

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



**Monday, February 20, 2023
6:00 PM**

Notice is hereby given of a Regular meeting of the Tomball City Council, to be held on Monday, February 20, 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 FEBRUARY 20, 2023, 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: 832 9389 0395, Passcode: 060821. 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 Richrd Jennings - River of Praise 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. Reports and Announcements

1. Announcements

- I. February 21, 2023 – **Sam Houston Trailride Reception** – 12 Noon at the Depot
- II. March 4, 2023 - **Tomball Little League Parade of Teams** – beginning at 7:30 a.m.
- III. March 11, 2023 – Second Saturday at the Depot – “*The Rise of Gru*” at dusk
- IV. March 24-26, 2023 – **Tomball German Heritage Festival** at the Depot

2. Reports by City staff and members of council about items of community interest on which no action will be taken:

F. 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. 2023-05-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 Performance Agreement by and between the Corporation and Hufsmith Kohrville Business Park, LLC to make direct incentives to, or expenditures for, assistance with infrastructure costs required or suitable for the promotion of new or expanded business enterprise related to the development and construction of a multibuilding office/warehouse park to be located on the West side of Hufsmith-Kohrville and Werich Rd, Tomball, Texas 77375. The estimated amount of expenditures for such Project is an amount not to exceed \$122,722.00.
- 2. Approve, on Second Reading, Resolution No. 2023-06-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 Performance Agreement by and between the Corporation and Church Holdings, Inc. to make direct incentives to, or expenditures for, assistance with infrastructure costs required or suitable for the promotion of

new or expanded business enterprise related to the development and construction of a multibuilding office/warehouse park to be located near the intersection of Hufsmith-Kohrville and Spell Rd. in the City of Tomball, Texas. The estimated amount of expenditures for such Project is an amount not to exceed \$426,639.00.

3. Approve, on Second Reading, Resolution No. 2023-07-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 Performance Agreement by and between the Corporation and BCS Tomball Main, LLC to make direct incentives to, or expenditures for, assistance with infrastructure costs required or suitable for the promotion of new or expanded business enterprise related to the construction of a commercial retail development to be located at the NE corner of SH 249 and FM 2920 Rd, Tomball, Texas 77375. The estimated amount of expenditures for such Project is an amount not to exceed \$123,094.00.
4. Approve, on Second Reading, Resolution No. 2023-08-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 Performance Agreement by and between the Corporation and STUDIO a28 to make direct incentives to, or expenditures for, rental assistance for new or expanded business enterprise to be located at 1431 Graham Drive, Suites 212 and 213, Tomball, Texas 77375. The estimated amount of expenditures for such Project is an amount not to exceed \$4,063.00.

G. 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 February 6, 2023, Regular City Council Meeting
2. Approve a contract with B&C Constructors, LP to reconstruct driveways and headwalls for the Belmont Drainage Improvement Project through a 1GPA Contract (Contract No. 19-03DP) for a not-to-exceed amount of \$73,752.62, 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.
3. Approve a master services agreement with North Water District Laboratories Services, Inc. for wastewater sampling and laboratory services for a total not-to-exceed amount of \$75,000, approve the expenditure of funds therefor, and

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

- [4.](#) Approve service agreement to use Waypoint Business Solutions as a consulting services provider for a 3-year term.
- [5.](#) Approve a lease extension for two years with Frank and Russell DeNina, for 3.547-acre tract, described as TR R10, Abstract 371 W. Hurd Survey, 0 Mechanic Road, for the daily worker's site.
- [6.](#) Approve Resolution No. 2023-09, a Resolution of the City Council of the City of Tomball, Texas, accepting the Preliminary Service and Assessment Plan for Authorized Improvements within the Seven Oaks Public Improvement District; Setting a Date for a Public Hearing on the Proposed Levy of Assessments; Authorizing the Publication and Mailing of Notice; and Enacting Other Provisions Relating thereto

H. New Business

- [1.](#) Approve an amended request from Tomball High School Athletic Booster Club (THSABC) for City Support and In-Kind Services for the THSABC Scholarship Crawfish Boil at Juergens Park, on Saturday, April 1, 2023 from 4:00-8:00 p.m.
- [2.](#) Approve the Appointment, by the City Manager, of Tracylynn Garcia as City Secretary, effective March 1, 2023
- [3.](#) Approve Administrative Policy No. 1, entitled "Proclamation Policy"
- [4.](#) Conduct a Public Hearing and consideration to approve **Zoning Case Z23-02:** Request by RIAA Group, LLC. to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 3.12 acres of land legally described as being portions of Lot 172, in Tomball Townsite from Agricultural (AG) to General Retail (GR). The property is located at the northwest corner of S. Cherry Street & Medical Complex Drive at 1635 S. Cherry Street, within the City of Tomball, Harris County, Texas.

* Conduct Public Hearing

* Adopt, on First Reading, Ordinance No. 2023-02, an Ordinance of the City of Tomball, Texas, Amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by revising its code of ordinance amending Section 50-2 (Definitions), of Article I, in general and Section 50-82 (Use Regulations (Charts)), Subsection (B)(Use Charts), of Article III, District Regulations; 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.

5. Conduct a Public Hearing and consideration to approve **Ordinance Amendment OAM23-01**; Request by Apex Clean Energy Holdings, LLC to amend Section(s) 50-2 (*Definitions*) and Section 50-82 (*Use Regulations (Charts)*), Subsection (b) (*Use Charts*) of the Tomball Code of Ordinances by adding standards pertaining to “Energy Storage System”.

* Conduct Public Hearing

- * Adopt, on First Reading, Ordinance No. 2023-03, an Ordinance of the City of Tomball, Texas, Amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by revising its code of ordinance amending Section 50-2 (Definitions), of Article I, in general and Section 50-82 (Use Regulations (Charts)), Subsection (B)(Use Charts), of Article III, District Regulations; 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.

6. 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. 551.076 – Deliberations regarding Security Devices
- * Sec. 551.087 – Deliberations regarding Economic Development

7. Approve, on First Reading, Resolution No. 2023-04-TEDC, a Resolution of the City Council of the City of Tomball, Texas, authorizing and approving the Project of the Tomball Economic Development Corporation, the designation of a mixed-use development in Old Town Tomball, to promote new or expanded business development, with such Project including the expenditure of funds for the purchase of land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements related to the Project, and authorizing the Executive Director or designee to execute any and all documentation related to the Project.

8. Approve, on First Reading, Resolution No. 2023-03-TEDC, a Resolution of the City Council of the City of Tomball, Texas, authorizing and approving an

Amendment to the Tomball Economic Development Corporation Fiscal Year 2022-2023 Budget to allow for the expenditure of funds and related project costs for the acquisition of land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements near Old Town Tomball.

I. Adjournment

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 16th day of February 2023 by 5:00 PM, and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Tracylynn Garcia, Assistant City Secretary, TRMC, CMC, CPM

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: January 3, 2023

Topic:

February 21, 2023 – *Sam Houston Trailride Reception* – 12 Noon at the Depot

Background:

Origination:

Recommendation:

Party(ies) responsible for placing this item on agenda: Doris Speer, City Secretary

City Council Meeting Agenda Item Data Sheet

Meeting Date: February 20, 2023

Topic:

March 4, 2023 - **Tomball Little League Parade of Teams** – beginning at 7:30 a.m.

Background:

Origination:

Recommendation:

Party(ies) responsible for placing this item on agenda: Doris Speer, City Secretary

City Council Meeting Agenda Item Data Sheet

Meeting Date: February 20, 2023

Topic:

March 11, 2023 – Second Saturday at the Depot – “*The Rise of Gru*” at dusk

Background:

Origination:

Recommendation:

Party(ies) responsible for placing this item on agenda: Doris Speer, City Secretary

City Council Meeting Agenda Item Data Sheet

Meeting Date: February 20, 2023

Topic:

March 24-26, 2023 – **Tomball German Heritage Festival** at the Depot

Background:

Origination:

Recommendation:

Party(ies) responsible for placing this item on agenda: Doris Speer, City Secretary

Regular City Council Agenda Item Data Sheet

Meeting Date: February 6, 2023

Topic:

Approve, on Second Reading, Resolution No. 2023-05-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 Performance Agreement by and between the Corporation and Hufsmith Kohrville Business Park, LLC to make direct incentives to, or expenditures for, assistance with infrastructure costs required or suitable for the promotion of new or expanded business enterprise related to the development and construction of a multibuilding office/warehouse park to be located on the West side of Hufsmith-Kohrville and Werich Rd, Tomball, Texas 77375. The estimated amount of expenditures for such Project is an amount not to exceed \$122,722.00.

Background:

On January 10, 2023, the Tomball Economic Development Corporation (TEDC) Board of Directors unanimously approved, as a Project of the Corporation, a performance agreement with Hufsmith Kohrville Business Park, LLC for assistance with infrastructure costs related to the development and construction of a proposed multibuilding office/warehouse park to be located on the West side of Hufsmith-Kohrville and Werich Rd, Tomball, Texas 77375.

Targeted infrastructure projects that will promote or develop new or expanded business enterprises are authorized expenditures under the Development Corporation Act.

The Tomball City Council has final approval authority over all programs and expenditures of the TEDC. Final approval of this project requires the adoption of Resolution No. 2023-05-TEDC after two separate readings.

Origination: Tomball Economic Development Corporation Board of Directors

Recommendation: Approval of Resolution No. 2023-05-TEDC on First Reading

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

If no, funds will be transferred from account #

To account #

Signed

Staff Member-TEDC

Date _____

Approved by

Executive Director-TEDC

Date _____

RESOLUTION NO. 2023-05-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 PERFORMANCE AGREEMENT BY AND BETWEEN THE CORPORATION AND HUFSMITH KOHRVILLE BUSINESS PARK, LLC, TO PROMOTE AND DEVELOP NEW OR EXPANDED BUSINESS ENTERPRISES; CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT; AND PROVIDING FOR SEVERABILITY.

* * * * *

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 One Hundred Twenty Two Thousand Seven Hundred and Twenty Two Dollars (\$122,722.00), found by the Board to be required or suitable to promote a new business development by Hufsmith Kohrville Business Park, LLC; 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 promotes new or expanded business enterprises and is in the best interests of the citizenry; 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 One Hundred Twenty Two Thousand Seven Hundred and Twenty Two Dollars (\$122,722.00), to Hufsmith Kohrville Business Park, LLC, in accordance with an economic development agreement by and between the TEDC and Hufsmith Kohrville Business Park, LLC, to promote and develop a new or expanded business enterprises, to be located on the West side of Hufsmith-Kohrville and Werich Road, Tomball, Texas 77375.

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; 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.

PASSED AND APPROVED on first reading this ____ day of _____,
202__.

PASSED, APPROVED, AND RESOLVED on second and final reading this ____ day of
_____, 202__.

Lori Klein Quinn, Mayor

ATTEST:

Doris Speer, City Secretary



TO: Honorable Mayor and City Council

FROM: Kelly Violette
Executive Director

MEETING DATE: February 6, 2023

SUBJECT: Hufsmith Kohrville Business Park, LLC

ITEM TYPE: Action

The TEDC has received a request from Matthew Lawrence, President, Hufsmith-Kohrville Business Park, LLC, for grant funding assistance for a proposed multibuilding office/warehouse development.

Hufsmith-Kohrville Business Park, LLC is a project of the parent company, Lone Star Development, which builds and manages first-class buildings and properties with above industry standard amenities. Currently, Lone Star Development owns and manages over 150,000 square feet of office/warehouse space in the Houston area.

The development will consist of four separate pre-engineered metal buildings totaling 44,050 square feet. The site will include an 11,050 square foot retail building and 3 office/warehouse buildings ranging in size from 7,500 to 16,500 sq. ft. The estimated capital investment for the project is \$7.5 million.

The eligible infrastructure improvements include water, sanitary sewer, storm drainage, electric and gas utilities and related site improvements totaling approximately \$1,227,200.00.

Targeted infrastructure that will promote the development and expansion of business enterprise is a permissible project as outlined in Texas Economic Development Legislation. If this project is approved, it will go to the Tomball City Council for final approval by resolution at two separate readings.

An economic impact analysis is included with the agreement to show the impact of this project on Tomball's economy. Per the analysis, the estimated 5-year net benefit of this project is \$974,805.00.

If the agreement between the TEDC and Hufsmith-Kohrville Business Park, LLC is approved as a Project of the Corporation, the grant funding amount will not exceed \$122,722.00, based on 10% of the actual expenditures for the eligible infrastructure improvements.

HUFSMITH-KOHRVILLE BUSINESS PARK, LLC

January 5, 2022

Dear TEDC Board of Directors,

On behalf of Hufsmith-Kohrville Business Park, LLC, we respectfully submit this request for grant funding from the TEDC for the completion of the 44,050 square foot Hufsmith-Kohrville Business Park. Our development, management and ownership team consist of the following individuals:

- Matthew Lawrence – over 15 years business operational management skills both here in the United States and in Europe
- William Lawrence – over 40 years entrepreneurial experience in the restaurant and car wash industry
- Jason Snell – over 25 years' experience and former owner/operating partner of one of Houston's largest independent construction firms.

We currently own and manages over 150,000 square feet of office/warehouse space in the Houston metropolitan area. Our business model entails building and managing first-class buildings and properties with above industry standard amenities and construction techniques and materials, while commanding rents that are consistent with current market rates. This strategy results in their history of zero (0) availability at all of their properties.

We have and always will take the position that tenants are business partners, and that by working to assist each other in the accomplishment of their business objectives, together they can provide the businesses and their employees the safest, most secure working conditions that serve their constituencies more professionally than their competitors.

Our mission in developing The Hufsmith-Kohrville Business Park is to serve the growing needs of existing and new businesses that are looking for a more modern and state-of-the-art building where they can locate their new or growing businesses. We will be offering flexible suite sizes ranging from 1,500 square feet to 15,000 square feet for our tenants. With this range of suite sizes, we can meet the demands of a variety of businesses; from the small business that is upsizing from their home garage to the growing and established businesses looking for a location to base their business operations.

HUFSMITH-KOHRVILLE BUSINESS PARK, LLC

The Hufsmith-Kohrville Business Park will consist of four (4) separate pre-engineered metal buildings for multi-tenant use. The front building will be an 11,050 square foot retail building and behind the retail building will be a 16,500-square-foot, a 7,500-square-foot, and a 9,000-square-foot office warehouse building. These pre-engineered metal buildings will be architecturally pleasing and will use various panel profiles and colors to give the park a clean and modern look. We will also provide landscaping throughout the park, giving tenants a more welcoming space for their businesses and associates. Conveniently located within the City of Tomball, the property is less than a mile south of FM 2920 and is just minutes from the Grand Parkway and State Highway 249.

The construction phase of this project is anticipated to commence in April and is scheduled for completion approximately 7 months later.

We are seeking grant funding for approved installations at our project, including infrastructure, landscaping, and development Services.

Based on our research and that of the major home development companies, we believe that the area known as the northwest corridor of Houston (more specifically Tomball) will continue to experience significant growth in residential development, thereby enhancing the need for this type of development to support the growing business community. The Hufsmith-Kohrville Business Park will help facilitate that growth and provide new and existing residents of the growing area with flexible, clean, and affordable spaces for them to locate their businesses.

For further assistance in your consideration efforts, we have completed the online Tomball EDC Data Sheet.

We welcome any questions you may have about the Hufsmith-Kohrville Business Park. Please feel free to contact us at development@wjl.me. We are grateful for this opportunity and look forward to receiving your assistance. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Matthew Lawrence". The signature is written in a cursive, flowing style.

Matt Lawrence

Scenario 1 with Client Data

Project Type: New Construction - Industrial
Prepared By: Tomball EDC

Purpose & Limitations

This report presents the results of an economic and fiscal analysis undertaken by Tomball EDC using Impact DashBoard, a customized web application developed by Impact DataSource, LLC.

Impact DashBoard utilizes estimates, assumptions, and other information developed by Impact DataSource from its independent research effort detailed in a custom user guide prepared for Tomball EDC.

This report, generated by the Impact DashBoard application, has been prepared by Tomball EDC to assist economic development stakeholders in making an evaluation of the economic and fiscal impact of business activity in the community. This report does not purport to contain all of the information that may be needed to conclude such an evaluation. This report is based on a variety of assumptions and contains forward-looking statements concerning the results of operations of the subject firm. Tomball EDC made reasonable efforts to ensure that the project-specific data entered into Impact DashBoard reflects realistic estimates of future activity. Estimates of future activity involve known and unknown risks and uncertainties that could cause actual results, performance, or events to differ materially from those expressed or implied in this report.

Tomball EDC and Impact DataSource make no representation or warranty as to the accuracy or completeness of the information contained herein, and expressly disclaim any and all liability based on or relating to any information contained in, or errors or omissions from, this information or based on or relating to the use of this information.

Introduction

This report presents the results of an economic impact analysis performed using Impact DashBoard, a model developed by Impact DataSource. The report estimates the impact that a potential project will have on the local economy and estimates the costs and benefits for local taxing districts over a 5-year period.

Economic Impact Overview

The table below summarizes the economic impact of the project over the first 5 years in terms of job creation, salaries paid to workers, and taxable sales.

SUMMARY OF ECONOMIC IMPACT OVER 5 YEARS IN CITY OF TOMBALL			
IMPACT	DIRECT	SPIN-OFF	TOTAL
Jobs	135.0	32.7	167.7
Annual Salaries/Wages at Full Ops (Yr 5)	\$7,880,117	\$2,169,544	\$10,049,661
Salaries/Wages over 5 Years	\$27,740,360	\$7,637,441	\$35,377,801
Taxable Sales/Purchases in City of Tomball	\$42,203,892	\$95,468	\$42,299,360

Totals may not sum due to rounding

The Project may result in new residents moving to the community and potentially new residential properties being constructed as summarized below.

SUMMARY OF POPULATION IMPACT OVER 5 YEARS IN CITY OF TOMBALL			
IMPACT	DIRECT	SPIN-OFF	TOTAL
Workers who will move to City of Tomball	3.6	0.9	4.5
New residents in City of Tomball	9.5	2.3	11.8
New residential properties constructed in City of Tomball	0.5	0.1	0.7
New students to attend local school district	1.8	0.4	2.3

Totals may not sum due to rounding

The new taxable property to be supported by the Project over the next 5 years is summarized in the following table.

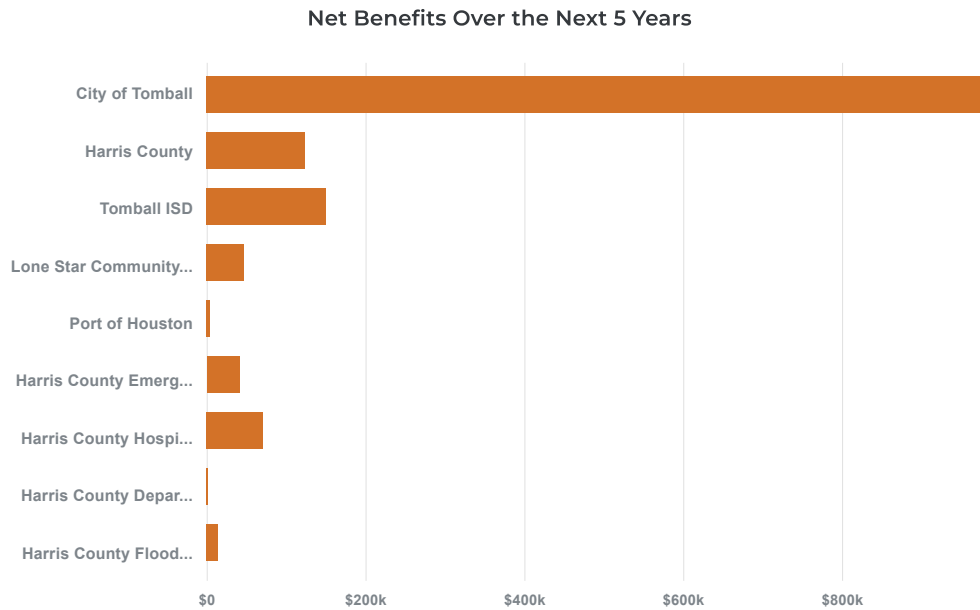
SUMMARY OF TAXABLE PROPERTY OVER THE FIRST 5 YEARS IN CITY OF TOMBALL							
YR.	NEW RESIDENTIAL PROPERTY	LAND	BUILDINGS...	FF&E	INVENTORIES	NON-RESIDENTIAL PROPERTY	TOTAL PROPERTY
1	\$47,926	\$1,344,386	\$3,757,760	\$525,000	\$677,956	\$6,305,102	\$6,353,028
2	\$92,338	\$1,371,274	\$4,386,515	\$897,500	\$847,445	\$7,502,734	\$7,595,072
3	\$116,346	\$1,398,699	\$4,686,596	\$927,500	\$1,059,306	\$8,072,101	\$8,188,446
4	\$135,626	\$1,426,673	\$4,950,207	\$920,000	\$1,324,133	\$8,621,013	Page 19
5	\$155,630	\$1,455,207	\$5,219,092	\$902,500	\$1,655,166	\$9,231,964	

Fiscal Impact Overview

The Project will generate additional benefits and costs, a summary of which is provided below. The source of specific benefits and costs are provided in greater detail for each taxing district on subsequent pages.

FISCAL NET BENEFITS OVER THE NEXT 5 YEARS				
	BENEFITS	COSTS	NET BENEFITS	PRESENT VALUE*
City of Tomball	\$1,463,686	(\$488,881)	\$974,805	\$840,523
Harris County	\$206,432	(\$82,585)	\$123,848	\$106,646
Tomball ISD	\$548,145	(\$397,454)	\$150,691	\$129,240
Lone Star Community College	\$47,474	\$0	\$47,474	\$40,696
Port of Houston	\$3,840	\$0	\$3,840	\$3,292
Harris County Emergency Services District 8	\$41,504	\$0	\$41,504	\$35,579
Harris County Hospital District	\$71,435	\$0	\$71,435	\$61,236
Harris County Department of Education	\$2,198	\$0	\$2,198	\$1,884
Harris County Flood Control	\$14,749	\$0	\$14,749	\$12,643
Total	\$2,399,462	(\$968,920)	\$1,430,543	\$1,231,738

*The Present Value of Net Benefits expresses the future stream of net benefits received over several years as a single value in today's dollars. Today's dollar and a dollar to be received at differing times in the future are not comparable because of the time value of money. The time value of money is the interest rate or each taxing entity's discount rate. This analysis uses a discount rate of 5.0% to make the dollars comparable.



Public Support Overview

A summary of the total Public Support modeled in this analysis is shown below.

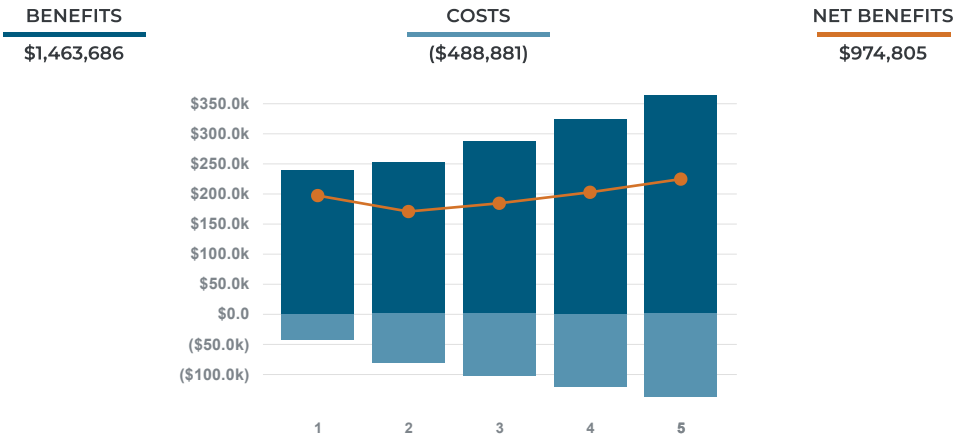
VALUE OF PUBLIC SUPPORT UNDER CONSIDERATION		
	NON-TAX INCENTIVE	TOTAL
City of Tomball	\$122,720	\$122,720
Harris County	\$0	\$0
Tomball ISD	\$0	\$0
Lone Star Community College	\$0	\$0
Port of Houston	\$0	\$0
Harris County Emergency Services District 8	\$0	\$0
Harris County Hospital District	\$0	\$0
Harris County Department of Education	\$0	\$0
Harris County Flood Control	\$0	\$0
Total	\$122,720	\$122,720

City of Tomball Fiscal Impact

The table below displays the estimated additional benefits, costs, and net benefits to be received by City of Tomball over the next 5 years of the Project.

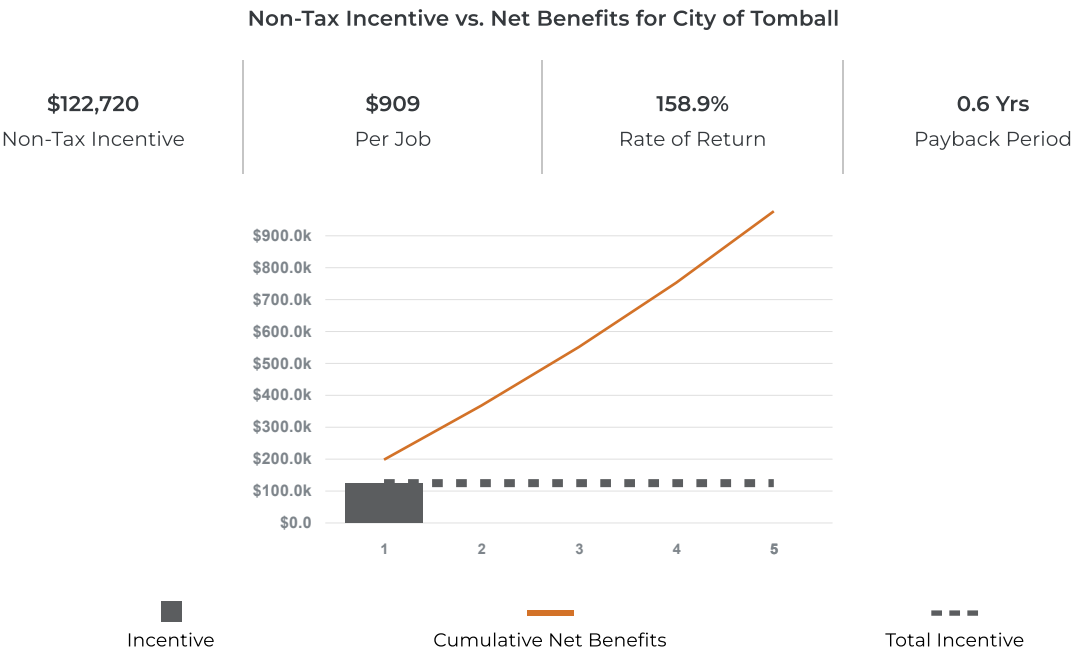
NET BENEFITS OVER 5 YEARS: CITY OF TOMBALL			
BENEFITS	PROJECT	HOUSEHOLDS	TOTAL
Sales Taxes	\$837,143	\$8,844	\$845,987
Real Property Taxes	\$99,990	\$0	\$99,990
FF&E Property Taxes	\$13,909	\$0	\$13,909
Inventory Property Taxes	\$18,547	\$0	\$18,547
New Residential Property Taxes	\$0	\$1,826	\$1,826
Hotel Occupancy Taxes	\$237	\$0	\$237
Building Permits and Fees	\$25,000	\$0	\$25,000
Utility Revenue	\$319,966	\$27,587	\$347,554
Utility Franchise Fees	\$20,062	\$1,725	\$21,787
Miscellaneous Taxes and User Fees	\$81,792	\$7,056	\$88,848
Benefits Subtotal	\$1,416,646	\$47,040	\$1,463,686
COSTS	PROJECT	HOUSEHOLDS	TOTAL
Cost of Government Services	(\$123,974)	(\$10,662)	(\$134,636)
Cost of Utility Services	(\$326,139)	(\$28,105)	(\$354,244)
Costs Subtotal	(\$450,113)	(\$38,767)	(\$488,881)
Net Benefits	\$966,532	\$8,273	\$974,805

Annual Fiscal Net Benefits for City of Tomball



Non-Tax Incentives

The graph below depicts the non-tax incentives modeled in this analysis versus the cumulative net benefits to City of Tomball. The intersection indicates the length of time until the incentives are paid back.

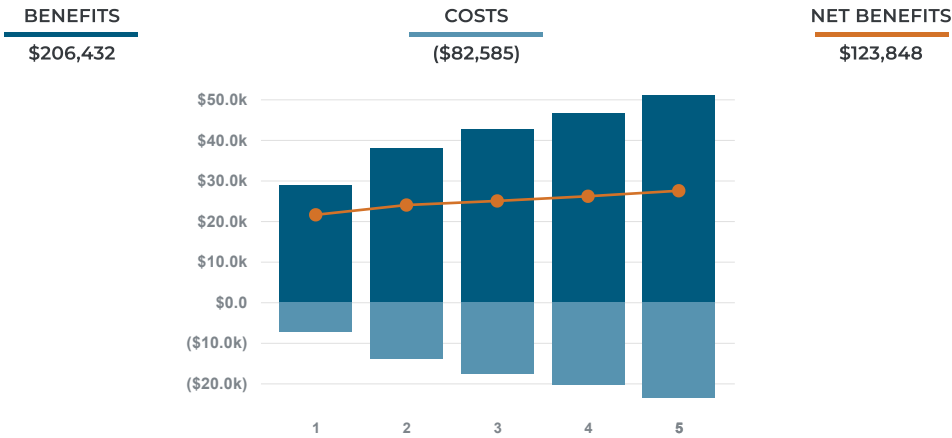


Harris County Fiscal Impact

The table below displays the estimated additional benefits, costs, and net benefits to be received by Harris County over the next 5 years of the Project.

NET BENEFITS OVER 5 YEARS: HARRIS COUNTY			
BENEFITS	PROJECT	HOUSEHOLDS	TOTAL
Real Property Taxes	\$113,065	\$0	\$113,065
FF&E Property Taxes	\$15,727	\$0	\$15,727
Inventory Property Taxes	\$20,972	\$0	\$20,972
New Residential Property Taxes	\$0	\$16,230	\$16,230
Hotel Occupancy Taxes	\$68	\$0	\$68
Miscellaneous Taxes and User Fees	\$21,091	\$19,279	\$40,370
Benefits Subtotal	\$170,924	\$35,508	\$206,432
COSTS	PROJECT	HOUSEHOLDS	TOTAL
Cost of Government Services	(\$43,211)	(\$39,374)	(\$82,585)
Costs Subtotal	(\$43,211)	(\$39,374)	(\$82,585)
Net Benefits	\$127,713	(\$3,866)	\$123,848

Annual Fiscal Net Benefits for Harris County

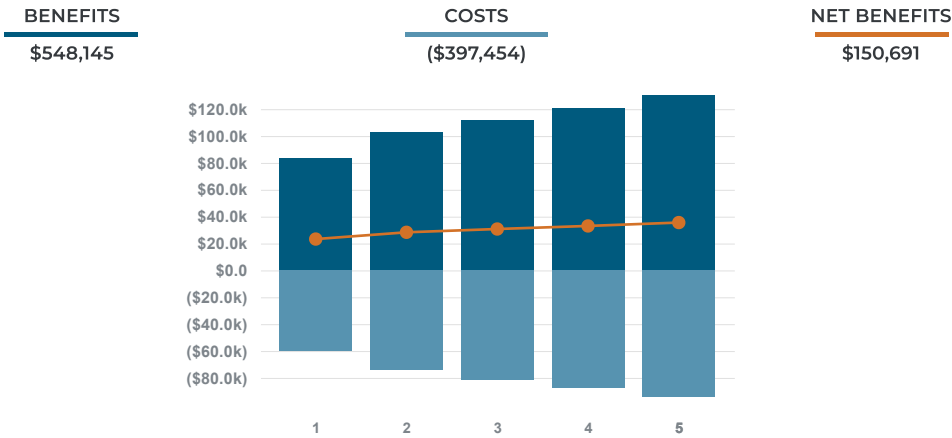


Tomball ISD Fiscal Impact

The table below displays the estimated additional benefits, costs, and net benefits to be received by Tomball ISD over the next 5 years of the Project.

NET BENEFITS OVER 5 YEARS: TOMBALL ISD			
BENEFITS	PROJECT	HOUSEHOLDS	TOTAL
Real Property Taxes	\$374,955	\$0	\$374,955
FF&E Property Taxes	\$52,156	\$0	\$52,156
Inventory Property Taxes	\$69,550	\$0	\$69,550
New Residential Property Taxes	\$0	\$22,752	\$22,752
Addtl. State & Federal School Funding	\$0	\$28,731	\$28,731
Benefits Subtotal	\$496,661	\$51,483	\$548,145
COSTS	PROJECT	HOUSEHOLDS	TOTAL
Cost to Educate New Students	\$0	(\$25,554)	(\$25,554)
Reduction in State School Funding	(\$355,610)	(\$16,291)	(\$371,900)
Costs Subtotal	(\$355,610)	(\$41,845)	(\$397,454)
Net Benefits	\$141,052	\$9,639	\$150,691

Annual Fiscal Net Benefits for Tomball ISD



Lone Star Community College Fiscal Impact

The table below displays the estimated additional benefits, costs, and net benefits to be received by Lone Star Community College over the next 5 years of the Project.

NET BENEFITS OVER 5 YEARS: LONE STAR COMMUNITY COLLEGE			
BENEFITS	PROJECT	HOUSEHOLDS	TOTAL
Real Property Taxes	\$32,336	\$0	\$32,336
FF&E Property Taxes	\$4,498	\$0	\$4,498
Inventory Property Taxes	\$5,998	\$0	\$5,998
New Residential Property Taxes	\$0	\$4,642	\$4,642
Benefits Subtotal	\$42,832	\$4,642	\$47,474
COSTS	PROJECT	HOUSEHOLDS	TOTAL
None Estimated	\$0	\$0	\$0
Costs Subtotal	\$0	\$0	\$0
Net Benefits	\$42,832	\$4,642	\$47,474

Annual Fiscal Net Benefits for Lone Star Community College

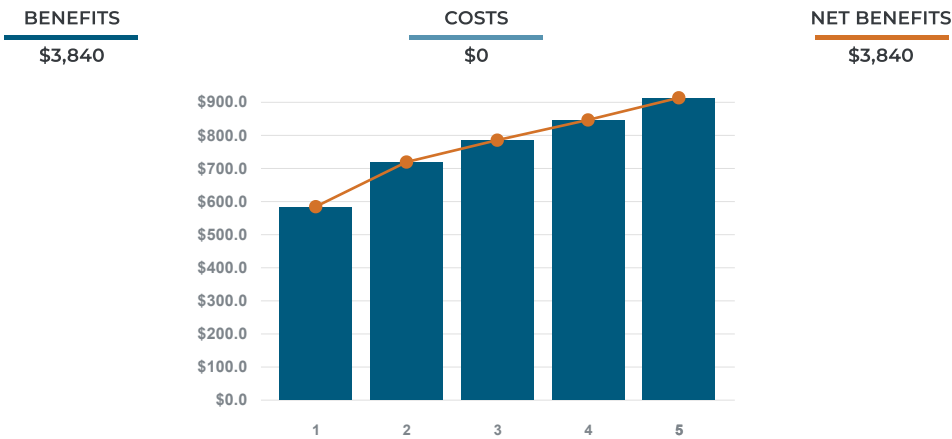


Port of Houston Fiscal Impact

The table below displays the estimated additional benefits, costs, and net benefits to be received by Port of Houston over the next 5 years of the Project.

NET BENEFITS OVER 5 YEARS: PORT OF HOUSTON			
BENEFITS	PROJECT	HOUSEHOLDS	TOTAL
Real Property Taxes	\$2,616	\$0	\$2,616
FF&E Property Taxes	\$364	\$0	\$364
Inventory Property Taxes	\$485	\$0	\$485
New Residential Property Taxes	\$0	\$375	\$375
Benefits Subtotal	\$3,465	\$375	\$3,840
COSTS	PROJECT	HOUSEHOLDS	TOTAL
None Estimated	\$0	\$0	\$0
Costs Subtotal	\$0	\$0	\$0
Net Benefits	\$3,465	\$375	\$3,840

Annual Fiscal Net Benefits for Port of Houston



Harris County Emergency Services District 8 Fiscal Impact

The table below displays the estimated additional benefits, costs, and net benefits to be received by Harris County Emergency Services District 8 over the next 5 years of the Project.

NET BENEFITS OVER 5 YEARS: HARRIS COUNTY EMERGENCY SERVICES DISTRICT 8			
BENEFITS	PROJECT	HOUSEHOLDS	TOTAL
Real Property Taxes	\$28,270	\$0	\$28,270
FF&E Property Taxes	\$3,932	\$0	\$3,932
Inventory Property Taxes	\$5,244	\$0	\$5,244
New Residential Property Taxes	\$0	\$4,058	\$4,058
Benefits Subtotal	\$37,446	\$4,058	\$41,504
COSTS	PROJECT	HOUSEHOLDS	TOTAL
None Estimated	\$0	\$0	\$0
Costs Subtotal	\$0	\$0	\$0
Net Benefits	\$37,446	\$4,058	\$41,504

Annual Fiscal Net Benefits for Harris County Emergency Services District 8



Harris County Hospital District Fiscal Impact

The table below displays the estimated additional benefits, costs, and net benefits to be received by Harris County Hospital District over the next 5 years of the Project.

NET BENEFITS OVER 5 YEARS: HARRIS COUNTY HOSPITAL DISTRICT			
BENEFITS	PROJECT	HOUSEHOLDS	TOTAL
Real Property Taxes	\$48,657	\$0	\$48,657
FF&E Property Taxes	\$6,768	\$0	\$6,768
Inventory Property Taxes	\$9,025	\$0	\$9,025
New Residential Property Taxes	\$0	\$6,984	\$6,984
Benefits Subtotal	\$64,451	\$6,984	\$71,435
COSTS	PROJECT	HOUSEHOLDS	TOTAL
None Estimated	\$0	\$0	\$0
Costs Subtotal	\$0	\$0	\$0
Net Benefits	\$64,451	\$6,984	\$71,435

Annual Fiscal Net Benefits for Harris County Hospital District

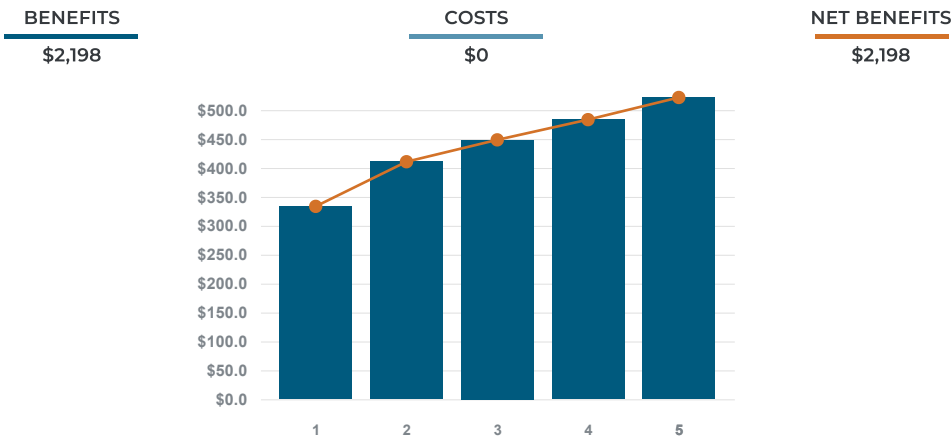


Harris County Department of Education Fiscal Impact

The table below displays the estimated additional benefits, costs, and net benefits to be received by Harris County Department of Education over the next 5 years of the Project.

NET BENEFITS OVER 5 YEARS: HARRIS COUNTY DEPARTMENT OF EDUCATION			
BENEFITS	PROJECT	HOUSEHOLDS	TOTAL
Real Property Taxes	\$1,497	\$0	\$1,497
FF&E Property Taxes	\$208	\$0	\$208
Inventory Property Taxes	\$278	\$0	\$278
New Residential Property Taxes	\$0	\$215	\$215
Benefits Subtotal	\$1,983	\$215	\$2,198
COSTS	PROJECT	HOUSEHOLDS	TOTAL
None Estimated	\$0	\$0	\$0
Costs Subtotal	\$0	\$0	\$0
Net Benefits	\$1,983	\$215	\$2,198

Annual Fiscal Net Benefits for Harris County Department of Education



Harris County Flood Control Fiscal Impact

The table below displays the estimated additional benefits, costs, and net benefits to be received by Harris County Flood Control over the next 5 years of the Project.

NET BENEFITS OVER 5 YEARS: HARRIS COUNTY FLOOD CONTROL			
BENEFITS	PROJECT	HOUSEHOLDS	TOTAL
Real Property Taxes	\$10,046	\$0	\$10,046
FF&E Property Taxes	\$1,397	\$0	\$1,397
Inventory Property Taxes	\$1,863	\$0	\$1,863
New Residential Property Taxes	\$0	\$1,442	\$1,442
Benefits Subtotal	\$13,307	\$1,442	\$14,749
COSTS	PROJECT	HOUSEHOLDS	TOTAL
None Estimated	\$0	\$0	\$0
Costs Subtotal	\$0	\$0	\$0
Net Benefits	\$13,307	\$1,442	\$14,749

Annual Fiscal Net Benefits for Harris County Flood Control



Overview of Methodology

The Impact DashBoard model combines project-specific attributes with community data, tax rates, and assumptions to estimate the economic impact of the Project and the fiscal impact for local taxing districts over a 5-year period.

The economic impact as calculated in this report can be categorized into two main types of impacts. First, the direct economic impacts are the jobs and payroll directly created by the Project. Second, this economic impact analysis calculates the spin-off or indirect and induced impacts that result from the Project. Indirect jobs and salaries are created in new or existing area firms, such as maintenance companies and service firms, that may supply goods and services for the Project. In addition, induced jobs and salaries are created in new or existing local businesses, such as retail stores, gas stations, banks, restaurants, and service companies that may supply goods and services to new workers and their families.

The economic impact estimates in this report are based on the Regional Input-Output Modeling System (RIMS II), a widely used regional input-output model developed by the U. S. Department of Commerce, Bureau of Economic Analysis. The RIMS II model is a standard tool used to estimate regional economic impacts. The economic impacts estimated using the RIMS II model are generally recognized as reasonable and plausible assuming the data input into the model is accurate or based on reasonable assumptions. Impact DataSource utilizes adjusted county-level multipliers to estimate the impact occurring at the sub-county level.

Two types of regional economic multipliers were used in this analysis: an employment multiplier and an earnings multiplier. An employment multiplier was used to estimate the number of indirect and induced jobs created or supported in the area. An earnings multiplier was used to estimate the amount of salaries to be paid to workers in these new indirect and induced jobs. The employment multiplier shows the estimated number of total jobs created for each direct job. The earnings multiplier shows the estimated amount of total salaries paid to these workers for every dollar paid to a direct worker. The multipliers used in this analysis are listed below:

444190 OTHER BUILDING MATERIAL DEALERS		CITY OF TOMBALL
Employment Multiplier	(Type II Direct Effect)	1.2422
Earnings Multiplier	(Type II Direct Effect)	1.2753

Most of the revenues estimated in this study result from calculations relying on (1) attributes of the Project, (2) assumptions to derive the value of associated taxable property or sales, and (3) local tax rates. In some cases, revenues are estimated on a per new household, per new worker, or per new school student basis.

The company or Project developer was not asked, nor could reasonably provide data for calculating some other revenues. For example, while the city will likely receive revenues from fines paid on speeding tickets given to new workers, the company does not know the propensity of its workers to speed. Therefore, some revenues are calculated using an average revenue approach.

This approach uses relies on two assumptions:

1. The taxing entity has two general revenue sources: revenues from residents and revenues from businesses.
2. The taxing entity will collect (a) about the same amount of miscellaneous taxes and user fees from each new household that results from the Project as it currently collects from existing households on average, and (b) the same amount of miscellaneous taxes and user fees from the new business (on a per worker basis) will be collected as it collects from existing businesses.

In the case of the school district, some additional state and federal revenues are estimated on a per new school student basis consistent with historical funding levels.

Additionally, this analysis sought to estimate the additional expenditures faced by local jurisdictions to provide services to new households and new businesses. A marginal cost approach was used to calculate these additional costs.

This approach relies on two assumptions:

1. The taxing entity spends money on services for two general groups: revenues from residents and revenues from businesses.
2. The taxing entity will spend slightly less than its current average cost to provide local government services (police, fire, EMS, etc.) to (a) new residents and (b) businesses on a per worker basis.

In the case of the school district, the marginal cost to educate new students was estimated based on a portion of the school's current expenditures per student and applied to the headcount of new school students resulting from the Project.

Additionally, this analysis seeks to calculate the impact on the school district's finances from the Project by generally, and at a summary level, mimicking the district's school funding formula.

According to the Texas Education Agency, any property added to local tax rolls, and the local taxes that this generates, reduces the amount of state funding equivalent to local taxes collected for maintenance and operations. The school district retains local taxes received for debt services and the corresponding state funding is not reduced. However, according to the Texas Education Agency, the school district will receive state aid for each new child that moves to the District. The additional revenues for the school district are calculated in this analysis.

About Impact DataSource

Established in 1993, Impact DataSource is an Austin, Texas-based economic consulting firm. Impact DataSource provides high-quality economic research, specializing in economic and fiscal impact analyses. The company is highly focused on supporting economic development professionals and organizations through its consulting services and software. Impact DataSource has conducted thousands of economic impact analyses of new businesses, retention and expansion projects, developments, and activities in all industry groups throughout the U.S.

For more information on Impact DataSource, LLC and our product Impact DashBoard, please visit our website www.impactdatasource.com

AGREEMENT

THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF HARRIS §

This Agreement (the “Agreement”) is made and entered into by and between the Tomball Economic Development Corporation, an industrial development corporation created pursuant to Tex. Rev. Civ. Stat. Ann. Art. 5190.6, Section 4B, located in Harris County, Texas (the “TEDC”), and **Hufsmith-Kohrville Business Park, LLC** (the “Company”), 16023 Rudgewick Lane, Spring, TX, 77379.

WITNESSETH:

WHEREAS, it is the established policy of the TEDC to adopt such reasonable measures from time-to-time as are permitted by law to endeavor to attract industry, create and retain primary jobs, expand the growth of the City of Tomball (the “City”), and thereby enhance the economic stability and growth of the City; and

WHEREAS, the Company proposes to develop a 3.79-acre tract of land within the City, located at the corner of Hufsmith-Kohrville and Werich Rd, Tomball, Texas 77375 (the “Property”), more particularly described in Exhibit “A,” attached hereto and made a part hereof; and

WHEREAS, the Company intends to make an investment of over Seven Million Dollars (\$7,000,000) in land, buildings, equipment, targeted infrastructure, and other improvements necessary to develop four (4) pre-engineered metal office/warehouse buildings ranging in size from 7,500 square feet to 16,500 square feet (the “Project”); and

WHEREAS, the Company also proposes to create One Hundred Thirty-Five Jobs (135) new full-time employment positions in Tomball in conjunction with the opening of its business operations on the Property; and

WHEREAS, the TEDC agrees to provide to the Company the sum of up to One Hundred and Twenty-Two Thousand Seven Hundred and Twenty-Two Dollars (\$122,722), or an amount equal to ten (10) percent of actual costs if less than the sum stated above, to assist in the construction of targeted infrastructure improvements (the “Infrastructure Improvements”), identified and described in Exhibit “B,” attached hereto and made a part hereof; and

WHEREAS, the Company has agreed, in exchange and as consideration for the funding, to satisfy and comply with certain terms and conditions; and

NOW, THEREFORE, in consideration of the premises and the mutual benefits and obligations set forth herein, including the recitals set forth above, the TEDC and the Company agree as follows:

1.

The Company hereby covenants and agrees that it will construct and maintain on the Property four (4) pre-engineered metal office/warehouse buildings (the “Improvements”) identified and depicted on Exhibit “C,” attached hereto and made a part hereof. In conjunction with the development of the Property, the Company further agrees to construct the Infrastructure Improvements contemplated by this Agreement, in accordance with the requirements of the ordinances of the City and the plans and specifications approved by the City. The Company further represents and agrees that it will certify the costs of the construction of such Infrastructure Improvements to the TEDC prior to construction.

2.

The construction of the Improvements to the Property, including construction of the Infrastructure Improvements shall be completed, and all necessary permits from the City shall be obtained, within Eighteen (18) months from the Effective Date of this Agreement. Extensions of these deadlines due to extenuating circumstances or uncontrollable delay may be granted by the Board of Directors of the TEDC at its sole discretion.

3.

This Agreement shall become enforceable upon the Effective Date and shall remain in effect for five (5) years, unless terminated or cancelled earlier (the "Term"). The Term may be extended through a written amendment to this Agreement executed by the Parties.

4.

The Company further covenants and agrees that the Company or any owner or leasee of the Improvements 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 under the law to be employed in that manner in the United States.

5.

In consideration of the Company's representations, promises, and covenants, TEDC agrees to reimburse the Company for the actual cost of the Infrastructure Improvements up to the amount of One Hundred Twenty-Two Thousand Seven Hundred and Twenty-Two Dollars (\$122,722), or an amount equal to ten (10) percent of actual costs if less than the sum stated above upon completion of construction and occupancy of each office/warehouse space. The TEDC agrees to reimburse the Company for such amount within thirty (30) days of receipt of a letter from the

Company requesting such payment and including: (a) certification of the cost of constructing the Infrastructure Improvements; (b) a copy of the City's occupancy permit for the improvements to the Property; (c) certification that the Infrastructure Improvements have been constructed in accordance with the approved plans and specifications; (d) an affidavit stating that all contractors and subcontractors providing work and/or materials in the construction of the Improvements have been paid and any and all liens and claims regarding such work have been released; and (e) Proof of payment to all vendors, contractors and subcontractors providing work and/or materials in the construction of the Improvements, proof of payment must include copies of canceled checks and/or credit card receipts and copies of paid invoices from all vendors, contractors and subcontractors.

6.

It is understood and agreed by the parties that, in the event of a default by the Company on any of its obligations under this Agreement, the Company shall reimburse the TEDC the full amount paid to the Company by the TEDC, with interest at the rate equal to the 90-day Treasury Bill plus $\frac{1}{2}\%$ per annum, within 120 days after the TEDC notifies the Company of the default. It is further understood and agreed by the parties that if the Company, or any owner or lessee of the Improvements, is convicted of a violation under 8 U.S.C. Section 1324a(f), the Company will reimburse the TEDC the full amount paid to the Company, with interest at the rate equal to the 90-day Treasury Bill plus $\frac{1}{2}\%$ per annum, within 120 days after the TEDC notifies the Company of the violation.

The Company shall also reimburse the TEDC for any and all reasonable attorney's fees and costs incurred by the TEDC as a result of any action required to obtain reimbursement of

such funds. Such reimbursement shall be due and payable thirty (30) days after the Company receives written notice of default.

7.

This Agreement shall inure to the benefit of and be binding upon the TEDC and the Company, and upon the Company's successors and assigns, lessees, affiliates, and subsidiaries, and shall remain in force whether the Company sells, leases, assigns, or in any other manner disposes of, either voluntarily or by operation of law, all or any part of the Property and the agreements herein contained shall be held to be covenants running with the Property for so long as this Agreement, or any extension thereof, remains in effect.

8.

Any notice provided or permitted to be given under this Agreement must be in writing and may be served by (i) depositing the same in the United States mail, addressed to the party to be notified, postage prepaid, registered or certified mail, return receipt requested; or (ii) by delivering the same in person to such party; or (iii) by overnight or messenger delivery service that retains regular records of delivery and receipt; or (iv) by facsimile; provided a copy of such notice is sent within one (1) day thereafter by another method provided above. The initial addresses of the parties for the purpose of notice under this Agreement shall be as follows:

If to City: Tomball Economic Development Corporation
401 W. Market Street
Tomball, Texas 77375
Attn: President, Board of Directors

If to Company: Hufsmith-Kohrville Business Park, LLC
16023 Rudgewick Lane
Spring, TX, 77379
Attn: William J. Lawrence, President

9.

This Agreement shall be performable and enforceable in Harris County, Texas, and shall be construed in accordance with the laws of the State of Texas.

10.

Except as otherwise provided in this Agreement, this Agreement shall be subject to change, amendment or modification only in writing, and by the signatures and mutual consent of the parties hereto.

11.

The failure of any party to insist in any one or more instances on the performance of any of the terms, covenants or conditions of this Agreement, or to exercise any of its rights, shall not be construed as a waiver or relinquishment of such term, covenant, or condition, or right with respect to further performance.

12.

This Agreement shall bind and benefit the respective Parties and their legal successors and shall not be assignable, in whole or in part, by any party without first obtaining written consent of the other party.

13.

In the event any one or more words, phrases, clauses, sentences, paragraphs, sections, or other parts of this Agreement, or the application thereof to any person, firm, corporation, or circumstance, shall be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, then the application, invalidity or unconstitutionality of such words, phrases, clauses, sentences, paragraphs, sections, or other parts of this Agreement shall be

deemed to be independent of and severable from the remainder of this Agreement, and the validity of the remaining parts of this Agreement shall not be affected thereby.

IN TESTIMONY OF WHICH, THIS AGREEMENT has been executed by the parties on this _____ day of _____ 2023 (the “Effective Date”).

Hufsmith-Kohrville Business Park, LLC

By: _____
Name: William J. Lawrence
Title: President

ATTEST:

By: _____
Name: _____
Title: _____

TOMBALL ECONOMIC DEVELOPMENT CORPORATION

By: _____
Name: Gretchen Fagan
Title: President, Board of Directors

ATTEST:

By: _____
Name: William E. Sumner Jr.
Title: Secretary, Board of Directors

ACKNOWLEDGMENT

THE STATE OF TEXAS §

COUNTY OF HARRIS §
 §

This instrument was acknowledged before me on the _____ day of _____
2023, by William J. Lawrence, President, Hufsmith-Kohrville Business Park, LLC for and on
behalf of said company.

Notary Public in and for the State of Texas

My Commission Expires: _____

(SEAL)

ACKNOWLEDGMENT

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the __10__ day of __January_____
2023, by Gretchen Fagan, President of the Board of Directors of the Tomball Economic
Development Corporation, for and on behalf of said Corporation.

Notary Public in and for the State of Texas

My Commission Expires: _____

(SEAL)

Exhibit A

Legal Description of Property

Lot 2 Block 1 – 0 Hufsmith-Kohrville Road. 3.7869 AC. Tract, Hufsmith 2978 replat No 1, Film
Code No. 693798

Exhibit B
Description of Infrastructure Improvements

Targeted Infrastructure	Cost
Sanitary Sewer	\$ 81,635
Storm Drainage	\$ 236,590
Water	\$ 88,280
Gas	\$ 5,000
Site Preparation	\$ 603,095
Telecommunications/Internet	\$ -
Electric	\$ 212,600
Total	\$ 1,227,200

Exhibit C

Description of Improvements

Four (4) pre-engineered metal office/warehouse buildings ranging in size from 7,500 sq. ft. to 16,500 sq. ft. with a shared common driveway on approximately 3.7869 acres of land generally located on the west side of Hufsmith-Kohrville and Werich Road.

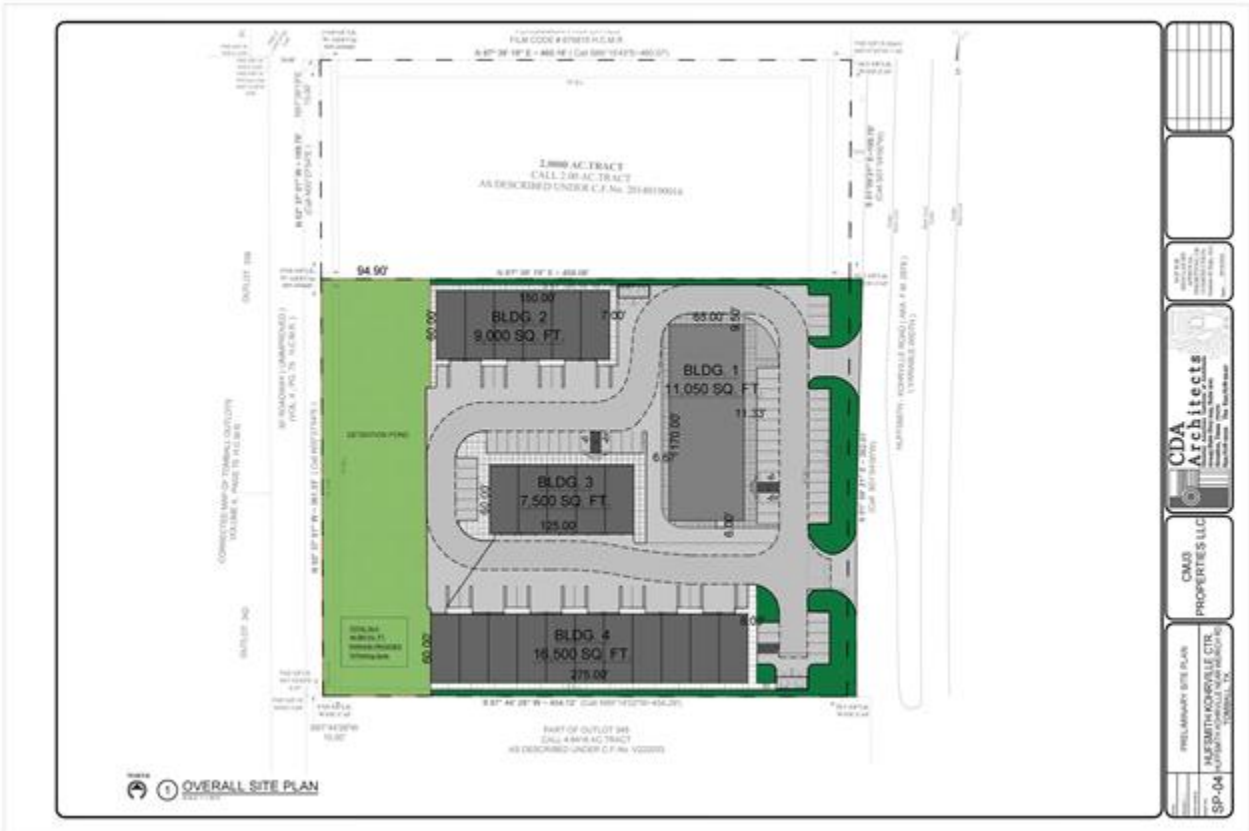


Exhibit C Continued
Description of Improvements



Gateway 359
Fulshear, TX

CDA Architects

Regular City Council Agenda Item Data Sheet

Meeting Date: February 6, 2023

Topic:

Approve, on Second Reading, Resolution No. 2023-06-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 Performance Agreement by and between the Corporation and Church Holdings, Inc. to make direct incentives to, or expenditures for, assistance with infrastructure costs required or suitable for the promotion of new or expanded business enterprise related to the development and construction of a multibuilding office/warehouse park to be located near the intersection of Hufsmith-Kohrville and Spell Rd. in the City of Tomball, Texas. The estimated amount of expenditures for such Project is an amount not to exceed \$426,639.00.

Background:

On January 10, 2023, the Tomball Economic Development Corporation (TEDC) Board of Directors unanimously approved, as a Project of the Corporation, a performance agreement with Church Holdings, Inc. for assistance with infrastructure costs related to the development and construction of a proposed multibuilding office/warehouse park to be located near the intersection of Hufsmith-Kohrville and Spell Rd. in the City of Tomball, Texas.

Targeted infrastructure projects that will promote or develop new or expanded business enterprises are authorized expenditures under the Development Corporation Act.

The Tomball City Council has final approval authority over all programs and expenditures of the TEDC. Final approval of this project requires the adoption of Resolution No. 2023-06-TEDC after two separate readings.

Origination: Tomball Economic Development Corporation Board of Directors

Recommendation: Approval of Resolution No. 2023-06-TEDC on First Reading

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: X No: _____ If yes, specify Account Number: #Project Grants

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

Signed _____

Staff Member-TEDC

Date _____

Approved by _____

Executive Director-TEDC

Date _____

RESOLUTION NO. 2023-06-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 PERFORMANCE AGREEMENT BY AND BETWEEN THE CORPORATION AND CHURCH HOLDINGS, INC., TO PROMOTE AND DEVELOP NEW OR EXPANDED BUSINESS ENTERPRISES; CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT; AND PROVIDING FOR SEVERABILITY.

* * * * *

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 Twenty Six Thousand Six Hundred and Thirty Nine Dollars (\$426,639.00), found by the Board to be required or suitable to promote a new business development by Church Holdings Inc.; 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 promotes new or expanded business enterprises and is in the best interests of the citizenry; 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 Twenty Six Thousand Six Hundred and Thirty Nine Dollars (\$426,639.00), to Church Holdings Inc., in accordance with an economic development agreement by and between the TEDC and Church Holdings, Inc., to promote and develop a new or expanded business enterprises, to be located near the intersection of Hufsmith-Kohrville and Spell Rd. 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; 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.

PASSED AND APPROVED on first reading this ____ day of _____,
202__.

PASSED, APPROVED, AND RESOLVED on second and final reading this ____ day of
_____, 202__.

Lori Klein Quinn, Mayor

ATTEST:

Doris Speer, City Secretary



TO: Honorable Mayor and City Council

FROM: Kelly Violette
Executive Director

MEETING DATE: February 6, 2023

SUBJECT: Church Holdings, Inc.

ITEM TYPE: Action

The Tomball Economic Development Corporation has received a request from Joshua Mueller, Chief Financial Officer of Church Holdings, Inc., for assistance with infrastructure costs related to the development of a proposed multibuilding office/warehouse park.

Church Holdings, Inc., proposes to develop approximately 6.93 acres located near the intersection of Hufsmith-Kohrville and Spell Rd. in Tomball. The development will consist of six steel office/warehouse buildings ranging in size from 10,500 square feet to 20,355 feet. The estimated capital investment for the project is over \$10.5 million.

The eligible infrastructure improvements include water, sanitary sewer, storm drainage, electric utilities and related site improvements totaling approximately \$4,263,689.00.

Targeted infrastructure that will promote the development and expansion of business enterprise is a permissible project as outlined in Texas Economic Development Legislation. If this project is approved, it will go to the Tomball City Council for final approval by resolution at two separate readings.

An economic impact analysis is included with the agreement to show the impact of this project on Tomball's economy. Per the analysis, the 5-year net benefit of this project on Tomball's economy is \$443,442.00.

If the agreement between the TEDC and Church Holdings, Inc. is approved as a Project of the Corporation, the grant funding amount will not exceed \$426,639.00, based on 10% of the actual expenditures for the eligible infrastructure improvements.

December 13, 2022

To the Tomball Economic Development Board of Directors:

Church Holdings, Inc. appreciates all the time and effort the TEDC team has spent supporting us on our Hufsmith-Khorville project. Church Holdings requests grant funding from the TEDC to complete the Tomball Commerce Center. We have enlisted the services of Venturi Engineering and Hammonds Construction to work alongside us to complete this project.

Located near the intersection of Hufsmith-Khorville and Spell Rd., Tomball Commerce Center is adjacent to The Tomball Business & Technology Park. The project will complement the Business & Technology Park allowing supporting and stand-alone businesses, both regional and national, to benefit from the great proximity to 249 and The Grand Parkway. The park will consist of 6 buildings built in 4 phases. Sizes will range from 10,500 square feet to 20,000+ square feet, with a new public right of way, city drainage, and city utilities delivered throughout the project.

Groundbreaking will commence in the first quarter of 2023 and be completed in the third quarter of 2023. The first development phase includes two 10,500-square-foot buildings with completion to coincide with the site construction. Phase two will add two additional buildings (+/- 11,250 sq. ft. to +/-13,500 sq. ft.) with two different 20,000+/- sq. ft. buildings to follow.

Church Holdings, inc. is seeking grant funding for approved installations at our project, including infrastructure, landscaping, and signage improvements. Working with our general contractor and engineer, our estimated budget for the Tomball Commerce Center is **\$10.5 million** (budgets for each section provided). The project cost is higher than we typically deal with due to the additional requirements and costs associated with the site improvement and infrastructure costs. The costliness is due to the public right of way we are bringing into the property, as well as public drainage and public utilities to better serve the property and Tomball business owners.

Based on market research from our brokerage firm and initial inquiries on the project, demand is high for this business park in Tomball. The center will complement the Tomball Business & Technology Park and the surrounding area with increased economic activity in the city limits of Tomball, TX. The commerce center fits businesses' needs and will bring economic benefits to Tomball and the surrounding area. We are in current discussions with several companies located out of the area and the state looking to relocate.

CHURCH HOLDINGS, INC.

2810 WASHINGTON DRIVE

HOUSTON, TX 77038

(832) 429-4526

This letter contains project plans and supporting documents submitted through the TEDC web portal. If any further information is needed on the Tomball Commerce Center, don't hesitate to contact me at (713) 614-7694 or JoshuaMueller@ChurchHoldings.com, and I will respond promptly. I appreciate your consideration.

We look forward to working with TEDC to deliver a significant development that will benefit Tomball and its residents.

Sincerely,

A handwritten signature in blue ink, appearing to read 'J. Mueller', with a long horizontal flourish extending to the right.

Joshua C. Mueller
Church Holdings, Inc
CFO

Scenario 1 with Client Data

Project Type: New Construction - Industrial
Prepared By: Tomball EDC

Purpose & Limitations

This report presents the results of an economic and fiscal analysis undertaken by Tomball EDC using Impact DashBoard, a customized web application developed by Impact DataSource, LLC.

Impact DashBoard utilizes estimates, assumptions, and other information developed by Impact DataSource from its independent research effort detailed in a custom user guide prepared for Tomball EDC.

This report, generated by the Impact DashBoard application, has been prepared by Tomball EDC to assist economic development stakeholders in making an evaluation of the economic and fiscal impact of business activity in the community. This report does not purport to contain all of the information that may be needed to conclude such an evaluation. This report is based on a variety of assumptions and contains forward-looking statements concerning the results of operations of the subject firm. Tomball EDC made reasonable efforts to ensure that the project-specific data entered into Impact DashBoard reflects realistic estimates of future activity. Estimates of future activity involve known and unknown risks and uncertainties that could cause actual results, performance, or events to differ materially from those expressed or implied in this report.

Tomball EDC and Impact DataSource make no representation or warranty as to the accuracy or completeness of the information contained herein, and expressly disclaim any and all liability based on or relating to any information contained in, or errors or omissions from, this information or based on or relating to the use of this information.

Introduction

This report presents the results of an economic impact analysis performed using Impact DashBoard, a model developed by Impact DataSource. The report estimates the impact that a potential project will have on the local economy and estimates the costs and benefits for local taxing districts over a 5-year period.

Economic Impact Overview

The table below summarizes the economic impact of the project over the first 5 years in terms of job creation, salaries paid to workers, and taxable sales.

SUMMARY OF ECONOMIC IMPACT OVER 5 YEARS IN CITY OF TOMBALL			
IMPACT	DIRECT	SPIN-OFF	TOTAL
Jobs	108.0	26.2	134.2
Annual Salaries/Wages at Full Ops (Yr 4)	\$7,103,058	\$1,955,605	\$9,058,663
Salaries/Wages over 5 Years	\$24,956,338	\$6,870,948	\$31,827,286
Taxable Sales/Purchases in City of Tomball	\$8,533,085	\$85,887	\$8,618,971

Totals may not sum due to rounding

The Project may result in new residents moving to the community and potentially new residential properties being constructed as summarized below.

SUMMARY OF POPULATION IMPACT OVER 5 YEARS IN CITY OF TOMBALL			
IMPACT	DIRECT	SPIN-OFF	TOTAL
Workers who will move to City of Tomball	2.9	0.7	3.6
New residents in City of Tomball	7.6	1.8	9.4
New residential properties constructed in City of Tomball	0.4	0.1	0.5
New students to attend local school district	1.5	0.4	1.8

Totals may not sum due to rounding

The new taxable property to be supported by the Project over the next 5 years is summarized in the following table.

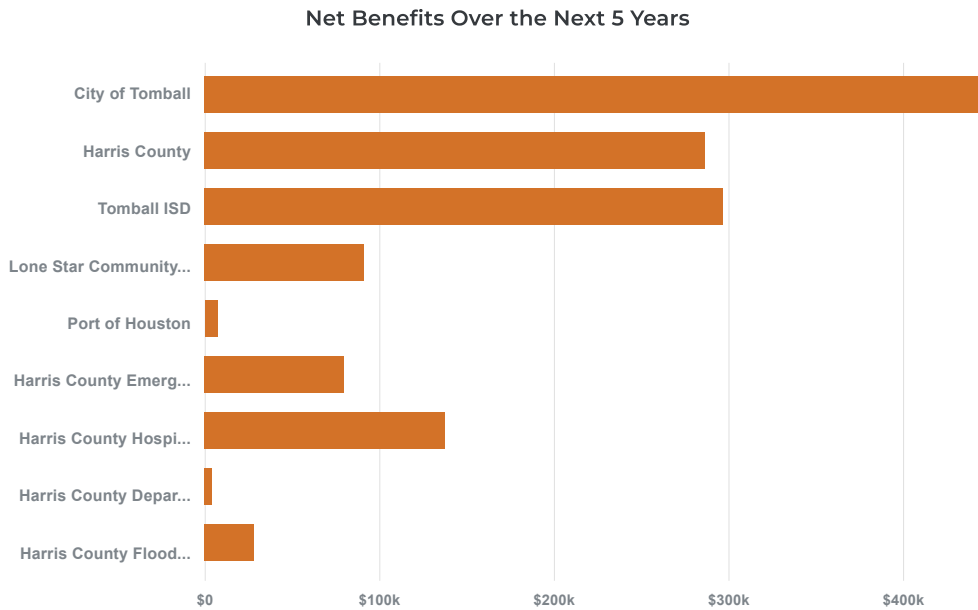
SUMMARY OF TAXABLE PROPERTY OVER THE FIRST 5 YEARS IN CITY OF TOMBALL							
YR.	NEW RESIDENTIAL PROPERTY	LAND	BUILDINGS...	FF&E	INVENTORIES	NON-RESIDENTIAL PROPERTY	TOTAL PROPERTY
1	\$29,714	\$868,585	\$2,611,594	\$250,000	\$3,000,000	\$6,730,179	\$6,759,893
2	\$62,572	\$885,957	\$5,185,532	\$475,000	\$6,272,700	\$12,819,188	\$12,881,761
3	\$91,747	\$903,676	\$7,426,716	\$550,000	\$8,520,881	\$17,401,272	\$17,493,019
4	\$122,063	\$921,749	\$9,684,498	\$612,500	\$10,836,507	\$22,055,254	Page 52
5	\$124,504	\$940,184	\$9,878,188	\$537,500	\$11,161,603	\$22,517,475	

Fiscal Impact Overview

The Project will generate additional benefits and costs, a summary of which is provided below. The source of specific benefits and costs are provided in greater detail for each taxing district on subsequent pages.

FISCAL NET BENEFITS OVER THE NEXT 5 YEARS				
	BENEFITS	COSTS	NET BENEFITS	PRESENT VALUE*
City of Tomball	\$827,683	(\$384,241)	\$443,442	\$379,500
Harris County	\$351,771	(\$64,908)	\$286,863	\$242,359
Tomball ISD	\$1,059,506	(\$762,522)	\$296,984	\$250,816
Lone Star Community College	\$91,530	\$0	\$91,530	\$77,297
Port of Houston	\$7,404	\$0	\$7,404	\$6,253
Harris County Emergency Services District 8	\$80,021	\$0	\$80,021	\$67,578
Harris County Hospital District	\$137,729	\$0	\$137,729	\$116,311
Harris County Department of Education	\$4,237	\$0	\$4,237	\$3,578
Harris County Flood Control	\$28,436	\$0	\$28,436	\$24,014
Total	\$2,588,316	(\$1,211,672)	\$1,376,645	\$1,167,705

*The Present Value of Net Benefits expresses the future stream of net benefits received over several years as a single value in today's dollars. Today's dollar and a dollar to be received at differing times in the future are not comparable because of the time value of money. The time value of money is the interest rate or each taxing entity's discount rate. This analysis uses a discount rate of 5.0% to make the dollars comparable.



Public Support Overview

A summary of the total Public Support modeled in this analysis is shown below.

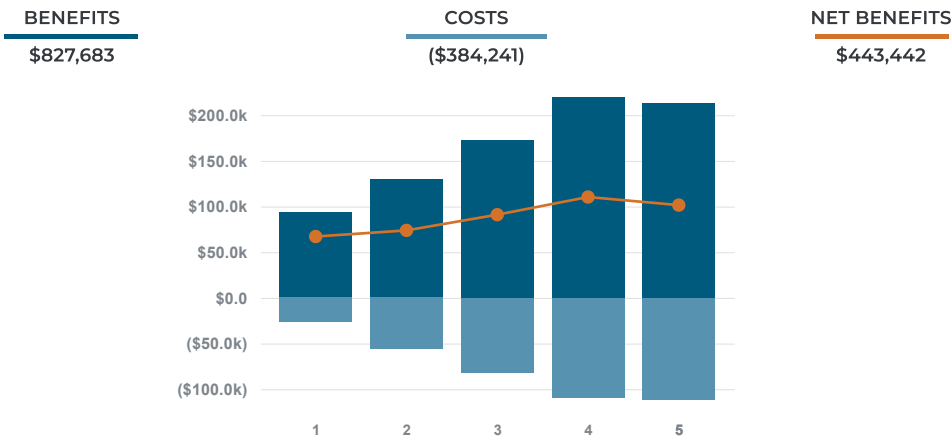
VALUE OF PUBLIC SUPPORT UNDER CONSIDERATION		
	NON-TAX INCENTIVE	TOTAL
City of Tomball	\$426,369	\$426,369
Harris County	\$0	\$0
Tomball ISD	\$0	\$0
Lone Star Community College	\$0	\$0
Port of Houston	\$0	\$0
Harris County Emergency Services District 8	\$0	\$0
Harris County Hospital District	\$0	\$0
Harris County Department of Education	\$0	\$0
Harris County Flood Control	\$0	\$0
Total	\$426,369	\$426,369

City of Tomball Fiscal Impact

The table below displays the estimated additional benefits, costs, and net benefits to be received by City of Tomball over the next 5 years of the Project.

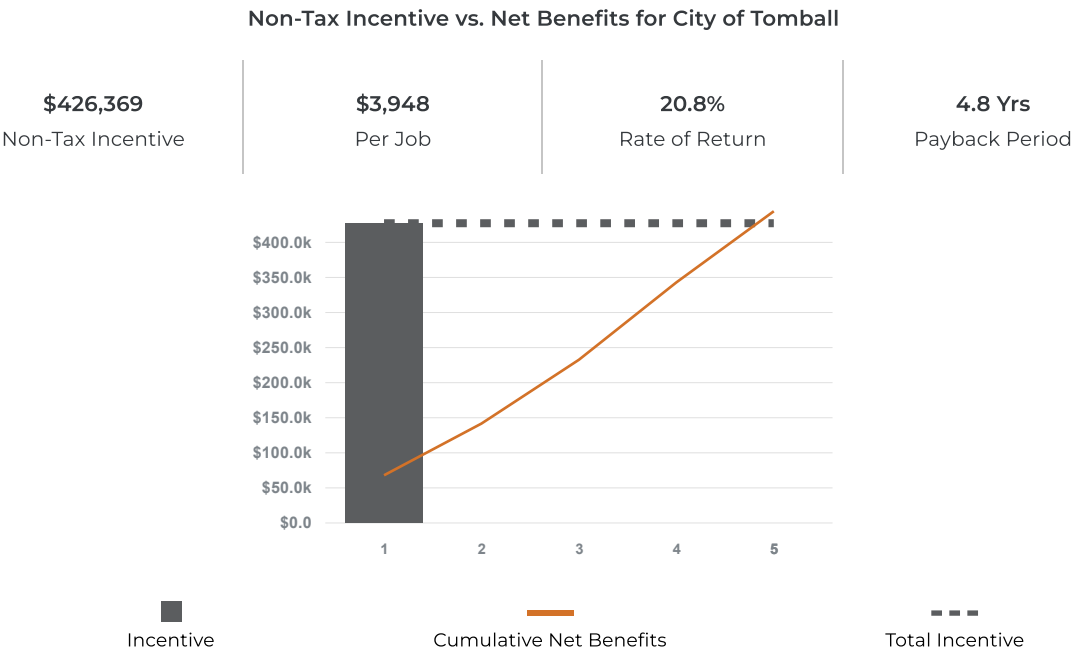
NET BENEFITS OVER 5 YEARS: CITY OF TOMBALL			
BENEFITS	PROJECT	HOUSEHOLDS	TOTAL
Sales Taxes	\$164,423	\$7,957	\$172,379
Real Property Taxes	\$131,024	\$0	\$131,024
FF&E Property Taxes	\$8,083	\$0	\$8,083
Inventory Property Taxes	\$132,641	\$0	\$132,641
New Residential Property Taxes	\$0	\$1,435	\$1,435
Hotel Occupancy Taxes	\$0	\$0	\$0
Building Permits and Fees	\$22,000	\$0	\$22,000
Utility Revenue	\$251,481	\$21,683	\$273,164
Utility Franchise Fees	\$15,768	\$1,356	\$17,124
Miscellaneous Taxes and User Fees	\$64,285	\$5,546	\$69,831
Benefits Subtotal	\$789,706	\$37,977	\$827,683
COSTS	PROJECT	HOUSEHOLDS	TOTAL
Cost of Government Services	(\$97,439)	(\$8,380)	(\$105,819)
Cost of Utility Services	(\$256,333)	(\$22,089)	(\$278,422)
Costs Subtotal	(\$353,771)	(\$30,470)	(\$384,241)
Net Benefits	\$435,935	\$7,507	\$443,442

Annual Fiscal Net Benefits for City of Tomball



Non-Tax Incentives

The graph below depicts the non-tax incentives modeled in this analysis versus the cumulative net benefits to City of Tomball. The intersection indicates the length of time until the incentives are paid back.

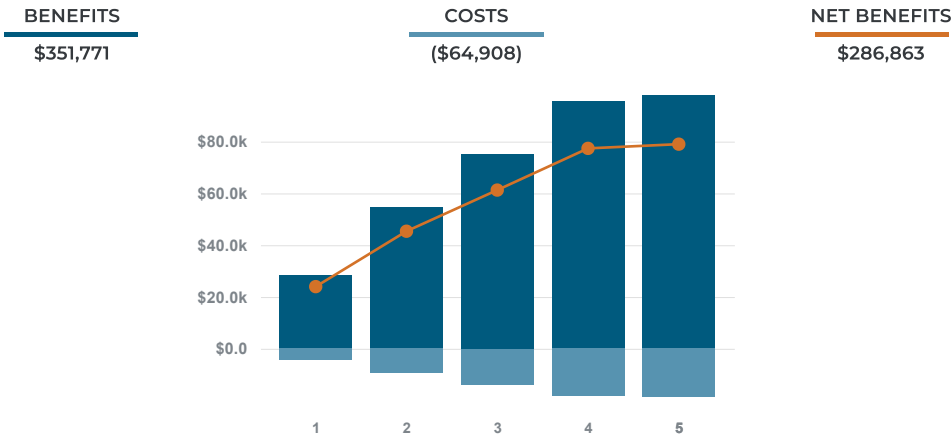


Harris County Fiscal Impact

The table below displays the estimated additional benefits, costs, and net benefits to be received by Harris County over the next 5 years of the Project.

NET BENEFITS OVER 5 YEARS: HARRIS COUNTY			
BENEFITS	PROJECT	HOUSEHOLDS	TOTAL
Real Property Taxes	\$148,159	\$0	\$148,159
FF&E Property Taxes	\$9,141	\$0	\$9,141
Inventory Property Taxes	\$149,987	\$0	\$149,987
New Residential Property Taxes	\$0	\$12,756	\$12,756
Hotel Occupancy Taxes	\$0	\$0	\$0
Miscellaneous Taxes and User Fees	\$16,577	\$15,152	\$31,729
Benefits Subtotal	\$323,863	\$27,908	\$351,771
COSTS	PROJECT	HOUSEHOLDS	TOTAL
Cost of Government Services	(\$33,962)	(\$30,946)	(\$64,908)
Costs Subtotal	(\$33,962)	(\$30,946)	(\$64,908)
Net Benefits	\$289,901	(\$3,038)	\$286,863

Annual Fiscal Net Benefits for Harris County

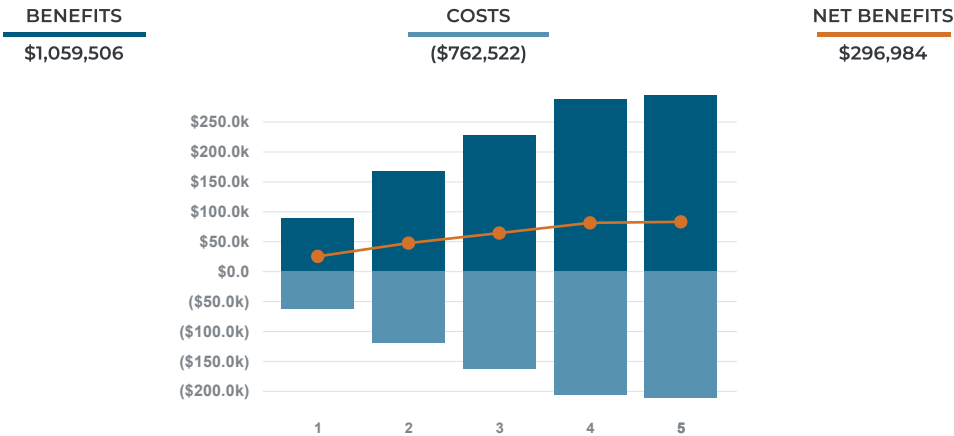


Tomball ISD Fiscal Impact

The table below displays the estimated additional benefits, costs, and net benefits to be received by Tomball ISD over the next 5 years of the Project.

NET BENEFITS OVER 5 YEARS: TOMBALL ISD			
BENEFITS	PROJECT	HOUSEHOLDS	TOTAL
Real Property Taxes	\$491,333	\$0	\$491,333
FF&E Property Taxes	\$30,313	\$0	\$30,313
Inventory Property Taxes	\$497,396	\$0	\$497,396
New Residential Property Taxes	\$0	\$17,883	\$17,883
Addtl. State & Federal School Funding	\$0	\$22,581	\$22,581
Benefits Subtotal	\$1,019,042	\$40,464	\$1,059,506
COSTS	PROJECT	HOUSEHOLDS	TOTAL
Cost to Educate New Students	\$0	(\$20,084)	(\$20,084)
Reduction in State School Funding	(\$729,634)	(\$12,804)	(\$742,438)
Costs Subtotal	(\$729,634)	(\$32,888)	(\$762,522)
Net Benefits	\$289,408	\$7,576	\$296,984

Annual Fiscal Net Benefits for Tomball ISD

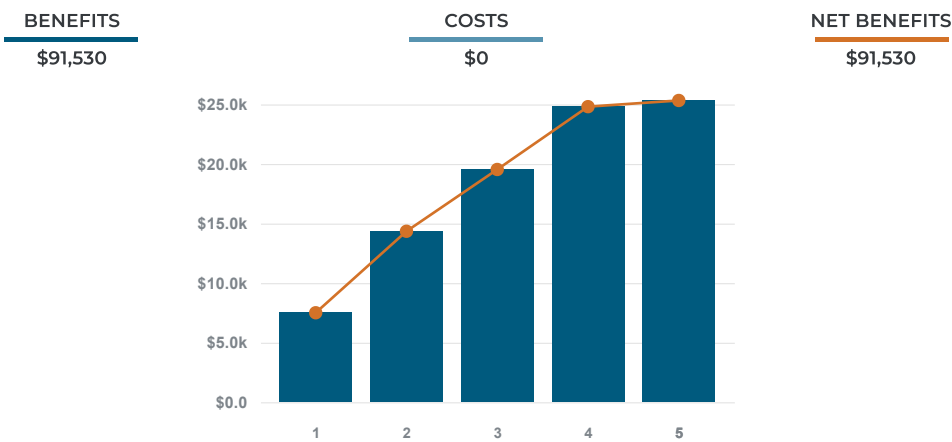


Lone Star Community College Fiscal Impact

The table below displays the estimated additional benefits, costs, and net benefits to be received by Lone Star Community College over the next 5 years of the Project.

NET BENEFITS OVER 5 YEARS: LONE STAR COMMUNITY COLLEGE			
BENEFITS	PROJECT	HOUSEHOLDS	TOTAL
Real Property Taxes	\$42,373	\$0	\$42,373
FF&E Property Taxes	\$2,614	\$0	\$2,614
Inventory Property Taxes	\$42,895	\$0	\$42,895
New Residential Property Taxes	\$0	\$3,648	\$3,648
Benefits Subtotal	\$87,882	\$3,648	\$91,530
COSTS	PROJECT	HOUSEHOLDS	TOTAL
None Estimated	\$0	\$0	\$0
Costs Subtotal	\$0	\$0	\$0
Net Benefits	\$87,882	\$3,648	\$91,530

Annual Fiscal Net Benefits for Lone Star Community College

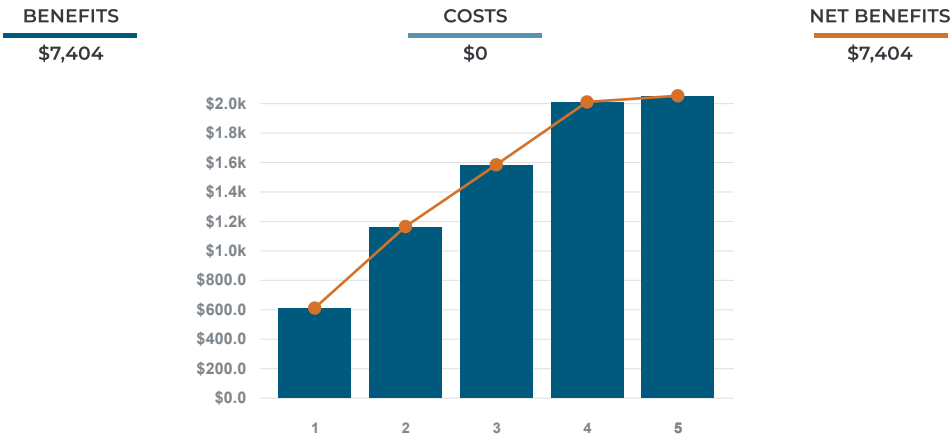


Port of Houston Fiscal Impact

The table below displays the estimated additional benefits, costs, and net benefits to be received by Port of Houston over the next 5 years of the Project.

NET BENEFITS OVER 5 YEARS: PORT OF HOUSTON			
BENEFITS	PROJECT	HOUSEHOLDS	TOTAL
Real Property Taxes	\$3,428	\$0	\$3,428
FF&E Property Taxes	\$211	\$0	\$211
Inventory Property Taxes	\$3,470	\$0	\$3,470
New Residential Property Taxes	\$0	\$295	\$295
Benefits Subtotal	\$7,109	\$295	\$7,404
COSTS	PROJECT	HOUSEHOLDS	TOTAL
None Estimated	\$0	\$0	\$0
Costs Subtotal	\$0	\$0	\$0
Net Benefits	\$7,109	\$295	\$7,404

Annual Fiscal Net Benefits for Port of Houston

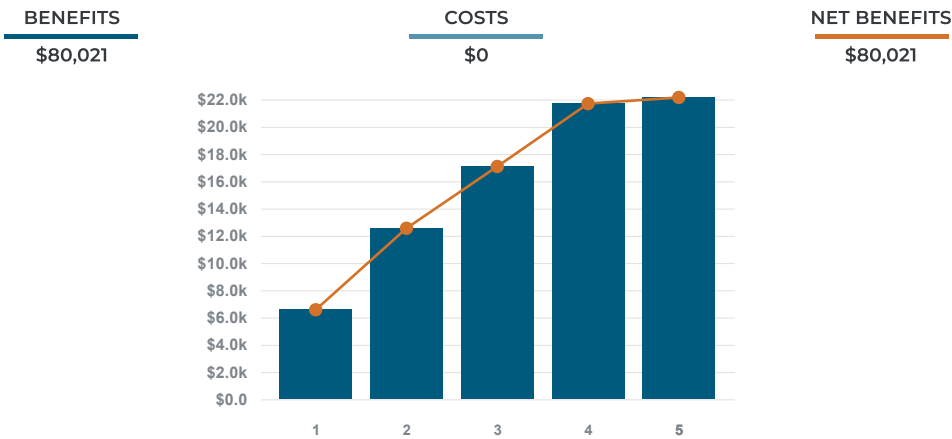


Harris County Emergency Services District 8 Fiscal Impact

The table below displays the estimated additional benefits, costs, and net benefits to be received by Harris County Emergency Services District 8 over the next 5 years of the Project.

NET BENEFITS OVER 5 YEARS: HARRIS COUNTY EMERGENCY SERVICES DISTRICT 8			
BENEFITS	PROJECT	HOUSEHOLDS	TOTAL
Real Property Taxes	\$37,045	\$0	\$37,045
FF&E Property Taxes	\$2,285	\$0	\$2,285
Inventory Property Taxes	\$37,502	\$0	\$37,502
New Residential Property Taxes	\$0	\$3,189	\$3,189
Benefits Subtotal	\$76,832	\$3,189	\$80,021
COSTS	PROJECT	HOUSEHOLDS	TOTAL
None Estimated	\$0	\$0	\$0
Costs Subtotal	\$0	\$0	\$0
Net Benefits	\$76,832	\$3,189	\$80,021

Annual Fiscal Net Benefits for Harris County Emergency Services District 8

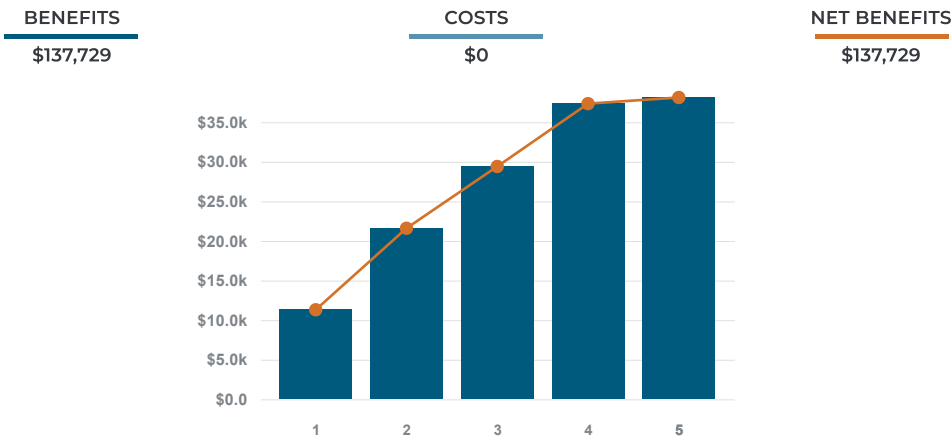


Harris County Hospital District Fiscal Impact

The table below displays the estimated additional benefits, costs, and net benefits to be received by Harris County Hospital District over the next 5 years of the Project.

NET BENEFITS OVER 5 YEARS: HARRIS COUNTY HOSPITAL DISTRICT			
BENEFITS	PROJECT	HOUSEHOLDS	TOTAL
Real Property Taxes	\$63,759	\$0	\$63,759
FF&E Property Taxes	\$3,934	\$0	\$3,934
Inventory Property Taxes	\$64,546	\$0	\$64,546
New Residential Property Taxes	\$0	\$5,490	\$5,490
Benefits Subtotal	\$132,239	\$5,490	\$137,729
COSTS	PROJECT	HOUSEHOLDS	TOTAL
None Estimated	\$0	\$0	\$0
Costs Subtotal	\$0	\$0	\$0
Net Benefits	\$132,239	\$5,490	\$137,729

Annual Fiscal Net Benefits for Harris County Hospital District

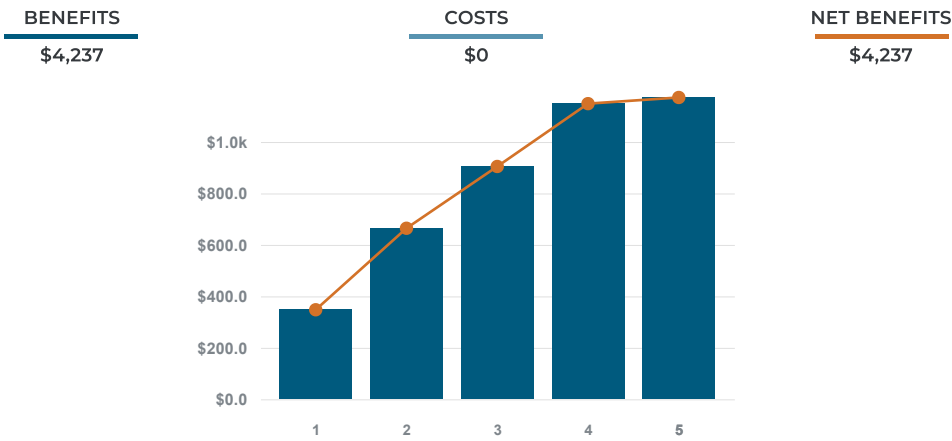


Harris County Department of Education Fiscal Impact

The table below displays the estimated additional benefits, costs, and net benefits to be received by Harris County Department of Education over the next 5 years of the Project.

NET BENEFITS OVER 5 YEARS: HARRIS COUNTY DEPARTMENT OF EDUCATION			
BENEFITS	PROJECT	HOUSEHOLDS	TOTAL
Real Property Taxes	\$1,961	\$0	\$1,961
FF&E Property Taxes	\$121	\$0	\$121
Inventory Property Taxes	\$1,986	\$0	\$1,986
New Residential Property Taxes	\$0	\$169	\$169
Benefits Subtotal	\$4,068	\$169	\$4,237
COSTS	PROJECT	HOUSEHOLDS	TOTAL
None Estimated	\$0	\$0	\$0
Costs Subtotal	\$0	\$0	\$0
Net Benefits	\$4,068	\$169	\$4,237

Annual Fiscal Net Benefits for Harris County Department of Education

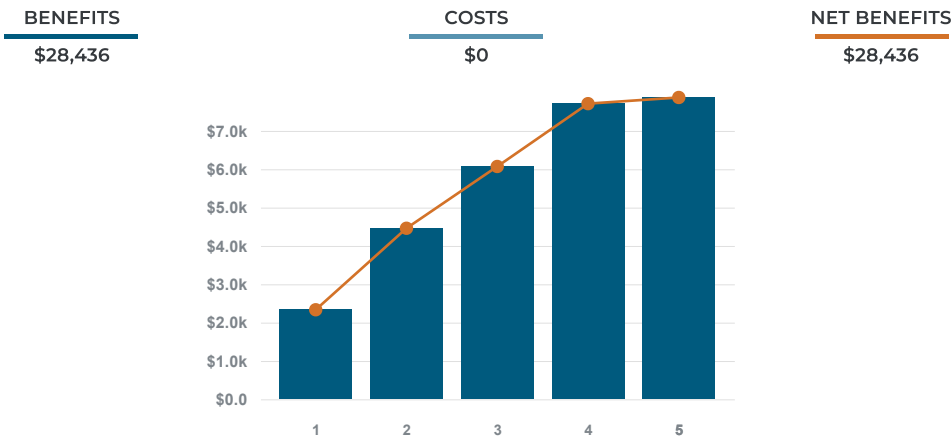


Harris County Flood Control Fiscal Impact

The table below displays the estimated additional benefits, costs, and net benefits to be received by Harris County Flood Control over the next 5 years of the Project.

NET BENEFITS OVER 5 YEARS: HARRIS COUNTY FLOOD CONTROL			
BENEFITS	PROJECT	HOUSEHOLDS	TOTAL
Real Property Taxes	\$13,164	\$0	\$13,164
FF&E Property Taxes	\$812	\$0	\$812
Inventory Property Taxes	\$13,326	\$0	\$13,326
New Residential Property Taxes	\$0	\$1,133	\$1,133
Benefits Subtotal	\$27,302	\$1,133	\$28,436
COSTS	PROJECT	HOUSEHOLDS	TOTAL
None Estimated	\$0	\$0	\$0
Costs Subtotal	\$0	\$0	\$0
Net Benefits	\$27,302	\$1,133	\$28,436

Annual Fiscal Net Benefits for Harris County Flood Control



Overview of Methodology

The Impact DashBoard model combines project-specific attributes with community data, tax rates, and assumptions to estimate the economic impact of the Project and the fiscal impact for local taxing districts over a 5-year period.

The economic impact as calculated in this report can be categorized into two main types of impacts. First, the direct economic impacts are the jobs and payroll directly created by the Project. Second, this economic impact analysis calculates the spin-off or indirect and induced impacts that result from the Project. Indirect jobs and salaries are created in new or existing area firms, such as maintenance companies and service firms, that may supply goods and services for the Project. In addition, induced jobs and salaries are created in new or existing local businesses, such as retail stores, gas stations, banks, restaurants, and service companies that may supply goods and services to new workers and their families.

The economic impact estimates in this report are based on the Regional Input-Output Modeling System (RIMS II), a widely used regional input-output model developed by the U. S. Department of Commerce, Bureau of Economic Analysis. The RIMS II model is a standard tool used to estimate regional economic impacts. The economic impacts estimated using the RIMS II model are generally recognized as reasonable and plausible assuming the data input into the model is accurate or based on reasonable assumptions. Impact DataSource utilizes adjusted county-level multipliers to estimate the impact occurring at the sub-county level.

Two types of regional economic multipliers were used in this analysis: an employment multiplier and an earnings multiplier. An employment multiplier was used to estimate the number of indirect and induced jobs created or supported in the area. An earnings multiplier was used to estimate the amount of salaries to be paid to workers in these new indirect and induced jobs. The employment multiplier shows the estimated number of total jobs created for each direct job. The earnings multiplier shows the estimated amount of total salaries paid to these workers for every dollar paid to a direct worker. The multipliers used in this analysis are listed below:

444190 OTHER BUILDING MATERIAL DEALERS		CITY OF TOMBALL
Employment Multiplier	(Type II Direct Effect)	1.2422
Earnings Multiplier	(Type II Direct Effect)	1.2753

Most of the revenues estimated in this study result from calculations relying on (1) attributes of the Project, (2) assumptions to derive the value of associated taxable property or sales, and (3) local tax rates. In some cases, revenues are estimated on a per new household, per new worker, or per new school student basis.

The company or Project developer was not asked, nor could reasonably provide data for calculating some other revenues. For example, while the city will likely receive revenues from fines paid on speeding tickets given to new workers, the company does not know the propensity of its workers to speed. Therefore, some revenues are calculated using an average revenue approach.

This approach uses relies on two assumptions:

1. The taxing entity has two general revenue sources: revenues from residents and revenues from businesses.
2. The taxing entity will collect (a) about the same amount of miscellaneous taxes and user fees from each new household that results from the Project as it currently collects from existing households on average, and (b) the same amount of miscellaneous taxes and user fees from the new business (on a per worker basis) will be collected as it collects from existing businesses.

In the case of the school district, some additional state and federal revenues are estimated on a per new school student basis consistent with historical funding levels.

Additionally, this analysis sought to estimate the additional expenditures faced by local jurisdictions to provide services to new households and new businesses. A marginal cost approach was used to calculate these additional costs.

This approach relies on two assumptions:

1. The taxing entity spends money on services for two general groups: revenues from residents and revenues from businesses.
2. The taxing entity will spend slightly less than its current average cost to provide local government services (police, fire, EMS, etc.) to (a) new residents and (b) businesses on a per worker basis.

In the case of the school district, the marginal cost to educate new students was estimated based on a portion of the school's current expenditures per student and applied to the headcount of new school students resulting from the Project.

Additionally, this analysis seeks to calculate the impact on the school district's finances from the Project by generally, and at a summary level, mimicking the district's school funding formula.

According to the Texas Education Agency, any property added to local tax rolls, and the local taxes that this generates, reduces the amount of state funding equivalent to local taxes collected for maintenance and operations. The school district retains local taxes received for debt services and the corresponding state funding is not reduced. However, according to the Texas Education Agency, the school district will receive state aid for each new child that moves to the District. The additional revenues for the school district are calculated in this analysis.

About Impact DataSource

Established in 1993, Impact DataSource is an Austin, Texas-based economic consulting firm. Impact DataSource provides high-quality economic research, specializing in economic and fiscal impact analyses. The company is highly focused on supporting economic development professionals and organizations through its consulting services and software. Impact DataSource has conducted thousands of economic impact analyses of new businesses, retention and expansion projects, developments, and activities in all industry groups throughout the U.S.

For more information on Impact DataSource, LLC and our product Impact DashBoard, please visit our website www.impactdatasource.com

AGREEMENT

THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF HARRIS §

This Agreement (the “Agreement”) is made and entered into by and between the Tomball Economic Development Corporation, an industrial development corporation created pursuant to Tex. Rev. Civ. Stat. Ann. Art. 5190.6, Section 4B, located in Harris County, Texas (the “TEDC”), and **Church Holdings, Inc.** (the “Company”), 2810 Washington Drive, Houston, TX, 77038.

WITNESSETH:

WHEREAS, it is the established policy of the TEDC to adopt such reasonable measures from time-to-time as are permitted by law to endeavor to attract industry, create and retain primary jobs, expand the growth of the City of Tomball (the “City”), and thereby enhance the economic stability and growth of the City; and

WHEREAS, the Company proposes to develop a 6.93-acre tract of land within the City, located at LT 2 BLK 1 Tomball South Commercial at 0 Hufsmith – Kohrville Rd., Tomball, TX 77375 (the “Property”), more particularly described in Exhibit “A,” attached hereto and made a part hereof; and

WHEREAS, the Company intends to make an investment of over Ten Million Dollars (\$10,000,000) in land, buildings, equipment, targeted infrastructure, and other improvements necessary to develop six (6) steel office/warehouse buildings ranging in size from 10,500 square feet to 20,355 square feet (the “Project”); and

WHEREAS, the Company also proposes to create One Hundred and Eight (108) new full-time employment positions in Tomball in conjunction with the Improvements on the Property; and

WHEREAS, the TEDC agrees to provide to the Company the sum of up to Four Hundred Twenty-Six Thousand Three Hundred and Sixty-Nine Dollars (\$426,639), or an amount equal to ten (10) percent of actual costs if less than the sum stated above, to assist in the construction of targeted infrastructure improvements (the “Infrastructure Improvements”), identified and described in Exhibit “B,” attached hereto and made a part hereof; and

WHEREAS, the Company has agreed, in exchange and as consideration for the funding, to satisfy and comply with certain terms and conditions; and

NOW, THEREFORE, in consideration of the premises and the mutual benefits and obligations set forth herein, including the recitals set forth above, the TEDC and the Company agree as follows:

1.

The Company hereby covenants and agrees that it will construct and maintain on the Property six (6) steel office/warehouse buildings (the “Improvements”) identified and depicted on Exhibit “C,” attached hereto and made a part hereof. In conjunction with the development of the Property, the Company further agrees to construct the Infrastructure Improvements contemplated by this Agreement, in accordance with the requirements of the ordinances of the City and the plans and specifications approved by the City. The Company further represents and agrees that it will certify the costs of the construction of such Infrastructure Improvements to the TEDC prior to construction.

2.

The construction of the Improvements to the Property, including construction of the Infrastructure Improvements shall be completed, and all necessary permits from the City shall be obtained, within Eighteen (18) months from the Effective Date of this Agreement. Extensions of these deadlines due to extenuating circumstances or uncontrollable delay may be granted by the Board of Directors of the TEDC at its sole discretion.

3.

This Agreement shall become enforceable upon the Effective Date and shall remain in effect for five (5) years, unless terminated or cancelled earlier (the "Term"). The Term may be extended through a written amendment to this Agreement executed by the Parties.

4.

The Company further covenants and agrees that the Company or any owner or leasee of the Improvements 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 under the law to be employed in that manner in the United States.

5.

In consideration of the Company's representations, promises, and covenants, TEDC agrees to reimburse the Company for the actual cost of the Infrastructure Improvements up to the amount of Four Hundred Twenty-Six Thousand Three Hundred and Sixty-Nine Dollars (\$426,369), or an amount equal to ten (10) percent of actual costs if less than the sum stated above upon completion of construction and occupancy of each office/warehouse space. The TEDC agrees to reimburse the Company for such amount within thirty (30) days of receipt of a letter from the

Company requesting such payment and including: (a) certification of the cost of constructing the Infrastructure Improvements; (b) a copy of the City's occupancy permit for the improvements to the Property; (c) certification that the Infrastructure Improvements have been constructed in accordance with the approved plans and specifications; (d) an affidavit stating that all contractors and subcontractors providing work and/or materials in the construction of the Improvements have been paid and any and all liens and claims regarding such work have been released; and (e) Proof of payment to all vendors, contractors and subcontractors providing work and/or materials in the construction of the Improvements, proof of payment must include copies of canceled checks and/or credit card receipts and copies of paid invoices from all vendors, contractors and subcontractors.

6.

It is understood and agreed by the parties that, in the event of a default by the Company on any of its obligations under this Agreement, the Company shall reimburse the TEDC the full amount paid to the Company by the TEDC, with interest at the rate equal to the 90-day Treasury Bill plus $\frac{1}{2}\%$ per annum, within 120 days after the TEDC notifies the Company of the default. It is further understood and agreed by the parties that if the Company, or any owner or lessee of the Improvements, is convicted of a violation under 8 U.S.C. Section 1324a(f), the Company will reimburse the TEDC the full amount paid to the Company, with interest at the rate equal to the 90-day Treasury Bill plus $\frac{1}{2}\%$ per annum, within 120 days after the TEDC notifies the Company of the violation.

The Company shall also reimburse the TEDC for any and all reasonable attorney's fees and costs incurred by the TEDC as a result of any action required to obtain reimbursement of

such funds. Such reimbursement shall be due and payable thirty (30) days after the Company receives written notice of default.

7.

This Agreement shall inure to the benefit of and be binding upon the TEDC and the Company, and upon the Company's successors and assigns, lessees, affiliates, and subsidiaries, and shall remain in force whether the Company sells, leases, assigns, or in any other manner disposes of, either voluntarily or by operation of law, all or any part of the Property and the agreements herein contained shall be held to be covenants running with the Property for so long as this Agreement, or any extension thereof, remains in effect.

8.

Any notice provided or permitted to be given under this Agreement must be in writing and may be served by (i) depositing the same in the United States mail, addressed to the party to be notified, postage prepaid, registered or certified mail, return receipt requested; or (ii) by delivering the same in person to such party; or (iii) by overnight or messenger delivery service that retains regular records of delivery and receipt; or (iv) by facsimile; provided a copy of such notice is sent within one (1) day thereafter by another method provided above. The initial addresses of the parties for the purpose of notice under this Agreement shall be as follows:

If to City: Tomball Economic Development Corporation
401 W. Market Street
Tomball, Texas 77375
Attn: President, Board of Directors

If to Company: Church Holdings, Inc.
P.O. Box 12029
Spring, TX, 77391-2029
Attn: Josh Mueller, Chief Financial Officer

9.

This Agreement shall be performable and enforceable in Harris County, Texas, and shall be construed in accordance with the laws of the State of Texas.

10.

Except as otherwise provided in this Agreement, this Agreement shall be subject to change, amendment or modification only in writing, and by the signatures and mutual consent of the parties hereto.

11.

The failure of any party to insist in any one or more instances on the performance of any of the terms, covenants or conditions of this Agreement, or to exercise any of its rights, shall not be construed as a waiver or relinquishment of such term, covenant, or condition, or right with respect to further performance.

12.

This Agreement shall bind and benefit the respective Parties and their legal successors and shall not be assignable, in whole or in part, by any party without first obtaining written consent of the other party.

13.

In the event any one or more words, phrases, clauses, sentences, paragraphs, sections, or other parts of this Agreement, or the application thereof to any person, firm, corporation, or circumstance, shall be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, then the application, invalidity or unconstitutionality of such words, phrases, clauses, sentences, paragraphs, sections, or other parts of this Agreement shall be

deemed to be independent of and severable from the remainder of this Agreement, and the validity of the remaining parts of this Agreement shall not be affected thereby.

IN TESTIMONY OF WHICH, THIS AGREEMENT has been executed by the parties on this _____ day of _____ 2023 (the “Effective Date”).

Church Holdings, Inc.

By: _____
Name: Joshua Mueller
Title: Chief Financial Officer

ATTEST:

By: _____
Name: _____
Title: _____

TOMBALL ECONOMIC DEVELOPMENT CORPORATION

By: _____
Name: Gretchen Fagan
Title: President, Board of Directors

ATTEST:

By: _____
Name: William E. Sumner Jr.
Title: Secretary, Board of Directors

ACKNOWLEDGMENT

THE STATE OF TEXAS §

COUNTY OF HARRIS §
 §

This instrument was acknowledged before me on the ____ day of _____
2023, by Joshua Mueller, Chief Financial Officer, Church Holdings, Inc. for and on behalf of
said company.

Notary Public in and for the State of Texas

My Commission Expires: _____

(SEAL)

ACKNOWLEDGMENT

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the __10_ day of _January_____
2023, by Gretchen Fagan, President of the Board of Directors of the Tomball Economic
Development Corporation, for and on behalf of said Corporation.

Notary Public in and for the State of Texas

My Commission Expires: _____

(SEAL)

Exhibit A
Legal Description of Property

LT2 BLK 1 Tomball South Commercial – 0 Hufsmith – Kohrville Rd., Tomball, TX 77375

Exhibit B
Description of Infrastructure Improvements

Targeted Infrastructure	Cost
Site Preparations	\$ 2,121,626
New Public ROW	\$ 136,332
Storm Drainage	\$ 890,000
Sanitary Sewer	\$ 368,000
Water	\$ 372,000
Telecommunications/Internet	\$ 30,000
Electric	\$ 335,000
Gas	\$ 10,000
Total	\$ 4,263,689

Six (6) tilt-wall office warehouse buildings with a shared common driveway on approximately 6.93 acres of land generally located near the intersection of Hufsmith-Kohrville and Spell Rd. Phase one will include two 10,500 s. f. buildings, Phase two will add a 11,250 s. f. and a 13,125 s. f. building, and Phase three will consist of two 20,355 s.f. buildings



Exhibit C Continued
Description of Improvements



Regular City Council Agenda Item Data Sheet

Meeting Date: February 6, 2023

Topic:

Approve, on Second Reading, Resolution No. 2023-07-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 Performance Agreement by and between the Corporation and BCS Tomball Main, LLC to make direct incentives to, or expenditures for, assistance with infrastructure costs required or suitable for the promotion of new or expanded business enterprise related to the construction of a commercial retail development to be located at the NE corner of SH 249 and FM 2920 Rd, Tomball, Texas 77375. The estimated amount of expenditures for such Project is an amount not to exceed \$123,094.00.

Background:

On January 10, 2023, the Tomball Economic Development Corporation (TEDC) Board of Directors unanimously approved, as a Project of the Corporation, a performance agreement with BCS Tomball Main, LLC for assistance with infrastructure costs related to the development of a proposed commercial retail development to be located at the NE corner of SH 249 and FM 2920 Rd, Tomball, Texas 77375.

Targeted infrastructure projects that will promote or develop new or expanded business enterprises are authorized expenditures under the Development Corporation Act.

The Tomball City Council has final approval authority over all programs and expenditures of the TEDC. Final approval of this project requires the adoption of Resolution No. 2023-07-TEDC after two separate readings.

Origination: Tomball Economic Development Corporation Board of Directors

Recommendation: Approval of Resolution No. 2023-07-TEDC on First Reading

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: X No: _____ If yes, specify Account Number: #Project Grants

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

Signed _____

Staff Member-TEDC

Date _____

Approved by _____

Executive Director-TEDC

Date _____

RESOLUTION NO. 2023-07-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 PERFORMANCE AGREEMENT BY AND BETWEEN THE CORPORATION AND BCS TOMBALL MAIN, LLC, TO PROMOTE AND DEVELOP NEW OR EXPANDED BUSINESS ENTERPRISES; CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT; AND PROVIDING FOR SEVERABILITY.

* * * * *

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 One Hundred Twenty Three Thousand and Ninety Four Dollars (\$123,094.00), found by the Board to be required or suitable to promote a new business development by BCS Tomball Main, LLC; 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 promotes new or expanded business enterprises and is in the best interests of the citizenry; 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 One Hundred Twenty Three Thousand and Ninety Four Dollars (\$123,094.00), to BCS Tomball Main, LLC, in accordance with an economic development agreement by and between the TEDC and BCS Tomball Main, LLC, to promote and develop a new or expanded business enterprises, to be located at the northeast corner of SH 249 and FM 2920, 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; 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.

PASSED AND APPROVED on first reading this ____ day of _____,
202__.

PASSED, APPROVED, AND RESOLVED on second and final reading this ____ day of
_____, 202__.

Lori Klein Quinn, Mayor

ATTEST:

Doris Speer, City Secretary



TO: Honorable Mayor and City Council

FROM: Kelly Violette
Executive Director

MEETING DATE: February 6, 2023

SUBJECT: BCS Tomball Main, LLC

ITEM TYPE: Action

The Tomball Economic Development Corporation has received a request from Jack Burgher, Partner, BCS Capital Group, LLC, the parent company of BCS Tomball Main, LLC for assistance with infrastructure costs related to the construction and redevelopment of a commercial retail space on approximately 0.43 acres to be located at the NE corner of SH 249 and FM 2920, Tomball, Texas 77375.

The proposed development will consist of the construction of an approximately 783 square foot commercial retail space for a proposed Salad and Go. The estimated capital investment for the project is \$4,720,625.00.

The eligible infrastructure improvements include redeveloping the existing stormwater detention pond which fronts FM2920 and related site improvements totaling approximately \$820,625.00.

Targeted infrastructure that will promote the development and expansion of business enterprise is a permissible project as outlined in Texas Economic Development Legislation. If this project is approved, it will go to the Tomball City Council for final approval by resolution at two separate readings.

An economic impact analysis is included with the agreement to show the impact of this project of Tomball's economy. Per the analysis, the 5-year net benefit of this project on Tomball's economy is \$252,927.00.

If the agreement between the TEDC and BCS Capital Group, LLC is approved as a Project of the Corporation, the grant funding amount will not exceed \$123,094.00, based on 15% of the actual expenditures for the eligible infrastructure improvements.



January 3, 2022

Tomball Economic Development Corporation
Attn: Tiffani Wooten, Assistant Director
29201 Quinn Road, Suite B
Tomball, TX 77375

RE: Infrastructure Grant Application – 28750 SH 249, Tomball, TX 77375

Dear Ms. Wooten,

We are pleased to submit an overview of our proposed retail project at the northeast corner of SH 249 and FM 2920 and appreciate your consideration of our infrastructure grant application.

We plan to develop the site in two Phases: Phase I focuses on redeveloping the existing stormwater detention pond, which fronts FM 2920, into a commercially viable location. The size of the site constrains many retail uses; however, we look forward to redeveloping the underutilized commercial property into a Salad & Go restaurant (<https://www.saladandgo.com/>). Doing so will not only visually improve a major intersection in the City of Tomball but will also deliver a concept to the City that is focused on delivering food that is both convenient, nutritious, and affordable.

Additionally, a major component of Phase I involves redirecting detention volumes of the existing pond into underground infrastructure. The underground infrastructure will maximize the net usable area of the site, increasing available jobs and taxable revenue of the property.

Phase II will focus on redeveloping the remainder of the site from the current vacant Luby's into multi-tenant retail building(s).

The plans for Phase II are largely contingent on the capital requirement of infrastructure to accomplish Phase I, which is why we are focusing solely on a grant for Phase I for the time being. If we were awarded a grant from TEDC, the funds would be applied toward demolishing the existing concrete pond, removing fencing, filling the pond to grade, and constructing the underground detention infrastructure. The site work for Phase I is set to commence in Q3 2023 and completed in Q4, with the store scheduled to open in early Q1 2024.

The estimated site work/infrastructure cost of Phase I for which we are seeking grant funding is \$820,625.00 and is further detailed in the attached cost estimate spreadsheet. Also enclosed with this letter you will find a site plan of the overall proposed project, along with the Salad & Go site plan.

We are grateful to the Board for their consideration of our application and look forward to continuing to work with your team to deliver a value-add development to the City of Tomball. Should you have any questions or require any additional detail, please feel free to contact me by phone at 713-803-9730 or by email at jack.burgher@bcscapitalgroup.com.

Sincerely,

BCS Capital Group LLC

Jack Burgher, Partner

Scenario 1 with Client Data

Project Type: New Construction - Retail
Prepared By: Tomball EDC

Purpose & Limitations

This report presents the results of an economic and fiscal analysis undertaken by Tomball EDC using Impact DashBoard, a customized web application developed by Impact DataSource, LLC.

Impact DashBoard utilizes estimates, assumptions, and other information developed by Impact DataSource from its independent research effort detailed in a custom user guide prepared for Tomball EDC.

This report, generated by the Impact DashBoard application, has been prepared by Tomball EDC to assist economic development stakeholders in making an evaluation of the economic and fiscal impact of business activity in the community. This report does not purport to contain all of the information that may be needed to conclude such an evaluation. This report is based on a variety of assumptions and contains forward-looking statements concerning the results of operations of the subject firm. Tomball EDC made reasonable efforts to ensure that the project-specific data entered into Impact DashBoard reflects realistic estimates of future activity. Estimates of future activity involve known and unknown risks and uncertainties that could cause actual results, performance, or events to differ materially from those expressed or implied in this report.

Tomball EDC and Impact DataSource make no representation or warranty as to the accuracy or completeness of the information contained herein, and expressly disclaim any and all liability based on or relating to any information contained in, or errors or omissions from, this information or based on or relating to the use of this information.

Introduction

This report presents the results of an economic impact analysis performed using Impact DashBoard, a model developed by Impact DataSource. The report estimates the impact that a potential project will have on the local economy and estimates the costs and benefits for local taxing districts over a 5-year period.

Economic Impact Overview

The table below summarizes the economic impact of the project over the first 5 years in terms of job creation, salaries paid to workers, and taxable sales.

SUMMARY OF ECONOMIC IMPACT OVER 5 YEARS IN CITY OF TOMBALL			
IMPACT	DIRECT	SPIN-OFF	TOTAL
Jobs	31.0	6.6	37.6
Annual Salaries/Wages at Full Ops (Yr 5)	\$1,814,320	\$563,326	\$2,377,646
Salaries/Wages over 5 Years	\$7,644,216	\$2,373,441	\$10,017,657
Taxable Sales/Purchases in City of Tomball	\$8,784,215	\$29,668	\$8,813,883

Totals may not sum due to rounding

The Project may result in new residents moving to the community and potentially new residential properties being constructed as summarized below.

SUMMARY OF POPULATION IMPACT OVER 5 YEARS IN CITY OF TOMBALL			
IMPACT	DIRECT	SPIN-OFF	TOTAL
Workers who will move to City of Tomball	0.8	0.2	1.0
New residents in City of Tomball	2.2	0.5	2.6
New residential properties constructed in City of Tomball	0.1	0.0	0.2
New students to attend local school district	0.4	0.1	0.5

Totals may not sum due to rounding

The new taxable property to be supported by the Project over the next 5 years is summarized in the following table.

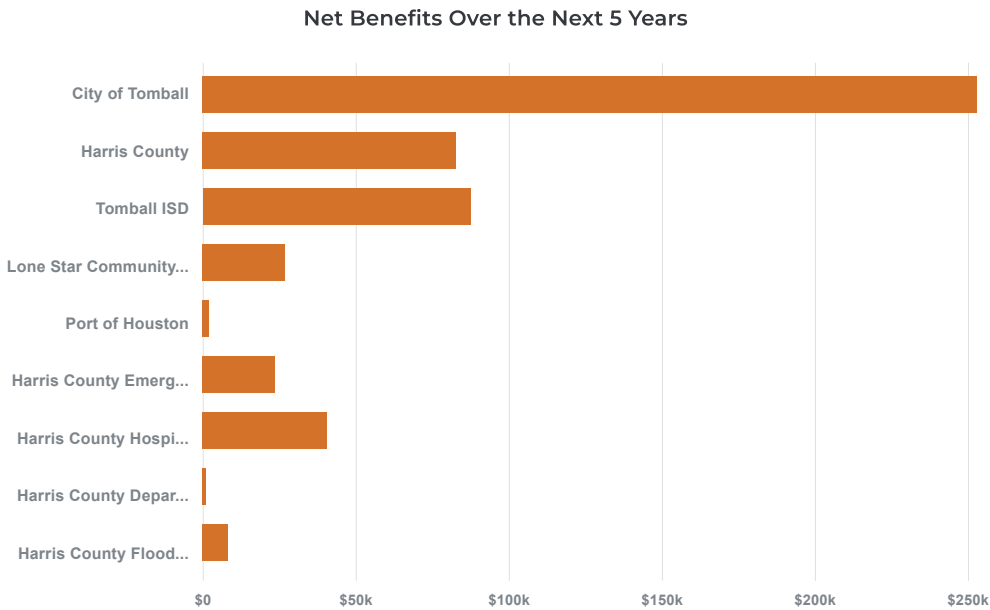
SUMMARY OF TAXABLE PROPERTY OVER THE FIRST 5 YEARS IN CITY OF TOMBALL							
YR.	NEW RESIDENTIAL PROPERTY	LAND	BUILDINGS...	FF&E	INVENTORIES	NON-RESIDENTIAL PROPERTY	TOTAL PROPERTY
1	\$25,971	\$2,700,000	\$1,480,625	\$540,000	\$0	\$4,720,625	\$4,746,596
2	\$27,550	\$2,754,000	\$1,510,238	\$486,000	\$0	\$4,750,238	\$4,777,787
3	\$29,182	\$2,809,080	\$1,540,442	\$432,000	\$0	\$4,781,522	\$4,810,704
4	\$31,970	\$2,865,262	\$1,571,251	\$378,000	\$0	\$4,814,513	Page 83
5	\$34,858	\$2,922,567	\$1,602,676	\$324,000	\$0	\$4,849,243	

Fiscal Impact Overview

The Project will generate additional benefits and costs, a summary of which is provided below. The source of specific benefits and costs are provided in greater detail for each taxing district on subsequent pages.

FISCAL NET BENEFITS OVER THE NEXT 5 YEARS				
	BENEFITS	COSTS	NET BENEFITS	PRESENT VALUE*
City of Tomball	\$389,456	(\$136,529)	\$252,927	\$219,718
Harris County	\$105,580	(\$22,659)	\$82,920	\$71,794
Tomball ISD	\$313,002	(\$225,469)	\$87,533	\$75,730
Lone Star Community College	\$27,027	\$0	\$27,027	\$23,381
Port of Houston	\$2,186	\$0	\$2,186	\$1,891
Harris County Emergency Services District 8	\$23,629	\$0	\$23,629	\$20,441
Harris County Hospital District	\$40,669	\$0	\$40,669	\$35,181
Harris County Department of Education	\$1,251	\$0	\$1,251	\$1,082
Harris County Flood Control	\$8,397	\$0	\$8,397	\$7,264
Total	\$911,197	(\$384,658)	\$526,539	\$456,482

*The Present Value of Net Benefits expresses the future stream of net benefits received over several years as a single value in today's dollars. Today's dollar and a dollar to be received at differing times in the future are not comparable because of the time value of money. The time value of money is the interest rate or each taxing entity's discount rate. This analysis uses a discount rate of 5.0% to make the dollars comparable.

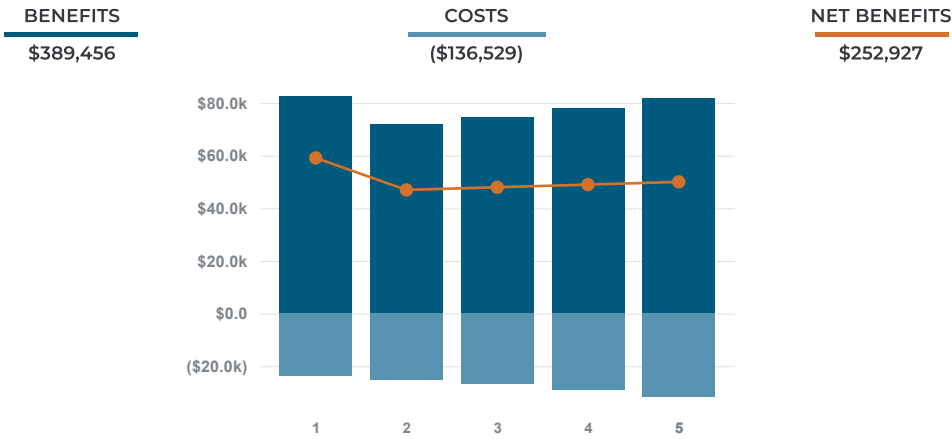


City of Tomball Fiscal Impact

The table below displays the estimated additional benefits, costs, and net benefits to be received by City of Tomball over the next 5 years of the Project.

NET BENEFITS OVER 5 YEARS: CITY OF TOMBALL			
BENEFITS	PROJECT	HOUSEHOLDS	TOTAL
Sales Taxes	\$173,773	\$2,504	\$176,278
Real Property Taxes	\$72,522	\$0	\$72,522
FF&E Property Taxes	\$7,200	\$0	\$7,200
Inventory Property Taxes	\$0	\$0	\$0
New Residential Property Taxes	\$0	\$498	\$498
Hotel Occupancy Taxes	\$0	\$0	\$0
Building Permits and Fees	\$5,000	\$0	\$5,000
Utility Revenue	\$89,531	\$7,530	\$97,061
Utility Franchise Fees	\$5,614	\$471	\$6,085
Miscellaneous Taxes and User Fees	\$22,887	\$1,926	\$24,813
Benefits Subtotal	\$376,527	\$12,929	\$389,456
COSTS	PROJECT	HOUSEHOLDS	TOTAL
Cost of Government Services	(\$34,690)	(\$2,910)	(\$37,600)
Cost of Utility Services	(\$91,259)	(\$7,671)	(\$98,930)
Costs Subtotal	(\$125,949)	(\$10,581)	(\$136,529)
Net Benefits	\$250,578	\$2,348	\$252,927

Annual Fiscal Net Benefits for City of Tomball

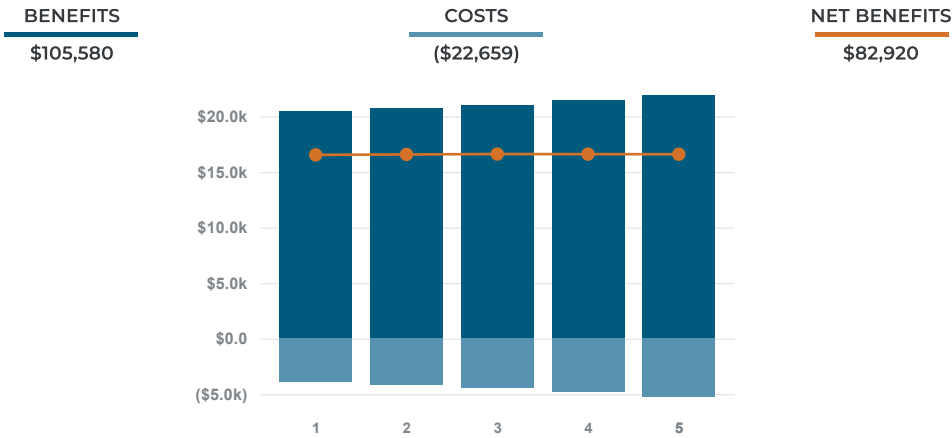


Harris County Fiscal Impact

The table below displays the estimated additional benefits, costs, and net benefits to be received by Harris County over the next 5 years of the Project.

NET BENEFITS OVER 5 YEARS: HARRIS COUNTY			
BENEFITS	PROJECT	HOUSEHOLDS	TOTAL
Real Property Taxes	\$82,005	\$0	\$82,005
FF&E Property Taxes	\$8,142	\$0	\$8,142
Inventory Property Taxes	\$0	\$0	\$0
New Residential Property Taxes	\$0	\$4,356	\$4,356
Hotel Occupancy Taxes	\$0	\$0	\$0
Miscellaneous Taxes and User Fees	\$5,902	\$5,175	\$11,076
Benefits Subtotal	\$96,049	\$9,531	\$105,580
COSTS	PROJECT	HOUSEHOLDS	TOTAL
Cost of Government Services	(\$12,091)	(\$10,568)	(\$22,659)
Costs Subtotal	(\$12,091)	(\$10,568)	(\$22,659)
Net Benefits	\$83,958	(\$1,038)	\$82,920

Annual Fiscal Net Benefits for Harris County

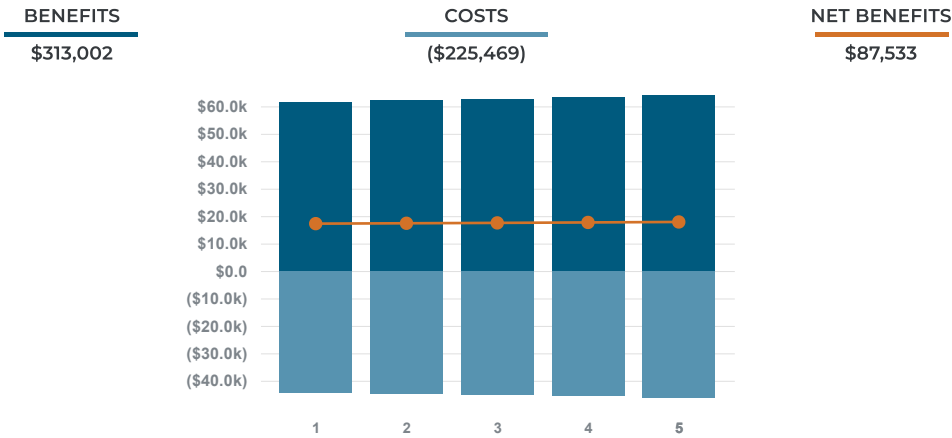


Tomball ISD Fiscal Impact

The table below displays the estimated additional benefits, costs, and net benefits to be received by Tomball ISD over the next 5 years of the Project.

NET BENEFITS OVER 5 YEARS: TOMBALL ISD			
BENEFITS	PROJECT	HOUSEHOLDS	TOTAL
Real Property Taxes	\$271,952	\$0	\$271,952
FF&E Property Taxes	\$27,000	\$0	\$27,000
Inventory Property Taxes	\$0	\$0	\$0
New Residential Property Taxes	\$0	\$6,209	\$6,209
Addtl. State & Federal School Funding	\$0	\$7,841	\$7,841
Benefits Subtotal	\$298,952	\$14,050	\$313,002
COSTS	PROJECT	HOUSEHOLDS	TOTAL
Cost to Educate New Students	\$0	(\$6,974)	(\$6,974)
Reduction in State School Funding	(\$214,049)	(\$4,446)	(\$218,495)
Costs Subtotal	(\$214,049)	(\$11,420)	(\$225,469)
Net Benefits	\$84,902	\$2,631	\$87,533

Annual Fiscal Net Benefits for Tomball ISD



Lone Star Community College Fiscal Impact

The table below displays the estimated additional benefits, costs, and net benefits to be received by Lone Star Community College over the next 5 years of the Project.

NET BENEFITS OVER 5 YEARS: LONE STAR COMMUNITY COLLEGE			
BENEFITS	PROJECT	HOUSEHOLDS	TOTAL
Real Property Taxes	\$23,453	\$0	\$23,453
FF&E Property Taxes	\$2,328	\$0	\$2,328
Inventory Property Taxes	\$0	\$0	\$0
New Residential Property Taxes	\$0	\$1,246	\$1,246
Benefits Subtotal	\$25,782	\$1,246	\$27,027
COSTS	PROJECT	HOUSEHOLDS	TOTAL
None Estimated	\$0	\$0	\$0
Costs Subtotal	\$0	\$0	\$0
Net Benefits	\$25,782	\$1,246	\$27,027

Annual Fiscal Net Benefits for Lone Star Community College



Port of Houston Fiscal Impact

The table below displays the estimated additional benefits, costs, and net benefits to be received by Port of Houston over the next 5 years of the Project.

NET BENEFITS OVER 5 YEARS: PORT OF HOUSTON			
BENEFITS	PROJECT	HOUSEHOLDS	TOTAL
Real Property Taxes	\$1,897	\$0	\$1,897
FF&E Property Taxes	\$188	\$0	\$188
Inventory Property Taxes	\$0	\$0	\$0
New Residential Property Taxes	\$0	\$101	\$101
Benefits Subtotal	\$2,085	\$101	\$2,186
COSTS	PROJECT	HOUSEHOLDS	TOTAL
None Estimated	\$0	\$0	\$0
Costs Subtotal	\$0	\$0	\$0
Net Benefits	\$2,085	\$101	\$2,186

Annual Fiscal Net Benefits for Port of Houston



Harris County Emergency Services District 8 Fiscal Impact

The table below displays the estimated additional benefits, costs, and net benefits to be received by Harris County Emergency Services District 8 over the next 5 years of the Project.

NET BENEFITS OVER 5 YEARS: HARRIS COUNTY EMERGENCY SERVICES DISTRICT 8			
BENEFITS	PROJECT	HOUSEHOLDS	TOTAL
Real Property Taxes	\$20,504	\$0	\$20,504
FF&E Property Taxes	\$2,036	\$0	\$2,036
Inventory Property Taxes	\$0	\$0	\$0
New Residential Property Taxes	\$0	\$1,089	\$1,089
Benefits Subtotal	\$22,540	\$1,089	\$23,629
COSTS	PROJECT	HOUSEHOLDS	TOTAL
None Estimated	\$0	\$0	\$0
Costs Subtotal	\$0	\$0	\$0
Net Benefits	\$22,540	\$1,089	\$23,629

Annual Fiscal Net Benefits for Harris County Emergency Services District 8



Harris County Hospital District Fiscal Impact

The table below displays the estimated additional benefits, costs, and net benefits to be received by Harris County Hospital District over the next 5 years of the Project.

NET BENEFITS OVER 5 YEARS: HARRIS COUNTY HOSPITAL DISTRICT			
BENEFITS	PROJECT	HOUSEHOLDS	TOTAL
Real Property Taxes	\$35,291	\$0	\$35,291
FF&E Property Taxes	\$3,504	\$0	\$3,504
Inventory Property Taxes	\$0	\$0	\$0
New Residential Property Taxes	\$0	\$1,875	\$1,875
Benefits Subtotal	\$38,794	\$1,875	\$40,669
COSTS	PROJECT	HOUSEHOLDS	TOTAL
None Estimated	\$0	\$0	\$0
Costs Subtotal	\$0	\$0	\$0
Net Benefits	\$38,794	\$1,875	\$40,669

Annual Fiscal Net Benefits for Harris County Hospital District



Harris County Department of Education Fiscal Impact

The table below displays the estimated additional benefits, costs, and net benefits to be received by Harris County Department of Education over the next 5 years of the Project.

NET BENEFITS OVER 5 YEARS: HARRIS COUNTY DEPARTMENT OF EDUCATION			
BENEFITS	PROJECT	HOUSEHOLDS	TOTAL
Real Property Taxes	\$1,086	\$0	\$1,086
FF&E Property Taxes	\$108	\$0	\$108
Inventory Property Taxes	\$0	\$0	\$0
New Residential Property Taxes	\$0	\$58	\$58
Benefits Subtotal	\$1,193	\$58	\$1,251
COSTS	PROJECT	HOUSEHOLDS	TOTAL
None Estimated	\$0	\$0	\$0
Costs Subtotal	\$0	\$0	\$0
Net Benefits	\$1,193	\$58	\$1,251

Annual Fiscal Net Benefits for Harris County Department of Education



Harris County Flood Control Fiscal Impact

The table below displays the estimated additional benefits, costs, and net benefits to be received by Harris County Flood Control over the next 5 years of the Project.

NET BENEFITS OVER 5 YEARS: HARRIS COUNTY FLOOD CONTROL			
BENEFITS	PROJECT	HOUSEHOLDS	TOTAL
Real Property Taxes	\$7,286	\$0	\$7,286
FF&E Property Taxes	\$723	\$0	\$723
Inventory Property Taxes	\$0	\$0	\$0
New Residential Property Taxes	\$0	\$387	\$387
Benefits Subtotal	\$8,010	\$387	\$8,397
COSTS	PROJECT	HOUSEHOLDS	TOTAL
None Estimated	\$0	\$0	\$0
Costs Subtotal	\$0	\$0	\$0
Net Benefits	\$8,010	\$387	\$8,397

Annual Fiscal Net Benefits for Harris County Flood Control



Overview of Methodology

The Impact DashBoard model combines project-specific attributes with community data, tax rates, and assumptions to estimate the economic impact of the Project and the fiscal impact for local taxing districts over a 5-year period.

The economic impact as calculated in this report can be categorized into two main types of impacts. First, the direct economic impacts are the jobs and payroll directly created by the Project. Second, this economic impact analysis calculates the spin-off or indirect and induced impacts that result from the Project. Indirect jobs and salaries are created in new or existing area firms, such as maintenance companies and service firms, that may supply goods and services for the Project. In addition, induced jobs and salaries are created in new or existing local businesses, such as retail stores, gas stations, banks, restaurants, and service companies that may supply goods and services to new workers and their families.

The economic impact estimates in this report are based on the Regional Input-Output Modeling System (RIMS II), a widely used regional input-output model developed by the U. S. Department of Commerce, Bureau of Economic Analysis. The RIMS II model is a standard tool used to estimate regional economic impacts. The economic impacts estimated using the RIMS II model are generally recognized as reasonable and plausible assuming the data input into the model is accurate or based on reasonable assumptions. Impact DataSource utilizes adjusted county-level multipliers to estimate the impact occurring at the sub-county level.

Two types of regional economic multipliers were used in this analysis: an employment multiplier and an earnings multiplier. An employment multiplier was used to estimate the number of indirect and induced jobs created or supported in the area. An earnings multiplier was used to estimate the amount of salaries to be paid to workers in these new indirect and induced jobs. The employment multiplier shows the estimated number of total jobs created for each direct job. The earnings multiplier shows the estimated amount of total salaries paid to these workers for every dollar paid to a direct worker. The multipliers used in this analysis are listed below:

445120 CONVENIENCE STORES		CITY OF TOMBALL
Employment Multiplier	(Type II Direct Effect)	1.2116
Earnings Multiplier	(Type II Direct Effect)	1.3105

Most of the revenues estimated in this study result from calculations relying on (1) attributes of the Project, (2) assumptions to derive the value of associated taxable property or sales, and (3) local tax rates. In some cases, revenues are estimated on a per new household, per new worker, or per new school student basis.

The company or Project developer was not asked, nor could reasonably provide data for calculating some other revenues. For example, while the city will likely receive revenues from fines paid on speeding tickets given to new workers, the company does not know the propensity of its workers to speed. Therefore, some revenues are calculated using an average revenue approach.

This approach uses relies on two assumptions:

- 1. The taxing entity has two general revenue sources: revenues from residents and revenues from businesses.
- 2. The taxing entity will collect (a) about the same amount of miscellaneous taxes and user fees from each new household that results from the Project as it currently collects from existing households on average, and (b) the same amount of miscellaneous taxes and user fees from the new business (on a per worker basis) will be collected as it collects from existing businesses.

In the case of the school district, some additional state and federal revenues are estimated on a per new school student basis consistent with historical funding levels.

Additionally, this analysis sought to estimate the additional expenditures faced by local jurisdictions to provide services to new households and new businesses. A marginal cost approach was used to calculate these additional costs.

This approach relies on two assumptions:

- 1. The taxing entity spends money on services for two general groups: revenues from residents and revenues from businesses.
- 2. The taxing entity will spend slightly less than its current average cost to provide local government services (police, fire, EMS, etc.) to (a) new residents and (b) businesses on a per worker basis.

In the case of the school district, the marginal cost to educate new students was estimated based on a portion of the school's current expenditures per student and applied to the headcount of new school students resulting from the Project.

Additionally, this analysis seeks to calculate the impact on the school district's finances from the Project by generally, and at a summary level, mimicking the district's school funding formula.

According to the Texas Education Agency, any property added to local tax rolls, and the local taxes that this generates, reduces the amount of state funding equivalent to local taxes collected for maintenance and operations. The school district retains local taxes received for debt services and the corresponding state funding is not reduced. However, according to the Texas Education Agency, the school district will receive state aid for each new child that moves to the District. The additional revenues for the school district are calculated in this analysis.

About Impact DataSource

Established in 1993, Impact DataSource is an Austin, Texas-based economic consulting firm. Impact DataSource provides high-quality economic research, specializing in economic and fiscal impact analyses. The company is highly focused on supporting economic development professionals and organizations through its consulting services and software. Impact DataSource has conducted thousands of economic impact analyses of new businesses, retention and expansion projects, developments, and activities in all industry groups throughout the U.S.

For more information on Impact DataSource, LLC and our product Impact DashBoard, please visit our website www.impactdatasource.com

AGREEMENT

THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF HARRIS §

This Agreement (the “Agreement”) is made and entered into by and between the Tomball Economic Development Corporation, an industrial development corporation created pursuant to Tex. Rev. Civ. Stat. Ann. Art. 5190.6, Section 4B, located in Harris County, Texas (the “TEDC”), and **BCS Tomball Main, LLC** (the “Company”), 1904 Fountain View Dr., Houston, TX, 77057.

WITNESSETH:

WHEREAS, it is the established policy of the TEDC to adopt such reasonable measures from time-to-time as are permitted by law to endeavor to attract industry, create and retain primary jobs, expand the growth of the City of Tomball (the “City”), and thereby enhance the economic stability and growth of the City; and

WHEREAS, the Company proposes to develop a 0.43-acre tract of land within the City, located at the northeast corner of SH 249 and FM 2920 Rd, Tomball, Texas 77377 (the “Property”), more particularly described in Exhibit “A,” attached hereto and made a part hereof; and

WHEREAS, the Company intends to make an investment of over Four Million Dollars (\$4,000,000.00) in land, buildings, equipment, targeted infrastructure, and other improvements necessary to develop an approximately 783 square foot commercial retail space (the “Project”); and

WHEREAS, the Company also proposes to create thirty-one (31) new full-time employment positions in Tomball in conjunction with the opening of its business operations on the property; and

WHEREAS, the TEDC agrees to provide to the Company the sum of up to One Hundred and Twenty-Three Thousand and Ninety-Four Dollars (\$123,094.00), or an amount equal to fifteen (15) percent of actual construction costs if less than the sum stated above, to assist in the construction of infrastructure necessary to promote and develop new business enterprises on the Property. The infrastructure found by the Board of Directors of TEDC to be required to develop the Property are certain drainage facilities and related improvements, site improvements, water, sanitary sewer, gas, and electric utilities to the exterior of the buildings (the “Infrastructure Improvements”), identified and described in Exhibit “C,” attached hereto and made a part hereof; and

WHEREAS, the Company has agreed, in exchange and as consideration for the funding, to satisfy and comply with certain terms and conditions; and

NOW, THEREFORE, in consideration of the premises and the mutual benefits and obligations set forth herein, including the recitals set forth above, the TEDC and the Company agree as follows:

1.

The Company hereby covenants and agrees that it will construct and maintain on the Property an approximately 783 square foot commercial retail space (the “Improvements”) identified and depicted on Exhibit “C,” attached hereto and made a part hereof. In conjunction with the development of the Property, the Company further agrees to construct the Infrastructure Improvements contemplated by this Agreement, in accordance with the requirements of the

ordinances of the City and the plans and specifications approved by the City. The Company further represents and agrees that it will certify the costs of the construction of such Infrastructure Improvements to the TEDC prior to construction.

2.

The construction of the Improvements to the Property, including construction of the Infrastructure Improvements shall be completed, and all necessary permits from the City shall be obtained, within Eighteen (18) months from the Effective Date of this Agreement. Extensions of these deadlines due to extenuating circumstances or uncontrollable delay may be granted by the Board of Directors of the TEDC at its sole discretion.

3.

This Agreement shall become enforceable upon the Effective Date and shall remain in effect for five (5) years, unless terminated or cancelled earlier (the “Term”). The Term may be extended through a written amendment to this Agreement executed by the Parties.

4.

The Company further covenants and agrees that the Company or any owner or leasee of the Improvements 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 under the law to be employed in that manner in the United States.

5.

In consideration of the Company's representations, promises, and covenants, TEDC agrees to reimburse the Company for the actual cost of the Infrastructure Improvements up to the amount

of One Hundred and Twenty-Three Thousand and Ninety-Four Dollars (\$123,094.00), or an amount equal to fifteen (15) percent of actual costs if less than the sum stated above upon completion of construction and occupancy of the commercial retail space. The TEDC agrees to reimburse the Company for such amount within thirty (30) days of receipt of a letter from the Company requesting such payment and including: (a) certification of the cost of constructing the Infrastructure Improvements; (b) a copy of the City's occupancy permit for the improvements to the Property; (c) certification that the Infrastructure Improvements have been constructed in accordance with the approved plans and specifications; (d) an affidavit stating that all contractors and subcontractors providing work and/or materials in the construction of the Improvements have been paid and any and all liens and claims regarding such work have been released; and (e) Proof of payment to all vendors, contractors and subcontractors providing work and/or materials in the construction of the Improvements, proof of payment must include copies of canceled checks and/or credit card receipts and copies of paid invoices from all vendors, contractors and subcontractors.

6.

It is understood and agreed by the parties that, in the event of a default by the Company on any of its obligations under this Agreement, the Company shall reimburse the TEDC the full amount paid to the Company by the TEDC, with interest at the rate equal to the 90-day Treasury Bill plus ½% per annum, within 120 days after the TEDC notifies the Company of the default. It is further understood and agreed by the parties that if the Company, or any owner or lessee of the Improvements, is convicted of a violation under 8 U.S.C. Section 1324a(f), the Company will reimburse the TEDC the full amount paid to the Company, with interest at the rate equal to the

90-day Treasury Bill plus ½% per annum, within 120 days after the TEDC notifies the Company of the violation.

The Company shall also reimburse the TEDC for any and all reasonable attorney's fees and costs incurred by the TEDC as a result of any action required to obtain reimbursement of such funds. Such reimbursement shall be due and payable thirty (30) days after the Company receives written notice of default.

7.

This Agreement shall inure to the benefit of and be binding upon the TEDC and the Company, and upon the Company's successors and assigns, lessees, affiliates, and subsidiaries, and shall remain in force whether the Company sells, leases, assigns, or in any other manner disposes of, either voluntarily or by operation of law, all or any part of the Property and the agreements herein contained shall be held to be covenants running with the Property for so long as this Agreement, or any extension thereof, remains in effect.

8.

Any notice provided or permitted to be given under this Agreement must be in writing and may be served by (i) depositing the same in the United States mail, addressed to the party to be notified, postage prepaid, registered or certified mail, return receipt requested; or (ii) by delivering the same in person to such party; or (iii) by overnight or messenger delivery service that retains regular records of delivery and receipt; or (iv) by facsimile; provided a copy of such notice is sent within one (1) day thereafter by another method provided above. The initial addresses of the parties for the purpose of notice under this Agreement shall be as follows:

If to City:

Tomball Economic Development Corporation
401 W. Market Street
Tomball, Texas 77375

Attn: President, Board of Directors

If to Company:

BCS Tomball Main, LLC
1940 Fountain View Dr.,
Houston, TX, 77057
Attn: Jack Burgher, Partner

9.

This Agreement shall be performable and enforceable in Harris County, Texas, and shall be construed in accordance with the laws of the State of Texas.

10.

Except as otherwise provided in this Agreement, this Agreement shall be subject to change, amendment or modification only in writing, and by the signatures and mutual consent of the parties hereto.

11.

The failure of any party to insist in any one or more instances on the performance of any of the terms, covenants or conditions of this Agreement, or to exercise any of its rights, shall not be construed as a waiver or relinquishment of such term, covenant, or condition, or right with respect to further performance.

12.

This Agreement shall bind and benefit the respective Parties and their legal successors and shall not be assignable, in whole or in part, by any party without first obtaining written consent of the other party.

13.

In the event any one or more words, phrases, clauses, sentences, paragraphs, sections, or other parts of this Agreement, or the application thereof to any person, firm, corporation, or

circumstance, shall be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, then the application, invalidity or unconstitutionality of such words, phrases, clauses, sentences, paragraphs, sections, or other parts of this Agreement shall be deemed to be independent of and severable from the remainder of this Agreement, and the validity of the remaining parts of this Agreement shall not be affected thereby.

IN TESTIMONY OF WHICH, THIS AGREEMENT has been executed by the parties on this _____ day of _____ 2023 (the “Effective Date”).

BCS Tomball Main, LLC

By: _____
Name: Jack Burgher
Title: Partner

ATTEST:

By: _____
Name: _____
Title: _____

TOMBALL ECONOMIC DEVELOPMENT CORPORATION

By: _____
Name: Gretchen Fagan
Title: President, Board of Directors

ATTEST:

By: _____
Name: William E. Sumner Jr.
Title: Secretary, Board of Directors

ACKNOWLEDGMENT

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the _____ day of _____
2023, by Jack Burgher, Partner, BCS Tomball Main, LLC for and on behalf of said company.

Notary Public in and for the State of Texas

My Commission Expires: _____

(SEAL)

ACKNOWLEDGMENT

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the __10__ day of __January_____
2023, by Gretchen Fagan, President of the Board of Directors of the Tomball Economic
Development Corporation, for and on behalf of said Corporation.

Notary Public in and for the State of Texas

My Commission Expires: _____

(SEAL)

Exhibit A
Legal Description of Property

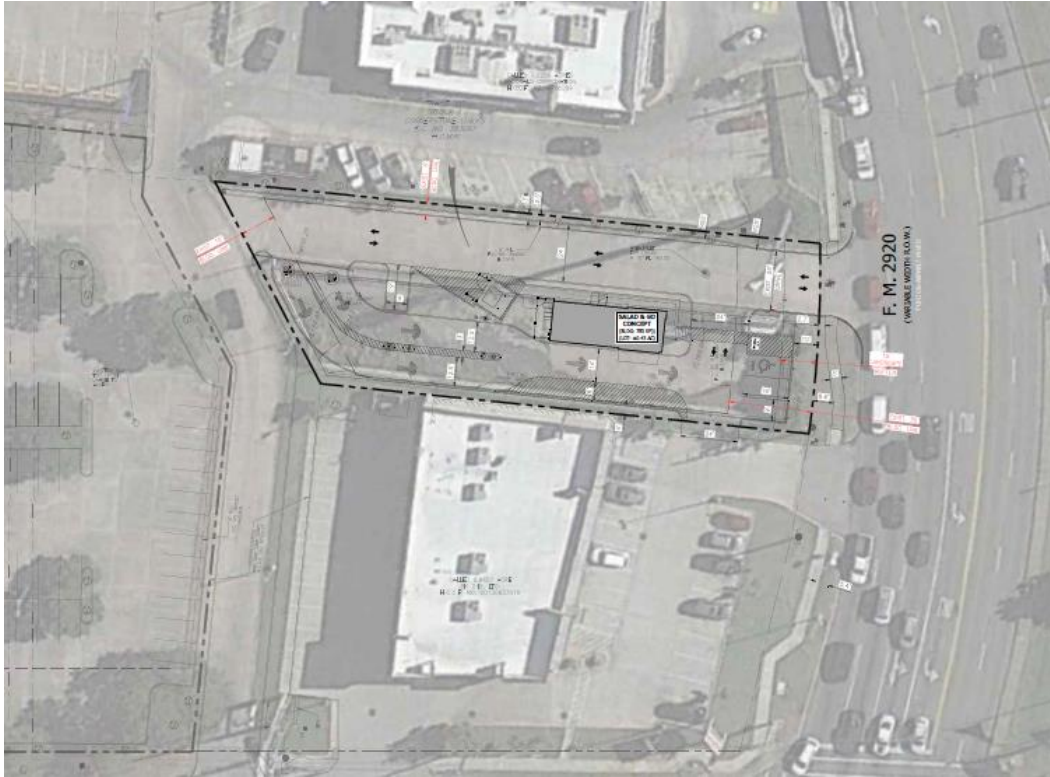
Tract C, Block 1, Cornerstone Luby's. 0.43 AC – F.C. No. 383097 H.C.M.R.

Exhibit B
Description of Infrastructure Improvements

Targeted Infrastructure	Cost
Sanitary Sewer	\$ -
Storm Drainage	\$ 720,000
Water	\$ -
Gas	\$ -
Site Preparation	\$ 100,625
Telecommunications/Internet	\$ -
Electric	\$ -
Total	\$ 820,625

Exhibit C
Description of Improvements

783 square foot commercial retail space on approximately 0.43 acres of land generally located at the NE corner of SH 249 and FM 2920 Rd.



Regular City Council Agenda Item Data Sheet

Meeting Date: February 6, 2023

Topic:

Approve, on Second Reading, Resolution No. 2023-08-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 Performance Agreement by and between the Corporation and STUDIO a28 to make direct incentives to, or expenditures for, rental assistance for new or expanded business enterprise to be located at 1431 Graham Drive, Suites 212 and 213, Tomball, Texas 77375. The estimated amount of expenditures for such Project is an amount not to exceed \$4,063.00.

Background:

On January 10, 2023, the Tomball Economic Development Corporation (TEDC) Board of Directors unanimously approved, as a Project of the Corporation, an economic development performance agreement with STUDIO a28 for rental assistance for new or expanded business enterprise. The Tomball City Council has final approval authority over all programs and expenditures of the Corporation.

Origination: Tomball Economic Development Corporation Board of Directors

Recommendation: Approval of Resolution No. 2023-08-TEDC

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: X No: _____ If yes, specify Account Number: #Project Grants

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

Signed _____

Staff Member-TEDC

Date _____

Approved by _____

Executive Director-TEDC

Date _____

RESOLUTION NO. 2023-08-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 STUDIO A28 TO PROMOTE AND DEVELOP A NEW OR EXPANDED BUSINESS ENTERPRISE; CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT; AND PROVIDING FOR SEVERABILITY.

* * * * *

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 Thousand and Sixty Three Dollars (\$4,063.00), found by the Board to be required or suitable to promote a new business development by STUDIO a28; 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 promotes new or expanded business development and is in the best interests of the citizenry; 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 Thousand and Sixty Three Dollars (\$4,063.00), to STUDIO a28 in accordance with an economic development agreement by and between the TEDC and STUDIO a28 to promote and develop a new or expanded business enterprise, to be located at 1431 Graham Drive, Suites 212 and 213, Tomball, Texas 77375.

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; 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.

PASSED AND APPROVED on first reading this _____ day of _____,
202__.

PASSED, APPROVED, AND RESOLVED on second and final reading this _____ day of
_____, 202__.

Lori Klein Quinn, Mayor

ATTEST:

Doris Speer, City Secretary



TO: Honorable Mayor and City Council

FROM: Kelly Violette
Executive Director

MEETING DATE: February 6, 2023

SUBJECT: STUDIO a28

ITEM TYPE: Action

The Tomball Economic Development Corporation has received a request from Amber Slaughter, Principle and Creative Director of STUDIO a28, for funding assistance through the TEDC's Rental Incentive Program.

STUDIO a28 is a female owned and operated hospitality interior design studio that provides interior design and consulting services. Per the request letter, the company has completed projects both locally (Paradigm Brewing Co. and Small Cakes Cupcakery) and spanning across the county from Hawaii to Florida.

The company has been in business since February 2020 and operates out of a work-from-home model. With their growing project load and client base, they are ready to expand into a more central location.

The proposed location is 400 square foot lease space located within The Field (the old Bank of America building) at 1431 Graham Drive.

The goal of the TEDC's Rental Incentive Program is to assist in the establishment of new businesses in existing vacant spaces and to stimulate commercial investment in the City of Tomball. In accordance with the Rental Incentive Program Policy, the proposed performance agreement is for 25% of the base monthly rent for the first year of operation only.

The lease agreement that was submitted in conjunction with the request letter shows a three-year lease commitment with a monthly rent amount of \$1,300.00 for the first 10 months and \$1,625.00 for the remainder of the lease. The proposed grant amount is \$4,063.00, payable after the first year of operation based on landlord verification of rents paid and meeting the performance agreement criteria.

Although this project does not create primary jobs, it does promote the development and expansion of business enterprise, which is considered a permissible project as outlined in

Texas Economic Development Legislation. If this project is approved, it will go to the Tomball City Council for final approval by resolution at two separate readings.

STUDIO a28, LLC

Hospitality Interior Design Studio

14090 FM 2920 Rd., Suite G115, Tomball, TX 77377 (Mail Box)
15311 Hunters Bend Drive, Tomball, TX 77377 (Registered Business Address)
Phone: 832.353.1741 | Web: www.studioa28.com

December 7, 2022

Tiffani Wooten, CEcD
Assistant Director
Tomball Economic Development Corporation

Dear Tiffani,

STUDIO a28 is a female-owned and operated hospitality interior design studio consulting for restaurant, hotel, and real estate developers both locally and nation-wide. We provide full-service interior design services starting from the concept design phase to the full interior design package, delivering concise construction documents, and following through construction completion. We focus on crafting authentic, innovative, and effective design solutions to all our clients. With our creative and collaborative approach, we design every project with custom detail and successfully manage each project with distinct precision. The studio has been in business since February 2020 and has grown rapidly by retaining current clients that have provided new and continued work, along with acquiring new clients through word of mouth and networking, all based on our strong reputation we established within the industry. We recently completed and have current projects both locally and spanning across the country from Hawaii to Florida. The local design projects completed (or currently designing), are Paradigm Brewing Co. (Tomball), Smallcakes Cupcakery (Tomball - on 2920), Sawyer Park Icehouse (Spring), Wakefield Crow Bar (Houston), Nacho Padres (The Woodlands – currently in design) and the list goes on. Our hotel project portfolio includes numerous brands within Marriott, Hilton, IHG, Starwood, Disney, and boutique hotel properties.

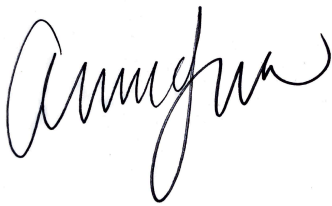
Our current work environment is a work-from-home model, however, with our growing project load and client base, we feel the need for a more collaborative work environment where our design materials library and workspaces are in a central location. This will allow us to better serve our existing client base as well as become an active participant in the Tomball community and further grow our clientele. This new office space will also allow us to host client meetings and presentations, networking events and retain permanent employees in a professional office setting. These types of meetings and events would bring out-of-town guests to the Tomball community allowing them to explore potential future investment opportunities, partake in dining and lodging experiences and shop at local retailers.

With the help of our commercial real estate agent, we found an office space setting with approximately 400SF that fits perfectly within our current business needs, with the option to capture additional square footage directly adjacent as we continue to grow. This office space is located at The Field on 1431 Graham Drive, second floor. The 400 square feet will allow us to house our design library, along with 4 employee desk stations.

We are fully funding the initial expenses of the move, along with purchasing new computer equipment, software, desks, chairs, shelving units for the design library and office supplies. We are requesting assistance from the Tomball EDC to offset some of the expenses which will allow us to continue provide employee salaries and further enhance opportunities to provide additional employee benefits. Retaining loyal, productive and professional employees is key to success, especially in the world we operate in today. This financial assistant would help alleviate some moving and leasing expenses, will considerably assist us with giving back to our employees, which in turn gives back to our clients, and ultimately the Tomball community with innovative and entertaining restaurant and hotel experiences for everyone to enjoy!

Thank you very much for your thoughtful consideration and we look forward to hearing back from your team.

Sincerely,

A handwritten signature in black ink, appearing to read 'Amber Slaughter', with a stylized, cursive script.

Amber Slaughter

STUDIO a28 | **Principal + Creative Director** | RID, NCIDQ
Main: 832.353.1741 | **Direct:** 832.353.1742 | **Cell:** 281.851.8136
E: amber@studioa28.com | **W:** www.studioa28.com
M: 14090 FM 2920 Rd., Suite G115, Tomball, TX 77377

AGREEMENT

THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF HARRIS §

This Agreement (the “Agreement”) is made and entered into by and between the **Tomball Economic Development Corporation**, an industrial development corporation created pursuant to Tex. Rev. Civ. Stat. Ann. Art. 5190.6, Section 4B, located in Harris County, Texas (the “TEDC”), and **STUDIO a28, LLC** (the “Company”), 15311 Hunters Bend Drive, Tomball, TX 77377

WITNESSETH:

WHEREAS, it is the established policy of the TEDC to adopt such reasonable measures from time-to-time as are permitted by law to promote local economic development and stimulate business and commercial activity within the City of Tomball (the “City”); and

WHEREAS, the Company proposes to lease a 400 square foot existing office space located at 1431 Graham Drive, Suite 212 and 213, Tomball, Texas 77375 (the “Property”), and more particularly described in Exhibit “A,” attached hereto and made a part hereof; and

WHEREAS, the Company currently provides interior design studio consulting and services and proposes to expand its business operations by opening a full-service interior design studio at the Property; and

WHEREAS, the Company proposes to create four (4) full-time jobs in Tomball in conjunction with the new location; and

WHEREAS, the TEDC agrees to provide to the Company an amount equal to twenty-five percent (25%) of the base monthly rent for the first 12 consecutive months of operation not

to exceed Four Thousand Sixty-Three Dollars (\$4,063.00), in accordance with an established Rental Assistance Incentive; and

WHEREAS, the Company has agreed, in exchange and as consideration for the funding, to satisfy and comply with certain terms and conditions; and

NOW, THEREFORE, in consideration of the premises and the mutual benefits and obligations set forth herein, including the recitals set forth above, the TEDC and the Company agree as follows:

1.

Except as provided by paragraph 3, the Company covenants and agrees that it will operate and maintain the proposed business for a term of at least three (3) years within the City of Tomball.

2.

The Company also covenants and agrees that construction of the Improvements, the addition of the Four (4) new employees, and obtaining all necessary occupancy permits from the City shall occur within twelve (12) months from the Effective Date of this Agreement. Extensions of these deadlines, due to any extenuating circumstance or uncontrollable delay, may be granted at the sole discretion of the Board of Directors of the TEDC.

3.

The Company 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.

4.

In consideration of the Company's representations, promises, and covenants, TEDC agrees to grant to the Company an amount equal to twenty-five percent (25%) of the base monthly rent for the first 12 consecutive months of operation not to exceed Four Thousand Sixty-Three Dollars (\$4,063.00). The TEDC agrees to distribute such funds to the Company within thirty (30) days of receipt of a letter from the Company requesting such payment, which letter shall also include: (a) a copy of the City's occupancy permit for the Property; (b) proof that the Company has added the number of employees indicated above to its business operations on the Property, as evidenced by copies of Texas Workforce Commission form C-3 or Internal Revenue Service Form 941; and, (c) an affidavit from the landlord of the Property stating that all rents have been paid in accordance with the terms of the lease agreement for the first twelve consecutive months of operation.

5.

It is understood and agreed by the parties that, in the event of a default by the Company on any of its obligations under this Agreement, the Company shall reimburse the TEDC the full amount paid to the Company by the TEDC, with interest at the rate equal to the 90-day Treasury Bill plus $\frac{1}{2}\%$ per annum, within thirty (30) days after the TEDC notifies the Company of the default. It is further understood and agreed by the parties that if the Company is convicted of a violation under 8 U.S.C. Section 1324a(f), the Company will reimburse the TEDC the full amount paid to the Company, with interest at the rate equal to the 90-day Treasury Bill plus $\frac{1}{2}\%$ per annum, within thirty (30) days after the TEDC notifies the Company of the violation.

The Company shall also reimburse the TEDC for any and all reasonable attorney's fees and costs incurred by the TEDC as a result of any action required to obtain reimbursement of such funds.

6.

This Agreement shall inure to the benefit of and be binding upon the TEDC and the Company, and upon the Company's successors and assigns, affiliates, and subsidiaries, and shall remain in force whether the Company sells, assigns, or in any other manner disposes of, either voluntarily or by operation of law, all or any part of the Property and the agreements herein contained shall be held to be covenants running with the Property for so long as this Agreement, or any extension thereof, remains in effect.

7.

Any notice provided or permitted to be given under this Agreement must be in writing and may be served by (i) depositing the same in the United States mail, addressed to the party to be notified, postage prepaid, registered or certified mail, return receipt requested; or (ii) by delivering the same in person to such party; or (iii) by overnight or messenger delivery service that retains regular records of delivery and receipt; or (iv) by facsimile; provided a copy of such notice is sent within one (1) day thereafter by another method provided above. The initial addresses of the parties for the purpose of notice under this Agreement shall be as follows:

If to City:

Tomball Economic Development Corporation
401 W. Market Street
Tomball, Texas 77375
Attn: President, Board of Directors

If to Company:

STUDIO a28, LLC
15311 Hunters Bend Drive
Tomball, TX 77377
Attn: Amber Slaughter, Principle and Creative Director

8.

This Agreement shall be performable and enforceable in Harris County, Texas, and shall be construed in accordance with the laws of the State of Texas.

9.

Except as otherwise provided in this Agreement, this Agreement shall be subject to change, amendment or modification only in writing, and by the signatures and mutual consent of the parties hereto.

10.

The failure of any party to insist in any one or more instances on the performance of any of the terms, covenants or conditions of this Agreement, or to exercise any of its rights, shall not be construed as a waiver or relinquishment of such term, covenant, or condition, or right with respect to further performance. This Agreement shall bind and benefit the respective Parties and their legal successors and shall not be assignable, in whole or in part, by any party without first obtaining written consent of the other party.

11.

In the event any one or more words, phrases, clauses, sentences, paragraphs, sections, or other parts of this Agreement, or the application thereof to any person, firm, corporation, or circumstance, shall be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, then the application, invalidity or unconstitutionality of such words, phrases, clauses, sentences, paragraphs, sections, or other parts of this Agreement shall be deemed to be independent of and severable from the remainder of this Agreement, and the validity of the remaining parts of this Agreement shall not be affected thereby.

IN TESTIMONY OF WHICH, THIS AGREEMENT has been executed by the parties on this _____ day of _____ 2023 (the “Effective Date”).

STUDIO a28, LLC

By: _____

Name: Amber Slaughter

Title: Principle and Creative Director

ATTEST:

By: _____

Name: _____

Title: _____

TOMBALL ECONOMIC DEVELOPMENT CORPORATION

By: _____

Name: Gretchen Fagan

Title: President, Board of Directors

ATTEST:

By: _____

Name: Bill Sumner Jr.

Title: Secretary, Board of Directors

ACKNOWLEDGMENT

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the ____ day of _____
2023, by Amber Slaughter, Principal and Creative Director of STUDIO a28, LLC, for and on
behalf of said company.

Notary Public in and for the State of Texas

My Commission Expires: _____

(SEAL)

ACKNOWLEDGMENT

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the _10th____ day of __January____
2023, by Gretchen Fagan, President of the Board of Directors of the Tomball Economic
Development Corporation, for and on behalf of said Corporation.

Notary Public in and for the State of Texas

My Commission Expires: _____

(SEAL)

Exhibit “A”

Legal Description of Property

Legal Description: A TRACT OR PARCEL CONTAINING 3.749 ACRES OR 163,311 SQUARE FEET OF LAND SITUATED IN THE J.M. HOOPER SURVEY, ABSTRACT NUMBER (NO.) 375 AND W. HURD SURVEY, ABSTRACT 378, HARRIS COUNTY, TEXAS, BEING ALL OF A CALLED 3.7512 ACRE TRACT AS DESCRIBED IN DEED TO GRAHAM ROAD INVESTMENTS, LTD AS RECODED UNDER HARRIS COUNTY CLERK’S FILE (H.C.C.F.) NO V494896, WITH SAID 0.0000 ACRE TRACT BEING MORE PARTICULARLY COORDINATE SYSTEM SOUTH CENTRAL ZONE (NAD82):

Headquarters Too, LLC Building

Property Address: 1431 Graham Road, Suite 212 & 213, Tomball, TX 77375

City Council Meeting Agenda Item Data Sheet

Meeting Date: February 20, 2023

Topic:

Approve the Minutes of the February 6, 2023, Regular City Council Meeting

Background:

Origination: City Secretary

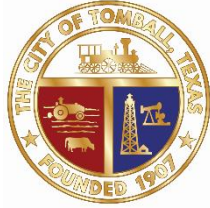
Recommendation:

Approve the Minutes of the February 6, 2023, Regular City Council Meeting

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

Tracylynn Garcia, Asst. City
Secretary

MINUTES OF REGULAR CITY COUNCIL MEETING CITY OF TOMBALL, TEXAS



**Monday, February 06, 2023
6:00 PM**

The City Council of the City of Tomball, Texas, conducted the meeting scheduled for February 06, 2023, 6:00 PM, at 401 Market Street, Tomball, Texas 77375, via 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 – Doris Speer
City Attorney – Loren Smith
Assistant City Secretary – Tracylynn Garcia
Director of Public Works – Drew Huffman
Police Chief – Jeff Bert
Marketing Manager - Chrislord Templonuevo
Community Center Manager – Rosalie Dillon
Project Coordinator – Meagan Mageo

- B. Invocation - Led by Pastor Kevin Bowles – Redeemer Church

- C. Pledges to U.S. and Texas Flags – Led by Jeff Bert

- 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 a 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 Trickey
30703 Raleigh Creek Drive
Owner Modern Marketing & Media
- expressed would like to implement “Big Event” to serve the community.
- Claudia Ornelas & Jason Hilburn
Office of Congressman Wesley Hunt
990 Village Sq. Dr
Tomball. Texas
- expressed gratitude to be now a part of Tomball; offer citizens resources with any Federal agency. Open house invite February 13, 2023.
- Travis Sibro
17302 Village Breeze
- great leaders in the room; and looking forward to growth and what he can do for the involvement.

E. Reports and Announcements

1. Announcements

- I. February 17, 2023 – Last day to apply for Place on Ballot for the May 6, 2023 General City Election
- II. February 21, 2023 – ***Sam Houston Trailride Reception*** – 12 Noon at the Depot
- III. Tomball Police Department Annual Data Capture Report – 2022 (SB 1074)

2. Reports by City staff and members of council about items of community interest on which no action will be taken:

- I. David Esquivel expressed appreciation to Sasha Luna for completing the University of North Texas-Denton Texas Municipal Clerks Certification Program and receiving her Certificate as a Texas Registered Municipal Clerk; Congratulations to Tracylynn Garcia for completing her First Recertification as a Texas Registered Municipal Clerk; Congratulations to Doris Speer for completing her Fourth Recertification as a Texas Registered Municipal Clerk

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.]*

1. Approve the Minutes of the January 13, 2023 Emergency Tomball City Council Meeting and the January 16, 2023 Regular Tomball City Council Meeting
2. Approve a professional services agreement with Inframark, LLC for meter reading services, for a not-to-exceed amount of \$70,000 (RFP 2022-06R), 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.
3. Approve an amendment to the Master Agreement for Treasury Management Services with Wells Fargo Bank, N.A., extending services for a one-year period from April 1, 2023 to March 31, 2024 and authorize the City Manager to execute any and all documents necessary for the extension.
4. Approve a purchase order with Siddons-Martin Emergency Group, LLC (sole source) for engine and pump repairs to Engine 2 (Shop# 15-005) for a not to exceed amount of \$75,000, approve the expenditure of funds therefor, and authorize the City Manager to execute any and all documents relating the purchase. Funds for vehicle repairs are included in the FY 2022-2023 budget.
5. Approve a contract with B&C Constructors, LP for abatement and repairs of the Tomball Railroad Depot through a IGPA Contract (Contract No. 19-03DP) for a not-to-exceed amount of \$148,877.23, 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 2 Stoll, 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. Motion made by Council 1 Ford, Seconded by Council 4 Townsend, Sr. to Approve Request from Tomball Sister City Organization for City Support and In-Kind Services for the Tomball German Heritage Festival – Depot Plaza and Market Street – Thursday, March 23, 2023, through Sunday, March 26, 2023.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

2. Motion made by Council 5 Parr, Seconded by Council 4 Townsend, Sr. to Approve Request from Tomball High School Athletic Booster Club (THSABC) City Support and In-Kind Services for the THSABC Scholarship Crawfish Boil at Juergens Park, on Saturday, April 1, 2023 from 4:00-8:00 p.m.

Voting Yea: Council 2 Stoll, Council 3 Dunagin

Voting Nay: Council 1 Ford, Council 4 Townsend, Sr., Council 5 Parr

Motion failed 2 votes yea, 3 votes nay.

3. Motion made by Council 3 Dunagin, Seconded by Council 4 Townsend, Sr. to Approve Request from Tomball Rotary Club for City Support and In-Kind Services for the ***Tomball Rotary Club Fish Fry*** at Juergens Park, on Friday, April 21, 2023 from 5:00-8:00 p.m.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

4. Motion made by Council 4 Townsend, Sr., Seconded by Council 3 Dunagin, Sr. for appointing members to a focus group for the Parks, Trails, and Recreation Master Plan as recommended by staff.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

5. Motion made by Council 4 Townsend, Sr., Seconded by Council 2 Stoll to approve, as a Project of the Tomball Economic Development Corporation, an agreement with Della Casa Pasta, LLC to make direct incentives to, or expenditures for, the creation or retention of primary jobs associated with the development of a food production facility, located at 1599 Hicks Street, Tomball, Texas 77375. The estimated amount of expenditures for such Project is and amount not to exceed \$16,077.00.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

6. Motion made by Council 4 Townsend, Sr., Seconded by Council 1 Ford to approve, as a Project of the Tomball Economic Development Corporation, an agreement with Persimmon Global Logistics to make direct incentives to, or expenditures for, the creation or retention of primary jobs associated with the development of its corporate headquarters to be located at 1014 Lizzie Lane, Tomball, Texas 77375. The estimated amount of expenditures for such Project is and amount not to exceed \$16,920.00.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

7. Motion made by Council 4 Townsend, Sr., Seconded by Council 5 Parr to Approve, on First Reading, Resolution No. 2023-05-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 Performance Agreement by and between the Corporation and Hufsmith Kohrville Business Park, LLC to make direct incentives to, or expenditures for, assistance with infrastructure costs required or suitable for the promotion of new or expanded business enterprise related to the development and construction of a multibuilding office/warehouse park to be located on the West side of Hufsmith-Kohrville and Werich Rd, Tomball, Texas 77375. The estimated amount of expenditures for such Project is an amount not to exceed \$122,722.00.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

8. Motion made by Council 3 Dunagin, Seconded by Council 4 Townsend, Sr. to Approve, on First Reading, Resolution No. 2023-06-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 Performance Agreement by and between the Corporation and Church Holdings, Inc. to make direct incentives to, or expenditures for, assistance with infrastructure costs required or suitable for the promotion of new or expanded business enterprise related to the development and construction of a multibuilding office/warehouse park to be located near the intersection of

Hufsmith-Kohrville and Spell Rd. in the City of Tomball, Texas. The estimated amount of expenditures for such Project is an amount not to exceed \$426,639.00.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

9. Motion made by Council 4 Townsend, Sr., Seconded by Council 1 Ford to Approve, on First Reading, Resolution No. 2023-07-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 Performance Agreement by and between the Corporation and BCS Tomball Main, LLC to make direct incentives to, or expenditures for, assistance with infrastructure costs required or suitable for the promotion of new or expanded business enterprise related to the construction of a commercial retail development to be located at the NE corner of SH 249 and FM 2920 Rd, Tomball, Texas 77375. The estimated amount of expenditures for such Project is an amount not to exceed \$123,094.00.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

10. Motion made by Council 4 Townsend, Sr., Seconded by Council 1 Ford to approve on First Reading, Resolution No. 2023-08-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 Performance Agreement by and between the Corporation and STUDIO a28 to make direct incentives to, or expenditures for, rental assistance for new or expanded business enterprise to be located at 1431 Graham Drive, Suites 212 and 213, Tomball, Texas 77375. The estimated amount of expenditures for such Project is an amount not to exceed \$4,063.00.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

11. Executive Session: The City Council recessed at 7:25 p.m. to 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. 551.087 – Deliberations regarding Economic Development

City Council reconvened at 9:00pm, from Executive Session.

H. Motion made by Council 4 Townsend, Sr., Seconded by Council 3 Dunagin, to adjourn.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

PASSED AND APPROVED this the 20th day of February 2023.

Tracylynn Garcia
Asst. City Secretary, TRMC, CPM, CMC

Lori Klein Quinn
Mayor

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: February 20, 2023

Topic:

Approve a contract with B&C Constructors, LP to reconstruct driveways and headwalls for the Belmont Drainage Improvement Project through a 1GPA Contract (Contract No. 19-03DP) for a not-to-exceed amount of \$73,752.62, 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 initiated the Belmont Drainage Improvement Project in October 2022. The eastern dead end of Belmont Street was initially cleared and graded for positive flow with coordination with BNSF Railroad last year. The drainage area on Belmont Street, South Cherry Street and the Harden Ditch was surveyed for limits of improvements need to assure water flow. Staff coordinated with Harris County Precinct 3 to have the South Cherry Street drainage area graded so that flow from Belmont Street would continue to flow with positive drainage. Harris County began cleaning the ditches along South Cherry Street the first week of February. The limits of their construction are from McPhail Street to the north to Medical Complex Drive to the south. They have an estimated completion timeline of mid-March. Public Works staff will be grading the drainage ditches on the north and south of Belmont Street. The project will also consist of removing and replacing the driveways and culverts to proper sizing at the standard of 18 inches in diameter.

B & C Constructors, LP will be assisting with replacing driveways and headwalls for the 14 properties that will be affected due to the project.

This item authorizes a contract with B & Constructors, LP who will perform the reconstructing driveways and headwalls for the Belmont Drainage Improvement Project under a 1GPA Contract (Contract No. 19-03DP).

Origination: Public Works Department

Recommendation:

Staff recommends approving a contract with B & C Constructors, LP to perform the reconstructing of driveways and headwalls on Belmont St.

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

Drew Huffman, Public Works
Director

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: # 400-154-6409

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

Signed	Drew Huffman	Approved by	
	Staff Member		
	Date		Date



Budget Proposal

Magnolia, Texas 77354
713.932.9400 - o
713.932.9443 - f

DATE: February 13, 2023
PROJECT: Belmont St.
Drainage Improvement Project

To: Justin Pruitt

City of Tomball
501 James Street
Tomball TX, 77375

1GPA # 19-03DP

Attn: Justin Pruitt

DESCRIPTION	AMOUNT
General Conditions/Supervision Based on #3 18" OC/ 3000 PSI for new 6" concrete with small head.... Minimum grade work.... City to Demo/ new culverts / very close grade. Scope includes addresses 202 / 210 / 212 / 213 /216 / 220 / 219 / Belmont St.	\$ 1,780.00
Based on #3 18" OC/ 3000 PSI for new 6" concrete with small head.... Minimum grade work.... City to Demo/ new culverts / very close grade. Scope includes addresses 211 / 213 / 215 / 217 /219 / 221 / 223 / Belmont St.	\$ 36,840.00
	\$ 37,445.00
Subtotal	\$ 76,065.00
Buy Board Coefficient .96	\$ 73,022.40
Buy Board J.O.C Fee 1%	\$ 730.22
SCOPE OF PROPOSAL Quote is subject to price change and availability from time of order.	
James Laycock, Project Manager	TOTAL AMOUNT \$ 73,752.62

THANK YOU FOR YOUR BUSINESS!

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: February 20, 2023

Topic:

Approve a master services agreement with North Water District Laboratories Services, Inc. for wastewater sampling and laboratory services for a total not-to-exceed amount of \$75,000, approve the expenditure of funds therefor, and authorize the City Manager to execute any and all documents related to the purchase. This service is included in the FY 2022-2023 Budget.

Background:

North Water District Laboratory Services (NWDLS) is a Houston, TX based lab specializing in testing and analysis of wastewater and biosolids to meet National Pollutant Discharge Elimination Systems (NPDES) requirements.

NWDLS performs sampling and analysis required by the Environmental Protection Agency (EPA) and Texas Commission on Environmental Quality (TCEQ) for City of Tomball's north and south wastewater treatment plants to remain within TCEQ and EPA compliance.

This item authorizes a contract with NWDLS to perform the required wastewater sampling and lab analysis. This is a one-year contract, with four additional one-year extensions. The total authorized expenditures in year 1 of the contract is \$75,000.

This procurement is exempt from the competitive bidding requirements under Local Government Code 252.022(2).

Origination: Public Works Department

Recommendation:

Staff recommends approval of the agreement with NWDLS.

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

Drew Huffman, Public Works
Director

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: # 600-614-6361

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

Signed Drew Huffman

Staff Member

Date

Approved by _____

City Manager

Date

MASTER SERVICES AGREEMENT
BETWEEN
CITY OF TOMBALL
AND
NORTH WATER DISTRICT LABORATORY SERVICES, INC. (NWDLS)
FOR TESTING SERVICES

THIS CONTRACT, consisting of this Master Services Agreement (“MSA”) and the Contract Documents listed in Article 9, hereto, is by and between **CITY OF TOMBALL**, (hereinafter called “CITY” or “OWNER”) with offices located at 401 MARKET STREET, TOMBALL, TX 77375, and **NORTH WATER DISTRICT LABORATORY SERVICES, INC.** (hereinafter called “CONTRACTOR”) with offices located at 130 SOUTH TRADE CENTER PARKWAY, CONROE, TX 77385. CITY and CONTRACTOR are sometimes referred to individually herein as “PARTY” and collectively as “PARTIES.”

CITY and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1 – WORK

1.1 The CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents, which include this MSA and such other documents as are listed in Article 9 of this MSA. All Services authorized by CITY to CONTRACTOR shall be subject to all terms and conditions herein. In the event that separate projects are initiated under this MSA, each Project Specific Proposal shall be treated as an Exhibit to this MSA and incorporated herein after being signed by both CITY and CONTRACTOR. The Work performed hereunder shall be either:

a) EMERGENCY SERVICES

- i) CONTRACTOR shall perform Emergency Service Work which, by its nature, cannot be bid out. Due to the nature of the emergency services to be requested under this Agreement, such authorization to proceed may be given verbally by CITY to CONTRACTOR. CONTRACTOR agrees to undertake all Emergency Service Work as verbally directed.

b) SCHEDULED SERVICES

- i) This work includes non-emergency Scheduled Services that have a total cost up to \$75,000 per calendar year.

1.2 Job Site Safety and Protection

- a) CONTRACTOR shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work and any Job Site where it provides services. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety

Laws and Regulations. CONTRACTOR shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:

- i) All persons on or near the Job Site or who may be affected by the Work; and
 - ii) All the Work and materials and equipment to be incorporated therein, whether in storage on or off the Job Site.
- b) CONTRACTOR shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss.
- c) CONTRACTOR shall clearly and unambiguously inform CITY of any specific requirements of CONTRACTOR'S safety program with which CITY'S employees and representatives must comply with while at Job Site.
- d) All damage, injury, or loss to any property referred to in this Section 2.0 caused, directly or indirectly, in whole or in part, by CONTRACTOR, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by CONTRACTOR (except damage or loss attributable to the acts or omissions of CITY and not otherwise attributable, directly or indirectly, in whole or in part, to the fault of negligence of CONTRACTOR or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).
- e) CONTRACTOR'S duties and responsibilities for safety and for protection of the Work and Job Site shall continue until such time as all the Work is completed in accordance with the Contract Documents.

ARTICLE 2 – THE PROJECT

2.1 The specifications and performance standards for each specific Project for which work is performed pursuant to this MSA are generally described in Exhibit A – General Conditions for Testing Services ("GENERAL CONDITION") and may be more particularly described in the Project Specific Proposal, if any, for a specific Project.

ARTICLE 3 – CONTRACT TIMES

3.1 Term

- a) The Effective Date of this Contract is February 14, 2023.
- b) This Contract shall remain in effect for a period of one (1) year from the Effective Date, with the option to renew for up to four (4) years in one-year increments at no change in price at the sole discretion of the CITY. If Emergency or Scheduled Services have been initiated prior to the

expiration of such period, the provisions herein shall remain applicable until the completion of such Emergency or Scheduled Services.

3.2 Time of the Essence

- a) All time limits, if any, in the Contract Documents regarding milestones, substantial completion and completion by CONTRACTOR are of the essence to the agreements.

ARTICLE 4 – CONTRACT PRICE

4.1 CITY shall pay CONTRACTOR for completion of the Work in accordance with the amounts specified in the General Conditions or as agreed upon in the Project Specific Proposal.

ARTICLE 5 – COST OF THE WORK

5.1 Cost of the Work shall be determined as provided in Exhibit B or as set forth in a Project Specific Proposal or Purchase Order.

ARTICLE 6 – PAYMENT PROCEDURES

6.1 CONTRACTOR shall submit Applications for Payment in accordance with the General Conditions. Applications for Payment will be processed as provided in the General Conditions.

6.2 Payments will be made as specified in the General Conditions.

ARTICLE 7 – CONTRACTOR’S REPRESENTATIONS AND ACKNOWLEDGEMENT

7.1 With the Exception of Emergency Services, CONTRACTOR makes the following representations:

- a) CONTRACTOR has examined and carefully studied all Contract Documents and the other related data identified herein.
- b) CONTRACTOR has visited the Project Sites and become familiar with and satisfied as to the general, local and site-specific conditions that may affect cost, safety, progress, and performance of the Work.
- c) CONTRACTOR is familiar with and is satisfied with its review as to all federal, state, and local laws and regulations that may affect cost, progress, and performance of the Project.
- d) CONTRACTOR will obtain and carefully study (or assumes responsibility for having done so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect cost, safety, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures to be employed by

Contractor, including applying the any specific means, methods, techniques, sequences, and procedures specified by the Contract Documents to be employed by Contractor, and safety precautions and programs incident thereto.

ARTICLE 8 – ACCOUNTING RECORDS

8.1 CONTRACTOR shall record all materials, equipment, and labor entering into each Project and shall keep such complete and detailed accounts as may be necessary for proper financial management under the Contract Documents while utilizing accounting methods satisfactory to CITY. CITY shall be afforded access, during normal business hours, to all CONTRACTOR’S records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda, and similar data relating to any Project and its costs. CONTRACTOR shall preserve all such documents for a period of five years after the final payment by CITY.

ARTICLE 9 – CONTRACT DOCUMENTS

9.1 The Contract Documents consist of the following:

- a) This Master Services Agreement (“MSA”);
- b) Contractor Disclosure;
- c) Contractor’s Non-Collusion Affidavit;
- d) Exhibits to this Agreement;
 - a. Exhibit A - General Conditions for Testing Services
 - b. Exhibit B – One (1) Year Pricing
- e) The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
 - a. Any and all Project Specific Proposals;
 - b. Drawings (if required, will be an attachment to Contractor’s Project Specific Proposal);
 - c. Written Amendments in accordance with Article 11.01 D; and
 - d. Purchase Orders

9.2 There are no Contract Documents other than those listed above in this Article 9.

9.3 The Contract Documents may only be amended, modified, or supplemented by a written document signed by both PARTIES.

ARTICLE 10 – INDEMNIFICATION AND INSURANCE REQUIREMENTS

10.1 CONTRACTOR shall indemnify and save harmless CITY (including its officers, employees and affiliated companies) and Engineer (if any) from and against any and all claims, damages, losses and expenses (including attorney's fees and other expenses) arising out of or resulting from the performance of the Project, provided that any such claim, damage, loss, or expense (a) is attributable to bodily injury, sickness, disease or death, or to injury or destruction of property (real or personal) including loss of use resulting there from and (b) is also caused in whole or in part by any intentional or grossly negligent act or omission of the CONTRACTOR, any subcontractor, anyone directly or indirectly employed or controlled by any one of them regardless of whether or not said claim, damage, loss or expense is caused in part by any of the named parties above.

10.2 The indemnification obligations of the CONTRACTOR are not limited by the amount or types of damages, policy limits, worker's compensation coverage or other benefits payable under any insurance policies or any limitation to CONTRACTOR'S liability applicable under any worker's compensation or disability statute. CONTRACTOR acknowledges its indemnification obligation hereunder extends to claims by its employees against CITY.

10.3 CONTRACTOR shall provide insurance coverage in accordance with the provisions set forth in the General Conditions.

10.4 If any employees of the CONTRACTOR, a subcontractor or anyone directly or indirectly employed by any of them make a claim against CITY, the indemnification obligation of CONTRACTOR hereunder shall be construed to the broadest extent possible under the law.

10.5 If any provision of this MSA regarding indemnification is rendered unenforceable by law, it shall be stricken from the MSA and the remaining provisions shall remain in full force and effect.

ARTICLE 11 – MISCELLANEOUS

11.1 Terms – If a term is defined in one Contract Document it shall be construed to have the same meaning in all Contract Documents.

11.2 Assignment of Contract – No assignment by one PARTY of any of its rights under or obligations under the Contract Documents will be binding on the other PARTY without the written consent of that other PARTY, except that the PARTIES may assign such rights and obligations to any entity with which it is merged or which acquires all or substantially all of its assets; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

11.3 Successors and Assigns – CITY and CONTRACTOR each binds itself, its partners, successors, approved assigns, and legal representatives to the other party hereto in respect to all covenants, agreements, and obligations contained in the Contract Documents.

11.4 Severability – Any provision or part of the Contract Documents held by a court to be void or unenforceable shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon CITY and CONTRACTOR, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

11.5 Non-Discrimination – CONTRACTOR shall comply with all state and federal laws prohibiting discrimination in hiring or employment opportunities. In the event of the CONTRACTOR’S noncompliance with any such laws, this Agreement may be terminated or suspended, in whole or in part, and CONTRACTOR may be declared temporarily ineligible for further contracts.

11.6 Notices – Notices to CITY and CONTRACTOR shall be sent by courier or certified mail to the following addresses:

CITY:

CONTRACTOR:

Monica O. Martin
130 South Trade Center Parkway
Conroe, TX 77385

11.7 Designated Representative – The Designated Representative of CITY and CONTRACTOR are as follows:

CITY:

CONTRACTOR:


Monica O. Martin
Title: Chief Administrative Officer
Phone: 936-321-6060
Email: monica@nwdls.com

IN WITNESS WHEREOF, CITY and CONTRACTOR have signed this Agreement in duplicate.

CITY OF TOMBALL

By: _____

**CONTRACTOR: NORTH WATER DISTRICT LABORATORY
SERVICES, INC.**

By:  _____
Monica O. Martin
Chief Administrative Officer

APPENDIX 1 – CONTRACTOR DISCLOSURE

CONTRACTOR NAME: North Water District Laboratory Services, Inc.

Subcontractor's Name(s): n/a


As an authorized representative of the CONTRACTOR and SUBCONTRACTORS for the above referenced project, we represent and warrant that we have not paid or accepted, nor have we agreed to pay or accept in the future, anything of value in order to obtain any aspect of this bid and subsequent award of contract.

Signed

CONTRACTOR:

North Water District Laboratory Services, Inc. n/a

NAME

By: Monica O. Martin 

Date: 02/14/2023

SUBCONTRACTOR:

NAME

By: _____

Date: _____

APPENDIX 2 – CONTRACTOR'S NON-COLLUSION AFFIDAVIT

The undersigned bidder or agent, being duly sworn on oath, says that he has not, nor has any other member, representative, or agent of the firm, company, corporation or partnership represented by him, entered into any combination, collusion or agreement with any person relative to the price to be bid by anyone at such letting nor to prevent any person from bidding nor to include anyone to refrain from bidding, and that this bid is made without reference to any other bid and without any agreement, understanding or combination with any other person in reference to such bidding. He further says that no person or persons, firms, or corporation has, have or will receive directly or indirectly, any rebate, fee, gift, commission or thing of value on account of such sale.

OATH AND AFFIRMATION

I HEREBY AFFIRM UNDER THE PENALTIES FOR PERJURY THAT THE FACTS AND INFORMATION CONTAINED IN THE FOREGOING BID FOR PUBLIC WORKS ARE TRUE AND CORRECT.

Dated at 13:45 this 14th day of February, 2023
North Water District Laboratory Services, Inc.
(Name of Organization)

By: Monica D. Martin
Signature: [Signature]
Title: Chief Administrative Officer

ACKNOWLEDGMENT

State of Texas
County of Montgomery

Before me, a Notary Public, personally appeared the above-named MONICA D MARTIN
and swore that the statements contained in the foregoing document are true and correct.

Subscribed and sworn to before me this 14th day of FEBRUARY, 2023
DEENA HIGGINBOTHAM
Notary Public

My Commission Expires: OCTOBER 8, 2025
County of Residence: MONTGOMERY

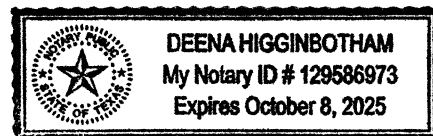


EXHIBIT A – GENERAL CONDITIONS FOR TESTING SERVICES

The following General Conditions apply to testing services performed pursuant to the Master Services Agreement (“MSA”). In the event of a conflict between these General Conditions and the MSA, the General Conditions shall be controlling except with respect to Section 1.2 of the MSA.

1. DEFINITIONS

1.1 CITY's Representative.

Only the following CITY employees are authorized to act as CITY’s Representative to CONTRACTOR:

Name: _____

Title: _____

All work performed by CONTRACTOR shall be authorized by the applicable CITY Representative provided, however, that someone designated by that Representative may authorize Contractor to act during emergencies.

1.2 Holidays. The following days are defined as Holidays:

New Year's Day, Good Friday, Easter Sunday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Day after Thanksgiving, Christmas Eve, and Christmas Day.

1.3 Materials. All raw or prepared materials and manufactured or fabricated products.

1.4 Specifications. The general and special provisions pertaining to the time, place, and method of performing the work and to the quantities and type of material to be furnished for the work.

1.5 Subcontractors. An individual, partnership or corporation, or a combination of any or all, jointly undertaking the execution of any part of the Contractor's obligations.

1.6 Work. Any and all actions, obligations, duties or responsibilities necessary for the successful completion of the tasks assigned to the Contractor by CITY’s Representative.

1.7 Work Hours. Regular work hours are 8:00 a.m. to 5:00 p.m., Monday through Friday. Hours worked outside of regular hours are defined as non-regular hours.

1.8 Purchase Order. A written directive by CITY to the Contractor for services pursuant to the Contract.

1.9 Project, Work or Job. The terms may be used interchangeably for specific work assigned to the Contractor by CITY.

2. SCOPE OF WORK. The Work contemplated under this Contract to be performed by Contractor includes:

2.1 Emergency Work consisting of testing of wells, ground storage tanks, wastewater treatment plants and all sizes of water and wastewater mains, service lines and/or all related appurtenances.

2.2 Non-emergency work Scheduled Work consisting of testing of all wells, ground storage tanks, wastewater treatment plants and all installation and/or replacement of all sizes of CITY customer services, water lines, wastewater lines and/or hydrants, to the water distribution and wastewater collection system. All work is to be completed on a timely basis.

3. PRICING and BILLING

3.1 CITY shall compensate the CONTRACTOR for all authorized work completed to CITY's satisfaction, as evidenced by completed Purchase Orders, in accordance with the prices set forth in Exhibit B, which are attached to this Contract hereto and incorporated herein.

3.2 CONTRACTOR'S invoices shall identify separately each Job, Project performed, and shall conform to the reasonable billing requirements of CITY as stated in these General Conditions. The CONTRACTOR shall not invoice CITY for payment for any work until the work is completed and accepted as satisfactory by CITY's Representative. CITY will pay the CONTRACTOR for work satisfactorily completed within 30 days from the receipt of CONTRACTOR'S invoice.

4. AVAILABILITY OF CONTRACTOR. The Contractor must be available for all emergencies within 6 hours of being notified at the following phone number:

Phone: 936-321-6060

4.1 Notification to CONTRACTOR. Notification of an emergency project shall be by phone to the number set forth in this paragraph, to be followed up by a written Purchase Order within twenty-four hours, or at the beginning of the next regular workday. For non-emergency projects, a written Purchase Order shall be provided before the startup of a regular work hour's project.

4.2 Contents of Notice. When CITY gives the CONTRACTOR, or his designee, a Purchase Order, CITY will inform CONTRACTOR of said start date, the location and nature of the situation, whether additions or deletions to the standard crew are necessary and will provide specifications concerning the work to be performed.

5. CONTRACTOR'S RESPONSIBILITIES

5.1 General. CONTRACTOR is an independent contractor and neither it nor its employees or subcontractors shall be considered to be an employee of CITY. CONTRACTOR is solely responsible for its performance hereunder and shall implement appropriate safeguards to prevent injury to its employees or any third party or damage to any property. CONTRACTOR shall comply with all local, state, and federal

laws and regulations covering the performance of its services hereunder and shall take appropriate steps to prevent injuries or property damage. The CONTRACTOR warrants that he does and shall, at all times while performing services hereunder, carry the required Worker's Compensation insurance required by law. A copy of such insurance shall be provided to CITY upon request.

5.2 Supervision. The CONTRACTOR shall provide an experienced and qualified person who shall act as Supervisor for all work associated with this Contract as needed. Supervisor shall have full authority to represent and act for the Contractor in all matters pertaining to the work and shall be readily available at all times to properly coordinate all phases of the work. The Supervisor shall ensure CONTRACTOR, its employees and subcontractors comply with any security procedures or site-specific rules in effect at CITY facilities provided that such requirement are provided to CONTRACTOR in writing.

5.3 Labor, Material and Equipment

5.3.1 Labor. CONTRACTOR is solely responsible for the conduct and discipline of its employees and/or any subcontractor or persons employed by the subcontractors. All workers shall have sufficient knowledge, skill, and experience to properly and safely perform the work assigned. Any person who, in the opinion of CITY, appears to be incompetent or who acts in a disorderly or intemperate manner shall, at the written request of CITY, be immediately removed from the job and shall be prohibited from doing any future work pursuant to this Contract, unless written approval by CITY is subsequently provided. All persons used by CONTRACTOR to provide services hereunder shall be considered employees of Contractor, and not CITY, and shall not be entitled to or otherwise qualify for any benefits provided by CITY to its employees.

5.3.2 Materials. The CONTRACTOR shall furnish all materials for work under this Contract. All materials supplied by the CONTRACTOR shall be in accordance with Standards and Codes listed in this Contract except where modified in writing by CITY.

5.3.3 Equipment. The CONTRACTOR shall be responsible for supplying all the equipment necessary to complete the work. All tools and equipment shall be in good functional order. The CONTRACTOR shall ensure that it has immediate availability to use all major equipment necessary to perform its obligations under this contract. Equipment shall only be operated by persons who are familiar with its use and are qualified to use it.

5.4 Subcontractors. The CONTRACTOR is prohibited from subcontracting any of the work to be performed under this Contract without first obtaining the written consent of CITY. The CONTRACTOR shall remain liable to CITY for the full and faithful performance of all work under the Contract and Work Order, regardless of the retention of a subcontractor.

5.5 Laws, Regulations, and Permits. The CONTRACTOR shall be cognizant of all local and county ordinances, and state and federal laws and regulations applicable to the work performed hereunder and shall, at all times comply with said ordinances, laws, and regulations. CONTRACTOR is solely responsible to obtain any permits required to perform its services hereunder, except for those that require CITY to

obtain them. The cost to obtain any such permits is incorporated into the price schedules attached hereto and shall not be billed as additional expenses to CITY.

5.6 Taxes. The CONTRACTOR is solely responsible for the payment of all sales and use taxes. There shall be no additional payments or increase in the Contract prices set forth herein based upon any such tax payment.

5.7 Insurance Requirements.

5.7.1 At all times during the provision of the Work, CONTRACTOR shall procure and maintain, and its expense, at least the following types and amounts of insurance coverage:

COVERAGE	LIMITS
Worker's Compensation	-As required by Texas Law
Employer's Liability	-\$500,000 each occurrence
Public Liability (Bodily Injury)	-\$1,000,000 combined single
Public Liability (Property Damage)	-\$1,000,000 combined single
Automobile Liability (Bodily Injury)	-\$200,000 each person
Automobile Liability (Property Damage)	-\$50,000 each occurrence

5.8 Responsibility to Third Party Property Owners. Occasions may arise where it will be necessary to enter upon private property in order to facilitate testing. Should this be necessary, the CONTRACTOR must exercise care and minimize any damage to the property and shall only work within existing utility easements while performing services hereunder. Where appropriate, including when work will be performed outside any existing easement, CONTRACTOR shall obtain the owner's written approval prior to entering the property.

6. CITY'S RESPONSIBILITIES; LIMITATIONS

6.1 Inspection. The work involved in this Contract shall be subject to the inspection by CITY. However, CITY shall have no duty or obligation to inspect the work, and CITY's inspection shall in no way invalidate the CONTRACTOR'S obligations and warranties to perform all work in accordance with the terms of this Contract and any Purchase Order and perform all work in workmanlike manner in accordance with accepted engineering practices. CITY's decision not to inspect shall not limit its right of recovery against CONTRACTOR.

6.2 Permits and Utility Locates. Unless otherwise provided in this Contract the Contract Documents, CITY shall obtain and pay for all necessary permits which by law or regulation must be obtained by CITY in its capacity as a regulated utility corporation.

7. NON-EXCLUSIVE CONTRACT. This Contract does not require the CONTRACTOR to work exclusively for CITY. Likewise, this Contract does not require CITY to use the CONTRACTOR on any given job or for any minimum number of jobs and does not limit or prohibit CITY from utilizing another CONTRACTOR at any time or location.

8. TERMINATION OF WORK. CITY reserves the right to, at any time and for any reason and without prior notice, terminate any Work or Project assigned to CONTRACTOR hereunder. Upon such cancellation, CITY shall make a pro rata payment to CONTRACTOR for the specific Project, within the period required for payments hereunder, for work performed consistently with the Contract Documents up to the date of cancellation.

9. REMEDIES FOR BREACH. In addition to all other remedies or damages provided by equity or at law, the prevailing party shall be entitled to recover costs, including reasonable Attorney's fees.

10. TERMINATION/EXTENSION. Either party may provide the other with sixty (60) days written notice of cancellation of this MSA and any Projects. (This provision shall not be construed to in any way limit CITY's right to terminate any Work pursuant to the terms of Section 8 immediately above this Section.) CITY may exercise a one (1) year contract extension option by providing CONTRACTOR with sixty (60) days advanced written notice of the intent to extend the contract for the additional year.

11. CONFIDENTIALITY. All information provided by CITY to CONTRACTOR shall be considered confidential proprietary information that may not be disclosed or subsequently used by CONTRACTOR without CITY's prior written authorization. All information provided by CONTRACTOR to CITY shall be considered confidential proprietary information that may not be disclosed or subsequently used by CITY without CONTRACTOR'S prior written authorization.

EXHIBIT B – ONE (1) YEAR PRICING



130 S. Trade Center Pkwy, Conroe, TX 77385

Tel: (936) 321-6060

Email: lab@nwdls.com

www. NWDLS.com

TCEQ T104704238-22-36

TCEQ-TOX T104704202-22-17

Analytical Services Quotation

Printed: 02/14/2023

For: **City of Tomball**
501 James Street
Tomball, TX 77375

Bid ID: 20230214135456MM

Effective: 10/28/2022

Expires: 12/31/2022

Status: Pending

Project: City of Tomball North & South Plants - Annual WW

Manager: Glen Williams

Pricing Summary

Analysis	Method	Qty	TAT (days)	Surcharge if any (%)	Discount Price	Extended Price
Aqueous						
Field						
DO Field	Hach 10360	208	10		\$10.00	\$2,080.00
pH Field	SM 4500-H+ B	208	10		\$10.00	\$2,080.00
Weekday Collection	Fee	208	10		\$25.00	\$5,200.00
General Chemistry						
CBOD-5210	SM 5210 B	208	10		\$26.00	\$5,408.00
MLSS-2540	SM 2540 D	104	10		\$25.00	\$2,600.00
NH3-N SEAL-350.1	EPA 350.1	208	10		\$25.00	\$5,200.00
RBOD-5210	SM 5210 B	208	10		\$26.00	\$5,408.00
RNH3-N SEAL-350.1	EPA 350.1	52	10		\$25.00	\$1,300.00
RTSS-2540	SM 2540 D	52	10		\$25.00	\$1,300.00
TSS-2540	SM 2540 D	208	10		\$25.00	\$5,200.00
Metals, Total						
Copper ICPMS 200.8	EPA 200.8	48	10		\$25.00	\$1,200.00
Microbiology						
TC EC-9223	SM 9223 B (Colilert Quanti-Tray)	104	10		\$55.00	\$5,720.00
Misc						
NELAP Admin Fee	Fee	24	10		\$20.00	\$480.00
Solid						
[Group Analysis]						
Sludge Analysis	varies	2	10		\$427.50	\$855.00
TCLP-1311	varies	2	10		\$1,060.00	\$2,120.00



130 S. Trade Center Pkwy, Conroe, TX 77385

Tel: (936) 321-6060

Email: lab@nwdls.com

www. NWDLS.com

TCEQ T104704238-22-36

TCEQ-TOX T104704202-22-17

Analytical Services Quotation

Printed: 02/14/2023

(Continued)

For: **City of Tomball**
Project: City of Tomball North & South Plants - Annual WW
Manager: Glen Williams

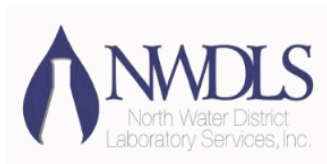
Bid ID: 20230214135456MM

Pricing Summary

Analysis	Method	Qty	TAT (days)	Surcharge if any (%)	Discount Price	Extended Price
Solid (Continued)						
General Chemistry						
Paint Filter-9095	SW-9065	2	10		\$20.00	\$40.00
SOUR TS-2540 G	SM 2540 G	2	10		\$0.00	\$0.00
TS-2540 G	SM 2540 G	48	10		\$25.00	\$1,200.00
Microbiology						
FC/CB-QT-LR	Colilert-18	14	10		\$55.00	\$770.00
SOUR-2710	SM 2710 B	2	10		\$100.00	\$200.00
Organics by GC						
PCB-8082	SW-8082	2	10		\$200.00	\$400.00
TCLP						
TCLP ZHE	EPA 1311	2	10		\$0.00	\$0.00
VOA-TCLP	SW-8260	2	10		\$125.00	\$250.00
					Bid Total:	\$49,011.00

Deena Higginbotham

Deena Higginbotham
Director of Client Services



130 S. Trade Center Pkwy, Conroe, TX 77385

Tel: (936) 321-6060

Email: lab@nwdls.com

www. NWDLS.com

TCEQ T104704238-22-36

TCEQ-TOX T104704202-22-17

Analytical Services Quotation

(Continued)

Printed: 02/14/2023

For: **City of Tomball**
Project: City of Tomball North & South Plants - Annual WW
Manager: Glen Williams

Bid ID: 20230214135456MM

Price and Terms of Payment

Prices are exclusive of all applicable taxes (including sales, use and VAT) and are based on tariffs in force at the day of the transmittal of the offer to the customer. Applicable taxes are those in force at the date of invoicing. Unless specifically agreed otherwise by NWDLS in its acceptance of an order, payment of all invoices is due strictly within 30 days of the invoice date. Any dispute about invoices must be raised within 30 days of the invoice date. The challenge of an analytical result will not entitle a customer to defer payment. Any invoice which remains outstanding after due date, may be additionally charged with an administrative penalty of One Hundred Dollars (\$100) and may carry interest at the rate of three percent (3%) per month or the maximum interest rate permitted by applicable law, whichever is lower.

NWDLS has the right to charge an administrative fee of up to Fifteen Dollars (\$15) to re-issue an invoice.

The invoice settlement method is check, bank transfer or direct debit. Any other method of payment must receive prior agreement from NWDLS. The customer undertakes to provide bank account details, as necessary.

NWDLS is entitled to require payment of up to one hundred percent (100%) of the quoted order price as a condition of acceptance.

Delivery Dates/Turnaround Times

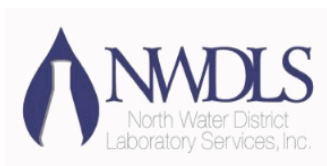
Delivery dates and turnaround times are estimates and do not constitute a commitment by NWDLS. Nevertheless, NWDLS shall make commercially reasonable efforts to meet its estimated deadlines.

Results are generally sent by email, or via other electronic means, to the attention of the persons indicated by the customer in the order, promptly after the analysis is completed.

Accepted By

Date

Receipt of samples by NWDLS constitutes acceptance of the above terms and conditions, not withstanding any provisions to the contrary in clients purchase order, unless an alternative agreement has been signed by us.



130 S. Trade Center Pkwy, Conroe, TX 77385
 Tel: (936) 321-6060
 Email: lab@nwdls.com
 www. NWDLS.com
 TCEQ T104704238-22-36 TCEQ-TOX T104704202-22-17

Analytical Services Quotation

Printed: 02/14/2023

For: **City of Tomball**
501 James Street
Tomball, TX 77375

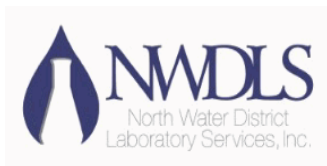
Bid ID: 20230214140026MM

Effective: 10/28/2022
 Expires: 12/31/2022
 Status: Pending

Project: City of Tomball North & South Plants - Annual WET
 Manager: Glen Williams

Pricing Summary

Analysis	Method	Qty	TAT (days)	Surcharge if any (%)	Discount Price	Extended Price
Aqueous						
Acute Toxicity						
DP 1DL-2021.0	EPA 2021.0	4	10		\$175.75	\$703.00
PP 1DL-2000.0	EPA 2000.0	4	10		\$175.75	\$703.00
Chronic Toxicity						
CD 7DD-1002.0	EPA 1002.0	8	10		\$926.25	\$7,410.00
PP 7DD-1000.0	EPA 1000.0	8	10		\$926.25	\$7,410.00
RW CD 7DD-1002.0	EPA 1002.0	8	10		\$95.00	\$760.00
RW PP 7DD-1000.0	EPA 1000.0	8	10		\$95.00	\$760.00
Field						
DO Field	Hach 10360	208	10		\$0.00	\$0.00
Flow Field - Instant Meter Reading	Field	24	10		\$0.00	\$0.00
pH Field	SM 4500-H+ B	24	10		\$0.00	\$0.00
Receiving Water Collection	Fee	8	10		\$95.00	\$760.00
Total Chlorine Residual Field	SM 4500-Cl G	24	10		\$0.00	\$0.00
Weekday Collection	Fee	24	10		\$0.00	\$0.00
General Chemistry						
Alkalinity-2320	SM 2320 B	24	10		\$0.00	\$0.00
Conductivity-2510	SM 2510 B	24	10		\$0.00	\$0.00
Hardness T-2340 C	SM 2340 C	24	10		\$0.00	\$0.00
NH3-N SEAL-350.1	EPA 350.1	24	10		\$0.00	\$0.00
Salinity-2520	SM 2520 B	24	10		\$0.00	\$0.00
Misc						
NELAP Admin Fee	Fee	24	10		\$0.00	\$0.00
Bid Total:					\$18,506.00	



130 S. Trade Center Pkwy, Conroe, TX 77385
Tel: (936) 321-6060
Email: lab@nwdls.com
www. NWDLS.com

TCEQ T104704238-22-36

TCEQ-TOX T104704202-22-17

Analytical Services Quotation

(Continued)

Printed: 02/14/2023

For: **City of Tomball**
Project: City of Tomball North & South Plants - Annual WET
Manager: Glen Williams

Bid ID: 20230214140026MM

Deena Higginbotham
Director of Client Services



Analytical Services Quotation

(Continued)

Printed: 02/14/2023

For: **City of Tomball**
Project: City of Tomball North & South Plants - Annual WET
Manager: Glen Williams

Bid ID: 20230214140026MM

Price and Terms of Payment

Prices are exclusive of all applicable taxes (including sales, use and VAT) and are based on tariffs in force at the day of the transmittal of the offer to the customer. Applicable taxes are those in force at the date of invoicing. Unless specifically agreed otherwise by NWDLS in its acceptance of an order, payment of all invoices is due strictly within 30 days of the invoice date. Any dispute about invoices must be raised within 30 days of the invoice date. The challenge of an analytical result will not entitle a customer to defer payment. Any invoice which remains outstanding after due date, may be additionally charged with an administrative penalty of One Hundred Dollars (\$100) and may carry interest at the rate of three percent (3%) per month or the maximum interest rate permitted by applicable law, whichever is lower.

NWDLS has the right to charge an administrative fee of up to Fifteen Dollars (\$15) to re-issue an invoice.

The invoice settlement method is check, bank transfer or direct debit. Any other method of payment must receive prior agreement from NWDLS. The customer undertakes to provide bank account details, as necessary.

NWDLS is entitled to require payment of up to one hundred percent (100%) of the quoted order price as a condition of acceptance.

Delivery Dates/Turnaround Times

Delivery dates and turnaround times are estimates and do not constitute a commitment by NWDLS. Nevertheless, NWDLS shall make commercially reasonable efforts to meet its estimated deadlines.

Results are generally sent by email, or via other electronic means, to the attention of the persons indicated by the customer in the order, promptly after the analysis is completed.

Accepted By _____

Date _____

Receipt of samples by NWDLS constitutes acceptance of the above terms and conditions, not withstanding any provisions to the contrary in clients purchase order, unless an alternative agreement has been signed by us.



130 S. Trade Center Pkwy, Conroe, TX 77385

Tel: (936) 321-6060

Email: lab@nwdls.com

www. NWDLS.com

TCEQ T104704238-22-36

TCEQ-TOX T104704202-22-17

Analytical Services Quotation

Printed: 02/14/2023

For: **City of Tomball**
501 James Street
Tomball, TX 77375

Bid ID: 20230214140045MM

Effective: 10/28/2022

Expires: 12/31/2022

Status: Pending

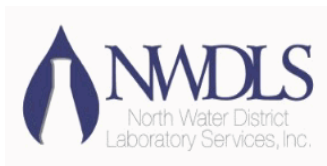
Project: City of Tomball North & South Plants - Annual DW

Manager: Glen Williams

Pricing Summary

Analysis	Method	Qty	TAT (days)	Surcharge if any (%)	Discount Price	Extended Price
Drinking Water						
[Group Analysis]						
LCR	varies	30	10		\$60.00	\$1,800.00
Field						
Pick Up	Fee	1	10		\$0.00	\$0.00
Total Chlorine Residual Field	SM 4500-Cl G	180	10		\$0.00	\$0.00
Microbiology						
TC EC-9223 PA-18HR	SM 9223 B (Colilert)	180	2		\$25.00	\$4,500.00
Misc						
Lead Consumer Notice	Fee	1	10		\$0.00	\$0.00
NELAP Admin Fee	Fee	1	10		\$0.00	\$0.00
Bid Total:						\$6,300.00

Deena Higginbotham
Director of Client Services



130 S. Trade Center Pkwy, Conroe, TX 77385
Tel: (936) 321-6060
Email: lab@nwdls.com
www. NWDLS.com
TCEQ T104704238-22-36
TCEQ-TOX T104704202-22-17

Analytical Services Quotation

(Continued)

Printed: 02/14/2023

For: **City of Tomball**
Project: City of Tomball North & South Plants - Annual DW
Manager: Glen Williams

Bid ID: 20230214140045MM

Price and Terms of Payment

Prices are exclusive of all applicable taxes (including sales, use and VAT) and are based on tariffs in force at the day of the transmittal of the offer to the customer. Applicable taxes are those in force at the date of invoicing. Unless specifically agreed otherwise by NWDLS in its acceptance of an order, payment of all invoices is due strictly within 30 days of the invoice date. Any dispute about invoices must be raised within 30 days of the invoice date. The challenge of an analytical result will not entitle a customer to defer payment. Any invoice which remains outstanding after due date, may be additionally charged with an administrative penalty of One Hundred Dollars (\$100) and may carry interest at the rate of three percent (3%) per month or the maximum interest rate permitted by applicable law, whichever is lower.

NWDLS has the right to charge an administrative fee of up to Fifteen Dollars (\$15) to re-issue an invoice.

The invoice settlement method is check, bank transfer or direct debit. Any other method of payment must receive prior agreement from NWDLS. The customer undertakes to provide bank account details, as necessary.

NWDLS is entitled to require payment of up to one hundred percent (100%) of the quoted order price as a condition of acceptance.

Delivery Dates/Turnaround Times

Delivery dates and turnaround times are estimates and do not constitute a commitment by NWDLS. Nevertheless, NWDLS shall make commercially reasonable efforts to meet its estimated deadlines.

Results are generally sent by email, or via other electronic means, to the attention of the persons indicated by the customer in the order, promptly after the analysis is completed.

Accepted By _____

Date _____

Receipt of samples by NWDLS constitutes acceptance of the above terms and conditions, not withstanding any provisions to the contrary in clients purchase order, unless an alternative agreement has been signed by us.

MASTER SERVICES AGREEMENT

This Master Services Agreement (the "Agreement") is entered into this 15 day of February 2023, by and between, City of Tomball a () corporation, () limited liability company, () partnership, () sole proprietorship, () other: _____ incorporated/organized under the laws of the State of Texas/_____, (hereafter referred to as "Client"), having its principal office at 401 Market Street, Tomball, Texas 77375, and Waypoint Business Solutions, LLC, a Texas limited liability company, (hereafter referred to as "Waypoint"). Client and Waypoint are collectively referred to in this Agreement as the "Parties". In consideration of the promises contained in this Agreement, the Parties stipulate, represent and agree, each to the other, as follows:

1. **Scope of Agreement.** This Agreement contains the entire Agreement and understanding with respect to the subject matter hereof and supersedes all prior discussions, agreements, proposals, negotiations, letters of intent or other correspondence. Neither of the Parties shall be bound by any conditions, definitions, warranties, understandings, or representations with respect to such subject matter other than as expressly provided in this Agreement or as agreed by the Parties in writing on or subsequent to the date of this Agreement.
2. **Services Defined.** The term "Services" when used in this Agreement means the performance of professional services and include but are not limited to: system analysis, network planning design and installations, preparing hardware/software RFP, system integration, product analysis, research and testing, implementation recommendations, system management, hosting, collocation, and hardware/software maintenance.
3. **Agreement for Services.** Subject to the terms of this Agreement, Waypoint shall provide and deliver to Client the Services in accordance with written statements of work agreed to between the Parties (the "Work"). The overall terms, conditions, directives, tasks, timelines and goals for completing the Work shall be set forth in one or more statements of Work. Client may, at any time by a written Statement of Work, make changes, deletions, or modifications provided that the time for performance and compensation to be paid will be adjusted accordingly. No changes in the Work shall be made or provided without Waypoint's written consent. Each such Statement of Work and any amendments shall be executed on behalf of each of the Parties, whereupon it shall be deemed incorporated herein by reference and as such shall be included in the Agreement. WAYPOINT HAS NO OBLIGATIONS WHATSOEVER WITH RESPECT TO SPECIFICATIONS THAT ARE NOT IN WRITING OR THAT ARE NOT ACCEPTED BY WAYPOINT.
4. **Client Responsibility.** Client shall appoint a Representative for the Work to be performed under each Statement of Work to provide direction and approval of the Work. If the Work is performed at Client's facilities, Client agrees to provide suitable workspace, computers, telephones equipment and all technical and other information reasonably required by Waypoint to carry out the Work. Client shall furnish information requested by Waypoint that is necessary for Waypoint to fulfill its responsibilities under this Agreement or any Statement of Work. Unnecessary or unreasonable delays attributable directly to Client, which results in additional costs to Waypoint, are subject to negotiation and additional compensation to Waypoint.

5. **Status Reports.** Waypoint will furnish Client with periodic status reports as may be reasonably requested by Client upon three (3) days prior written notice.
6. **Independent Contractor.** In the performance of this Agreement, Waypoint, together with its staff, is acting as an independent contractor with respect to Waypoint's performance hereunder and neither Waypoint nor anyone used or employed by Waypoint shall be deemed for any purpose to be the employee, agent, servant or representative of Client, and Client shall have no direction or control of Waypoint, except in the results obtained.
7. **Non-Hire.** During the Term of this Agreement and for a period of two (2) years after the later of the effective date of termination of this Agreement and the completion of any Statement of Work, no party will, directly or indirectly, on its own behalf or on behalf of any other person, (a) solicit for employment, employ or retain the services of (whether as an employee, independent contractor or otherwise) or otherwise interfere with or damage the other party's business relationship with, any employee or independent contractor of the other party, or (b) use or disclose any personal information regarding any of the other party's employees or independent contractors for any purpose outside the scope of this Agreement or any Statement of Work.
8. **Client Supplied Equipment/Software.** Client is responsible for ensuring all Client provided equipment is in good working order and all required device drivers are on site. Client supplied software must be lawfully and properly licensed to Client and all installation media and support documentation must be available for inspection by Waypoint.
9. **Payment.**
 - a. **Work and Materials.** The amount of compensation to be received by Waypoint shall be based on a time and materials basis as set forth in each Statement of Work that includes a Schedule of Fees attached hereto as Exhibit "A". The total compensation payable to Waypoint in relation to any Statement of Work shall not exceed the amount in the applicable Statement of Work, subject to additions and deduction as agreed in writing by the parties.
 - b. **Invoices.** Invoices shall be rendered weekly to Client for the performance of Work and materials provided during that period. Each invoice shall reference this Agreement and the Statement of Work identification numbers, and contain pertinent backup information as is reasonably required by and satisfactory to the Client. Payment shall be due upon receipt of invoice. Past due accounts are subject to a service charge of 1½% per month on all invoices over 30 days from date of invoice (annual rate 18%). All bills are due and payable at Waypoint Business Solutions, LLC, 118 Vintage Park Blvd., W414, Houston, TX 77070
 - c. **Applicable Taxes.** In addition to the charges due under this Agreement, Client agrees to pay all state or federal sales, use, excise, personal property, or similar taxes, resulting from this Agreement or activities hereunder, exclusive of taxes based on Waypoint's income.
 - d. **Out-of-Pocket Expenses.** Reasonable out-of-pocket expenditures incurred by Waypoint shall be paid for by Client. Such expenditures shall include travel and subsistence, phone calls, supplies, data preparation, and all other ordinary, necessary and reasonable expenses in performing any Work, provided Waypoint prepares and timely submits to Client an itemized statement of such, to be included on Client's invoices.

10. Confidentiality.

All information disclosed by either party ("Disclosing Party") to the other party ("Receiving Party"), including, but not limited to information relating to a party's business activities and the results of Work performed by Waypoint pursuant to this Agreement, if disclosed in writing, marked as proprietary or confidential, or if disclosed orally, reduced to writing within thirty (30) days and labeled as proprietary or confidential ("Confidential Information") shall remain the sole property of Disclosing Party. Except for the specific rights granted by this Agreement, Receiving Party shall not use any Confidential Information of Disclosing Party for its own account. Receiving Party shall use the highest commercially reasonable degree of care to protect Disclosing Party's Confidential Information. Receiving Party shall not disclose Confidential Information to any third party without the express written consent of Disclosing Party (except solely for Receiving Party's internal business needs, to employees or consultants who are bound by a written agreement with Receiving Party to maintain the confidentiality of such Confidential Information in a manner consistent with this Agreement). Confidential Information shall exclude information (i) available to the public other than by a breach of this Agreement; (ii) rightfully received from a third party not in breach of an obligation of confidentiality; (iii) independently developed by Receiving Party without access to Confidential Information; (iv) known to Receiving Party at the time of disclosure; or (v) produced in compliance with applicable law or a court order, provided Disclosing Party is given reasonable notice of such law or order and an opportunity to attempt to preclude or limit such production.

Upon termination of this Agreement, Receiving Party agrees to cease using any and all materials embodying Confidential Information, and to promptly return such materials to Disclosing Party upon request, or make such other reasonable disposition as Disclosing Party may direct.

11. Proprietary Rights.

- a. **Assignment of Work Product.** Upon receipt of final payment for all Services and Work rendered by Waypoint under this Agreement, Waypoint will convey to Client good and marketable title to the technical notes and tangible work products required to be delivered under the Statement of Work and all rights therein. Waypoint will also provide reasonable assistance to perfect Client rights and title to such work product, at Client's request and expense. Client agrees to compensate Waypoint for such services at its standard hourly rate.
- b. **Client Property.** Any programs, data, or other materials furnished by Client for use by Waypoint in connection with the services performed under this Agreement shall remain the sole property of Client. All such materials shall be returned to Client upon receipt by Waypoint of final payment for all Work performed under the Statement of Work.
- c. **Waypoint Property.** Any ideas, concepts, know-how, techniques, sequence, or organization relating to the Work during the course of this Agreement by Waypoint, or jointly by Waypoint and Client, shall be the exclusive property of Waypoint.
- d. **Competitive Services.** Except as aforesaid, nothing in this Agreement shall be construed so as to preclude Waypoint from developing, using, or marketing Services or other work that may be competitive with that delivered to Client hereunder, irrespective of whether such services or work are similar or related to those provided under this Agreement.

12. LIMITED WARRANTY & LIMITATION OF LIABILITY.

- a. **Software.** Waypoint warrants that any software delivered to Client under any Statement of Work (the "Software") will perform substantially to the manufacturer's published functional specifications for a period of one year from the date of installation. Any modification of the Software by any persons other than Waypoint or the manufacturer shall render this warranty void. Additionally, Waypoint shall not be responsible for any damage to Software caused by Client, its agents, servants, employees or contractors. Waypoint does not warrant any Software provided will meet the requirements of Client. Client accepts sole responsibility for (i) the use of any Software to achieve Client's intended results; (ii) the results obtained from any Software; and (iii) any omissions, inadequacies, or problems in the written specification for any Software set forth in the applicable Statement of Work. Furthermore, Client agrees that Client's sole and exclusive remedy for Software failure under this agreement shall be reinstallation of any Waypoint supplied Software and to, by commercially reasonable means, cause the Software to operate substantially in accordance with such written specifications.
- b. **Equipment.** Waypoint does not provide any warranty on any hardware or equipment delivered to Client under this Agreement or any Statement of Work (the "Equipment"), and it is delivered to Client on an "AS-IS" basis as between Client and Waypoint. Waypoint shall assign to Client the warranties and indemnities, if any, provided by the manufacturer(s) of such Equipment, to the extent they are assignable by Waypoint, provided however, that Client's sole and exclusive remedy for the breach of any such warranty or indemnity shall be against the person offering the warranty or indemnity and not against Waypoint. Client represents that it accepts sole responsibility for the selection of the equipment, if any, to achieve Client's intended results.
- c. **Limited Warranty.** Waypoint warrants that the Work and Services will be provided in a good and workmanlike manner. Except as expressly otherwise provided in subsections (a) and (b) above and the preceding sentence WAYPOINT MAKES NO OTHER WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, WITH RESPECT TO THIS AGREEMENT, THE SOFTWARE, EQUIPMENT, OR ANY WORK, GOODS, OR SERVICES PROVIDED TO CLIENT BY WAYPOINT, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, PERFORMANCE OR NON-INFRINGEMENT.
- d. **Limitation of Liability.** EXCEPT AS PROVIDED IN SECTION 12 OR FOR A BREACH OF SECTION 9, WAYPOINT'S TOTAL LIABILITY, WHETHER THE CLAIM FOR SUCH DAMAGES IS BASED IN CONTRACT, WARRANTY, NEGLIGENCE OR TORT, ARISING OUT OF, OR IN CONNECTION WITH THE SERVICES, THE WORK OR THIS AGREEMENT SHALL NOT EXCEED THE AMOUNTS PAID BY CLIENT FOR THE SPECIFIC SERVICE(S) OR WORK GIVING RISE TO SUCH CLAIM DURING THE PRIOR TWELVE MONTH PERIOD. EACH PARTY ACKNOWLEDGES THAT THESE LIMITATIONS APPLY EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR THE REMEDIES FAIL OF THEIR ESSENTIAL PURPOSE AND THAT, WITHOUT THESE LIMITATIONS, THE FEE FOR THE SERVICES AND WORK PROVIDED HEREUNDER WOULD BE HIGHER. WAYPOINT SHALL NOT BE LIABLE TO CLIENT FOR LOST PROFITS, LOST SAVINGS OR OTHER INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY, SPECIAL OR CONSEQUENTIAL DAMAGES OF ANY KIND WHATSOEVER RESULTING FROM OR ARISING OUT OF OR RELATING TO: (a) CLIENT'S USE OR INABILITY TO USE THE RESULTS OF THE WORK RENDERED HEREUNDER, EVEN IF WAYPOINT HAS BEEN ADVISED

OF SUCH DAMAGES; (b) ANY BREACH OF THIS AGREEMENT; (c) THE DELIVERY, PERFORMANCE, INSTALLATION OF AND MAINTENANCE OF ANY SOFTWARE; (d) THE DELIVERY, PERFORMANCE, INSTALLATION OF AND MAINTENANCE OF ANY EQUIPMENT; (e) LOST OR CORRUPTED DATA OR SOFTWARE, LOSS OF USE OF SYSTEM(S) OR NETWORK, OR THE RECOVERY OF SUCH, (f) LOSS OF BUSINESS OPPORTUNITY, (g) BUSINESS INTERRUPTION OR DOWNTIME, (h) SERVICES, OR THIRD-PARTY PRODUCTS NOT BEING AVAILABLE FOR USE BY CLIENT, or (i) ANY CLAIM MADE AGAINST CLIENT BY ANY OTHER PARTY EVEN IF WAYPOINT HAS BEEN ADVISED OF THE CLAIM OR POTENTIAL CLAIM.

13. Indemnification.

- a. **Client Indemnity.** Client, at its expense, shall indemnify, defend and hold Waypoint harmless, from any claim or action by a third party that any Client supplied software and/or equipment or other components related to the Work, as well as software directed or requested by Client to be installed or integrated as part of the Work infringes upon or violates any patent, copyright, trademark, trade secret or other proprietary right of any third party, and shall reimburse Waypoint for all reasonable expenses (including, without limitation, attorneys' fees and expenses) as they are incurred in connection with pursuing or defending any third-party claim or action, whether or not such claims are successful.
- b. **Waypoint Indemnity.** Waypoint shall defend, indemnify and hold harmless Client from any third-party claim or action that the Services, Work, Software or Equipment ("Deliverable") delivered by Waypoint pursuant to this Agreement infringe or misappropriate that third party's patent, copyright, trade secret, or other intellectual property rights, and shall reimburse Client for all reasonable expenses (including, without limitation, attorneys' fees and expenses) as they are incurred in connection with pursuing or defending any third-party claim or action, whether or not such claims are successful. In addition, if Waypoint receives notice of a claim that, in Waypoint's reasonable opinion, is likely to result in an adverse ruling, then Waypoint shall at its option, (a) obtain a right for Client to continue using such Service or Deliverable; (b) modify such Service to make it non-infringing; (c) replace such Service or Deliverable with a non-infringing equivalent; or (d) refund any pre-paid fees for the allegedly infringing Service or Deliverable that have not been provided. Notwithstanding the foregoing, Waypoint shall have no obligation under this Section for any claim resulting or arising from (a) Client's modifications of the Service or Deliverable that was not approved by Waypoint; (b) the combination, operation or use of the Service or Deliverable in connection with a third-party product or service (the combination of which causes the infringement); or (c) Waypoint's compliance with Client's written specifications or directions, including the incorporation of any Deliverable or other materials or process provided by or requested by Client. Waypoint shall be responsible for all physical injuries (including death) to persons (including but not limited to employees of Client) or damage to property (including, but not limited to the property of Client and Waypoint) resulting from the negligence of Waypoint or its employees and shall indemnify and save Client harmless from loss and liability upon any and all claims on account of such injuries to persons or damage to property, and from all direct costs and expenses finally awarded in suit which may be brought against Client on account thereof, provided, however, the Client or Waypoint, as the case may be, shall be responsible for workers compensation claims brought by their respective employees, without regard to the negligence of either.

This Section states each Party's exclusive remedies for any third-party claim or action, and nothing in this Agreement or elsewhere will obligate either party to provide any greater indemnity to the other.

14. Time Limitation. NO ACTION, REGARDLESS OF FORM, ARISING OUT THE TRANSACTIONS UNDER THIS AGREEMENT, MAY BE BROUGHT BY EITHER PARTY MORE THAN TWO (2) YEARS AFTER THE CAUSE OF ACTION HAS OCCURRED EXCEPT THAT AN ACTION FOR NON-PAYMENT MAY BE BROUGHT WITHIN TWO YEARS OF THE DATE OF LAST PAYMENT.

15. Term, Termination.

a. **Commencement Date.** This Agreement becomes effective on the date it is fully executed by both parties and terminates 3 years from the effective date.

b. **Termination Rights.** Unless otherwise provided in a Statement of Work, either party may terminate this Agreement upon not less than five (5) business days prior written notice. Termination of this Agreement shall constitute termination of all Statement of Works. However, termination of a Statement of Work does not terminate this Agreement. In the event this Agreement or a Statement of Work is terminated pursuant to this paragraph, Client agrees to pay Waypoint for Work rendered through such date and to reimburse Waypoint for its reasonable expenses incurred through the termination date.

16. Client Data. Client is responsible for securing a full data backup 24 hours before Work is to commence on an existing system for scheduled maintenance or system modification.

17. General Provisions.

a. **Exclusive Remedies.** Client's remedies in this Agreement are exclusive.

b. **Entire Agreement/Assignment.** This Agreement: (i) is the complete and exclusive statement of the agreement between the parties, (ii) supersedes all proposals, oral or written, and all other communications between the parties relating to the subject of this Agreement; and (iii) may not be assigned, sublicensed, or otherwise transferred by Client without the prior written consent of Waypoint, but its terms and conditions shall extend to and bind any permitted successor or assign. If any provision of this Agreement is void or unenforceable, the remainder of this Agreement will remain in full force and will not be terminated.

c. **Governing Law.** This Agreement shall be governed by the laws of the State of Texas. The exclusive jurisdiction for any legal proceedings shall be in the courts of the State of Texas, County of Harris, and the parties expressly submit to the jurisdiction of said courts.

d. **Survival of Proprietary Rights.** The proprietary rights and confidentiality obligations of the parties shall survive the expiration or earlier termination hereof.

e. **Titles.** The section headings in this Agreement are for convenient reference only and shall be given no substantive or interpretive effect.

f. **Notices.** Any and all notices between the parties under this Agreement shall be in writing and deemed received when mailed by registered mail, postage prepaid, first class, electronic mail (e-mail) to a partner, officer, or authorized representative, or delivered by courier to the following addresses:

If to Waypoint:

If to Client:

Waypoint Business Solutions/ Paul Neyman

City of Tomball

118 Vintage Park Blvd. W414

401 Market Street

Houston, TX. 77070

Tomball, Texas 77375

- g. **Form.** No provision appearing on any form originated by Client shall be applicable unless such provision is expressly accepted in writing by Waypoint.
- h. **Delay.** Waypoint shall not be liable to Client for any delay or failure by Waypoint to perform its obligations hereunder or otherwise if such delay or failure by Waypoint to perform its obligations hereunder or otherwise if such delay or failure arises from any cause or causes beyond the reasonable control of Waypoint, including but not limited to, labor disputes, strikes, other labor or industrial disturbances, acts of God, floods, hurricanes, lightning, shortages of materials, rationing, utility or communication failures, earthquakes, casualty, war, acts of public enemy, riots, insurrections, embargoes, blockages, actions, restrictions, regulations, or orders of any government agency or subdivision thereof, or temporary unavailability of service personnel due to other service calls received by Waypoint. In the event of such a delay or failure, and notwithstanding anything to the contrary in any Statement of Work, such delay or failure shall be excused during the continuance thereof, and the period of performance shall be extended to such extent necessary to enable Waypoint to perform after the cause of delay has been removed.
- i. **Legal Fees.** In the event either party must retain an attorney to interpret or enforce this Agreement, the prevailing party in a dispute shall be entitled to recover its attorney's fees and costs incurred in addition to any relief to which it may be entitled.
- j. **Dispute Resolution.** Client and Waypoint will attempt to resolve any claim, or dispute or controversy (whether in contract, tort or otherwise) arising out of or relating to this Agreement (a "Dispute") through face-to-face negotiation with persons fully authorized to resolve the Dispute or through mediation utilizing a mutually agreeable mediator, rather than through litigation. The existence or results of any negotiation or mediation will be treated as confidential. Notwithstanding the foregoing, either party will have the right to obtain from a court of competent jurisdiction a temporary restraining order, preliminary injunction or other equitable relief to preserve the status quo, prevent irreparable harm, avoid the expiration of any applicable limitations period, or preserve a superior position with respect to other creditors, although the merits of the underlying Dispute will be resolved in accordance with this paragraph. In the event the parties are unable to resolve the Dispute within 60 days of notice of the Dispute to the other party, the parties shall be free to pursue all remedies available at law or equity.
- k. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all such counterparts shall together constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have executed this Agreement by their duly authorized representatives.

CLIENT

By: _____

Name: _____

Title: _____

WAYPOINT BUSINESS SOLUTIONS, LLC

By: _____

Name: _____

Title: _____

(ver. 2017-07-25-01)

City Council Meeting Agenda Item Data Sheet

Meeting Date: February 6, 2023

Topic:

Approve a lease extension for two years with Frank and Russell DeNina, for 3.547-acre tract, described as TR R10, Abstract 371 W. Hurd Survey, 0 Mechanic Road, for the daily worker's site.

Background:

The original contract term with Frank and Russell DeNina expired on December 31, 2022, and since that time we have been operating monthly until the renewal terms could be agreed upon. Staff is requesting Council to exercise the renewal of the lease agreement stipulated in the original agreement, under substantially the same terms but raising the not-to-exceed lease payment to \$7,000 annually based on the total ad valorem taxes.

Origination: Project Management

Recommendation:

Staff recommends approving the lease extension with Frank and Russell DeNina for the property described as 0 Mechanic for two years.

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: # 100-119-6329

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

Signed	<u>Drew Huffman</u>	Approved by	<u></u>
	Staff Member Date		City Manager Date

AMENDING AGREEMENT

THIS AMENDING AGREEMENT dated February 21, 2023

BETWEEN:

Frank DeNina and Russell DeNina

-AND-

The City of Tomball

Background

1. Frank DeNina and Russell DeNina and the City of Tomball (the "Parties") entered into a contract (the "Contract") dated April 1, 2017, for the purpose of the Lease of 3.547-acre tract of land.
2. The Parties desire to amend the Contract on the terms and conditions set forth in this Amending Agreement (the "Agreement").
3. This Agreement is the first amendment to the Contract.
4. References in this Agreement to the Contract are to the Contract as previously amended or varied, and attached as Exhibit A.

IN CONSIDERATION OF the Parties agreeing to amend their obligations in the existing Contract, and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree to keep, perform, and fulfill the promises, conditions, and agreements below:

Amendments

The Contract is amended as follows:

1. Section 2 of the Contract is amended to extend the Contract two additional years, as permitted in Section 2.
2. Section 3 of the Contract is amended by increasing the annual lease payment to a not-to-exceed amount of \$7,000 annually.

No Other Changes

Except as otherwise expressly provided in this Agreement, all the terms and conditions of the Contract remain unchanged and in full force and effect.

Governing Law

Subject to the terms of the Contract, it is the intention of the Parties that this Agreement, and all suits and special proceedings under this Agreement, be constructed in accordance with and governed, to the exclusion of the law of any other forum, by the laws of the State of Texas, without regard to the jurisdiction in which any action or special proceeding may be instituted.

IN WITNESS WHEREOF the Parties have duly affixed their signatures under hand and seal on the ____ day of February 2023.

Witness: _____

Date: _____

Frank DeNina

Date: _____

Attest: _____

Date: _____

(SEAL)

David Esquivel, City Manager

Date: _____

EXHIBIT A

LEASE AGREEMENT

This Lease Agreement (the "Lease") is made and entered as of the 1st day of April, 2017, by and between Frank DeNina and Russell DeNina, individuals, whose principal address is 27100 Tomball Parkway, Tomball, TX 77375 ("Lessor"), and the City of Tomball, a home rule municipal corporation located in Harris County, Texas, having its City Hall located at 401 W. Market Street, Tomball, TX 77375 (the "City").

Whereas, Lessor is the owner of a certain 3.547 acre tract of land, more or less, located within the City of Tomball, Harris County, Texas; and

Whereas, the City desires to lease said 3.547 acre tract from Lessor for use by the City as a day worker's assembly and collection facility; and

Whereas, Lessor is willing to lease said 3.547 acre tract to the City subject to the terms and conditions contained herein; now therefore

For and in consideration of the mutual obligations and benefits to be derived hereunder, Lessor and the City do hereby agree as follows:

Section 1. Lessor agrees to lease to the City, and the City agrees to lease from Lessor, all of that certain 3.547 acre tract of land, more or less, located in the City of Tomball, Harris County, Texas, said 3.547 acre tract being more particularly described and depicted in Exhibit "A" attached hereto and for all things, made a part hereof (the "Property").

Section 2. The primary term of this lease shall be for a period of five (5) years, commencing on the effective date written above, which primary five (5) year term may be extended for an additional period of two (2) years (the "Renewal Term") upon effective notice thereof to Lessor not less than (90) days prior to the expiration of the Primary Term. Notwithstanding the foregoing, Lessor shall have the right at any time [REDACTED] to terminate this Lease, upon thirty (30) days advance written notice thereof. The City shall have the right, at any time, to terminate this lease upon thirty (30) days advance written notice thereof.

Section 3. The City shall pay to Lessor, as its annual lease payment, an amount that equals the total ad valorem taxes, not to exceed \$6,000 dollars, that may become due and payable on the Property during the Term or any Renewal Term hereof, including, but not limited to, ad valorem taxes levied by any school district, county, city, conservation reclamation district, hospital district, or any other lawfully constituted taxing unit for that year. Rental shall be due and payable on or before December 15 of each calendar year. For any year of the Primary Term or and Renewal Term that includes less than a full calendar year, the lease payment shall be prorated based upon the portion of the year during which this lease agreement is in effect. It is expressly recognized and agreed between Lessor and the City that the value of the leasehold interest being obtained by the City hereunder exceeds the rental as provided by this Section. The City agrees to cooperate with Lessor, at request of Lessor, with establishing a fair market value of such leasehold estate for the purpose of determining the value of the contribution made by Lessor to the City hereunder.

LEASE AGREEMENT

Section 4. The City shall be authorized to construct and place fixtures and other improvements on the Property as reasonably necessary to provide for the safe and healthful assemblage of day workers and employers. Such improvements may include, but shall not be limited to, perimeter fencing, lighting, portable water facilities, sanitary sewer facilities, including portable toilets, seating, designated vehicular and bicycle parking areas, and shelters. All such improvements constructed or placed on the Property shall be approved by Lessor, which approval shall not be unreasonably withheld.

Section 5. The City agrees to maintain the Property in accordance with the same standards applicable to maintenance of other similar properties of the City. At a minimum, such maintenance shall include regular policing of the grounds and trash removal. The City shall not use, or permit the use of, the Property in any manner that results in waste.

Section 6. The City agrees to maintain policies of liability insurance, insuring against personal injury property damage arising from use of the Property, such policies to provide coverage in amounts not less than those carried for other similar properties by the City. The City shall maintain such policies of insurance at all times during the Term or Renewal Term of this Lease.

Section 7. The City shall return the Property at the termination of the lease in a comparable condition to that which existed on the effective date hereof, normal wear and tear expected. Notwithstanding the foregoing, the City shall not be required to remove fixtures attached to the Property by the City during the Term hereof unless any such fixture shall constitute an attractive nuisance. The City shall not allow attractive nuisance to exist on the Property, nor shall the City return the Property to Lessor at the termination hereof with any attractive nuisance existing on the Property.

Section 8. The City shall be authorized to use the Property as a day laborer assembly and collection site and if agreed upon in writing by both the Lessor and the City for any other lawful municipal purposes.

Section 9. If the City defaults in performing any covenant or term of this Lease and does not correct the default within thirty (30) days after receipt of written notice from Lessor to the City to do so, the City shall be deemed in default hereunder and Lessor shall be entitled to terminate this Lease.

Section 10. Lessor warrants that they own the Property in fee simple.

Section 11. Lessor covenants that as long as the City pays the rental and other charges under this Lease and observes the covenants and terms of this Lease, the City will lawfully hold, occupy, and enjoy the Property during the lease Term and any Renewal Term hereof without being disturbed by Lessor or any person claiming under Lessor, except for any portion of the Property taken under the power of eminent domain. In the event of any such taking by eminent domain, the City shall be entitled to a prorated reduction of rentals equivalent to the reduction in the Property. Provided further, in the event any such taking of the Property by eminent domain leaves insufficient space for the City to provide the facilities contemplated hereby, the City shall be entitled to terminate this Lease.

Executed in duplicate originals as of the date provided above.

LEASE AGREEMENT

THE CITY

City of Tomball, Texas

By: _____

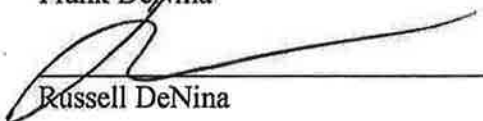
Mayor

Attest:


Doris Speer
City Secretary

LESSOR


Frank DeNina


Russell DeNina

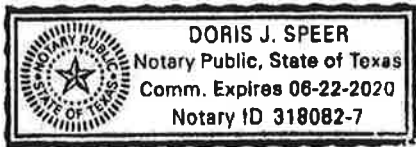
LEASE AGREEMENT

ACKNOWLEDGMENTS

THE STATE OF TEXAS

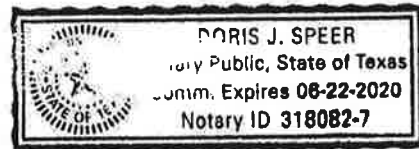
COUNTY OF HARRIS

This instrument was acknowledged before me on the 17th day of April, 2017, by Gretchen Fagan, Mayor of the City of Tomball, TX.



Doris J. Speer
Notary Public In and For the State of Texas

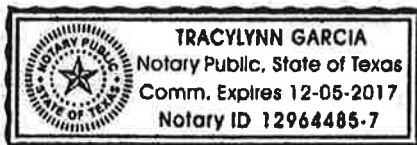
My Commission Expires: 6-22-2020



THE STATE OF TEXAS

COUNTY OF HARRIS

This instrument was acknowledged before me on the 18 day of April, 2017, by Doris Speer, City Secretary for the City of Tomball, TX.



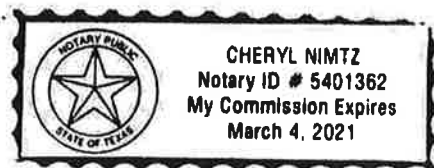
Tracy Lynn Garcia
Notary Public In and For the State of Texas

My Commission Expires: 12-05-2017

THE STATE OF TEXAS

COUNTY OF HARRIS

This instrument was acknowledged before me on the 18 day of May, 2017, by Frank DeNina.



Cheryl Nimitz
Notary Public In and For the State of Texas

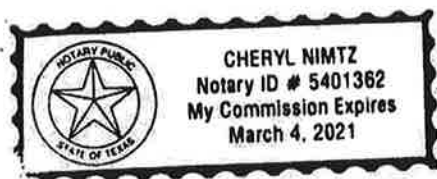
LEASE AGREEMENT

My Commission Expires: 03-04-2021

THE STATE OF TEXAS

COUNTY OF HARRIS

This instrument was acknowledged before me on the 18 day of May, 2017, by
Russell DeNina.



Cheryl Nimitz

Notary Public In and For the State of Texas

My Commission Expires: 03-04-2021

City Council Meeting Agenda Item Data Sheet

Meeting Date: February 20, 2023

Topic:

Consideration to approve Resolution 2023-09, a Resolution of the City Council of the City of Tomball, Texas, accepting the Preliminary Service and Assessment Plan for Authorized Improvements within the Seven Oaks Public Improvement District; Setting a Date for a Public Hearing on the Proposed Levy of Assessments; Authorizing the Publication and Mailing of Notice; and Enacting Other Provisions Relating thereto.

Background:

Resolution 2023-09 accepts the Preliminary Service and Assessment Plan for the Seven Oaks Public Improvement District (TPID 14) and sets the date for the Public Hearing on the proposed levy of assessments for March 20, 2023.

Origination: Project Management

Recommendation:

Staff recommends approving Resolution 2023-09 and calling for the Public Hearing on March 20, 2023.

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: #

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

Signed	<u>Meagan Mageo</u>		Approved by	<u></u>	
	Staff Member	Date		City Manager	Date

RESOLUTION NO. 2023-09

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS, ACCEPTING THE PRELIMINARY SERVICE AND ASSESSMENT PLAN FOR AUTHORIZED IMPROVEMENTS WITHIN THE SEVEN OAKS PUBLIC IMPROVEMENT DISTRICT; SETTING A DATE FOR PUBLIC HEARING ON THE PROPOSED LEVY OF ASSESSMENTS; AUTHORIZING THE PUBLICATION AND MAILING OF NOTICE; AND ENACTING OTHER PROVISIONS RELATING THERETO.

* * * * *

WHEREAS, the City Council (the “City Council”) of the City of Tomball, Texas (the “City”) received a petition (the “Petition”) requesting creation of a public improvement district (the “PID”) under Chapter 372 of the Texas Local Government Code (the “Act”), from the record owners of taxable real property representing more than fifty percent (“50%”) of the appraised value of the real property liable for assessment (as determined by the most recent certified appraisal roll for Harris County) in the proposed PID and the record owners of taxable real property that constitute more than 50% of all of the area of all taxable real property that is liable for assessment in the proposed PID; 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 continued such public hearing on the creation of the District and heard any comments or objection thereto;

WHEREAS, the City Council approved the creation of the PID by Resolution approved on August 15, 2022 (the "Creation Resolution") and recorded the Creation Resolution as authorized by the Act; and

WHEREAS, no written protests of the District from any owners of record of property within the District were filed with the City Secretary within 20 days after such publication; and

WHEREAS, the District is to be developed in phases and assessments are anticipated to be levied in each development phase; 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 (the “Preliminary Plan”), for the levy of assessments (the “Assessments”) for certain public

improvements that benefit the District (the “Improvements”) such Preliminary Plan attached hereto as Exhibit B, covers a period of at least five years and defines the annual indebtedness and the projected costs of the Improvements within the District; and

WHEREAS, the Preliminary Plan also includes assessment plans that apportion the cost of an Improvements to be assessed against property within the District and such apportionment is made on the basis of special benefits accruing to the assessed property within the District because of the Improvements; and

WHEREAS, the City Council also directed the preparation of an assessment roll for the District that states the assessment for the Improvements against each parcel of land within the District (the “Assessment Roll”) and such Assessment Roll is attached to and a part of the Preliminary Plan; and

WHEREAS, after determining the total costs of the Improvements, the City Council notes that the Preliminary Plan and proposed Assessment Roll may be changed as the City Council deems appropriate before such Preliminary Plan and Assessment Roll are adopted as final by the City Council; and

WHEREAS, the City has determined to call a public hearing regarding the proposed levy of assessments pursuant to the Preliminary Plan and the proposed Assessment Roll on property within the District, pursuant to Section 372.016 of the Act; and

WHEREAS, the City desires to publish and mail notice of such public hearing in order to provide notice to all interested parties of the City's proposed levy of assessments against such property in the District, pursuant to Section 372.016 of the Act; and

WHEREAS, the City desires to file the Preliminary Plan and Assessment Roll with the City Secretary such that they are available for public inspection pursuant to Section 372.016 of the Act.

NOW, THEREFORE, BE IT RESOLVED 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. Calling Public Hearing. The City Council hereby calls a public hearing (the “Public Hearing”) for 6:00 p.m. on March 20, 2023 at the regular meeting place of the City, the City Council Chamber at Tomball City Hall, 401 Market Street, Tomball, Texas 77375 (unless alternative meeting arrangements are required to address public health concerns, which meeting arrangements will be specified in the notice of such meeting posted in accordance with applicable law), to consider approving the Preliminary Plan, with such changes and amendments as the City

Council deems necessary, and the proposed Assessment Roll with such amendments to the Assessments on any parcel as the City Council deems necessary, as the final Service and Assessment Plan (the “Final Plan”) and final Assessment Roll (the “Final Roll”) for the District. After all objections made at such hearing have been heard, the City Council may (i) levy the Assessments as special assessments against each parcel of property in the District as set forth in the Final Plan, including the Final Roll; (ii) specify the method of payment of the Assessments; and (iii) provide that Assessments be paid in periodic installments. Notice of the Public Hearing setting out the matters required by Section 372.016 of the Act shall be given by publication at least eleven (11) days before the date of the hearing, in a newspaper of general circulation in the City. Notice of such hearing shall also be given by the City Secretary, by mailing a copy of the notice containing the information required by Section 372.016(b) of the Act to the last known address of each owner of property liable for an Assessment in the proposed Final Roll as reflected on the tax rolls of the Harris County Appraisal District. All residents and property owners within the District, and all other persons, are hereby invited to appear in person, or by their attorney, and contend for or contest the Preliminary Plan and the Final Roll, and the proposed assessments and offer testimony pertinent to any issue presented on the amount of the Assessments, purpose of the Assessments, special benefit of the assessments, and the costs of collection and the penalties and interest on delinquent Assessments. At or on the adjournment of the hearing conducted pursuant to Section 372.016 on the proposed assessments, the City Council must hear and pass on any objection to a proposed Assessment. The City Council may amend a proposed Assessment on any parcel in the District. The failure of a property owner to receive notice does not invalidate the proceeding.

Section 3. Publication of Notice. The City Council hereby directs the City Secretary to cause the publication and mailing of notice of the Public Hearing substantially in the form attached as Exhibit A. Such publication shall occur before the 10th day before the date of the Public Hearing.

Section 4. Conduct of Public Hearing. The City Council shall convene at the location and at the time specified in the notice described above for the Public Hearing and shall conduct the Public Hearing in connection with its consideration of the Final Plan, including the Final Roll, for the District and the levy of the proposed Assessments, including costs of collection, penalties and interest on delinquent Assessments. At the Public Hearing, the City Council will hear and pass on any objections to the Preliminary Service and Assessment Plan and the proposed Assessment Roll

and the levy of the proposed assessments (which objections may be written or oral). At or on the adjournment of the Public Hearing, the City Council may amend a proposed assessment on any parcel in the District. After all objections, if any, have been heard and passed upon, the City may (i) levy the Assessments as special assessments against each parcel of property in of the District as set forth in the Final Plan and Final Roll for the District, (ii) specify the method of payment of the assessments, and (iii) provide that the Assessments be paid in periodic installments.

Section 5. Filing of Proposed Assessment Roll. The proposed Final Roll shall be filed in the office of the City Secretary and be made available to any member of the public who wishes to inspect the same.

Section 6. Further Action. The City Secretary is hereby authorized and directed to take such other actions as are required, including providing notice of the Public Hearing as required by the Texas Open Meetings Act and placing the Public Hearing on the agenda for the March 20, 2023 meeting of the City Council.

PASSED AND APPROVED AT THE MEETING OF THE CITY COUNCIL HELD ON THE 20th DAY OF FEBRUARY 2023.

ATTEST:

LORI KLEIN QUINN, Mayor

Doris Speer, City Secretary

Seven Oaks Public Improvement District

PRELIMINARY SERVICE AND ASSESSMENT PLAN

FEBRUARY 20, 2023



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

TABLE OF CONTENTS

Table of Contents	1
Introduction	2
Section I: Definitions	3
Section II: The District	8
Section III: Authorized Improvements	8
Section IV: Service Plan	10
Section V: Assessment Plan	10
Section VI: Terms of the Assessments	12
Section VII: Assessment Roll	18
Section VIII: Additional Provisions	18
List of Exhibits	21
List of Appendices	21
Exhibit A – Map of the District	22
Exhibit B – Authorized Improvements	23
Exhibit C – Service Plan	24
Exhibit D – Sources and Uses of Funds	25
Exhibit E – Maximum Assessment and Tax Rate Equivalent	26
Exhibit F-1 – Assessment Roll	27
Exhibit F-2 – Annual Installments for Assessment Roll	28
Exhibit G-1 – Maps of Public Improvements	29
Exhibit G-2 – Maps of Private Improvements	33
Exhibit H – Form of Notice of Assessment Termination	35
Exhibit I – Legal Description	38
Appendix A – District Engineer’s Report	39
Appendix B – Buyer Disclosures	41
Seven Oaks Public Improvement District – Initial Parcel Buyer Disclosure	42
Seven Oaks Public Improvement District – Lot Type 1 Buyer Disclosure	48

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 5.57% as of February 3, 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. 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

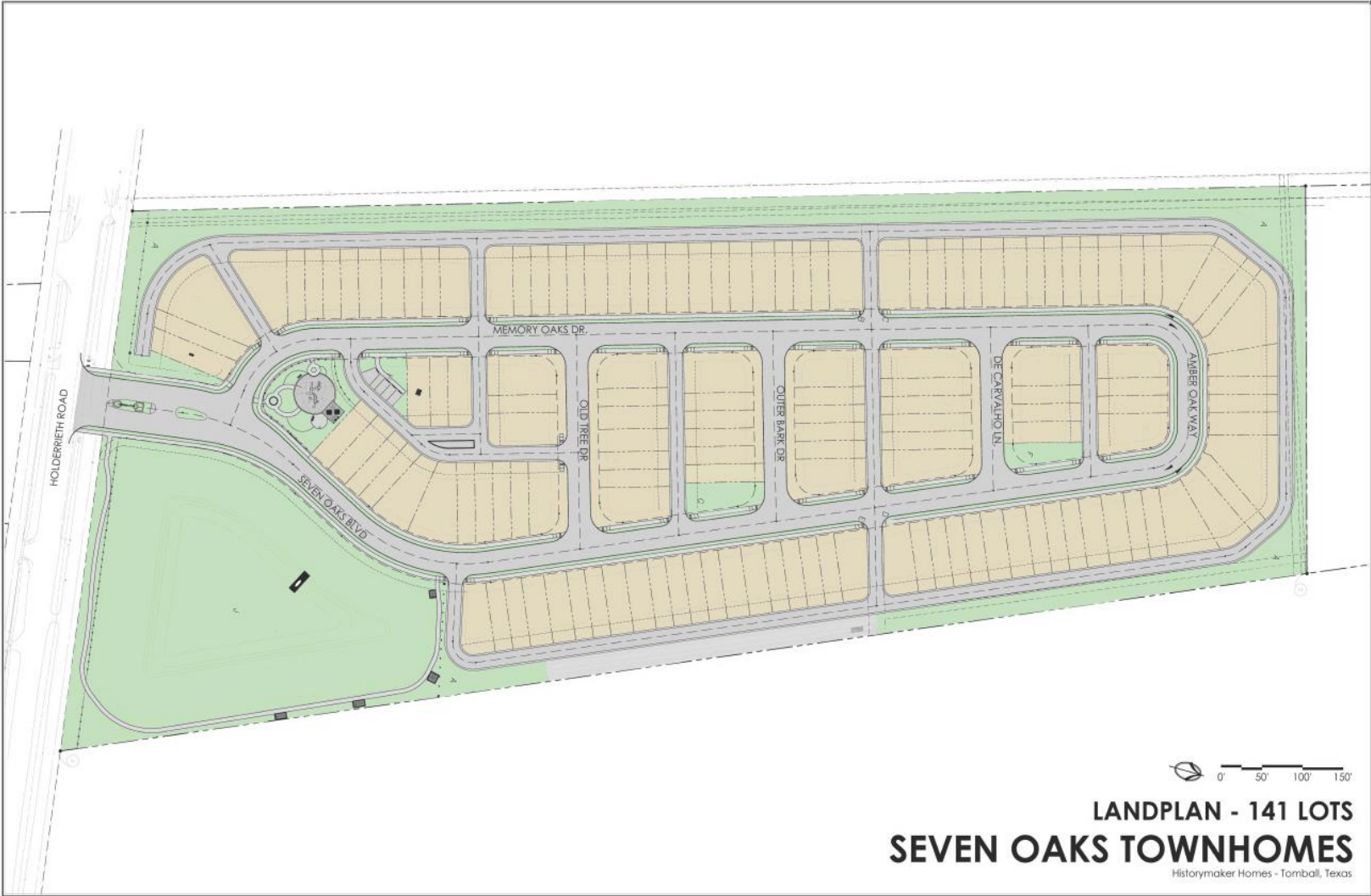


EXHIBIT B – AUTHORIZED IMPROVEMENTS

	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%	\$ -
Water Distribution	-	-	0.00%	-
Sanitary Sewer	-	-	0.00%	-
Drainage	170,738	170,738	0.00%	-
Clearing & Grubbing	-	-	0.00%	-
Detention and Grading	-	-	0.00%	-
Soft Costs	45,365	45,365	0.00%	-
	<u>\$ 990,492</u>	<u>\$ 990,492</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	\$ 6,488,894	\$ 990,492		\$ 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, District Formation Expenses and Reproduction Services.

[c] Private Improvements are not eligible for reimbursement by PID Bonds or PID Assessments.

[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.

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]	990,492
Total Sources of Funds	\$ 6,488,894
Uses of Funds	
Public Improvements	\$ 4,853,370
Private Improvements	990,492
	\$ 5,843,861
<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	\$ 6,488,894

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

		Annual Installment Due 1/31/2024					
Property ID	Lot Type	Outstanding Assessment ^[b]	Principal	Interest	Additional Interest	Annual Collection Costs ^[a]	Annual Installment Due 1/31/2024 ^[b]
440580000104	Initial Parcel	\$ 3,342,974.58	\$ 40,459.48	\$ 208,935.91	\$ -	\$ 41,712.80	\$ 291,108.19
440580000266	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

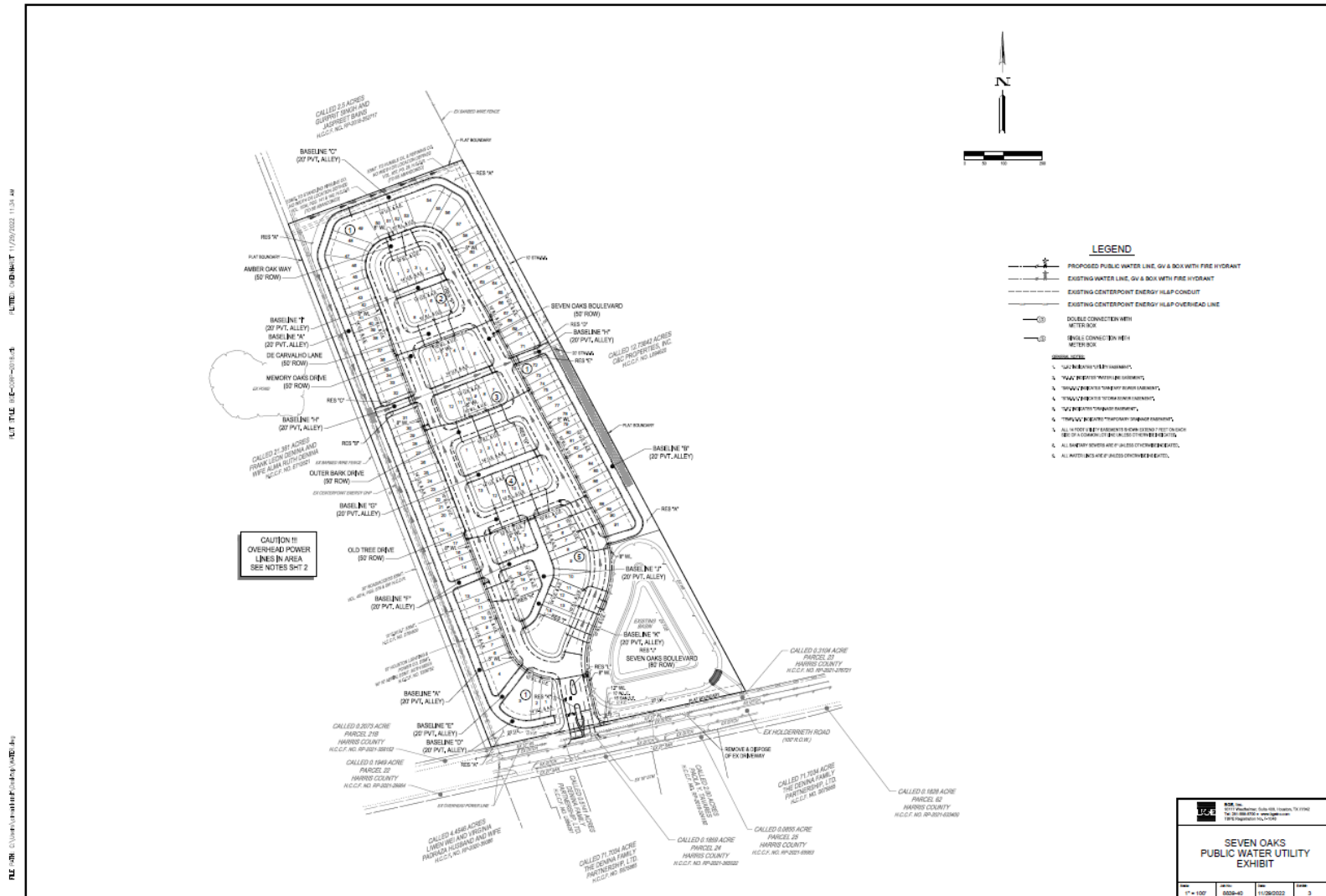
Footnotes:

[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 5.57% as of February 3, 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.

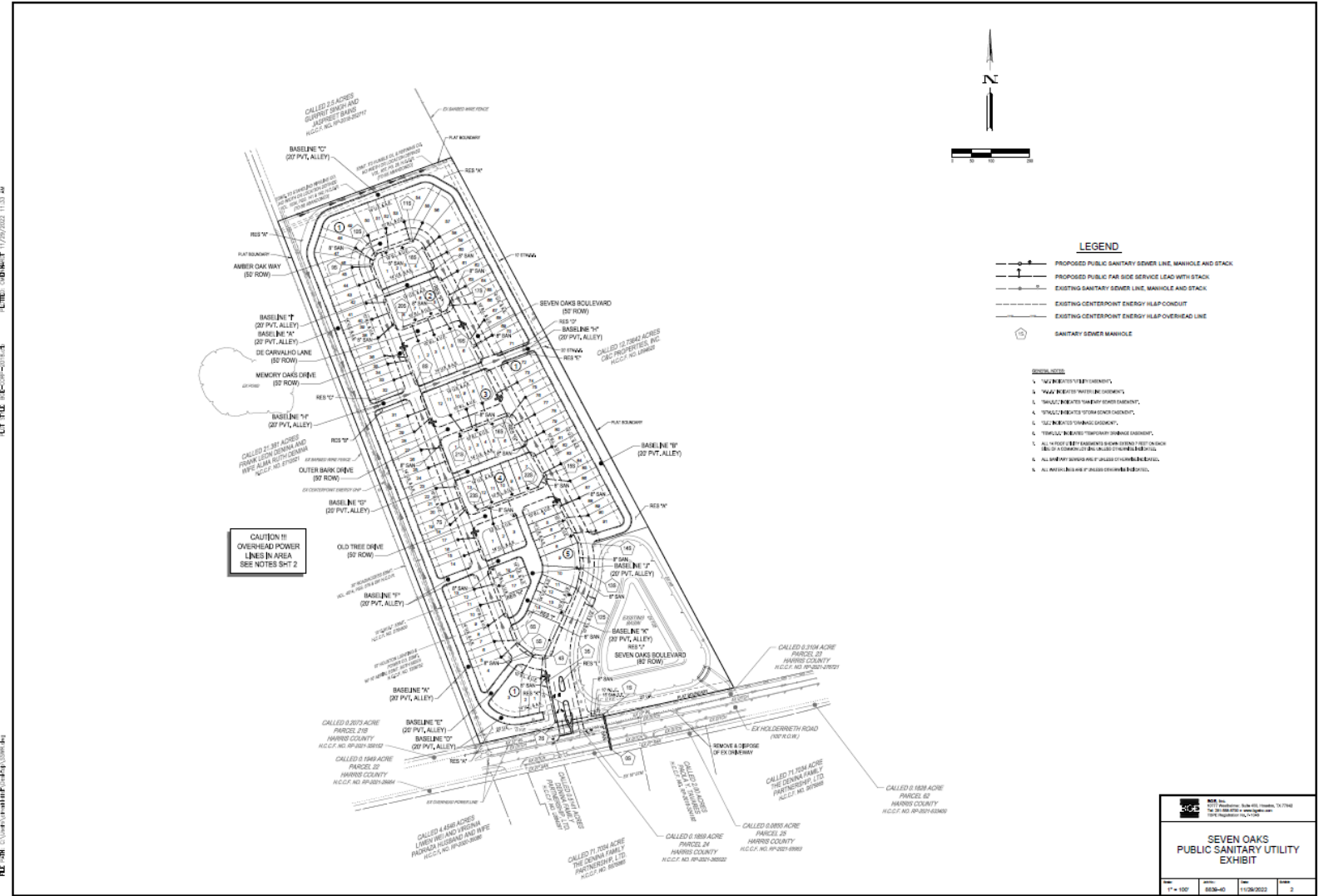
[b] Additional Interest will be collected if PID Bonds are issued.

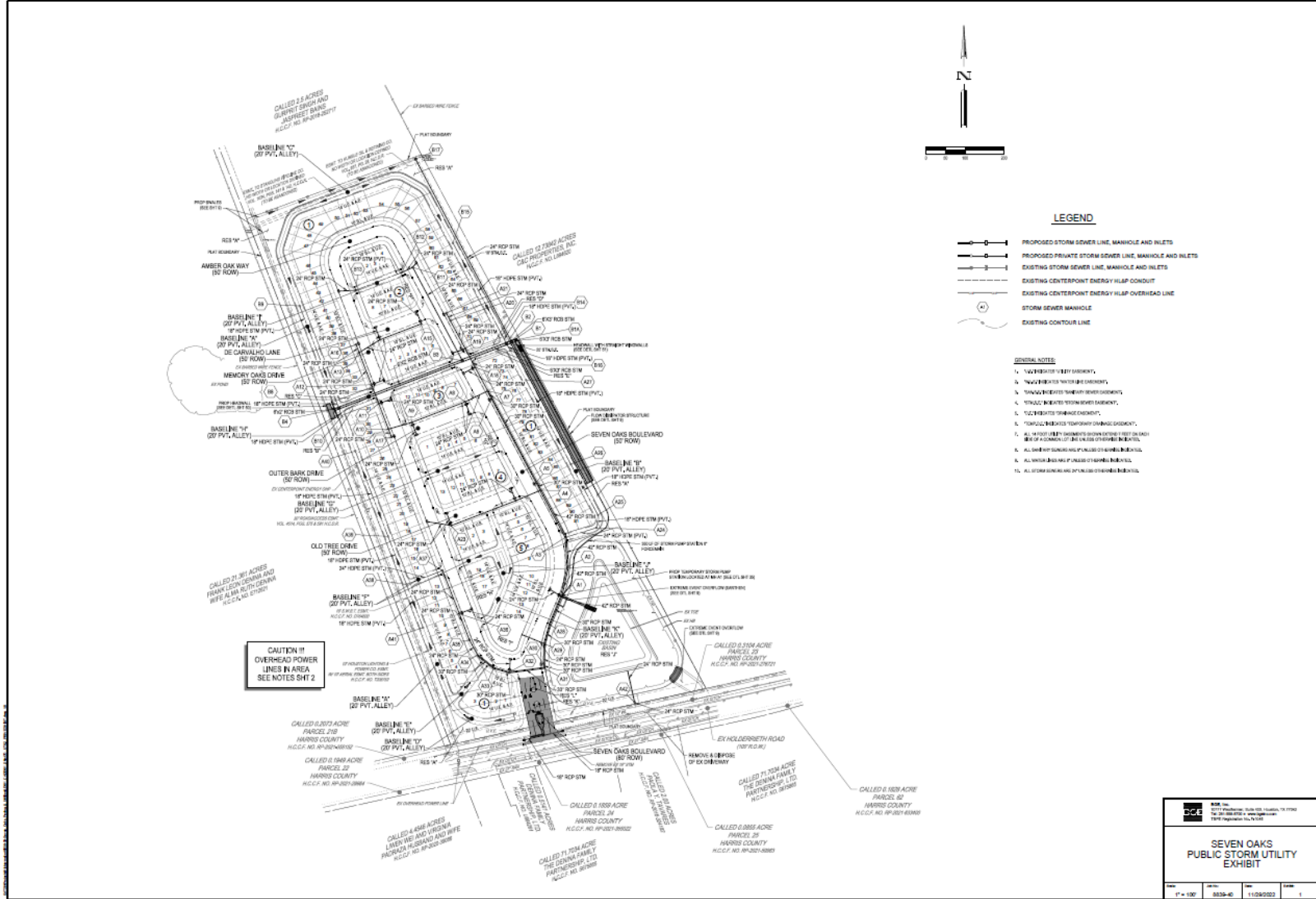
[c] The figures shown above are estimates only and subject to change in Annual Service Plan Updates. Changes in Annual Collection Costs, Additional Interest, or other available offsets could increase or decrease the amounts shown.

EXHIBIT G-1 – MAPS OF PUBLIC IMPROVEMENTS



FILE NAME: C:\Users\j\OneDrive\Documents\Sevens\Sevens.dwg
FILE PATH: C:\Users\j\OneDrive\Documents\Sevens\Sevens.dwg
FILE TITLE: SEVEN OAKS
PLT FILE: SEVEN OAKS
DATE: 11/26/2023 11:53 AM





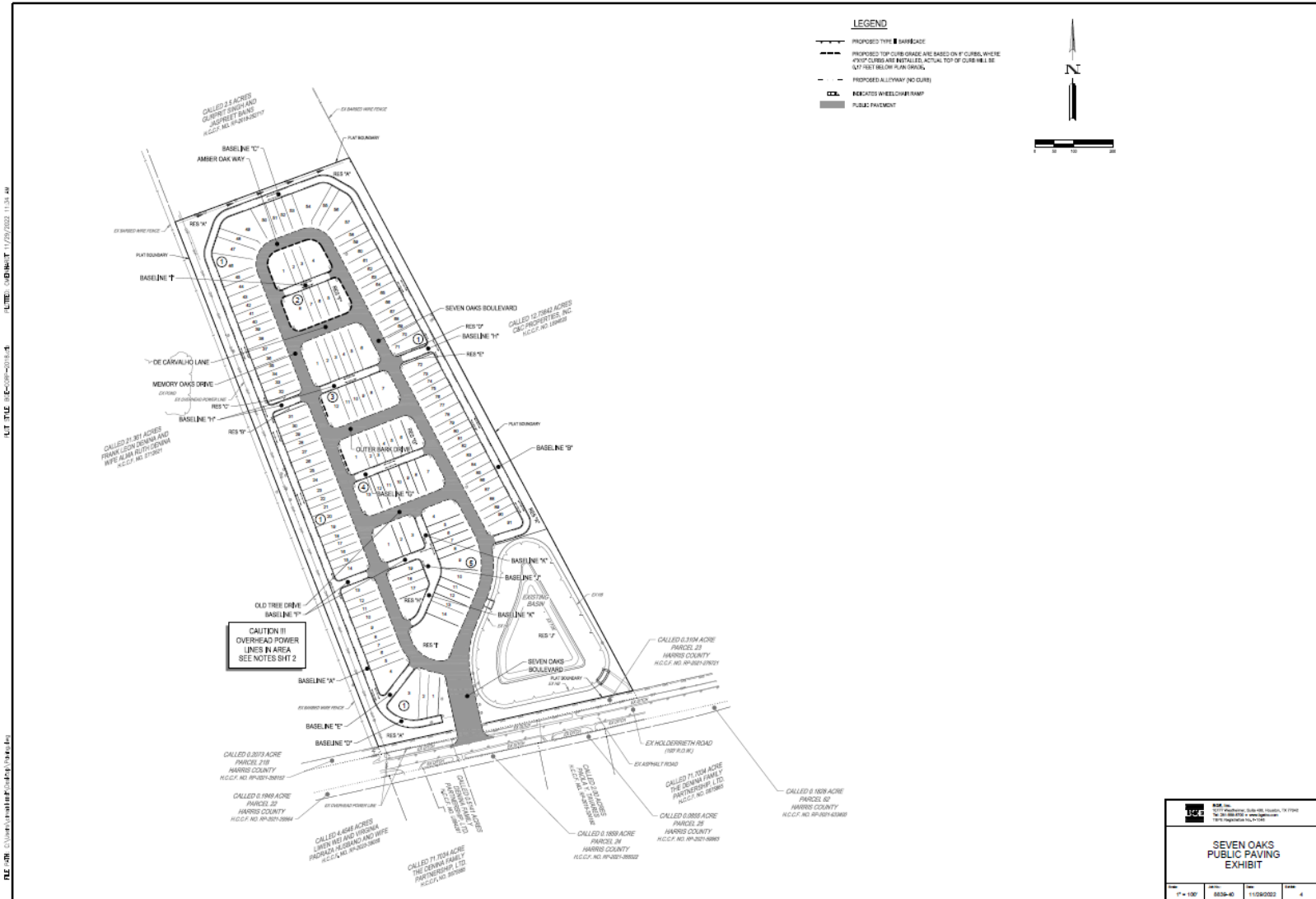
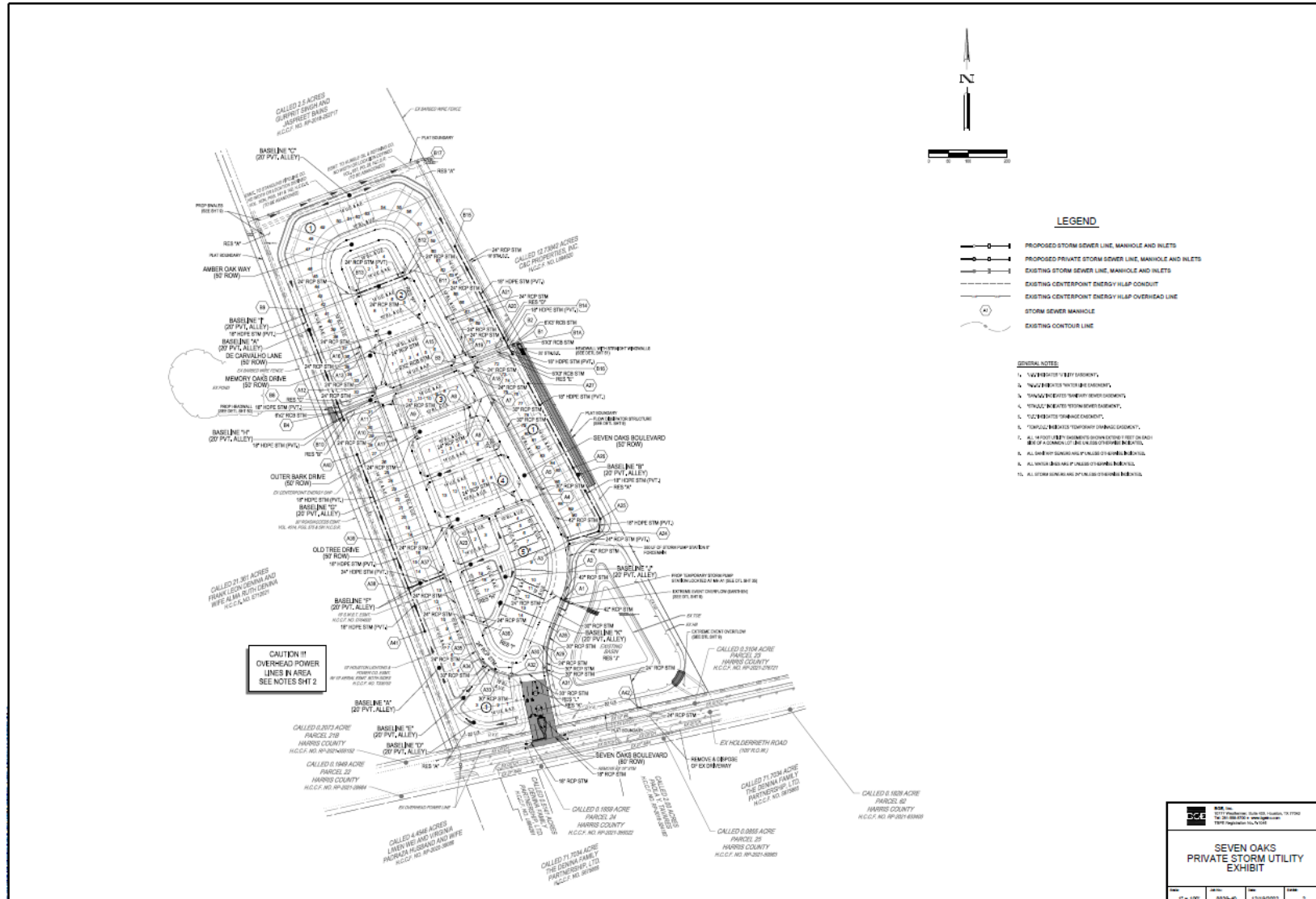


EXHIBIT G-2 – MAPS OF PRIVATE IMPROVEMENTS



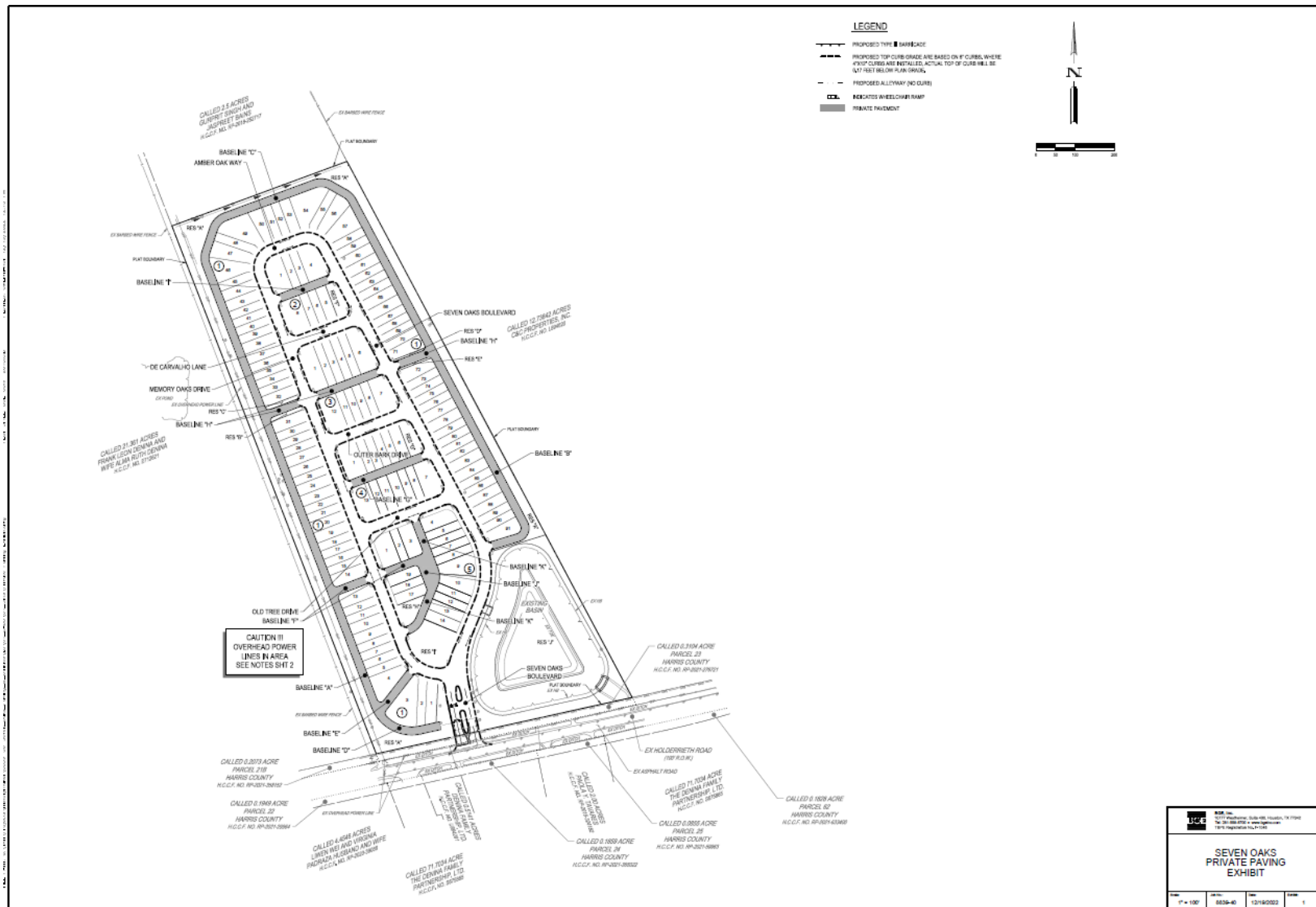


EXHIBIT H – FORM OF NOTICE OF ASSESSMENT TERMINATION



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

**[City Secretary]
City of Tomball
PO Box 349
Tomball, Texas 77375**

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

FULL RELEASE OF PUBLIC IMPROVEMENT DISTRICT LIEN

STATE OF TEXAS §
 § **KNOW ALL MEN BY THESE PRESENTS:**
COUNTY OF HARRIS §

THIS FULL RELEASE OF PUBLIC IMPROVEMENT DISTRICT LIEN (this "Full Release") is executed and delivered as of the Effective Date by the City of Tomball, Texas.

RECITALS

WHEREAS, the governing body (hereinafter referred to as the "City Council") of the City of Tomball, Texas (hereinafter referred to as the "City "), is authorized by Chapter 372, Texas Local Government Code, as amended (hereinafter referred to as the "Act"), to create public improvement districts within the corporate limits and extraterritorial jurisdiction of the City; and

WHEREAS, on or about August 15, 2022, the City Council for the City, approved Resolution No. 2022-27, creating the Seven Oaks Public Improvement District; and

WHEREAS, the Seven Oaks Public Improvement District consists of approximately 19.3374 contiguous acres located within the City; and

WHEREAS, on or about March 6, 2023, the City Council, approved Ordinance No. _____, (hereinafter referred to as the "Assessment Ordinance") approving a service and assessment plan and assessment roll for the Property within the Seven Oaks Public Improvement District; and

WHEREAS, the Assessment Ordinance imposed an assessment in the amount of \$____.____ (hereinafter referred to as the "Lien Amount") for the following property:

[legal description], a subdivision in Harris County, Texas, according to the map or plat of record in Document/Instrument No. _____ of the Plat Records of Harris County, Texas (hereinafter referred to as the "Property"); and

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>Notes</u>
Clearing and Grubbing			Pro Rata Share	
	Public Share	\$118,005.00	100.00%	(1)
	Private Share	<u>\$0.00</u>	0.00%	
	Subtotal	\$118,005.00		
Detention and Grading			Pro Rata Share	
	Public Share	\$338,650.30	100.00%	(2)
	Private Share	<u>\$0.00</u>	0.00%	
	Subtotal	\$338,650.30		
Water, Sanitary Sewer & Drainage			Pro Rata Share	
	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			Pro Rata Share	
	Public Facilities	\$1,176,127.75	60.30%	(4)
	Private Facilities	<u>\$774,388.00</u>	39.70%	
	Subtotal	\$1,950,515.75		
Holderrieth & 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		

Engineering Fees		Public Share	Private Share	Notes
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 5.57% as of February 3, 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 5.57% as of February 3, 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: February 20, 2023

Topic:

Approve an amended request from Tomball High School Athletic Booster Club (THSABC) for City Support and In-Kind Services for the THSABC Scholarship Crawfish Boil at Juergens Park, on Saturday, April 1, 2023 from 4:00-8:00 p.m.

Background:

This event helps bring Tomball HS athletes and their families together.

Origination:

Initial THSABC staffers will arrive at 12:00 p.m. to begin cooking and setup. Supplemental help will arrive at 3:00 p.m. to conclude setup. The Event will officially start at 4:00 p.m. and finish at 9:00 p.m. Breakdown should be completed by 10:00 p.m.

Recommendation:

To help with the efficiency of the event, we request the City of Tomball for the following in-kind services (as needed): Police, Fire, Public Works, and Coordination.

Party(ies) responsible for placing this item on agenda: Chrislord Templonuevo

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 _____

INTERNAL REVENUE SERVICE
P. O. BOX 2508
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date: **MAR 26 2009**

TOMBALL ATHLETIC BOOSTER CLUB INC
PO BOX 1193
TOMBALL, TX 77377

Employer Identification Number:
90-0437538
DLN:
17053069036019
Contact Person: ID# 31185
RONALD D BELL
Contact Telephone Number:
(877) 829-5500
Accounting Period Ending:
June 30
Public Charity Status:
509(a)(2)
Form 990 Required:
Yes
Effective Date of Exemption:
February 7, 2008
Contribution Deductibility:
Yes
Addendum Applies:
No

Dear Applicant:

We are pleased to inform you that upon review of your application for tax exempt status we have determined that you are exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code. Contributions to you are deductible under section 170 of the Code. You are also qualified to receive tax deductible bequests, devises, transfers or gifts under section 2055, 2106 or 2522 of the Code. Because this letter could help resolve any questions regarding your exempt status, you should keep it in your permanent records.

Organizations exempt under section 501(c)(3) of the Code are further classified as either public charities or private foundations. We determined that you are a public charity under the Code section(s) listed in the heading of this letter.

Please see enclosed Publication 4221 PC, Compliance Guide for 501(c)(3) Public Charities, for some helpful information about your responsibilities as an exempt organization.

Letter 947 (DO/CG)

SPECIAL EVENT APPLICATION

CITY OF TOMBALL | 401 Market Street | Tomball, Texas 77375 | 281-351-5484

An application to stage an event within the City of Tomball shall be filed with the Community Events Coordinator at least 180 days prior to the event. This application is not to be construed as authorizing or agreeing to any event until formally approved by Tomball City Council.

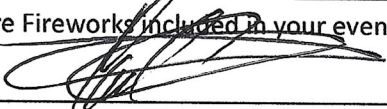
Date: 4/1/2023

Is this event co-sponsored by the City? Yes ☒ No ☐

Request for permission to use a public venue for the following type of event (please check one):

Festival ☐ Community Event ☐ Arts & Crafts Event ☐ Music Event ☐ Other (specify) ☒

1. Event title: Tomball HS Athletic Booster Club Scholarship Crawfish Boil
2. Sponsoring entity: Tomball HS Athletic Booster Club
3. Is this organization based in Tomball: Yes ☒ No ☐
4. Is this organization *non-profit* ☒ or *for-profit* ☐ *Attach 501 (c) (3) tax exemption if applicable
5. Contact: Carl Monrad 1193 Phone: 7133012528
6. Contact address: PO Box 4077 Tomball TX 77377
7. Contact email: carl.monrad@gmail.com
8. Event date: 4/1/2023
9. Event times: Start 4pm Finish 9pm Set-up noon Breakdown 10pm
10. Is this event for charity? Yes ☐ No ☒
11. If yes, what charity? _____ Tax ID _____
12. If yes, what percentage of net proceeds will be donated to the charity? _____
13. On-site contact: Carl Monrad Mobile Phone: 7133012528
14. Estimated number of attendees: 500
15. Detailed site map in attached: Yes ☐ No ☒
16. Is this event open to the public: Yes ☒ No ☐
17. Admission fee: \$ _____ Free ☒
18. Time at which event staff will begin to arrive: 3pm
19. The applicant will defend and hold harmless the City of Tomball from all claims, demands, actions or causes of action, of whatsoever nature or character, arising out of or by reason of the conduct of the activity authorized by such application including attorney fees and expenses.
Initial CM
20. The applicant will provide proof of general liability insurance for the event naming the City of Tomball as additional insured.
Initial CM
21. Name of insurance carrier: Farmers State farm
22. Are Fireworks included in your event? ☒ No ☐ Yes (Must submit Fireworks Event Application)

Signature: 

FOR OFFICIAL USE - Fee required: Yes ☐ No ☐ Amount Due: \$ _____

TOMBALL ATHLETIC BOOSTER CLUB INC

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Choi". The signature is fluid and cursive, with the first name "Robert" and last name "Choi" clearly distinguishable.

Robert Choi
Director, Exempt Organizations
Rulings and Agreements

Enclosures: Publication 4221-PC

Letter 947 (DO/CG)



City of Tomball- Public Works Department
Park & Facility Reservation Application

☐ *Residency verification : _____ (city staff) ☐ Facility Inspection Verification : _____ (city staff)

Railroad Depot Plaza Gazebo @ 201 S. Elm
• Reservations are for the Gazebo only.
• Renters must provide their own tables and chairs.

☐ *RESIDENT
☐ 1/2 DAY \$50.00 (8am-2pm) or (4pm-10pm) ☐ ALL DAY \$100.00(8am-10pm)

☐ NON-RESIDENT
☐ 1/2 DAY \$100.00 (8am-2pm) or (4pm-10pm) ☐ ALL DAY \$125.00(8am-10pm)

Juergens Park@ 1331 Ulrich
• Keys to the interior of the park are available, but are to be used for temporary access to set up or clean up.
 ○ No vehicles should remain on the park site interior.

☒ *RESIDENT
☐ 1/2 DAY \$50.00 (8am-2pm) or (4pm-10pm)
☐ ALL DAY \$100.00(8am-10pm)

☐ NON-RESIDENT
☐ 1/2 DAY \$100.00 (8am-2pm) or (4pm-10pm)
☐ ALL DAY \$125.00(8am-10pm)

Jerry Matheson Park @ 1240 Ulrich
☐ *RESIDENT
☐ 1/2 DAY \$50.00 (8am-2pm) or (4pm-10pm)
☐ ALL DAY \$100.00(8am-10pm)

☐ NON-RESIDENT
☐ 1/2 DAY \$100.00 (8am-2pm) or (4pm-10pm)
☐ ALL DAY \$125.00(8am-10pm)

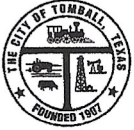
Theis Attaway Nature Park @ 13509 Theis Lane
• Catch and release fishing

☐ *RESIDENT
☐ 1/2 DAY \$50.00 (8am-2pm) or (4pm-10pm)
☐ ALL DAY \$100.00(8am-10pm)

☐ NON-RESIDENT
☐ 1/2 DAY \$100.00 (8am-2pm) or (4pm-10pm)
☐ ALL DAY \$125.00 (8am-10pm)

A 3% convenience fee will be assessed on Visa, MasterCard and American Express payments for all services.
A debit or credit card must be provided with the rental application that will be charged in the event of any
damage or cleaning required to the rented facility.

Resident: Must present recent Tomball City Water Bill or have a current account with The City Utility
department.



**City of Tomball- Public Works Department
Park & Facility Reservation Application
501 James Street, Tomball, Texas 77375
Phone (281)-290-1400
Fax (281) 351-4735
Park Reservation Hours 8:00am-10:00pm**

Applications accepted for following Park Facilities:

- **Railroad Depot Gazebo**
- **Juergens Park Pavilion**
- **Jerry Matheson Park**
- **Theis Attaway Nature Center**

Priority use of park to be granted by reservation only; reservation may be made by contacting the City of Tomball. Please note, individuals may not utilize city facilities for profit making endeavors.

INDEMNIFICATION

INDEMNIFICATION. LICENSEE agrees that it will indemnify and save the CITY harmless of, from and against any and all claims, demands, actions, damages, losses, costs, liabilities, expenses and judgments (hereinafter "claims") recovered from or asserted against CITY on account of injury or damage to persons or property to the extent that any such damage or injury may be incident to, arise out of, or be caused, either proximately or remotely, in whole or in part, by an act, omission, negligence or misconduct on the part of LICENSEE or any of its agents, servants, employees, contractors, patrons, guests, licensees or invitees or of any other person entering upon the LICENSED PREMISES with the express or implied invitation or permission of LICENSEE, or when and such injury or damage is the result, proximate or remote, of the violation by LICENSEE or any of its agents, servants, employees, contractors, patrons, guests, licensees or invitees of any law, ordinance or governmental order of any kind, or when any such injury or damage may in any way arise from or out of the occupancy or use by the LICENSEE, its agents, servants, employees, contractors, patrons, guests, or invitees. LICENSEE further expressly covenants and agrees to protect, defend, indemnify, and hold harmless the CITY from all claims based upon alleged joint and/or concurrent negligence of the CITY and LICENSEE arising out of or incident to LICENSEE's occupancy or use of the LICENSED PREMISES. LICENSEE covenants and agrees that in case CITY shall be made a party to any litigation commenced by or against LICENSEE or relating to this LICENSE or to the LICENSED PREMISES, then LICENSEE shall and will pay all costs and expenses, including reasonable attorney's fees and court costs, incurred by or imposed upon CITY by virtue of any such litigation.

Renters Information:

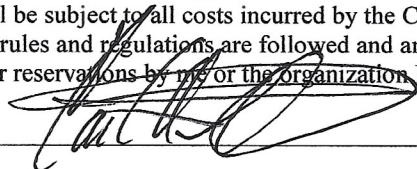
(4-8 for event)

Date Requested: 4/1/2023 Time: noon - 9pm Number of People Expected: 500 / come + go
Organization: Tomball HS Athletic Booster Club Type of Event: crawfish boil fundraiser
Contact Person: Carl Monrad Email: Carl.monrad@gmail.com
Business Phone: 713-301-2528 Home Phone: _____ Fax: _____
Home Address: P.O. Box 1193 City: Tomball St. TX Zip: 77375

Debit/ Credit Card Information (for damage or cleaning):

Name on Card: _____ Card Number: _____
Card Expiration: _____ Security Code: _____
Address: _____ City: _____ St. _____ Zip: _____

I have read the Park Rules and Regulations and understand that I am responsible for cleanup. If the Park is not cleaned up or has been damaged, I will be subject to all costs incurred by the City; including and/or in excess of my deposit. I am also responsible to make certain that all rules and regulations are followed and am aware that violation of the rules and regulations could prohibit future applications for reservations by me or the organization I am representing.

Signature:  Date: 4/1/2022

Confirmation of Park Reservations by signature below only! Application subject to a 24 hour application review period prior to approval by City Administration.

City of Tomball: _____ (City Staff) Date: _____

Public Works Department
501 James Street, Tomball, Texas 77375
Phone (281) 290-1400
After hours, Police Dept. Dispatch (281) 351-5451

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: February 20, 2023

Topic:

Approve the Appointment, by the City Manager, of Tracylynn Garcia as City Secretary, effective March 1, 2023

Background:

As required under our Home Rule Charter, Sec. 7.04, the City Manager, with the approval of the Council, shall appoint a City Secretary and such assistants as the Council shall deem advisable.

We received multiple applications for the City Secretary position, with only three qualified Texas Registered Municipal Clerks applying for the position.

Tracy achieved her TRMC certification in 2018 and completed her recertification in January 2023. She has also achieved Certified Public Management certification and is a Certified Municipal Clerk with the International Municipal Clerks Association and a Master Registrar with the Texas Vital Statistics Unit.

I have full faith that Tracy will continue the great work and leadership that we are accustomed to receiving from the City Secretary Office.

Origination: David Esquivel, City Manager

Recommendation:

Approve the Appointment of Tracylynn Garcia as City Secretary effective March 1, 2023.

Party(ies) responsible for placing this item on agenda: David Esquivel, City Manager

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: February 20, 2023

Topic:

Approve Administrative Policy No. 1, entitled “Proclamation Policy”

Background:

Proclamations should be utilized to recognize and celebrate the extraordinary achievements of local citizens and non-profit organizations, honor occasions of importance and significance, and to increase public awareness of issues to improve the well-being of Tomball’s citizens.

Administrative Policy No. 1 sets forth guidelines for the issuance of proclamations, as well as establishing the procedure and timeline for proclamation requests.

Origination:

Recommendation:

Approve Administrative Policy No. 1

Party(ies) responsible for placing this item on agenda: Doris Speer, City Secretary

**CITY OF TOMBALL
ADMINISTRATIVE POLICIES, RULES AND PROCEDURES**

SUBJECT PROCLAMATION POLICY	NUMBER: 1	EFFECTIVE DATE: February 6, 2023	PAGE 1 OF 3
	REVISED:	APPROVED BY CITY MANAGER:	
	SUPERSEDES:	APPROVED BY CITY COUNCIL:	

Among the many ceremonial functions of the office of Mayor is recognizing and honoring people, events, activities, organizations, issues, etc., through the issuance of formal proclamations. Proclamations may or may not be issued publicly, depending on timing, the wishes of the recipient(s), and available time and space on City Council agendas. The goal of a proclamation is to recognize and celebrate the extraordinary achievements of local citizens and non-profit organizations, honor occasions of importance and significance, and to increase public awareness of issues to improve the well-being of Tomball's citizens. Proclamations are not meant to endorse, support, or encourage any particular group or point of view and do not necessarily reflect the opinions of the Mayor, City Council, or City of Tomball employees or citizens.

Guidelines

The issuance of a proclamation does not require action by the City Council as a whole; it should, however, comply with the guidelines below.

Proclamations may generally be issued for the following purposes:

- Memorializing special or exemplary events or days, both within and outside of Tomball, including certain national days of celebration, recognition, or mourning;
- Encouraging or supporting local charitable fundraising campaigns;
- Recognizing business anniversaries of 40 years or more;
- Recognizing retirements from the City of Tomball following 30 or more years of continuous service;
- Supporting local arts and cultural celebrations;
- Recognizing achievement of high rank or success within a local non-profit organization, such as scouting;
- Recognizing unique or especially successful local school-related activities, such as in academics, athletics, music, etc.;
- Honoring local nonprofit service groups for their work in the community'
- Recognizing individual for outstanding achievements in or for contributions to the community'
- Supporting public awareness campaigns that have the potential to enhance public health, safety, or wellness;
- Recognizing individual or church birthdays of 100 or more years;
- Recognizing wedding anniversaries of 50 or more years;
- Recognizing special or unique honors, or acts of heroism; and
- Recognizing other exceptional events, activities, and/or people.

**CITY OF TOMBALL
ADMINISTRATIVE POLICIES, RULES AND PROCEDURES**

SUBJECT PROCLAMATION POLICY	NUMBER: 1	EFFECTIVE DATE: February 6, 2023	PAGE 2 OF 3
	REVISED:	APPROVED BY CITY MANAGER:	
	SUPERSEDES:	APPROVED BY CITY COUNCIL:	

Proclamations may generally **not** be issued for the following purposes:

- Groups or individuals from outside Tomball;
- Matters of a political nature;
- Controversial issues or organizations;
- Events or activities that do not benefit Tomball;
- National or international groups requesting a proclamation without an in-city sponsor;
- Events, campaigns, or activities that are contrary to or in opposition to adopted City policies, plans, or ordinances; and
- Personal activities not of a general public interest, such as deaths, family reunions, birthdays of less than 100 years, groundbreakings, business endorsements, etc.

Procedure:

All proclamation requests must be submitted in writing using the attached form at least two weeks prior to (1) a regular council meeting date or (2) the date of the event to be recognized. Submission of a proclamation request does not guarantee its issuance. The Mayor reserves the right and has the final decision to modify or deny any proclamation request, consistent with this policy.

Individual(s) or organization(s) seeking a proclamation must accompany the request with:

- Contact person's first and last name, address, telephone/cell number, and e-mail address;
- A brief summary or background of the event or organization;
- Proposed text to enable writing of the proclamation, including a minimum of four points;
- The name and date(s) of the day, week, month, or event to be proclaimed;
- Date of event for proclamation and date proclamation is to be ready for pickup; and
- Title desired for proclamation.

Distribution:

Proclamations shall be distributed in one of the following ways:

- Presented at a City Council meeting or event;
- Photo opportunity with the Mayor (or Mayor Pro Tem in the absence of the Mayor);
- Picked up in the City Secretary's office/at City Hall; or
- Mailed to the contact person/organization.

Proclamations presented at a City Council meeting may be limited due to time and will be scheduled on a first-request basis.

**CITY OF TOMBALL
ADMINISTRATIVE POLICIES, RULES AND PROCEDURES**

SUBJECT PROCLAMATON POLICY	NUMBER: 1	EFFECTIVE DATE: February 6, 2023	PAGE 3 OF 3
	REVISED:	APPROVED BY CITY MANAGER:	
	SUPERSEDES:	APPROVED BY CITY COUNCIL:	

PROCLAMATION REQUEST

All requests must be submitted in writing at least two weeks prior to a regular Council meeting date or of the event to be recognized. Submission of a proclamation request does not guarantee its issuance. The Mayor reserves the right and has the final decision to modify or deny any proclamation request, consistent with the above proclamation policy approved by Council

Date of Request: _____

Name of Requestor: _____

Address/Telephone/Email: _____

Brief Summary or Background of the Event or Organization: _____

Minimum of Four (4) Points to be Included in the Proclamation: _____

Name and Date(s) of the Day, Week, Month or Event to be Proclaimed: _____

Date of Event for Proclamation: _____

Title of Proclamation: _____

Presentation of Proclamation (Please select one):

- ____ Mayor to Present Proclamation at Event
____ Pick up Proclamation from City Secretary
____ Proclamation to be Presented at _____ City Council Meeting

_____ (Signature)

_____ (Date of Request)

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: 2/20/2023

Topic:

Conduct a Public Hearing and consideration to approve **Zoning Case Z23-02**: Request by RIAA Group, LLC. to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 3.12 acres of land legally described as being portions of Lot 172, in Tomball Townsite from Agricultural (AG) to General Retail (GR). The property is located at the northwest corner of S. Cherry Street & Medical Complex Drive at 1635 S. Cherry Street, within the City of Tomball, Harris County, Texas.

Adopt, on First Reading, Ordinance No. 2023-02, an Ordinance of the City of Tomball, Texas, Amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by revising its code of ordinance amending Section 50-2 (Definitions), of Article I, in general and Section 50-82 (Use Regulations (Charts)), Subsection (B)(Use Charts), of Article III, District Regulations; 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.

Background:

The subject property has been within the City Limits of Tomball since at least 1907. The property has remained vacant since this time. The applicants are requesting to rezone the subject property to General Retail to allow the development of a retail shopping center and convenience store.

Origination: RIAA Group LLC.

Recommendation:

Staff Recommends Approval, Planning & Zoning Commission Approved (3 Votes Aye, 1 Vote Nay).

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

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

ORDINANCE NO. 2023-02

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING CHAPTER 50 (ZONING) OF THE TOMBALL CODE OF ORDINANCES BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES (EXHIBIT “A”); FROM AGRICULTURAL (AG) TO GENERAL RETAIL (GR) DISTRICT; 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.

WHEREAS, RIAA Group LLC. has requested that approximately 3.12 acres of land legally described as being portions of Lot 172, in Tomball Townsite, located at the northwest corner of S. Cherry Street and Medical Complex Drive, within the City of Tomball, Harris County, Texas (the “Property”), be rezoned; 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 rezoning; 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 rezoning; and

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

WHEREAS, at least fifteen (15) days after the publication in the official newspaper of the City of the time and place of a public hearing, the City Council held a public hearing on the proposed rezoning; and

WHEREAS, the City Council finds it to be in the best interest of the health, safety, and welfare of the citizens to approve the text amendment as contained in this ordinance;

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. The rezoning classification of the Property is hereby changed and is subject to the regulations, restrictions, and conditions hereafter set forth.

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 change in zoning classification for the Property as described above.

Section 5. 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 6. 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.

FIRST READING:

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

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

SECOND READING:

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

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

LORI KLEIN QUINN, Mayor

ATTEST:

DORIS SPEER, City Secretary

EXHIBIT 'A'

TRACT 1:

BEING A 1.839 ACRE TRACT SITUATED IN THE JESSE PRUETT SURVEY, ABSTRACT NO. 629, HARRIS COUNTY, TEXAS, BEING A PORTION OF THE RESIDUE OF THAT CERTAIN CALLED 7.56 ACRE TRACT DESCRIBED IN INSTRUMENT TO JANA'S DIRT, LLC, RECORDED IN CLERK'S FILE NO. 20120271296 OF THE OFFICIAL PUBLIC RECORDS OF REAL PROPERTY, HARRIS COUNTY, TEXAS (O.P.R.R.P.H.C.T.), SAID 1.839 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 1 INCH IRON PIPE WITH CAP FOUND IN THE WESTERLY RIGHT-OF-WAY OF SOUTH CHERRY STREET (80' WIDTH), FOR THE COMMON EASTERLY CORNER OF SAID RESIDUE TRACT AND A CALLED 1.2748 ACRE TRACT DESCRIBED IN INSTRUMENT TO JANA'S DIRT, LLC, RECORDED IN CLERK'S FILE NO. 20150109818, O.P.R.R.P.H.C.T., BEING THE NORTHEASTERLY CORNER OF THE HEREIN DESCRIBED 1.839 ACRE TRACT, FROM WHICH A 1 1/2 INCH PINCHED TOP PIPE FOUND FOR THE NORTHEASTERLY CORNER OF SAID 1.2748 ACRE TRACT BEARS NORTH 02°28'33" WEST, 79.89 FEET;

THENCE SOUTH 02°28'33" EAST, 176.06 FEET, WITH THE WESTERLY RIGHT-OF-WAY OF SAID SOUTH CHERRY STREET AND THE EASTERLY LINE OF SAID RESIDUE TRACT, TO A 1/2 INCH IRON ROD WITH CAP STAMPED "TPS 100834-00" SET FOR THE NORTHERLY CUTBACK CORNER AT THE NORTHWESTERLY CORNER OF THE INTERSECTION OF SAID SOUTH CHERRY STREET, WITH MEDICAL COMPLEX DRIVE (120' WIDTH), RECORDED IN CLERK'S FILE NO. 2015107119, O.P.R.R.P.H.C.T., FOR THE EASTERLY SOUTHEAST CORNER OF SAID RESIDUE TRACT AND THE HEREIN DESCRIBED 1.839 ACRE TRACT;

THENCE SOUTH 44°57'24" WEST, 33.81 FEET, WITH SAID CUTBACK AND THE SOUTHEASTERLY LINE OF SAID RESIDUE TRACT, TO A 1/2 INCH IRON ROD WITH CAP FOUND FOR THE BEGINNING OF A CURVE TO THE RIGHT, THE SOUTHERLY CUTBACK CORNER AT SAID INTERSECTION AND THE SOUTHERLY SOUTHEAST CORNER OF SAID RESIDUE TRACT AND THE HEREIN DESCRIBED 1.839 ACRE TRACT;

THENCE NORTHWESTERLY, 642.62 FEET, WITH ARC OF SAID CURVE TO THE RIGHT IN THE NORTHERLY RIGHT-OF-WAY OF SAID MEDICAL COMPLEX DRIVE, WITH THE SOUTHWESTERLY LINE OF SAID RESIDUE TRACT, HAVING A RADIUS OF 1,440.00 FEET, A CENTRAL ANGLE OF 25°34'08", AND A CHORD THAT BEARS NORTH 74°23'36" WEST, 637.30 FEET TO A 1/2 INCH IRON ROD WITH CAP STAMPED "TPS 100834-00" SET FOR THE COMMON WESTERLY CORNER OF SAID RESIDUE TRACT AND SAID 1.2748 ACRE TRACT, BEING THE NORTHWESTERLY CORNER OF THE HEREIN DESCRIBED 1.839 ACRE TRACT;

THENCE NORTH 87°25'21" EAST, 630.73 FEET, WITH THE COMMON LINE OF SAID RESIDUE TRACT AND SAID 1.2748 ACRE TRACT, TO THE PLACE OF BEGINNING;

CONTAINING A COMPUTED AREA OF 1.839 ACRES OF LAND WITHIN THIS FIELD NOTE DESCRIPTION.

TRACT 2:

BEING A 1.283 ACRE TRACT SITUATED IN THE JESSE PRUETT SURVEY, ABSTRACT NO. 629, HARRIS COUNTY, TEXAS, BEING ALL OF THAT CERTAIN CALLED 1.2748 ACRE TRACT DESCRIBED IN INSTRUMENT TO JANA'S DIRT, LLC, RECORDED IN CLERK'S FILE NO.

RP-2021-155506

20150109818 OF THE OFFICIAL PUBLIC RECORDS OF REAL PROPERTY, HARRIS, COUNTY, TEXAS (O.P.R.R.P.H.C.T.), SAID 1.283 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 1 INCH IRON PIPE WITH CAP FOUND IN THE WESTERLY RIGHT-OF-WAY OF SOUTH CHERRY STREET (80' WIDTH), FOR THE COMMON EASTERLY CORNER OF SAID 1.2748 ACRE TRACT AND THE RESIDUE OF A CALLED 7.56 ACRE TRACT DESCRIBED IN INSTRUMENT TO JANA'S DIRT, LLC, RECORDED IN CLERK'S FILE NO. 20120271296, O.P.R.R.P.H.C.T., BEING THE SOUTHEASTERLY CORNER OF THE HEREIN DESCRIBED 1.283 ACRE TRACT;

THENCE SOUTH 87°25'21" WEST, 630.73 FEET, WITH THE COMMON LINE OF SAID 1.2748 ACRE TRACT AND SAID RESIDUE TRACT, TO A ½ INCH IRON ROD WITH CAP STAMPED "TPS 100834-00" SET IN THE NORTHEASTERLY RIGHT-OF-WAY OF MEDICAL COMPLEX DRIVE (120' WIDTH), RECORDED IN CLERK'S FILE NO. 2015107119, O.P.R.R.P.H.C.T., FOR THE COMMON WESTERLY CORNER OF SAID 1.2748 ACRE TRACT AND SAID RESIDUE TRACT, BEING THE SOUTHWESTERLY CORNER OF THE HEREIN DESCRIBED 1.283 ACRE TRACT, FROM WHICH A 5/8 INCH IRON ROD WITH CAP FOUND FOR REFERENCE, BEARS SOUTH 89°01'05" WEST, 0.38 FEET;

THENCE NORTH 58°06'39" WEST, 145.11 FEET, WITH THE NORTHEASTERLY RIGHT-OF-WAY OF SAID MEDICAL COMPLEX DRIVE AND THE SOUTHWESTERLY LINE OF SAID 1.2748 ACRE TRACT, TO A 5/8 INCH IRON ROD WITH CAP FOUND FOR THE COMMON WESTERLY CORNER OF SAID 1.2748 ACRE TRACT AND A TRACT DESCRIBED IN INSTRUMENT TO CORRAL RUP, LLC, RECORDED IN CLERK'S FILE NO. 2018138656, O.P.R.R.P.H.C.T., BEING THE NORTHWESTERLY CORNER OF THE HEREIN DESCRIBED 1.283 ACRE TRACT;

THENCE NORTH 87°35'34" EAST, 750.51 FEET, WITH THE COMMON LINE OF SAID 1.2748 ACRE TRACT AND SAID CORRAL RUP TRACT, TO A 1 ½ INCH PINCHED TOP PIPE FOUND IN THE WESTERLY RIGHT-OF-WAY OF SAID SOUTH CHERRY STREET, FOR THE COMMON EASTERLY CORNER OF SAID 1.2748 ACRE TRACT AND SAID CORRAL RUP TRACT, BEING THE NORTHEASTERLY CORNER OF THE HEREIN DESCRIBED 1.283 ACRE TRACT;

THENCE SOUTH 02°28'33" EAST, 79.89 FEET, WITH THE WESTERLY RIGHT-OF-WAY OF SAID SOUTH CHERRY STREET AND THE EASTERLY LINE OF SAID 1.2748 ACRE TRACT, TO THE PLACE OF BEGINNING;

CONTAINING A COMPUTED AREA OF 1.283 ACRES OF LAND WITHIN THIS FIELD NOTE DESCRIPTION.



Location: Northwest corner of S. Cherry Street and Medical Complex Drive at 1635 S. Cherry Street.
Being portions of Lot 172, in Tomball Townsite, City of Tomball, Harris County, Texas

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



Notice is Hereby Given that a Public Hearing will be held by the P&Z of the City of Tomball on **Monday, February 13, 2023 at 6:00 P.M.** and by the City Council of the City of Tomball on **Monday, February 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:

Ordinance Amendment OAM23-01: Request by Apex Clean Energy Holdings, LLC to amend Section(s) 50-2 (*Definitions*) and Section 50-82 (*Use Regulations (Charts)*), Subsection (b) (*Use Charts*) of the Tomball Code of Ordinances by adding standards pertaining to “Energy Storage System”.

Zoning Case Z23-02: Request by RIAA Group, LLC. to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 3.12 acres of land legally described as being portions of Lot 172, in Tomball Townsite from Agricultural (AG) to General Retail (GR). The property is located at the northwest corner of S. Cherry Street & Medical Complex Drive at 1635 S. Cherry 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 February 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: Z23-02

APPLICANT/OWNER: RIAA Group, LLC

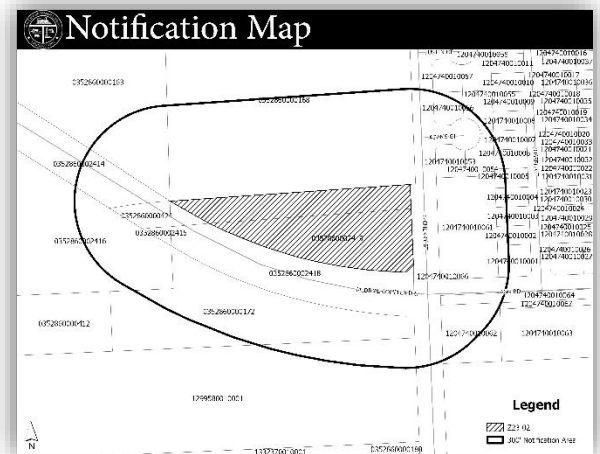
LOCATION: The property is located at the northwest corner of S. Cherry Street & Medical Complex Drive at 1635 S. Cherry Street, within the City of Tomball, Harris County, Texas.

PROPOSAL: A Rezoning to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 3.12 acres of land legally described as being portions of Lot 172, in Tomball Townsite from Agricultural (AG) to General Retail (GR).

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:

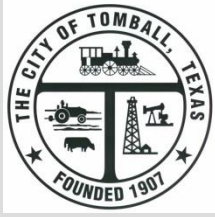
Monday, February 13, 2023 @ 6:00 P.M

City Council Public Hearing:

***Monday, February 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.



Rezoning Staff Report

Planning & Zoning Commission Public Hearing Date: February 13, 2023

City Council Public Hearing Date: February 20, 2023

Rezoning Case: Z23-02
Property Owner(s): RIAA Group LLC.
Applicant(s): RIAA Group LLC.
Legal Description: Portions of Lot 172, in Tomball Townsite
Location: 1635 S. Cherry St. (Exhibit “A”)
Area: 3.12 acres
Comp Plan Designation: Neighborhood Commercial/Transitional Residential (Exhibit “B”)
Present Zoning: Agricultural (AG) (Exhibit “C”)

Request: Rezone from Agricultural (AG) to the General Retail (GR) district

Adjacent Zoning & Land Uses:

North: Manufactured Home (MH) & Conditional Use Permit (CUP)(SF-20)/ RV Park

South: Agricultural (AG)/Vacant

West: Agricultural (AG)/Vacant

East: General Retail (GR)/Convenience Store & Fuel Sales

BACKGROUND

The subject property has been within the City Limits of Tomball since at least 1907. The property has remained vacant since this time. The applicants are requesting to rezone the subject property to General Retail to allow the development of a retail shopping center and convenience store.

ANALYSIS

Description: The subject property comprises approximately 3.12 acres, located at the northwest corner of Medical Complex Drive and South Cherry Street. The property is presently located within the Agricultural zoning district and has been within this zoning classification since the City of Tomball adopted zoning in 2008. Immediately north of the subject property is an existing recreational vehicle park which is permitted by virtue of a Conditional Use Permit (CUP1) in the existing Manufactured Home Park zoning district. East of the subject site is an existing fuel station and convenience store which has been in existence since 2008, this use is located in the General Retail district. The southeast corner of South Cherry Street and Medical Complex Drive is presently occupied by an existing office building, which has been in existence since 2002, and is located in the Office zoning district. The properties immediately west of the subject property is

currently vacant and zoned Agricultural. In 2022, the property south of the subject property at the southwest corner of S. Cherry Street and Medical Complex Drive requested to rezone from the Agricultural to the Commercial (C) district in 2022. This request was ultimately denied by the City Council and has remained vacant.

Comprehensive Plan Recommendation: The Future Land Use Plan adopted with the Comprehensive Plan in 2019 currently splits the subject property into two planned land use categories, “Transitional Residential” & “Neighborhood Commercial”. The portion of the subject property which falls within “Transitional Residential” is approximately 70,000 square feet in area. This transitional residential land use category calls for multi-family, duplex, and single-family residential uses. When considering this proposed transitional residential land use, the subject property will not allow the establishment of multi-family development due to its size (multi-family requires 10-acres minimum). In addition to the size and irregular shape, the property presents challenges to developing single-family or duplex residential given restrictions pertaining to direct access from residential lots to major arterial streets (Medical Complex). This restriction would likely require the dedication and creation of a new street for each lot to front on, said street dedication would further reduce the developable area and likely exacerbate the irregular shape of the parcels. Taking this information into consideration, the entirety of the subject property is likely best suited for the neighborhood commercial land use category.

The Neighborhood Commercial land use category is intended for commercial uses that are developed with the appropriate context, scale and design to complement residential development. These areas are intended to be accessible by both vehicles and pedestrians.

According to the Comprehensive Plan, land uses that are appropriate in these neighborhood commercial land use areas include restaurants, retail, professional services, clinics, and offices. Appropriate secondary uses may include places of assembly or event venues, local utility services, and government facilities.

The Comprehensive Plan recommends the zoning districts of – General Retail (GR), Office (O), or Planned Developments (PD) for the Neighborhood Commercial land use category.

The Comprehensive Plan states that when making decisions regarding the neighborhood commercial land use category the city should consider that neighborhood commercial development should be located adjacent to intersections of collector streets or streets of greater functional classification.

Staff Review Comments:

The request to rezone to General Retail is in direct alignment with the Comprehensive Plans objective of establishing neighborhood commercial land uses at the northwest corner of the intersection of S. Cherry Street and Medical Complex Drive. The land uses that would result from this zone change would be in character with surrounding land uses at this intersection. Furthermore, the subject site is situated at the intersection of two arterial streets. Locations such as this are customarily considered appropriate for commercial land uses as these roadways provide convenient access and exposure often considered necessary for commercial success.

PUBLIC COMMENT

A Notice of Public Hearing was published in the paper and property owners within 300 feet of the project site were mailed notification of this proposal on February 2, 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 Zoning Case Z23-02.

EXHIBITS

- A. Aerial Location Map
- B. Future Land Use Map
- C. Zoning Map
- D. Site Photo
- E. Rezoning Application

Exhibit "A"
Aerial Location Map



Location Map



Legend

 Z23-02

Exhibit "B"
Future Land Use Plan

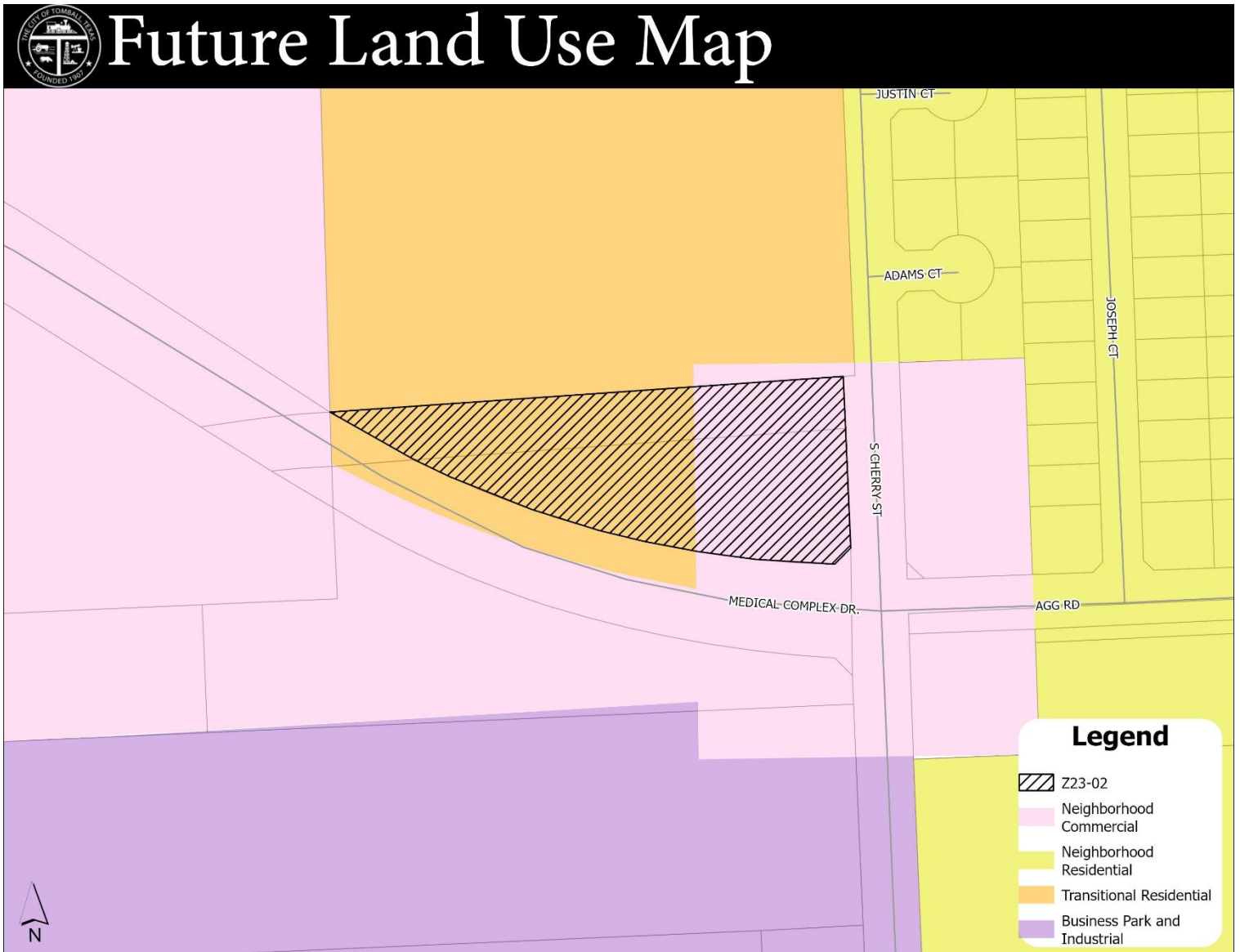
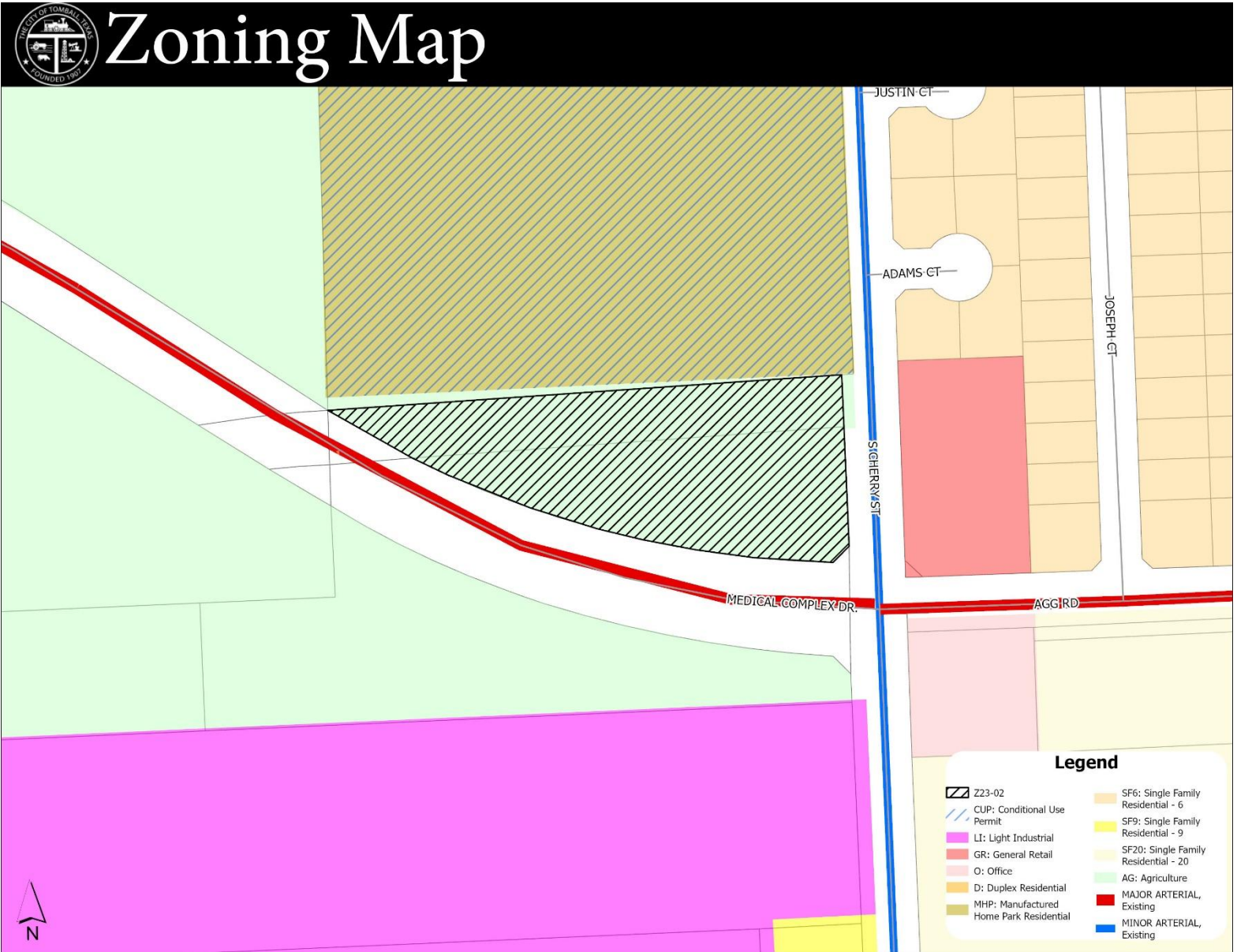


Exhibit "C"
Zoning Map



**Exhibit “D”
Site Photo(s)**

Subject Site



Neighbor (West)



Neighbor (East)



Neighbor (North)



Neighbor (South)



Exhibit "E"
Rezoning Application

Revised: 4/13/2020



APPLICATION FOR RE-ZONING

Community Development Department
Planning Division

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.

Applicant

Name: RIAA GROUP, LLC. Title: LLC
Mailing Address: 4814 ZACARY LANE City: SUIGAR LAND State: TEXAS
Zip: 77479 Contact: ARIF MANKNOJIYA
Phone: (832) 620-3514 Email: Riaagroupllc@gmail.com

Owner

Name: ARIF MANKNOJIYA Title: OWNER
Mailing Address: 4814 ZACARY LANE City: SUIGAR LAND State: TEXAS
Zip: 77479 Contact: _____
Phone: (832) 620-3514 Email: Riaagroupllc@gmail.com

Engineer/Surveyor (if applicable)

Name: Catalyst Technical Group, inc. Title: Engineer
Mailing Address: 440 Cobia dr. suite 1503 City: KATY State: TX
Zip: 77494 Contact: RAFIQ
Phone: (832) 913-1888 Fax: (832) _____ Email: ali@texasctgroup.com

Description of Proposed Project: _____

Physical Location of Property: 1635 CHERRY ST TOMBALL TX 77375.

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

Legal Description of Property: TR 172A-2 TOMBALL OUTLOTS

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

Current Zoning District: Agricultural (AG)

Current Use of Property: NONE (EMPTY LOT)

Proposed Zoning District: General Retail (GR)


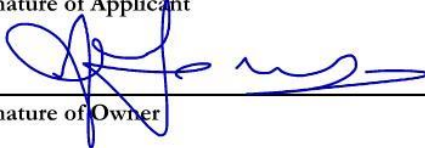
Proposed Use of Property: RETAIL PLAZA AND C-STORE

HCAD Identification Number: 0352860002419 , 0352860002420 Acreage: 3.122

City of Tomball, Texas 501 James Street, Tomball, Texas 77375 Phone: 281-290-1405 www.tomballtx.gov

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.

<u>X</u>		12-16-2022
	Signature of Applicant	Date
<u>X</u>		12-16-2022
	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 received by the City of Tomball at least 40 calendar days prior to the City Planning and Zoning Commission hearing date.

- ☐ Completed application form
- ☐ *Copy of Recorded/Final Plat
- ☐ Check for \$400.00 + \$10.00 per acre (Non-Refundable)
- ☐ Letter stating reason for request and issues relating to request
- ☐ Conceptual Site Plan (if applicable)
- ☐ Metes & Bounds of property
- ☐ Payment of all indebtedness attributed to subject property must be paid with application or an arrangement in accordance with Section 50-36(a)(3) of the Code of Ordinances 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.)

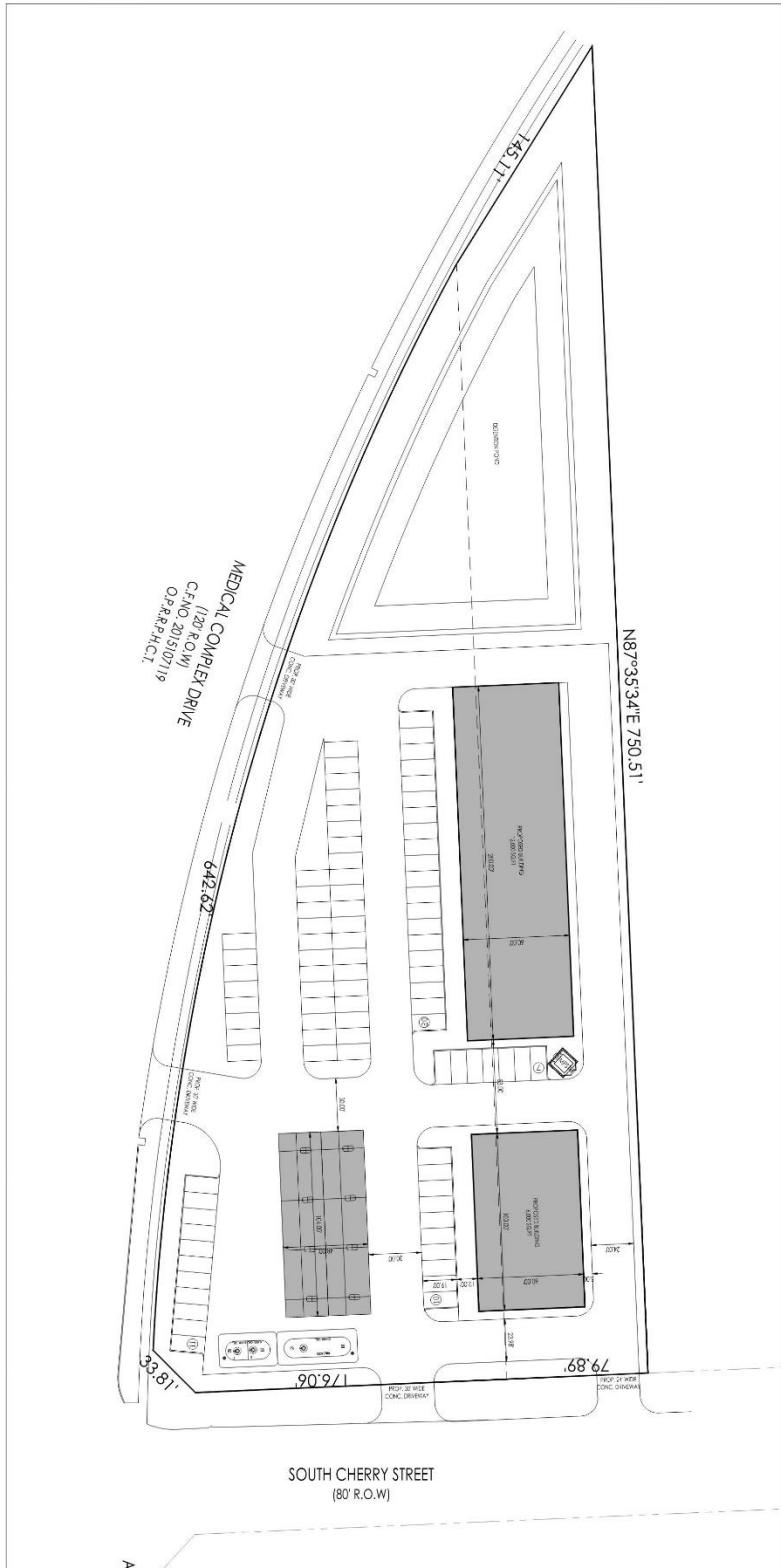
The City's staff may require other information and data for specific required plans. Approval of a required plan may establish conditions for construction based upon such information.

***Legal Lot Information:** If property is not platted, a plat will be required to be filed with the Community Development Department unless evidence of a legal lot is provided. To be an unplatted 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 (200) 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 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 manner as the Planning and Zoning Commission. In the event that there has been a petition filed with the City Secretary with 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. The ordinance shall have two separate readings and will be effective at such time that it is adopted by City Council and signed by the Mayor and attested by the City Secretary.

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, may 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.



CATALYST TECHNICAL GROUP, INC.
 14000 Katy Freeway, Suite 250
 Houston, TX 77050
 Phone: 281.468.1100
 Fax: 281.468.1101
 Email: info@ctginc.com
 Website: www.ctginc.com

PROJECT TITLE
 PROPOSED DEVELOPMENT
 LOCATED AT
 MEDICAL COMPLEX DRIVE
 TOMBALL, TX 77375

DATE: 11/9/2022
 GENERAL NOTES:
 THE DOCUMENTS
 SUBMITTED FOR THIS
 PROJECT ARE THE
 PROPERTY OF CATALYST
 TECHNICAL GROUP, INC.
 AND ARE NOT TO BE
 REPRODUCED OR
 TRANSMITTED IN ANY
 FORM OR BY ANY
 MEANS, ELECTRONIC
 OR MECHANICAL,
 INCLUDING PHOTOCOPYING,
 RECORDING, OR BY
 ANY INFORMATION
 STORAGE AND
 RETRIEVAL SYSTEM,
 WITHOUT THE WRITTEN
 PERMISSION OF CATALYST
 TECHNICAL GROUP, INC.

PROJECT TITLE	PROPOSED DEVELOPMENT LOCATED AT MEDICAL COMPLEX DRIVE TOMBALL, TX 77375
PROJECT NUMBER	C-0.0
DATE	11/9/2022
DESIGNED BY	SK
CHECKED BY	SK
SCALE	1"=50'
DATE	11/9/2022
PROJECT TITLE	PROPOSED DEVELOPMENT LOCATED AT MEDICAL COMPLEX DRIVE TOMBALL, TX 77375
PROJECT NUMBER	C-0.0

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

WARRANTY DEED

STATE OF TEXAS §

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF HARRIS §

THAT, JANA'S DIRT LLC, A TEXAS LIMITED LIABILITY COMPANY, which acquired title to Tract 2 of the hereinafter described real property by error or mistake as JANA'S DIRT, L.L.C., hereinafter called Grantor, for and in consideration of the sum of Ten and No/100 (\$10.00) Dollars cash and other good and valuable consideration in hand paid by

RIA GROUP LLC
4914 Zachary Ln.
Sugarland, TX 77479

hereinafter called Grantee, the receipt and sufficiency of which are hereby acknowledged and confessed, has GRANTED, SOLD and CONVEYED, and by these presents does GRANT, SELL and CONVEY unto Grantee all those certain lots, tracts or parcels of land, together with all improvements thereon, lying and being situated in the County of Harris, State of Texas, described as follows, to-wit:

TRACT 1:

Being a 1.839 acre tract situated in the Jesse Pruett Survey, Abstract No. 629, Harris County, Texas, being a portion of the residue of that certain called 7.56 acre tract described in instrument to Jana's Dirt, LLC, recorded in Clerk's File No. 2012071296 of the Official Public Records of Real Property, Harris County, Texas (O.P.R.R.P.H.C.T.), said 1.839 acre tract being more particularly described by metes and bounds on Exhibit "A" attached hereto.

TRACT 2:

Being a 1.283 acre tract situated in the Jesse Pruett Survey, Abstract No. 629, Harris County, Texas, being all of that certain called 1.2748 acre tract described in instrument to Jana's Dirt, LLC, recorded in Clerk's File No. 20150109818 of the Official Public Records of Real Property, Harris County, Texas (O.P.R.R.P.H.C.T.), said 1.283 acre tract being more particularly described by metes and bounds on Exhibit "A" attached hereto.

This conveyance is made and accepted subject to any and all valid covenants, conditions, restrictions, easements and outstanding mineral and/or royalty interests in the oil, gas, and other minerals and leases thereon, now outstanding or affecting the premises herein conveyed, now of record in the County Clerk's office of Harris County, Texas, but only to the extent they are still in force and effect.

TO HAVE AND TO HOLD the above described premises, together with all and singular the rights and appurtenances thereto in anywise belonging unto the said Grantee and Grantee's successors and assigns, forever. And Grantor does hereby bind Grantor and Grantor's successors and assigns, to warrant and forever defend all and singular the said premises unto the said Grantee and Grantee's successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

Executed this 12 day of February, 2021.

JANA'S DIRT LLC,
A TEXAS LIMITED LIABILITY COMPANY

By: Mike O'Brien
MIKE O'BRIEN, Managing Member

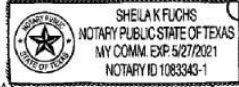
And By: Jana O'Brien
JANA O'BRIEN, Managing Member

RECORDED AT THE REQUEST
OF FIRST AMERICAN TITLE
GF# - 2565824-43

RP-2021-155506

STATE OF TEXAS §
COUNTY OF Montgomery §

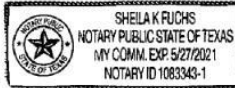
This instrument was acknowledged before me on this 12 day of February, 2021 by MIKE OBRIEN, Managing Member of JANA'S DIRT LLC, A TEXAS LIMITED LIABILITY COMPANY, on behalf of said entity in the capacity herein stated.



[Signature]
Notary Public, State of Texas

STATE OF TEXAS §
COUNTY OF Montgomery §

This instrument was acknowledged before me on this 12 day of February, 2021 by JANA OBRIEN, Managing Member of JANA'S DIRT LLC, A TEXAS LIMITED LIABILITY COMPANY, on behalf of said entity in the capacity herein stated.



[Signature]
Notary Public, State of Texas

After recording return to:

RIAA Group LLC
4814 Zachary Ln.
Sugarland, Tx 77479

G:\JEANIE\FIRST AMERICAN\2021\2565826 Jana's Dirt LLC-RIAA Group, LLC(1-1).cd.doc

RP-2021-155506

EXHIBIT 'A'

TRACT 1:

BEING A 1.839 ACRE TRACT SITUATED IN THE JESSE PRUETT SURVEY, ABSTRACT NO. 629, HARRIS COUNTY, TEXAS, BEING A PORTION OF THE RESIDUE OF THAT CERTAIN CALLED 7.56 ACRE TRACT DESCRIBED IN INSTRUMENT TO JANA'S DIRT, LLC, RECORDED IN CLERK'S FILE NO. 20120271296 OF THE OFFICIAL PUBLIC RECORDS OF REAL PROPERTY, HARRIS COUNTY, TEXAS (O.P.R.R.P.H.C.T.), SAID 1.839 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 1 INCH IRON PIPE WITH CAP FOUND IN THE WESTERLY RIGHT-OF-WAY OF SOUTH CHERRY STREET (80' WIDTH), FOR THE COMMON EASTERLY CORNER OF SAID RESIDUE TRACT AND A CALLED 1.2748 ACRE TRACT DESCRIBED IN INSTRUMENT TO JANA'S DIRT, LLC, RECORDED IN CLERK'S FILE NO. 20150109818, O.P.R.R.P.H.C.T., BEING THE NORTHEASTERLY CORNER OF THE HEREIN DESCRIBED 1.839 ACRE TRACT, FROM WHICH A 1 1/2 INCH PINCHED TOP PIPE FOUND FOR THE NORTHEASTERLY CORNER OF SAID 1.2748 ACRE TRACT BEARS NORTH 02°28'33" WEST, 79.89 FEET;

THENCE SOUTH 02°28'33" EAST, 176.06 FEET, WITH THE WESTERLY RIGHT-OF-WAY OF SAID SOUTH CHERRY STREET AND THE EASTERLY LINE OF SAID RESIDUE TRACT, TO A 1/2 INCH IRON ROD WITH CAP STAMPED "TPS 100834-00" SET FOR THE NORTHERLY CUTBACK CORNER AT THE NORTHWESTERLY CORNER OF THE INTERSECTION OF SAID SOUTH CHERRY STREET, WITH MEDICAL COMPLEX DRIVE (120' WIDTH), RECORDED IN CLERK'S FILE NO. 2015107119, O.P.R.R.P.H.C.T., FOR THE EASTERLY SOUTHEAST CORNER OF SAID RESIDUE TRACT AND THE HEREIN DESCRIBED 1.839 ACRE TRACT;

THENCE SOUTH 44°57'24" WEST, 33.81 FEET, WITH SAID CUTBACK AND THE SOUTHEASTERLY LINE OF SAID RESIDUE TRACT, TO A 1/2 INCH IRON ROD WITH CAP FOUND FOR THE BEGINNING OF A CURVE TO THE RIGHT, THE SOUTHERLY CUTBACK CORNER AT SAID INTERSECTION AND THE SOUTHERLY SOUTHEAST CORNER OF SAID RESIDUE TRACT AND THE HEREIN DESCRIBED 1.839 ACRE TRACT;

THENCE NORTHWESTERLY, 642.62 FEET, WITH ARC OF SAID CURVE TO THE RIGHT IN THE NORTHERLY RIGHT-OF-WAY OF SAID MEDICAL COMPLEX DRIVE, WITH THE SOUTHWESTERLY LINE OF SAID RESIDUE TRACT, HAVING A RADIUS OF 1,440.00 FEET, A CENTRAL ANGLE OF 25°34'08", AND A CHORD THAT BEARS NORTH 74°23'36" WEST, 637.30 FEET TO A 1/2 INCH IRON ROD WITH CAP STAMPED "TPS 100834-00" SET FOR THE COMMON WESTERLY CORNER OF SAID RESIDUE TRACT AND SAID 1.2748 ACRE TRACT, BEING THE NORTHWESTERLY CORNER OF THE HEREIN DESCRIBED 1.839 ACRE TRACT;

THENCE NORTH 87°25'21" EAST, 630.73 FEET, WITH THE COMMON LINE OF SAID RESIDUE TRACT AND SAID 1.2748 ACRE TRACT, TO THE PLACE OF BEGINNING;

CONTAINING A COMPUTED AREA OF 1.839 ACRES OF LAND WITHIN THIS FIELD NOTE DESCRIPTION.

TRACT 2:

BEING A 1.283 ACRE TRACT SITUATED IN THE JESSE PRUETT SURVEY, ABSTRACT NO. 629, HARRIS COUNTY, TEXAS, BEING ALL OF THAT CERTAIN CALLED 1.2748 ACRE TRACT DESCRIBED IN INSTRUMENT TO JANA'S DIRT, LLC, RECORDED IN CLERK'S FILE NO.

RP-2021-155506

20150109818 OF THE OFFICIAL PUBLIC RECORDS OF REAL PROPERTY, HARRIS, COUNTY, TEXAS (O.P.R.R.P.H.C.T.), SAID 1.283 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 1 INCH IRON PIPE WITH CAP FOUND IN THE WESTERLY RIGHT-OF-WAY OF SOUTH CHERRY STREET (80' WIDTH), FOR THE COMMON EASTERLY CORNER OF SAID 1.2748 ACRE TRACT AND THE RESIDUE OF A CALLED 7.56 ACRE TRACT DESCRIBED IN INSTRUMENT TO JANA'S DIRT, LLC, RECORDED IN CLERK'S FILE NO. 20120271296, O.P.R.R.P.H.C.T., BEING THE SOUTHEASTERLY CORNER OF THE HEREIN DESCRIBED 1.283 ACRE TRACT;

THENCE SOUTH 87°25'21" WEST, 630.73 FEET, WITH THE COMMON LINE OF SAID 1.2748 ACRE TRACT AND SAID RESIDUE TRACT, TO A ½ INCH IRON ROD WITH CAP STAMPED "TPS 100834-00" SET IN THE NORTHEASTERLY RIGHT-OF-WAY OF MEDICAL COMPLEX DRIVE (120' WIDTH), RECORDED IN CLERK'S FILE NO. 2015107119, O.P.R.R.P.H.C.T., FOR THE COMMON WESTERLY CORNER OF SAID 1.2748 ACRE TRACT AND SAID RESIDUE TRACT, BEING THE SOUTHWESTERLY CORNER OF THE HEREIN DESCRIBED 1.283 ACRE TRACT, FROM WHICH A 5/8 INCH IRON ROD WITH CAP FOUND FOR REFERENCE, BEARS SOUTH 89°01'05" WEST, 0.38 FEET;

THENCE NORTH 58°06'39" WEST, 145.11 FEET, WITH THE NORTHEASTERLY RIGHT-OF-WAY OF SAID MEDICAL COMPLEX DRIVE AND THE SOUTHWESTERLY LINE OF SAID 1.2748 ACRE TRACT, TO A 5/8 INCH IRON ROD WITH CAP FOUND FOR THE COMMON WESTERLY CORNER OF SAID 1.2748 ACRE TRACT AND A TRACT DESCRIBED IN INSTRUMENT TO CORRAL RUP, LLC, RECORDED IN CLERK'S FILE NO. 2018138656, O.P.R.R.P.H.C.T., BEING THE NORTHWESTERLY CORNER OF THE HEREIN DESCRIBED 1.283 ACRE TRACT;

THENCE NORTH 87°35'34" EAST, 750.51 FEET, WITH THE COMMON LINE OF SAID 1.2748 ACRE TRACT AND SAID CORRAL RUP TRACT, TO A 1 ½ INCH PINCHED TOP PIPE FOUND IN THE WESTERLY RIGHT-OF-WAY OF SAID SOUTH CHERRY STREET, FOR THE COMMON EASTERLY CORNER OF SAID 1.2748 ACRE TRACT AND SAID CORRAL RUP TRACT, BEING THE NORTHEASTERLY CORNER OF THE HEREIN DESCRIBED 1.283 ACRE TRACT;

THENCE SOUTH 02°28'33" EAST, 79.89 FEET, WITH THE WESTERLY RIGHT-OF-WAY OF SAID SOUTH CHERRY STREET AND THE EASTERLY LINE OF SAID 1.2748 ACRE TRACT, TO THE PLACE OF BEGINNING;

CONTAINING A COMPUTED AREA OF 1.283 ACRES OF LAND WITHIN THIS FIELD NOTE DESCRIPTION.

RP-2021-155506

RP-2021-155506
Pages 5
03/25/2021 07:40 AM
e-Filed & e-Recorded in the
Official Public Records of
HARRIS COUNTY
TENESHIA HUDSPETH
COUNTY CLERK
Fees \$30.00

RECORDERS MEMORANDUM

This instrument was received and recorded electronically
and any blackouts, additions or changes were present
at the time the instrument was filed and recorded.

Any provision herein which restricts the sale, rental, or
use of the described real property because of color or
race is invalid and unenforceable under federal law.
THE STATE OF TEXAS
COUNTY OF HARRIS
I hereby certify that this instrument was FILED in
File Number Sequence on the date and at the time stamped
hereon by me; and was duly RECORDED in the Official
Public Records of Real Property of Harris County, Texas.



Teneshia Hudspeth
COUNTY CLERK
HARRIS COUNTY, TEXAS



STATE OF TEXAS
REGISTERED
CAREY A. JOHNSON
6524
PROFESSIONAL
LAND SURVEYOR

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: 2/20/2023

Topic:

Conduct a Public Hearing and consideration to approve **Ordinance Amendment OAM23-01**: Request by Apex Clean Energy Holdings, LLC to amend Section(s) 50-2 (*Definitions*) and Section 50-82 (*Use Regulations (Charts)*), Subsection (b) (*Use Charts*) of the Tomball Code of Ordinances by adding standards pertaining to “Energy Storage System”.

Adopt, on First Reading, Ordinance No. 2023-03, an Ordinance of the City of Tomball, Texas, Amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by revising its code of ordinance amending Section 50-2 (Definitions), of Article I, in general and Section 50-82 (Use Regulations (Charts)), Subsection (B)(Use Charts), of Article III, District Regulations; 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.

Background:

Apex Energy has requested to amend the current City of Tomball code of ordinance, requesting to establish an “Energy Storage System” land use within the City of Tomball. These businesses utilize batteries to create energy storage reserves that are to be utilized if our city and/or surrounding communities lose access to electricity. Currently, the City of Tomball does not identify any such land use within our Code of Ordinance, leading staff to categorize this use as an “Electrical Substation” which is the closest similar use within our code of ordinance. Where permitted, electrical substations require a Conditional Use Permit. To avoid potential confusion that may arise from seeking a Conditional Use Permit for an Electrical Substation, the applicants would like to add the electric storage system land use to our code of ordinance. This amendment will allow an electric storage system within the Light Industrial (LI) zoning district with the approval of a Conditional Use Permit. Additionally, this amendment includes a definition that will clearly define the electric storage facility land use.

Origination: Apex Clean Energy Holdings, LLC.

Recommendation:

Staff Recommends Approval, Planning & Zoning Commission Approved (3 Votes Aye, 1 Vote Nay)

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

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

ORDINANCE NO. 2023-03

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING ITS CODE OF ORDINANCE BY AMENDING SECTION 50-2 (DEFINITIONS), OF ARTICLE I, IN GENERAL AND SECTION 50-82 (USE REGULATIONS (CHARTS)), SUBSECTION (B)(USE CHARTS), OF ARTICLE III, DISTRICT REGULATIONS, OF CHAPTER 50, ZONING; 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.

WHEREAS, Apex Clean Energy Holdings, LLC. Has requested an amendment to the code of ordinance, particularly by adding the “Electric Energy Storage” land use and providing a definition to the Planning & Zoning Commission; 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, the Planning & Zoning Commission held a public hearing on the requested text amendment; 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 rezoning; and

WHEREAS, the Planning & Zoning Commission recommended in its final report that City Council approve the requested text amendment; and

WHEREAS, at least fifteen (15) days after the publication in the official newspaper of the City of the time and place of a public hearing, the City Council held a public hearing on the proposed text amendment; and

WHEREAS, the City Council finds it to be in the best interest of the health, safety, and welfare of the citizens to approve the text amendment as contained in this ordinance;

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. Article II, In General and Article III, District Regulations, of Chapter 50, Zoning of the Code of Ordinances of the City of Tomball, Texas is hereby amended as set out in Exhibit A, attached hereto and made a part of this Ordinance for all purposes.

Section 3. 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

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 4. 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.

FIRST READING:

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

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

SECOND READING:

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

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

LORI KLEIN QUINN, Mayor

ATTEST:

DORIS SPEER, City Secretary

Exhibit “A”

AMEND: Section 50-2 (*Definitions*)

REVISE: Add the following entry

ADD:

Electric Storage System – One or more devices assembled together capable of storing energy that allows power system operators and utilities to collect and store energy from the grid and discharge it at a future time to provide electricity when needed, such as to ensure adequate peaking generation capacity and grid resiliency.

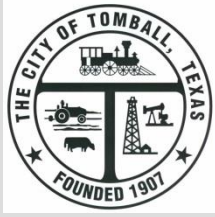
AMEND: Section 50-82 (b) (*Use Regulations (Charts)*)

REVISE: Add the following entry

ADD:

Types of Land Uses	Residential Zoning Districts											Nonresidential Zoning Districts								Parking	
	AG	SF-20-E	SF-9	SF-6			D		MF		MHP	O		GR			C	LI		OT&MU	Also see section 50-112
Institutional/Governmental																					
Electric Storage System																		C			2 spaces per facility

-END-



Ordinance Amendment Staff Report

Planning & Zoning Commission Public Hearing Date: February 13, 2023

City Council Public Hearing Date: February 20, 2023

Case: OAM23-01
Applicant(s): Apex Clean Energy Holdings, LLC
Section(s): Section(s) 50-2 (*Definitions*) and 50-82 (*Use Regulations (Charts)*),
Subsection (b)(*Use Charts*)
Subject: Add “Electric Storage System”

BACKGROUND

In recent months, the City of Tomball has been approached by multiple businesses looking to establish an “Energy Storage System” within the City of Tomball. These businesses utilize batteries to create energy storage reserves that are to be utilized if our city and/or surrounding communities lose access to electricity. Currently, the City of Tomball does not identify any such land use within our Code of Ordinance, leading staff to categorize this use as an “Electrical Substation” which is the closest similar use within our code of ordinance. Where permitted, electrical substations require a Conditional Use Permit. To avoid potential confusion that may arise from seeking a Conditional Use Permit for an Electrical Substation, the applicants would like to add the electric storage system land use to our code of ordinance. This amendment will allow an electric storage system within the Light Industrial (LI) zoning district with the approval of a Conditional Use Permit. Additionally, this amendment includes a definition that will clearly define the electric storage facility land use.

NOTICE OF PUBLIC HEARING:

A public hearing notice was published in the Potpourii on February 1, 2023.

PROPOSED ORDINANCE AMENDMENT(s):

Code of Ordinance Section(s):

50-2 (*Definitions*)

ADD:

Electric Storage System – One or more devices assembled together capable of storing energy that allows power system operators and utilities to collect and store energy from the grid and discharge it at a future time to provide electricity when needed, such as to ensure adequate peaking generation capacity and grid resiliency.

50-82 (*Use Regulations (Charts)*)

ADD:

Types of Land Uses	Residential Zoning Districts										Nonresidential Zoning Districts										Parking
	AG	SF-20-E	SF-9	SF-6			D		MF		MHP	O		GR			C	LI		OT&MU	Also see section 50-112
Institutional/Governmental																					
Electric Storage System																		C			2 spaces per facility

RECOMMENDATION

City staff recommends approval of OAM23-01



ZONING TEXT AMENDMENT

Planning Division

APPLICATION REQUIREMENTS: 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/securesend
USERNAME: tomballedd
PASSWORD: TomballI

Applicant

Name: Apex Clean Energy Holdings, LLC Title: Chief Operating Officer
Mailing Address: 120 Garrett Street, Suite 700 City: Charlottesville State: VA
Zip: 22902 Contact: Ken Young
Phone: (434) 270-7491 Email: ken.young@apexcleanenergy.com
c/o Jake Steinman, jake.steinman@apexcleanenergy.com

Property Owner

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

Statement of Purpose- Identify the existing section(s) of the Zoning Ordinance for which the Text Amendment is proposed, the proposed revised language and the reason(s) for the requested text Amendment (attach additional sheets as necessary):

The proposed zoning text amendment would amend City Code Sec. 50-2 (Zoning Definitions) to define "Energy Storage System". It would also amend Sec. 50-82(b) (Use Charts) to make Energy Storage System a conditional use that may be permitted in the LI zoning district only upon approval of a Conditional Use Permit (CUP) subject to the requirements of Sec. 50-81 (Conditional Use Permit). The amendments are needed to update the Code to reflect advances in technology and to allow for a regulated use that will enhance the energy grid. The proposed definition for "Energy Storage System" is "one or more devices assembled together capable of storing energy that allows power system operators and utilities to collect and store energy from the grid and discharge it at a future time to provide electricity when needed, such as to ensure adequate peaking generation capacity and grid resiliency."

General Description of Property Affected by Amendment (attach additional sheets as necessary):

There is a parcel under consideration but no sale has closed at this time. Generally, however, an energy storage system use must be in close proximity to an electrical substation.

Statement of Facts Which the Applicant Believes Justify the Amendment (attach additional sheets as necessary):

The storage of energy is becoming increasingly important to achieve public policy goals including grid resiliency, emergency preparedness, and cost management. Energy storage will help to reduce costs associated with meeting peak electric demands, increase efficiency, stabilize supply during peak electric usage, and help keep critical systems online during an outage. The use should be regulated by allowing it only in the LI zoning district upon a public hearing and approval process for a Conditional Use Permit, and shall meet all fire and building code requirements and shall require ERCOT interconnection approval.

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.

X  12/22/2022
Signature of Applicant Date

X _____
Signature of Owner Date



Jake Steinman
Apex Clean Energy, Inc.
120 Garrett Street, Suite 700
Charlottesville, VA 22902
jake.steinman@apexcleanenergy.com
Cell: 775-842-4749

January 3, 2023

Nathan Dietrich
Community Development Director
The City of Tomball
501 James Street
Tomball, TX 77375

Dear Mr. Dietrich:

On behalf of Apex Clean Energy, this serves as a request for zoning text amendments to define the "Energy Storage System" use and to make Energy Storage a conditional use in the Light Industrial (LI) zoning district pursuant to City Code Sec. 50-82(a)(4) (Classification of New/Unlisted Uses). Below is a list of the information required per the above-referenced Code section.

- (i) The nature of the use and whether the use involves dwelling activity, sales, services, or processing:

"Energy Storage System" is one or more devices assembled together capable of storing energy that allows power system operators and utilities to collect and store energy from the grid and discharge it at a future time to provide electricity when needed, such as to ensure adequate peaking generation capacity and grid resiliency.

- (ii) The type of product sold or produced under the use:

Electrical energy storage and discharge into the grid as needed to enhance the functionality and resiliency of the energy grid.

- (iii) Whether the use has enclosed or outside storage and the amount and nature of the storage:

The use is to be stored in enclosed containers with the amount dependent on the energy storage needs and physical constraints.

(iv) Anticipated employment typically anticipated with the use:

There will be construction jobs generated as part of the construction of a battery storage facility. Upon construction, employment will be related to routine maintenance and remote 24/7 monitoring.

(v) Transportation requirements:

There will be no transportation requirements after construction except for a public or private access drive for maintenance.

(vi) The nature and time of occupancy and operation of the premises:

The use will be automated and continuous to ensure that adequate energy supply is available to the grid at all times.

(vii) The off-street parking and loading requirements:

There will be minimal parking and loading requirements, as the facility will only need parking for maintenance visits. Typically, this would include a loading space and little to no parking.

(viii) The amount of noise, odor, fumes, dust, toxic materials and vibration likely to be generated:

The use will not generate any odor, fumes, dust, toxic materials, or vibration. It will generate sound of approximately 55 decibels at 60 feet, which, for example, is approximately 25 decibels lower than the existing Tomball substation generates at the same distance.

(ix) The requirements for public utilities such as sanitary sewer and water and any special public services that may be required:

Because this type of use does not require occupancy during operations, there will be no need for connection to city water or sewer.

(x) Impervious surface coverage:

Impervious surface cover will vary from project to project and is dependent on type and make of energy storage system. Adequate storm water retention will be designed and constructed if over the minimum threshold.

Nathan Dietrich
January 3, 2023
Page 3

Sincerely,

A handwritten signature in black ink, appearing to read "Jake Steinman". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Jake Steinman
Senior Development Manager, Energy Storage

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



Notice is Hereby Given that a Public Hearing will be held by the P&Z of the City of Tomball on **Monday, February 13, 2023 at 6:00 P.M.** and by the City Council of the City of Tomball on **Monday, February 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:

Ordinance Amendment OAM23-01: Request by Apex Clean Energy Holdings, LLC to amend Section(s) 50-2 (*Definitions*) and Section 50-82 (*Use Regulations (Charts)*), Subsection (b) (*Use Charts*) of the Tomball Code of Ordinances by adding standards pertaining to “Energy Storage System”.

Zoning Case Z23-02: Request by RIAA Group, LLC. to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 3.12 acres of land legally described as being portions of Lot 172, in Tomball Townsite from Agricultural (AG) to General Retail (GR). The property is located at the northwest corner of S. Cherry Street & Medical Complex Drive at 1635 S. Cherry 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 February 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.

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: February 20, 2023

Topic:

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. 551.076 – Deliberations regarding Security Devices

Sec. 551.087 – Deliberations regarding Economic Development

Background:

Origination: Kelly Violette, TEDC-Executive Director

Recommendation:

Party(ies) responsible for placing this item on agenda: David Esquivel, City Manager

Regular City Council

Agenda Item

Data Sheet

Meeting Date: February 20, 2023

Topic:

Approve, on First Reading, Resolution No. 2023-04-TEDC, a Resolution of the City Council of the City of Tomball, Texas, authorizing and approving the Project of the Tomball Economic Development Corporation, the designation of a mixed-use development in Old Town Tomball, to promote new or expanded business development, with such Project including the expenditure of funds for the purchase of land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements related to the Project, and authorizing the Executive Director or designee to execute any and all documentation related to the Project.

Background:

On January 10, 2023, the Tomball Economic Development Corporation (TEDC) Board of Directors unanimously approved a \$4.5 million budget amendment for property acquisition as well as the designation of a mixed-use development in Old Town Tomball to promote new or expanded business development, with such Project including the expenditure of funds for the purchase of land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements related to the Project, and authorizing the Executive Director or designee to execute any and all documentation related to the Project.

The project includes the acquisition of approximately 4.63 acres of land located at 401 Oxford Street, Tomball, TX 77375 (First Baptist Church of Tomball Campus) and includes approximately 84,420 square feet of building area.

This is a permissible project as outlined in Texas Economic Development Legislation which permits funding of projects that promote new or expanded business development.

The Tomball City Council has final approval authority over all programs and expenditures of the TEDC. Final approval of this project requires the adoption of Resolution No. 2023-04-TEDC after two separate readings.

Origination: Tomball Economic Development Corporation Board of Directors

Recommendation: Approval of Resolution No. 2023-04-TEDC on First Reading

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: _____ No: _____

If yes, specify Account Number: # _____

If no, funds will be transferred from account # _____

To account # _____

Signed

Staff Member-TEDC

Date

Approved by

Executive Director-TEDC

Date



RESOLUTION NO. 2023-04-TEDC

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS, APPROVING A PROJECT OF THE TOMBALL ECONOMIC DEVELOPMENT CORPORATION UNDER TEXAS LOCAL GOVERNMENT CODE SECTION 505.158.

* * * * *

WHEREAS, the City Council of the City of Tomball, Texas (the “Council”) finds that Tomball Economic Development Corporation (the “TEDC”) is a duly-formed organization in the State of Texas and that its purpose is to enhance the economic well being of the City of Tomball (the “City”) and its citizens; and

WHEREAS, the Council finds that the TEDC’s proposed project designation that includes the TEDC’s expenditure of funds for the purchase of land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements related to a mixed-use development in Old Town Tomball and promote new or expanded business development in and around the City (the “Project”), and authorizing the Executive Director or designee to execute any and all documentation related to the Project, with a description of the Project being attached to this Resolution as “Exhibit A”; and **NOW THEREFORE**,

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

THAT the City Council of the City of Tomball hereby finds and approves the Tomball Economic Development Corporation’s project, as such project is described in the Project Description attached to this Resolution as “Exhibit A”.

PASSED, APPROVED, and RESOLVED on first reading on _____.

PASSED, APPROVED, and RESOLVED on second reading on _____.

LORI KLEIN QUINN, MAYOR

ATTEST:

Doris Speer, City Secretary

EXHIBIT A

PROJECT DESCRIPTION

The expenditure of funds for the purchase of land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements related to a mixed-use development to be located at 401 Oxford Street, Tomball, Texas 77375 in Old Town Tomball and promote new or expanded business development in and around the City (the “Project”), and authorizing the Executive Director or designee to execute any and all documentation related to the Project.

Regular City Council

Agenda Item

Data Sheet

Meeting Date: February 20, 2023

Topic:

Approve, on First Reading, Resolution No. 2023-03-TEDC, a Resolution of the City Council of the City of Tomball, Texas, authorizing and approving an Amendment to the Tomball Economic Development Corporation Fiscal Year 2022-2023 Budget to allow for the expenditure of funds and related project costs for the acquisition of land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements near Old Town Tomball.

Background:

The Tomball Economic Development Corporation is requesting Council's approval of a budget amendment for the following purposes:

- Property acquisition – First Baptist Church of Tomball (401 Oxford Street, Tomball, TX 77375)

On January 10, 2023, the Tomball Economic Development Corporation (TEDC) Board of Directors unanimously approved a \$4.5 million budget amendment for property acquisition as well as the designation of a mixed-use development in Old Town Tomball to promote new or expanded business development, with such Project including the expenditure of funds for the purchase of land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements related to the Project, and authorizing the Executive Director or designee to execute any and all documentation related to the Project.

The property acquisition includes approximately 4.63 acres of land and includes approximately 84,420 square feet of building area.

Goal 3 of the 2022-2023 TEDC Strategic Plan is to encourage quality investment in Tomball's Old Town by investing in strategic anchor projects that have the potential to catalyze development. In order to fund efforts relating to this goal the TEDC and City Council must first designate it as a Project of the Corporation.

This is a permissible project as outlined in Texas Economic Development Legislation which permits funding of projects that promote new or expanded business development.

The Tomball City Council has final approval authority over all programs and expenditures of the TEDC. Final approval of this project requires the adoption of Resolution No. 2023-03-TEDC after two separate readings.

Origination: Tomball Economic Development Corporation Board of Directors

Recommendation: Approval of Resolution No. 2023-03-TEDC on First Reading

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

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

Signed _____ Approved by _____
Staff Member-TEDC Date Executive Director-TEDC Date

Tomball Economic Development Corporation
FY2023 Adopted Budget
October 1, 2022 to September 30, 2023

	FY 2019 Actuals	FY 2020 Actuals	FY 2021 Actuals	FY 2022 Adopted Budget	FY 2022 Year End Projections	FY 2023 Proposed Budget
Beginning Fund Balance	\$ 16,683,138	\$ 21,574,948	\$ 18,579,527	\$19,860,898	\$19,817,793	\$ 23,156,574
REVENUE						
Sales Tax	\$ 4,168,199	\$ 4,064,895	\$ 4,408,484	\$ 4,100,000	\$ 4,900,000	\$ 5,100,000
Interest	551,967	426,876	352,381	350,000	370,000	450,000
Grants	5,500	-	16,000	8,000	8,000	
Other - Land Sales and Lease Payments	2,596,223	491,055	913,855	-	1,646,930	
Total Revenue	\$ 7,321,889	\$ 4,982,826	\$ 5,690,719	\$ 4,458,000	\$ 6,924,930	\$ 5,550,000
Total Available Resources	\$ 24,005,027	\$ 26,557,774	\$ 24,270,246	\$ 24,318,898	\$ 26,742,723	\$ 28,706,574
EXPENDITURES						
Administrative						
Salaries - Administrative	\$ 201,300	\$ 213,843	\$ 215,952	\$ 283,214	\$ 283,214	\$ 287,810
Benefits	126,518	114,950	129,174	133,918	133,918	157,830
Wages - Full-Time	40,527	42,333	45,246	38,000	38,000	55,000
Wages - Other				3,000	150	8,300
Salary Survey Adjustments						83,645
Total Salaries and Benefits	\$ 368,345	\$ 371,126	\$ 390,372	\$ 458,132	\$ 455,282	\$ 592,585
Other Personnel Expenditures						
Auto Allowances	\$ 8,400	\$ 8,400	\$ 8,400	\$ 16,800	\$ 16,800	\$ 16,800
Phone Allowance - Executive Director	768	900	900	900	900	900
Phone Allowance - Assistant Director	768	900	900	900	900	900
Phone Allowance - Coordinator	-	-	-	-	-	900
Local Travel Expense	256	135	236	500	150	500
Dues and Subscriptions	7,514	9,482	7,681	10,000	9,000	13,100
Seminar/Conference Registrations	15,224	2,928	10,396	18,000	12,000	18,000
Travel and Training	19,527	11,727	3,440	30,000	16,000	30,000
Total Other Personnel Expense	\$ 52,457	\$ 34,472	\$ 31,953	\$ 77,100	\$ 55,750	\$ 81,100
Service and Supply Expenditures						
Contracted Administrative Services	\$ 25,000	\$ 25,000	\$ 25,000	\$ 25,000	\$ 25,000	\$ 25,000
Bank Charges & Postage	(344)	1,920	3,017	3,500	2,500	3,500
Insurance	1,743	3,144	8,399	15,000	15,000	18,000
Computer Equipment & Maintenance	2,910	4,249	5,823	5,000	5,000	10,000
Communications Services	3,286	3,639	3,976	5,200	4,300	5,200
Legal Fees	7,333	31,915	31,996	40,000	20,000	40,000
Lease Expense-GTACC	22,842	25,629	24,574	25,000	25,000	25,000
Office Equipment & Supplies	10,752	3,557	(2,321)	10,000	5,500	10,000
Total Service and Supply Expense	\$ 73,522	\$ 99,053	\$ 100,463	\$ 128,700	\$ 102,300	\$ 136,700
Total Administrative Expenditures	\$ 494,324	\$ 504,651	\$ 522,788	\$ 663,932	\$ 613,332	\$ 810,385
Indirect Economic Development Exp.						
Chamber Guide	\$ 8,354	\$ 8,354	\$ 8,354	\$ 8,400	\$ 8,354	\$ 8,400
Area Street Maps	-		3,875	-	-	4,000
Marketing	63,450	90,768	76,150	100,000	100,000	105,000
Economic Impact Model License	4,174	4,299	4,428	4,565	4,565	4,565
Event Sponsorships	6,212	6,000	24,028	29,000	21,560	29,000
Promotional Items	6,574	6,515	1,160	6,500	6,500	6,500
Printing	4,503	6,915	5,404	6,500	6,500	6,500
Website and GIS	14,620	31,899	36,299	20,000	16,100	25,000
Professional Services	136,770	207,560	191,747	500,000	250,000	500,000
Grow Tomball Initiative	-	-	-	-	-	20,000
Miscellaneous	15,555	70,834	78,182	15,000	(32,000)	15,000
Total Indirect Expenditures	\$ 260,212	\$ 433,144	\$ 429,626	\$ 689,965	\$ 381,579	\$ 723,965

City Debt Service

Southside Sewer Plant (1999 CO-2/15/2019)	\$	188,148	\$	-	\$	-	\$	-				
Utilities Expansion (2002 CO-2/15/2022)		370,000		370,000		370,000		370,000		370,000		-
Business Park Infrastructure (Series 2013)		91,764		533,462		535,663		537,663		537,663		539,463
Medical Complex/Persimmon (Series 2016)		-		222,222		222,222		222,222		222,222		222,222
Total Debt Service	\$	649,912	\$	1,125,684	\$	1,127,885	\$	1,129,885	\$	1,129,885	\$	761,685
Grants, Loans & Other Expenditures												
Project Grants	\$	361,735	\$	219,848	\$	210,108	\$	2,500,000	\$	609,353	\$	2,500,000
Sales Tax Reimbursement Grants (380)		52,312		50,139		50,139		55,000		65,000		70,000
Property Acquisition		-		5,062,631		2,043,540		2,500,000		-		500,000
Business Improvement Grants- Current Year		73,559		130,891		62,078		350,000		192,000		350,000
Business Improvement Grants- Prior Year		91,000		139,082		67,000		255,850		325,000		250,000
Old Town Façade Grants- Current Year		-		54,269		-		250,000		90,000		250,000
Old Town Façade Grants- Prior Year		-		-		38,783		200,000		85,000		100,000
Old Town Projects												600,000
South Live Oak Redevelopment		-		-		71,341		4,000,000		-		5,000,000
Business Park Expenses		434,471		248,644		77,781		300,000		95,000		300,000
Total Grants/Loans/Other	\$	1,013,077	\$	5,905,504	\$	2,620,770	\$	10,410,850	\$	1,461,353	\$	9,920,000
Total All Expenditures	\$	2,417,525	\$	7,968,983	\$	4,701,069	\$	12,894,632	\$	3,586,149	\$	12,216,035
Revenues Over (Under) Expenditures	\$	4,904,364	\$	(2,986,157)	\$	989,650	\$	(8,436,632)	\$	3,338,781	\$	(6,666,035)
Other Income/Losses on Investments	\$	12,554	\$	9,264	\$	(248,616)	\$	-		\$		-
Ending Fund Balance	\$	21,574,948	\$	18,579,527	\$	19,817,793	\$	11,424,267	\$	23,156,574	\$	16,490,540
Per Audited Financials	\$	21,649,056	\$	18,749,898	\$	19,570,389						
Variance	\$	(74,108)	\$	(170,371)	\$	247,404						

TEDC Debt Service Schedule

	Series 1999	Series 2002	Series 2013	Series 2016	Annual Payments
2016	\$ 188,148	\$ 370,000	\$ 528,012.50		\$ 1,086,160.50
2017	\$ 188,148	\$ 370,000	\$ 530,912.50		\$ 1,089,060.50
2018	\$ 188,148	\$ 370,000	\$ 533,612.50		\$ 1,091,760.50
2019	\$ 188,148	\$ 370,000	\$ 536,112.50		\$ 1,094,260.50
2020		\$ 370,000	\$ 533,462.50	\$ 222,222	\$ 1,125,684.50
2021		\$ 370,000	\$ 535,662.50	\$ 222,222	\$ 1,127,884.50
2022		\$ 370,000	\$ 537,662.50	\$ 222,222	\$ 1,129,884.50
2023			\$ 539,462.50	\$ 222,222	\$ 761,684.50
2024			\$ 546,012.50	\$ 222,222	\$ 768,234.50
2025			\$ 547,312.50	\$ 222,222	\$ 769,534.50
2026			\$ 548,412.50	\$ 222,222	\$ 770,634.50
2027			\$ 548,737.50	\$ 222,222	\$ 770,959.50
2028			\$ 548,275.00	\$ 222,222	\$ 770,497.00
2029			\$ 551,925.00	\$ 222,222	\$ 774,147.00
2030			\$ 549,056.25	\$ 222,222	\$ 771,278.25
2031			\$ 549,600.00	\$ 222,222	\$ 771,822.00
2032			\$ 549,075.00	\$ 222,222	\$ 771,297.00
2033			\$ 548,100.00	\$ 222,222	\$ 770,322.00
2034				\$ 222,222	\$ 222,222.00
2035				\$ 222,222	\$ 222,222.00
2036				\$ 222,222	\$ 222,222.00
2037				\$ 222,226	\$ 222,226.00
Total	\$ 752,592	\$ 2,590,000	\$ 9,761,406.25	\$ 4,000,000	\$ 17,103,998.25

2017-2019:

Southside Sewer Plant (1999 CO-2/15/2019)
 Utilities Expansion (2002 CO- 2/15/2022)
 Business Park Infrastructure (Series 2013)

2020-2022:

Utilities Expansion (2002 CO- 2/15/2022)
 Business Park Infrastructure (Series 2013)
 Series 2016, Medical Complex Drive-Section 4B, Persimmon Street

2023-2033:

Business Park Infrastructure (Series 2013)
 Series 2016, Medical Complex Drive-Section 4B, Persimmon Street

2034-2037:

Series 2016, Medical Complex Drive-Section 4B, Persimmon Street

RESOLUTION NO. 2023-03-TEDC

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS, APPROVING A BUDGET AMENDMENT OF THE TOMBALL ECONOMIC DEVELOPMENT CORPORATION FOR A PROJECT AUTHORIZED UNDER TEXAS LOCAL GOVERNMENT CODE SECTION 501.101.

* * * * *

WHEREAS, the City Council of the City of Tomball, Texas (the “Council”) finds that Tomball Economic Development Corporation (the “TEDC”) is a duly-formed organization in the State of Texas and that its purpose is to enhance the economic well being of the City of Tomball (the “City”) and its citizens; and

WHEREAS, the Council finds that the TEDC’s proposed project that will include the expenditure of funds and related project costs for the acquisition of land, buildings, equipment, facilities, targeted infrastructure, and improvements near Old Town Tomball that create or retain primary jobs and promote and develop new or expanded business enterprises to be located at 401 Oxford Street, Tomball, Texas 77375 (the “Project”); and **NOW THEREFORE**,

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

THAT the City Council of the City of Tomball (the “Council”) hereby finds that the expenditure of funds and related project costs for the Tomball Economic Development Corporation’s proposed project is an authorized expenditure of funds by the TEDC, and the Council hereby approves the expenditure of such funds and related project costs and authorizes the TEDC’s budget to be amended to allow for the expenditure of funds and related costs for the project, with a description of the project and the proposed budget amendment being is included in the attached “Exhibit A”.

PASSED, APPROVED, and RESOLVED on _____.

LORI KLEIN QUINN, MAYOR

ATTEST:

Doris Speer, City Secretary

EXHIBIT A: Project Description & Budget Amendment

The expenditure of funds and related project costs, and the execution of contracts and documentation by the EDC Executive Director, for the acquisition of land, buildings, equipment, facilities, targeted infrastructure, and improvements near Old Town Tomball that create or retain primary jobs and are suitable for the development or expansion of business enterprises to be located at 401 Oxford Street, Tomball, Texas 77375.

Tomball Economic Development Corporation
FY2023 Adopted Budget
October 1, 2022 to September 30, 2023

	FY 2019 Actuals	FY 2020 Actuals	FY 2021 Actuals	FY 2022 Adopted Budget	FY 2022 Year End Projections	FY 2023 Proposed Budget
Beginning Fund Balance	\$ 16,683,138	\$ 21,574,948	\$ 18,579,527	\$19,860,898	\$19,817,793	\$ 23,156,574
REVENUE						
Sales Tax	\$ 4,168,199	\$ 4,064,895	\$ 4,408,484	\$ 4,100,000	\$ 4,900,000	\$ 5,100,000
Interest	551,967	426,876	352,381	350,000	370,000	450,000
Grants	5,500	-	16,000	8,000	8,000	
Other - Land Sales and Lease Payments	2,596,223	491,055	913,855	-	1,646,930	
Total Revenue	\$ 7,321,889	\$ 4,982,826	\$ 5,690,719	\$ 4,458,000	\$ 6,924,930	\$ 5,550,000
Total Available Resources	\$ 24,005,027	\$ 26,557,774	\$ 24,270,246	\$ 24,318,898	\$ 26,742,723	\$ 28,706,574
EXPENDITURES						
Administrative						
Salaries - Administrative	\$ 201,300	\$ 213,843	\$ 215,952	\$ 283,214	\$ 283,214	\$ 287,810
Benefits	126,518	114,950	129,174	133,918	133,918	157,830
Wages - Full-Time	40,527	42,333	45,246	38,000	38,000	55,000
Wages - Other				3,000	150	8,300
Salary Survey Adjustments						83,645
Total Salaries and Benefits	\$ 368,345	\$ 371,126	\$ 390,372	\$ 458,132	\$ 455,282	\$ 592,585
Other Personnel Expenditures						
Auto Allowances	\$ 8,400	\$ 8,400	\$ 8,400	\$ 16,800	\$ 16,800	\$ 16,800
Phone Allowance - Executive Director	768	900	900	900	900	900
Phone Allowance - Assistant Director	768	900	900	900	900	900
Phone Allowance - Coordinator	-	-	-	-	-	900
Local Travel Expense	256	135	236	500	150	500
Dues and Subscriptions	7,514	9,482	7,681	10,000	9,000	13,100
Seminar/Conference Registrations	15,224	2,928	10,396	18,000	12,000	18,000
Travel and Training	19,527	11,727	3,440	30,000	16,000	30,000
Total Other Personnel Expense	\$ 52,457	\$ 34,472	\$ 31,953	\$ 77,100	\$ 55,750	\$ 81,100
Service and Supply Expenditures						
Contracted Administrative Services	\$ 25,000	\$ 25,000	\$ 25,000	\$ 25,000	\$ 25,000	\$ 25,000
Bank Charges & Postage	(344)	1,920	3,017	3,500	2,500	3,500
Insurance	1,743	3,144	8,399	15,000	15,000	18,000
Computer Equipment & Maintenance	2,910	4,249	5,823	5,000	5,000	10,000
Communications Services	3,286	3,639	3,976	5,200	4,300	5,200
Legal Fees	7,333	31,915	31,996	40,000	20,000	40,000
Lease Expense-GTACC	22,842	25,629	24,574	25,000	25,000	25,000
Office Equipment & Supplies	10,752	3,557	(2,321)	10,000	5,500	10,000
Total Service and Supply Expense	\$ 73,522	\$ 99,053	\$ 100,463	\$ 128,700	\$ 102,300	\$ 136,700
Total Administrative Expenditures	\$ 494,324	\$ 504,651	\$ 522,788	\$ 663,932	\$ 613,332	\$ 810,385
Indirect Economic Development Exp.						
Chamber Guide	\$ 8,354	\$ 8,354	\$ 8,354	\$ 8,400	\$ 8,354	\$ 8,400
Area Street Maps	-		3,875	-	-	4,000
Marketing	63,450	90,768	76,150	100,000	100,000	105,000
Economic Impact Model License	4,174	4,299	4,428	4,565	4,565	4,565
Event Sponsorships	6,212	6,000	24,028	29,000	21,560	29,000
Promotional Items	6,574	6,515	1,160	6,500	6,500	6,500
Printing	4,503	6,915	5,404	6,500	6,500	6,500
Website and GIS	14,620	31,899	36,299	20,000	16,100	25,000
Professional Services	136,770	207,560	191,747	500,000	250,000	500,000
Grow Tomball Initiative	-	-	-	-	-	20,000
Miscellaneous	15,555	70,834	78,182	15,000	(32,000)	15,000
Total Indirect Expenditures	\$ 260,212	\$ 433,144	\$ 429,626	\$ 689,965	\$ 381,579	\$ 723,965

City Debt Service

Southside Sewer Plant (1999 CO-2/15/2019)	\$ 188,148	\$ -	\$ -	\$ -		
Utilities Expansion (2002 CO-2/15/2022)	370,000	370,000	370,000	370,000	370,000	-
Business Park Infrastructure (Series 2013)	91,764	533,462	535,663	537,663	537,663	539,463
Medical Complex/Persimmon (Series 2016)	-	222,222	222,222	222,222	222,222	222,222
Total Debt Service	\$ 649,912	\$ 1,125,684	\$ 1,127,885	\$ 1,129,885	\$ 1,129,885	\$ 761,685
Grants, Loans & Other Expenditures						
Project Grants	\$ 361,735	\$ 219,848	\$ 210,108	\$ 2,500,000	\$ 609,353	\$ 2,500,000
Sales Tax Reimbursement Grants (380)	52,312	50,139	50,139	55,000	65,000	70,000
Property Acquisition	-	5,062,631	2,043,540	2,500,000	-	5,000,000
Business Improvement Grants- Current Year	73,559	130,891	62,078	350,000	192,000	350,000
Business Improvement Grants- Prior Year	91,000	139,082	67,000	255,850	325,000	250,000
Old Town Façade Grants- Current Year	-	54,269	-	250,000	90,000	250,000
Old Town Façade Grants- Prior Year	-	-	38,783	200,000	85,000	100,000
Old Town Projects						600,000
South Live Oak Redevelopment	-	-	71,341	4,000,000	-	5,000,000
Business Park Expenses	434,471	248,644	77,781	300,000	95,000	300,000
Total Grants/Loans/Other	\$ 1,013,077	\$ 5,905,504	\$ 2,620,770	\$ 10,410,850	\$ 1,461,353	\$ 14,420,000
Total All Expenditures	\$ 2,417,525	\$ 7,968,983	\$ 4,701,069	\$ 12,894,632	\$ 3,586,149	\$ 16,716,035
Revenues Over (Under) Expenditures	\$ 4,904,364	\$ (2,986,157)	\$ 989,650	\$ (8,436,632)	\$ 3,338,781	\$ (11,166,035)
Other Income/Losses on Investments	\$ 12,554	\$ 9,264	\$ (248,616)	\$ -	\$ -	\$ -
Ending Fund Balance	\$ 21,574,948	\$ 18,579,527	\$ 19,817,793	\$ 11,424,267	\$ 23,156,574	\$ 11,990,540
Per Audited Financials	\$ 21,649,056	\$ 18,749,898	\$ 19,570,389			
Variance	\$ (74,108)	\$ (170,371)	\$ 247,404			

