage Systems.

Origination: Fire Department

Recommendation:

Approval of the Adoption of Ordinance No. 2023-07 on First Reading

Party(ies) responsible for placing this item on agenda: Joe Sykora, Fire Chief

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____ If yes, specify Account Number: # _____

If no, funds will be transferred from account # _____ To account # _____

Signed Joe Sykora 03/14/2023 Approved by _____
Staff Member Date City Manager Date

ORDINANCE NO. 2023-07

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF TOMBALL, TEXAS, BY ADDING A NEW SUBSECTION (FF-1) TO SECTION 20-28, AMENDMENTS TO THE 2015 INTERNATIONAL FIRE CODE, OF ARTICLE II, FIRE CODE, OF CHAPTER 20, FIRE PREVENTION AND PROTECTION; REGULATING THE INSTALLATION, OPERATION, MAINTENANCE, REPAIR, RETROFITTING, TESTING, COMMISSIONING AND DECOMMISSIONING OF ENERGY SYSTEMS USED FOR GENERATING OR STORING ENERGY; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000.00 PER DAY FOR VIOLATION OF ANY PROVISION HEREOF, WITH EACH DAY CONSTITUTING A SEPARATE OFFENSE; PROVIDING A REPEALER; PROVIDING FOR SEVERABILITY, AND MAKING OTHER FINDINGS RELATED THERETO.

* * * * *

WHEREAS, the International Code Congress has added a new Chapter 12 to the International Fire Code to address Energy Systems, including standby and emergency power, portable generators, photovoltaic systems, fuel cell energy systems and other energy storage systems; and

WHEREAS, the City Council of the City of Tomball, Texas finds it to be in the best interest of the health, safety, and welfare of its citizens to amend the International Fire Code to regulate energy systems; **now, therefore**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS:

Section 1. The facts and matters set forth in the preamble to this ordinance are hereby found to be true and correct.

Section 2. The Code of Ordinances of the City of Tomball Texas is amended by inserting a new subsection (ff-1) between subsections (ff) and (gg) of Section 20-28, Amendments to the 2015 International Fire Code, of Article II, Fire Code, of Chapter 20 Fire Prevention and Protection, that shall read as follows:

“(ff-1) Chapter 12. Energy Systems, of the 2021 International Fire Code is hereby adopted. See Exhibit A to Ordinance No. 2023-27”

Section 3. **Repealer.** All ordinances in conflict or inconsistent with this ordinance are, to the extent of such conflict or inconsistency, repealed.

Section 4. **Severability.** In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

Section 5. **Penalty.** Any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed \$2,000.00. Each day of violation shall constitute a separate offense.

Section 5. **Effective Date.** This Ordinance shall take effect fourteen (14) days from and after its passage and the publication of the caption hereof, as provided by law and the City’s Home Rule Charter.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 20th DAY OF MARCH 2023.

COUNCILMAN FORD	<u>AYE</u>
COUNCILMAN STOLL	<u>AYE</u>
COUNCILMAN DUNAGIN	<u>AYE</u>
COUNCILMAN TOWNSEND	<u>AYE</u>
COUNCILMAN PARR	<u>AYE</u>

SECOND READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 3RD DAY OF APRIL 2023.

COUNCILMAN FORD	_____
COUNCILMAN STOLL	_____
COUNCILMAN DUNAGIN	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN PARR	_____

Lori Klein Quinn, Mayor

ATTEST:

Tracylynn Garcia, City Secretary

EXHIBIT “A” TO ORDINANCE 2023-07

CHAPTER 12 ENERGY SYSTEMS

SECTION 1201 GENERAL

1201.1 Scope.

The provisions of this chapter shall apply to the installation, operation, maintenance, repair, retrofitting, testing, commissioning, and decommissioning of energy systems used for generating or storing energy. It shall not apply to equipment associated with the generation, control, transformation, transmission, or distribution of energy installations that is under the exclusive control of an electric utility or lawfully designated agency.

1201.2 Electrical wiring and equipment.

Electrical wiring and equipment used in connection with energy systems shall be installed and maintained in accordance with this chapter, [Section 603](#) and [NFPA 70](#).

1201.3 Mixed system installation.

Where *approved*, the aggregate nameplate kWh energy of all energy storage systems in a *fire area* shall not exceed the maximum quantity specified for any of the energy systems in this chapter. Where required by the *fire code official*, a hazard mitigation analysis shall be provided and *approved* in accordance with [Section 104.8.2](#) to evaluate any potential adverse interaction between the various energy systems and technologies.

SECTION 1202 DEFINITIONS

1202.1 Definitions.

The following terms are defined in [Chapter 2](#):

BATTERY SYSTEM, STATIONARY STORAGE.

BATTERY TYPES.

CAPACITOR ENERGY STORAGE SYSTEM.

CRITICAL CIRCUIT.

EMERGENCY POWER SYSTEM.

ENERGY STORAGE MANAGEMENT SYSTEMS.

ENERGY STORAGE SYSTEM (ESS).

ENERGY STORAGE SYSTEM, ELECTROCHEMICAL.

ENERGY STORAGE SYSTEM, MOBILE.

ENERGY STORAGE SYSTEM, WALK-IN UNIT.

ENERGY STORAGE SYSTEM CABINET.

ENERGY STORAGE SYSTEM COMMISSIONING.

ENERGY STORAGE SYSTEM DECOMMISSIONING.

FUEL CELL POWER SYSTEM, STATIONARY.

PORTABLE GENERATOR.

STANDBY POWER SYSTEM.

SECTION 1203 EMERGENCY AND STANDBY POWER SYSTEMS

1203.1 General.

Emergency power systems and standby power systems required by this code or the [International Building Code](#) shall comply with [Sections 1203.1.1](#) through [1203.1.9](#).

1203.1.1 Stationary generators.

Stationary emergency and standby power generators required by this code shall be *listed* in accordance with [UL 2200](#).

1203.1.2 Fuel line piping protection.

Fuel lines supplying a generator set inside a high-rise building shall be separated from areas of the building other than the room the generator is located in by one of the following methods:

1. A fire-resistant pipe-protection system that has been tested in accordance with [UL 1489](#). The system shall be installed as tested and in accordance with the manufacturer's installation instructions and shall have a rating of not less than 2 hours. Where the building is protected throughout with an *automatic sprinkler system* installed in accordance with [Section 903.3.1.1](#), the required rating shall be reduced to 1 hour.

2. An assembly that has a *fire-resistance rating* of not less than 2 hours. Where the building is protected throughout with an *automatic sprinkler system* installed in accordance with [Section 903.3.1.1](#), the required *fire-resistance rating* shall be reduced to 1 hour.

3. Other *approved methods*.

1203.1.3 Installation.

Emergency power systems and standby power systems shall be installed in accordance with the *International Building Code*, [NFPA 70](#), [NFPA 110](#) and [NFPA 111](#).

1203.1.4 Load transfer.

Emergency power systems shall automatically provide secondary power within 10 seconds after primary power is lost, unless specified otherwise in this code. Standby power systems shall automatically provide secondary power within 60 seconds after primary power is lost, unless specified otherwise in this code.

1203.1.5 Load duration.

Emergency power systems and standby power systems shall be designed to provide the required power for a minimum duration of 2 hours without being refueled or recharged, unless specified otherwise in this code.

1203.1.6 Uninterruptable power source.

An uninterrupted source of power shall be provided for equipment where required by the manufacturer's instructions, the listing, this code or applicable referenced standards.

1203.1.7 Interchangeability.

Emergency power systems shall be an acceptable alternative for installations that require standby power systems.

1203.1.8 Group I-2 occupancies.

In Group I-2 occupancies located in flood hazard areas established in [Section 1612.3](#) of the *International Building Code* where new essential electrical systems are installed, and where new essential electrical system generators are installed, the systems and generators shall be located and installed in accordance with [ASCE 24](#). Where connections for hook up of temporary generators are provided, the connections shall be located at or above the elevation required in [ASCE 24](#).

1203.1.9 Maintenance.

Existing installations shall be maintained in accordance with the original approval and [Section 1203.4](#).

1203.2 Where required.

Emergency and standby power systems shall be provided where required by [Sections 1203.2.1](#) through [1203.2.19](#).

1203.2.1 Ambulatory care facilities.

Essential electrical systems for ambulatory care facilities shall be in accordance with [Section 422.6](#) of the *International Building Code*.

1203.2.2 Elevators and platform lifts.

Standby power shall be provided for elevators and platform lifts as required in [Sections 604.3](#), [1009.4.1](#) and [1009.5](#).

1203.2.3 Emergency responder communication coverage systems.

Standby power shall be provided for inbuilding, two-way emergency responder communication coverage systems as required in [Section 510.4.2.3](#). The standby power supply shall be capable of operating the inbuilding, two-way emergency responder communication coverage system at 100-percent system operation capacity for a duration of not less than 12 hours.

1203.2.4 Emergency voice/alarm communication systems.

Standby power shall be provided for emergency voice/alarm communication systems in accordance with [NFPA 72](#).

1203.2.5 Exhaust ventilation.

Standby power shall be provided for mechanical exhaust ventilation systems as required in [Section 1207.6.1.2.1](#). The system shall be capable of powering the required load for a duration of not less than 2 hours.

1203.2.6 Exit signs.

Emergency power shall be provided for exit signs as required in [Section 1013.6.3](#). The system shall be capable of powering the required load for a duration of not less than 90 minutes.

1203.2.7 Gas detection systems.

Emergency power shall be provided for gas detection systems where required by [Sections 1203.2.10](#) and [1203.2.17](#). Standby power shall be provided for gas detection systems where required by [Sections 916.5](#) and [1207.6.1.2.4](#).

1203.2.8 Group I-2 occupancies.

Essential electrical systems for Group I-2 occupancies shall be in accordance with [Section 407.11](#) of the *International Building Code*.

1203.2.9 Group I-3 occupancies.

Power-operated sliding doors or power-operated locks for swinging doors in Group I-3 occupancies shall be operable by a manual release mechanism at the door. Emergency power shall be provided for the doors and locks.

Exceptions:

1. Emergency power is not required in facilities where provisions for remote locking and unlocking of occupied rooms in Occupancy Condition 4 are not required as set forth in the *International Building Code*.
2. Emergency power is not required where remote mechanical operating releases are provided.

1203.2.10 Hazardous materials.

Emergency and standby power shall be provided in occupancies with hazardous materials as required in the following sections:

1. [Sections 5004.7](#) and [5005.1.5](#) for hazardous materials.
2. [Sections 6004.2.2.8](#) and [6004.3.4.2](#) for highly toxic and toxic gases.
3. [Section 6204.1.11](#) for organic peroxides.

1203.2.11 High-rise buildings.

Standby power and emergency power shall be provided for high-rise buildings as required in [Section 403](#) of the *International Building Code*, and shall be in accordance with [Section 1203](#).

1203.2.12 Special purpose horizontal sliding doors.

Standby power shall be provided for horizontal sliding doors as required in [Section 1010.3.3](#). The standby power supply shall have a capacity to operate not fewer than 50 closing cycles of the door.

1203.2.13 Hydrogen fuel gas rooms.

Standby power shall be provided for hydrogen fuel gas rooms as required by [Section 5808.7](#).

1203.2.14 Laboratory suites.

Standby or emergency power shall be provided in accordance with [Section 5004.7](#) where *laboratory suites* are located above the sixth story above grade plane or located in a story below grade plane.

1203.2.15 Means of egress illumination.

Emergency power shall be provided for *means of egress* illumination in accordance with [Sections 1008.3](#) and [1104.5.1](#).

1203.2.16 Membrane structures.

Standby power shall be provided for auxiliary inflation systems in permanent membrane structures in accordance with [Section 2702](#) of the *International Building Code*. Auxiliary inflation systems shall be provided in temporary air-supported and air-inflated membrane structures in accordance with [Section 3103.10.4](#).

1203.2.17 Semiconductor fabrication facilities.

Emergency power shall be provided for semiconductor fabrication facilities as required in [Section 2703.15](#).

1203.2.18 Smoke control systems.

Standby power shall be provided for smoke control systems as required in [Section 909.11](#).

1203.2.19 Underground buildings.

Emergency and standby power shall be provided in underground buildings as required in [Section 405](#) of the *International Building Code* and shall be in accordance with [Section 1203](#).

1203.3 Critical circuits.

Required critical circuits shall be protected using one of the following methods:

1. Cables used for survivability of required critical circuits shall be *listed* in accordance with [UL 2196](#) and shall have a *fire-resistance rating* of not less than 1 hour.
2. Electrical circuit protective systems shall have a *fire-resistance rating* of not less than 1 hour. Electrical circuit protective systems shall be installed in accordance with their listing requirements.
3. Construction having a *fire-resistance rating* of not less than 1 hour.

1203.4 Maintenance.

Emergency and standby power systems shall be maintained in accordance with [NFPA 110](#) and [NFPA 111](#) such that the system is capable of supplying service within the time specified for the type and duration required.

1203.4.1 Group I-2 and ambulatory care facilities.

In Group I-2 occupancies and ambulatory care facilities, emergency and standby power systems shall be maintained in accordance with [NFPA 99](#).

1203.4.2 Schedule.

Inspection, testing and maintenance of emergency and standby power systems shall be in accordance with an *approved* schedule established upon completion and approval of the system installation.

1203.4.3 Records.

Records of the inspection, testing and maintenance of emergency and standby power systems shall include the date of service, name of the servicing technician, a summary of conditions noted and a detailed description of any conditions requiring correction and what corrective action was taken. Such records shall be maintained.

1203.4.4 Switch maintenance.

Emergency and standby power system transfer switches shall be included in the inspection, testing and maintenance schedule required by [Section 1203.4.2](#). Transfer switches shall be maintained free from accumulated dust and dirt. Inspection shall include examination of the transfer switch contacts for evidence of deterioration. When evidence of contact deterioration is detected, the contacts shall be replaced in accordance with the transfer switch manufacturer's instructions.

1203.5 Operational inspection and testing.

Emergency power systems, including all appurtenant components, shall be inspected and tested under load in accordance with [NFPA 110](#) and [NFPA 111](#).

Exception: Where the emergency power system is used for standby power or peak load shaving, such use shall be recorded and shall be allowed to be substituted for scheduled testing of the generator set, provided that appropriate records are maintained.

1203.5.1 Group I-2 and ambulatory care facilities.

In Group I-2 occupancies and ambulatory care facilities, emergency and standby power systems shall be inspected and tested under load in accordance with [NFPA 99](#).

1203.5.2 Transfer switch test.

The test of the transfer switch shall consist of electrically operating the transfer switch from the normal position to the alternate position and then return to the normal position.

1203.6 Supervision of maintenance and testing.

Routine maintenance, inspection and operational testing shall be overseen by a properly instructed individual.

SECTION 1204 PORTABLE GENERATORS

1204.1 Portable generators.

The use, operation and maintenance of portable generators shall comply with this section.

1204.2 Listing.

Portable generators manufactured after January 1, 2021, shall be *listed* and *labeled* in accordance with [UL 2201](#).

1204.3 Operation and maintenance.

Portable generators shall be operated and maintained in accordance with the manufacturer's instructions.

1204.4 Grounding.

Portable generators shall be grounded in accordance with [NFPA 70](#).

1204.5 Operating locations.

Portable generators shall be operated only outdoors a minimum of 5 feet (1524 mm) from any building openings such as windows and doors or air intakes. Portable generators shall not be operated within buildings or enclosed areas. Additional separation shall be provided for tents, membrane structures and outdoor assembly events as specified in [Chapter 31](#).

1204.6 Cords and wiring.

Extension cords and temporary wiring used to connect portable generators shall be in accordance with [Section 603](#) and shall be provided with GFCI protection.

1204.7 Connections to premise wiring.

Connections to a premise wiring system shall comply with all of the following:

1. Power shall not be provided in a manner that "back feeds" receptacles or the premise wiring system.
2. Connection to a premise served by commercial power shall be made through a *listed* transfer switch installed, used and maintained in accordance with [NFPA 70](#).
3. Connection to buildings not served by commercial power shall comply with [NFPA 70](#).

1204.8 Refueling.

Portable generators shall not be refueled while operating.

1204.9 Storage and repair.

Storage and repair of fuel-fired portable generators shall comply with [Section 313](#).

1204.10 Fire extinguisher.

A *listed* portable fire extinguisher complying with Section 906 with a minimum rating of 2-A:20-B:C shall be provided not more than 50 feet (15 240 mm) from the portable generator.

SECTION 1205 SOLAR PHOTOVOLTAIC POWER SYSTEMS

1205.1 General.

Solar photovoltaic (PV) systems shall be installed in accordance with the [International Building Code](#) or [International Residential Code](#). The electrical portion of solar PV systems shall be installed in accordance with [NFPA 70](#). Rooftop-mounted solar photovoltaic systems shall be installed in accordance with [Sections 1205.2](#) through [1205.4.3](#). Ground-mounted solar photovoltaic systems shall comply with [Section 1205.5](#).

1205.2 Access and pathways.

Roof access, pathways and spacing requirements shall be provided in accordance with [Sections 1205.2.1](#) through [1205.3.3](#). Pathways shall be over areas capable of supporting fire fighters accessing the roof. Pathways shall be located in areas with minimal obstructions, such as vent pipes, conduit or mechanical equipment.

Exceptions:

1. Detached, non habitable Group U structures including, but not limited to, detached garages serving Group R-3 buildings, parking shade structures, carports, solar trellises and similar structures.
2. Roof access, pathways and spacing requirements need not be provided where the *fire code official* has determined that rooftop operations will not be employed.
3. Building-integrated photovoltaic (BIPV) systems where the BIPV systems are *approved*, integrated into the finished roof surface and are *listed* in accordance with a national test standard developed to address

Section 690.12(B)(2) of [NFPA 70](#). The removal or cutting away of portions of the BIPV system during fire-fighting operations shall not expose a fire fighter to electrical shock hazards.

1205.2.1 Solar photovoltaic (PV) systems for Group R-3 buildings.

Solar photovoltaic (PV) systems for Group R-3 buildings shall comply with [Sections 1205.2.1.1](#) through [1205.2.3](#).

Exceptions:

1. These requirements shall not apply to structures designed and constructed in accordance with the [International Residential Code](#).
2. These requirements shall not apply to roofs with slopes of 2 units vertical in 12 units horizontal (16.7-percent slope) or less.

1205.2.1.1 Pathways to ridge.

Not fewer than two 36-inch-wide (914 mm) pathways on separate roof planes, from lowest roof edge to ridge, shall be provided on all buildings. Not fewer than one pathway shall be provided on the street or driveway side of the roof. For each roof plane with a photovoltaic array, not fewer than one 36-inch-wide (914 mm) pathway from lowest roof edge to ridge shall be provided on the same roof plane as the photovoltaic array, on an adjacent roof plane or straddling the same and adjacent roof planes.

1205.2.1.2 Setbacks at ridge.

For photovoltaic arrays occupying 33 percent or less of the plan view total roof area, a setback of not less than 18 inches (457 mm) wide is required on both sides of a horizontal ridge. For photovoltaic arrays occupying more than 33 percent of the plan view total roof area, a setback of not less than 36 inches (457 mm) wide is required on both sides of a horizontal ridge.

1205.2.1.3 Alternative setbacks at ridge.

Where an *automatic sprinkler system* is installed within the dwelling in accordance with [Section 903.3.1.3](#), setbacks at the ridge shall conform to one of the following:

1. For photovoltaic arrays occupying 66 percent or less of the plan view total roof area, a setback of not less than 18 inches (457 mm) wide is required on both sides of a horizontal ridge.
2. For photovoltaic arrays occupying more than 66 percent of the plan view total roof area, a setback of not less than 36 inches (914 mm) wide is required on both sides of a horizontal ridge.

1205.2.2 Emergency escape and rescue openings.

Panels and modules installed on Group R-3 buildings shall not be placed on the portion of a roof that is below an emergency escape and rescue opening. A pathway of not less than 36 inches (914 mm) wide shall be provided to the emergency escape and rescue opening.

1205.2.3 Building-integrated photovoltaic (BIPV) systems.

Where building-integrated photovoltaic (BIPV) systems are installed in a manner that creates areas with electrical hazards to be hidden from view, markings shall be provided to identify the hazardous areas to avoid. The markings shall be reflective and be visible from grade.

Exception: BIPV systems *listed* in accordance with Section 690.12(B)(2) of [NFPA 70](#), where the removal or cutting away of portions of the BIPV system during fire-fighting operations have been determined to not expose a fire fighter to electrical shock hazards.

1205.3 Other than Group R-3 buildings.

Access to systems for buildings, other than those containing Group R-3 occupancies, shall be provided in accordance with [Sections 1205.3.1](#) through [1205.3.3](#).

Exception: Where it is determined by the *fire code official* that the roof configuration is similar to that of a Group R-3 occupancy, the residential access and ventilation requirements in [Sections 1205.2.1.1](#) through [1205.2.1.3](#) are a suitable alternative.

1205.3.1 Perimeter pathways.

There shall be a minimum 6-foot-wide (1829 mm) clear perimeter around the edges of the roof.

Exception: Where either axis of the building is 250 feet (76 200 mm) or less, the clear perimeter around the edges of the roof shall be permitted to be reduced to a minimum width of 4 feet (1219 mm).

1205.3.2 Interior pathways.

Interior pathways shall be provided between array sections to meet the following requirements:

1. Pathways shall be provided at intervals not greater than 150 feet (45 720 mm) throughout the length and width of the roof.
2. A pathway not less than 4 feet (1219 mm) wide in a straight line to roof standpipes or ventilation hatches.
3. A pathway not less than 4 feet (1219 mm) wide around roof access hatches, with not fewer than one such pathway to a parapet or roof edge.

1205.3.3 Smoke ventilation.

The solar installation shall be designed to meet the following requirements:

1. Where non gravity-operated smoke and heat vents occur, a pathway not less than 4 feet (1219 mm) wide shall be provided bordering all sides.
2. Where gravity-operated dropout smoke and heat vents occur, a pathway not less than 4 feet (1219 mm) wide on not fewer than one side.
3. Smoke ventilation options between array sections shall be one of the following:
 - 3.1 A pathway not less than 8 feet (2438 mm) wide.
 - 3.2 A pathway not less than 4 feet (1219 mm) wide bordering 4-foot by 8-foot (1219 mm by 2438 mm) venting cutouts every 20 feet (6096 mm) on alternating sides of the pathway.

1205.4 Buildings with rapid shutdown.

Buildings with rapid shutdown solar photovoltaic systems shall have permanent labels in accordance with [Sections 1205.4.1](#) through [1205.4.3](#).

1205.4.1 Rapid shutdown type.

The type of solar photovoltaic system rapid shutdown shall be labeled with one of the following:

1. For solar photovoltaic systems that shut down the array and the conductors leaving the array, a label shall be provided. The first two lines of the label shall be uppercase characters with a minimum height of $\frac{3}{8}$ inch (10 mm) in black on a yellow background. The remaining characters shall be uppercase with a minimum height of $\frac{3}{16}$ inch (5 mm) in black on a white background. The label shall be in accordance with [Figure 1205.4.1\(1\)](#) and state the following:

**THIS SOLAR PV SYSTEM EQUIPPED WITH
RAPID SHUTDOWN. TURN RAPID
SHUTDOWN SWITCH TO THE “OFF”
POSITION TO SHUT DOWN PV SYSTEM
AND REDUCE SHOCK HAZARD IN ARRAY.**

2. For photovoltaic systems that only shut down conductors leaving the array, a label shall be provided. The first two lines of the label shall be uppercase characters with a minimum height of $\frac{3}{8}$ inch (10 mm) in white on a red background and the remaining characters shall be capitalized with a minimum height of $\frac{3}{16}$ inch (5 mm) in black on a white background. The label shall be in accordance with [Figure 1205.4.1\(2\)](#) and state the following:

**THIS SOLAR PV SYSTEM EQUIPPED
WITH RAPID SHUTDOWN. TURN RAPID
SHUTDOWN SWITCH TO THE “OFF”
POSITION TO SHUT DOWN CONDUCTORS
OUTSIDE THE ARRAY. CONDUCTORS
WITHIN ARRAY REMAIN ENERGIZED
IN SUNLIGHT.**

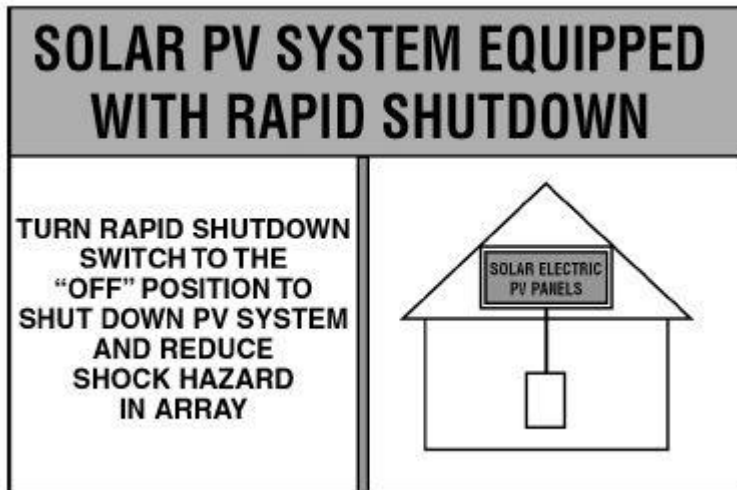


FIGURE 1205.4.1(1)
LABEL FOR SOLAR PV SYSTEMS THAT REDUCE SHOCK HAZARD WITHIN ARRAY AND SHUT DOWN CONDUCTORS LEAVING ARRAY

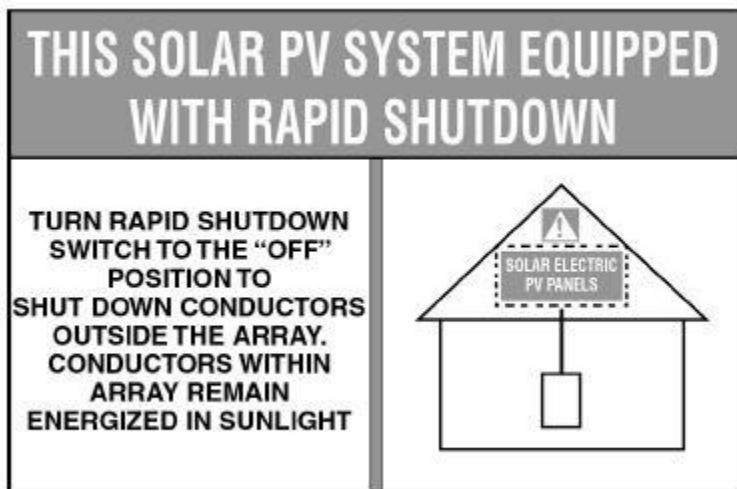


FIGURE 1205.4.1(2)
LABEL FOR SOLAR PV SYSTEMS THAT ONLY SHUT DOWN CONDUCTORS LEAVING THE ARRAY

1205.4.1.1 Diagram.

The labels in [Section 1205.4.1](#) shall include a simple diagram of a building with a roof. Diagram sections in red signify sections of the solar photovoltaic system that are not shut down when the rapid shutdown switch is turned off.

1205.4.1.2 Location.

The rapid shutdown label in [Section 1205.4.1](#) shall be located not greater than 3 feet (914 mm) from the service disconnecting means to which the photovoltaic systems are connected, and shall indicate the location of all identified rapid shutdown switches if not at the same location.

1205.4.2 Buildings with more than one rapid shutdown type.

Solar photovoltaic systems that contain rapid shutdown in accordance with both Items 1 and 2 of [Section 1205.4.1](#) or solar photovoltaic systems where only portions of the systems on the building contain rapid shutdown, shall provide a detailed plan view diagram of the roof showing each different photovoltaic system and a dotted line around areas that remain energized after the rapid shutdown switch is operated.

1205.4.3 Rapid shutdown switch.

A rapid shutdown switch shall have a label located not greater than 3 feet (914 mm) from the switch that states the following:

RAPID SHUTDOWN SWITCH FOR SOLAR PV SYSTEM

1205.5 Ground-mounted photovoltaic panel systems.

Ground-mounted photovoltaic panel systems shall be installed in accordance with this section. Setback requirements shall not apply to ground-mounted, free-standing photovoltaic arrays.

1205.5.1 Vegetation control.

A clear, brush-free area of 10 feet (3048 mm) shall be required around the perimeter of the ground-mounted photovoltaic arrays. A maintained vegetative surface or a noncombustible base, *approved* by the *fire code official*, shall be installed and maintained under the photovoltaic arrays and associated electrical equipment installations.

SECTION 1206 STATIONARY FUEL CELL POWER SYSTEMS

1206.1 General.

Stationary fuel cell power systems in new and existing occupancies shall comply with this section.

Exception: The temporary use of a fuel cell-powered electric vehicle to power a Group R-3 or R-4 building while parked shall comply with [Section 1206.14](#).

1206.2 Permits.

Permits shall be obtained for *stationary fuel cell power systems* as set forth in [Section 105.6.9](#).

1206.3 Equipment.

Stationary fuel cell power systems shall comply with the following:

1. *Prepackaged fuel cell power systems* shall be *listed* and *labeled* in accordance with [CSA FC 1](#).
2. The modules and components in a *pre-engineered fuel cell power system* shall be *listed* and *labeled* in accordance with [CSA FC 1](#) and interconnected to complete the assembly of the system at the job site in accordance with the manufacturer's instructions and the module and component listings.
3. *Field-fabricated fuel cell power systems* shall be approved based on a review of the technical report provided in accordance with [Section 104.8.2](#). The report shall be prepared by and bear the stamp of a *registered design professional* and shall include:
 - 3.1. A fire risk evaluation.
 - 3.2. An evaluation demonstrating that modules and components in the fuel cell power system comply with applicable requirements in [CSA FC 1](#).
 - 3.3. Documentation of the fuel cell power system's compliance with applicable [NFPA 2](#) and [NFPA 853](#) construction requirements.

1206.4 Installation.

Stationary fuel cell power systems shall be installed and maintained in accordance with [NFPA 70](#) and [NFPA 853](#), the manufacturer's installation instructions, and the listing. *Stationary fuel cell power systems* fueled by hydrogen shall be installed and maintained in accordance with [NFPA 2](#) and [NFPA 70](#), the manufacturer's installation instructions and the listing.

1206.5 Residential use.

Stationary fuel cell power systems shall not be installed in Group R-3 and R-4 buildings, or *dwelling units* associated with Group R-2 buildings unless they are specifically *listed* for residential use.

Exception: The temporary use of a fuel cell-powered electric vehicle to power a Group R-3 or R-4 building while parked shall comply with [Section 1206.14](#).

1206.6 Indoor installations.

Stationary fuel cell power systems installed in indoor locations shall comply with [Sections 1206.6](#) through [1206.6.2](#). For purposes of this section, an indoor location includes a roof and 50 percent or greater enclosing walls.

1206.6.1 Listed.

Stationary fuel cell power systems installed indoors shall be specifically *listed* and *labeled* for indoor use.

1206.6.2 Separation.

Rooms containing *stationary fuel cell power systems* shall be separated from the following occupancies by *fire barriers* or *horizontal assemblies*, or both, constructed in accordance with the *International Building Code*.

1. Group B, F, M, S and U occupancies by 1-hour *fire-resistance-rated* construction.
2. Group A, E, I and R occupancies by 2-hour *fire-resistance-rated* construction.

Exception: *Stationary fuel cell power systems* with an aggregate rating less than 50 kW shall not be required to be separated from other occupancies provided that the systems comply with Section 9.3 of *NFPA 853*.

1206.7 Vehicle impact protection.

Where *stationary fuel cell power systems* are subject to impact by a motor vehicle, vehicle impact protection shall be provided in accordance with [Section 312](#).

1206.8 Outdoor installation.

Stationary fuel cell power systems located outdoors shall be separated by not less than 5 feet (1524 mm) from the following:

1. Lot lines.
2. Public ways.
3. Buildings.
4. Stored combustible materials.
5. Hazardous materials.
6. High-piled stock.
7. Any portion of a designated means of egress system.
8. Other exposure hazards.

1206.9 Fuel supply.

The design, location and installation of the fuel supply for *stationary fuel cell power systems* shall comply with [Chapter 53](#), [Chapter 58](#) and the *International Fuel Gas Code*, based on the particular fuel being supplied to the system.

1206.10 Manual shutoff.

Access to a manual shutoff valve shall be provided for the fuel piping within 6 feet (1829 mm) of any fuel storage tank serving the fuel cell and within 6 feet (1829 mm) of the power system. If the fuel tank and the *stationary fuel cell power system* are less than 12 feet (3658 mm) apart, a single shutoff valve shall be permitted. If the *stationary fuel cell power system* is located indoors, the shutoff valve shall be located outside of the room in which the system is installed, unless otherwise *approved* by the *fire code official*.

1206.11 Ventilation and exhaust.

Ventilation and exhaust for stationary fuel cell power systems shall be provided in accordance with [NFPA 853](#).

1206.12 Fire protection.

Fire protection systems for stationary fuel cell power system installations shall be provided in accordance with [NFPA 853](#).

1206.13 Gas detection systems.

Stationary fuel cell power systems shall be provided with a gas detection system. Detection shall be provided in *approved* locations in the fuel cell power system enclosure, the exhaust system or the room that encloses the fuel cell power system. The system shall be designed to activate at a flammable gas concentration of not more than 25 percent of the lower flammable limit (LFL).

1206.13.1 System activation.

The activation of the gas detection system shall automatically

1. Close valves between the gas supply and the fuel cell power system.
2. Shut down the fuel cell power system.
3. Initiate local audible and visible alarms in *approved* locations.

1206.14 Group R-3 and R-4 fuel cell vehicle energy storage system use.

The temporary use of the *dwelling unit owner* or occupant’s fuel cell-powered electric vehicle to power a Group R-3 or R-4 dwelling while parked in an attached or detached garage or outside shall comply with the vehicle manufacturer’s instructions and [NFPA 70](#).

SECTION 1207 ELECTRICAL ENERGY STORAGE SYSTEMS (ESS)

1207.1 General.

The provisions in this section are applicable to stationary and mobile electrical energy storage systems (ESS).

Exception:

ESS in Group R-3 and R-4 occupancies shall comply with [Section 1207.11](#).

1207.1.1 Scope.

ESS having capacities exceeding the values shown in [Table 1207.1.1](#) shall comply with this section.

TABLE 1207.1.1

ENERGY STORAGE SYSTEM (ESS) THRESHOLD QUANTITIES

TECHNOLOGY	ENERGY CAPACITY ^a
Capacitor ESS	3 kWh
Flow batteries ^b	20 kWh
Lead-acid batteries, all types ^c	70 kWh
Lithium-ion batteries	20 kWh
Nickel metal hydride (Ni-MH)	70 kWh
Nickel-cadmium batteries (Ni-Cd)	70 kWh
Other battery technologies	10 kWh
Other electrochemical ESS technologies	3 kWh

For SI:1 kilowatt hour = 3.6 megajoules.

1a. Energy capacity is the total energy capable of being stored (nameplate rating), not the usable energy rating. For units rated in amp-hours, kWh shall equal rated voltage times amp-hour rating divided by 1,000.

2b. Shall include vanadium, zinc-bromine, polysulfide-bromide and other flowing electrolyte-type technologies.

3c. Fifty gallons of lead-acid battery electrolyte shall be considered equivalent to 70 kWh.

1207.1.2 Permits.

Permits shall be obtained for ESS as follows:

1. Construction permits shall be obtained for stationary ESS installations and for mobile ESS charging and storage installations covered by [Section 1207.10.1](#). Permits shall be obtained in accordance with [Section 105.6.5](#).

2. Operational permits shall be obtained for stationary ESS installations and for mobile ESS deployment operations covered by [Section 1207.10.3](#). Permits shall be obtained in accordance with [Section 105.5.14](#).

1207.1.2.1 Communication utilities

Operational permits shall not be required for lead-acid and nickel cadmium battery systems at facilities under the exclusive control of communications utilities that comply with [NFPA 76](#) and operate at less than 50 voltage alternating current (VAC) and 60 voltage direct current (VDC).

1207.1.3 Construction documents.

The following information shall be provided with the permit application:

1. Location and layout diagram of the room or area in which the ESS is to be installed.
2. Details on the hourly *fire-resistance ratings* of assemblies enclosing the ESS.

3. The quantities and types of ESS to be installed.
4. Manufacturer's specifications, ratings and listings of each ESS.
5. Description of energy (battery) management systems and their operation.
6. Location and content of required signage.
7. Details on fire suppression, smoke or fire detection, thermal management, ventilation, exhaust and *deflagration* venting systems, if provided.
8. Support arrangement associated with the installation, including any required seismic restraint.
9. A commissioning plan complying with [Section 1207.2.1](#).
10. A decommissioning plan complying with [Section 1207.2.3](#).

1207.1.4 Hazard mitigation analysis.

A failure modes and effects analysis (FMEA) or other *approved* hazard mitigation analysis shall be provided in accordance with [Section 104.8.2](#) under any of the following conditions:

1. Where ESS technologies not specifically identified in Table 1207.1 are provided.
2. More than one ESS technology is provided in a room or enclosed area where there is a potential for adverse interaction between technologies.
3. Where allowed as a basis for increasing maximum allowable quantities. See [Section 1207.5.2](#).

1207.1.4.1 Fault condition.

The hazard mitigation analysis shall evaluate the consequences of the following failure modes. Only single failure modes shall be considered.

1. A thermal runaway condition in a single ESS rack, module or unit.
2. Failure of any battery (energy) management system.
3. Failure of any required ventilation or exhaust system.
4. Voltage surges on the primary electric supply.
5. Short circuits on the load side of the ESS.
6. Failure of the smoke detection, fire detection, fire suppression or gas detection system.
7. Required spill neutralization not being provided or failure of a required secondary containment system.

1207.1.4.2 Analysis approval.

The *fire code official* is authorized to approve the hazardous mitigation analysis provided that the consequences of the hazard mitigation analysis demonstrate:

1. Fires will be contained within unoccupied ESS rooms or areas for the minimum duration of the fire-resistance-rated separations identified in [Section 1207.7.4](#).
2. Fires in occupied work centers will be detected in time to allow occupants within the room or area to safely evacuate.
3. Toxic and highly toxic gases released during fires will not reach concentrations in excess of the IDLH level in the building or adjacent *means of egress* routes during the time deemed necessary to evacuate occupants from any affected area.
4. Flammable gases released from ESS during charging, discharging and normal operation will not exceed 25 percent of their lower flammability limit (LFL).
5. Flammable gases released from ESS during fire, overcharging and other abnormal conditions will be controlled through the use of ventilation of the gases, preventing accumulation, or by *deflagration* venting.

1207.1.4.3 Additional protection measures.

Construction, equipment and systems that are required for the ESS to comply with the hazardous mitigation analysis, including but not limited to those specifically described in [Section 1207](#), shall be installed, maintained and tested in accordance with nationally recognized standards and specified design parameters.

1207.1.5 Large-scale fire test.

Where required elsewhere in [Section 1207](#), large-scale fire testing shall be conducted on a representative ESS in accordance with [UL 9540A](#). The testing shall be conducted or witnessed and reported by an *approved* testing laboratory and show that a fire involving one ESS will not propagate to an adjacent ESS, and where installed within buildings, enclosed areas and walk-in units will be contained within the

room, enclosed area or walk-in unit for a duration equal to the *fire-resistance rating* of the room separation specified in [Section 1207.7.4](#). The test report shall be provided to the *fire code official* for review and approval in accordance with [Section 104.8.2](#).

1207.1.6 Fire remediation.

Where a fire or other event has damaged the ESS and ignition or re-ignition of the ESS is possible, the system *owner*, agent or lessee shall take the following actions, at their expense, to mitigate the hazard or remove damaged equipment from the premises to a safe location.

1207.1.6.1 Fire mitigation personnel.

Where, in the opinion of the *fire code official*, it is essential for public safety that trained personnel be on-site to respond to possible ignition or re-ignition of a damaged ESS, the system owner, agent or lessee shall immediately dispatch one or more fire mitigation personnel to the premise, as required and approved, at their expense. These personnel shall remain on duty continuously after the fire department leaves the premise until the damaged energy storage equipment is removed from the premises, or earlier if the *fire code official* indicates the public safety hazard has been abated.

1207.1.6.2 Duties.

On-duty fire mitigation personnel shall have the following responsibilities:

1. Keep a diligent watch for fires, obstructions to *means of egress* and other hazards.
2. Immediately contact the fire department if their assistance is needed to mitigate any hazards or extinguish fires.
3. Take prompt measures for remediation of hazards in accordance with the decommissioning plan per [Section 1207.2.3](#).
4. Take prompt measures to assist in the evacuation of the public from the structures.

1207.2 Commissioning, decommissioning, operation and maintenance.

Commissioning, decommissioning, operation and maintenance shall be conducted in accordance with this section.

1207.2.1 Commissioning.

Commissioning of newly installed ESS and existing ESS that have been retrofitted, replaced or previously decommissioned and are returning to service shall be conducted prior to the ESS being placed in service in accordance with a commissioning plan that has been *approved* prior to initiating commissioning. The commissioning plan shall include the following:

1. A narrative description of the activities that will be accomplished during each phase of commissioning, including the personnel intended to accomplish each of the activities.
2. A listing of the specific ESS and associated components, controls and safety-related devices to be tested, a description of the tests to be performed and the functions to be tested.
3. Conditions under which all testing will be performed, which are representative of the conditions during normal operation of the system.
4. Documentation of the owner's project requirements and the basis of design necessary to understand the installation and operation of the ESS.
5. Verification that required equipment and systems are installed in accordance with the *approved* plans and specifications.
6. Integrated testing for all fire and safety systems.
7. Testing for any required thermal management, ventilation or exhaust systems associated with the ESS installation.
8. Preparation and delivery of operation and maintenance documentation.
9. Training of facility operating and maintenance staff.
10. Identification and documentation of the requirements for maintaining system performance to meet the original design intent during the operation phase.
11. Identification and documentation of personnel who are qualified to service, maintain and decommission the ESS, and respond to incidents involving the ESS, including documentation that such service has been contracted for.

12. A decommissioning plan for removing the ESS from service, and from the facility in which it is located. The plan shall include details on providing a safe, orderly shutdown of energy storage and safety systems with notification to the code officials prior to the actual decommissioning of the system. The decommissioning plan shall include contingencies for removing an intact operational ESS from service, and for removing an ESS from service that has been damaged by a fire or other event.

Exception: Commissioning shall not be required for lead-acid and nickel-cadmium battery systems at facilities under the exclusive control of communications utilities that comply with [NFPA 76](#) and operate at less than 50 VAC and 60 VDC. A decommissioning plan shall be provided and maintained where required by the *fire code official*.

1207.2.1.1 Initial acceptance testing.

During the commissioning process an ESS shall be evaluated for proper operation in accordance with the manufacturer's instructions and the commissioning plan prior to final approval.

1207.2.1.2 Commissioning report.

A report describing the results of the system commissioning, including the results of the initial acceptance testing required in [Section 1207.2.1.1](#), shall be provided to the *fire code official* prior to final inspection and approval and maintained at an *approved* on-site location.

1207.2.2 Operation and maintenance.

An operation and maintenance manual shall be provided to both the ESS *owner* or their authorized agent and the ESS operator before the ESS is put into operation and shall include the following:

1. Manufacturer's operation manuals and maintenance manuals for the entire ESS, or for each component of the system requiring maintenance, that clearly identify the required routine maintenance actions.
2. Name, address and phone number of a service agency that has been contracted to service the ESS and its associated safety systems.
3. Maintenance and calibration information, including wiring diagrams, control drawings, schematics, system programming instructions and control sequence descriptions, for all energy storage control systems.
4. Desired or field-determined control set points that are permanently recorded on control drawings at control devices or, for digital control systems, in system programming instructions.
5. A schedule for inspecting and recalibrating all ESS controls.
6. A service record log form that lists the schedule for all required servicing and maintenance actions and space for logging such actions that are completed over time and retained on-site.

The ESS shall be operated and maintained in accordance with the manual and a copy of the manual shall be retained at an approved on-site location.

1207.2.2.1 Ongoing inspection and testing.

Systems that monitor and protect the ESS installation shall be inspected and tested in accordance with the manufacturer's instructions and the operation and maintenance manual. Inspection and testing records shall be maintained in the operation and maintenance manual.

1207.2.3 Decommissioning.

The code official shall be notified prior to the decommissioning of an ESS. Decommissioning shall be performed in accordance with the decommissioning plan that includes the following:

1. A narrative description of the activities to be accomplished for removing the ESS from service, and from the facility in which it is located.
2. A listing of any contingencies for removing an intact operational ESS from service, and for removing an ESS from service that has been damaged by a fire or other event.

1207.3 Equipment.

ESS equipment shall be in accordance with [Sections 1207.3.1](#) through [1207.3.9](#).

1207.3.1 Energy storage system listings.

ESS shall be *listed* in accordance with [UL 9540](#).

Exception: Lead-acid and nickel-cadmium battery systems installed in facilities under the exclusive control of communications utilities, and operating at less than 50 VAC and 60 VDC in accordance with [NFPA 76](#), are not required to be *listed*.

1207.3.2 Equipment listing.

Chargers, inverters and energy storage management systems shall be covered as part of the [UL 9540](#) listing or shall be *listed* separately.

1207.3.3 Utility interactive systems.

Inverters shall be *listed* and *labeled* in accordance with [UL 1741](#). Only inverters *listed* and *labeled* for utility interactive system use and identified as interactive shall be allowed to operate in parallel with the electric utility power system to supply power to common loads.

1207.3.4 Energy storage management system.

Where required by the ESS listing, an *approved* energy storage management system that monitors and balances cell voltages, currents and temperatures within the manufacturer's specifications shall be provided. The system shall disconnect electrical connections to the ESS or otherwise place it in a safe condition if potentially hazardous temperatures or other conditions such as short circuits, over voltage or under voltage are detected.

1207.3.5 Enclosures.

Enclosures of ESS shall be of noncombustible construction.

1207.3.6 Repairs.

Repairs of ESS shall only be done by qualified personnel. Repairs with other than identical parts shall be considered retrofitting and comply with [Section 1207.3.7](#). Repairs shall be documented in the service records log.

1207.3.7 Retrofits.

Retrofitting of an existing ESS shall comply with the following:

1. A construction permit shall be obtained in accordance with [Section 105.6.5](#).
2. New batteries, battery modules, capacitors and similar ESS components shall be *listed*.
3. Battery management and other monitoring systems shall be connected and installed in accordance with the manufacturer's instructions.
4. The overall installation shall continue to comply with [UL 9540](#) listing requirements, where applicable.
5. Systems that have been retrofitted shall be commissioned in accordance with [Section 1207.2.1](#).
6. Retrofits shall be documented in the service records log.

1207.3.7.1 Retrofitting lead acid and nickel cadmium.

[Section 1207.3.7](#) shall not apply to retrofitting of lead-acid and nickel-cadmium batteries with other lead-acid and nickel-cadmium batteries at facilities under the exclusive control of communications utilities that comply with [NFPA 76](#) and operate at less than 50 VAC and 60 VDC.

1207.3.8 Replacements.

Replacements of ESS shall be considered new ESS installations and shall comply with the provisions of [Section 1207](#) as applicable to new ESS. The ESS being replaced shall be decommissioned in accordance with [Section 1207.2.3](#).

1207.3.9 Reused and repurposed equipment.

Equipment and materials shall only be reused or reinstalled as permitted in [Section 104.8.1](#). Storage batteries previously used in other applications, such as electric vehicle propulsion, shall not be reused in applications regulated by [Chapter 12](#) unless *approved* by the *fire code official* and unless the equipment is refurbished by a battery refurbishing company *approved* in accordance with [UL 1974](#).

1207.4 General installations requirements.

Stationary and mobile ESS shall comply with the requirements of [Sections 1207.4.1](#) through [1207.4.12](#).

1207.4.1 Electrical disconnects.

Where the ESS disconnecting means is not within sight of the main electrical service disconnecting means, placards or directories shall be installed at the location of the main electrical service disconnecting means indicating the location of stationary storage battery system disconnecting means in accordance with [NFPA 70](#).

Exception: Electrical disconnects for lead-acid and nickel-cadmium battery systems at facilities under the exclusive control of communications utilities and operating at less than 50 VAC and 60 VDC shall be permitted to have electrical disconnects signage in accordance with [NFPA 76](#).

1207.4.2 Working clearances.

Access and working space shall be provided and maintained about all electrical equipment to permit ready and safe operation and maintenance of such equipment in accordance with [NFPA 70](#) and the manufacturer's instructions.

1207.4.3 Fire-resistance-rated separations.

Rooms and other indoor areas containing ESS shall be separated from other areas of the building in accordance with [Section 1207.7.4](#). ESS shall be permitted to be in the same room with the equipment they support.

1207.4.4 Seismic and structural design.

Stationary ESS shall comply with the seismic design requirements in [Chapter 16](#) of the *International Building Code*, and shall not exceed the floor loading limitation of the building.

1207.4.5 Vehicle impact protection.

Where ESS are subject to impact by a motor vehicle, including fork lifts, vehicle impact protection shall be provided in accordance with [Section 312](#).

1207.4.6 Combustible storage.

Combustible materials shall not be stored in ESS rooms, areas or walk-in units. Combustible materials in occupied work centers covered by [Section 1207.4.10](#) shall be stored at least 3 feet (914 mm) from ESS cabinets.

1207.4.7 Toxic and highly toxic gases.

ESS that have the potential to release toxic and highly toxic gas during charging, discharging and normal use conditions shall be provided with a hazardous exhaust system in accordance with [Section 502.8](#) of the *International Mechanical Code*.

1207.4.8 Signage.

Approved signs shall be provided on or adjacent to all entry doors for ESS rooms or areas and on enclosures of ESS cabinets and walk-in units located outdoors, on rooftops or in open parking garages. Signs designed to meet both the requirements of this section and [NFPA 70](#) shall be permitted. The signage shall include the following or equivalent:

1. "ENERGY STORAGE SYSTEM," "BATTERY STORAGE SYSTEM," "CAPACITOR ENERGY STORAGE SYSTEM" or the equivalent.
2. The identification of the electrochemical ESS technology present.
3. "ENERGIZED ELECTRICAL CIRCUITS."
4. Where water-reactive electrochemical ESS are present, the signage shall include "APPLY NO WATER."
5. Current contact information, including phone number, for personnel authorized to service the equipment and for fire mitigation personnel required by [Section 1207.1.6.1](#).

Exception: Existing electrochemical ESS shall be permitted to include the signage required at the time they were installed.

1207.4.9 Security of installations.

Rooms, areas and walk-in units in which electrochemical ESS are located shall be secured against unauthorized entry and safeguarded in an *approved* manner. Security barriers, fences, landscaping and other enclosures shall not inhibit the required air flow to or exhaust from the electrochemical ESS and its components.

1207.4.10 Occupied work centers.

Electrochemical ESS located in rooms or areas occupied by personnel not directly involved with maintenance, service and testing of the systems shall comply with the following:

1. Electrochemical ESS located in occupied work centers shall be housed in locked noncombustible cabinets or other enclosures to prevent access by unauthorized personnel.
2. Where electrochemical ESS are contained in cabinets in occupied work centers, the cabinets shall be located within 10 feet (3048 mm) of the equipment that they support.
3. Cabinets shall include signage complying with [Section 1207.4.8](#).

1207.4.11 Open rack installations.

Where electrochemical ESS are installed in a separate equipment room and only authorized personnel have access to the room, they shall be permitted to be installed on an open rack for ease of maintenance.

1207.4.12 Walk-in units.

Walk-in units shall be entered only for inspection, maintenance and repair of ESS units and ancillary equipment, and shall not be occupied for other purposes.

1207.5 Electrochemical ESS protection.

The protection of electrochemical ESS shall be in accordance with Sections 1207.5.1 through 1207.5.8 where required by Sections 1207.7 through 1207.10.

**TABLE 1207.5
MAXIMUM ALLOWABLE QUANTITIES OF ELECTROCHEMICAL ESS**

TECHNOLOGY	MAXIMUM ALLOWABLE QUANTITIES ^a
STORAGE BATTERIES	
Flow batteries ^b	600 kWh
Lead-acid, all types	Unlimited
Lithium-ion	600 kWh
Nickel metal hydride (Ni-MH)	Unlimited
Nickel-cadmium (Ni-Cd)	Unlimited
Other battery technologies	200 kWh
CAPACITORS	
All types	20 kWh
OTHER ELECTROCHEMICAL ESS	
All types	20 kWh

For SI: 1 kilowatt hour = 3.6 megajoules.

a. For electrochemical ESS units rated in amp-hours, kWh shall equal rated voltage times the amp-hour rating divided by 1,000.

b. Shall include vanadium, zinc-bromine, polysulfide-bromide and other flowing electrolyte-type technologies.

1207.5.1 Size and separation.

Electrochemical ESS shall be segregated into groups not exceeding 50 kWh (180 megajoules). Each group shall be separated a minimum of 3 feet (914 mm) from other groups and from walls in the storage room or area. The storage arrangements shall comply with Chapter 10.

1. Lead-acid and nickel-cadmium battery systems in facilities under the exclusive control of communications utilities and operating at less than 50 VAC and 60 VDC in accordance with NFPA 76.

2. The fire code official is authorized to approve larger capacities or smaller separation distances based on large-scale fire testing complying with Section 1207.1.5.

1207.5.2 Maximum allowable quantities.

Fire areas within rooms, areas and walk-in units containing electrochemical ESS shall not exceed the maximum allowable quantities in Table 1207.5.

Exceptions:

1. Where approved by the fire code official, rooms, areas and walk-in units containing electrochemical ESS that exceed the amounts in Table 1207.5 shall be permitted based on a hazardous mitigation analysis in accordance with Section 1207.1.4 and large-scale fire testing complying with Section 1207.1.5.

2. Lead-acid and nickel-cadmium battery systems installed in facilities under the exclusive control of communications utilities, and operating at less than 50 VAC and 60 VDC in accordance with NFPA 76.

3. Dedicated-use buildings in compliance with Section 1207.7.1.

1207.5.2.1 Mixed electrochemical energy systems.

Where rooms, areas and walk-in units contain different types of electrochemical energy technologies, the total aggregate quantities of the systems shall be determined based on the sum of percentages of each technology type quantity divided by the maximum allowable quantity of each technology type. The sum of the percentages shall not exceed 100 percent of the maximum allowable quantity.

1207.5.3 Elevation.

Electrochemical ESS shall not be located in the following areas:

1. Where the floor is located more than 75 feet (22 860 mm) above the lowest level of fire department vehicle access.
2. Where the floor is located below the lowest *level of exit discharge*.

Exceptions:

1. Lead-acid and nickel-cadmium battery systems less than 50 VAC and 60 VDC installed in facilities under the exclusive control of communications utilities in accordance with [NFPA 76](#).
2. Where *approved*, installations shall be permitted in underground vaults complying with [NFPA 70](#), Article 450, Part III.
3. Where *approved* by the *fire code official*, installations shall be permitted on higher and lower floors.

1207.5.4 Fire detection.

An *approved* automatic smoke detection system or radiant energy-sensing fire detection system complying with [Section 907.2](#) shall be installed in rooms, indoor areas and walk-in units containing electrochemical ESS. An *approved* radiant energy-sensing fire detection system shall be installed to protect open parking garage and rooftop installations. Alarm signals from detection systems shall be transmitted to a central station, proprietary or remote station service in accordance with [NFPA 72](#), or where *approved* to a constantly attended location.

1207.5.4.1 System status.

Where required by the *fire code official*, visible annunciation shall be provided on cabinet exteriors or in other *approved* locations to indicate that potentially hazardous conditions associated with the ESS exist.

1207.5.5 Fire suppression systems.

Rooms and areas within buildings and walk-in units containing electrochemical ESS shall be protected by an automatic fire suppression system designed and installed in accordance with one of the following:

1. An *automatic sprinkler system* designed and installed in accordance with [Section 903.3.1.1](#) with a minimum density of 0.3 gpm/ft² (1.14 L/min) based on the *fire area* or 2,500 square-foot (232 m²) design area, whichever is smaller.
2. Where *approved*, an *automatic sprinkler system* designed and installed in accordance with [Section 903.3.1.1](#) with a sprinkler hazard classification based on large-scale fire testing complying with [Section 1207.1.5](#).
3. The following alternative automatic fire-extinguishing systems designed and installed in accordance with [Section 904](#), provided that the installation is *approved* by the *fire code official* based on large-scale fire testing complying with [Section 1207.1.5](#):
 - 3.1. [NFPA 12](#), *Standard on Carbon Dioxide Extinguishing Systems*.
 - 3.2. [NFPA 15](#), *Standard for Water Spray Fixed Systems for Fire Protection*.
 - 3.3. [NFPA 750](#), *Standard on Water Mist Fire Protection Systems*.
 - 3.4. [NFPA 2001](#), *Standard on Clean Agent Fire-Extinguishing Systems*.
 - 3.5. [NFPA 2010](#), *Standard for Fixed Aerosol Fire-Extinguishing Systems*.

Exception: Fire suppression systems for lead-acid and nickel-cadmium battery systems at facilities under the exclusive control of communications utilities that operate at less than 50 VAC and 60 VDC shall be provided where required by [NFPA 76](#).

1207.5.5.1 Water-reactive systems.

Electrochemical ESS that utilize water-reactive materials shall be protected by an *approved* alternative automatic fire extinguishing system in accordance with [Section 904](#), where the installation is *approved* by the *fire code official* based on large-scale fire testing complying with [Section 1207.1.5](#).

1207.5.6 Maximum enclosure size.

Outdoor walk-in units housing ESS shall not exceed 53 feet by 8 feet by 9.5 feet high (16 154 mm × 2438 mm × 2896 mm), not including bolt-on HVAC and related equipment, as *approved*. Outdoor walk-in units exceeding these limitations shall be considered indoor installations and comply with the requirements in [Section 1207.7](#).

1207.5.7 Vegetation control.

Areas within 10 feet (3048 mm) on each side of outdoor ESS shall be cleared of combustible vegetation and other combustible growth. Single specimens of trees, shrubbery or cultivated ground cover such as green grass, ivy, succulents or similar plants used as ground cover shall be permitted to be exempt provided that they do not form a means of readily transmitting fire.

1207.5.8 Means of egress separation.

ESS located outdoors and in open parking garages shall be separated from any *means of egress* as required by the *fire code official* to ensure safe egress under fire conditions, but in no case less than 10 feet (3048 mm).

Exception: The fire code official is authorized to approve a reduced separation distance if large-scale fire testing complying with [Section 1207.1.5](#) is provided that shows that a fire involving the ESS will not adversely impact occupant egress.

1207.6 Electrochemical ESS technology-specific protection.

Electrochemical ESS installations shall comply with the requirements of this section in accordance with the applicable requirements of [Table 1207.6](#).

TABLE 1207.6

COMPLIANCE REQUIRED ^b		BATTERY TECHNOLOGY				OTHER ESS AND BATTERY TECHNOLOGIES ^b	CAPACITORS ^b
Feature	Section	Lead-acid	Ni-Cd and Ni-MH	Lithium-ion	Flow		
Exhaust ventilation	1207.6.1	Yes	Yes	No	Yes	Yes	Yes
Explosion control	1207.6.3	Yes ^a	Yes ^a	Yes	No	Yes	Yes
Safety caps	1207.6.4	Yes	Yes	No	No	Yes	Yes
Spill control and neutralization	1207.6.2	Yes ^c	Yes ^c	No	Yes	Yes	Yes
Thermal runaway	1207.6.5	Yes ^d	Yes	Yes ^e	No	Yes ^e	Yes

ELECTROCHEMICAL ESS TECHNOLOGY-SPECIFIC REQUIREMENTS

1. a. Not required for lead-acid and nickel-cadmium batteries at facilities under the exclusive control of communications utilities that comply with [NFPA 76](#) and operate at less than 50 VAC and 60 VDC.
2. b. Protection shall be provided unless documentation acceptable to the fire code official is provided in accordance with [Section 104.8.2](#) that provides justification why the protection is not necessary based on the technology used.
3. c. Applicable to vented-type (i.e., flooded) nickel-cadmium and lead-acid batteries.
4. d. Not required for vented-type (i.e., flooded) lead-acid batteries.
5. e. The thermal runaway protection is permitted to be part of a battery management system that has been evaluated with the battery as part of the evaluation to [UL 1973](#).

1207.6.1 Exhaust ventilation.

Where required by [Table 1207.6](#) or elsewhere in this code, exhaust ventilation of rooms, areas and walk-in units containing electrochemical ESS shall be provided in accordance with the *International Mechanical Code* and [Section 1207.6.1.1](#) or [1207.6.1.2](#).

1207.6.1.1 Ventilation based on LFL.

The exhaust ventilation system shall be designed to limit the maximum concentration of flammable gas to 25 percent of the lower flammable limit (LFL) of the total volume of the room, area or walk-in unit during the worst-case event of simultaneous charging of batteries at the maximum charge rate, in accordance with nationally recognized standards.

1207.6.1.2 Ventilation based on exhaust rate.

Mechanical exhaust ventilation shall be provided at a rate of not less than 1 ft³/min/ft² (5.1 L/sec/m²) of floor area of the room, area or walk-in unit. The ventilation shall be either continuous or shall be activated by a gas detection system in accordance with [Section 1207.6.1.2.4](#).

1207.6.1.2.1 Standby power.

Mechanical exhaust ventilation shall be provided with a minimum of 2 hours of standby power in accordance with [Section 1203.2.5](#).

1207.6.1.2.2 Installation instructions.

Required mechanical exhaust ventilation systems shall be installed in accordance with the manufacturer's installation instructions and the *International Mechanical Code*.

1207.6.1.2.3 Supervision.

Required mechanical exhaust ventilation systems shall be supervised by an *approved* central station, proprietary or remote station service in accordance with [NFPA 72](#), or shall initiate an audible and visible signal at an *approved* constantly attended on-site location.

1207.6.1.2.4 Gas detection system.

Where required by [Section 1207.6.1.2](#), rooms, areas and walk-in units containing ESS shall be protected by an *approved* continuous gas detection system that complies with [Section 916](#) and with the following:

1. The gas detection system shall be designed to activate the mechanical ventilation system when the level of flammable gas in the room, area or walk-in unit exceeds 25 percent of the LFL.
2. The mechanical ventilation system shall remain on until the flammable gas detected is less than 25 percent of the LFL.
3. The gas detection system shall be provided with a minimum of 2 hours of standby power in accordance with [Section 1203.2.5](#).
4. Failure of the gas detection system shall annunciate a trouble signal at an *approved* central station, proprietary or remote station service in accordance with [NFPA 72](#), or shall initiate an audible and visible trouble signal at an *approved* constantly attended on-site location.

1207.6.2 Spill control and neutralization.

Where required by [Table 1207.6](#) or elsewhere in this code, areas containing free-flowing liquid electrolyte or hazardous materials shall be provided with spill control and neutralization in accordance with this section.

1207.6.2.1 Spill control.

Spill control shall be provided to prevent the flow of liquid electrolyte or hazardous materials to adjoining rooms or areas. The method shall be capable of containing a spill from the single largest battery or vessel.

1207.6.2.2 Neutralization.

An *approved* method that is capable of neutralizing spilled liquid electrolyte from the largest battery or vessel to a pH between 5.0 and 9.0 shall be provided.

1207.6.2.3 Communications utilities.

The requirements of [Section 1207.6.2](#) shall apply only when the aggregate capacity of multiple vessels exceeds 1,000 gallons (3785 L) for lead-acid and nickel-cadmium battery systems operating at less than 50 VAC and 60 VDC that are located at facilities under the exclusive control of communications utilities, and those facilities comply with [NFPA 76](#) in addition to applicable requirements of this code.

1207.6.3 Explosion control.

Where required by [Table 1207.6](#) or elsewhere in this code, explosion control complying with [Section 911](#) shall be provided for rooms, areas or walk-in units containing electrochemical ESS technologies.

Exceptions:

1. Where approved, explosion control is permitted to be waived by the fire code official based on large-scale fire testing complying with [Section 1207.1.5](#) that demonstrates that flammable gases are not liberated from electrochemical ESS cells or modules where tested in accordance with [UL 9540A](#).
2. Where approved, explosion control is permitted to be waived by the fire code official based on documentation provided in accordance with [Section 104.7](#) that demonstrates that the electrochemical ESS technology to be used does not have the potential to release flammable gas concentrations in excess of 25 percent of the LFL anywhere in the room, area, walk-in unit or structure under thermal runaway or other fault conditions.

1207.6.4 Safety caps.

Where required by [Table 1207.6](#) or elsewhere in this code, vented batteries and other ESS shall be provided with flame-arresting safety caps.

1207.6.5 Thermal runaway.

Where required by [Table 1207.6](#) or elsewhere in this code, batteries and other ESS shall be provided with a *listed* device or other *approved* method to prevent, detect and minimize the impact of thermal runaway.

1207.7 Indoor installations.

Indoor ESS installations shall be in accordance with [Sections 1207.7.1](#) through [1207.7.4](#).

**TABLE 1207.7
INDOOR ESS INSTALLATIONS**

COMPLIANCE REQUIRED		DEDICATED- USE BUILDINGS ^a	NONDEDICATED- USE BUILDINGS ^b
Feature	Section		
Dwelling units and sleeping units	1207.7.3	NA	Yes
Elevation	1207.5.3	Yes	Yes
Fire suppression systems	1207.5.5	Yes ^c	Yes
Fire-resistance-rated separations	1207.7.4	Yes	Yes
General installation requirements	1207.4	Yes	Yes
Maximum allowable quantities	1207.5.2	No	Yes
Size and separation	1207.5.1	Yes	Yes
Smoke and automatic fire detection ^e	1207.5.4	Yes ^d	Yes
Technology specific protection	1207.6	Yes	Yes

NA = Not Allowed.

1. a. See [Section 1207.7.1](#).
2. b. See [Section 1207.7.2](#).
3. c. Where approved by the fire code official, fire suppression systems are permitted to be omitted in dedicated-use buildings located more than 100 feet (30.5 m) from buildings, lot lines, public ways, stored combustible materials, hazardous materials, high-piled stock and other exposure hazards.
4. d. Where approved by the fire code official, alarm signals are not required to be transmitted to a central station, proprietary or remote station service in accordance with [NFPA 72](#), or a constantly attended location where local fire alarm annunciation is provided and trained personnel are always present.
5. e. Lead-acid and nickel-cadmium battery systems installed in Group U buildings and structures less than 1,500 square feet (139 m²) under the exclusive control of communications utilities, and operating at

less than 50 VAC and 60 VDC in accordance with [NFPA 76](#), are not required to have an approved automatic smoke or fire detection system.

1207.7.1 Dedicated-use buildings.

For the purpose of [Table 1207.7](#), dedicated-use ESS buildings shall be classified as Group F-1 occupancies and comply with all the following:

1. The building shall only be used for ESS, electrical energy generation and other electrical grid-related operations.
2. Occupants in the rooms and areas containing ESS are limited to personnel that operate, maintain, service, test and repair the ESS and other energy systems.
3. No other occupancy types shall be permitted in the building.
4. Administrative and support personnel shall be permitted in areas within the buildings that do not contain ESS, provided that:
 - 4.1. The areas do not occupy more than 10 percent of the building area of the story in which they are located.
 - 4.2. A means of egress is provided from the incidental use areas to the public way that does not require occupants to traverse through areas containing ESS or other energy system equipment.

1207.7.2 Nondedicated-use buildings.

For the purpose of [Table 1207.7](#), nondedicated-use buildings include all buildings that contain ESS and do not comply with [Section 1207.7.1](#) dedicated-use building requirements.

1207.7.3 Dwelling units and sleeping units.

ESS shall not be installed in *sleeping units* or in *habitable spaces of dwelling units*.

1207.7.4 Fire-resistance-rated separations.

Rooms and areas containing ESS shall include *fire-resistance-rated* separations as follows:

1. In dedicated-use buildings, rooms and areas containing ESS shall be separated from areas in which administrative and support personnel are located.
2. In nondedicated-use buildings, rooms and areas containing ESS shall be separated from other areas in the building.

Separation shall be provided by 2-hour *fire barriers* constructed in accordance with [Section 707](#) of the *International Building Code* and 2-hour *horizontal assemblies* constructed in accordance with [Section 711](#) of the *International Building Code*, as appropriate.

1207.8 Outdoor installations.

Outdoor installations shall be in accordance with [Sections 1207.8.1](#) through [1207.8.3](#). Exterior wall installations for individual ESS units not exceeding 20 kWh shall be in accordance with [Section 1207.8.4](#).

**TABLE 1207.8
OUTDOOR ESS INSTALLATIONS^a**

COMPLIANCE REQUIRED		REMOTE INSTALLATIONS ^a	INSTALLATIONS NEAR EXPOSURES ^b
Feature	Section		
All ESS installations	1207.4	Yes	Yes
Clearance to exposures	1207.8.3	Yes	Yes
Fire suppression systems	1207.5.5	Yes ^c	Yes
Maximum allowable quantities	1207.5.2	No	Yes
Maximum enclosure size	1207.5.6	Yes	Yes
Means of egress separation	1207.5.8	Yes	Yes
Size and separation	1207.5.1	No	Yes ^d
Smoke and automatic fire detection	1207.5.4	Yes	Yes
Technology-specific protection	1207.6	Yes	Yes
Vegetation control	1207.5.7	Yes	Yes

1. a. See [Section 1207.8.1](#).
2. b. See [Section 1207.8.2](#).
3. c. Where approved by the fire code official, fire suppression systems are permitted to be omitted.
4. d. In outdoor walk-in units, spacing is not required between ESS units and the walls of the enclosure.

1207.8.1 Remote outdoor installations.

For the purpose of [Table 1207.8](#), remote outdoor installations include ESS located more than 100 feet (30 480 mm) from buildings, lot lines, public ways, stored combustible materials, hazardous materials, high-piled stock and other exposure hazards.

1207.8.2 Installations near exposures.

For the purpose of [Table 1207.8](#), installations near exposures include all outdoor ESS installations that do not comply with [Section 1207.8.1](#) remote outdoor location requirements.

1207.8.3 Clearance to exposures.

ESS located outdoors shall be separated by a minimum of 10 feet (3048 mm) from the following exposures:

1. Lot lines.
2. Public ways.
3. Buildings.
4. Stored combustible materials.
5. Hazardous materials.
6. High-piled stock.
7. Other exposure hazards.

Exceptions:

1. Clearances are permitted to be reduced to 3 feet (914 mm) where a 1-hour free-standing fire barrier suitable for exterior use and extending 5 feet (1524 mm) above and 5 feet (1524 mm) beyond the physical boundary of the ESS installation is provided to protect the exposure.
2. Clearances to buildings are permitted to be reduced to 3 feet (914 mm) where noncombustible exterior walls with no openings or combustible overhangs are provided on the wall adjacent to the ESS and the fire-resistance rating of the exterior wall is a minimum of 2 hours.
3. Clearances to buildings are permitted to be reduced to 3 feet (914 mm) where a weatherproof enclosure constructed of noncombustible materials is provided over the ESS, and it has been demonstrated that a fire

within the enclosure will not ignite combustible materials outside the enclosure based on large-scale fire testing complying with [Section 1207.1.5](#).

1207.8.4 Exterior wall installations.

ESS shall be permitted to be installed outdoors on exterior walls of buildings when all of the following conditions are met:

1. The maximum energy capacity of individual ESS units shall not exceed 20 kWh.
2. The ESS shall comply with applicable requirements in [Section 1207](#).
3. The ESS shall be installed in accordance with the manufacturer’s instructions and their listing.
4. Individual ESS units shall be separated from each other by at least 3 feet (914 mm).
5. The ESS shall be separated from doors, windows, operable openings into buildings or HVAC inlets by at least 5 feet (1524 mm).

Exception: Where approved, smaller separation distances in Items 4 and 5 shall be permitted based on large-scale fire testing complying with [Section 1207.1.5](#).

207.9 Special installations.

Rooftop and open parking garage ESS installations shall comply with [Sections 1207.9.1](#) through [1207.9.6](#).

TABLE 1207.9

SPECIAL ESS INSTALLATIONS

COMPLIANCE REQUIRED		ROOFTOPS ^a	OPEN PARKING GARAGES ^b
Feature	Section		
All ESS installations	1207.4	Yes	Yes
Clearance to exposures	1207.9.3	Yes	Yes
Fire suppression systems	1207.9.4	Yes	Yes
Maximum allowable quantities	1207.5.2	Yes	Yes
Maximum enclosure size	1207.5.6	Yes	Yes
Means of egress separation	1207.5.8	Yes	Yes
Open parking garage installations	1207.9.6	No	Yes
Rooftop installations	1207.9.5	Yes	No
Size and separation	1207.5.1	Yes	Yes
Smoke and automatic fire detection	1207.5.4	Yes	Yes
Technology-specific protection	1207.6	Yes	Yes

1. a. See [Section 1207.9.1](#).
2. b. See [Section 1207.9.2](#).

1207.9.1 Rooftop installations.

For the purpose of [Table 1207.9](#), rooftop ESS installations are those located on the roofs of buildings.

1207.9.2 Open parking garage installations.

For the purpose of [Table 1207.9](#), open parking garage ESS installations are those located in a structure or portion of a structure that complies with [Section 406.5](#) of the *International Building Code*.

1207.9.3 Clearance to exposures.

ESS located on rooftops and in open parking garages shall be separated by a minimum of 10 feet (3048 mm) from the following exposures:

1. Buildings, except the building on which rooftop ESS is mounted.
2. Any portion of the building on which a rooftop system is mounted that is elevated above the rooftop on which the system is installed.
3. Lot lines.
4. Public ways.
5. Stored combustible materials.
6. Locations where motor vehicles can be parked.
7. Hazardous materials.
8. Other exposure hazards.

Exceptions:

1. Clearances are permitted to be reduced to 3 feet (914 mm) where a 1-hour free-standing fire barrier suitable for exterior use and extending 5 feet (1524 mm) above and 5 feet (1524 mm) beyond the physical boundary of the ESS installation is provided to protect the exposure.
2. Clearances are permitted to be reduced to 3 feet (914 mm) where a weatherproof enclosure constructed of noncombustible materials is provided over the ESS, and it has been demonstrated that a fire within the enclosure will not ignite combustible materials outside the enclosure based on large-scale fire testing complying with [Section 1207.1.5](#).

1207.9.4 Fire suppression systems.

ESS located in walk-in units on rooftops or in walk-in units in open parking garages shall be provided with automatic fire suppression systems within the ESS enclosure in accordance with [Section 1207.5.5](#). Areas containing ESS other than walk in units in open parking structures on levels not open above to the sky shall be provided with an automatic fire suppression system complying with [Section 1207.5.5](#).

Exception: A fire suppression system is not required in open parking garages if large-scale fire testing complying with [Section 1207.1.5](#) is provided that shows that a fire will not impact the exposures in [Section 1207.9.3](#).

1207.9.4 Rooftop installations.

ESS and associated equipment that are located on rooftops and not enclosed by building construction shall comply with the following:

1. Stairway access to the roof for emergency response and fire department personnel shall be provided either through a bulkhead from the interior of the building or a stairway on the exterior of the building.
2. Service walkways at least 5 feet (1524 mm) in width shall be provided for service and emergency personnel from the point of access to the roof to the system.
3. ESS and associated equipment shall be located from the edge of the roof a distance equal to at least the height of the system, equipment or component but not less than 5 feet (1524 mm).
4. The roofing materials under and within 5 feet (1524 mm) horizontally from an ESS or associated equipment shall be noncombustible or shall have a Class A rating when tested in accordance with ASTM E108 or [UL 790](#).
5. A Class I standpipe outlet shall be installed at an approved location on the roof level of the building or in the stairway bulkhead at the top level.
6. The ESS shall be the minimum of 10 feet (3048 mm) from the fire service access point on the rooftop.

1207.9.5 Open parking garages.

ESS and associated equipment that are located in open parking garages shall comply with all of the following:

1. ESS shall not be located within 50 feet (15 240 mm) of air inlets for building HVAC systems.

Exception: This distance shall be permitted to be reduced to 25 feet (7620 mm) if the automatic fire alarm system monitoring the radiant-energy sensing detectors de-energizes the ventilation system connected to the air intakes upon detection of fire.

2. ESS shall not be located within 25 feet (7620 mm) of *exits* leading from the attached building where located on a covered level of the parking structure not directly open to the sky above.
3. An *approved* fence with a locked gate or other *approved* barrier shall be provided to keep the general public at least 5 feet (1524 mm) from the outer enclosure of the ESS.

1207.10 Mobile ESS equipment and operations.

Mobile ESS equipment and operations shall comply with [Sections 1207.10.1 through 1207.10.7.7](#).

TABLE 1207.10**MOBILE ENERGY STORAGE SYSTEMS (ESS)**

COMPLIANCE REQUIRED		DEPLOYMENT ^a
Feature	Section	
All ESS installations	1207.4	Yes ^b
Fire suppression systems	1207.5.5	Yes ^c
Maximum allowable quantities	1207.5.2	Yes
Maximum enclosure size	1207.5.6	Yes
Means of egress separation	1207.5.8	Yes
Size and separation	1207.5.1	Yes ^d
Smoke and automatic fire detection	1207.5.4	Yes ^e
Technology-specific protection	1207.6	Yes
Vegetation control	1207.5.7	Yes

1. a. See [Section 1207.10.2](#).
2. b. Mobile operations on wheeled vehicles and trailers shall not be required to comply with [Section 1207.4.4](#) seismic and structural load requirements.
3. c. Fire suppression system connections to the water supply shall be permitted to use approved temporary connections.
4. d. In walk-in units, spacing is not required between ESS units and the walls of the enclosure.
5. e. Alarm signals are not required to be transmitted to an approved location for mobile ESS deployed 30 days or less.

1207.10.1 Charging and storage.

For the purpose of [Section 1207.10](#), charging and storage covers the operation where mobile ESS are charged and stored so they are ready for deployment to another site, and where they are charged and stored after a deployment.

1207.10.2 Deployment.

For the purpose of [Section 1207.10](#), deployment covers operations where mobile ESS are located at a site other than the charging and storage site and are being used to provide power.

1207.10.3 Permits.

Construction and operational permits shall be provided for charging and storage of mobile ESS and operational permits shall be provided for deployment of mobile ESS as required by [Section 1207.1.2](#).

1207.10.4 Construction documents.

Construction documents complying with [Section 1207.1.3](#) shall be provided with the construction permit application for mobile ESS charging and storage locations.

1207.10.4.1 Deployment documents.

The following information shall be provided with the operation permit applications for mobile ESS deployments:

1. Relevant information for the mobile ESS equipment and protection measures in the *construction documents* required by [Section 1207.1.3](#).
2. Location and layout diagram of the area in which the mobile ESS is to be deployed, including a scale diagram of all nearby exposures.
3. Location and content of signage, including no smoking signs.

4. Description of fencing to be provided around the ESS, including locking methods.
5. Details on fire suppression, smoke and automatic fire detection, system monitoring, thermal management, exhaust ventilation and explosion control, if provided.
6. For deployment, the intended duration of operation, including anticipated connection and disconnection times and dates.
7. Location and description of local staging stops during transit to the deployment site. See [Section 1207.10.7.5](#).
8. Description of the temporary wiring, including connection methods, conductor type and size, and circuit overcurrent protection to be provided.
9. Description of how fire suppression system connections to water supplies or extinguishing agents are to be provided.
10. Contact information for personnel who are responsible for maintaining and servicing the equipment, and responding to emergencies as required by [Section 1207.1.6.1](#).

1207.10.5 Approved locations.

Locations where mobile ESS are charged, stored and deployed shall be restricted to the locations established on the construction and operational permits.

1207.10.6 Charging and storage.

Installations where mobile ESS are charged and stored shall be treated as permanent ESS indoor or outdoor installations, and shall comply with the following sections, as applicable:

1. Indoor charging and storage shall comply with [Section 1207.7](#).
2. Outdoor charging and storage shall comply with [Section 1207.8](#).
3. Charging and storage on rooftops and in open parking garages shall comply with [Section 1207.9](#).

Exceptions:

1. Electrical connections shall be permitted to be made using temporary wiring complying with the manufacturer's instructions, the [UL 9540](#) listing and [NFPA 70](#).
2. Fire suppression system connections to the water supply shall be permitted to use approved temporary connections.

1207.10.7 Deployed mobile ESS requirements.

Deployed mobile ESS equipment and operations shall comply with this section and [Table 1207.10](#).

1207.10.7.1 Duration.

The duration of mobile ESS deployment shall not exceed 30 days.

Exceptions:

1. Mobile ESS deployments that provide power for durations longer than 30 days shall comply with [Section 1207.10.6](#).
2. Mobile ESS deployments shall not exceed 180 days unless additional operational permits are obtained.

1207.10.7.2 Restricted locations.

Deployed mobile ESS operations shall not be located indoors, in covered parking garages, on rooftops, below grade or under building overhangs.

1207.10.7.3 Clearance to exposures.

Deployed mobile ESS shall be separated by a minimum of 10 feet (3048 mm) from the following exposures:

1. Public ways.
2. Buildings.
3. Stored combustible materials.
4. Hazardous materials.
5. High-piled storage.
6. Other exposure hazards.

Deployed mobile ESS shall be separated by a minimum of 50 feet (15 240 mm) from public seating areas and from tents, canopies and membrane structures with an *occupant load* of 30 or more.

1207.10.7.4 Electrical connections.

Electrical connections shall be made in accordance with the manufacturer's instructions and the [UL 9540](#) listing. Temporary wiring for electrical power connections shall comply with [NFPA 70](#). Fixed electrical wiring shall not be provided.

1207.10.7.5 Local staging.

Mobile ESS in transit from the charging and storage location to the deployment location and back shall not be parked within 100 feet (30 480 mm) of an occupied building for more than 1 hour during transit, unless specifically *approved* by the *fire code official* when the permit is issued.

1207.10.7.6 Fencing.

An *approved* fence with a locked gate or other *approved* barrier shall be provided to keep the general public at least 5 feet (1524 mm) from the outer enclosure of a deployed mobile ESS.

1207.10.7.7 Smoking.

Smoking shall be prohibited within 10 feet (3048 mm) of mobile ESS. Signs shall be posted in accordance with [Section 310](#).

1207.11 ESS in Group R-3 and R-4 occupancies.

ESS in Group R-3 and R-4 occupancies shall be installed and maintained in accordance with [Sections 1207.11.1](#) through [1207.11.9](#). The temporary use of an *owner* or occupant's electric-powered vehicle as an ESS shall be in accordance with [Section 1207.11.10](#).

1207.11.1 Equipment listings.

ESS shall be *listed* and *labeled* in accordance with [UL 9540](#). ESS *listed* and *labeled* solely for utility or commercial use shall not be used for residential applications.

Exceptions:

1. Where approved, repurposed unlisted battery systems from electric vehicles are allowed to be installed outdoors or in detached dedicated cabinets located not less than 5 feet (1524 mm) from exterior walls, property lines and public ways.
2. ESS less than 1 kWh (3.6 megajoules).

1207.11.2 Installation.

ESS shall be installed in accordance with the manufacturer's instructions and their listing.

1207.11.2.1 Spacing.

Individual units shall be separated from each other by at least 3 feet (914 mm) of spacing unless smaller separation distances are documented to be adequate based on large-scale fire testing complying with [Section 1207.1.5](#).

1207.11.3 Location.

ESS shall be installed only in the following locations:

1. Detached garages and detached accessory structures.
2. Attached garages separated from the *dwelling unit* living space and *sleeping units* in accordance with [Section 406.3.2](#) of the *International Building Code*.
3. Outdoors on exterior walls located a minimum of 3 feet (914 mm) from doors and windows.
4. Utility closets and storage or utility spaces within *dwelling units* and *sleeping units*.

1207.11.4 Energy ratings.

Individual ESS units shall have a maximum rating of 20 kWh. The aggregate rating structure shall not exceed:

1. 40 kWh within utility closets and storage or utility spaces.
2. 80 kWh in attached or detached garages and detached accessory structures.
3. 80 kWh on exterior walls.
4. 80 kWh outdoors on the ground.

1207.11.5 Electrical installation.

ESS shall be installed in accordance with [NFPA 70](#). Inverters shall be *listed* and *labeled* in accordance with [UL 1741](#) or provided as part of the [UL 9540](#) listing. Systems connected to the utility grid shall use inverters *listed* for utility interaction.

12.07.11.6 Fire detection.

Rooms and areas within *dwelling units*, *sleeping units* and attached garages in which ESS are installed shall be protected by smoke alarms in accordance with [Section 907.2.11](#). A *heat detector listed* and interconnected to the smoke alarms shall be installed in locations within *dwelling units*, *sleeping units* and attached garages where smoke alarms cannot be installed based on their listing.

1207.11.7 Protection from impact.

Stationary storage battery systems installed in a location subject to vehicle damage shall be protected by *approved* barriers. Appliances in garages shall also be installed in accordance with [Section 304.3](#) of the *International Mechanical Code*.

1207.11.8 Ventilation.

Indoor installations of ESS that include batteries that produce hydrogen or other flammable gases during charging shall be provided with exhaust ventilation in accordance with [Section 1207.6.1](#).

1207.11.9 Toxic and highly toxic gas.

ESS that have the potential to release toxic or highly toxic gas during charging, discharging and normal use conditions shall not be installed within Group R-3 or R-4 occupancies.

1207.11.10 Electric vehicle use.

The temporary use of an owner or occupant's electric-powered vehicle to power a *dwelling unit* or *sleeping unit* while parked in an attached or detached garage or outside shall comply with the vehicle manufacturer's instructions and [NFPA 70](#).

City Council Meeting Agenda Item Data Sheet

Meeting Date: April 3, 2023

Topic:

Approve the Minutes of the March 20, 2023, Regular City Council Meeting

Background:

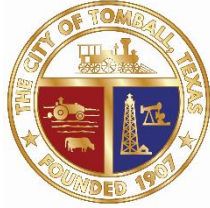
Origination: City Secretary

Recommendation:

Approve the Minutes of the March 20, 2023, Regular City Council Meeting

Party(ies) responsible for placing this item on agenda: Tracylynn Garcia, City Secretary

**MINUTES OF REGULAR CITY COUNCIL MEETING
CITY OF TOMBALL, TEXAS**



**Monday, March 20, 2023
6:00 PM**

The City Council of the City of Tomball, Texas, conducted the meeting scheduled for March 20, 2023, 6:00 PM, at 401 Market Street, Tomball, Texas 77375, via physical attendance and video/telephone conference.

- A. Mayor L. Klein-Quinn called the meeting of the City of Tomball Council to Order at 6:00 p.m.

PRESENT

Council 1 John Ford
Council 2 Mark Stoll
Council 3 Dane Dunagin
Council 4 Derek Townsend, Sr.
Council 5 Randy Parr

OTHERS PRESENT:

City Manager – David Esquivel
Assistant City Manager – Jessica Rogers
City Secretary – Tracylynn Garcia
City Attorney – Loren Smith
Director of Public Works – Drew Huffman
Police Chief – Jeff Bert
Director of Community Development – Nathan Dietrich
Fire Chief - Joe Sykora
Director of Finance – Katherine Tapscott
IT Sr. Specialist – Ben Lato (video)
Executive Director-TEDC – Kelly Violette
Marketing Manager - Chrislord Templonuevo
Community Center Manager – Rosalie Dillon
Project Coordinator – Meagan Mageo
Senior Administrative Assistant – Sasha Luna

- B. Invocation - Led by Council 3 Dane Dunagin
C. Pledges to U.S. and Texas Flags led by Fire Chief Joe Sykora

- D. Public Comments and Receipt of Petitions; *[At this time, anyone will be allowed to speak on any matter other than personnel matters or matters under litigation, for length of time not to exceed three minutes. No Council/Board discussion or action may take place on a matter until such matter has been placed on an agenda and posted in accordance with law - GC, 551.042.]*

Amanda Kelly
19710 Rippling Brook Ln.
Tomball, TX 77375

-

Appreciate the City and the work being done; & the vote regarding median on 2920 Concerns with women crossing the street with strollers.

Michael Pierce
13607 Arcott Bend Dr.
Tomball, Texas 77377

-

Honky Tonk

- E. Reports and Announcements

1. Announcements

March 24-26, 2023 – Tomball German Heritage Festival at the Depot

April 1, 2023 – Tomball Athletic Booster Club Crawfish Boil at Juergens Park

April 15, 2023 – Tomball Rails and Tails Crawfish Festival at the Depot

April 21, 2023 – Tomball Rotary Fish Fry at Juergens Park

April 17-22, 2023 – Tomball Annual Spring Clean-Up and Chipping Week

April 22, 2023 – Tomball Consolidated Recycling Day – Lone Star College-Tomball Campus, 30555 Tomball Parkway, South Entrance – 10:00 a.m.-2:00 p.m.

May 4, 2023 – National Day of Prayer at the Community Center

2. Reports by City staff and members of council about items of community interest on which no action will be taken:

- I. Katherine presented the quarterly Investment Report for Period Ending December 31, 2022.

- F. *New Business Consent Agenda: [All matters listed under Consent Agenda are considered to be routine and will be enacted by one motion. There will be no separate discussion of these items. If discussion is desired, the item in question will be removed from the Consent Agenda and will be considered separately. Information concerning Consent Agenda items is available for public review.]*

Items 4, 5 and 6 were pulled at the request of Council and Staff and were voted on separately.

1. Approve the Minutes of the March 6, 2023, Regular City Council Meeting
2. Consideration to approve an amendment to a professional services agreement with Freese & Nichols, Inc. for on-call GIS, planning, and engineering services for an amount of \$50,000 (contract total not to exceed amount of \$100,000).
3. Consideration to approve a Professional Services Agreement with Raba Kistner for groundwater monitoring at the City of Tomball closed landfill for a not-to-exceed amount of \$40,300, approve the expenditure of funds therefor, and authorize the City Manager to execute any and all documents related to the purchase. This expenditure is included in the FY 2022-2023 Budget.
7. Consideration to approve a Professional Services Agreement with Oller Engineering, Inc. for the Rudolph Road water line extension design (Project Number 2023-10015) in the not-to-exceed amount of \$49,420, approve the expenditure of funds therefor, and authorize the City Manager to execute the agreement. This project was included in the FY 2022-2023 budget.

Motion made by Council 3 Dunagin, Seconded by Council 2 Stoll for items 1,2,3 and 7.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

4. Consideration to approve a Professional Services Agreement with Raba Kistner for gas monitoring at the City of Tomball closed landfill for a not-to-exceed amount of \$20,500, approve the expenditure of funds therefor, and authorize the City Manager to execute any and all documents related to the purchase. This expenditure is included in the FY 2022-2023 Budget.

Motion made by Council 4 Townsend, Sr., Seconded by Council 2 Stoll.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

5. Approve a contract with Weisinger Incorporated to complete repairs and maintenance on Water Well 6 through a BuyBoard Contract (Contract No. 662-22 & 672-22) for a not-to-exceed amount of \$129,444, approve the expenditure of funds therefor, and authorize the City Manager to execute any and all documents related to the purchase. This expenditure is included in the FY 2022-2023 Budget.

Motion made by Council 4 Townsend, Sr., Seconded by Council 5 Parr.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

6. Approve the purchase of a two 500kW natural gas generators from Evolve Power Generation through a cooperative purchasing contract with Choice Partners (Contract No. 17/020CG-04 & 21/031KN-22) for a not-to-exceed amount of \$599,787, approve the expenditure of funds therefor, and authorized the City Manager to execute any and all documents related to the purchase. This expenditure is included in the FY 2022-2023 Budget.

Motion made by Council 4 Townsend, Sr., Seconded by Council 3 Dunagin.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

G. New Business

1. Discussion and Possible Action regarding Legislative Items at the 2023 Texas Legislative Session.

Motion made by Council 4 Townsend, Sr., Seconded by Council 5 Parr.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

2. Provide staff direction and authorize the city to commence negotiations on the proposed designs for FM 2920/Main Street reconstruction project with TXDOT.

Sandy Shaver - Wanted to speak regarding
622 Hospital the median's on 2920
Tomball, Texas

Council gave direction to move forward with Alternative 2.

3. Approve Resolution No. 2023-14, a Resolution of the City of Tomball, Texas, Canceling the Regular City Officer's Election Scheduled to be Held on the 6th Day of May 2023, in Accordance with Section 2.053(A) of the Texas Election Code; Directing the Giving of Notice of Such Cancellation of Election; and Providing Details Relating to the Cancellation of Such Election

Aprobar la Resolución Nro. 2023-14 Cancelando la Elección Regular de Funcionarios Municipales programada para celebrarse el día 6 de mayo de 2023 de acuerdo con la Sección 2.053(a) del Código Electoral de Texas; instruyendo que se de aviso de tal cancelación de elección; y proveyendo detalles relativos a la cancelación de tal elección.

Chấp thuận Nghị Quyết số 2023-14, Hủy Bỏ Cuộc Bầu Cử Viên Chức Thành Phố Thường Kỳ Dự Kiến sẽ được tổ chức vào ngày 6 tháng Năm, 2023, Chiếu theo Mục 2.053(a) của Bộ Luật Tuyển Cử Texas; Chỉ thị việc đưa ra Thông Báo về Hủy Bỏ Cuộc Bầu Cử đó; và Cung Cấp Thông Tin Chi Tiết Liên quan đến việc Hủy Bỏ Cuộc Bầu Cử đó.

通過決議案2023-

14, 取消一般市府官員應於2023年5月6日的選舉計畫。其是根據德克薩斯州選舉法2.053(a)節；茲此通知該選舉取消；以及提供關於取消該選舉的詳情。

Motion made by Council 1 Ford, Seconded by Council 5 Parr.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

4. Approve, on First Reading, Resolution No. 2023-10-TEDC, a Resolution of the City Council of the City of Tomball, Texas, authorizing and approving the Tomball Economic Development Corporation's Project to Expend Funds in accordance with an Economic Development Agreement by and between the Corporation and the City of Tomball to make direct incentives to, or expenditures for, improvements to Jerry Matheson Park located at 1240 Ulrich Rd., Tomball, Texas 77375, as authorized under Sections 505.152 and 505.154 of the Texas Local Government Code. The estimated amount of expenditures for such Project is \$200,000.00.

Motion made by Council 5 Parr, Seconded by Council 2 Stoll.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

5. Approve, on First Reading, Resolution No. 2023-11-TEDC, a Resolution of the City Council of the City of Tomball, Texas, authorizing and approving the Tomball Economic Development Corporation's Project to Expend Funds in accordance with an Economic Development Agreement by and between the Corporation and the City of Tomball to make direct incentives to, or expenditures for, improvements to the North and South 100 Block Alleyways located in the City of Tomball, Texas, as authorized under Sections 505.152 and 505.154 of the Texas Local Government Code. The estimated amount of expenditures for such Project is \$600,000.00.

Motion made by Council 4 Townsend, Sr., Seconded by Council 1 Ford.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

6. Approve, on First Reading, Resolution No. 2023-13-TEDC, a Resolution of the City Council of the City of Tomball, Texas, authorizing and approving the Tomball Economic Development Corporation's Project to Expend Funds in accordance with an Economic Development Agreement by and between the Corporation and the City of Tomball to make direct incentives to, or expenditures for, design of the South Wastewater Treatment Plant expansion located in the City of Tomball, Texas, as authorized under Sections 505.152 and 505.154 of the Texas Local Government Code. The estimated amount of expenditures for such Project is \$415,000.00.

Motion made by Council 5 Parr, Seconded by Council 3 Dunagin.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

7. Approve, on First Reading, Resolution No. 2023-12-TEDC, a Resolution of the City Council of the City of Tomball, Texas, authorizing and approving the Tomball Economic Development Corporation's Project to Expend Funds in accordance with an Economic Development Agreement by and between the Corporation and the City of Tomball to make direct incentives to, or expenditures for, improvements to Louie's Together Playground located at 1331 Ulrich Rd., Tomball, Texas 77375, as authorized under Sections 505.152 and 505.154 of the Texas Local Government Code. The estimated amount of expenditures for such Project is \$200,000.00.

Motion made by Council 4 Townsend, Sr., Seconded by Council 2 Stoll.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

8. Conduct Public Hearing of the City Council of the City of Tomball to consider proposed Levy of Assessments for authorized improvements within the Seven Oaks Public Improvement District in the City of Tomball, Public Improvement District Number Fourteen (PID 14), established by City Council Resolution No. 2022-27. The proposed Service and Assessment Plan complies with the requirements of the approved Development Agreement as approved by City Council on August 15, 2022.
 - Mayor Klein Quinn called the PH to order at 7:15pm.
 - Hearing no public comments, Mayor Klein Quinn closed the Public Hearing at 7:16pm.

9. Adopt, on First Reading, Ordinance Number 2023-06, an Ordinance of the City Council of Tomball, Texas, Approving a Service and Assessment Plan and Assessment Roll for Authorized Improvements for the Seven Oaks Public Improvement District (the “District”); Making a Finding of Special Benefit to Certain Property in the District; Levying Assessments against Certain Property within the District and Establishing a Lien on Such Property; Providing for Payment of the Assessment in Accordance with Chapter 372, Texas Local Government Code, as Amended; Providing for the Method of Assessment and the Payment of the Assessments; Providing for Penalties and Interest on Delinquent Assessments; Providing for Severability and Providing an Effective Date. The proposed Service and Assessment Plan complies with the requirements of the approved Development Agreement as approved by City Council on August 15, 2022.

Motion made by Council 4 Townsend, Sr., Seconded by Council 5 Parr to read Ordinance No. 2023-06 by caption only on First Reading.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

Motion made by Council 4 Townsend, Sr., Seconded by Council 1 Ford to adopt on First Reading Ordinance No. 2023-06.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

10. Adopt on First Reading , Ordinance No. 2023-07, an Ordinance Amending The Code of Ordinances of The City of Tomball, Texas, By Adding a New Subsection (ff-1) to Section 20-28, Amendments to The 2015 International Fire Code, of Article II, Fire Code, of Chapter 20, Fire Prevention And Protection; Regulating The Installation, Operation, Maintenance, Repair, Retrofitting, Testing, Commissioning And Decommissioning Of Energy Systems Used for Generating or Storing Energy; Providing A Penalty In An Amount Not To Exceed \$2,000.00 Per Day for Violation of Any Provision Hereof, With Each Day Constituting a Separate Offense; Providing a Repealer; Providing For Severability, And Making Other Findings Related Thereto.

Motion made by Council 4 Townsend, Sr., Seconded by Council 5 Parr to read Ordinance No. 2023-07 by caption only on First Reading.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

Motion made by Council 5 Parr, Seconded by Council 4 Townsend, Sr., to adopt on First Reading Ordinance No. 2023-07.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

11. Consideration to approve **Case CUP23-01**: Request by Ideaco Investments, LLC. represented by Michael Pierce for a Conditional Use Permit to allow “Market, Open Air” land use within Old Town & Mixed Use (OT & MU) zoning. The property is legally described as being Lots 17 through 24 in Block 18 of the Revised Map of Tomball. Located at the southwest corner of Commerce Street and Oak Street at 401-409 Commerce Street, within the City of Tomball, Harris County, Texas.

- Mayor Klein Quinn called the PH to order at 7:36pm.

Salvador Medrano
408 Commerce St
Tomball, Texas 77375

- Dropped his public comment
at the CSO in the am. Tracy read it.

Erik Sundan (DaVinci Gallery)-
315 W. Main St.
Tomball, Texas 77375

Spoke in favor of the Open Air
Market

Michael Pierce (Applicant) - Presented
13607 Arcott Bend Dr.
Tomball, Texas 77377

- Hearing no further public comments, Mayor Klein Quinn closed the Public Hearing at 7:53 pm

Adopt, on First Reading, Ordinance No. 2023-04, an Ordinance of the City of Tomball, Texas, amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by issuing a Conditional Use Permit for approximately 0.46 acres of land legally described as being Lots 17 through 24 in Block 18 of the Revised Map of Tomball. Located at the southwest corner of Commerce Street and Oak Street at 401-409 Commerce Street, within the City of Tomball, Harris County, Texas; providing for the amendment of the Official Zoning Map of the City; providing for severability; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters.

Motion made by Council 1 Ford, Seconded by Council 4 Townsend, Sr., to read Ordinance No. 2023-04 by caption only on First Reading.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

Motion made by Council 4 Townsend Sr., to amend motion to not include amplified music.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

Motion made by Council 4 Townsend, Sr., Seconded by Council 1 Ford to adopt on First Reading as amended Ordinance No. 2023-04.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

12. Consideration to approve **Case CUP23-02**: Request by Ideaco Investments, LLC. represented by Michael Pierce for a Conditional Use Permit to allow “Mobile Food Court” land use within Old Town & Mixed Use (OT & MU) zoning. The property is legally described as being Lots 17 through 24 in Block 18 of the Revised Map of Tomball. Located at the southwest corner of Commerce Street and Oak Street at 401-409 Commerce Street, within the City of Tomball, Harris County, Texas.

- Mayor Klein Quinn called the PH to order at 8:15pm

Michael Pierce (Applicant) - Presented
13607 Arcott Bend Dr.
Tomball, Texas 77377

Amanda Kelly - restroom issues
19710 Rippling Brook Ln. social media post regarding
Tomball, TX 77375 alcohol; TABC laws

Gretchen Fagan - all food truck at 403 Eats gets
1314 Pine Brook processed through the mobile
Tomball, Texas 77375 food truck court

- Mayor Klein Quinn closed the PH at 8:39pm

Adopt, on First Reading, Ordinance No. 2023-05, an Ordinance of the City of Tomball, Texas, amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by issuing a Conditional Use Permit for a “Mobil Food Court” approximately 0.46 acres of land legally described as being Lots 17 through 24 in Block 18 of the Revised Map of Tomball. Located at the southwest corner of Commerce Street and Oak Street at 401-409 Commerce Street, within the City of Tomball, Harris County, Texas; providing for the amendment of the Official Zoning Map of the City; providing for severability; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters.

Motion made by Council 5 Parr, Seconded by Council 3 Dunagin to read by caption only Ordinance No. 2023-05.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

Motion made by Council 3 Dunagin, Seconded by Council 1 Ford to Adopt on First Reading Ordinance No. 2023-05.

Voting Nay: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion FAILED unanimously.

13. The following item is hereby added to the previously posted agenda for the Regular City Council Meeting on Monday, March 20, 2023.

Executive Session: The City Council will meet in Executive Session as Authorized by Title 5, Chapter 551, Government Code, the Texas Open Meetings Act, for the Following Purpose(s):

- Sec. 551.071 – Consultation with the City Attorney regarding a matter which the Attorney’s duty requires to be discussed in closed session.
- Sec. 551.072 – Deliberations regarding Real Property
- Sec. 551.074 – Personnel Matters; Deliberation of the Appointment, Employment, and Duties of a Public Officer or Employee-HR Director
- Sec. 551.087 – Deliberations regarding Economic Development

The Council recessed to a 5 min break at 8:44pm, before entering executive session.

Council reconvened back into regular session at 9:34 pm.

14. Confirm appointment by the City Manager, of Kristie Lewis, Esq. as the Human Resources Director, effective March 27, 2023.

Motion made by Council 4 Townsend, Sr., Seconded by Council 2 Stoll

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

H. Adjournment

Motion made by Council 4 Townsend, Sr., Seconded by Council 2 Stoll.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Voting Abstaining: Mayor Klein Quinn

PASSED AND APPROVED this 3rd day of April 2023.

Tracylynn Garcia
City Secretary, TRMC, MMC, CPM

Lori Klein Quinn
Mayor

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: April 3, 2023

Topic:

Approve Resolution No. 2023-20, a Resolution of the City of Tomball, Texas, authorizing the acceptance of American Rescue Plan Act (ARPA) – Coronavirus Local Fiscal Recovery Funds (CLFRF) and authorizing the City Manager and Assistant City Manager to act as the City’s Executive Officer and Authorized Representative in all matters pertaining to the City’s implementation of the ARPA-CLFRF Funds.

Background:

Based on contractual requirements with the Texas Department of Emergency Management, as mandated by the United States Department of Treasury, the City must adopt a Resolution appointing individuals to execute contractual documents including funding requests, authorizations and environmental review documents, if needed.

Staff is requesting that the City Manager and Assistant City Manager be appointed as the City’s Executive Officer and Authorized Representative to execute any and all contractual documents. Additionally, staff is requesting the City Manager, Assistant City Manager and Finance Director be appointed as authorized signatories to execute all payment documentation and/or other forms required to reimburse project costs.

Origination: Project Management

Recommendation:

Staff recommends approving Resolution No. 2023-20, designating the City’s Executive Officer, Authorized Representative, and authorized signatories for the American Rescue Plan (ARPA) – Coronavirus Local Fiscal Recovery Funds (CLFRF).

Party(ies) responsible for placing this item on agenda: Meagan Mageo, Project Manager

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____ If yes, specify Account Number: # _____

If no, funds will be transferred from account # _____ To account # _____

Signed Meagan Mageo Approved by _____
Staff Member Date City Manager Date

RESOLUTION NO. 2023-20

A RESOLUTION OF THE CITY OF TOMBALL, TEXAS, AUTHORIZING THE ACCEPTANCE OF AMERICAN RESCUE PLAN ACT (ARPA) – CORONAVIRUS LOCAL FISCAL RECOVERY FUNDS (CLFRF); AND AUTHORIZING THE CITY MANAGER AND ASSISTANT CITY MANAGER TO ACT AS THE CITY’S EXECUTIVE OFFICER AND AUTHORIZED REPRESENTATIVE IN ALL MATTERS PERTAINING TO THE CITY’S IMPLEMENTATION OF THE AMERICAN RESCUE PLAN ACT (ARPA) – CORONAVIRUS LOCAL FISCAL RECOVERY FUNDS (CLFRF) FUNDS.

* * * * *

WHEREAS, the City of Tomball desires to develop a viable community, including decent housing, suitable living environment, expanding economic opportunities, addressing health and safety needs, and improving critical infrastructure in response to the COVID-19 Pandemic; and

WHEREAS, certain conditions exist which represent a threat to the public health and safety; and

WHEREAS, it is necessary and in the best interests of City of Tomball to utilize and implement ARPA - CLFRF funding;

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS

1. That the ARPA - CLFRF is hereby authorized to be accepted on behalf of the City from the United States Treasury Department.
2. That the City’s allocation be split into two (2) tranches in the amount of 2,924,190.64, with Tranche No.1 being \$1,462,095.31 and Tranche No. 2 being \$1,462,095.31.
3. That the City Council directs and designates the following to act in all matters in connection with this application and the City’s participation in the ARPA - CLFRF:
 - a. The City Manager and Assistant City Manager shall serve as the City’s Chief Executive Officer and Authorized Representative to execute funding request, authorizations and any subsequent contractual documents; and
 - b. The City Manager is authorized to execute environmental review documents and to certify to environmental clearance matters associated with the ARPA – CLFRF funds; and
 - c. The City Manager, Assistant City Manager, and Finance Director are authorized to execute payment documents and/or other forms required to reimburse project costs.

4. That all funds will be used in accordance with all applicable federal, state, local and programmatic requirements as directed by the United States Treasury Department.

PASSED, APPROVED, AND RESOLVED this ___ day of _____ 2023.

Lori Klein Quinn
Mayor

ATTEST:

Tracylynn Garcia
City Secretary

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: April 3, 2023

Topic:

Approve Resolution No. 2023-21, a Resolution of the City of Tomball, Texas, adopting the policies in connection with the City of Tomball Texas participation in federally funded projects associated with the American Rescue Plan Act (ARPA) – Coronavirus Local Fiscal Recovery Funds (CLFRF) and adherence to the regulations described therein.

Background:

Based on requirements with the Texas Department of Emergency Management, as mandated by the United States Department of Treasury, the City must adopt a Resolution confirming the adoption of the following Civil Rights Policies:

1. Citizen Participation Plan;
2. Section 3 Policy;
3. Excessive Force Policy;
4. Section 504 Policy and Grievance Procedures;
5. Limited English Proficiency Plan;
6. Fair Housing Policy; and
7. Code Conduct Policy.

These policies were previously adopted in August 2020 to adhere to the requirements of the Community Development Block Grant – Disaster Recovery received from the General Land Office. There have been no changes to the policies, and the Resolution is being adopted only to affirm adherence to requirements for receiving the ARPA-CLFRF Funds.

Origination: Project Management

Recommendation:

Staff recommends approving Resolution No. 2023-21, adopting the policies in connection with the City of Tomball Texas participation in federally funded projects associated with the American Rescue Plan Act (ARPA) – Coronavirus Local Fiscal Recovery Funds (CLFRF).

Party(ies) responsible for placing this item on agenda: Meagan Mageo, Project Manager

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____ If yes, specify Account Number: # _____

If no, funds will be transferred from account # _____ To account # _____

Signed Meagan Mageo Approved by _____

RESOLUTION NO. 2023-21

A RESOLUTION OF THE CITY OF TOMBALL, TEXAS, ADOPTING THE ATTACHED POLICIES IN CONNECTION WITH THE CITY OF TOMBALL, TEXAS PARTICIPATION IN FEDERALLY FUNDED PROJECTS ASSOCIATED WITH THE AMERICAN RESCUE PLAN ACT – CORONAVIRUS LOCAL FISCAL RECOVERY FUND (ARPA – CLFRF) AND ADHERENCE TO THE REGULATIONS DESCRIBED THEREIN.

* * * * *

WHEREAS, the City of Tomball, Texas, (hereinafter referred to as “City”) has been awarded ARP - CLFRF funding through an ARP - CLFRF grant from the United States Treasury Department (hereinafter referred to as “TREASURY”); and

WHEREAS, the City, in accordance with Section 109 of the Title I of the Housing and Community Development Act. (24 CFR 6); the Age Discrimination Act of 1975 (42 U.S.C. 6101-6107); and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and for construction contracts greater than \$10,000, must take actions to ensure that no person or group is denied benefits such as employment, training, housing, and contracts generated by the CLFRF activity, on the basis of race, color, religion, sex, national origin, age, or disability; and

WHEREAS, the City, in consideration for the receipt and acceptance of federal funding, agrees to comply with all federal rules and regulations including those rules and regulations governing citizen participation and civil rights protections; and

WHEREAS, the City, in accordance with Section 3 of the Housing and Urban Development Act of 1968, as amended, and 24 CFR Part 135, is required, to the greatest extent feasible, to provide training and employment opportunities to lower income residents and contract opportunities to businesses in the ARP - CLFRF project area; and

WHEREAS, the City, in accordance with Section 104(1) of the Housing and Community Development Act, as amended, and State’s certification requirements at 24 CFR 91.325(b)(6), must adopt an excessive force policy that prohibits the use of excessive force against non-violent civil rights

demonstrations; and

WHEREAS, the City, in accordance with Executive Order 13166, must take reasonable steps to ensure meaningful access to services in federally assisted programs and activities by persons with limited English proficiency (LEP) and must have an LEP plan in place specific to the locality and beneficiaries for each ARP - CLFRF project; and

WHEREAS, the City, in accordance with Section 504 of the Rehabilitation Act of 1973, does not discriminate on the basis of disability and agrees to ensure that qualified individuals with disabilities have access to programs and activities that receive federal funds; and

WHEREAS, , the City, in accordance with Section 808(e)(5) of the Fair Housing Act (42 USC 3608(e)(5)) that requires federal programs and activities be administered in a manner affirmatively to further the policies of the Fair Housing Act, agrees to conduct at least one activity during the contract period of the ARP - CLFRF contract, to affirmatively further fair housing; and

WHEREAS, the City, agrees to maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts;

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS

1. Citizen Participation Plan and Grievance Procedures;
2. Section 3 Policy;
3. Excessive Force Policy;
4. Section 504 Policy and Grievance Procedures;
5. Limited English Proficiency Plan;
6. Fair Housing Policy; and
7. Code of Conduct Policy

PASSED, APPROVED, AND RESOLVED this ___ day of _____ 2023.

Lori Klein Quinn
Mayor

ATTEST:

Tracylynn Garcia
City Secretary

**CITY OF TOMBALL
ADMINISTRATIVE POLICIES, RULES AND PROCEDURES**

SUBJECT CIVIL RIGHTS POLICIES	NUMBER: 27	EFFECTIVE DATE: 9/8/2020	PAGE 1 OF 15
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PURPOSE

The purpose of the Civil Rights Policies is to establish official procedures to be used by all departments in the City of Tomball obtaining grants derived from State and/or Federal funds to ensure compliance in accordance with:

- 2 CFR §200
- 24 CFR §8
- 24 CFR §91.325(b)(6)
- 24 CFR §570
- Fair Housing Act of 1968
- Texas Local Government Code Chapter 171
- Uniform Grant Management Standards (UGMS)

SCOPE

All departments receiving a grant that is funded by the State and/or Federal funds shall ensure that all activities including procurement and contract management are completed in accordance with all policies, procedures, laws and ordinances of the City including the adopted Civil Right Policies herein.

Grant Management shall be conducted in a manner that will promote public confidence in the integrity of the City of Tomball.

POLICIES AND PROCEDURES:

**CITY OF TOMBALL
CITIZEN PARTICIPATION PLAN**

THE CITY OF TOMBALL

REGARDING THE USE OF GRANT FUNDS FROM THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

This Citizen Participation Plan was prepared in accordance with Section 104(a) of the Housing and Community Development Act of 1974, as amended. The 24 CFR 91.105 federal regulations outline the “citizen participation” requirements.

The plan is to be used to address citizen participation in the Community Development Block Grant (CDBG) Program. With receipt of HOME Investment Partnerships (HOME) Program funds, the program will be included under this Citizen Participation Plan.

The Citizen Participation Plan (CPP) sets forth policies and procedures for citizen participation in the development of project specific applications and substantial amendments to these projects with funding.

**CITY OF TOMBALL
ADMINISTRATIVE POLICIES, RULES AND PROCEDURES**

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CERTIFICATION OF COMPLIANCE

The City of Tomball is certifying to the U. S. Department of Housing and Urban Development (HUD) and State Agencies administering HUD programs that they have an approved Citizen Participation Plan, which:

1. Provides for and encourages citizen participation with emphasis on participation by persons who are residents of slum and blighted areas, by residents in low- and moderate-income neighborhoods, or targeted revitalization areas.
2. Provides for and encourages citizen participation of residents of public and assisted housing developments, as well as provides information to the public housing authorities within our jurisdiction activities related to these programs.
3. Provides for and encourages citizen participation of persons with disabilities as well as provides documents in a format accessible to persons with disabilities, upon request.
4. Provides for and encourages citizen participation of all citizens, including minorities and non-English speaking persons, and identifies how the needs of non-English speaking residents will be met in the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate.
5. Provides citizens with reasonable and timely notification and access to local meetings, information, and records relating to the County’s proposed and actual use of federal Community Development Block Grant funds.
6. Provides for public hearings and/or public postings to obtain citizen views; to respond to proposals and questions at all stages of the community development program, including at least the development of needs; and the review of proposed activities, and review of program annual performance. If hearings are held, they shall be after adequate notice, at times and locations convenient to potential or actual beneficiaries, and with accommodations for the disabled; and,
7. Provides for a timely written response to written complaints and grievances where applicable.

Note to Grant Recipients regarding Limited English Proficiency (LEP) requirements:

In accordance with federal law, if there is a significant number of the population who are non-English speaking residents and are affected by the CDBG project, such citizens should have ‘meaningful access’ to all aspects of the CDBG project. To provide ‘meaningful access’, Grant Recipients may need to provide interpreter services at public hearings or provide non-English written materials that are routinely provided in English. Examples of such vital documents may include Citizen Participation notices (e.g., complaint procedures, hearings notices), civil rights notices, and any other published notice that may allow an eligible person with limited English proficiency to participate in discussing proposed CDBG activities. For more information, see LEP.gov.

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ADMINISTRATIVE POLICIES, RULES AND PROCEDURES**

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COMPLAINT PROCEDURES

These complaint procedures comply with the requirements of HUD’s CDBG Program and Local Government Requirements found in 24 CFR §570.486 (Code of Federal Regulations). Citizens can obtain a copy of these procedures at the City of Tomball, Texas, 401 Market Street, (281) 290-1400 during regular business hours.

Below are the formal complaint and grievance procedures regarding the services provided under the CDBG program.

1. A person who has a complaint or grievance about any services or activities with respect to the CDBG project, whether it is a proposed, ongoing, or completed CDBG project, may during regular business hours submit such complaint or grievance, in writing to the City Civil Rights Officer, at 401 Market Street, Tomball, Texas 77375 or may call (281) 290-1411.
2. A copy of the complaint or grievance shall be transmitted by the Civil Rights Officer to the person/division that is the subject of the complaint or grievance and to the Mayor/City Manager/County Judge within five (5) working days after the date of the complaint or grievance was received.
3. The Mayor/City Manager or their representative shall complete an investigation of the complaint or grievance, if practicable, and provide a timely written answer to person who made the complaint or grievance within fifteen (15) days. The response may be a time extension to further review the complaint or grievance.
4. If the investigation cannot be completed within fifteen (15) working days per 3 above, the person who made the grievance or complaint shall be notified, in writing, within twenty (20) days where practicable after receipt of the original complaint or grievance and shall detail when the investigation should be completed.
5. If necessary, the grievance and a written copy of the subsequent investigation shall be forwarded to the CDBG Program Manager for their further review and comment.

If appropriate, provide copies of grievance procedures and responses to grievances in both English and Spanish, or other appropriate language.

TECHNICAL ASSISTANCE

When requested, the City shall provide technical assistance to groups that are representative of persons of low- and moderate-income in developing proposals for the use of CDBG funds. The City, based upon the specific needs of the community’s residents at the time of the request, shall determine the level and type of assistance.

PUBLIC OUTREACH AND INVOLVEMENT

Citizens will be provided reasonable advance notice of, and opportunity to comment on proposed activities in an application to the state and for grants already made regarding activities which are proposed to be added, deleted, or substantially changed from the entity’s application to the state. The public outreach and notification will be accomplished through one or more of the following methods:

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ADMINISTRATIVE POLICIES, RULES AND PROCEDURES**

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- a) Publication of notice in a local newspaper—a published newspaper article may also be used so long as it provides sufficient information regarding program activities and relevant dates.
- b) Notices prominently posted in public buildings and distributed to local Public Housing Authorities and other interested community groups.
- c) Posting of notice on the local entity website (if available).
- d) Public Hearing; or
- e) Individual notice to eligible cities and other entities as applicable using one or more of the following methods: Certified mail, Electronic mail or fax, First class (regular mail), Personal delivery (e.g., at a Council of Governments meeting).

These details will be included in the Public Comment Version of the Application, prior to submission. Citizens, with emphasis on persons of low- and moderate-income who are residents of slum and blight areas, shall be encouraged to submit their views and proposals regarding community development and housing needs. Citizens shall be made aware of the location where they may submit their views and proposals.

PUBLIC COMMENT PROVISIONS AS REQUIRED BY CERTAIN STATE AGENCIES IN THE ADMINISTRATION OF FEDERAL PROGRAMS

When public notice is the sole required notification process for the submission of an application from a State agency, the following provisions shall be observed the City.

A copy of a substantially complete application will be made available to allow for 15 days of local public comment, 15 days of state comment for a total of 30 days and will include, but are not limited to:

1. The amount of CDBG funds expected to be made available for the current fiscal year (including the grant and any anticipated program income).
2. The range of activities that may be undertaken with the CDBG funds.
3. The estimated amount of the CDBG- funds proposed to be used for activities that will meet the national objective of benefit to low- and moderate- income persons.
4. The proposed CDBG activities likely to result in displacement and the unit of general local government's anti-displacement and relocation plans required under § 570.488.
5. The development of housing and community development needs

When a public hearing is required for submission of an application from a State agency, the following provisions shall be observed by the City:

1. As stated in the COVID-19 Disaster Declaration Proclamation dated March 13th, 2020; public hearings may be held virtually or in person, pursuant to Section 418.017 of the code; “authorization to use all available resources of state government and of political subdivisions that are reasonably necessary to cope with this disaster.” Public notice of all hearings must be posted at least seventy-two (72) hours prior to the scheduled hearing.
2. When a significant number of non-English speaking residents are a part of the potential service area of the CDBG project, vital documents such as notices should be published in the predominant language of these non-English speaking citizens. An interpreter should be present to accommodate the needs of the non-English speaking residents at all public hearing where applicable.
3. Each public hearing shall be held at a time and location convenient to potential or actual beneficiaries

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ADMINISTRATIVE POLICIES, RULES AND PROCEDURES**

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and will include accommodation for persons with disabilities. Persons with disabilities must be able to attend the hearings and the City must plan for individuals who require auxiliary aids or services if contacted at least two days prior to the hearing.

4. A public hearing, when required by a Federal Program, shall be held after 5:00 PM on a weekday or at a convenient time on a Saturday or Sunday.
5. If the agency requires a public hearing for submission, then a public notice shall be posted at city hall and the community's website notifying the public of the project selected at least 5 days prior to the submission of the application.

The City shall retain documentation of the hearing notice(s), a listing of persons attending the hearing(s), minutes of the hearing(s), and any other records concerning the proposed use of funds for three (3) years from closeout of the grant to the state. Such records shall be made available to the public in accordance with Chapter 552, Texas Government Code.

**CITY OF TOMBALL
SECTION 3 POLICY**

In accordance with 12 U.S.C. 1701u the City of Tomball agrees to implement the following steps, which, to *the greatest extent feasible*, will provide job training, employment, and contracting opportunities for Section 3 residents and Section 3 businesses of the areas in which the program/project is being carried out.

1. Introduce and pass a resolution adopting this plan as a policy to strive to attain goals for compliance to Section 3 regulations by increasing opportunities for employment and contracting for Section 3 residents and businesses.
2. Assign duties related to implementation of this plan to the designated Civil Rights Officer.
3. Notify Section 3 residents and business concerns of potential new employment and contracting opportunities as they are triggered by CDBG-DR grant awards through the use of: Public Hearings and related advertisements; public notices; bidding advertisements and bid documents; notification to local business organizations such as the Chamber of Commerce or the Urban League; local advertising media including public signage; project area committees and citizen advisory boards; local HUD offices; regional planning agencies; and all other appropriate referral sources. Include Section 3 clauses in all covered solicitation and contracts.
4. Maintain a list of those businesses that have identified themselves as Section 3 businesses for utilization in CDBG-DR funded procurements, notify those businesses of pending contractual opportunities, and make this list available for general Grant Recipient procurement needs.
5. Maintain a list of those persons that have identified themselves as Section 3 residents and contact those persons when hiring/training opportunities are available through either the Grant Recipient or contractors.
6. Require that all Prime contractors and subcontractors with contracts over \$100,000 commit to this plan

**CITY OF TOMBALL
ADMINISTRATIVE POLICIES, RULES AND PROCEDURES**

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7. as part of their contract work. Monitor the contractors' performance with respect to meeting Section 3 requirements and require that they submit reports as may be required by HUD to the Grant Recipient.
8. Submit reports as required by HUD regarding contracting with Section 3 businesses and/or employment as they occur; and submit reports within 20 days of federal fiscal year end (by October 20th) which identify and quantify Section 3 businesses and employees.
9. Maintain records, including copies of correspondence, memoranda, etc., which document all action taken to comply with Section 3 regulations.

**City of Tomball
Excessive Force Policy**

In accordance with 24 CFR 91.325(b)(6), the City of Tomball hereby adopts and will enforce the following policy with respect to the use of excessive force:

1. It is the policy of the City of Tomball to prohibit the use of excessive force by the law enforcement agencies within its jurisdiction against any individual engaged in non-violent civil rights demonstrations.
2. It is also the policy of the City of Tomball to enforce applicable State and Local laws against physically barring entrance to or exits from a facility or location that is the subject of such non-violent civil rights demonstrations within its jurisdictions.
3. City of Tomball will introduce and pass a resolution adopting this policy – Resolution Number 2020-21.

**CITY OF TOMBALL
SECTION 504 POLICY AGAINST DISCRIMINATION BASED ON HANDICAP AND
GRIEVANCE PROCEDURES**

In accordance with 24 CFR Section 8, Nondiscrimination based on Handicap in federally assisted programs and activities of the Department of Housing and Urban Development, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Section 109 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5309), the City of Tomball hereby adopts the following policy and grievance procedures:

1. Discrimination prohibited. No otherwise qualified individual with a handicap in the United States shall, solely by reason of his or her handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance from the Department of Housing and Urban Development (HUD).
2. The City of Tomball does not discriminate on the basis of handicap in admission or access to, or treatment or employment in, its federally assisted programs and activities.
3. The City of Tomball recruitment materials or publications shall include a statement of this policy in 1. above.
4. The City of Tomball shall take continuing steps to notify participants, beneficiaries, applicants and employees, including those with impaired vision or hearing, and unions or professional organizations holding collective bargaining or professional agreements with the recipients that it does not discriminate on the basis of handicap in violations of 24 CFR Part 8.

**CITY OF TOMBALL
ADMINISTRATIVE POLICIES, RULES AND PROCEDURES**

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1. For hearing and visually impaired individuals eligible to be served or likely to be affected by the CDBG-DR program, the City of Tomball shall ensure that they are provided with the information necessary to understand and participate in the CDBG-DR program.
2. Grievances and Complaints
 - a. Any person who believes she or he has been subjected to discrimination on the basis of disability may file a grievance under this procedure. It is against the law for the City of Tomball to retaliate against anyone who files a grievance or cooperates in the investigation of a grievance.
 - b. Complaints should be addressed to: Section 504 Compliance Officer, City of Tomball, 501 James Street, Tomball, Texas 77375, (281) 290-1400, who has been designated to coordinate Section 504 compliance efforts.
 - c. A complaint should be filed in writing, contain the name and address of the person filing it, and briefly describe the alleged violation of the regulations.
 - d. A complaint should be filed within thirty (30) business days after the complainant becomes aware of the alleged violation.
 - e. An investigation, as may be appropriate, shall follow a filing of a complaint. The investigation will be conducted by the City Manager or designee. Informal but thorough investigations will afford all interested persons and their representatives, if any, an opportunity to submit evidence relevant to a complaint.
 - f. A written determination as to the validity of the complaint and description of resolution, if any, shall be issued by the City Manager or designee, and a copy forwarded to the complainant within fifteen (15) business days after the filing of the complaint where practicable.
 - g. The Section 504 Coordinator shall maintain the files and records of the City of Tomball relating to the complaints files.
 - h. The complainant can request a reconsideration of the case in instances where he or she is dissatisfied with the determination/resolution as described in f. above. The request for reconsideration should be to the City of Tomball within ten (10) business days after the receipt of the written determination/resolution.
 - i. The right of a person to a prompt and equitable resolution of the complaint filed hereunder shall not be impaired by the person's pursuit of other remedies such as the filing of a Section 504 complaint with the U.S. Department of Housing and Urban Development. Utilization of this grievance procedure is not a prerequisite to the pursuit of other remedies.
 - j. These procedures shall be construed to protect the substantive rights of interested persons, to meet appropriate due process standards and assure that the City of Tomball complies with Section 504 and HUD regulations.

**City of Tomball
Grievance and Complaint Procedure**

These complaint procedures comply with the requirements of the Texas General Land Office's Community Development Block Grant – Disaster Recovery (CDBG-DR) Program and Local Government Requirements found in 24 CFR §570.486 (Code of Federal Regulations).

**CITY OF TOMBALL
ADMINISTRATIVE POLICIES, RULES AND PROCEDURES**

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Below are the formal complaint and grievance procedures regarding the services provided under the CDBG-DR project.

1. A person who has a complaint or grievance about any services or activities with respect to the CDBG-DR project, whether it is a proposed, ongoing, or completed CDBG-DR project, may during regular business hours submit such complaint or grievance, in writing to the Compliance Officer at 501 James Street, Tomball, Texas 77375, or may call (281) 290-1400.
2. A copy of the complaint or grievance shall be transmitted by the Civil Rights Officer to the entity that is the subject of the complaint or grievance and to the City Attorney within five (5) business days after the date of the complaint or grievance was received.
3. The Compliance Officer shall complete an investigation of the complaint or grievance, if practicable, and provide a timely written answer to the person who made the complaint or grievance within ten (10) business days.
4. If the investigation cannot be completed within ten (10) business days, the person who made the grievance or complaint shall be notified, in writing, within fifteen (15) business days where practicable after receipt of the original complaint or grievance and shall detail when the investigation should be completed.
5. If necessary, the grievance and a written copy of the subsequent investigation shall be forwarded to the CDBG-DR for their further review and comment.
6. If appropriate, provide copies of grievance procedures and responses to grievances in both English and Spanish.

TECHNICAL ASSISTANCE

When requested, the City shall provide technical assistance to groups that are representative of persons of low- and moderate-income in developing proposals for the use of CDBG-DR funds. The City, based upon the specific needs of the community's residents at the time of the request, shall determine the level and type of assistance.

PUBLIC OUTREACH EFFORTS

The City shall provide for reasonable public notice, appraisal, examination and comment on the activities proposed for the use of CDBG-DR funds. These efforts shall include:

1. Provide for and encourage citizen participation, particularly by low and moderate income persons who reside in slum or blighted areas or areas in which CDBG-DR funds are proposed to be used;
2. Ensure that citizens will be given reasonable and timely access to local meetings, information, and records relating to an entity's proposed and actual use of CDBG-DR funds;
3. Furnish citizens information, including but not limited to:
 - a. the amount of CDBG-DR funds expected to be made available
 - b. the range of activities that may be undertaken with the CDBG-DR funds
 - c. the estimated amount of the CDBG-DR funds proposed to be used for activities that will meet the national objective of benefit to low and moderate income persons
 - d. if applicable, the proposed CDBG-DR activities likely to result in displacement and the entity's anti-displacement and relocation plan;
4. Provide citizens with reasonable advance notice of, and opportunity to comment on, proposed activities

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ADMINISTRATIVE POLICIES, RULES AND PROCEDURES**

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1. in an application to the state and, for grants already made, activities which are proposed to be added, deleted or substantially changed from the entity’s application to the state. Substantially changed means changes made in terms of purpose, scope, location or beneficiaries as defined by criteria established by the state; and
2. These outreach efforts may be accomplished through one or more of the following methods:
 - a. Publication of notice in a local newspaper – a published newspaper article may be used so long as it provides sufficient information regarding program activities and relevant dates
 - b. Notices prominently posted in public buildings and distributed to local Public Housing Authorities and other interested community groups
 - c. Posting of notice on the local entity website (if available)
 - d. Public hearing
 - e. Individual notice to eligible cities and other entities as applicable using one or more of the following methods:
 - i. Certified mail
 - ii. Electronic mail or fax
 - iii. First-class (regular) mail
 - iv. Personal delivery (e.g. at a City Council meeting)

PUBLIC HEARING PROVISIONS

For each public hearing scheduled and conducted by a CDBG-DR applicant or recipient, the following public hearing provisions shall be observed:

1. Furnish citizens information, including but not limited to
 - a. The amount of CDBG-DR funds available per application for the 2016 Flood Competition;
 - b. The range of activities that may be undertaken with the CDBG-DR 2016 Flood Competition funds;
 - c. The estimated amount of the CDBG-DR 2016 Flood Competition funds proposed to be used for activities that will meet the national objective of benefit to low- and moderate-income persons; and
 - d. The proposed CDBG-DR activities likely to result in displacement and the unit of general local government’s anti-displacement and relocation plans required under 24 CFR 570.488.
2. Public notice of any hearings must be published at least 72 hours prior to the scheduled hearing. The public notice must be published in a local newspaper. Each public notice MUST include the DATE, TIME, LOCATION and TOPICS to be considered at the public hearing. A published newspaper article may also be used to meet this requirement so long as it meets all content and timing requirements. Notices should also be prominently posted in public buildings and distributed to local Public Housing Authorities and other interested community groups.
3. Each public hearing shall be held at a time and location convenient to potential or actual beneficiaries and will include accommodation for persons with disabilities. Persons with disabilities must be able to attend the hearings and an applicant must make arrangements for individuals who require auxiliary aids or services if contacted at least two (2) days prior to each hearing.
4. When a significant number of non-English speaking residents can be reasonably expected to participate in a public hearing, an interpreter will be present to accommodate the needs of the non-English speaking residents.

**CITY OF TOMBALL
ADMINISTRATIVE POLICIES, RULES AND PROCEDURES**

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5. City may conduct a public hearing via webinar if they also follow the provisions above. If the webinar is used to conduct a public hearing, a physical location with associated reasonable accommodations must be made available for citizens to participate so as to ensure that those individuals without necessary technology are able to participate.
6. If applicable, the locality must retain documentation of the hearing notice(s), attendance lists, minutes of the hearing(s), and any other records concerning the actual use of funds for a period of three (3) years after the project is completed. Such records must be made available to the public in accordance with Chapter 552, Government Code.

CITY OF TOMBALL

The City of Tomball welcomes feedback and complaints from any member of the public. Complaints are accepted in writing or over the telephone. Complaints will be responded to within 15 business days, when possible.

Complaints of fraud, waste or abuse must be immediately escalated to the City of Tomball Section 504 Standards Officer, regardless of whether the complaint is informal or formal.

Mailing Address:

City of Tomball
501 James Street
Tomball, Texas 77375
Attn: Civil Rights Officer

Phone: (281) 290-1400
Email: mimageo@tomballtx.gov
Business Hours: Monday – Friday, 8 a.m. to 5 p.m.

Texas General Land Office

Complaints should initially contact their local jurisdiction in accordance with their local policies and procedures for customer complaints. However, in the case that the complaint’s inquiries or concerns are not addressed with the City, they have the right to escalate the complaint to the Texas General Land Office (GLO). The GLO will work with the City of Tomball to provide a timely response. The response will be provided within 15 business days of the receipt of the complaint, if possible.

Mailing Address:

Texas General Land Office
Attn: GLO-CDR
PO Box 12873
Austin, Texas 78711-2873

Phone: 844-893-8937 or 512-475-5000
Email: cdr@recovery.texas.gov

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ADMINISTRATIVE POLICIES, RULES AND PROCEDURES**

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	SUPERSEDES: August 3, 2020	APPROVED BY CITY COUNCIL: September 8, 2020	

**City of Tomball
Fair Housing Policy**

In accordance with Fair Housing Act, the City of Tomball hereby adopts the following policy with respect to the Affirmatively Furthering Fair Housing:

1. City of Tomball agrees to affirmatively further fair housing choice for all seven protected classes (race, color, religion, sex, disability, familial status, and national origin).
2. City of Tomball agrees to plan at least one activity during the contract term to affirmatively further fair housing.
3. City of Tomball will introduce and pass a resolution adopting this policy – Resolution Number 2020-21.

**CITY OF TOMBALL
INTERNAL MANAGEMENT OF FEDERAL AND/OR STATE FUNDS PROCEDURES**

All costs charged by the City must be necessary, reasonable, allowable, and allocable to all Federal and/or State grant programs received administered by the City. The City must assure that all costs are appropriate and eligible including but not limited to the following areas of concern:

1. Administrative requirements - Including duplication of benefits requirements, provisions related to charging pre-award costs, conflict of interest, reporting fraud, and distinction between agencies/government components, contractors, developers, and beneficiaries;
2. Recordkeeping and Reporting requirements - Including records retention and financial reporting requirements;
3. Procurement requirements - Including requirements related to bonding, insurance, suspension and debarment;
4. Contract conditions;
5. Force Account - Including requirements for tracking, documenting, and charging personnel costs and applicable fringe benefits and classification, purchasing, tracking, insuring, and disposing of equipment, supplies, and federally purchased tangible and intangible property;
6. Contract amendments;
7. Contract closeout;
8. Monitoring and Quality Assurance - Including requirements related to preventing fraud, waste, and abuse;
9. Audit - Including Single Audit or program-specific audit requirements

The following is a list of key federal and state regulations governing financial management of grant programs:

- a. 24 CFR § 570 Subpart I- governs the state CDBG-DR program;
- b. 2 CFR § 200, including all of Subpart E Cost Principles;
- c. Uniform Grant Management Standards (UGMS) - Texas Comptroller of Public Accounts and guidance under 2 CFR § 200; and
- d. Texas Local Government Code Chapter 171

**CITY OF TOMBALL
ADMINISTRATIVE POLICIES, RULES AND PROCEDURES**

SUBJECT CIVIL RIGHTS POLICIES	NUMBER: 27	EFFECTIVE DATE: 9/8/2020	PAGE 12 OF 15
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It is the City’s responsibility to be knowledgeable and compliant with these requirements to ensure the appropriate, effective, timely, and eligible use of all funds related to Federal and/or State Programs. The City is responsible for monitoring vendors and projects and compliance with applicable financial management standards, for processing payment requests for funds, and for audit review.

A cost objective is a pool of related costs, which could be related based on the City’s departments, function, eligible, activity, agreement with State and/or Federal agencies or any other basis. The term is used to capture a variety of scenarios in which costs may be categorized for purposes of cost allocation or eligibility determinations.

1. As per of 2 CFR § 200.303, the City has established this and other written policies and procedures for internal controls and guidance documentation for responsible financial management of federal and/or state funds and include the adherence to the following:
2. All federal, state, and local conflict of interest provisions, including the requirements of Texas Local Government Code Chapter 171;
3. The City has an established internal control system and documented segregation of duties. Including the appropriate segregation of duties as follows:
 - a. No person has complete control over every phase of a significant transaction. For example, the person who authorizes payments to contractors should not draft and issue the payment check and the person who writes a payment check should not reconcile associated bank records;
 - b. Monthly bank reconciliation and/or direct deposit monthly statements are reviewed by someone who is not responsible for handling cash or issuing checks;
 - c. The person issuing checks for grant expenses does not also handle payroll preparation/issuance of paychecks;
4. The City will take prompt action when an instance of noncompliance is identified internally or through audit findings;
5. The City takes reasonable measures to safeguard protected personally identifiable information (PII) and other information that the City/County considers sensitive consistent with applicable Federal, state, and local laws regarding privacy and obligations of confidentiality.

Per 24 CFR § 570.502, through established budgets and accounting records, the City is responsible for ensuring all Federal and/or State expenditures are authorized in an approved, documented budget and do not exceed the total budget amount and do not exceed the amount in the City’s grant agreement(s).

The City will use one of two general methods available to draw federal and/or state grant funds to pay for project and vendor costs: the reimbursement method and the cash advance method.

- a. The reimbursement method entails a transfer of grant funds to the City based on actual expenditures already incurred by the City before it requests a draw;
- b. The cash advance method entails the transfer of grant funds from the federal and/or state agency based upon the City’s received invoices before the actual cash disbursements have been made by the City.

**CITY OF TOMBALL
ADMINISTRATIVE POLICIES, RULES AND PROCEDURES**

SUBJECT CIVIL RIGHTS POLICIES	NUMBER: 27	EFFECTIVE DATE: 9/8/2020	PAGE 13 OF 15
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The City establishes a separate account for each grant it receives. When using a cash advance basis process, the City will ensure that all received grant funding is held in an insured, interest-bearing account (2 CFR § 200.305(b)). Distinct accounting information for each grant is created. Accurate records of encumbrances/obligations against distinct line items within each grant for vendor contracts are made. Accurate records on grant awards, unobligated balances, assets, liabilities, expenditures, program income (if any) and applicable interest are kept and supported by sources documentation, including vendor contracts, invoices, and purchase orders.

Pursuant to 2 CFR § 200.302(a), the City’s financial management systems, including records documenting compliance with Federal statutes, regulations, and the terms and conditions of the Federal award, are sufficient to permit the preparation of reports required to demonstrate compliance with general and program-specific terms and conditions; and the tracing of funds to a level of expenditures adequate to establish that such funds have been used according to the Federal statutes, regulations, and the terms and conditions of the City’s State and/or Federal grant agreement(s).

City through its annual audit process has proven effective control over, and accountability for, all funds, property, and other assets in its possession. The City makes every effort to adequately safeguard all assets and assure that they are used solely for their intended purpose.

Financial Records for all Federal and/or State grant programs include the following:

1. Transaction registry documenting:
 - a. All invoices associated with each Request for Payment; and
 - b. Source of funds for each invoice (grant funds by activity, matching funds and/or other funds)
2. Source documentation, including the following:
 - a. Copies of Requests for Payment;
 - b. Addendum record of direct deposit payments;
 - c. Verification of deposits;
 - d. Monthly bank statements
 - e. Check register/transaction ledger;
 - f. Employee time sheets (as applicable);
 - g. Equipment time record sheets(as applicable);
 - h. Property inventory;
 - i. Purchase orders, invoices, and contractor requests for payments;
 - j. Electronic Transfer Form (EFT);
 - k. All original source documents

The City for each grant agreement received, establishes Responsible Persons. Through resolution, the City identifies the Responsible Persons (at least 2, preferably 4 by job title) responsible for both contractual documents (executed City agreement(s), associated amendments, and various program certifications) and financial documents (requests for payment, issuance of check).

The City, where allowable by the Federal and/or State funding program, will authorize direct deposit to receive payments from the agency(ies) to post directly to the City’s local bank account.

**CITY OF TOMBALL
ADMINISTRATIVE POLICIES, RULES AND PROCEDURES**

SUBJECT CIVIL RIGHTS POLICIES	NUMBER: 27	EFFECTIVE DATE: 9/8/2020	PAGE 14 OF 15
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The City will ensure that there exists staff and contractor capacity necessary to manage all grant funds under its control. The City may procure a Grant administrator to assist with management of grant compliance, subject to 2CFR200 procurement guidelines and requirements.

Eligible/Allowable Costs: All costs charged to the City’s grant agreement(s) will be deemed eligible as identified in each Grantor’s agreement/implementation manual. Eligible costs are those that conform to the federal/state requirements, including limitations and waivers described in applicable Federal Register Notices, comply with federal cost principles, and align with all associated cross-cutting federal requirements (Davis Bacons and Related Acts, Environmental requirements, etc.) and State and Local law.

The City will assure pursuant to 2 CFR § 200.403, costs meet the following general criteria to be allowable as a charge against any Federal award:

1. Costs must be necessary and reasonable for the performance of the Federal award and be allocable to that award and not to a different award;
2. Costs must conform to any limitations or exclusions set forth in 2 CFR § 200 or in the Federal award as to types or amount of cost items;
3. Costs must be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the City;
4. Costs must be accorded consistent treatment;
 - a. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost;
5. Costs must be determined in accordance with generally accepted accounting principles (GAAP);
6. Costs must be adequately documented

Reasonable Costs (2 CFR § 200.404): A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. In determining reasonableness of a given cost, consideration will be given to:

1. Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the City or the proper and efficient performance of the State and/or Federal award;
2. The restraints or requirements imposed by such factors as: sound business practices; arm's-length bargaining; Federal, state, local, and other laws and regulations; and terms and conditions of the State and/or Federal award;
3. Market prices for comparable goods or services for the geographic area;
4. Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the City, its employees, the public at large, the State Government and/or Federal Government;
5. Whether the City significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the cost

**CITY OF TOMBALL
ADMINISTRATIVE POLICIES, RULES AND PROCEDURES**

SUBJECT CIVIL RIGHTS POLICIES	NUMBER: 27	EFFECTIVE DATE: 9/8/2020	PAGE 15 OF 15
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The City will insure that all grant reimbursement requests meet the definition of Allocable Costs (2 CFR § 200.405 and §200.406) A cost is allocable to a particular grant, City agreement, vendor contract, program or other cost objective if the goods or services involved are chargeable or assignable to that cost objective in accordance with relative benefits received. This standard is met if the cost:

- a. Is incurred specifically for that cost objective;
- b. Benefits both that cost objective and other work of the City and can be distributed in proportions that may be approximated using reasonable methods; and
- c. Is necessary to the overall operation of the City and is assignable in part to the specified cost objective in accordance with 2 CFR § 200.

Any cost allocable to a particular cost objective may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by Federal statutes, regulations, or terms and conditions of the Federal awards, or for other reasons. However, this prohibition would not preclude the City from shifting costs that are allowable under two or more cost objectives in accordance with existing Federal statutes, regulations, or the terms and conditions of the Federal awards.

If a cost benefits two or more projects or activities in proportions that can be determined without undue effort or cost, the cost must be allocated to the projects based on the proportional benefit. If a cost benefits two or more projects or activities in proportions that cannot be determined because of the interrelationship of the work involved, then the costs may be allocated or transferred to benefitted projects on any reasonable documented basis. Costs should only be charged net of all applicable credits. Applicable credits refer to those receipts or reduction-of-expenditure-type transactions that offset or reduce expense items allocable to the cost objective. Examples include:

- a. Purchase discounts;
- b. Rebates or allowances;
- c. Recoveries or indemnities on losses;
- d. Insurance refunds or rebates; and
- e. Adjustments of overpayments or erroneous charges

To the extent that such credits accruing to or received by the City relate to allowable costs, they must be credited to the State and/or Federal award either as a cost reduction or cash refund, as appropriate. These credits do not constitute program income.

The City will submit a draw request for eligible costs as often as is needed, subject to limitations in grant agreements and at least quarterly throughout the life of a project. The City will submit costs to a Grantor for draw within 60 days of receipt of invoices as allowable.

Pursuant to 24 CFR § 570.489(c), 2 CFR § 200.305(b), and 31 CFR § 205, the City when utilizing the cash advance method will minimize the time elapsing between the transfer of funds from the Federal or State agency and the disbursement by the City for eligible costs. This period must not exceed 5 business days from the date of receipt/deposit of funds.

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: April 3, 2023

Topic:

Approve a purchase from Hydra-Shield Manufacturing, Inc. for the purchase of Hydra Storz adaptors, as a sole source provider (United States Patent Number 7,128,091), for a not-to-exceed amount of \$70,839.34, approve the expenditure of funds therefor, and authorize the City Manager to execute any and all documents related to the purchase. This expenditure is included in the FY 2022-2023 Budget.

Background:

Staff began installing Hydra Storz adaptors on all City-owned fire hydrants in 2018, all installations are completed by the Fire Department which also allows for inspection of hydrants as we work our way through the entire system completing installation. The current proposed purchase would complete the installation of all remaining City-owned hydrants aside from any hydrants installed based on need in the future.

This item authorizes the purchase of the Hydra Storz adaptors from Hydra-Shield Manufacturing, Inc. for the purchase of 442 adaptors. Hydra-Shield is a sole source provider of the Hydra Storz under United States Patent Number 7,128,091.

The FY 2022-2023 Budget allocated \$65,000 for the purchase of the adaptors, but due to inflation the price has increased resulting in the purchase being \$5,389.34 overbudget; the additional funds for the full purchase can be absorbed in the base budget for Materials and Parts.

Origination: Fire Department

Recommendation:

Staff recommends approving the purchase of Hydra Storz adaptors from Hydra-Shield Manufacturing, Inc. for a not-to-exceed amount of \$70,839.34.

Party(ies) responsible for placing this item on agenda: Joe Sykora, Fire Chief

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: X No: _____ If yes, specify Account Number: # 600-613-6106

If no, funds will be transferred from account # _____ To account # _____

Signed Joe Sykora Approved by _____
Staff Member Date City Manager Date

8701 John Carpenter Frwy,
Suite 230
Dallas, Texas 75247

Sales Quote

Account #	Quote #
2018018	200288

Contact Us at: 972-252-8696

Name / Address
Tomball Fire Department 1200 Rudel Rd. Tomball, TX 77375

Ship To
Tomball Fire Department 1200 Rudel Rd. Tomball, TX 77375

Date	Rep	FOB	Terms	Special Instructions
12/6/2022	DR	Dallas	Net 30	
Qty	Part Number	Description	Rate	Total
442	HST-5.0-4.5NH	5" Storz X 4.5" NST, Hydra Storz Anodized	160.27	70,839.34
30 day quote.				
Prices are subject to change without notice due to market fluctuation in materials and labor. Please see a sales associate at the time of ordering to verify.			Total	\$70,839.34

December 6, 2022

Re: Sole Source

To Whom It May Concern:

Hydra-Shield Mfg. Inc., located at 8701 John Carpenter Freeway, Suite 230, Dallas, Texas 75247 is the "sole source" provider of the patented "Hydra Storz" with closure device, under U.S. Patent number 7,128,091.

This patented product is exclusively designed, manufactured, and distributed by Hydra-Shield Mfg. Inc., in Texas, and as such allows us the flexibility to sale directly to cities, which benefits your community financially. Purchasing directly from Hydra Shield Mfg. ensures that the "Hydra Storz" with enclosure is properly manufactured to fit your hydrant make and model and carries the proper support and warranty of each unit.

We look forward to providing your city with the "Hydra Storz" device along with other exclusive patented such products, in the future, we manufacture.

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: April 3, 2023

Topic:

Approve a Professional Services Agreement with Paypoint HR, for Administrative Contract Number 0000-10090, Classification and Compensation Study, for a not-to-exceed amount of \$37,500 (RFP 2023-04R), authorize the expenditure of funds therefor, and authorize the City Manager to execute the agreement. This amount is included in the FY 2022-2023 budget.

Background:

The proposed professional services agreement with Paypoint HR includes a scope of work to determine the classification and competencies for each position within the City and Tomball Economic Development Corporation (TEDC) in order to evaluate market competitiveness and make compensation recommendations.

To determine the classification and competencies, the Consultant will be conducting job analysis and evaluation for each position with direct input from our employees and establishing internal alignment using a point factor system. Based on the information received the Human Resources department will receive updated job descriptions that can be utilized for future positions and salary surveys.

The information derived from the classification and competencies will be utilized to complete the compensation component of the scope of work. This component will develop the labor market survey parameters and collection and evaluation of labor market survey data. The findings will be reviewed and analyzed to look for possible areas of improvement resulting in the creation of a pay structure and guide for implementation that will be provided in a final report to the City.

The final step of the study will include training on customized software that is unique to the results of the study. This will allow Human Resources to utilize the software to complete salary surveys and input new positions as the City continues to grow.

Paypoint HR was selected through the Request for Proposal process (RFP 2023-04R). Five firms submitted proposals, the top three firms were interviewed, and two firms provided demonstrations with staff. Paypoint HR was selected as the most highly qualified respondent. The selection and discussions were held in accordance with the City's adopted Procurement Policy and Manual and state procurement law.

Funds for completing the proposed project were allocated in the Fiscal Year 2022-2023 budget.

Origination: Project Management

Recommendation:

Staff recommends awarding a Professional Services Agreement to Paypoint HR for the completion of a Classification and Compensation Study, for a total amount not to exceed \$37,500.

Party(ies) responsible for placing this item on agenda: Meagan Mageo, Project Manager

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: X No: _____

If yes, specify Account Number: # 100-115-6304 _____

If no, funds will be transferred from account # _____ To account # _____

Signed Meagan Mageo
Staff Member _____
Date _____

Approved by _____
City Manager _____
Date _____

**PROFESSIONAL SERVICES AGREEMENT
FOR
CONSULTANT SERVICES
RELATED TO
ADMIN CONTRACT NO. 0000-10090
CITY OF TOMBALL
CLASSIFICATION & COMPENSATION STUDY**

**THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §**

THIS AGREEMENT is made, entered into, and executed by and between the CITY OF TOMBALL, TEXAS (the "City"), a municipal corporation of the State of Texas, and Paypoint HR ("Consultant").

WITNESSETH:

WHEREAS, Consultant represents that it is capable of providing and qualified to provide professional services to the City and desires to perform the same;

NOW, THEREFORE, the City and Consultant in consideration of the mutual covenants and agreements herein contained, do mutually agree as follows:

**SECTION I.
SCOPE OF AGREEMENT**

Consultant agrees to perform certain professional services as outlined and defined in the Proposal attached hereto as Exhibit A, and made a part hereof for all purposes, hereinafter sometimes referred to as "Scope of Work," and for having rendered such services, the City agrees to pay Consultant compensation as stated in the sections to follow.

**SECTION II.
CHARACTER AND EXTENT OF SERVICES**

Consultant shall do all things necessary to render the services and perform the Scope of Work in a manner consistent with the professional skill and care ordinarily provided by competent consultants practicing in the same or similar locality and under the same or similar circumstances and professional license. It is expressly understood and agreed that Consultant is an Independent Contractor in the performance of the services agreed to herein. It is further understood and agreed that Consultant shall not have the authority to obligate or bind the City, or make representations or commitments on behalf of the City or its officers or employees without the express prior approval of the City. The City shall be under no obligation to pay for services rendered not identified in Exhibit "A" without prior written authorization from the City.

**SECTION III.
OWNERSHIP OF WORK PRODUCT**

Consultant agrees that the City shall have the right to use all exhibits, maps, reports, analyses and other documents prepared or compiled by Consultant pursuant to this Agreement. The City shall be the absolute and unqualified owner of all studies, exhibits, maps, reports, analyses, determinations, recommendations, computer files, and other documents prepared or acquired pursuant to this Agreement with the same force and effect as if the City had prepared or acquired the same. It is further understood and agreed that ownership and usage rights associated with the above referenced documents and analyses, hereinafter referred to as instruments, are contingent upon Consultant's completion of the services which will result in the production of such instruments and Consultant's receipt of payment, in full, for said services. Additionally, City understands and agrees that the rights described and provided hereunder shall not preclude or prevent Consultant from continuing to use those processes, analyses and data.

**SECTION IV.
TIME FOR PERFORMANCE**

The time for performance is as estimated in Exhibit A attached hereto. Upon written request of Consultant, the City may grant time extensions to the extent of any delays caused by the City or other agencies with which the work must be coordinated and over which Consultant has no control.

**SECTION V.
COMPLIANCE AND STANDARDS**

Consultant agrees to perform the work hereunder in accordance with generally accepted standards applicable thereto and shall use that degree of care and skill commensurate with the applicable profession to comply with all applicable state, federal, and local laws, ordinances, rules, and regulations relating to the work to be performed hereunder and Consultant's performance.

**SECTION VI.
INDEMNIFICATION**

To the fullest extent permitted by Texas Local Government Code Section 271.904, Consultant shall and does hereby agree to indemnify, hold harmless and defend the City, its officers, agents, and employees against liability for damage caused by or resulting from an act of negligence, intentional tort, intellectual property infringement, or failure to pay a subcontractor or supplier committed by the Consultant, the Consultant's agent, consultant under contract, or another entity over which the Consultant exercises control.

**SECTION VII.
CONSULTANT'S COMPENSATION**

For and in consideration of the services rendered by Consultant pursuant to this Agreement, the City shall pay Consultant only for the actual work performed under the Scope of Work, on the basis set forth in Exhibit "A," up to an amount not to exceed **\$37,500.00**, including reimbursable expenses.

**SECTION VIII.
INSURANCE**

Consultant shall procure and maintain insurance in accordance with the terms and conditions set forth for protection from workers' compensation claims, claims for damages because of bodily injury, including personal injury, sickness, disease, or death, claims or damages because of injury to or destruction of property, including loss of use resulting therefrom, and claims of errors and omissions.

**SECTION IX.
TERMINATION**

The City may terminate this Agreement at any time by giving seven (7) days prior written notice to Consultant. Upon receipt of such notice, Consultant shall discontinue all services in connection with the performance of this Agreement and shall proceed to promptly cancel all existing orders and contracts insofar as such orders or contracts are chargeable to the Agreement. As soon as practicable after receipt of notice of termination, Consultant shall submit a statement, showing in detail the services performed under this Agreement to the date of termination. The City shall then pay Consultant that proportion of the prescribed charges which the services actually performed under this Agreement bear to the total services called for under this Agreement, less such payments on account of the charges as have been previously made. Copies of all completed or partially completed maps, studies, reports, documents and other work product prepared under this Agreement shall be delivered to the City when and if this Agreement is terminated.

**SECTION X.
ADDRESSES, NOTICES AND COMMUNICATIONS**

All notices and communications under this Agreement shall be mailed by certified mail, return receipt requested, to Consultant at the following address:

Paypoint HR
Attn: Karin Campbell
695 Santa Maria Lane
Davidsonville, MD 21035

All notices and communications under this Agreement shall be mailed by certified mail, return receipt requested, to the City at the following address:

City of Tomball
Attn: Project Manager
501 James Street
Tomball, Texas 77375

**SECTION XI.
LIMIT OF APPROPRIATION**

Prior to the execution of this Agreement, Consultant has been advised by the City and Consultant clearly understands and agrees, such understanding and agreement being of the absolute essence to this Agreement, that the City shall have available only those sums as expressly provided for under this Agreement to discharge any and all liabilities which may be incurred by the City and that the total compensation that Consultant may become entitled to hereunder and the total sum that the City shall become liable to pay to Consultant hereunder shall not under any conditions, circumstances, or interpretations hereof exceed the amounts as provided for in this Agreement.

**SECTION XII.
SUCCESSORS AND ASSIGNS**

The City and Consultant bind themselves and their successors, executors, administrators, and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Neither the City nor Consultant shall assign, sublet, or transfer its interest in this Agreement without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public body which may be a party hereto.

**SECTION XIII.
DISCLOSURE OF INFORMATION**

Consultant shall under no circumstances release any material or information developed in the performance of its services hereunder without the express written permission of the City.

**SECTION XIV.
MODIFICATIONS**

This instrument, including Exhibits A and B, contains the entire Agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any oral or written representations or modifications concerning this instrument shall be of no force and effect excepting a subsequent modification in writing signed by both parties hereto.

**SECTION XV.
ADDITIONAL SERVICES OF CONSULTANT**

If authorized in writing by the City, Consultant shall furnish, or obtain from others, Additional Services that may be required because of significant changes in the scope, extent or character of the Scope of Work, as defined in Exhibit "A." These Additional Services, plus reimbursable expenses, will be paid for by the Owner on the basis set forth in Exhibit "A," up to the amount authorized in writing by the City.

**SECTION XVI.
CONFLICTS OF INTEREST**

Pursuant to the requirements of the Chapter 176 of the Texas Local Government Code, Consultant shall fully complete and file with the City Secretary a Conflict of Interest Questionnaire.

**SECTION XVII.
PAYMENT TO CONSULTANT FOR SERVICES AND
REIMBURSABLE EXPENSES**

Invoices for Basic and Additional Services and reimbursable expenses will be prepared in accordance with Consultant's standard invoicing practices and will be submitted to the Project Manager at least monthly. Invoices are due and payable thirty (30) days after receipt by the City.

**SECTION XVIII.
PAYMENT FOR SERVICES AND REIMBURSABLE EXPENSES**

Invoices for Basic and Additional Services and reimbursable expenses will be prepared in accordance with Consultant's standard invoicing practices and will be submitted to the City by Consultant at least monthly. Invoices are due and payable thirty (30) days after receipt by the City.

**SECTION XIX.
MISCELLANEOUS PROVISIONS**

A. Venue for any legal actions arising out of this Agreement shall lie exclusively in the federal and state courts of Harris County, Texas.

B. This Agreement is for sole benefit of the City and Consultant, and no provision of this Agreement shall be interpreted to grant or convey to any other person any benefits or rights.

C. Consultant further covenants and agrees that it does not and will not knowingly employ an undocumented worker. An "undocumented worker" shall mean an individual who, at the time of employment, is not (a) lawfully admitted for permanent residence to the United States, or (b) authorized by law to be employed in that manner in the United States.

D. In accordance with Chapter 2270, Texas Government Code, a government entity may not enter into a contract with a company for goods or services unless the Consultant covenants and agrees that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. Furthermore, the Consultant is prohibited from engaging in business with Iran, Sudan or Foreign Terrorist Organizations.

IN WITNESS WHEREOF, the City of Tomball, Texas, has lawfully caused this Agreement to be executed by its Mayor; and Consultant, acting by its duly authorized officer/representative does now sign, execute and deliver this instrument.

EXECUTED on this ___ day of _____, 2023.

Company Name: Paypoint HR



Name: **Karin VM Campbell**

Title: **CEO**

CITY OF TOMBALL, TEXAS

David Esquivel, City Manager

ATTEST:

Tracylynn Garcia, City Secretary

EXHIBIT A

Tentative Timeline

Our professional experience is that comprehensive studies of this scope and for this size organization take no more than 16 weeks to complete, allowing for adequate position vantage point completion, interview time, classification description development, compensation data collection and analysis, review of steps by the client, the development of final reports, and any appeals.

Timely progress reports will be provided to the client. Paypoint HR will also provide to the Project Team interim reports as the project progresses. We keep our clients fully abreast of all activities that Paypoint HR undertakes during the course of our projects to ensure timely completion and to short-circuit any issues that may arise. A customized schedule would be constructed in conjunction with both Paypoint HR and the city to meet the project requirements.

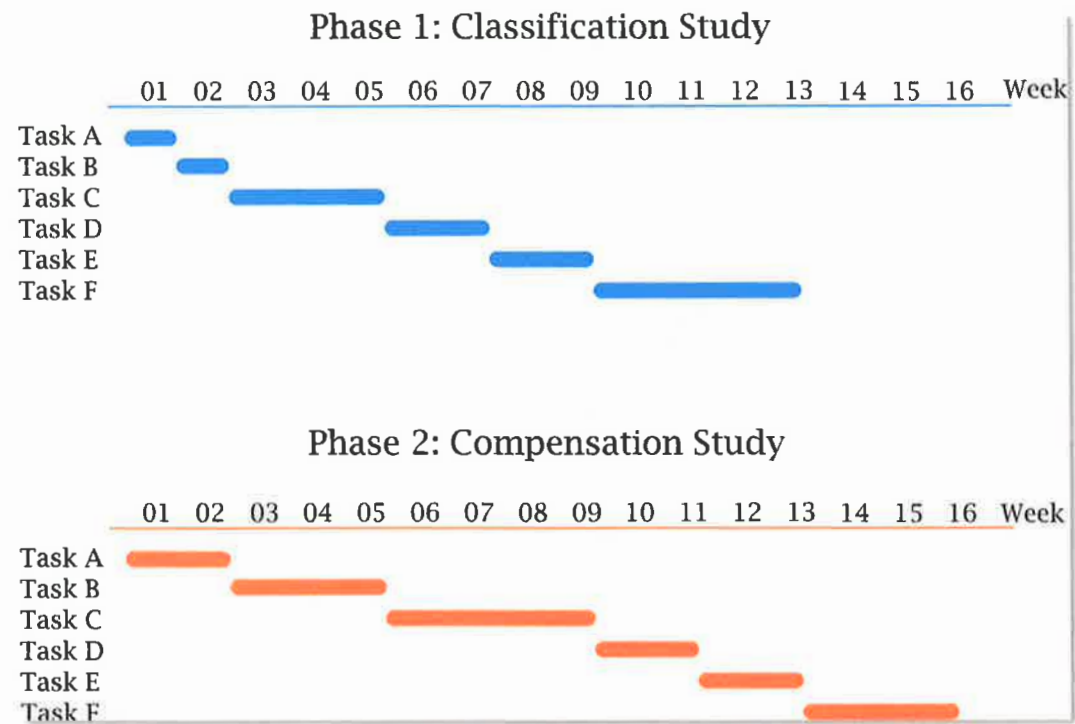


Figure 16 - Gantt Chart

Cost Proposal

Exhibit B COST PROPOSAL RFP 2023-04R Classification and Compensation Study	
Services	Cost of Service (maximum)
Classification Study	\$13,500
Compensation Study	\$24,000

Hourly Rates	
Service/Position	Hourly Rate
Sr Compensation Professional	\$125

Add additional space if needed

PHASE 1 Classification Component

Task	Hours
A Project Start and Initial Meetings	12
B Baseline Data Collections & Initial Analysis	24
C Job Analysis Collection/Completion & Focus Groups	28
D Job Evaluation and Classification Development	24
E Draft Job Descriptions and Policy Guides	8
F Develop Guide for Implementation of Changes and Draft Interim Report	12
Subtotal Professional Hours	108

PHASE 2 Compensation Component

Task	Hours
A Identify Benchmark Positions and External Survey Comparator List	12
B Design and Distribution of Survey	24
C Collect and Analyze Survey Data	60
D Internal Relationship Analysis and Internal Alignment	40
E Preparation of Draft Report	32
F Deliver Final Report and Work Products for Implementation	24
Subtotal Professional Hours	192

The standard consulting rate for the senior personnel listed, consistent with the Federal GSA schedule, is \$125 per hour of service. For a project entailing 300 hours of service, the total fee would be \$37,500. Our fee includes expenses associated with travel, phone, materials, and supplies. The total is an estimate of the time needed. Regular invoices, including a thorough delineation of services rendered, would be on a net 30-day basis. Paypoint expects support from the client in communication with key staff, setting up meetings, and providing meeting resources, as well as establishing reporting relationships, milestones, and timelines.

Provisions to Other Agencies: Paypoint HR agrees to make available to other Government agencies, departments, and municipalities the prices submitted in accordance with said terms and conditions therein, should any said governmental entity desire to buy under the terms of the proposal.



**Classification and Compensation Study
City of Tomball, Texas**

January 30, 2023

City of Tomball
501 James Street
Tomball, Texas 77375

Dear Sir or Madam,

Paypoint HR, LLC is pleased to present our response to the City of Tomball's RFP for a comprehensive Classification and Compensation Study. Paypoint HR has the staff and experience to serve the City and to fulfill all requirements in the RFP within the time period specified. We will conduct the prescribed internal and external compensation study, wage and benefit, and communicate the findings and our recommendations to all stakeholders. Excellence, fairness, clarity, and transparency will be the guiding principles we will utilize in this endeavor.

As an authorized signatory and project manager, Mrs. Karin Campbell will serve as the primary contact by and between Paypoint HR and your office. Mrs. Campbell's contact information is as follows:

Karin Campbell, SPHR, SHRM-SCP, IPMA-SCP
Paypoint HR, LLC
695 Santa Maria Lane
Davidsonville, MD 21035
E-Mail: Karin@PaypointHR.com
Telephone number: (443) 336-4272

If you have any questions, please feel free to contact us. Our response to this RFP is valid and binding for a period of ninety (90) days from the date and time of the bid opening. We look forward to working with the City on this important project.

Sincerely,



Karin VM Campbell

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Firm Information and Management Synopsis

Paypoint HR, LLC is responding to the city of Tomball's request for proposals from qualified consultants to provide a comprehensive Classification and Compensation Study. The purpose of the study is to help the city to be recognized as an employer of choice in the area. Paypoint HR will objectively examine the job roles and their placement in the city's hierarchy, the external market's pay ranges for these same positions, and give recommendations for adjustments of the approximately 202 full-time equivalent positions as warranted by the findings. The study recommendations will be substantiated using quantitative evaluations, so that the city of Tomball may make informed decisions with respect to compensation including benefits. It is anticipated the project will take 16 weeks to complete at a firm fixed-price cost of \$37,500.

Our methodology is built on working with our clients and their employees to make appropriate, project-focused recommendations and then staying with the Project Team to see the recommendations are put into place. Our clients have peace of mind knowing the key to our success is ensuring implementation of recommendations.

Paypoint HR, LLC realizes that the employees are the most valuable asset and will be treated accordingly. By including employee input in the project, it is our experience that they feel "heard" and "valued." As such, they will be more likely to find the pride and fulfillment that public service lends. This forward-thinking philosophy ensures the city will be seen as a great place to make a career as well as make a living.

We test our recommendations to ensure they are following sound business practices and will be a solid foundation for our clients going forward. The recommendations we make are intended to produce a structured program that gives ongoing guidance on how to improve an organization's ability to recruit, reward, motivate, and retain talent in a competitive environment. Specifically, we have developed an approach and methodology that incorporates the following:

- Market competitiveness;
- Recognition that compensation is comprised of more than just base pay levels;
- Consideration of changes in recent compensation trends and strategies; and
- Customization of solutions that consider the diversity of needs present within the Client's organization and allows the Client to select the components and options that best meet their overall needs.

Once the recommendations are made for updates to classifications and pay structures, the city will be given our custom designed tools for implementation and ongoing administration. We will create a custom Compensation Factor Scoring (CFS) system using information gathered during the study and provide the city access to the system to help place positions in the future.

Karin Campbell and Dr. Rick Campbell are legally authorized to represent Paypoint HR and will serve as the main contacts for the project.

Project Manager - Primary Contact

Karin Campbell, SPHR, SHRM-SCP
695 Santa Maria Lane
Davidsonville, MD 21035
Karin@PaypointHR.com
(443) 336-4272

Technical Director - Secondary Contact

Dr. Rick Campbell, CCP
695 Santa Maria Lane
Davidsonville, MD 21035
Rick@PaypointHR.com
(540) 815-7837

Experience of Firm

Paypoint HR is an innovative, cost effective, and technologically advanced solution for the public sector's need to provide internally equitable and externally competitive pay plans. We are an independent Woman Owned Small Business (WOSB) and have been assisting the public sector achieve their pay plan objectives since 2012. Our firm is in Kitty Hawk, North Carolina and Davidsonville, Maryland, which is in close proximity to the United State Naval Academy in Annapolis, Maryland and Washington, DC.

Our overall approach to the field is unique. Our founding members hail from different practice areas related to classification and compensation. These specialty fields include organizational design, compliance, research analytics, business strategy, and human resources. The common denominator that brings us together is helping our clients recruit and retain quality employees. We do this by collaborating on each project to give our clients strategic recommendations for achieving their goals. We believe we are the only firm that brings together experts from multiple specialty areas to design custom classification and compensation plans that give our clients a competitive edge in the labor markets where they compete.

Our team includes recognized experts in human resource management and understands that while we follow established standards, there is not a "one size fits all" solution to compensation management. The way we look at data is more thorough than our competitors. While we use "standard" calculations for determining pay, we also create ad-hoc reports that meet specific Client needs. We help develop compliant job descriptions and pay plans based on the most current regulations. Clients benefit from the compliance review and appeals processes through a reduction in grievances and an improved sense of equity. Our recommendations take into consideration the business and operational side of organizations.

Paypoint HR's personnel bring several decades of experience of providing total compensation solutions to the public sector. In our response to the Statement of Work, we explain in detail our business history, people, and processes to show the level of resources we bring to the city. Paypoint HR has staff ready to be deployed for this project and has the resources to confidently provide the city with exceptional service.

We are members of WorldatWork and the Society for Human Resource Management. Our personnel keep abreast of new and emerging trends through continuing education in their respective fields and collaborate on each project to bring best practices to our recommendations. Our personnel are well respected and have served as speakers for industry associations, financial organizations, universities, and more. Our personnel are also members of industry organizations and serve on the Board for several groups. Typical studies incorporate a custom external market survey. We also have industry data readily available for use in our assessments. Information we have access to include the most recent survey reports conducted by industry associations, updates to regulations on a federal and state level, as well as latest trends and best practices. We anticipate the client's input on specific survey sources it would like us to use. We feel our expertise, processes, people,

survey data library, and proprietary software distinguish Paypoint HR from other contractors and will help the client reach its project goals.

Our current workload allows us to commit the necessary staff members to the successful completion of the project. We welcome the active participation of the project team throughout the entire study but understand that they will be engaged with other priorities as well. Paypoint HR expects support from the client in communication with key staff, setting up meetings, providing meeting resources, as well as establishing reporting relationships, milestones, and timelines.

Project Managers

Paypoint HR has the following senior staff ready to be deployed for this project and has the resources to confidently provide the city with exceptional service. They are listed below:



Karin Campbell, SPHR, SHRM-SCP, IPMA-SCP

Master of Business Administration, University of Texas
Bachelor of Science in Business Marketing, University of Maryland

Mrs. Karin Campbell has led Human Resource initiatives for more than 20 years. She has helped over 700+ employers and 15,000 employees with the development and delivery of customized HR solutions for employee management programs; conducting labor cost analysis of employee administration, benefits, retirement, workers' compensation, federal, state, and local taxes; budgeting for human capital including recruiting, onboarding, benefits, risk management, training, and compliance; and planning, design, and implementation of payroll administration; health, dental, vision, life, and AD&D insurance; and pension, as well as ancillary benefits within a limited timeframe to large workforces.

She has consulted with clients and their employees on complicated employment topics. Her responsibilities also include development and maintenance of compliance and risk management programs. She has taught OSHA compliance as an adjunct professor. Currently she holds SPHR, SHRM-SCP, and IPMA-SCP designations and serves on the Board for the ASHRM chapter. Karin has a strong understanding of current trends in the benefits industry. Karin worked from 1995-2002 for HRLogic, Inc., a wholly owned subsidiary of Fidelity Investments. Most recently Karin owned her own HR firm, Alpine HR, from 2003 until 2012, when she sold her business. In 2013, Karin along with her husband, Rick, formed Paypoint HR, an HR consulting firm which specializes in employee compensation for both private and public-sector concerns.

Karin's expertise has been utilized in studies that involve:

- Employee Outreach - She has developed time tested approaches to gaining employee buy in through effective communication and involvement of staff at all levels. She has created formats for briefing sessions, and orientations that follow accepted industry protocol and considers both the qualitative and quantitative aspects of data collection. Her approach has allowed for better understanding of the nuances within organizations and uses it to formulate recommendations and overcome obstacles that positively impact acceptance.
- Policy Design and Implementation - She has created a process methodology for implementation of classification and compensation recommendations. The flow of the process lends itself to clear transfer of administration and maintenance from plan adoption through to long-term application.
- Communication Plans - She has led successful projects by creating communication plans with the input of each client to recognize project milestones and progress. She has created relationship reporting to ensure projects are completed on time and within budget.
- Business Strategy - She analyzes the strengths, weaknesses, opportunities, and threats faced by each client and the community they serve to incorporate resources into the final recommendations that maximize return. She has helped clients face challenges in gaining the financial commitment necessary to adopt and implement recommendations.



Dr. Rick Campbell

Ph.D. in Engineering Science and Mechanics, Penn State University
Bachelor of Science in Applied Mathematics, University of Virginia
Certified Compensation Professional (CCP), WorldatWork

Dr. Rick Campbell's extensive education and experience in the field of mathematics has enabled him to understand highly technical issues. Because he has managed both internal and external clients, he has developed the ability to take the most advanced problems and convert them into easily understood terms and processes. He has applied this experience to the field of compensation and classification for the past 10 years.

He has worked for NASA GSFC, GE Aircraft, and Lockheed Martin Space Systems among others. His roles included Team Lead, Project Manager and Principal Engineer.

Dr. Campbell holds 7 U.S. and international patents for his creative ideas on product and process improvement. Rick has experience with Lean Six Sigma for both service organizations and manufacturing organizations. He brings his unique skills to Paypoint HR to improve the accuracy of our research findings and recommendations.

Rick's knowledge heavily influences the following areas of the study:

- Performance Based Pay - He has built pay plans that incorporate performance metrics and translates them into fair pay based on relevant goals. His plans maintain objectivity and are multifaceted. He has established performance review processes and standards for merit-based compensation pay. He has converted organizations to pay-for-performance that desired merit-pay programs and were limited by existing policy and structures.
- Big Data and Research Analytics - He has worked on projects that have required large data sets and has created the format to collect and manage the data that maintains integrity and validity. He has engineered programs that are user friendly yet robust in their functionality and interpolates data into meaningful information to a granular level.
- Trends analysis - He has reviewed and analyzed data that look for patterns and correlation to determine if they are valid indicators for comparison. He has looked at causality and correlation links to consider potential for predictability.
- Study Validity - He has determined appropriate metrics for comparison in the selection of comparator organizations and benchmark positions to ensure relevancy of findings.
- Financial Impact - He has applied both short-term and long-term implications of recommendations for clients to assist in the ability to project necessary funding and revenue sources.

Similar Projects

Organization	Project Title and Service Dates
City of Aberdeen, Maryland	Classification, Compensation and Benefits Study 2019 - 2021
City of Bath, Maine	Compensation Study 2021 - 2022
Town of Berlin, Maryland	Wage Compensation and Classification Study 2022 - 2023
Belknap County, New Hampshire	Pay and Classification Audit - Consultation Services 2021 - 2022
City of Bethlehem, Pennsylvania	Classification and Compensation Survey 2017 - 2018
Bureau County, Illinois	Compensation Plan Study 2019 - 2020
Caroline County Public Schools, Virginia	Classification and Compensation Study 2022 - 2023
Center School District, Missouri	Job Description, Legal Compliance, and Strategic Compensation Design 2018 - 2019
City of Claremont, New Hampshire	Pay and Classification Study Update 2019 - 2020
City of Columbia, Missouri	Classification and Compensation Data Consultation Services 2018 - 2022
City of Cottage Grove, Minnesota	Position Classification and Compensation System 2020 - 2023
City of Dover, New Hampshire	Classification and Compensation Study 2019 - 2020
Elko County, Nevada	Compensation and Classification Study 2019 - 2021
Town of Farmville, Virginia	Classification and Compensation Plan Study 2019 - 2020
City of Fort Morgan, Colorado	Compensation Study & Analysis 2022 - 2023

City of Fort Walton Beach, Florida	Pay and Classification Study 2018 - 2019
Fredericksburg City Public Schools, Virginia	Classification and Compensation Study 2022
Frederick County Public Schools, Virginia	Classification and Compensation Study 2022 - 2026
Town of Front Royal, Virginia	Compensation and Classification Study 2016 - 2018; 2022
Garrett College, Maryland	Job Classification and Compensation Study 2018 - 2019
Gratiot County, Michigan	Classification and Compensation Study 2022 - 2023
City of Glenpool, Oklahoma	Compensation Study 2017 - 2018
City of Jacksonville, Texas	Compensation and Classification Study 2021 - 2022
Kent County, Delaware	Compensation & Classification Study 2022 - 2023
Knox County, Illinois	Classification & Compensation Study 2019 - 2022
Town of La Plata, Maryland	Organizational Design Study 2021 Classification and Compensation Study 2022
City of Lake City, Florida	Classification and Compensation Study 2022
City of Lake Dallas, Texas	Employee Compensation Study 2020
City of Largo, Florida	Compensation & Classification Study 2019 - 2020, 2022
City of Leander, Texas	Citywide Compensation Study 2022
City of Lebanon, Missouri	Compensation Philosophy and Study 2018 - 2019
City of Marion, Iowa	Compensation and Classification Study 2019 - 2020

City of Milford, Delaware	Job Classification and Compensation Study 2017
Millard County, Utah	Salary Survey and Compensation Analysis Services 2021 - 2022
City of Nixa, Missouri	Employee Compensation, Benefits and Classification Consulting Services 2018 - 2019
Northampton County Schools, Virginia	Compensation, Organizational, and Staffing Level Study 2017 - 2018
Oklahoma City Zoological Trust, Oklahoma	Compensation and Classification Assessment 2018 - 2019
Otero County, New Mexico	Wage & Compensation Study 2019 - 2020
Prince George's County Memorial Library System, Maryland	Comprehensive Classification and Compensation Study 2017 - 2018
City of Raytown, Missouri	Compensation and Classification Plan 2021 - 2022
Rockingham County, New Hampshire	Pay and Classification Audit 2021
Rockingham County, Virginia	Employee Compensation and Classification Study 2017 - 2018
City of South Portland, Maine	Compensation Plan Study 2019 - 2020
City of Stuart, Florida	Classification and Compensation Study 2019
Warren County, Virginia	Classification and Compensation Study 2018 - 2019
City of Waynesboro, Virginia	Comprehensive Classification and Compensation Study 2019 - 2020
Town of Warrenton, Virginia	Classification and Compensation Study 2022 - 2023 Organizational & Staffing Study 2022 - 2023

Demonstration of Firm's Ability

Assessment of Needs

Paypoint HR has done a preliminary review of possible hurdles specific to the city of Tomball's ability to attract, motivate, and retain employees. Furthermore, our project history has familiarized us with projects similar in size, scope, and services. You can feel confident our approach is time tested.

Our understanding of the project is that Tomball is a full-service city that provides both its residents and tourists with a full range of municipal services including but not limited to police, fire, public works, and community development. The city desires to update their current compensation plan in order to keep up with current compensation practices. The purpose is to attract and retain a high performing and engaged workforce that will continue providing excellent service to those who live in the city.

Possible Challenges

Paypoint HR found the following issues as possible sources of challenges:

- Increase in community demands and expectations for service offerings paired with limited resources to quickly adapt,
- Difficulty recruiting qualified individuals for certain positions,
- Job roles have changed due to changing technology, increased regulations, etc.,
- Increasing cost of employee benefits,
- Pay compression, external inequity, and perception of internal inequities, and
- A highly competitive labor market with other public and private employers in the region competing for the same labor force.

These obstacles are independently problematic and collectively require a change from a tactical management style to a strategic management philosophy. We believe developing a long-term strategy for recruiting and retaining employees is the true intent of this RFP. Paypoint HR understands we will be working with an appointed team leader, key leadership staff, and stakeholders (Project Team) to validate the scope of services, methodology, timelines, and other deliverables. We anticipate several virtual meetings, but we remain flexible to meet your needs. We are planning that meetings will be used to kick-off the project, employee briefing sessions, and presentation of the findings of the study.

Methodology

Our methodology is comprehensive and encompasses all of the requirements specified in the RFP. Phase 1 focuses on the Classification/Internal Components. Phase 2 focuses on the Compensation/External Component. The standard methodology we will use to conduct both phases of the study is laid out in the flowchart and delineated below.

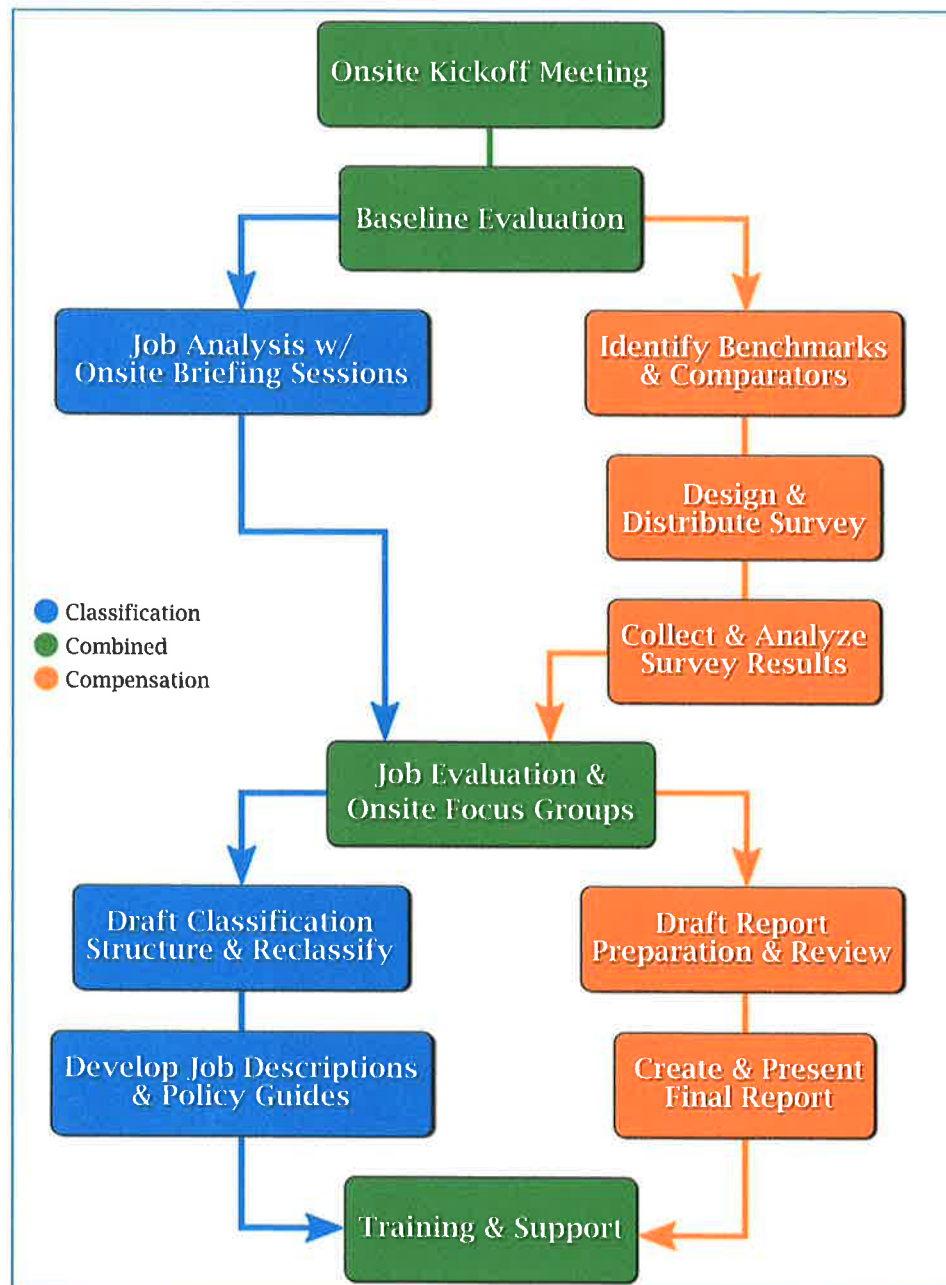


Figure 1 - Process Flow Chart

Paypoint HR plans to conduct the internal equity portion of the study prior to the external portion of the study though some activities will be conducted simultaneously. The reasons for this include:

- Job titles and job descriptions are, in the minds of the employees and their supervisors, inextricably associated with the “worth of the work” or pay. Compensation is often a highly emotional issue. By separating the two phases of the study, even though elements of the phases may be conducted concurrently, it gives us two separate yardsticks of measure.
- The compensation review will be completed when there is a full understanding of the scope of work, thereby ensuring that the data developed from the labor market and client’s classifications are correct.

Paypoint HR uses an expectation of excellence philosophy when approaching our projects. Based on the size and scope of each project, we determine the most effective utilization of resources and build our project team. We use secure, effective communication tools to safely and transparently share information. This approach tends to take a people-centric perspective, implementing short phases or steps that rely on ongoing feedback. This continuously reshapes and refines the project path. The methodology has proven successful over time and frees teams from using a cookie cutter approach to designing a custom work product. As a consequence, we are able to offer faster turnaround and the dynamic ability to quickly adapt to changes.

Phase 1 – Classification/Competencies Component

- A. Project Start and Initial Meetings
- B. Baseline Data Collection and Initial Analysis
- C. Job Analysis Collection and Completion & Focus Groups
- D. Job Evaluation and Classification Development
- E. Draft Job Descriptions and Policy Guides
- F. Develop Guide for Implementation of Changes and Draft Interim Report

Phase 2 – Compensation Component

- A. Identify Benchmark Positions and External Survey Comparator List
- B. Design and Distribute Survey
- C. Collect and Analyze Survey Data
- D. Internal Relationship Analysis and Alignment
- E. Preparation of Draft Report
- F. Deliver Final Report and Deliverables for Implementation

We will look at both qualitative data and quantitative data throughout both the classification and compensation portions study. The purpose of statistical data allows us to capture a snapshot of the existing plan and create baselines on the existing plan. This gives us a starting point to uncover areas of possible review and revision recommendations.

Phase 1 Classification/Competencies Component

This phase of the assignment will result in the study of all classes that includes the comparison of classes within series and to other occupational levels within the organization. Study tasks include: project initiation and orientation, employee orientations, creation of custom survey websites for employees and managers, completion of Position Vantage Point by employees, desk audits by managers and/or Human Resources, and interviews with employees/focus groups. The cumulative information gathered will culminate in the preparation of revised or new class specifications, and a review process for all employees included in the scope of the study.

Task 1A - Project Start

The project initiation phase encompasses all the steps required to initiate the project. This task includes the following activities:

Kick-Off Activities

- Request pertinent materials prior to the project initiation meeting so that Paypoint HR has an understanding of the scope of the study, an understanding of the client's current classifications, and is prepared to seek further relevant information during the initial meetings.
- Obtain relevant information and statistical/anecdotal data on specific compensation issues and policies. Obtain insight into perceived current compensation system strengths and weaknesses. Identify current incumbents and gather any other documentation to gain better understanding of the client's operations.
- Meet Human Resources Director to discuss project context and methodology, determine reporting relationships, and clarify project understanding and Milestones to create the Communication Plan.
- Reach an agreement on a schedule for the project including all assignments and project milestones/deliverables and deadlines for completion of the assignment.
- Establish an agreeable communication schedule while identifying potential challenges and opportunities for the study.
- Schedule employee Kick-Off briefing sessions.
- Create an Executive Announcement Letter for distribution to staff.
- Initial review of relevant materials, including: (a) any previous projects, research, evaluations, or other studies that may be helpful to this project; (b) organizational charts for departments and divisions along with related job descriptions; (c) current position and classification descriptions, salary schedules, salary ranges, pay scales, payroll reports, and classification systems; (d) strategic business plans and budgets; (e) personnel policies and procedures; and (f) evaluation criteria.
- Discuss the Client's strategic direction and the short-term and long-term priorities.
- Review any data provided by the Client that may provide additional relevant insight.
- Review internal career ladders in order to identify needs, make recommendations, and keep positions competitive in the market.
- Maintain open lines of communication.

<p>EXECUTIVE LETTER OF ANNOUNCEMENT</p> <p>Dear Staff,</p> <p>We are pleased to announce our strategic plans and external competitiveness plans. The overarching theme is to be cost-effective and appropriate for the work environment.</p> <p>After a thorough review of the current compensation resources firm to prepare a compensation plan for the well-respected firm.</p> <p>The well-respected firm objectives:</p> <ul style="list-style-type: none"> • Review of existing compensation • Conduct a salary survey • Conduct a salary analysis • Recommend a compensation plan <p>Briefings</p> <p>Paypoint HR, LLC will be conducting briefings. Participation is required. The briefings will address questions, and overall compensation philosophy.</p> <p>After the briefings, Paypoint HR will be conducting a Position Vantage Point survey to determine to-day job functions. It is important so that there is a clear understanding of the current system.</p>	<p>DATA REQUEST LETTER</p> <p>Attention: Human Resources Director</p> <p>Subject: Request for Information</p> <p>Paypoint HR is looking forward to working with you on this important project. In order to get started, we will need some background information from you. Below is a list of the data you will need to generate and send to us in order to get the study underway:</p> <ul style="list-style-type: none"> • Organizational Chart including employee names or employee ID in their respective positions • Job descriptions • List of benefits- PTO, health, dental, vision, pension, wellness, etc. • Copy of current pay: <ul style="list-style-type: none"> ○ Most recent programs, policies and philosophy (manuals, agreements, handbooks, collective bargaining agreements, etc.) ○ Systems and structure (position classifications, pay grades, pay bands, salary steps) ○ Administrative policies and procedures ○ Payroll report registers (last 2 pays) ○ Performance pay policies and budget ○ Performance evaluation tools (completed questionnaires, desk audits) ○ Current/desired market position ○ List of competitors for labor ○ History – when was current plan established, what changes have taken place and why ○ Financial data- revenues, budget, annual reports long-term and short-term strategic plans, mission, vision, values, and other relevant material
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Figure 2 - Sample Letter Templates

Task 1B – Baseline Evaluation

Paypoint HR will incorporate the accumulated knowledge and understanding of the project gathered at this point into a main client file. Data will be collected throughout the project and will be housed in this central location. The Baseline Evaluation Task evaluates the current system as outlined and includes the following activities:

- Conduct a comprehensive preliminary evaluation of the client’s existing position review process. Conduct any necessary question and answer sessions. Develop an accurate database of client’s employees for study and review data as well as career ladders. Understand the client’s approach to compensation and overall philosophy on attracting and retaining competent staff.
- Review the existing pay structure and processes to look for potential problems to be resolved. Determine the strengths and weaknesses of the current pay plan(s).
- Complete an assessment of the current conditions that details the pros and cons of the current system as well as highlights areas for potential improvement in the final adopted solution.

- Conduct a thorough review of all background materials related to the client’s classification system. Review information from the department head as well as incumbents. Conduct interviews as appropriate.
- Document accepted compensation and classification philosophy and budgets based on input from the Study Project Leaders and other key staff.
- Gain understanding of employee recruiting and retention processes to uncover challenges in the local labor market and provide guidance on market positioning strategies.
- Once a baseline is determined, establish the client’s current position as compared to the local market using sources of data preferred by the client as well as Paypoint HR’s resource library for consideration.
- Look at goals for recruiting and retention with regards to sustainable budget amounts that will support recommendations on market position strategy.
- Consider both current and anticipated information technology programs, software and staffing levels to support, implement, administer, and maintain the recommendations given to the client by Paypoint HR.

Current Grade	#	# near Min	% near Min	# near Max	% near Max
9	7	5	71%	1	14%
10	2	1	50%	0	0%
11	8	5	63%	0	0%
12	13	5	38%	2	15%
13	8	2	25%	1	13%
14	7	1	14%	3	43%
15	8	3	38%	0	0%
16	15	2	13%	2	13%
17	5	2	40%	0	0%
18	8	0	0%	4	50%

Figure 3 – Sample Baseline Evaluation

Task 1C – Job Analysis Collection and Completion

The job analysis portion of the study includes employee outreach. We find that by having employee involvement, your staff will feel more valued. By gaining insight from employees about their position and the overall pay structure, in their own words, the study deliverables will be more relevant and as a result, employees will be more inclined to accept recommendations.

During this stage in the process, the following milestones will be met:

- Conduct employee briefing sessions to review the role of employees, the role of supervisors, the scope of work to be covered by the study and to explain how to complete the job analysis questionnaire (Position Vantage Point, or PVP.) It is communicated to employees that this process is not a performance review, but rather an identification of what should be required for new employees.
- Employees will be given a period of time to complete the PVP, usually 10 - 14 days. Employees are encouraged to retain a copy of their responses for their records.
- Completed surveys are given to department heads for their review and input. Front line supervisors often work in collaboration with department heads during this process. Typically, this process takes 7 - 10 days.
- Department heads turn in the reviewed PVPs to Human Resources for any further input with the final product then provided to Paypoint HR for analysis.

Task 1D – Job Evaluation and Classification Development

Task 1D of the project acknowledges the job analysis information and supporting material. The city may have Paypoint HR utilize an existing classification method or choose to utilize Paypoint HR's Compensable Factor System (CFS). Once the job analysis PVP is distributed, Paypoint HR will:

- Facilitate collection of job descriptions, desk audits, and supporting materials from the Study Project Leaders or designated Human Resource department contact. The job descriptions, audits, and supporting reports will be reviewed and analyzed in detail along with other documentation to obtain an understanding of the duties and responsibilities assigned to each position.
- Identify the classification of existing positions utilizing the existing job evaluation system, review jobs, and characterize the internal equity relationships within the organization.
- Review all class specifications with the Study Project Leaders. Review each classification and score the classification using a point factor system or the system that the client has in place. Include an evaluation of results.
- Develop preliminary recommendations for the classification structure. The classification system designed at this point will be based solely on internal equity relationships and will be guided by scores for each classification. Essentially, a structure of classifications will be reviewed and classifications with similar scoring would be grouped into pay grades. The final decision on the minimums and maximums of the pay grades will be determined after the market data has been collected.

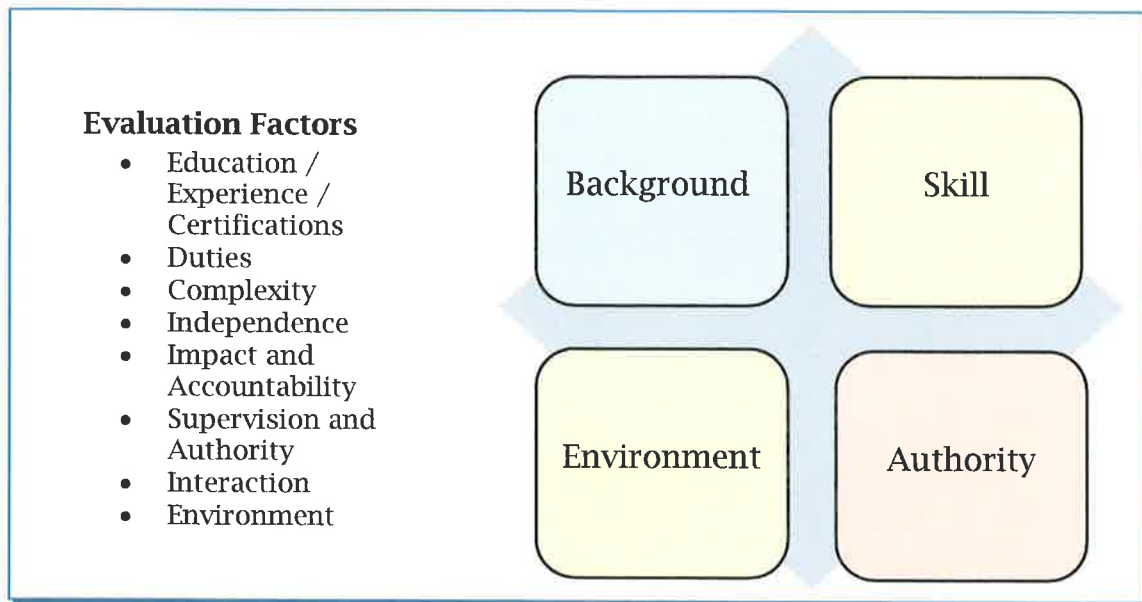


Figure 4 - Position Evaluation Factors (Example)

Prior to developing detailed class descriptions, our job evaluation will result in a classification plan concept and employee allocation discussion with the Project Team. We recognize the city will have its own factors to determine hierarchy. We will compare changes in business needs and operations, as well as any reorganization, with the established classification system and job families, as well as review internal relationships between classifications.

Our job evaluation method involves a quantitative approach. The whole position classification methodology examines your current evaluation criteria and augments it with other factors as needed. Our analysis will include our assessment methodology. We will list broad class concepts and highlight where significant changes may be recommended, such as, expanding or collapsing class series in the same functional area and/or separating or combining classifications assigned to different functional areas. We will review and analyze current classification series, the number of classifications and classification levels, and job families. We will also review and update established titling guidelines for the studied classifications for appropriate and consistent titling.

A detailed, incumbent-specific allocation list for each position included in the study will be prepared, specifying current and proposed classification title and the impact of our recommendations (reclassification upgrade or downgrade, title change, or no change). After we have completed this process, a meeting will be arranged to review any recommended changes to the classification plan with the Study Project Leaders.

After preliminary approval of the class concepts and allocation lists, recommendations for new and/or updated class descriptions will be developed for each proposed classification following the format approved by the client.

From the review of the PVPs, desk audit reports and any interviews, we will update duties, responsibilities, and minimum qualifications of each class specification, as necessary, or develop new class specifications if duties, responsibilities, and minimum qualifications have changed significantly. We will recommend new classification/class levels and/or operational changes, business needs, and any reorganizations that require new classifications. Analysis of FLSA, EEO, and ADA requirements will also be analyzed for compliance.

Index of Current to Recommend Job Classes

Current Job Class	New Job Class	Trans Code
Superintendent of Printing	Printing Supervisor	T
Support Services Project Manager	Delete	D
Survey Party Chief	Survey Party Chief	N
Surveyor I	Surveyor	M,D
Surveyor II	Surveyor	S,N
	Utility Locator	J
Switchboard Operator	Clerical Assistant	M,D
Systems Analyst	Systems Analyst	N
Transaction Codes		
M - Merge into Other Class	S - Split into Two or More Classes	
T - Title Modification	N - No Change	
D - Delete Class Title	J - New Job Class	

Figure 5 - Sample Index of Current to Recommended Classes

The Index of Current to Recommended Job Classes is an alphabetical listing of all job classes currently used by the client and the recommended disposition of each of those job classes and titles. Current data is from the payroll, class specifications, and/or job descriptions, classification plan, and PVPs. New data includes job class title and transaction codes.

Task 1E – Draft of Job Descriptions and Policy Guides

Task E of the project will draft a job class classification and allow for review by the city. This task includes the following activities, principally for new job titles and those that have substantially changed, namely:

- A draft copy of the revised/new class description with an allocation recommendation will be submitted to the Project Leaders.
- Department Heads and managers will receive a copy of their employees' draft job descriptions and will be asked to review their comments and feedback to verify and concur with the information provided.
- Subsequently each manager, supervisor, and employee will be given an opportunity to provide comments and concerns regarding any modifications to the classification structure and specifications.
- Our experience has been that this is one of the most critical phases of the project (but also one of the most time-consuming).
- Our proactive and effective communication process at this crossroad has always avoided formal appeals, adversarial meetings, or major conflicts after the study.
- Paypoint HR will provide a format for the client to show each employee whose position was studied, and how their position is being affected.
- The form will have two options for the employee's signature: one line is reserved for employees who have read and agree with their draft job description; the other line is reserved for employees who have read the draft class description and disagree with certain parts, want to make changes, want to add or delete information, or have general questions about the description and/or the process.

Task 1F – Develop Guide for Implementation of Changes and Draft Interim Report

A Draft Interim Report of the Classification Study will be completed and submitted to the client for review and comment. The report will contain:

- A recommended classification plan;
- A classification implementation and maintenance manual, including documentation regarding study goals and objectives, classification methodology, approach, and process, as well as analysis and resulting recommendations;
- The recommended allocation list, and classification title changes; and
- Classification concepts and guidelines, as well as distinguishing characteristics and other pertinent information for implementation and continued maintenance of the pay plan.

Once we have received the city's comments regarding the Draft Interim Report and have made any necessary changes, a Final Classification Report will be developed that is compliant with State and Federal Regulations.

Phase 2 Compensation Component

This Section of the study will result in the development of labor market survey parameters and the collection and evaluation of labor market survey data. The findings from the compensation component will be reviewed and analyzed to look for areas of possible improvement. Paypoint HR will create a pay structure that meets the city's objectives. We will give the city perspective on the economic impact adoption of the recommendations will have on the city. This will make the factors for implementation clear and help anticipate needed steps to meet the overall goals.

Task 2A - Identify Benchmark Positions and External Survey Comparator List

Task 2A of the compensation portion of the study will include identifying benchmark job positions and identifying a mutually agreed upon list of external comparators to be included in the external survey. In order to complete this, the following steps will be taken:

- Involving the Study Project Leaders and stakeholders as appropriate, in the decision-making process.
- Agreement on which agencies are included *PRIOR* to beginning the study. Our experience has shown that this is the most advantageous approach.
- Conducting a thorough review of all materials to date including: employee database, classification listing, interviews, compensation review, and meetings with the Project Management Team. This will be closely followed by an exploration of the Project Team's overall strategic compensation vision.
- Thoroughly reviewing the various components of existing compensation plans and policies as well as the regulatory environment surrounding compensation.
- Identifying highly competitive positions within the organization and customizing the survey where appropriate.
- Reviewing and discussing how a compensation program might be designed to support the organization's business strategy and organizational objectives.
- Confirming and discussing the Project Team's preferred percentile placement within the market place.
- Acknowledging the organization's policy with respect to internal pay equity and employee perceptions of fairness.
- Addressing the Project Team's philosophy with respect to employee retention including the role compensation plays in retention issues.
- Reviewing the Project Team's philosophy with respect to fiscal sensitivity and flexibility.

"Benchmark classes" are normally chosen to reflect a broad spectrum of class levels. The positions that are selected normally include classes that are most likely to be found in other similar agencies and will therefore provide a sufficient and valid sample for analysis.

Benchmark positions should encompass the entire range of positions from the beginning of the pay ranges to the end. There should be a number of positions equally interspersed among the pay scale. Positions that have been difficult to attract and retain excellent

employees should be included. Paypoint HR will offer information and examples for the Project Leaders to consider and which will provide a measurable, rational, fact-based methodology to determine the relative job worth within the organization (as required by the EEOC).

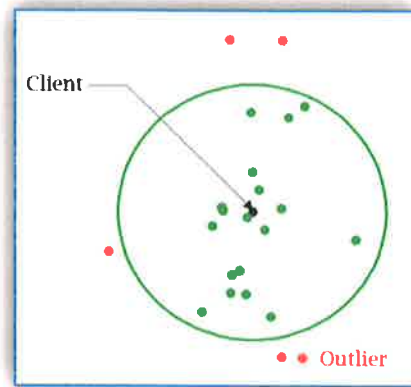


Figure 6 - Illustration of Economic Variance Using the Client as the Baseline

Paypoint HR will conduct an economic analysis of regional organizations to identify a preliminary unbiased list of appropriate comparators. The purpose of this step is to ensure the worthiness and legitimacy of using these organizations to develop recommendations. This adds validity to the findings and yields defensible results. We will keep in mind the Project Team's criteria on such factors as degree of competition for obtaining and retaining candidates for high quality staff, their location in the city's traditional recruitment areas, and their level of service. Paypoint HR uses objective parameters to determine the legitimacy of findings. Below is a list of possible criteria to consider when selecting organizations to be sampled:

Sample List of Selection Criteria

- | | |
|---------------------------|--------------------------------|
| Median Housing Price | Unemployment Rate |
| Median Household Income | Labor Force Participation Rate |
| Cost of Living Adjustment | Proximity |
| Population | |

Each organization considered is given a variance score related to data points and an aggregate variance score is created. This will help identify the organizations whose results will provide validity to the study. Upon identifying benchmark positions and the selected comparators, Paypoint HR will then create the document for surveying the selected organizations and conduct the external survey.

Task 2B – Design and Distribute Survey

In Task 2B of the study, it is anticipated that the creation and distribution of the external survey will take place. This analysis will include a detailed concise presentation of data to be collected. The survey will include job titles along with a brief summary of each position. This approach allows respondents to compare job description to job description and not just job titles, therefore ensuring true "matches" from the survey respondents.

Paypoint HR will send the survey to all comparators and if necessary, complete Freedom of Information Act (FOIA) requests. We conduct all of the survey distribution, data collection, and analysis ourselves to ensure validity of the data and to enforce quality control. While there is an industry standard of 5-15% response rate for surveys, Paypoint HR typically receives 25-40% response rates. While the surveys are out for distribution, Paypoint HR will further examine the existing compensation environment to establish a baseline and keep in contact with the Project Team.

Task 2C – Collect and Analyze Survey Data

Client's Job Title	Client's Job Summary	Match	Min	Mid	Max
Accounting Technician	Performs intermediate technical and clerical work involving the preparation and/or maintenance of fiscal or related records; does related work as required.	Exact Match - 100%	\$15.61	\$18.53	\$26.07
Administrative Assistant	Performs difficult skilled clerical work providing a variety of administrative, secretarial and record keeping duties; does related work as required.	Very Good Match - 75%	\$14.15	\$18.72	\$23.64
Benefit Programs Specialist I	Determines eligibility and re-determination of eligibility of individuals and families for financial assistance, food stamps, medical assistance, and other social services' benefit programs. Entry level.	Exact Match - 100%	\$19.92	\$19.95	\$33.26
Building Inspector	Performs intermediate technical work in the inspection of all phases of building plans and construction.	Exact Match - 100%	\$18.08	\$26.72	\$30.20
Chief Deputy Treasurer	Performs difficult technical and administrative work assisting in the operation of the Treasurer's Office; does related work as required.	Exact Match - 100%	\$35.77	\$45.37	\$59.74
Communications Officer	Performs intermediate skilled clerical work dispatching law enforcement, fire, rescue and other equipment and personnel usually in response to emergency situations; does related work as required.	Very Good Match - 75%	\$18.06	\$20.32	\$30.16
Communications Supervisor	Performs difficult technical work overseeing and participating in dispatching law enforcement, fire and rescue equipment and personnel to emergency and non emergency requests for service.	Very Good Match - 75%	\$20.95	\$25.92	\$34.99

Figure 7 – Sample of Job Summaries in External Survey

Following the distribution of the surveys, Paypoint HR will collect the data and conduct an in-depth review of the survey results with the Study Project Leaders, as appropriate. The purpose of this review is to identify any additional information needed or areas that require

further analysis. Paypoint HR will examine salary spread for all grades, ladders between grades, and identify the possibility of positions being compensated differently than intended from the existing plan. We will examine the distribution of employee salaries to highlight challenges and conduct an analysis of wage compression using Paypoint HR's proprietary statistical processes, if requested. Positions that contribute to compression are specifically identified for adjustment.

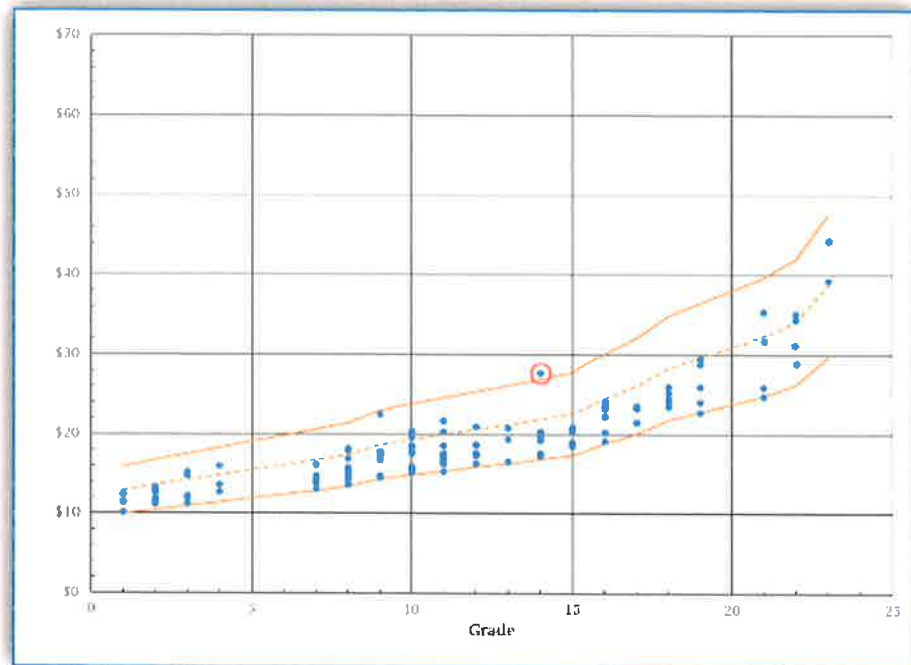


Figure 8 - Baseline Analysis of Client's Workforce

Task 2D - Internal Relationship Analysis and Alignment

To determine recommendations for internal equity, considerable attention will be given to this phase of the project. It is necessary to develop an internal position hierarchy based on the organizational value of each classification. By reviewing those factors, we will make recommendations regarding vertical salary differentials between classes in a class series (if recommended), as well as across departments.

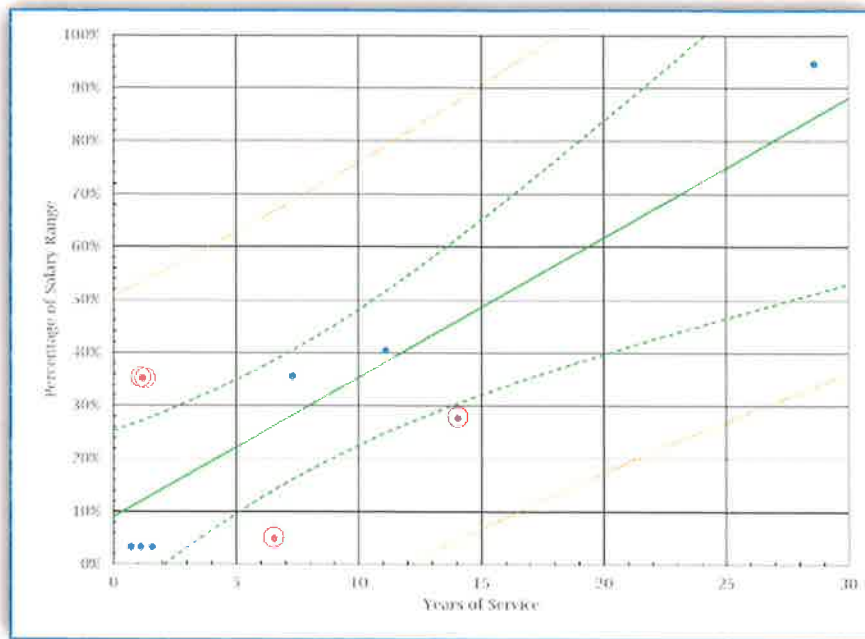


Figure 9 - Sample Internal Compression Analysis

Paypoint HR analytically develops an internal hierarchy based upon the job analysis responses. The ultimate goal of this critical step of the process is to address any internal equity issues and concerns with the current compensation system. We look for compression and inconsistencies. Our quantitative tool, Compensable Factor Score (CFS) system, allows us to objectively compare between certain classifications.

Current Grade	Job Title	CFS Score
25	Director of Public Works	95.7
24	Director of Fire & Rescue	83.4
24	Director of Human Resources	78.3
22	Deputy Director of Finance	43.5
FR 4	Lieutenant, Police	21.1
19	Senior Accountant	20.5
12	Crew Leader	13.9
13	GIS Specialist	12.4
2	Custodian	7.5

Figure 10 - Sample of Compensable Factor Score Results

We will create a sound and logical compensation structure for the various levels within each class series, so that career ladders are not only reflected in the classification system but also in the compensation system. The recommendations will contain pay differentials between levels that allow employees to progress on a clear path for career growth and development. Career ladders will be looked at both vertically and horizontally to mirror the classification structure that was developed during the classification section of the study. Paypoint HR's Compensable Factor Score (CFS) formulation provides a framework to construct an unbiased internal hierarchy of positions.

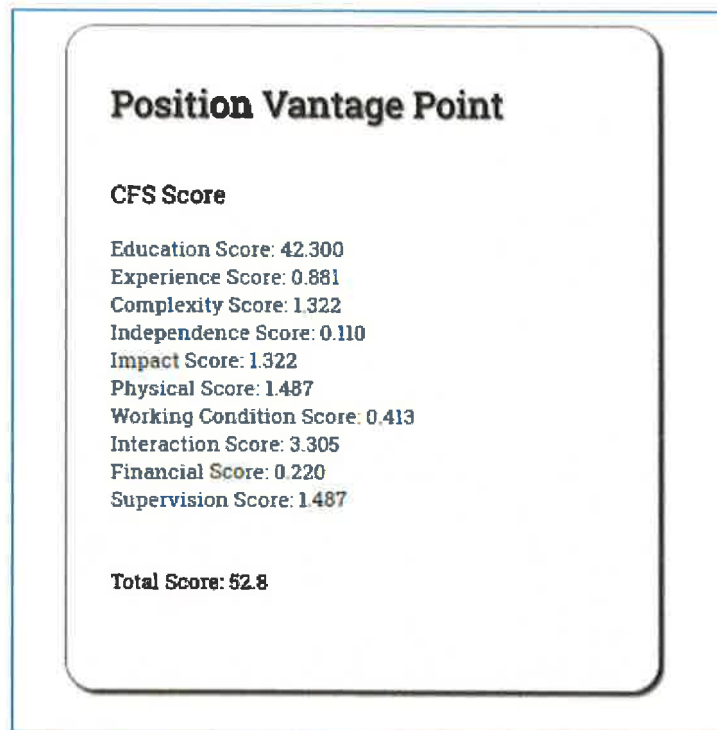


Figure 11 - Compensable Factor Score Example

The internal hierarchy is correlated with the findings of the external market, external equity, by using Paypoint HR's non-linear statistical algorithm. A 90% or greater correlation is typical, lending to confidence that both the internal and external equity are sound and appropriate.

Paypoint HR may choose to supplement the survey data with information from our own internal library. This helps to identify outliers and get a pulse on how the study results compare to the market as a whole.

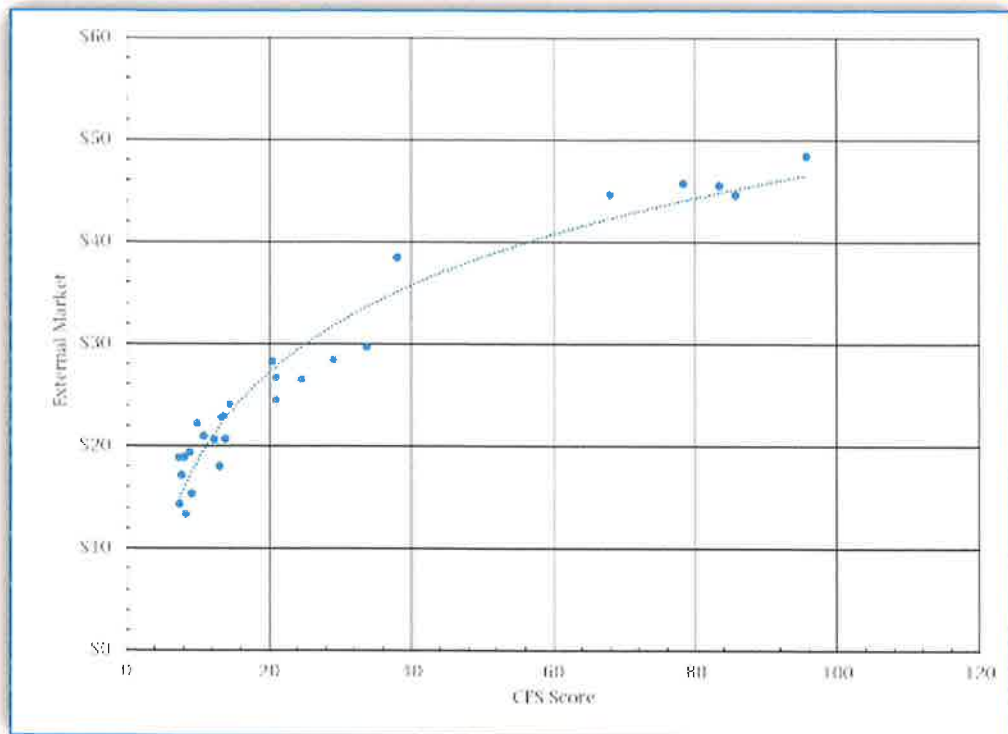


Figure 12 - Sample Comparison of Internal / External Hierarchy

Task 2E - Preparation of Draft Report

Depending on the data developed from the internal analysis, we will review and make recommendations regarding internal alignment of your salary structures including combining or expanding groups or salary scales. We will develop recommendations for pay grades and salary ranges for all classifications based typically on median salaries from the comparable agencies based on the organization’s overall compensation philosophy and policy. We will also analyze any pay compression issues to ensure internal equity, if requested.

- We will conduct a competitive pay analysis using the market data gathered to assist in the determination of external pay equity and the recommendation of a new base compensation level for each classification studied.
- We will conduct a comparative analysis to illustrate the relationships between current pay practices and the newly determined market conditions. We will also develop solutions to address pay equity issues. Our analysis includes information regarding the financial impact of addressing pay equity issues for the city. The end result is intended to create a market adjustment and implementation strategy supporting your goals, objectives, and budget considerations.

Positions will be categorized in a compensation ratio or “Compa-ratio” relating actual pay rates to market rates to determine if they are in-line with the external market. Positions will be classified by their Compa-ratio and determined to be either below, at, or above the market rate. We use these findings to make corrections to pay for each position which allows for fiscal impact analysis of recommendations.

	Accounting Technician I	Admin. Assistant	Asst. County Attorney	Asst. Landfill Manager
Market Percentiles				
20%	\$15.78	\$15.27	\$34.70	\$16.88
25%	\$17.17	\$16.03	\$36.37	\$17.91
30%	\$17.69	\$16.56	\$38.07	\$18.74
...
70%	\$22.92	\$22.18	\$52.69	\$24.75
75%	\$23.29	\$22.73	\$53.81	\$25.91
80%	\$24.27	\$23.75	\$55.44	\$26.88
Mean	\$20.25	\$19.51	\$45.41	\$22.29
Compa-Ratio	-1.6%	-6.3%	-11.3%	+8.4%

Figure 13 - Sample Compa-Ratio Results by Job Title

The Draft Final Report will be completed and submitted to the Study Project Leaders for review and comment. The report will provide detailed compensation findings, documentation, and recommendations. The report will include the following information:

- A proposed Salary Range/Plan document;
- Any alternative compensation plans identified;
- Reports addressing employees whose base pay either is below or exceeds the market rate;
- The option to implement the recommended plan in phases;

After an initial round of feedback from the Study Project Leaders, we will make edits and resubmit the draft to the Project Team for review and approval. Final meetings with the Project Team and stakeholders will be conducted and any final adjustments are made prior to delivery of the final report to the appropriate stakeholders. Once all of your questions and concerns are addressed, a Final Report will be created and submitted in a bound format and electronic format.

Positions Compensated Substantially Below Market (% Diff < -10%)	
Accounting Technician I	Assistant County Attorney
GIS Specialist	GIS Technician
Maintenance Supervisor	Network Technician
Permit Specialist I	Water Meter Technician II
Positions Compensated Below Market (-10% < % Diff < -5%)	
Administrative Assistant	Custodian
Deputy Director of Technology	Landfill Truck Driver
Maintenance Worker	Parks and Recreation Manager
Payroll Specialist	Senior Systems Analyst

Figure 14 - Sample External Market Results Summary

Task 2F - Deliver Final Report and Deliverables for Implementation

Paypoint HR typically works on tight schedules that demand extensive communication. We first listen to our clients to understand their specific needs and then create recommendations that fulfill the purpose of the study. Our final report reviews the city's background as related to the study and conveys complex concepts clearly and concisely. We feel this is one of our strongest attributes. An area of communication where we particularly excel is in the ability to communicate with employees at all levels of education and background. The concepts covered during employee outreach are reflected in the final report, as appropriate. This improves morale as the employees feel valued by knowing they have been heard. We are a liaison and have discovered opportunities and issues that would not have otherwise been utilized or addressed.

The final report includes an Executive Summary that summarizes the study methodology and gives recommendations for consideration by the city. The report highlights specific areas where an opportunity exists to improve the city's Classification and Compensation programs. The strategic position of the existing plan is reviewed in relation to the findings and shows comparisons. Recommendations that affect the city's budget are reviewed and their financial impacts are projected to ensure the city is able to support them. The Final Report is developed in a way that is relevant to the current market as well as allows the city to make a long-term strategic plan for attracting and retaining staff. The work product includes steps for implementation, training, and ongoing administration.

Our recommendations have been well received by our audiences. We have developed valued relationships and are considered by our clients and their employees as a trusted advisor. We

welcome the opportunity to work with the city to prove ourselves as an excellent service-oriented firm.

Salary Recommendations

The fiscal impact of the recommendations listed below are approximate costs for salary adjustments only. It does not factor in associated costs for employee related benefits.

1. Raise the salary of 13 positions that are *substantially* below market, first, at a cost of \$102,438.
2. Raise the salary of 52 positions that are below market, second, at a cost of \$145,571.
3. Adjust the salaries of positions that are near market with normal base-salary and tenure adjustments.
4. Discontinue making base-salary adjustments to the salaries of positions that are above or *substantially* above market until compensation is near market. Continue providing tenure-based salary bonuses.
5. Adjust only the salary scale by the Southern Mid-Atlantic Consumer Price Index (CPI) yearly to help ensure that the County's salary plan keeps up with market. Individual salaries would not be scaled by the CPI.

Figure 15 - Sample of Study Recommendations

Summary of List of Standard Deliverables

- Kick-off meeting with Project Team and collaborative development of the Project Communication Plan.
- Project planning and methodology.
- Briefing Sessions with All Employees to go over the scope of the project, their role, and to give direction on how to complete the job analysis.
- Job Evaluation report completed using scores from job analysis responses.
- Comparator Analysis reports to identify localities that compete for labor with the city.
- Development of agreed benchmark positions.
- External Market Survey for comparators with benchmark job titles and short job summaries.
- Update of Job Descriptions, where applicable, to include FSLA, EEO, and ADA compliance (sample provided upon request).
- Creation of Recommendations for Reclassifications report, including job title simplification.
- Development of a Compensable Factor Scoring System tailored to the city for use and maintenance of job evaluations and internal equity.
- Development of training for ongoing administration and implementation along with supporting materials and manual.

- Development of a salary structure based on the survey findings and job evaluations.
- Survey finding reports showing options for strategic position as compared to current position.
- Fiscal Impact report showing costs associated to the selected strategic market position.
- Cumulative Final Report for presentation which shows methodology, procedures, development of findings, work product deliverables, and the financial impact of recommendations.

Implementation

Communication with the Project Team and key stakeholders are described at each step in the process of our project methodology. We consider our audience for implementation to be the Project Team, managers, and employees. We have tailored our process to involve each at the appropriate times. We incorporate meetings, frequently asked questions, questionnaires, informal appeals, reviews and feedback sessions. Various media is used during the project to convey changes. We include: online access to information, written communication, forms, face-to-face meetings, electronic communication, as well as virtual meetings.

Weekly progress reports will be provided to the Project Team. Paypoint HR will also provide to the Project Team status reports every two weeks and as requested. We keep our clients fully abreast of all activities that Paypoint HR undertakes during the course of our projects to ensure timely completion and to short-circuit any issues that may arise.

- Paypoint HR provides forms for discussions with personnel regarding how the changes affect them individually.
- We create Job Discussion Request (JDR) and Job Discussion Guide (JDG) forms for employees and their supervisors to complete and submit to the Human Resources department. While employees may not always agree with our recommendations, they have a "second chance" to ensure that they have been heard and to continue the educational process regarding why specific recommendations were made.
- A manual of instructions and training materials regarding the administration of the proposed compensation system;
- A list of implementation issues, schedules, fiscal impact statements, cost projections, and communications surrounding our recommendations;
- A guide for rules, policies, and procedures for you in implementing, managing, and maintaining the compensation system;
- Train the trainer sessions; and,
- Customized software, unique for each client based on the results of the study, and support plan options.

Tentative Timeline

Our professional experience is that comprehensive studies of this scope and for this size organization take no more than 16 weeks to complete, allowing for adequate position vantage point completion, interview time, classification description development, compensation data collection and analysis, review of steps by the client, the development of final reports, and any appeals.

Timely progress reports will be provided to the client. Paypoint HR will also provide to the Project Team interim reports as the project progresses. We keep our clients fully abreast of all activities that Paypoint HR undertakes during the course of our projects to ensure timely completion and to short-circuit any issues that may arise. A customized schedule would be constructed in conjunction with both Paypoint HR and the city to meet the project requirements.

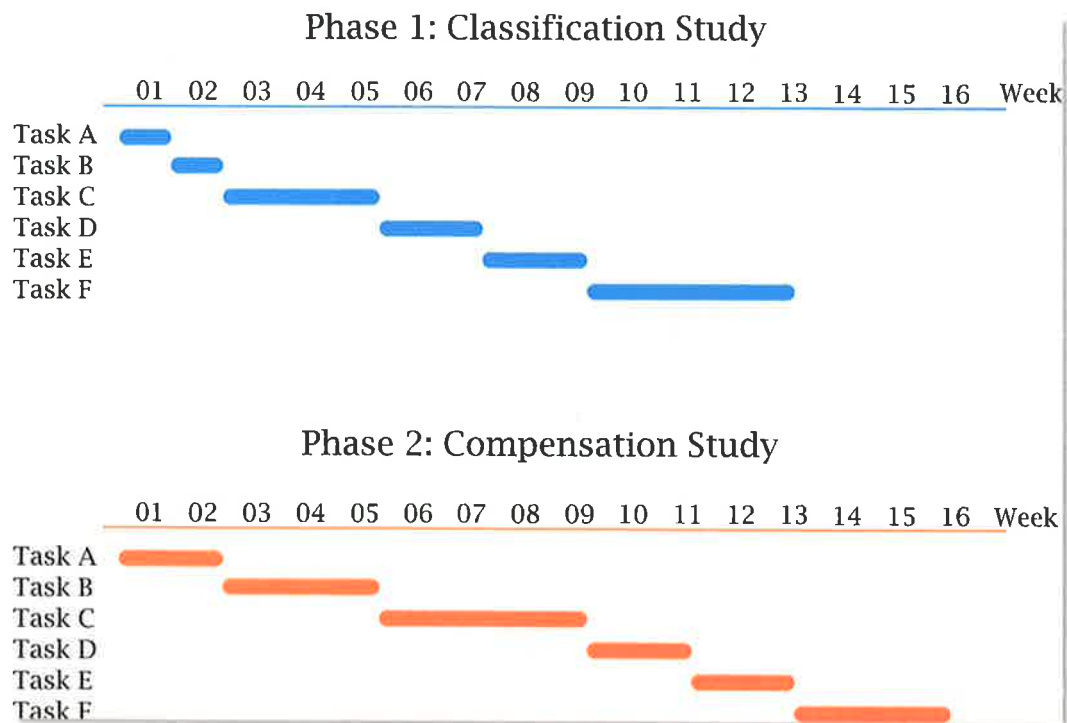


Figure 16 - Gantt Chart

Cost Proposal

Exhibit B COST PROPOSAL RFP 2023-04R Classification and Compensation Study	
Services	Cost of Service (maximum)
Classification Study	\$13,500
Compensation Study	\$24,000

Hourly Rates	
Service/Position	Hourly Rate
Sr Compensation Professional	\$125

Add additional space if needed

PHASE 1 Classification Component

Task	Hours
A Project Start and Initial Meetings	12
B Baseline Data Collections & Initial Analysis	24
C Job Analysis Collection/Completion & Focus Groups	28
D Job Evaluation and Classification Development	24
E Draft Job Descriptions and Policy Guides	8
F Develop Guide for Implementation of Changes and Draft Interim Report	12
Subtotal Professional Hours	108

PHASE 2 Compensation Component

Task	Hours
A Identify Benchmark Positions and External Survey Comparator List	12
B Design and Distribution of Survey	24
C Collect and Analyze Survey Data	60
D Internal Relationship Analysis and Internal Alignment	40
E Preparation of Draft Report	32
F Deliver Final Report and Work Products for Implementation	24
Subtotal Professional Hours	192

The standard consulting rate for the senior personnel listed, consistent with the Federal GSA schedule, is \$125 per hour of service. For a project entailing 300 hours of service, the total fee would be \$37,500. Our fee includes expenses associated with travel, phone, materials, and supplies. The total is an estimate of the time needed. Regular invoices, including a thorough delineation of services rendered, would be on a net 30-day basis. Paypoint expects support from the client in communication with key staff, setting up meetings, and providing meeting resources, as well as establishing reporting relationships, milestones, and timelines.

Provisions to Other Agencies: Paypoint HR agrees to make available to other Government agencies, departments, and municipalities the prices submitted in accordance with said terms and conditions therein, should any said governmental entity desire to buy under the terms of the proposal.

References

Contact Name	Contact Info	Project Title and Service Dates
Hubert Collins Human Resources Director	205 North Marion Avenue Lake City, FL 32055 (386) 719-5795 CollinsH@CLFLa.com	Classification and Compensation Study 2022

The City of Lake City employees approximately 261 full-time employees in 117 unique job classifications. The scope of services for the project included

- Identify market peers and identify compensation benchmarks for the City's current roles
- Determine whether the City's compensation strategy is competitive to hire and retain top talent
- Recommend updates/changes to current compensation strategy and pay matrix
- Consideration for Knowledge, skills, abilities, education, experience level, etc.
- Implementation of State of Florida's minimum wage increase with consideration across all levels of the organization

Contact Name	Contact Info	Project Title and Service Dates
ReNissa Wade Assistant City Manager City of Jacksonville	315 S. Ragsdale Street Jacksonville, TX 75766 (903) 618-9461 ReNissa.Wade@jacksonvilletx.org	Compensation and Classification Study 2022

The City of Jacksonville employees approximately 135 full-time employees in 65 unique job classifications. The scope of services for the project included

- Review all current job classifications, confirm, and recommend changes to hierarchical order of jobs using your evaluation system.
- Establish appropriate benchmarking standards and conduct salary surveys as needed for similar positions (job descriptions) as required (prefer to assess duplicate benchmarks –both municipalities as well as local employers).
- Identify potential pay compression issues and provide solutions.
- Development of job descriptions for all current positions and up to 10 additional positions.
- Provide written implementation guide (best-practices for phasing in potential adjustments).
- Provide a staff/per capita breakdown as compared to benchmarked municipalities. This should include an organization-wide and departmental breakdown.

Contact Name	Contact Info	Project Title and Service Dates
Joe Fischbach Human Resources Manager City of Cottage Grove	12800 Ravine Parkway S. Cottage Grove, MN 55016 (654) 458-2883 JFischbach@ CottageGroveMN.gov	Position Classification and Compensation System 2020 - 2023

Cottage Grove employs 145 full-time and 12 part-time employees as well as 47 paid on call Fire and 200 seasonal staff. Of this, 82 employees are organized into one of the following unions: Cottage Grove Police Officers Federation, Inc., Law Enforcement Labor Services, Cottage Grove Professional Firefighters Association, and International Union of Operating Engineers

The scope of work for the Classification & Compensation Study included

Provide professional services with integrative support services to evaluate and analyze needs, design, develop, and implement updates to the position evaluation and compensation system that includes the following milestones:

- Evaluation and analysis of City needs and philosophy.
- Evaluation of existing job descriptions and the recommendations of revisions to assure compliance with ADA and other State and Federal requirements.
- Thorough evaluation of changed positions to determine a job value, by assigning points to the position based on standard factors, and a spot review of the current position evaluations with recommendations for necessary revisions.
- Objective classification ranking and banding of each position and the provision of internal pay equity.
- Provide a wage/labor market survey and the analysis of supporting data for the development of the pay structure while assuring internal and external equity and compliance with State Pay Equity Compensation Standards.

Provide recommendations and options for updating the evaluation and compensation system.

- Provide system testing to assure compliance.
- Provide recommendations on a system for determining the validity for requests for reclassification and/or compensation changes.
- Determine exempt and non-exempt status for each position.
- Provide implementation support and maintenance training on the system.
- Post contract services involving review of new job descriptions and determination of points and salary for the new position as well as assistance with the first State Pay Equity report following compensation review to assure compliance.

Contact Name	Contact Info	Project Title and Service Dates
Erika Helgerson Director of Human Resources City of Bath	55 Front Street Bath, Maine 04530 207.443.8330 EHelgerson@CityofBath.com	Citywide Employee Compensation Study 2021 - 2022

The City of Bath’s non-represented employee workforce includes 102 full time positions within roughly 73 distinct classifications and over 40 additional seasonal and/or part-time employees.

The scope of work for the Citywide Employee Compensation Study included

- Provide for a comprehensive evaluation of every job within the City to determine relative worth within the organization for internal equity and for the establishment of pay ranges and step progressions within the ranges.
- Review current compensation and benefits and understand current challenges in recruiting and retaining employees.
- Develop and conduct a comprehensive compensation and benefits survey based on comparable labor markets, including both private and public sector employers.
- Recommend appropriate salary range for each position based on the classification plan, the compensation survey results, and the internal relationships and equality. Prepare a new salary structure based on the results of the survey and best practices.
- Develop guidelines to assist City staff with determining the starting pay for new employees based on knowledge and experience above the minimum requirements of the position, how difficult the position is to fill, and market competitiveness.
- Identify any extreme current individual or group compensation inequities and to provide a recommended corrective action plan and process to remedy these situations.
- Recommend implementation strategies including calculating the cost of implementing the plan.
- Provide recommendations for the ongoing internal administration and maintenance of the proposed compensation plan. Maintenance should include annual activities such as cost of living increases.

Contact Name	Contact Info	Project Title and Service Dates
Michelle D. Cichoki Director of Human Resources City of Bethlehem	10 East Church Street, Bethlehem, PA 18018 (610) 865-7015 MCichoki@Bethlehem-PA.gov	Classification and Compensation Survey 2017 - 2018

The City of Bethlehem non-represented employee workforce includes 99 full time positions, 18 full-time contract positions, and 154 seasonal positions.

The scope of work for the Classification and Compensation Survey included

- Conduct a thorough job analysis for every position to be included in the study and utilize this information to properly classify all positions of interest.
- Identify management, supervisory, professional, technical, and general employees, including FLSA status (exempt/non-exempt).
- Update and/or create class specifications as needed to uniformly reflect distinguishing characteristics, essential job functions, minimum qualifications, supervision exercised and received with definition of lead or supervisory roles, working conditions, physical requirements, license requirements, and regulatory requirements for all classifications.
- Conduct salary survey by comparing salary data for each existing classification. Included in the survey will be consideration for benefits provided between the City and the selected agencies.
- Evaluate jobs by developing, then reviewing a job ranking structure, verify rankings by analyzing pertinent market data concerning the ranking; determine recommended comparative city and if applicable county employers, compare initial rankings to the City's existing ranking and that of the market hierarchy and adjust as determined to show compensation at market rates.
- Recommend pay grades; modified grade pricing and salary ranges for all classifications based on the compensation survey results, if required. Essentially, eliminating inequity to the external employment market.
- Recommend an appropriate salary structure including minimum, midpoint, and maximum and the difference between each salary step if different than current structure.
- Study current performance appraisal system and practices. Identify essential elements of performance appraisals necessary to use the appraisals for merit purposes. Develop methodologies, written procedures, and training and implementation plan for performance appraisal.
- Make recommendations to eliminate the 27th pay while maintaining the bi-weekly pay process.

Contact Name	Contact Info	Project Title and Service Dates
Stephanie Weaver HR Director City of South Portland	25 Cottage Road South Portland, ME 04106 (207) 767-7667 SWeaver@SouthPortland.org	Compensation Plan Study 2019 - 2020

The City of South Portland employs 168 permanent (full and part-time) employees in approximately 130 different positions.

The scope of work for Compensation & Classification Study included

1) Job Descriptions:

Create, modify and update job descriptions for all nonunion positions in compliance with all applicable state and federal statutes. Provide orientation sessions to explain the process to employees, supervisors and managers. Provide for employee input, likely via a survey and follow up interview process, and the supervisor's review, comments and approval; with final approval by the Human Resources Department. Ensure Essential Functions are accurate and documented. Ensure FLSA status is defensible.

2) Classifications:

Rate and rank positions based on specific criteria, and then recommend how positions should be placed into a grade or classification system that ensures internal equity and fairness. Allow for an appeals process for individuals who may require additional information regarding the proposed classification for their position. Meet with supervisors and senior managers to introduce the classification structure and respond to questions and concerns. Develop a position evaluation system for the Human Resources Department to administer ongoing to ensure appropriate classification when new positions are introduced or when significant changes to a position are made.

3) Salary Survey:

Conduct a salary survey of comparable municipalities and relevant other organizations in the region to provide data for comparison to current City wages to assess the level of market competitiveness. Methodology to be used and recommended comparable communities and entities with rationale specified.

4) Compensation Plan:

In collaboration with the City's project oversight team (City Manager, Finance Director, and Human Resources Director), develop a statement of compensation philosophy for the City. Based on current information, this philosophy likely will include a merit compensation component and a desire to pay employee "at market." Using information from the salary survey, recommend salary structures and a compensation plan aligned with the City's compensation philosophy. Develop a system to integrate positions and employees into the plan and manage the plan going forward, including how to stay current with the market. This system will include costing out the recommended approach and may include how the new plan can be phased in over time if full deployment exceeds available resources. Provide employee education on how the new plan works.

5) Performance Evaluation:

Review the City's current performance evaluation forms to ensure they align with the recommended compensation plan. Suggest improvements to the evaluation forms as needed. Provide supervisory training on using the final evaluation form to align and support the compensation plan.

Contact Name	Contact Info	Project Title and Service Dates
Roz Johnson Human Resources Director City of Stuart	121 SW Flagler Avenue Stuart, FL 34994 (772) 288-5322 RJohnson@CI.Stuart.FL.US	Classification and Compensation Study 2019

The City of Stuart has a total of 251 full-time budgeted positions with 79 in one of two collective bargaining units and 40-45 part-time employees across 121 different classifications.

Classification

- Conduct a job audit of selected benchmark positions, including general task analysis by department. This review may include interviews with Department Directors, division managers and other key personnel and/or employees to determine the essential functions of each position. Benchmark positions to be determined by the project team, input from Department Directors and guidance from the consultant.
- If deemed the appropriate method, prepare/provide a job analysis questionnaire for City management approval. The City would facilitate its distribution and completion.
- Assign all jobs to salary grades based on an objective evaluation of compensable factors related to the duties and responsibilities of the individual job.
- Refine job classifications/titles to accurately represent job duties and responsibilities as necessary. Review supervisor/management titles and recommend titling structure which defines consistent levels of responsibility across the organization.
- Review a sampling of existing job descriptions and recommend updates, as needed, including requirements of education, experience, knowledge, skills, and abilities.
- Map career ladders/promotional opportunities for selected classifications.
- Provide methodology for evaluating the classification of positions/jobs on an ongoing basis. Train Human Resources personnel in the administration of the proposed new/modified classification system.
- Assess FLSA designation for select positions.

Compensation

- Review the current pay grade and salary ranges of City positions, including recommending appropriate salary ranges based on compensation survey and study results and appropriate salary range for each position.
- Evaluate current pay plan structure (i.e. number of pay grades, including additions, deletions, and/or consolidations, appropriateness of pay range spread from salary minimum to maximum).
- Conduct interviews, as necessary, with City Manager, Human Resources personnel, and Department Directors for the purpose of clarifying and determining project scope, selection of entities to be surveyed, and identification of benchmark

positions. Listing of the benchmark agencies to be utilized in the study shall be subject to review and approval by the project and/or executive team prior to the initiation of the work.

- Determine the appropriate labor markets for the study (non-bargaining, PBA, and IAFF) and determine existence of relevant salary survey data.
- Develop and conduct an external compensation survey comparing benchmark positions with other local government and private sector entities in order to identify the City's competitive position in the regional labor market. This compensation survey shall include the actual salaries and tenure in position of employees in said benchmark positions, with anomalies identified.

Contact Name	Contact Info	Project Title and Service Dates
Samantha Lauzon Human Resources Manager City of Claremont	58 Opera House Square Claremont, NH 03743 (603)504-0298 slauzon@claremontnh.com	Pay and Classification Study Update 2019 - 2020

The City of Claremont employs approximately 75 non-union positions and 78 union positions.

The scope of work for the Pay and Classification Study Update included

- Update and validate job descriptions for the City's union and non-union positions;
- Work with City Staff to define comparable communities to survey and collect wage and benefit data from;
- Analyze the wage and benefit data received from the comparable municipal communities; Provide a comprehensive market analysis based on the data;
- Develop recommendations for appropriate follow-up actions, factoring in considerations as appropriate, including market competitiveness, internal equity, and funding and timing options, along with feasibility.
- Develop a position classification system based on appropriate internal equity;
- Develop recommendations for establishing appropriate compensation ranges, which will provide for a competitive pay plan with other municipal employers comparable to Claremont;
- Provide the City with a salary classification manual that documents the classification.
- methodology used in the study and provides for a sustainable system for maintaining a future salary administration program.

Appendix - Sample PVP Job Description Survey

Position Vantage Point



First Name

Last Name

Job Location

Department

Job Title

Full-time / Part-time

Job Summary

Please provide a summary for the purpose of the position in one or two sentences.

Where Position Fits

Complete the structure using job titles to show where your job fits. Use official classification titles only, not working titles.

Supervisor's Title

Job Titles of Peers / Co-workers (Reporting directly to same supervisor)

Jobs Reporting Direct to Position (If applicable)

Position Vantage Point



Education and Experience

Minimum Education Level that Should be Required for Job Title

- | | |
|--|---|
| <input type="checkbox"/> No Degree | <input type="checkbox"/> Master Degree in a Related Field (MA/MS/MBA) |
| <input type="checkbox"/> High School Diploma / GED | <input type="checkbox"/> Master Degree Not in a Related Field (MA/MS/MBA) |
| <input type="checkbox"/> Trade School Certificate | <input type="checkbox"/> Specialist Degree in a Related Field |
| <input type="checkbox"/> Associate Degree in a Related Field | <input type="checkbox"/> Specialist Degree Not in a Related Field |
| <input type="checkbox"/> Associate Degree Not in a Related Field | <input type="checkbox"/> Doctorate Degree in a Related Field (PhD/JD/EdD) |
| <input type="checkbox"/> Bachelor Degree in a Related Field | <input type="checkbox"/> Doctorate Degree Not in a Related Field (PhD/JD/EdD) |
| <input type="checkbox"/> Bachelor Degree Not in a Related Field | <input type="checkbox"/> Other |

Degree Field Required for Job Title (e.g., Finance, Business Administration, Civil Engineering)

Required Certifications, Training, and Licensing for Job Title (e.g., Driver's License, CDL, CPR)

Upon entering position: the minimum number years of prior experience in profession required.
(e.g., For Police Lieutenant: 8 years as a certified sworn officer, all ranks including Officer and Sergeant)

- | | | | | | | | |
|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 0 | 1 | 2 | 3 | 4 to 5 | 6 to 7 | 8 to 10 | More than 10 |

Upon entering position: the minimum number of years in preceding job in job series required
(e.g., For W/WWTP Operator III: 3 years as a W/WWTP Operator II)

- | | | | | | | | |
|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 0 | 1 | 2 | 3 | 4 to 5 | 6 to 7 | 8 to 10 | More than 10 |

Position Vantage Point



Equipment/Tools (e.g., GIS, Microsoft Office, Backhoe, Narcan)

Visual Acuity (check all that apply)

- Clarity of vision at 20 feet or more
- Clarity of vision at 20 inches or less
- Three-dimensional vision - ability to judge distance and space relationships
- Precise hand-eye coordination
- Ability to identify and distinguish colors

Regulatory (Enter number associated with category)

EEO Category Number (if known)

- 1 - Officials / Administrators
- 2 - Professionals
- 3 - Technicians
- 4 - Protective Service Workers
- 5 - Paraprofessionals
- 6 - Office / Clerical
- 7 - Skilled Craft Workers
- 8 - Service / Maintenance

FLSA Status and Exemption (if known)

- 1 - Non-exempt
- 2 - Exempt - Executive
- 3 - Exempt - Administrative
- 4 - Exempt - Computer
- 5 - Exempt - Professional Learned or Creative

Position Vantage Point



Duties and Responsibilities (to identify major duties and responsibilities)

EXAMPLE

Percent of time spent

40%

Priority
(Select one)

Essential

Very important

Important

Somewhat important

Marginal

Result Expected of the Work

Payroll administration for the maintenance department

Tasks Required to Achieve Result

Collecting payroll information from department employees on a weekly basis; reviewing the collected information to make sure that it is complete; forwarding all appropriate documentation (timecards, requests for time off, etc.) to the business office for processing.

Task 1

Percent of time spent

Priority
(Select one)

Essential

Very important

Important

Somewhat important

Marginal

Result Expected of the Work

Tasks Required to Achieve Result

Task 2

Percent of time spent

Priority
(Select one)

Essential

Very important

Important

Somewhat important

Marginal

Result Expected of the Work

Tasks Required to Achieve Result

Position Vantage Point



Duties and Responsibilities (to identify major duties and responsibilities)

Task 3

Percent of time spent

Priority
(Select one)

Essential

Very important

Important

Somewhat important

Marginal

Result Expected of the Work

Tasks Required to Achieve Result

Task 4

Percent of time spent

Priority
(Select one)

Essential

Very important

Important

Somewhat important

Marginal

Result Expected of the Work

Tasks Required to Achieve Result

Task 5

Percent of time spent

Priority
(Select one)

Essential

Very important

Important

Somewhat important

Marginal

Result Expected of the Work

Tasks Required to Achieve Result

Position Vantage Point



Work Environment (Check all that apply)

	Never (0%)	Rarely (1% - 15%)	Occasionally (16% - 40%)	Frequently (41% - 70%)	Regularly (over 70%)	Specific Examples
EXAMPLE: Standing	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>Speaking at public events</u>
Sitting	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Talking	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Hearing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Standing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Walking	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Driving	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Grasping, pulling, pushing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Stooping, kneeling, crouching, crawling	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Climbing or balancing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Repetitive wrist, hand and/or finger movement	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Work in high, dangerous places	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Work in confined spaces	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Operate mechanical equipment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Biohazard or bloodborne pathogens	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Required to wear respirator	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Fumes or airborne particles	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Risk of electrical shock	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____

Position Vantage Point



Note: Answer each question independent of any preceding questions. For example: a position that often involves complex and diversified tasks may also involve routine or repetitive tasks. Enter 1 to 5, 1 - Strongly Disagree with the statement to 5 - Strongly Agree.

Strongly Disagree	Somewhat Disagree	Neither Agree Nor Disagree	Somewhat Agree	Strongly Agree
1	2	3	4	5

Complexity (Answer all that apply)

- Question 1:** This position involves routine or repetitive tasks, processes, or operations requiring the application of well-defined rules, procedures, policies, guidelines, and/or instructions.
- Question 2:** This position involves generally standardized tests, processes, or operations requiring the choice of action within well-defined rules, procedures, policies, guidelines, and/or instructions.
- Question 3:** This position involves generally diversified tasks, processes, or operations requiring the choice of action within well-defined rules, procedures, policies, guidelines, and/or instructions.
- Question 4:** This position involves occasional (16% - 40%) complex and diversified tasks, processes, or operations requiring the development of rules, procedures, policies, guidelines, and/or instructions..
- Question 5:** This position involves frequent (41% - 70%) complex and diversified tasks, processes, or operations requiring the development of rules, procedures, policies, guidelines, and/or instructions.

Independence (Answer all that apply)

- Question 1:** My position primarily involves detailed work instructions with close supervisory review.
- Question 2:** My position primarily involves detailed work instructions with regular supervisory review.
- Question 3:** My position primarily involves general work instructions with regular supervisory review.
- Question 4:** My position primarily involves broad latitude on work tasks with regular supervisory review.
- Question 5:** My position primarily involves broad latitude on work tasks with minimal supervisory review.

Position Vantage Point



Note: Answer each question independent of any preceding questions. For example: a position that involves employee training may also schedule tasks. Enter 1 to 5, 1 - Strongly Disagree with the statement to 5 - Strongly Agree.

Strongly Disagree	Somewhat Disagree	Neither Agree Nor Disagree	Somewhat Agree	Strongly Agree
1	2	3	4	5

Supervision Received *(Answer all that apply)*

- Question 1:** My position frequently (41% - 70%) is provided *established* policy and procedures.
- Question 2:** My position frequently (41% - 70%) is provided *specific* direction and task/project information needed is *generally* available.
- Question 3:** My position frequently (41% - 70%) is provided *general* direction and task/project information needed is *generally* available.
- Question 4:** My position frequently (41% - 70%) is provided *general* direction and task/project information is usually *not readily* available and must be sought.
- Question 5:** My position frequently (41% - 70%) is provided *minimal* direction and task/project information is *regularly* vague.

Supervision Responsibilities *(Answer all that apply)*

- Question 1:** My position involves the training and guidance of other employees and provides input to supervisors with respect to employee performance.
- Question 2:** My position involves the assignment and scheduling of tasks of others.
- Question 3:** My position is directly responsible for the performance of others.
- Question 4:** My position directs employee performance evaluation including hiring, promotion, discipline, and termination.
- Question 5:** My position has absolute authority to hire, discipline, and terminate employees with the involvement of human resources.
- Question 6:** Total number of people who report to your position in the organization. (E.g., For a department head, all employees in the department would be included.)

Note: Answer each question independent of any preceding questions. For example: a position that is occasionally somewhat strenuous may also be occasionally very strenuous. Enter 1 to 5, 1 - Strongly Disagree with the statement to 5 - Strongly Agree.

Strongly Disagree	Somewhat Disagree	Neither Agree Nor Disagree	Somewhat Agree	Strongly Agree
1	2	3	4	5

Impact *(Answer all that apply)*

- Question 1:** Mistakes made in my position typically lead to only minor costs, waste, or inconvenience.
- Question 2:** Mistakes made in my position may lead to some costs, waste, or inconvenience.
- Question 3:** Mistakes made in my position may lead to significant costs, waste, or inconvenience.
- Question 4:** Mistakes made in my position may lead to major costs, waste, or inconvenience and short-term impact to the direction, goals, and reputation of the organization.
- Question 5:** Mistakes made in my position may lead to major costs, waste, or inconvenience and long-term impact to the direction, goals, and reputation of the organization.

Physical *(Answer all that apply)*

- Question 1:** On occasion (16% - 40%), my position is slightly strenuous often requiring minimal physical exertion and/or lifting of minimal weight (< 5 pounds).
- Question 2:** On occasion (16% - 40%), my position is somewhat strenuous often requiring light physical exertion and/or lifting of light weight (< 20 pounds).
- Question 3:** On occasion (16% - 40%), my position is strenuous often requiring some physical exertion and/or lifting of moderate weight (< 40 pounds).
- Question 4:** On occasion (16% - 40%), my position is very strenuous often requiring physical exertion and/or lifting of heavy weight (< 60 pounds).
- Question 5:** On occasion (16% - 40%), my position is extremely strenuous often requiring substantial physical exertion and/or lifting of especially heavy weight (> 60 pounds).

Position Vantage Point



Note: Answer each question independent of any preceding questions. For example: a position that involves interaction with vendors may also involve interaction with senior managers. Enter 1 to 5, 1 - Strongly Disagree with the statement to 5 - Strongly Agree.

Strongly Disagree	Somewhat Disagree	Neither Agree Nor Disagree	Somewhat Agree	Strongly Agree
1	2	3	4	5

Working Condition *(Answer all that apply)*

- Question 1:** My position rarely (1% - 15%) or never (0%) involves exposure to uncomfortable temperature, noise, chemicals/gases, contagious diseases, airborne pathogens, and/or physical trauma.
- Question 2:** My position often involves occasional (16% - 40%) exposure to uncomfortable temperature, noise, chemicals/gases, contagious diseases, airborne pathogens, and/or physical trauma.
- Question 3:** My position often involves frequent (41% - 70%) exposure to uncomfortable temperature, noise, chemicals/gases, contagious diseases, airborne pathogens, and/or physical trauma.
- Question 4:** My position often involves regular (over 70%) exposure to uncomfortable temperature, noise, chemicals/gases, contagious diseases, airborne pathogens, and/or physical trauma.
- Question 5:** My position often involves potentially life-threatening exposure temperature, noise, chemical/gases, contagious diseases, airborne pathogens, and/or physical trauma.

Interaction *(Answer all that apply)*

- Question 1:** My position requires frequent (41% - 70%) interaction with employees or supervisors within my work area.
- Question 2:** My position requires frequent (41% - 70%) interaction with employees and supervisors of other departments.
- Question 3:** My position requires frequent (41% - 70%) interaction with administrative and technical staff including those outside the organization, i.e., vendors.
- Question 4:** My position requires frequent (41% - 70%) interaction with executive level employees, senior managers, and directors.
- Question 5:** My position requires frequent (41% - 70%) interaction with individuals outside the organization including community leaders, citizens, and the media.

Position Vantage Point



Note: Answer each question independent of any preceding questions. For example: position that involves petty cash purchases may also manage the department budget. Enter 1 to 5, 1 - Strongly Disagree with the statement to 5 - Strongly Agree.

Strongly Disagree	Somewhat Disagree	Neither Agree Nor Disagree	Somewhat Agree	Strongly Agree
1	2	3	4	5

Financial *(Answer all that apply)*

- Question 1:** My position is responsible for minor/petty cash purchases.
- Question 2:** My position is involved with financial/budgetary matters including purchase orders, payments, grant funds, employee benefits, and the like.
- Question 3:** My position manages the budget for the department / work unit.
- Question 4:** My position allocates funds for the various departments / work units.

Question 5: The greatest value that my position has purchasing authority without approval by another individual or external authority. ***(Select only one)***

- None
- Less than \$5,000
- Less than \$50,000
- Less than \$1,000
- Less than \$10,000
- More than \$50,000
- Less than \$2,500
- Less than \$25,000

Additional Information

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
 Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Paypoint HR
 Davidsonville, MD United States

Certificate Number:
 2023-977751

Date Filed:
 01/30/2023

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Tomball

Date Acknowledged:

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

2023-04R
 Classification and Compensation Study

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Campbell, Karin	Davidsonville, MD United States	X	

5 Check only if there is NO Interested Party.

6 UNSWORN DECLARATION

My name is _____, and my date of birth is _____.

My address is _____ (street) _____ (city) _____ (state) _____ (zip code) _____ (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in _____ County, State of _____, on the _____ day of _____, 20____.
 (month) (year)

 Signature of authorized agent of contracting business entity
 (Declarant)

CONFLICT OF INTEREST QUESTIONNAIRE
For vendor doing business with local governmental entity

FORM CIQ

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

OFFICE USE ONLY

Date Received

1 Name of vendor who has a business relationship with local governmental entity.

Paypoint HR

2 Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 Name of local government officer about whom the information is being disclosed.

N/A

Name of Officer

4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

Yes No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

Yes No

5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.

6 Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7 Karin M Campbell
 Signature of vendor doing business with the governmental entity

01/30/2023

Date

Request for Taxpayer Identification Number and Certification

**Give Form to the
 requester. Do not
 send to the IRS.**

Print or type
 See Specific Instructions on page 2.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank. Paypoint HR LLC	
2 Business name/disregarded entity name, if different from above	
3 Check appropriate box for federal tax classification; check only one of the following seven boxes: <input type="checkbox"/> Individual/sole proprietor or single-member LLC <input checked="" type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ S <small>Note. For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner.</small> <input type="checkbox"/> Other (see instructions) ▶	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ <small>(Applies to accounts maintained outside the U.S.)</small>
5 Address (number, street, and apt. or suite no.) 695 Santa Maria Lane	Requester's name and address (optional)
6 City, state, and ZIP code Davidsonville, MD 21035	
7 List account number(s) here (optional)	

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

Social security number									
or									
Employer identification number									
4	7	-	5	3	2	9	0	8	7

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

Sign Here	Signature of U.S. person ▶ <i>Dr Rick Campbell</i>	Date ▶ 01/01/23
------------------	--	-----------------

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at www.irs.gov/fw9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)

- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding? on page 2.

By signing the filled-out form, you:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
- Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: April 3, 2023

Topic:

Discussion and Possible Action regarding Legislative Items at the 2023 Texas Legislative Session on items including:

Resolution No. 2023-17, a Resolution of the City Council of the City of Tomball, Texas, adopting legislative priorities for the 88th Session of the Texas Legislature to include any special called sessions; and providing an effective date.

Resolution No. 2023-18, a Resolution of the City Council of the City of Tomball, Texas, expressing opposition to House Bill 3921 and Senate Bill 1787 which are being considered in the 88th Texas Legislature, that would adversely impact the ability of Texas cities to make decisions directly impacting their residents and communities; and providing an effective date.

Resolution No. 2023-19, a Resolution of the City Council of the City of Tomball, Texas, expressing support for legislation that promotes local farmers, cottage food production, and farmers markets which are being considered in the 88th Texas Legislature; and providing an effective date.

Background:

The 88th Session of the Texas Legislature began on Jan. 10, 2023, with early bill filing beginning in Nov. 2022. Since the Session began, 6,497 House bills have been filed and 3,088 Senate bills have been filed, for a total of more than 9,500 filed pieces of legislation.

Thousands of filed bills impact Texas cities in a variety of ways, including limiting local authority on key issues such as community development and land use, public safety, transparency, finance and revenue, and more. Staff has prepared a draft resolution that adopts legislative priorities for the City Council and guides staff on how to provide information to our legislators. In addition, Resolution 2023-19 was drafted to express the City's support for bills that would impact the Tomball Farmers Market at the Markets' request. And, Resolution 2023-18 expresses the City's opposition to HB 3921 and SB 1787, which restrict the City's ability to have a minimum lot size greater than 1,400 square feet.

Origination: City Manager's Office

Recommendation:

Staff recommends approval of Resolutions 2023-17, 2023-18, and 2023-19.

Party(ies) responsible for placing this item on agenda: Jessica Rogers, Assistant City Manager

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

RESOLUTION NO. 2023-17

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS, ADOPTING LEGISLATIVE PRIORITIES FOR THE 88TH SESSION OF THE TEXAS LEGISLATURE TO INCLUDE ANY SPECIAL CALLED SESSIONS; AND PROVIDING AN EFFECTIVE DATE.

* * * * *

WHEREAS, local government is the most direct and frequent point of contact with its residents; and

WHEREAS, the process for local government is a public and participatory process whereby the actions of local governments are subject to public scrutiny of the residents; and

WHEREAS, local government is responsible for providing basic and emergency services, in a broad array of operational areas, throughout a community; and

WHEREAS, the ability of local governments to respond to community needs and provide needed services is dependent on having the authority and necessary resources to carry out its responsibilities; and

WHEREAS, local government officials are democratically elected by the residents they represent to provide services and respond to local concerns; and

WHEREAS, state representatives and senators are charged with working in the best interest of the citizens they represent; and

WHEREAS, the residents of the state of Texas expect their elected officials to be informed on the needs of constituents and residents of cities expect their local elected representatives to fulfill the needs of the citizens they represent;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Tomball, Texas:

Section 1. The findings set forth in the preamble of this Ordinance are found to be true and correct.

Section 2. The Mayor and City Council Members may meet with area state representatives and senators to discuss the City’s legislative priorities and provide information and assistance on any proposed legislation that may come before the Texas Legislature and will have an impact on the Tomball community.

Section 3. The City Council authorizes the City Manager to draft letters of support or opposition to proposed legislation that is associated with the City’s adopted Legislative Priorities attached hereto as “Exhibit A”. The Mayor is hereby authorized to sign those support and opposition letters on behalf of the City Council, with a copy of the executed letter provided to all City Council Members. The City Council or City staff, under the direction of the City Manager, provide information or testimony to the Texas Legislature.

Section 4. This resolution is effective immediately upon its passage.

PASSED, APPROVED, AND RESOLVED this ___ day of _____, 2023.

Lori Klein Quinn, Mayor

John Ford, Mayor Pro Tem/Councilman, Position 1

Mark Stoll, Councilman, Position 2

Dane Dunagin, Councilman, Position 3

Derek Townsend, Councilman, Position 4

Randy Parr, Councilman, Position 5

ATTEST:

Tracylynn Garcia, City Secretary

City of Tomball
Legislative Priorities
88th Legislative Session

Local Authority

- Support legislation that ensures local decisions are made at the local level, by city councils and governing bodies elected by, and responsible to, their communities and constituencies.
- Oppose legislation that preempts or erodes the authority of city governments or is detrimental to a city's ability to pursue citizen priorities, respond to local citizen concerns or local disasters, or provide reasonable regulations to ensure the public's health, safety, and welfare.

Community Censorship

- Support a city's ability to communicate with legislators, participate in the legislative process, and advocate on behalf of their community through membership in municipal associations.
- Oppose legislation that limits a city's ability to participate in the legislative process.

Community Development

- Oppose legislation that would diminish a city's authority to regulate growth and development through land use and zoning regulations, building codes, comprehensive planning, annexation, or eminent domain, or that would erode a city's authority to assess inspection fees for new, existing, or re-development.
- Support legislation that returns control of regulating building materials to local communities.
- Oppose legislation that would diminish a city's authority to regulate short-term rentals.
- Oppose legislation that would erode a city's authority in its extraterritorial jurisdiction.

Finance

- Support legislation that allows cities to properly fund community resources, infrastructure, and services, including legislation that:

- Eliminates unfunded mandates on cities;
- Protects or enhances municipal revenues, such as property taxes, sales taxes, right-of-way revenues, service fees, and court fines; and
- Accurately notifies and explains to taxpayers the actual impacts of the no-new revenue tax rate, simplifies its calculation for notice purposes, and deletes parts of the notification and adoption process that causes confusion and is inconsistent with the goal of providing a transparent budget and tax rate setting process.
- Oppose legislation that would detrimentally impact a city's financial position and limit local budgeting authority by reducing revenue streams that fund services and programs that citizens depend on or negatively impact potential revenue growth for critical infrastructure or services, such as public safety, for a growing community, including legislation that:
 - Imposes a revenue cap on cities;
 - Lowers the appraisal cap or otherwise creates property tax exemptions that would unfairly shift the tax burden to other taxpayers; and
 - Restricts the ability to issue debt to fund public improvements either through General Obligation debt or Certificates of Obligation or causes unnecessarily complex public notification requirements that are confusing to voters.
- Imposes unfunded mandates.

Public Safety

- Support legislation that provides additional funding opportunities to law enforcement agencies for training, equipment, and additional resources.
- Support legislation that strengthens current law as it relates to catalytic convertor theft and prevention, including increasing penalties for auto repair facilities and individual sellers who resell or are in possession of stolen catalytic convertors.
- Support the ability of local governing bodies to determine the appropriate use of technology in public safety.
- Support legislation that strengthens criminal statutes for possession, distribution, sales, and manufacture of fentanyl.
- Support legislation that strengthens school policing initiatives including but not limited to provisions for more police officers, better inter and intra campus communications systems, training and equipment for first responders, and hardening of school campuses (safety film on glass windows and doors, fencing, cameras, signage, etc.).
- Support legislation that increases penalties and broadens reach of existing human trafficking laws including making it serious felony to traffic disabled individuals and the requirement to register as a human trafficking offender upon conviction.
- Oppose legislation that would weaken or remove qualified immunity for peace officers while acting in the course and scope of their duties.

- Oppose legislation that would lessen the authority of a home rule municipality from regulating fireworks within their jurisdiction.
- Support legislation that would protect privacy of home address information of law enforcement and fire protection personnel.
- Oppose legislation that would lessen the authority of a home rule municipality to require and enforce the use of certain key boxes.
- Support legislation that would support the mental and physical health and wellbeing of first responders.

RESOLUTION NO. 2023-18

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS, EXPRESSING OPPOSITION TO HOUSE BILL 3921 AND SENATE BILL 1787 WHICH ARE BEING CONSIDERED IN THE 88TH TEXAS LEGISLATURE, THAT WOULD ADVERSELY IMPACT THE ABILITY OF TEXAS CITIES TO MAKE DECISIONS DIRECTLY IMPACTING THEIR RESIDENTS AND COMMUNITIES; AND PROVIDING AN EFFECTIVE DATE.

* * * * *

WHEREAS, local government is the most direct and frequent point of contact with its residents; and

WHEREAS, the process for local government is a public and participatory process whereby the actions of local governments are subject to public scrutiny of the residents; and

WHEREAS, local governments across the state of Texas have provided land use and development regulations that fit the needs of their community; and

WHEREAS, the ability of local governments to respond to community needs and manage growth and development is dependent on having the authority and necessary resources to carry out its responsibilities; and

WHEREAS, local government officials are democratically elected by the residents they represent to provide services and respond to local concerns; and

WHEREAS, state representatives and senators are charged with working in the best interest of the citizens they represent; and

WHEREAS, the residents of the state of Texas expect their elected officials to be informed on the needs of constituents and residents of cities expect their local elected representatives to fulfill the needs of the citizens they represent;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Tomball, Texas:

Section 1. The findings set forth in the preamble of this Ordinance are found to be true and correct.

Section 2. The City Council opposes House Bill 3921 and Senate Bill 1787 which are being considered in the 88th Texas Legislature and would adversely impact the ability of Texas cities to make decisions directly impacting their residents and communities by removing a

community's ability to set a minimum lot size for residential development greater than 1,400 square feet.

Section 3. The City Council directs the City Manager to provide a copy of this Resolution to the City of Tomball's elected state representatives and express the Council's support to any proposed legislation by providing a letter signed by the Mayor on behalf of the City Council.

Section 4. This Resolution is effective immediately upon its passage.

PASSED, APPROVED, AND RESOLVED this ____ day of _____, 2023.

Lori Klein Quinn, Mayor

John Ford, Mayor Pro Tem/Councilman, Position 1

Mark Stoll, Councilman, Position 2

Dane Dunagin, Councilman, Position 3

Derek Townsend, Councilman, Position 4

Randy Parr, Councilman, Position 5

ATTEST:

Tracylynn Garcia, City Secretary

RESOLUTION NO. 2023-19

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS, EXPRESSING SUPPORT FOR LEGISLATION THAT PROMOTES LOCAL FARMERS, COTTAGE FOOD PRODUCTION, AND FARMERS MARKETS WHICH ARE BEING CONSIDERED IN THE 88TH TEXAS LEGISLATURE; AND PROVIDING AN EFFECTIVE DATE.

* * * * *

WHEREAS, the promotion of local farmers and small agricultural operations is important in many communities across the state of Texas; and

WHEREAS, many small businesses, local farms, and cottage food producers promote agriculture and food security in communities; and

WHEREAS, local farmers markets function as important commerce and business development centers in a community; and

WHEREAS, the City of Tomball and the Tomball Farmers Market have a long-established partnership to increase access to locally grown and made food, promote small businesses, encourage local agricultural production, and increase access to food security; and

WHEREAS, state representatives and senators are charged with working in the best interest of the citizens they represent; and

WHEREAS, the residents of the state of Texas expect their elected officials to be informed on the needs of constituents and residents of cities expect their local elected representatives to fulfill the needs of the citizens they represent;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Tomball, Texas:

Section 1. The findings set forth in the preamble of this Ordinance are found to be true and correct.

Section 2. The City Council supports legislation that promotes local farmers and farmers markets and expands cottage food production, so long as the legislation does not impede upon a community's ability to make decisions for itself nor preempt any local authority.

Section 3. The City Council directs the City Manager to provide a copy of this Resolution to the City of Tomball's elected state representatives and express the Council's support to any proposed legislation by providing a letter signed by the Mayor on behalf of the City Council.

Section 4. This Resolution is effective immediately upon its passage.

PASSED, APPROVED, AND RESOLVED this ____ day of _____, 2023.

Lori Klein Quinn, Mayor

John Ford, Mayor Pro Tem/Councilman, Position 1

Mark Stoll, Councilman, Position 2

Dane Dunagin, Councilman, Position 3

Derek Townsend, Councilman, Position 4

Randy Parr, Councilman, Position 5

ATTEST:

Tracylynn Garcia, City Secretary

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: April 3, 2023

Topic:

Adopt On First Reading Ordinance No. 2023-08, An Ordinance Of The City Of Tomball, Texas Amending Section 48-139 Of Its Code Of Ordinances, Storage Lot Requirements, Of Division 1, Generally, Of Article III, Tow Trucks And Tows, Of Chapter 48, Vehicles For Hire, By Allowing Wrecker Storage Lots To Be Located Within The City, Its Extraterritorial Jurisdiction Or Within Five (5) Miles Of The Extraterritorial Jurisdiction Of The City; Containing findings and Other Provisions Relating To The Subject; Declaring Certain Conduct To Be Unlawful; Providing A Penalty In An Amount Not To Exceed \$2,000.00 For Each Violation Of This Ordinance With Every Day Constituting A New Violation; Providing For Severability; Providing for Publication; and Providing An Effective Date.

Background:

This ordinance is to amend Chapter 48 of the Code of Ordinances of the City of Tomball to increase the allowable distance that a tow license holder may keep a vehicle repository outside of the extraterritorial jurisdiction of the City of Tomball. Currently, the City of Tomball Code of Ordinances, Section 48-139 requires that all tow license holders maintain a vehicle repository within the corporate limits of the city or within the extraterritorial jurisdiction of the city. This proposed amendment to the ordinance would allow tow truck license holders to maintain a vehicle repository within five miles of the extraterritorial jurisdiction of the city. By providing for this expansion, it increases the availability of more options for the tow yards.

Origination: Tomball Police Department

Recommendation:

Approve

Party(ies) responsible for placing this item on agenda: Jeff Bert, Police Chief

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____ If yes, specify Account Number: # _____

If no, funds will be transferred from account # _____ To account # _____

Signed Jeff Bert Approved by _____
Staff Member Date City Manager Date

ORDINANCE NO. 2023-08

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS AMENDING SECTION 48-139 OF ITS CODE OF ORDINANCES, STORAGE LOT REQUIREMENTS, OF DIVISION 1, GENERALLY, OF ARTICLE III, TOW TRUCKS AND TOWS, OF CHAPTER 48, VEHICLES FOR HIRE, BY ALLOWING WRECKER STORAGE LOTS TO BE LOCATED WITHIN FIVE (5) MILES OF THE CORPORATE LIMITS OF THE CITY; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE SUBJECT; DECLARING CERTAIN CONDUCT TO BE UNLAWFUL; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000.00 FOR EACH VIOLATION OF THIS ORDINANCE WITH EVERY DAY CONSTITUTING A NEW VIOLATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

* * * * *

WHEREAS, the City of Tomball, Texas (the “City”) is a home-rule municipality pursuant to section 5 article 11 of the Texas Constitution and as such, is vested with the power of local self-government; and

WHEREAS, the City desires to allow wrecker storage yards to be located within five (5) miles of the corporate limits of the City; and

WHEREAS, the City Council finds it to be in the best interest of the health, safety and welfare of its residents to amend its code of ordinances as set forth herein; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS:

Section 1. The findings contained in the preamble of this Ordinance are hereby found to be true and correct and are hereby adopted as part of this Ordinance.

Section 2. Section 48-139, Storage lot requirements, of Division 1, Generally, of Article III, Tow trucks and tows, of Chapter 48, Vehicles for hire, is hereby amended to delete therefrom the language struckthrough below and to add the language underscored below, such Section 48-139 to read as follows:

“Section 48-139. - Storage lot requirements.

(a) All tow truck license holders under this article shall maintain or have access to a vehicle depository located in the corporate limits of the city or located within ~~the extraterritorial jurisdiction of the~~ five miles of the corporate limits of the city, as that term is defined in V.T.C.A., Local Government Code ch. 42. The chief of police or the chief's designated representative shall make the determination of ~~the limits of the city's territorial jurisdiction whether the proposed location is within the corporate boundaries or within five (5) miles of the corporate limits of the city~~ upon written request to do so or in connection with any tow truck permit application. Such vehicle depositories maintained or used by tow truck license holders shall be state licensed vehicle storage lots pursuant to the Vehicle Storage Facility Act (V.T.C.A., Occupations Code ch. 2303).

(b) Any vehicle hauled or towed without the owner's consent shall be taken to a state-licensed storage facility authorized by this section, or to such other location as directed by the owner or authorized person, with the approval of the police officer at the scene. Additionally, each tow truck license holder shall have its own private storage lot. The sharing of storage lots is prohibited.”

Section 3. Any person who shall intentionally, knowingly, recklessly or with criminal negligence violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction, shall be fined in an amount not to exceed \$2,000. Each day of violation shall constitute a separate offense.

Section 4. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

Section 5. This Ordinance shall take effect immediately from and after its passage and the publication of the caption hereof, as provided by law and the City’s Home Rule Charter.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE ____ DAY OF _____ 2023.

COUNCILMAN FORD _____
COUNCILMAN STOLL _____
COUNCILMAN PARR _____
COUNCILMAN TOWNSEND _____
COUNCILMAN DUNAGIN _____

SECOND READING:

READ, PASSED AND ORDAINED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE ____ DAY OF _____ 2023.

COUNCILMAN FORD _____
COUNCILMAN STOLL _____
COUNCILMAN PARR _____
COUNCILMAN TOWNSEND _____
COUNCILMAN DUNAGIN _____

LORI KLEIN QUINN, Mayor
City of Tomball

ATTEST:

TRACYLYNN GARCIA, City Secretary
City of Tomball