

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



**Monday, December 02, 2024  
6:00 PM**

Notice is hereby given of a Regular meeting of the Tomball City Council, to be held on Monday, December 02, 2024 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 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: 875 3593 1019 Passcode: 624412. 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 Tim Niekerk with Salem Lutheran Church
- C. Pledges to U.S. and Texas Flags
- D. Public Comments and Receipt of Petitions; *[At this time, anyone will be allowed to speak on any matter other than personnel matters or matters under litigation, for length of time not to exceed three minutes. No Council/Board discussion or action may take place on a matter until such matter has been placed on an agenda and posted in accordance with law - GC, 551.042.]*
- E. Presentations
  - 1. Proclamation – Celebrating Bruce Hillegeist’s 30 years as President and CEO of the Greater Tomball Area Chamber of Commerce
- F. Reports and Announcements
  - 1. Announcements
    - 1.

### Upcoming Events:

- December 7, 2024 – Holiday Heroes 8:00 a.m. to noon @ St. Anne’s Catholic Church & Tomball Walmart
- December 7, 2024 –Tomball Farmers Market Polar Express Market 9 a.m. to 1 p.m. at Farmers Market Lot
- December 7, 2024 – Louie’s Together Playground Grand Opening 2 p.m. - 3 p.m. @ Juergens Park
- December 7, 2024 – Deck the Depot Tree Lighting 4 p.m. - 8 p.m. @ Depot
- December 13-14, 2024 – Tomball Museum Candlelight Tours 6 p.m. - 9 p.m. @ Depot
- December 13-15, 2024 – Tomball German Christmas Market (Fri: 6-10 p.m., Sat: 10 a.m. to 10 p.m., Sun: 10 a.m. to 6 p.m.) @ 100-400 block of Market St.

### G. Old Business

1. Adopt, on Second Reading, Ordinance No. 2024-34, an Ordinance of the City of Tomball, Texas, amending Chapter 50 of the Tomball Code of Ordinances by rezoning approximately 36.408 acres of land legally described as being three tracts of land situated in the Jesse Pruett Survey, Abstract No. 629 from Single-Family Estate Residential (SF-20-E) to the Light Industrial (LI) zoning district. The property is located at 21725 Hufsmith-Kohrville Road, within the City of Tomball, Harris County, Texas; 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.
2. Adopt, on Second Reading, Ordinance No. 2024-39, an Ordinance of the City of Tomball, Texas amending its Code of Ordinances by amending Chapter 18, Environment, by adding a new section 18-169, Business hours of operation; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof; providing for severability, making findings of fact; and providing for other related matters.



3. Approve Resolution No. 2024-43, a Resolution of the City Council of the City of Tomball, Texas, casting its vote to appoint directors to the Harris Central Appraisal District's board of directors.
- H. New Business Consent Agenda: *[All matters listed under Consent Agenda are considered to be routine and will be enacted by one motion. There will be no separate discussion of these items. If discussion is desired, the item in question will be removed from the Consent Agenda and will be considered separately. Information concerning Consent Agenda items is available for public review.]*

  1. Approve Minutes of the November 18, 2024, Special and Regular City Council meetings.
  2. Approve Resolution No. 2024-47, the 2024-25 Strategic Plan
  3. Approve the expenditure of greater than \$50,000 with AT&T Corp. for communication services, including FirstNet services, for a not-to-exceed amount of \$75,000.00 through a Department of Information Resources (DIR) Cooperative contract (DIR-TELE-CTSA-002), approve the expenditure of funds therefor, and authorize the City Manager to execute any and all documents related to the purchase.
  4. Approve the expenditure exceeding \$50,000 with CyberOne, LLC for a total not-to-exceed amount of \$73,100.00 for consulting and software services which includes the annual renewal of CrowdStrike security services, and penetration testing (PEN testing). These services are in accordance with the organization's approved budget for fiscal years 2024-2025.
  5. Authorize the City Manager to execute an amendment to the Interlocal Agreement between the City of Tomball and Harris County Emergency Services District No. 15 (ESD15) for Fire Protection, Fire Suppression, and Rescue Services.
  6. Approve an expenditure of greater than \$50,000 with Axon Enterprise Inc. for video and surveillance services and licenses for a not-to-exceed amount of \$132,972.82. This expenditure is included in the FY 2024-2025 Budget.
  7. Approve the purchase of a vehicle from Donalson CDJR, LLC through TIPS Cooperative Purchasing Network (Contract #210907) for a not-to-exceed amount of \$47,112.50, approve the expenditure of funds therefore, and authorize the City Manager to execute any and all documents related to the purchase. This item was not included in the FY 2024-2025 budget as it is related to an insurance claim.

8. Approve Resolution Number 2024-44, a Resolution of the City Council of the City of Tomball, Texas authorizing the submission of a Texas Community Development Block Grant (TxCDBG) Program Application to the Texas Department of Agriculture for the Community Development Fund.
9. Approve a services agreement renewal with PVS DX, Inc. (formally DXI Industries, Inc.) for the purchase of chlorine and sulfur dioxide gas for water treatment for Fiscal Year 2025, for a not-to-exceed amount of \$225,000 (Bid No. 2024-04), approve the expenditure of funds therefor, and authorize the City Manager to execute any and all documents related to the purchases. These expenditures are included in the fiscal year 2024-2025 budget.
10. Approve a two-year Service Agreement with InfoSend, Inc. for Utility Billing Printing and Mailing Services (RFP 2024-12) for a total contract amount of \$110,000 (\$55,000 per year), approve the expenditure of funds therefor, and authorize the City Manager to execute any and all documents related to the purchases. These expenditures are included in the fiscal year 2024-2025 adopted budget.

I. New Business

1. Approve a two-year Service Agreement with RGS for consumer debt collection services for utility accounts (RFP 2024-09R), approve the expenditure of funds therefor, and authorize the City Manager to execute any and all documents related to the purchases. These expenditures are included in the fiscal year 2025-2025 adopted budget.
2. Presentation, discussion and possible action to regarding the establishment of a 4 way stop at the intersection of Stella Lane and Camille Drive
3. Adopt, on First Reading, Ordinance No. 2024-38, an Ordinance of the City of Tomball, Texas amending its Code of Ordinances by amending Chapter 18, Environment, by adding a new Article XI, Tree preservation; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof; providing for severability, making findings of fact; and providing for other related matters
4. Approve, on First Reading, Resolution No. 2024-46-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 Niky's Mini Donuts, LLC to make direct incentives to, or expenditures for, rental assistance for new or expanded business enterprise to be

located at 1417 Graham Drive, Suite 400, Tomball, Texas 77375. The estimated amount of expenditures for such Project is an amount not to exceed \$10,000.00.

5. Approve, on First Reading, Resolution No. 2024-45-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 NIVIS SERIES, 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 office/retail development to be located at 424 Holderrieth Blvd, Tomball, Texas 77375. The estimated amount of expenditures for such Project is an amount not to exceed \$34,170.00.

6. Approve the City Manager and Fire Chief to execute the necessary documents for a Memorandum of Understanding with the Texas A&M Forest Service for Tomball Fire Rescue to assist with the conduction of prescribed fire and mechanical fuel mitigation.

7. 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

J. Adjournment

Tracylynn Garcia

Tracylynn Garcia, TRMC, MMC, CPM  
City Secretary

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodation or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary's office at (281) 290-1019 for further information.

# City Council Meeting Agenda Item Data Sheet

Meeting Date: December 2, 2024

**Topic:**

Proclamation – Celebrating Bruce Hillegeist’s 30 years as President and CEO of the Greater Tomball Area Chamber of Commerce

**Background:**

**Origination:** Mayor

**Recommendation:**

**Party(ies) responsible for placing this item on agenda:** Sasha Luna, Assistant City Secretary

**FUNDING (IF APPLICABLE)**

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

Yes: \_\_\_\_\_ No: \_\_\_\_\_ If yes, specify Account Number: # \_\_\_\_\_

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

Signed \_\_\_\_\_ Approved by \_\_\_\_\_  
Staff Member Date City Manager Date

# City Council Meeting Agenda Item Data Sheet

Meeting Date: December 2, 2024

Topic:

Upcoming Events:

- December 7, 2024 – Holiday Heroes 8:00 a.m. to noon @ St. Anne’s Catholic Church & Tomball Walmart
- December 7, 2024 –Tomball Farmers Market Polar Express Market 9 a.m. to 1 p.m. at Farmers Market Lot
- December 7, 2024 – Louie’s Together Playground Grand Opening 2 p.m. - 3 p.m. @ Juergens Park
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- December 13-15, 2024 – Tomball German Christmas Market (Fri: 6-10 p.m., Sat: 10 a.m. to 10 p.m., Sun: 10 a.m. to 6 p.m.) @ 100-400 block of Market St.

Background:

Origination: Marketing Department

Recommendation:

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

Chrislord Templonuevo, Marketing Director

### FUNDING (IF APPLICABLE)

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

Yes: \_\_\_\_\_ No: \_\_\_\_\_ If yes, specify Account Number: # \_\_\_\_\_

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

Signed \_\_\_\_\_  
Staff Member Date

Approved by \_\_\_\_\_  
City Manager Date

# City Council Agenda Item Data Sheet

Meeting Date: December 2, 2024

**Topic:**

Adopt, on Second Reading, Ordinance No. 2024-34, an Ordinance of the City of Tomball, Texas, amending Chapter 50 of the Tomball Code of Ordinances by rezoning approximately 36.408 acres of land legally described as being three tracts of land situated in the Jesse Pruett Survey, Abstract No. 629 from Single-Family Estate Residential (SF-20-E) to the Light Industrial (LI) zoning district. The property is located at 21725 Hufsmith-Kohrville Road, within the City of Tomball, Harris County, Texas; providing for severability; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters.

**Background:**

Public Hearing held and First Reading approved during the Regular City Council meeting held on November 18, 2024.

On November 11<sup>th</sup>, the Planning & Zoning Commission conducted a public hearing and considered the rezoning case. Topics of discussion included the request's compatibility with the adopted Comprehensive Plan and nature of the existing developments and zoning districts in the area. The Planning & Zoning Commission recommended approval of the rezoning case with a 4-0 vote.

**Origination:** John and Tracy Randall

**Recommendation:** Approval

**Party(ies) responsible for placing this item on agenda:** Craig T. Meyers, P.E.

**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. 2024-34**

**AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING CHAPTER 50 (ZONING) OF THE TOMBALL CODE OF ORDINANCES BY CHANGING THE ZONING DISTRICT CLASSIFICATION OF APPROXIMATELY 36.408 ACRES OF LAND LEGALLY DESCRIBED AS BEING THREE TRACTS OF LAND SITUATED IN THE JESSE PRUETT SURVEY, ABSTRACT NO. 629, FROM SINGLE-FAMILY ESTATE RESIDENTIAL (SF-20-E) DISTRICT TO LIGHT INDUSTRIAL (LI) ZONING DISTRICT. THE PROPERTY IS LOCATED AT 21725 HUFSMITH-KOHRVILLE ROAD, WITHIN THE CITY OF TOMBALL, HARRIS COUNTY, TEXAS; 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.**

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**Whereas**, John and Tracy Randall, has requested to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 36.408 acres of land legally described as being three tracts of land situated in the Jesse Pruett Survey, Abstract No. 629 from Single-Family Estate Residential (SF-20-E) to the Light Industrial (LI) zoning district; 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 City Council deems it appropriate to grant the requested rezoning.

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 18<sup>th</sup> DAY OF NOVEMBER 2024.

COUNCILMAN FORD	<u>YEA</u>
COUNCILMAN GARCIA	<u>YEA</u>
COUNCILMAN DUNAGIN	<u>YEA</u>
COUNCILMAN COVINGTON	<u>YEA</u>
COUNCILMAN PARR	<u>YEA</u>

SECOND READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON \_\_\_\_ DAY OF \_\_\_\_\_ 2024.

COUNCILMAN FORD	_____
COUNCILMAN GARCIA	_____
COUNCILMAN DUNAGIN	_____
COUNCILMAN COVINGTON	_____
COUNCILMAN PARR	_____

\_\_\_\_\_  
LORI KLEIN QUINN, Mayor

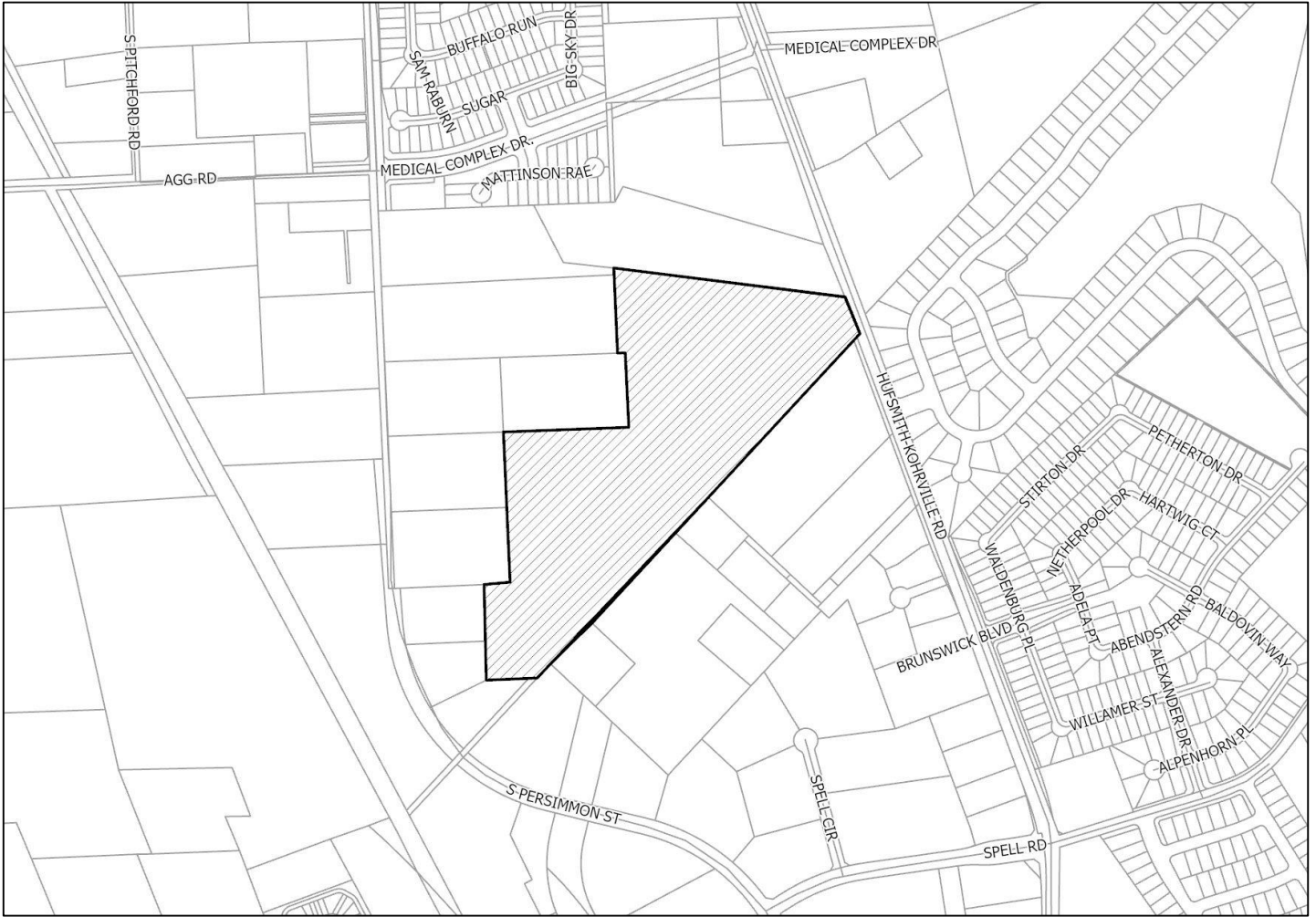
ATTEST:

\_\_\_\_\_  
TRACYLYNN GARCIA, City Secretary

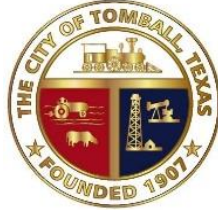


Exhibit "A"

**Location:** 21725 Hufsmith Kohrville Road, within the City of Tomball, Harris County, Texas.



**NOTICE OF PUBLIC HEARING  
CITY OF TOMBALL  
PLANNING & ZONING COMMISSION (P&Z)  
NOVEMBER 11, 2024  
&  
CITY COUNCIL  
NOVEMBER 18, 2024**



Notice is Hereby Given that a Public Hearing will be held by the P&Z of the City of Tomball on **Monday, November 11, 2024 at 6:00 P.M.** and by the City Council of the City of Tomball on **Monday, November 18, 2024 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:

**Zoning Case Z24-17:** Request by Paul and Brenda Mladenka, to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 8.381 acres of land legally described as Lot 381 and portions of Lot 378 of Tomball Outlots from Single-Family Estate Residential (SF-20-E) to the Light Industrial (LI) zoning district. The property is located at 1811 South Persimmon Road, within the City of Tomball, Harris County, Texas.

**Zoning Case Z24-18:** Request by John and Tracy Randall, to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 36.408 acres of land legally described as being three tracts of land situated in the Jesse Pruett Survey, Abstract No. 629 from Single-Family Estate Residential (SF-20-E) to the Light Industrial (LI) zoning district. The property is located at 21725 Hufsmith Kohrville Road, 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, at the Administrative Services Building, located at 501 James Street, Tomball, TX 77375. Further information may be obtained by contacting the Assistant City Planner, Benjamin Lashley, at (281) 290-1477 or at [blashley@tomballtx.gov](mailto:blashley@tomballtx.gov).

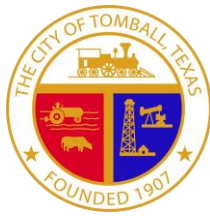
## CERTIFICATION

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall; City of Tomball, Texas, a place readily accessible to the general public at all times, on the 8<sup>th</sup> day of November 2024 by 5:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

*Benjamin Lashley*

Benjamin Lashley  
Assistant 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) 290-1019 or FAX (281) 351-6256 for further information. AGENDAS MAY ALSO BE VIEWED ONLINE AT [www.tomballtx.gov](http://www.tomballtx.gov).



**City of Tomball**  
**Community Development Department**

**NOTICE OF PUBLIC HEARING**

**RE: Zone Change Case Number Z24-18**

**10/21/2024**

The Planning & Zoning Commission will hold a public hearing on **November 11, 2024 at 6:00 PM**, in the City Council Chambers at City Hall, 401 Market Street, Tomball, Texas to recommend approval or denial to City Council on a request by John and Tracy Randall, to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 36.408 acres of land legally described as being three tracts of land situated in the Jesse Pruett Survey, Abstract No. 629 from Single-Family Estate Residential (SF-20-E) to the Light Industrial (LI) zoning district. The property is located at 21725 Hufsmith Kohrville Road, within the City of Tomball, Harris County, Texas.

This hearing is open to any interested person. Opinions, objections, and/or comments relative to this matter may be expressed in writing or in person at the hearing. At the bottom of this letter is a form that you may cut off, fill out, and mail. Comments are also accepted by email as listed below. All responses must be signed.

The attached map shows the area of this request. Only the area which is highlighted in green on the map is being considered for **re-zoning**. The hatched area is the notification area. All owners of property within 300-feet of the subject property, as indicated by the most recently approved city tax roll, are required to be notified. Whether approved or denied by the Planning & Zoning Commission, this case will be heard by the City Council for First Reading with public hearing on **November 18, 2024 at 6:00 PM** in the City Council Chambers at City Hall, 401 Market Street, Tomball, Texas.

If you have any questions please contact Benjamin Lashley, Assistant City Planner, by telephone (281-290-1477) or by email address [blashley@tomballtx.gov](mailto:blashley@tomballtx.gov).

For the PLANNING & ZONING COMMISSION  
Please call (281) 290-1477 if you have any questions about this notice.

**CASE #: Z24-18**

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Name:  
Parcel I.D.:  
Address:

Mailing To: Community Development Department  
501 James St., Tomball TX 77375

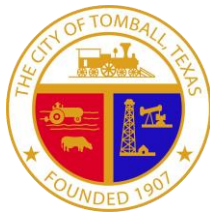
Email: [blashley@tomballtx.gov](mailto:blashley@tomballtx.gov)

I am in favor

I am opposed

Additional Comments:

Signature: \_\_\_\_\_

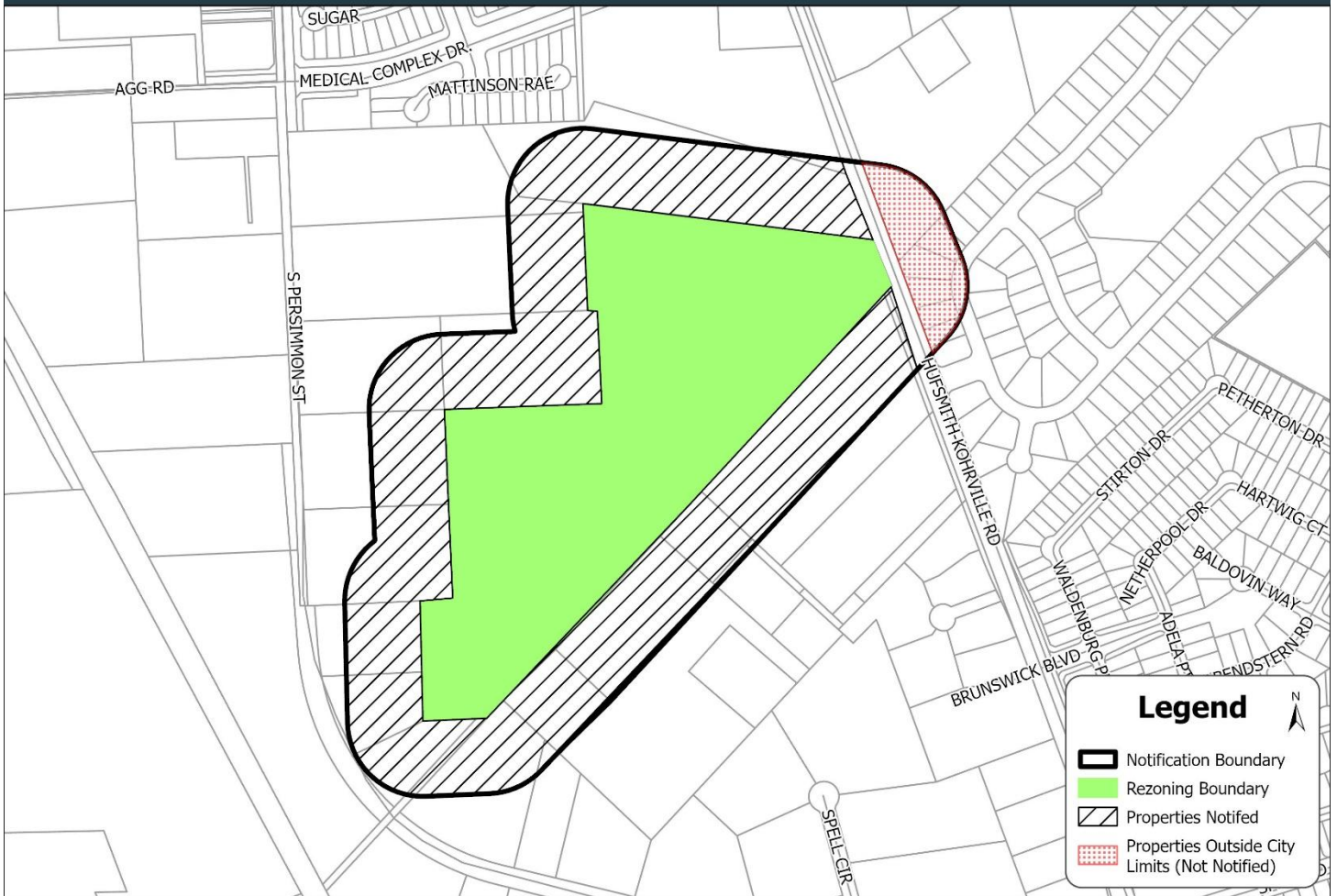


**City of Tomball**  
**Community Development Department**

**Z24-18**



# Notification Boundary







City of Tomball  
Community Development Department

WILERSON MELODY  
30104 RILEY RD  
WALLER, TX 77484-6142

**NOTICE OF PUBLIC HEARING**

RE: Zone Change Case Number Z24-18

10/21/2024

The Planning & Zoning Commission will hold a public hearing on **November 11, 2024 at 6:00 PM** in the City Council Chambers at City Hall, 401 Market Street, Tomball, Texas to recommend approval or denial to City Council on a request by John and Tracy Randall, to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 36.408 acres of land legally described as being three tracts of land situated in the Jesse Pruett Survey, Abstract No. 629 from Single-Family Estate Residential (SF-20-E) to the Light Industrial (LI) zoning district. The property is located at 21725 Hufsmith Kohrville Road, within the City of Tomball, Harris County, Texas.

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If you have any questions please contact Benjamin Lashley, Assistant City Planner, by telephone (281-290-1477) or by email address [blashley@tomballtx.gov](mailto:blashley@tomballtx.gov).

For the PLANNING & ZONING COMMISSION

Please call (281) 290-1477 if you have any questions about this notice.

**CASE #: Z24-18**

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets, if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Mailing To: Community Development Department  
501 James St., Tomball TX 77375

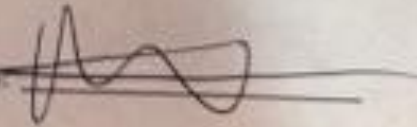
Name: WILERSON MELODY  
Parcel I.D.: 0352920000134  
Address 21801 HUFSMITH KOHRVILLE RD

Email: [blashley@tomballtx.gov](mailto:blashley@tomballtx.gov)

I am in favor

I am opposed

Additional Comments:

Signature: 

501 James Street • TOMBALL, TEXAS 77375

Please call (281) 290-1477 if you have any questions about this notice.

**CASE #: Z24-18**

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Name: GRAPPE JAMES R & CAROLYN  
Parcel I.D.: 0352920000366  
Address: 1515 S PERSIMMON ST

Mailing To: Community Development Department  
501 James St., Tomball TX 77375

Email: [blashley@tomballtx.gov](mailto:blashley@tomballtx.gov)

I am in favor

I am opposed

Additional Comments:

Signature: 

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501 James Street • TOMBALL, TEXAS 77375

For the PLANNING & ZONING COMMISSION  
Please call (281) 290-1477 if you have any questions about this notice.

**CASE #: Z24-18**

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Name: MICHEL MELVIN E & TRACY A  
Parcel I.D.: 0352920000374  
Address: 21725 HUFSMITH KOHRVILLE RD

Mailing To: Community Development Department  
501 James St., Tomball TX 77375

Email: [blashley@tomballtx.gov](mailto:blashley@tomballtx.gov)

I am in favor

I am opposed

Additional Comments:

Signature: 

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501 James Street • TOMBALL, TEXAS 77375



Please call (281) 290-1477 if you have any questions about this notice.

**CASE #: Z24-18**

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Name: GRAPPE JAMES R & CAROLYN  
Parcel I.D.: 0352920000529  
Address: 1515 S PERSIMMON ST

Mailing To: Community Development Department  
501 James St., Tomball TX 77375

Email: [blashley@tomballtx.gov](mailto:blashley@tomballtx.gov)

I am in favor

I am opposed

Additional Comments:

Signature: *Carolyn Grappe*

501 James Street • TOMBALL, TEXAS 77375

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For the PLANNING & ZONING COMMISSION  
Please call (281) 290-1477 if you have any questions about this notice.

**CASE #: Z24-18**

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Name: RANDALL JOHN W JR & TRACY A  
Parcel I.D.: 0352920000530  
Address: 21725 HUFSMITH KOHRVILLE RD

Mailing To: Community Development Department  
501 James St., Tomball TX 77375

Email: [blashley@tomballtx.gov](mailto:blashley@tomballtx.gov)

I am in favor

I am opposed

Additional Comments:

Signature: 

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501 James Street • TOMBALL, TEXAS 77375

For the PLANNING & ZONING COMMISSION  
Please call (281) 290-1477 if you have any questions about this notice.

**CASE #: Z24-18**

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Name: RANDALL JOHN W JR & TRACY A  
Parcel I.D.: 0352920000531  
Address: 21725 HUFSMITH KOHRVILLE RD

Mailing To: Community Development Department  
501 James St., Tomball TX 77375

Email: [blashley@tomballtx.gov](mailto:blashley@tomballtx.gov)

I am in favor

I am opposed

Additional Comments:

Signature: 

---

501 James Street • TOMBALL, TEXAS 77375



City of Tomball  
Community Development Department

WILKERSON MELODY  
30104 RILEY RD  
WALLER, TX 77484-6142

**NOTICE OF PUBLIC HEARING**

RE: Zone Change Case Number Z24-18

10/21/2024

The Planning & Zoning Commission will hold a public hearing on **November 11, 2024 at 6:00 PM**, in the City Council Chambers at City Hall, 401 Market Street, Tomball, Texas to recommend approval or denial to City Council on a request by John and Tracy Randsil, to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 35.408 acres of land legally described as being three tracts of land situated in the Jesse Pruett Survey, Abstract No. 629 from Single-Family Estate Residential (SF-20-E) to the Light Industrial (LI) zoning district. The property is located at 21725 Hufsmith Kohrville Road, within the City of Tomball, Harris County, Texas.

This hearing is open to any interested person. Opinions, objections, and/or comments relative to this matter may be expressed in writing or in person at the hearing. At the bottom of this letter is a form that you may cut off, fill out, and mail. Comments are also accepted by email as listed below. All responses must be signed.

The attached map shows the area of this request. Only the area which is highlighted in green on the map is being considered for re-zoning. The hatched area is the notification area. All owners of property within 300-feet of the subject property, as indicated by the most recently approved city tax roll, are required to be notified. Whether approved or denied by the Planning & Zoning Commission, this case will be heard by the City Council for First Reading with public hearing on **November 18, 2024 at 6:00 PM** in the City Council Chambers at City Hall, 401 Market Street, Tomball, Texas.

If you have any questions please contact Benjamin Lashley, Assistant City Planner, by telephone (281-290-1477) or by email address [blashley@tomballtx.gov](mailto:blashley@tomballtx.gov).

For the PLANNING & ZONING COMMISSION

Please call (281) 290-1477 if you have any questions about this notice.

**CASE #: Z24-18**

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Name: WILKERSON MELODY  
Parcel I.D.: 035292000621  
Address: 21803 HUFSMITH KOHRVILLE RD

Mailing To: Community Development Department  
501 James St., Tomball TX 77375

Email: [blashley@tomballtx.gov](mailto:blashley@tomballtx.gov)

I am in favor

I am opposed

Additional Comments:

Signature: 

501 James Street • TOMBALL, TEXAS 77375

**CASE #: Z24-18**

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Name: MERO HOMES LLC  
Parcel I.D.: 1452440010001  
Address: 0 S PERSIMMON ST

Mailing To: Community Development Department  
501 James St., Tomball TX 77375

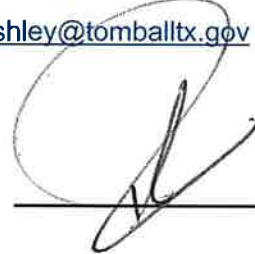
Email: [blashley@tomballtx.gov](mailto:blashley@tomballtx.gov)

I am in favor

I am opposed

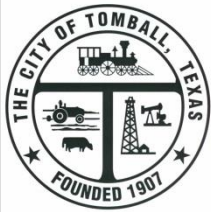
Additional Comments:

Signature: \_\_\_\_\_



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501 James Street • TOMBALL, TEXAS 77375



**Rezoning  
Staff Report**

Planning & Zoning Commission Public Hearing Date: November 11, 2024  
City Council Public Hearing Date: November 18, 2024

**Rezoning Case:** Z24-18  
**Property Owner(s):** John and Tracy Randall  
**Applicant(s):** John and Tracy Randall  
**Legal Description:** Being three tracts of land situated in the Jesse Pruett Survey, Abstract No. 629  
**Location:** 21725 Hufsmith-Kohrville Road (Exhibit “A”)  
**Area:** 36.408 acres  
**Comp Plan Designation:** Business Park and Industrial (Exhibit “B”)  
**Present Zoning:** Single-Family Estate Residential (SF-20-E) District (Exhibit “C”)  
**Request:** Rezone from the Single-Family Estate Residential (SF-20-E) to the Light Industrial (LI) District

**Adjacent Zoning & Land Uses:**

**North:** Light Industrial (LI) / Vacant lot  
**South:** Single-Family Estate Residential (SF-20-E) and Light Industrial (LI) / Single-family residences and a self-storage facility  
**East:** Tomball Extraterritorial Jurisdiction (ETJ) / Single-family residences  
**West:** Single-Family Estate Residential (SF-20-E) and Light Industrial (LI) / Single-family residences and undeveloped tracts of land

**BACKGROUND**

There is an existing single-family residence on the subject property, which according to Harris County Appraisal District records, was built in 1999. In February of 2023 a rezoning request to the Single Family Residential – 6 (SF-6) zoning district for this property was denied by City Council. The applicants are now requesting to rezone the subject property to the Light Industrial zoning district with the intent to sell the property.

## **ANALYSIS**

**Comprehensive Plan Recommendation:** The property is designated as “Business Park and Industrial” by the Comprehensive Plan’s Future Land Use Map. The Business Park and Industrial category is intended to be located near adequate thoroughfares which provide convenient access for vehicular traffic including freight.

According to the Comprehensive Plan land uses should consist of offices, warehousing, light manufacturing (with indoor operations), breweries/distilleries, equipment sales, contractor services, and corporate campuses. Appropriate secondary uses include utility services, government facilities, and transportation/freight uses.

The Comprehensive Plan identifies the following zoning districts as compatible with the Business Park and Industrial category: Light Industrial (LI), Commercial (C), Office (O), and Planned Development (PD). The Comprehensive Plan also identifies the need to carefully design sites that are adjacent to residential zoning districts to include landscape buffering as well as the screening of outdoor storage and equipment from public rights-of-way.

**Staff Review Comments:** The request to rezone the subject property to Light Industrial (LI) is in conformance with the Future Land Use Plan. Furthermore, the subject property has frontage on Hufsmith-Kohrville Road which is designated as a Major Arterial on Tomball’s Major Thoroughfare Plan. Roadways such as this are designed to accommodate the volume and character of traffic that can be expected within the Light Industrial district. The approval of the requested zoning will promote a new development that is consistent with the type of development patterns and character endorsed by the Future Land Use Plan for this area.

## **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 October 21, 2024. 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 Z24-18.

## **EXHIBITS**

- A. Aerial Location Map
- B. Future Land Use Plan
- C. Zoning Map
- D. Site Photos
- E. Rezoning Application



Exhibit "A"  
Aerial Location Map



# Location

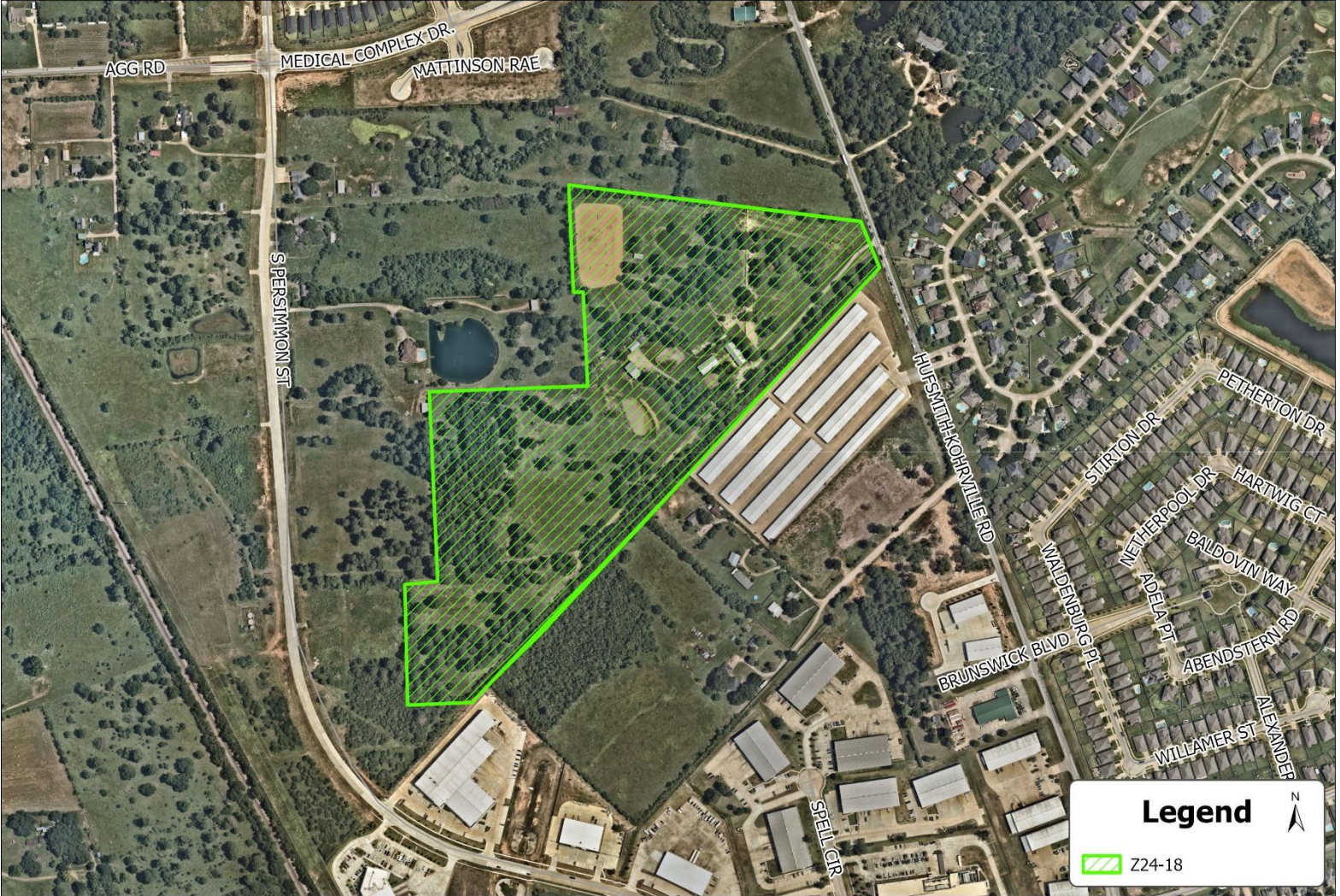




Exhibit "B"  
Future Land Use Plan



# Future Land Use

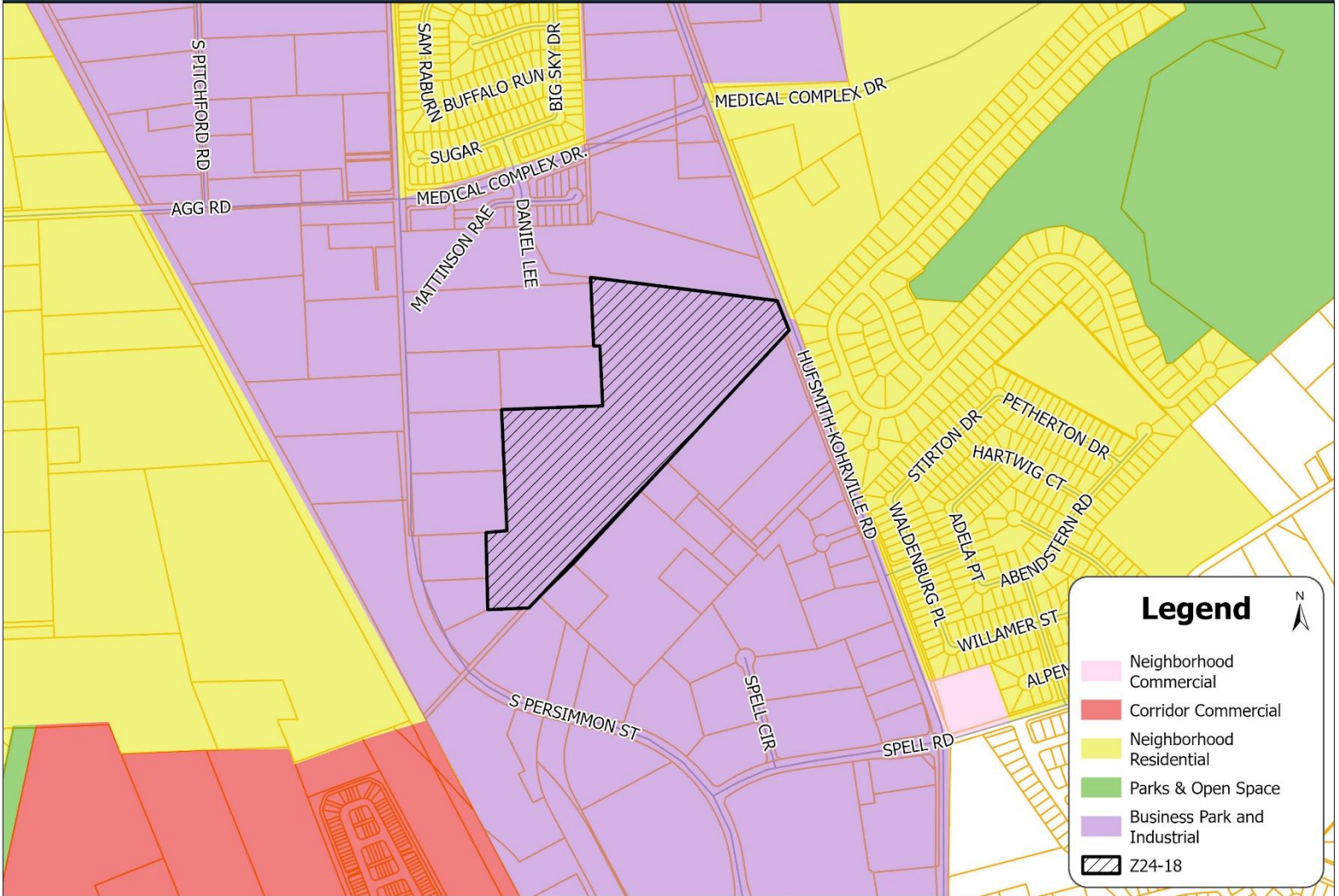
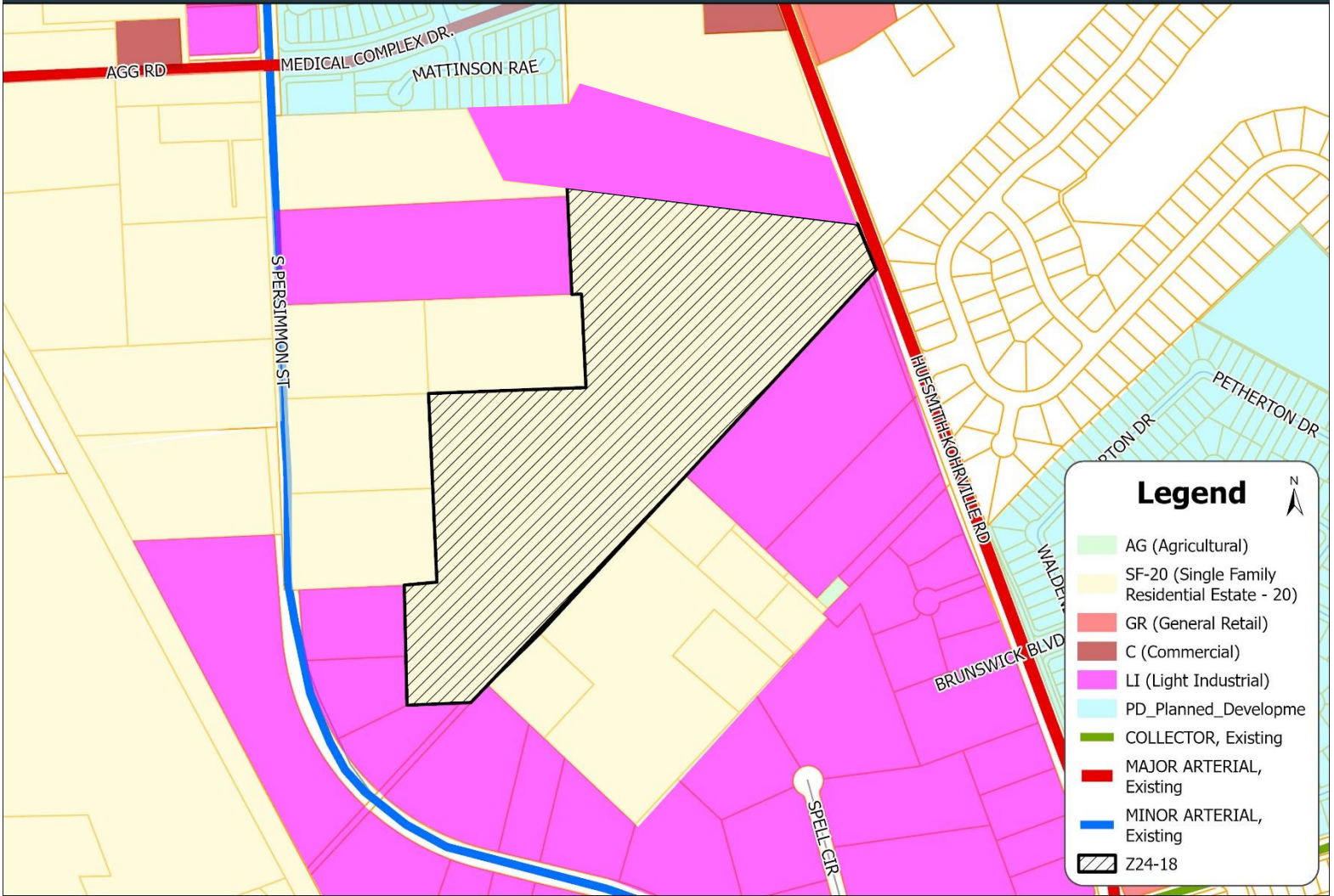


Exhibit "C"  
Zoning Map



# Zoning





**Exhibit "D"**  
**Site Photo(s)**

**Subject Site**



**Neighbor (North)**



## Neighbor (South)



## Neighbor (East)





## Neighbor (West)



## Neighbor (West)

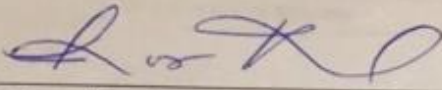


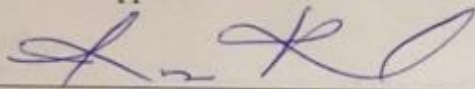




Please note: A courtesy notification sign will be placed on the subject property during the public hearing process and will be removed when the case has been processed.

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.

X  10/1/2024  
Signature of Applicant Date

X  10/1/2024  
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.**

- **Application Fee: \$1,000.00 (standard zoning) or \$1,500.00 (PD zoning)**
- **Completed application form**
- **\*Copy of Recorded/Final Plat**
- **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 (300) feet of the project site will be notified by letter within 10 calendar days prior to the public hearing date and legal notice will appear in the official newspaper of the City before the eighth calendar day prior to the date of the hearing.
4. A public hearing will be held by the Planning and Zoning Commission at 6:00 p.m. in the City Council chambers, unless otherwise noted. The Planning and Zoning Commission meetings are scheduled on the second Monday of the month. The 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 (1<sup>st</sup>) and third (3<sup>rd</sup>) 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.

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I'm submitting my rezoning request because I'm trying to sell my property and everything around me on Hufsmith Kohrville is rezoning Light Industrial. Also, my property is in the future rezoning map for Light Industrial.

The track totals 36.4 acres

HCAD:

0352920000374

0352920000530

0352920000531

Thank you,

Tracy Randall

John & Tracy Randall  
21725 Hufsmith Kohrville  
Tomball, Tx 77375

Legal Description of Land:

Tract 1:

BEING a 15.05 acre (655,665 square foot) tract of land situated in the Jesse Pruett Survey, Abstract No. 629 of Harris County, Texas and being a portion of the remainder of a called 56.8003 acre tract of land as described in an instrument to Melvin E. Michel and Tracy A. Michel recorded under Harris County Clerk's File Number (H.C.C.F. No.) S954259 and a portion of Lots 134, 371, 376, 377, and 380 of CORRECTED MAP OF TOMBALL OUTLOTS, a subdivision per plat recorded under Volume 4, Page 75 of the Harris County Map Records (H.C.M.R.), said 15.05 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 perimeter of said 56.8003 acre tract 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:

COMMENCING at the Northeast corner of a called 11.06 acre tract of land as described in an instrument to Charles L. Laswell recorded under H.C.C.F. No. C792063, lying on the Southwest right-of-way line of Hufsmith Kohrville Road (60 feet wide) recorded under Volume 2549, Page 325 of the Harris County Deed Records (H.C.D.R.) and said CORRECTED MAP OF TOMBALL OUTLOTS, from which a found 1/2-inch iron rod bears S 86°31' E, a distance of 0.85 feet;

THENCE, S 20° 12'50" E, along and with the Northeasterly line of said 11.06 acre tract and a called 6.188 acre tract of land as described in an instrument to John W. Randall, Jr. and Tracy A. Randall and the Southwest right-of-way line of said Hufsmith Kohrville Road, a distance of 321.89 feet to a 3/4-inch iron rod with cap stamped "BGE INC" set for the POINT OF BEGINNING and the Northeast corner of the herein described tract, some being the most Easterly Southeast corner of said called 6.188 acre tract;

THENCE, S 20°12'50" E, along and with the Southwest right-of-way line of said Hufsmith Kohrville Road and the Northeasterly line of said 56.8003 acre tract, a distance of 106.49 feet to a 3/4-inch iron rod with cap stamped "BGE INC" set for the Southeast corner of the herein described tract and said 56.8003 acre tract;

THENCE, S 42°38'24" W, along and with the Southwesterly line of said 56.8003 acre tract, and the Northwesterly lines of a called 0.4847 acre tract of land as described in an instrument to City of Tomball, Texas recorded under H.C.C.F. No. T616046, a 30-foot unimproved road as shown on said CORRECTED MAP OF TOMBALL OUTLOTS, and TOMBALL SOUTH COMMERCIAL NO. 2, a subdivision per plat recorded under Film Code Number (F.C. No.) 659297 of the Harris County Map Records (H.C.M.R.), a distance of 1621.52 feet to a 3/4-inch iron rod with cap stamped "BGE INC" set for the Southwest corner of the herein described tract and the East end of the Southern terminus of a 30-foot unimproved road as shown on said CORRECTED MAP OF TOMBALL OUTLOTS;

THENCE, N 02°23'16" W, along and with the East line of said Easterly 30-foot unimproved road and the West lines of said Lot 377 and Lot 380, a distance of 733.94 feet to a 3/4-inch iron rod with cap stamped "BGE INC" set for the most Westerly Northwest corner of the herein described tract, lying on a Southerly line of said 6.188 acre tract;

THENCE, N 72°06'27" E, along and with a Southerly line of said 6.188 acre tract, a distance of 316.91 feet to a 3/4 inch iron rod with cap stamped "BGE INC" set for an interior corner of the herein described tract and the Southeast corner of said 6.188 acre tract;

THENCE, N 06°39'43" E, along and with the East line of said 6.188 acre tract, a distance of 549.50 feet to a 3/4 inch iron rod with cap stamped "BGE INC" set for the most Northerly Northwest corner of the herein described tract and on interior corner of said 6.188 acre tract;

THENCE, S 83°25'52" E, along and with a Southerly line of said 6.1888 acre tract, a distance of 731.66 feet to the POINT OF BEGINNING and containing 15.05 acres (655,665 square feet) of land.

Tract 2:

BEING a 15.17 acre (660,615 square foot) tract of land situated in the Jesse Pruett Survey, Abstract No. 629 of Harris County, Texas and being a portion the remainder of a called 56.8003 acre tract of land as described in an Instrument to Melvin E. Michel and Tracy A. Michel recorded under Harris County Clerk's File Number (H.C.C.F. No.) S954259 and being all of Lots 379, 382, 383 of CORRECTED MAP OF TOMBALL OUTLOTS, a subdivision per plat recorded under Volume 4, Page 75 of the Harris County Map Records (H.C.M.R.), said 15.17 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 perimeter of said 56.8003 acre tract 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 1/2-Inch Iron rod found for the Southwest corner of the herein described tract and said Lot 383 and the most Southerly Southwest corner of said 56.8003 acre tract;

THENCE, N 05°07'20" W, along and with a Westerly line of said 56.8003 acre tract and said Lot 383, a distance of Version Date: 1/2014 TXCJv2 Page 6 of 20 Form T-7: Commitment for Title Insurance 481.10 feet to a 1/2-inch iron rod found for the Northwest corner of said Lot 383 and an Interior corner of said 56.8003 acre tract, lying on the South line of a called 4.8373 acre tract of land described as Lot 381 In an instrument to Paul Mladenka and Brenda Mladenka recorded under File Number (F.N.) 20080184176 of the Official Public Records of Harris County (O.P.R.H.C.);

THENCE, N 85°12'22" E, along and with the South line of said 4.8373 acre tract and the North line of said Lot 383, a distance of 122.88 feet to a 1/2-inch iron rod with cap stamped "WESTAR" found an Interior corner of the herein described tract and the Southeast corner of said 4.8373 acre tract, same being the Southwest corner of sold Lot 382; THENCE, N 02°22'58" W, along and with the East line of said 4.8373 acre tract, and the West line of said Lot 382, at a distance of 352.87 feet pass o 1/2-inch iron rod with cap stomped "WESTAR" found for the Northeast corner of said 4.8373 acre tract, the Northwest corner of said Lot 382, the Southwest corner of said Lot 379, and the Southeast corner of Lot 378 of said CORRECTED MAP OF TOMBALL OUTLOTS as described in an instrument to Paul Mladenka and Brenda Mladenka recorded under H.C.C.F. No. Y200969, continuing along and with West line of said Lot 379 and the East line of said Lot 378, a total distance of 730.81 feet to a 3/4-inch iron rod with cap stamped "BGE INC" set for the Northwest corner of the herein described tract, the Northwest corner of said Lot 379, the Northeast corner of said Lot 378, the Southwest corner of Lot 375 of said CORRECTED MAP OF TOBALL OUTLOTS as described In an Instrument to Paul Mladenka and Brenda Mladenka recorded under H.C.C.F. No. W958841, and the Southeast corner of Lot 374 of said CORRECTED MAP OF TOMBALL OUTLOTS as described in an instrument to Paul Mladenka and Brenda Mladenka recorded under H.C.C.F. No. W958842;

THENCE, N 87°37'00" E, along and with the North line of said Lot 379 and the South line of said Lot 375, a distance of 605.98 feet to a 3/4-Inch Iron rod with cap stamped "BGE INC" set for the Northeast corner of the herein described tract and said Lot 379, same being the Southeast corner of said Lot 375, lying on the West line of o 30 foot unimproved road as shown on said CORRECT MAP OF TOMBALL OUTLOTS;

THENCE, S 02°23'16" E, along and with the East line of said Lot 379 and said Lot 382, and the West line of said 30-foot unimproved road, a distance of 707.13 feet to a 3/4-inch iron rod with cap stamped "BGE INC" set for the most Easterly Southeast corner of the herein described tract, the Southeast corner of said Lot 382. and the Northeast corner of said Lot 383, same being the West end of the Southern terminus of said 30-foot unimproved road, lying on the Northwesterly line of a Southeasterly 30-foot unimproved road as shown on said CORRECTED MAP OF TOMBALL OUTLOTS, TOMBALL BUSINESS AND TECHNOLOGY PARK SEC 2, a subdivision per plat recorded under Film Code Number (F.C. No.) 697286 of the Harris County Map Records (H.C..R.), and TOMBALL BUSINESS AND TECHNOLOGY PARK, a subdivision per plat recorded under F.C. No. 653006 of the H.C.M.R., and a Southeasterly line of said 56.8003 acre tract,

THENCE, S 42°38'24" W, along and with the Southeasterly line of sold 56.8003 acre tract and said Lot 383, and the Northwesterly line of said Southeasterly 30 foot unimproved road, a distance of 712.35 feet to a 3/4-inch iron rod with cap stamped "BGE INC" set for the most Southerly Southeast corner of the herein described tract and said Lot 383;

THENCE, S 85°56'45" W, along and with the South line of said 56.8003 acre tract and said Lot 383, a distance of 202.00 feet to the POINT OF BEGINNING and containing 15.17 acres (660,615 square feet) of land, more or less.

Tract 3:

BEING a 6.191 acre (269,671 square foot) tract of land situated in the Jesse Pruett Survey, Abstract No. 629 of Harris County, Texas and being all of a called 6.188 acre tract of land as described in an instrument to John W. Randall, Jr. and Tracy A. Randall recorded under File Number (F.N.) 20100453523 of the Official Public Records of Harris County (O.P.R.H.C.), a portion of Lots 134, 371, 376, and 377, and a 30 foot unimproved road as shown on CORRECTED MAP OF TOMBALL OUTLOTS, a subdivision per plat recorded under Volume 4, Page 75 of the Harris County Map Records (H.C.M.R.), said 6.191 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 South line of a called 11.06 acre tract of land 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: Version Date: 1/2014 TXCJv2 Page 7 of 20 Form T-7: Commitment for Title Insurance BEGINNING at a 1/2-inch iron rod found for the Northwest corner of the herein described tract and said 6.188 acre tract, lying on the South line of a called 11.06 acre tract of land as described in an instrument to Charles L. Laswell recorded under Harris County Clerk's File Number (H.C.C.F. No.) C792063, from which a 5/8-inch iron rod found for and interior corner of a called 7.6266 acre tract of land as described in an instrument to James R. Grappe and Carolyn J. Grappe recorded under H.C.C.F. No. N584790 and the Southwest corner of said 11.06 acre tract bears N 83°11'34"W, a distance of 270.89 feet;

THENCE, S 83°25'52" E, along and with the South line of said 11.06 acre tract and the North line of sold 6.168 acre tract, a distance of 1,148.25 feet (called S 80°13'03"E, 1,149.03 feet) to 3/4-inch Iron rod with cap stamped "BGE INC" set for the Northeast corner of the herein described tract and the Southeast corner of said 11.06 acre tract, lying on the Southwest right-of-way line of Hufsmith Kohrville Road (60 feet wide) recorded under Volume (Vol.) 2549, Page (Pg.) 325 of the Harris County Deed Records (H.C.D.R.) and said CORRECTED MAP OF TOMBALL OUTLOTS;

THENCE, S 20°12'50" E, along and with the Southwest right-of-way line of Hufsmith Kohrville Road and a Northeasterly line of said 6.188 acre tract, a distance of 33.61 feet (called S 17°00'40"E, 33.61 feet) to a 3/4-inch iron rod with cap stamped "BGE INC" set for the most Easterly Southeast corner of the herein described tract and said 6.188 acre tract;

THENCE, N 83°25'52" W, along and with a Southerly line of sold 6.188 acre tract, a distance of 731.66 feet (called N 80°13'03"W, 732.38 feet) to a 3/4-inch iron rod with cap stamped "BGE INC" set for on interior corner of the herein described tract and said 6.188 acre tract;

THENCE, S 06°39' 43" W, along and with on Easterly line of said 6.188 acre tract, a distance of 549.50 feet (called S 09°46'57" W, 548.79 feet) to a 3/4-inch iron rod with cap stamped "BGE INC" set for the most Southerly Southeast corner of the herein described tract and said 6.188 acre tract;

THENCE, S 72°06'27" W, along and with a Southerly line of said 6.188 acre tract, a distance of 348.04 feet (called S 75°13'41"W, 348.05 feet) to a 3/4-inch iron rod with cap stamped "BGE INC" set for the Southwest corner of the herein described tract and said 6.188 acre tract, lying on the West line of said 30 foot unimproved road and the East line of Lot 375 of said CORRECTED MAP OF TOMBALL OUTLOTS and as described in an instrument to Paul Mladenka and Brenda Mladenka recorded under H.C.C.F. No. W958841:

THENCE, N 02°23'16" W, along and with the West line of said 30 foot unimproved road and said 6.191 acre tract, and the East line of said Lot 375, at a distance of 323.98 feet pass the Northeast corner of said Lot 375 and the Southeast

corner of Lot 375 of said CORRECTED MAP OF TOMBALL OUTLOTS, from which a found 1/2-inch iron rod bears N 65°09' E, a distance of 1.60 feet, continuing along and with the West line of said 6.188 acre tract and said 30 foot unimproved road, a total distance of 732.55 feet (called N 00°43'58"E, 732.55 feet) to the POINT OF BEGINNING and containing 6.191 acres (269,671 square feet) of land, more or less

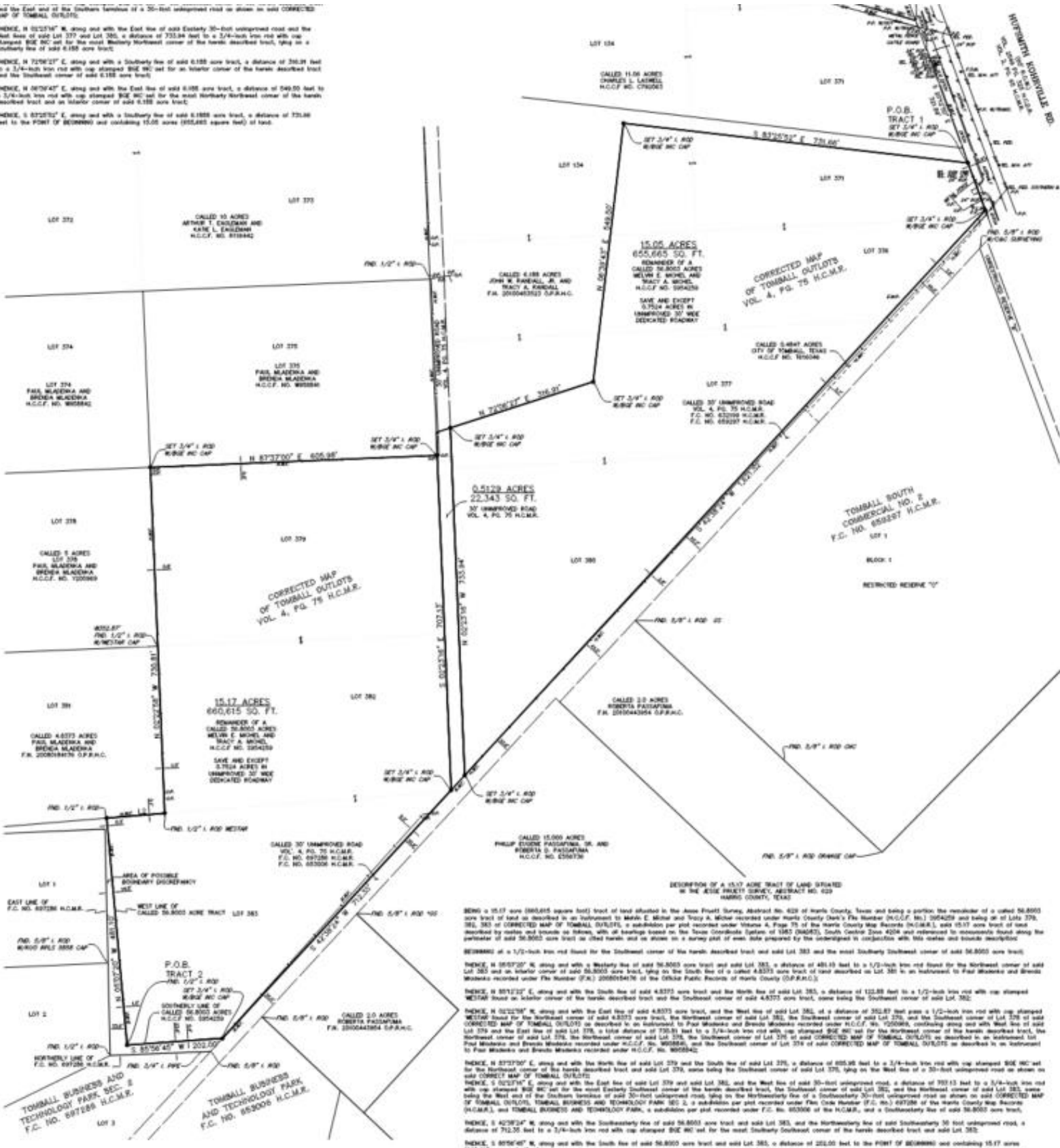
and the East end of the Southern Terminal of a 30-foot unimproved road as shown on said CORRECTED MAP OF TOMBALL OUTLOTS.

INDEK, S 02°21'47" N, along and with the East line of said Eastern 30-foot unimproved road and the West line of said Lot 377 and Lot 380, a distance of 733.94 feet to a 3/4-inch iron rod with cap stamped BSE 902 set for the most Westerly Northeast corner of the lands described tract, lying on a Southerly line of said 6.155 acre tract.

INDEK, N 72°52'27" E, along and with a Southerly line of said 6.155 acre tract, a distance of 262.91 feet to a 3/4-inch iron rod with cap stamped BSE 902 set for an interior corner of the lands described tract and the Southeast corner of said 6.155 acre tract.

INDEK, N 02°52'42" E, along and with the East line of said 6.155 acre tract, a distance of 248.25 feet to a 3/4-inch iron rod with cap stamped BSE 902 set for the most Northerly Northeast corner of the lands described tract and an interior corner of said 6.155 acre tract.

INDEK, S 02°21'52" E, along and with a Southerly line of said 6.155 acre tract, a distance of 733.94 feet to the POINT OF BEGINNING and containing 15.05 acres (655,665 square feet) of land.



BEING a 15.17 acre (660,615 square feet) tract of land situated in the Anne Pruitt Survey, Abstract No. 429 of Harris County, Texas and being a portion, the remainder of a certain 56,800 acre tract of land as described in an instrument to Mark E. Miller and Tracy A. Miller recorded under Harris County Clerk's File Number (H.C.C.F. No.) 1054259 and being all of Lots 376, 381, 382 of CORRECTED MAP OF TOMBALL OUTLOTS, a subdivision per plat recorded under Volume 4, Page 75 of the Harris County Map Records (H.C.M.R.) and 15.17 acre tract of land described by notes 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 perimeter of said 56,800 acre tract as cited herein and as shown in a survey plat of said site prepared by the undersigned in conjunction with this notes and bounds description:

BEING all of a 1/2-inch iron rod found for the Southeast corner of said Lot 383 and the most Southerly Southeast corner of said 56,800 acre tract.

INDEK, N 02°52'27" E, along and with a Westerly line of said 56,800 acre tract and said Lot 383, a distance of 481.13 feet to a 1/2-inch iron rod found for the Northeast corner of said Lot 383 and an interior corner of said 56,800 acre tract, lying on the South line of a certain 4,8373 acre tract of land described as Lot 381 in an instrument to Paul Madonia and Brenda Madonia recorded under File Number (F.N.) 200804876 of the Official Public Records of Harris County (O.P.R.H.C.).

INDEK, N 02°12'32" E, along and with the South line of said 4,8373 acre tract and the North line of said Lot 385, a distance of 122.88 feet to a 1/2-inch iron rod with cap stamped METAL found at an interior corner of the lands described tract and the Southeast corner of said 4,8373 acre tract, same being the Southeast corner of said Lot 382.

INDEK, N 02°21'52" E, along and with the East line of said 4,8373 acre tract, and the West line of said Lot 382, a distance of 352.87 feet past a 1/2-inch iron rod with cap stamped METAL found for the Northeast corner of said 4,8373 acre tract, the Northeast corner of said Lot 382, the Southeast corner of said Lot 376, and the Southeast corner of Lot 378 of said CORRECTED MAP OF TOMBALL OUTLOTS as described in an instrument to Paul Madonia and Brenda Madonia recorded under H.C.C.F. No. 1020096, continuing along and with West line of said Lot 378 and the East line of said Lot 376, a total distance of 730.51 feet to a 3/4-inch iron rod with cap stamped BSE 902 set for the Northwest corner of the lands described tract, the Northwest corner of said Lot 376, the Northeast corner of said Lot 382, the Southeast corner of Lot 376 of said CORRECTED MAP OF TOMBALL OUTLOTS as described in an instrument to Paul Madonia and Brenda Madonia recorded under H.C.C.F. No. 1002842.

INDEK, N 02°21'52" E, along and with the North line of said Lot 379 and the South line of said Lot 376, a distance of 655.95 feet to a 3/4-inch iron rod with cap stamped BSE 902 set for the Northeast corner of the lands described tract and said Lot 376, same being the Southeast corner of said Lot 376, lying on the West line of a 30-foot unimproved road as shown on said CORRECT MAP OF TOMBALL OUTLOTS.

INDEK, S 02°21'47" E, along and with the East line of said Lot 379 and said Lot 382, and the West line of said 30-foot unimproved road, a distance of 703.13 feet to a 3/4-inch iron rod with cap stamped BSE 902 set for the most Easterly Southeast corner of the lands described tract, the Southeast corner of said Lot 382, and the Northeast corner of said Lot 382, same being the West end of the Southern Terminal of said 30-foot unimproved road, lying on the Northerly line of a Southerly 30-foot unimproved road as shown on said CORRECTED MAP OF TOMBALL OUTLOTS, TOMBALL BUSINESS AND TECHNOLOGY PARK SEC. 2, a subdivision per plat recorded under File Clerk Number (F.C. No.) 897189 of the Harris County Map Records (H.C.M.R.), and TOMBALL BUSINESS AND TECHNOLOGY PARK, a subdivision per plat recorded under F.C. No. 603006 of the H.C.M.R., and a Southerly line of said 56,800 acre tract.

INDEK, S 02°52'42" E, along and with the Southerly line of said 56,800 acre tract and said Lot 383, and the Northerly line of said Southerly 30 foot unimproved road, a distance of 710.25 feet to a 3/4-inch iron rod with cap stamped BSE 902 set for the most Southerly Southeast corner of the lands described tract and said Lot 383.

INDEK, S 02°52'42" E, along and with the South line of said 56,800 acre tract and said Lot 383, a distance of 225.02 feet to the POINT OF BEGINNING and containing 15.17 acres (660,615 square feet) of land.

NOTES:  
1. BEARING ORIENTATION IS BASED ON THE TEXAS COORDINATE SYSTEM OF 1983 (NAD83), SOUTH CENTRAL ZONE 4204 AND REFERENCED TO MONUMENTS FOUND ALONG THE PERIMETER OF SAID 56,800 ACRE TRACT AS SHOWN

**BCE**  
BCE, Inc.  
53171 Woodloch, Suite 400, Houston, TX 77042  
Tel: 281-400-0700 or 281-400-0701  
http://www.bce.com

**DESCRIPTION OF A 6.191 ACRE TRACT OF LAND SITUATED IN THE JESSE PRUETT SURVEY, ABSTRACT NO. 629 HARRIS COUNTY, TEXAS**

A 6.191 acre (268,671 square feet) tract of land situated in the Jesse Pruitt Survey in the 629th Block of the 11th District of Harris County, Texas, and being all or a portion of the 6.191 acre tract of land as shown on the plat of the Jesse Pruitt Survey, as recorded in the Public Records of Harris County, Texas, in Book 17,000, Page 40, and being all or a portion of the 6.191 acre tract of land as shown on the plat of the Jesse Pruitt Survey, as recorded in the Public Records of Harris County, Texas, in Book 17,000, Page 40, and being all or a portion of the 6.191 acre tract of land as shown on the plat of the Jesse Pruitt Survey, as recorded in the Public Records of Harris County, Texas, in Book 17,000, Page 40.

INDEX: S 89°17'00" E, along and with the Southeast right-of-way line of the 6.191 acre tract, a distance of 22.65 feet (called S 89°17'00" E 22.65' line) to a 3/4-inch iron rod with cap stamped "RSC 80" set for the most Eastern Southeast corner of the herein described tract and said 6.191 acre tract.

INDEX: N 81°23'00" W, along and with a Substantially true line of said 6.191 acre tract, a distance of 220.80 feet (called N 81°23'00" W 220.80' line) to a 3/4-inch iron rod with cap stamped "RSC 80" set for the North East corner of the herein described tract and said 6.191 acre tract.

INDEX: S 89°17'00" E, along and with an Easement line of said 6.191 acre tract, a distance of 340.50 feet (called S 89°17'00" E 340.50' line) to a 3/4-inch iron rod with cap stamped "RSC 80" set for the most Eastern Southeast corner of the herein described tract and said 6.191 acre tract.

INDEX: S 70°12'00" W, along and with a Substantially true line of said 6.191 acre tract, a distance of 340.50 feet (called S 70°12'00" W 340.50' line) to a 3/4-inch iron rod with cap stamped "RSC 80" set for the Southeast corner of the herein described tract and said 6.191 acre tract, along with the East line of Lot 375 of said CORRECTED MAP OF TOMBALL OUTLOTS and as depicted in an instrument in the Public Records of Harris County, Texas, in Book 17,000, Page 40, and being all or a portion of the 6.191 acre tract of land as shown on the plat of the Jesse Pruitt Survey, as recorded in the Public Records of Harris County, Texas, in Book 17,000, Page 40.

INDEX: N 81°23'00" W, along and with the West line of said 6.191 acre tract, a distance of 220.80 feet (called N 81°23'00" W 220.80' line) to a 3/4-inch iron rod with cap stamped "RSC 80" set for the North East corner of the herein described tract and said 6.191 acre tract, along with the East line of Lot 375 of said CORRECTED MAP OF TOMBALL OUTLOTS and as depicted in an instrument in the Public Records of Harris County, Texas, in Book 17,000, Page 40, and being all or a portion of the 6.191 acre tract of land as shown on the plat of the Jesse Pruitt Survey, as recorded in the Public Records of Harris County, Texas, in Book 17,000, Page 40.

INDEX: S 89°17'00" E, along and with the South line of said 6.191 acre tract and the North line of said 6.191 acre tract, a distance of 1,000.00 feet (called S 89°17'00" E 1,000.00' line) to a 3/4-inch iron rod with cap stamped "RSC 80" set for the North East corner of the herein described tract and said 6.191 acre tract, along with the East line of Lot 375 of said CORRECTED MAP OF TOMBALL OUTLOTS and as depicted in an instrument in the Public Records of Harris County, Texas, in Book 17,000, Page 40, and being all or a portion of the 6.191 acre tract of land as shown on the plat of the Jesse Pruitt Survey, as recorded in the Public Records of Harris County, Texas, in Book 17,000, Page 40.

INDEX: S 89°17'00" E, along and with the South line of said 6.191 acre tract and the North line of said 6.191 acre tract, a distance of 1,000.00 feet (called S 89°17'00" E 1,000.00' line) to a 3/4-inch iron rod with cap stamped "RSC 80" set for the North East corner of the herein described tract and said 6.191 acre tract, along with the East line of Lot 375 of said CORRECTED MAP OF TOMBALL OUTLOTS and as depicted in an instrument in the Public Records of Harris County, Texas, in Book 17,000, Page 40, and being all or a portion of the 6.191 acre tract of land as shown on the plat of the Jesse Pruitt Survey, as recorded in the Public Records of Harris County, Texas, in Book 17,000, Page 40.

INDEX: S 89°17'00" E, along and with the South line of said 6.191 acre tract and the North line of said 6.191 acre tract, a distance of 1,000.00 feet (called S 89°17'00" E 1,000.00' line) to a 3/4-inch iron rod with cap stamped "RSC 80" set for the North East corner of the herein described tract and said 6.191 acre tract, along with the East line of Lot 375 of said CORRECTED MAP OF TOMBALL OUTLOTS and as depicted in an instrument in the Public Records of Harris County, Texas, in Book 17,000, Page 40, and being all or a portion of the 6.191 acre tract of land as shown on the plat of the Jesse Pruitt Survey, as recorded in the Public Records of Harris County, Texas, in Book 17,000, Page 40.



BEARING ORIENTATION IS BASED ON THE TEXAS COORDINATE SYSTEM OF 1983 (NAD83), SOUTH CENTRAL ZONE AND IS REFERENCED TO MERIDIAN TRUTH ALONG THE SOUTH LINE OF A CALLED 10.00 ACRE TRACT AS SHOWN THEREON. SCALE FACTOR = 1.00000000.

THE PROPERTY LIES IN UNINCORPORATED ZONE AS DETERMINED TO BE OUTSIDE THE 6.191 ACRE SHANKS FLOODPLAIN, AS DETERMINED ON THE FLOOD HAZARD MAP FOR HARRIS COUNTY, TEXAS AND INCORPORATED AREAS, MAP NUMBER 482030101 L, REVISION 04-18-2011.

THE SURVEY BEING MADE UNDER AGREEMENT OF A PROFESSIONAL ENGINEER QUALIFIED PER THE STATUTE (TITLE 16, CHAPTER 802, SUBCHAPTER A, SECTION 802.001, TEXAS CIVIL STATUTES ANNOTATED) AND THE SURVEYOR HAS REVIEWED THE RECORDS OF THE PUBLIC RECORDS OF HARRIS COUNTY, TEXAS, IN BOOK 17,000, PAGE 40, AND HAS FOUND THAT THE PROPERTY DESCRIBED HEREIN IS BEING DIVIDED UNDER SEPARATE OWNERSHIP OF EACH DATE. NO TITLE COMMITMENT WAS PROVIDED AND THE SURVEYOR DID NOT ABSTRACT THE PROPERTY FOR RECORD. INSTRUMENTS THAT MAY AFFECT, REVEAL, OR CHANGE EXISTING SUBJECT TRACTS.

THESE SURVEY INSTRUMENTS AND RECORDS, THE CORRESPONDING TITLE INSTRUMENTS ARE ALL LOCATIONS THAT WERE PHYSICALLY MEASURED. THE FENCE LINES MAY BEARER BETWEEN SAID MEASURED LOCATIONS.

REVISIONS AND AMENDMENTS NOT SHOWN.



6.191 ACRES  
369,671 SQ. FT.  
CALLED 6.191 ACRES  
JOHN W. MARSHALL, JR. AND  
TRACY A. MARSHALL  
F.R. 2010040101 S.P.A.C.

REMEMBER OF A CALLED 10.00 ACRE TRACT OF LAND, JOHN W. MARSHALL, JR. AND TRACY A. MARSHALL, F.R. 2010040101 S.P.A.C. SAID AND EXISTING 6.191 ACRES IS UNAPPORTIONED BY THE DESCRIBED INSTRUMENT.

CORRECTED MAP OF TOMBALL OUTLOTS VOL. 4, P.G. 76 H.C.S.A.C.

1. Austin, Tex., a Registered Professional Land Surveyor of the State of Texas do hereby certify that this survey substantially complies with the professional standards as promulgated by the Texas Board of Professional Land Surveying.

Dated this 28th day of August, 2012.

ASST. REG. NO. 1013 NO. 6851  
REG. NO. 10777 METROPLEX, STATE AND HARRIS COUNTY, TEXAS  
TELEPHONE: (512) 698-8700

**BOUNDARY SURVEY OF A 6.191 ACRE TRACT OF LAND SITUATED IN THE JESSE PRUETT SURVEY ABSTRACT NO. 629 HARRIS COUNTY, TEXAS**

PROJECT NO.	12-07-0101	DATE SAID	8/28/12
SECTION	05	TOWNSHIP	14-00
RANGE	05	COUNTY	HARRIS
DATE FILED	09/03/12	FILED AT	HARRIS COUNTY

1 OF 1



# City Council Meeting Agenda Item Data Sheet

Meeting Date: December 2, 2024

**Topic:**

Adopt, on Second Reading, Ordinance No. 2024-39, an Ordinance of the City of Tomball, Texas amending its Code of Ordinances by amending Chapter 18, Environment, by adding a new section 18-169, Business hours of operation; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof; providing for severability, making findings of fact; and providing for other related matters.

**Background:**

First Reading approved during the Regular City Council meeting held on November 18, 2024.

**Origination:** Community Development Department

**Recommendation:**

**Party(ies) responsible for placing this item on agenda:** Craig T. Meyers, P.E.

**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 Sasha Luna Approved by \_\_\_\_\_  
Staff Member Date City Manager Date

**ORDINANCE NO. 2024-39**

**AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS AMENDING ITS CODE OF ORDINANCES BY AMENDING CHAPTER 18, ENVIRONMENT, BY ADDING A NEW SECTION 18-169, BUSINESS HOURS OF OPERATION; PROVIDING FOR A PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF; PROVIDING FOR SEVERABILITY, MAKING FINDINGS OF FACT; AND PROVIDING FOR OTHER RELATED MATTERS.**

\* \* \* \* \*

**WHEREAS**, the City Council of the City of Tomball, Texas, finds that it is in the best interest of the health, safety and welfare of the citizens to establish business hours of operation as set forth herein; now therefore,

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

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

**Section 2.** The Code of Ordinances is amended by adding a new Section 18-169, Business hours of operation to read as follows:

**Sec. 18-169. Business hours of operation.**

It shall be unlawful for a gas station or convenience store (with or without gasoline sales) to be open for business between the hours of 11:01 pm and 4:59 am. Exemptions to this provision include:

- (1) Gas stations or convenience stores (with or without gasoline sales) with frontage along FM 2920, SH 249 Business, Tomball Parkway, Hufsmith-Kohrville Road, and Holderrieth Road.
- (2) Gas stations or convenience stores (with or without gasoline sales) that are not contiguous to a residential zoning district as defined in Section 50-82.
- (3) During a disaster or emergency declaration as declared by the Mayor of the City of Tomball.

**Secs. 18-170 - 18-185. Reserved.**

**Section 3.** Any person who shall intentionally, knowingly, recklessly or with criminal negligence violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction, shall be fined in an amount not to exceed \$2,000. Each day of violation shall constitute a separate offense.

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

**Section 5.** This Ordinance shall take effect immediately from and after its passage and the publication of the caption hereof, as provided by law and the City’s Home Rule Charter.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 18<sup>th</sup> DAY OF NOVEMBER 2024.

COUNCILMAN FORD	<u>YEA</u>
COUNCILMAN GARCIA	<u>NAY</u>
COUNCILMAN DUNAGIN	<u>YEA</u>
COUNCILMAN COVINGTON	<u>YEA</u>
COUNCILMAN PARR	<u>YEA</u>

SECOND READING:

READ, PASSED, AND ORDAINED AS SET OUT BELOW AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL, HELD ON THE \_\_\_\_ DAY OF \_\_\_\_\_ 2024.

COUNCILMAN FORD	_____
COUNCILMAN GARCIA	_____
COUNCILMAN DUNAGIN	_____
COUNCILMAN COVINGTON	_____
COUNCILMAN PARR	_____

\_\_\_\_\_  
LORI KLEIN QUINN, Mayor  
City of Tomball

ATTEST:

\_\_\_\_\_  
Tracy Garcia, City Secretary  
City of Tomball

# City Council Meeting

## Agenda Item

### Data Sheet

**Meeting Date:** December 2, 2024

**Topic:**

Approve Resolution No. 2024-43, a Resolution of the City Council of the City of Tomball, Texas, casting its vote to appoint directors to the Harris Central Appraisal District's board of directors.

**Background:**

As required by Senate Bill 2 (SB 2) and the Texas Property Tax Code, the process for selecting directors for the appraisal district is now entering the final phase. All taxing units have nominated candidates for the five open seats on the board of directors.

The ballot listing all nominated candidates has been sent to the presiding officers of each qualified taxing unit, including the City of Tomball, which has 5 votes.

The five candidates with the most votes will be appointed to the board, with three serving three-year terms and two serving one-year terms, as outlined in the attached voting resolution. The terms will begin January 1, 2025.

The list of qualified applicants is as follows:

Cassandra Auzenne Bandy

Johnathan Cowen

Martina Lemond Dixon

Bill Frazer

Melissa Noriega

Jim Robinson

Paul Shanklin

Mike Sullivan

**Origination:** Harris Central Appraisal District, Office of Chief Appraiser

**Recommendation:**

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

**RESOLUTION NO. 2024-43**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
TOMBALL, TEXAS, CASTING ITS VOTE TO APPOINT  
DIRECTORS TO THE HARRIS CENTRAL APPRAISAL  
DISTRICT'S BOARD OF DIRECTORS**

\* \* \* \* \*

**WHEREAS**, the chief appraiser of the Harris Central Appraisal District has delivered to the presiding officer of this governing body the names of those persons duly nominated to be named a candidate to be appointed to serve on the board of directors of the Harris Central Appraisal District; and

**WHEREAS**, City of Tomball deems it appropriate and in the public interest to cast its vote for the candidate(s) of its choice to be appointed to serve on the board of directors of the Harris Central Appraisal District's Board of Directors; now, therefore

**BE IT RESOLVED BY HARRIS COUNTY:**

**Section 1.** That the facts and recitations set forth in the preamble of this resolution be, and they are hereby adopted, ratified, and confirmed

**Section 2.** That City of Tomball does hereby cast its vote, by casting 5 votes for the person(s) indicated on the enclosed Certificate of Ballot to be appointed to serve on the board of directors of the Harris Central Appraisal District, for a term beginning January 1, 2025.

**Section 3.** That the candidates receiving the highest vote totals will serve three-year terms and the candidates receiving the fourth and fifth highest vote totals will serve a one-year term.

**Section 4.** That the presiding officer be, and he or she is hereby, authorized and directed to deliver or cause to be delivered an executed or certified copy of this resolution to the chief appraiser of the Harris Central Appraisal District no later than 5:00 p.m. on December 16, 2024, unless otherwise required to be delivered earlier pursuant to the provisions contained in Section 6.03 (k-1).

**PASSED, APPROVED, AND RESOLVED** this 2<sup>nd</sup> day of December, 2024.

\_\_\_\_\_  
Lori Klein Quinn, Mayor

**ATTEST:**

\_\_\_\_\_  
Tracy Garcia, City Secretary





**Harris Central Appraisal District  
OFFICE OF CHIEF APPRAISER**

---

TO: TO THE GOVERNING BODY AND/OR THE PRESIDING OFFICER OF

**City of Tomball**

SERVED BY THE HARRIS CENTRAL APPRAISAL DISTRICT

FROM: ROLAND ALTINGER, CHIEF APPRAISER

SUBJECT: VOTING BALLOT FOR THE ELECTION TO APPOINT FIVE (5)  
DIRECTORS TO THE HARRIS CENTRAL APPRAISAL DISTRICT BOARD  
OF DIRECTORS

DATE: October 17, 2024

As you know, the taxing units are following a new procedure to select appraisal district directors this year as directed by SB 2 (Texas Property Tax Code Sections See 6.0301 and 6.03). All taxing units have completed the process that the law specifies for selecting a nominee. We are now entering the phase whereby the taxing units that are qualified to vote under Section 6.03(d) will select the directors from among the nominated candidates for the five (5) open seats on the appraisal district's board of directors. This letter begins this final step in the process of appointing five directors.

**Before October 30**, the chief appraiser is required to prepare a voting ballot listing alphabetically by surname all candidates submitted by all taxing units, including the nominee of the conservation and reclamation districts, that were timely submitted. The chief appraiser is then required to send that ballot to the presiding officer of the governing body of each taxing unit that is entitled to vote. The names of all candidates officially nominated are reflected on the enclosed "Certification of Ballot" form.

Pursuant to voting entitlement calculations made pursuant to Texas Property Tax Code Section 6.03(d), **City of Tomball** has **5** votes.

To assist in the election procedure, please find enclosed a Certification of Ballot and a suggested form of resolution for casting vote(s) for the candidate(s). The governing body of each taxing unit

is entitled to cast its votes for a candidate(s) of its choice from the names appearing on the appropriate Certification of Ballot.

A taxing unit's votes may be cast for one candidate or may be distributed among any of the candidates listed on the Certification of Ballot. See Property Tax Code Section 6.03 (c). **Please be certain to write down the number of votes you wish to cast for the candidate(s) for whom you are casting your votes.**

Each governing body that casts its votes for one or more of the candidates must formally adopt a resolution naming the person or persons for whom it votes, the number of votes cast for each person, and submit a certified copy to the chief appraiser. ***The vote must be by resolution.***

The resolution, or a certified copy thereof, together with the completed Certification of Ballot, must be delivered to Roland Altinger, Chief Appraiser, 13013 Northwest Freeway, Houston, Texas 77040, or mailed to P. O. Box 920975, Houston, Texas 77292-0975 ***to arrive before 5:00 p.m. on December 16, 2024.*** The outside of the envelope should be marked "Ballot for Board of Directors." Ballots that arrive after that day and time will not be counted.

**Resolutions and the Certification of Ballot may be submitted via e-mail to [cguerra@hcad.org](mailto:cguerra@hcad.org). However, if they are submitted via e-mail, the original must also be mailed to the address shown above via regular first-class mail.**

The five candidates receiving the most votes will be appointed to the board of directors for a term beginning January 1, 2025. S.B. 2 requires that in this first election the taxing units elect three members to three-year terms and two members to a one-year term. The attached voting resolution states that the three candidates receiving the highest votes will serve three-year terms and the two candidates receiving the fourth and fifth highest vote totals will serve a one-year term.

It is important to note that a very specific voting time limit applies to some governing bodies of taxing units because they are each entitled to cast at least 5% (237) of the total votes (4,745).

Specifically, Section 6.03(k-1) states, “[T]he governing body of each taxing unit entitled to cast at least five percent of the total votes must determine its vote by resolution adopted at the first or second open meeting of the governing body that is held after the date the chief appraiser delivers the ballot to the presiding officer of the governing body. The governing body must submit its vote to the chief appraiser not later than the third day following the date the resolution is adopted.”

In counting votes cast in the final election involving all voting taxing units entitled to vote, the Tax Code requires the chief appraiser to separate the ballots returned by the Conservation and Reclamation Districts. Pursuant to Section 6.03(k), the candidate who receives the most votes of the Conservation and Reclamation Districts is considered to have received all the votes cast by the Conservation and Reclamation Districts. The other candidates receiving votes from the Conservation and Reclamation Districts who did not receive the most votes cast are considered to have received no votes from the Conservation and Reclamation Districts.

The chief appraiser will count the votes as specified under the provisions contained within the Texas Property Tax Code. The chief appraiser will then declare the results and notify the winners, the nominees, and the presiding officers of each taxing unit before December 31, 2024.

A tie vote will be resolved by a method of chance chosen by the chief appraiser.

If you have questions about the board selection process, please call me at 713-957-5299.

Sincerely,

A handwritten signature in black ink, appearing to read "Roland Altinger".

Roland Altinger, RPA  
Chief Appraiser

Attachments

cc: HCAD Board Members  
Tax Assessors  
Attorneys

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE GOVERNING BODY OF

**City of Tomball**

CASTING ITS VOTE TO APPOINT DIRECTORS  
TO THE HARRIS CENTRAL APPRAISAL DISTRICT'S BOARD OF DIRECTORS

WHEREAS, the chief appraiser of the Harris Central Appraisal District has delivered to the presiding officer of this governing body the names of those persons duly nominated to be named a candidate to be appointed to serve on the board of directors of the Harris Central Appraisal District; and

WHEREAS, **City of Tomball** deems it appropriate and in the public interest to cast its vote for the candidate(s) of its choice to be appointed to serve on the board of directors of the Harris Central Appraisal District's Board of Directors; now, therefore

BE IT RESOLVED BY HARRIS COUNTY:

Section 1. That the facts and recitations set forth in the preamble of this resolution be, and they are hereby adopted, ratified, and confirmed.

Section 2. That **City of Tomball** does hereby cast its vote, by casting 5 votes for the person(s) indicated on the enclosed Certificate of Ballot to be appointed to serve on the board of directors of the Harris Central Appraisal District, for a term beginning January 1, 2025.

Section 3. That the three candidates receiving the highest vote totals will serve three-year terms and the candidates receiving the fourth and fifth highest vote totals will serve a one-year term.

Section 4. That the presiding officer be, and he or she is hereby, authorized and directed to deliver or cause to be delivered an executed or certified copy of this resolution to the chief appraiser of the Harris Central Appraisal District no later than 5:00 p.m. on December 16, 2024, unless otherwise required to be delivered earlier pursuant to the provisions contained in Section 6.03 (k-1).

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Presiding Officer

ATTEST

\_\_\_\_\_  
Witness

**Certification of Ballot - City of Tomball**

CASTING ITS VOTE TO APPOINT DIRECTORS  
TO THE HARRIS CENTRAL APPRAISAL DISTRICT'S BOARD OF DIRECTORS

I, \_\_\_\_\_, certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 2024, the governing body of **City of Tomball** did by resolution cast its 5 votes as indicated below on this Certification of Ballot for the person(s) listed below to be appointed to the Harris Central Appraisal District's Board of Directors. There will be **five directors** appointed to the board through this voting process involving all taxing units eligible to vote.

**You may cast your votes for one or more candidates or distribute them amongst the candidates listed below for any number of directorships. (Section 6.03 (c)).**

**You are not required to cast any or all of your votes for the candidate that you nominated.**

***(PLEASE PLACE an "X" NEXT TO THE CANDIDATE(S) OF YOUR CHOICE AND LIST THE NUMBER OF VOTES YOU ARE CASTING FOR THE CANDIDATE(S))***

NAME	MARK WITH "X"	NUMBER OF VOTES <u>5</u>
Cassandra Auzenne Bandy	_____	_____
Jonathan Cowen	_____	_____
Martina Lemond Dixon	_____	_____
Bill Frazer	_____	_____
Melissa Noriega	_____	_____
Jim Robinson	_____	_____
Paul Shanklin	_____	_____
Mike Sullivan	_____	_____

I further certify that a true and correct copy of the resolution casting such ballot is attached hereto.

WITNESS MY HAND this \_\_\_\_\_ day of \_\_\_\_\_, 2024

\_\_\_\_\_  
Presiding Officer

ATTEST:

\_\_\_\_\_  
Witness

Exclude?	JUR NO.	TAXING UNIT	2023 ADJ. LEVY FOR CALC.	2023 ADJ. LEVY EXCLUDING COL. B	2024 ALLOCATION RATIO EXCLUDING COL. B	X 1,000	Round to nearest whole #	K \$	County	HISD	Other School Districts	COH	Other Cities	Conservation and Reclamation Districts	Comm Coll
		Total	\$13,593,298.155	\$12,459,832.169	0.1549891480	154.98146	155	4,745	905	775	1,665	655	155	340	230
	001	HOUSTON ISD	\$1,930,889.551	\$1,930,889.551	0.1549891480	154.98146	155	775							
	002	DEER PARK ISD	\$148,532.309	\$148,532.309	0.0119208162	11.9208162	12	60							
	003	WALLER ISD	\$43,350.358	\$43,350.358	0.0034792088	3.47920882	3	15							
	004	CYPRESS-FAIRBANKS ISD	\$733,292.405	\$733,292.405	0.0588822106	58.88221062	59	295							
	005	CROSSBY ISD	\$34,347.467	\$34,347.467	0.002786557	2.7865567	3	15							
	006	CHANNELVIEW ISD	\$58,192.726	\$58,192.726	0.0046704262	4.670426151	5	25							
	007	NEW CANEY ISD	\$904.527	\$904.527	0.000072954	0.0729544	0	0							
	008	KLEEF ISD	\$191,494.038	\$191,494.038	0.0153889039	15.3889039	15	75							
	009	ALDINE ISD	\$298,972.808	\$298,972.808	0.0239949306	23.99493059	24	120							
	010	LAGO BELLO MUD 1A	\$247.698	\$247.698	0.0000198797	0.019879722	0	0							
	011	HCC MUD 491	\$396.189	\$396.189	0.00000317970	0.0317896977	0	0							
	012	HCC MUD 493	\$93.784	\$93.784	0.00000752689	0.0075268907	0	0							
	013	HCC MUD 493	\$93.784	\$93.784	0.00000752689	0.0075268907	0	0							
	014	HCC MUD 493	\$93.784	\$93.784	0.00000752689	0.0075268907	0	0							
	015	GALENA PARK ISD	\$139,359.184	\$139,359.184	0.011846759	11.8467585	11	55							
	016	GOOSE CREEK CISD	\$139,863.496	\$139,863.496	0.01122515088	11.22515088	11	55							
	017	KLEIN ISD	\$282,882.638	\$282,882.638	0.0227036673	22.70366728	23	115							
	018	HUMBLE ISD	\$240,586.523	\$240,586.523	0.0193086696	19.30866979	19	95							
	019	KATY ISD	\$361,101.801	\$361,101.801	0.0289812733	28.98127327	29	145							
	020	LA PORTE ISD	\$139,434.870	\$139,434.870	0.0111907503	11.19075025	11	55							
	021	PASADENA ISD	\$218,874.382	\$218,874.382	0.0175669899	17.56669899	18	90							
	022	SOUTHEAST REGIONAL MGMT DIST DA 1	\$31.666	\$31.666	0.0000025414	0.002541447	0	0							
	023	SHELDON ISD	\$87,791.742	\$87,791.742	0.0070459811	7.045981102	7	35							
	024	SPRING ISD	\$208,438.714	\$208,438.714	0.0167289541	16.72895406	17	85							
	025	SPRING BRANCH ISD	\$426,308.123	\$426,308.123	0.0342146989	34.21469895	34	170							
	026	TOMBALL ISD	\$157,673.571	\$157,673.571	0.0126545501	12.65455015	13	65							
	027	C. EAR CREEK ISD	\$198,313.991	\$198,313.991	0.0159162650	15.91626503	16	80							
	028	DAYTON ISD	\$109.980	\$109.980	0.0000088268	0.008826764	0	0							
	029	PEARLAND ISL	\$2,320.002	\$2,320.002	0.0001981985	0.198198495	0	0							
	030	HUFFMAN ISL	\$16,911.062	\$16,911.062	0.001357464	1.357246371	1	5							
	031	STAFFORD MSD	\$102.753	\$102.753	0.0000082467	0.00824674	0	0							
	032	HARRIS CO FLOOD CNTRL	\$2,298,296.010	\$2,298,296.010	0.1812462828	18.12462823	18	90							
	033	HARRIS CO FLOOD CNTRL	\$56,216.018	\$56,216.018	0.0029066217	2.906621655	3	15							
	034	HARRIS CO HOSP DIST	\$905,187.850	\$905,187.850	0.0000000000	0	0	0							
	034	HARRIS CO EDUC DEPT	\$30,969.703	\$30,969.703	0.0024855634	2.485563415	2	10							
	035	LONE STAR COLLEGE SVS	\$227,632.792	\$227,632.792	0.0182693306	18.26933051	18	90							
	036	LEE JR COLLEGE DIST	\$28,800.352	\$28,800.352	0.00023114559	2.311455853	2	10							
	047	SAN JACINTO COM COL D	\$124,195.312	\$124,195.312	0.0099676553	9.967655287	10	50							
	048	HOU COMMUNITY COLLEGE	\$245,439.265	\$245,439.265	0.0196984407	19.69844059	20	100							
	049	HOU COMMUNITY COLLEGE	\$2,277.649	\$2,277.649	0.0001827993	0.182799332	0	0							
	050	HCC MUD 165 DA 2	\$843,786.567	\$843,786.567	0.0035142180	3.514218041	4	20							
	051	CITY OF BAYTOWN	\$24,308.462	\$24,308.462	0.0019509462	1.950946182	2	10							
	052	CITY OF BELLAIRE	\$7,240.253	\$7,240.253	0.0005810875	0.581087522	0	5							
	053	BUNKER HILL VILLAGE	\$29,233.258	\$29,233.258	0.0023462000	2.346199981	2	10							
	054	CITY OF DEER PARK	\$4,841.775	\$4,841.775	0.0003885907	0.388590708	0	0							
	055	HEDWIG VILLAGE	\$1,526.475	\$1,526.475	0.0001225117	0.122511682	0	0							
	056	CITY OF EL LAGO	\$8,372.978	\$8,372.978	0.0006719977	0.671997555	1	5							
	057	CITY OF GALENA PARK	\$4,422.898	\$4,422.898	0.0003549717	0.354971716	0	0							
	058	CITY OF FRIENDSWOOD	\$11,871.774	\$11,871.774	0.0009528037	0.952803885	1	5							
	059	CITY OF PEARLAND	\$1,728.655	\$1,728.655	0.0001387382	0.138738225	1	5							
	060	HILLSHIRE VILLAGE	\$1,633,065.748	\$1,633,065.748	0.1310664322	13.10664322	13	65							
	061	CITY OF HOUSTON	\$6,888.355	\$6,888.355	0.0005528448	0.552844827	1	5							
	062	CITY OF HUMBLE	\$5,925.829	\$5,925.829	0.0004759546	0.47594608	0	0							
	063	MISSOURI CITY	\$3,593.738	\$3,593.738	0.0002884259	0.288425875	0	0							
	064	CITY OF KATY	\$7,026.816	\$7,026.816	0.0005639575	0.563957516	1	5							
	065	HUNTERS CREEK VILLAGE	\$4,084.655	\$4,084.655	0.0003278258	0.327825844	0	0							
	066	CITY OF JACINTO CITY	\$900.730	\$900.730	0.0000072907	0.07290701	0	0							
	067	CITY OF LEAGUE CITY													



HUR NO.	TAXING UNIT	2023 ADJ. LEVY FOR CALC.	2023 ADJ. LEVY EXCLUDING COL. B	2024 ALLOCATION RATIO EXCLUDING COL. B	X 1,000	Round to nearest whole #	X \$	County	HSD	Other School Districts	COH	Other Cities	Conservation and Reclamation Districts	Comm Coll
57	JERSEY VILLAGE	\$9,796,447	\$9,796,447	0.0007864028	0.78640280	1	5					5		
58	CITY OF LAPORTE	\$38,621,996	\$38,621,996	0.003097204	3.09972040	3	15					15		
59	CITY OF MORGAN POINT	\$5,321,617	\$5,321,617	0.0004271018	0.42710182	0	0					0		
60	CITY OF MASSAU BAY	\$5,539,942	\$5,539,942	0.0004446241	0.444624127	0	0					0		
61	CITY OF PASADENA	\$69,748,888	\$69,748,888	0.005978995	5.97899478	6	30					30		
62	PINEY POINT VILLAGE	\$7,847,336	\$7,847,336	0.0006296107	0.62961073	1	5					5		
63	CITY OF SEABROOK	\$8,826,797	\$8,826,797	0.00070984202	0.7098420216	1	5					5		
64	CITY OF SHOREACHES	\$1,210,612	\$1,210,612	0.0000971612	0.09716118	0	0					0		
65	CITY OF SOUTH HOUSTON	\$6,683,305	\$6,683,305	0.000563880	0.56388044	1	5					5		
66	CITY OF SOUTHSIDE PL	\$3,735,959	\$3,735,959	0.0002398402	0.239840256	0	0					0		
67	CITY OF SPRING VALLEY	\$6,495,336	\$6,495,336	0.0005213020	0.521302046	1	5					5		
68	TAYLOR LAKE VILLAGE	\$1,494,491	\$1,494,491	0.0001194447	0.119444714	0	0					0		
69	CITY OF TOMBALL	\$9,561,543	\$9,561,543	0.0007673894	0.767389389	1	5					5		
70	CITY OF WEBSTER	\$10,294,766	\$10,294,766	0.0008262363	0.82623633	1	5					5		
71	WEST UNIVERSITY PLACE	\$20,847,890	\$20,847,890	0.0016732079	1.673207931	2	10					10		
72	CITY OF WALLER	\$1,148,374	\$1,148,374	0.0000921661	0.092166089	0	0					0		
73	HC MUD 560	\$81,782	\$81,782	0.0000065637	0.006563652	0	0					0		
74	HC MUD 575	\$833,437	\$833,437	0.0000688899	0.068899906	0	0					0		
75	HC MUD 82 (DEFINED AREA 1)	\$924,046	\$924,046	0.0000420588	0.042058833	0	0					0		
76	HC MUD 421	\$3,715,505	\$3,715,505	0.0002981988	0.298198639	0	0					0		
77	ADDICKS UD	\$3,020,814	\$3,020,814	0.0002424442	0.242444197	0	0					0		
78	HC MUD 284	\$1,304,945	\$1,304,945	0.0001047321	0.104732149	0	0					0		
79	HC MUD 502	\$9,751,779	\$9,751,779	0.0007826573	0.782657332	1	5					5		
80	HC MUD 285	\$566,223	\$566,223	0.0000454439	0.045443871	0	0					0		
81	BAKER ROAD MUD	\$934,703	\$934,703	0.0000750173	0.075017303	0	0					0		
82	BAKER-CYPRESS MUD	\$1,322,344	\$1,322,344	0.0001061286	0.106128656	0	0					0		
83	BARKER-CYPRESS MUD	\$3,867,178	\$3,867,178	0.0003103716	0.310371596	0	0					0		
84	HC MUD 499	\$1,612,190	\$1,612,190	0.0001293910	0.129390988	0	0					0		
85	BEECHNUT MUD	\$550,570	\$550,570	0.0000441876	0.044187594	0	0					0		
86	BILMA PUD	\$3,010,227	\$3,010,227	0.0002415945	0.241594506	0	0					0		
87	BISSONNET MUD	\$2,921,271	\$2,921,271	0.0002344651	0.234465084	0	0					0		
88	WEST RANCH WGMT DIST	\$0	\$0	0.0000000000	0	0	0					0		
89	BRIDGESTONE MUD	\$11,200,498	\$11,200,498	0.0008982989	0.898298481	1	5					5		
90	BAYROCK MUD 1	\$5,753,313	\$5,753,313	0.0004617488	0.461748836	0	0					0		
91	THE WOODLANDS TOWNSHIP	\$7,145,450	\$7,145,450	0.0005734788	0.573478832	1	5					5		
92	HC MUD 250	\$861,717	\$861,717	0.0000691596	0.069159599	0	0					0		
93	HC MUD 276	\$2,381,413	\$2,381,413	0.0001911272	0.191127213	0	0					0		
94	CNP UD	\$2,776,753	\$2,776,753	0.0002228564	0.222856373	0	0					0		
95	CASTLEWOOD MUD	\$1,575,169	\$1,575,169	0.0001284189	0.128419761	0	0					0		
96	GEDAR BAYOU PARK UD	\$34,536	\$34,536	0.0000027178	0.00271787	0	0					0		
97	CHARTERWOOD MUD	\$1,903,520	\$1,903,520	0.0001527729	0.152772523	0	0					0		
98	CHEL-FORD CITY MUD	\$764,626	\$764,626	0.0000615673	0.061367279	0	0					0		
99	CHEL-FORD ONE MUD	\$1,517,817	\$1,517,817	0.0001218168	0.121816809	0	0					0		
100	CHIMNEY HILL MUD	\$3,419,553	\$3,419,553	0.0002744462	0.27446153	0	0					0		
101	CIMARRON MUD	\$4,563,675	\$4,563,675	0.0003682710	0.368270895	0	0					0		
102	CLAY ROAD MUD	\$20,150,437	\$20,150,437	0.0016172318	1.617231816	2	10					10		
103	CLEAR LAKE C, 7 WVA	\$1,253,696	\$1,253,696	0.0001006190	0.100619012	0	0					0		
104	CORNERSTONES MUD	\$1,827,529	\$1,827,529	0.0001468736	0.146873645	0	0					0		
105	CROSBY MUD	\$3,148,039	\$3,148,039	0.0002527353	0.252735266	0	0					0		
106	CY-CHAMP PUD	\$919,542	\$919,542	0.0000738005	0.073800513	0	0					0		
107	CYPRESS CREEK UD	\$2,277,438	\$2,277,438	0.0001827824	0.182782398	0	0					0		
108	CYPRESS FOREST PUD	\$7,088,988	\$7,088,988	0.0005689473	0.56894731	1	5					5		
109	CYPRESS HILL MUD 1	\$382,171	\$382,171	0.0000306722	0.030672243	0	0					0		
110	CYPRESS KLEIN UD	\$824,790	\$824,790	0.000061959	0.06195916	0	0					0		
111	CYPRESSWOOD UD	\$137,593	\$137,593	0.0000110429	0.011042926	0	0					0		
112	CAMFIELD MUD	\$3,735,487	\$3,735,487	0.0002938024	0.293802353	0	0					0		
113	LOWER KIRBY PEARLAND WGMT DIST					0	0					0		

HUR NO.	TAXING UNIT	2023 ADJ. LEVY FOR CALC.	2023 ADJ. LEVY EXCLUDING COL. B	2024 ALLOCATION RATIO EXCLUDING COL. B	X 1,000	Round to nearest whole #	X 5	County	HISD	Other School Districts	COH	Other Cities	Conservation and Reclamation Districts	Comm Coll
114														
115	156 HC MUD 278	\$6,134,961	\$6,134,961	0.0004923470	0.492347001	0	0							0
116	159 HC MUD 290	\$6,505,874	\$6,505,874	0.000521478	0.52147804	1	5							0
117	161 MEADOWHILL REGNL MUD	\$5,480,316	\$5,480,316	0.0004398887	0.439838689	0	0							0
118	162 DOWDELL PUD	\$7,900,916	\$7,900,916	0.0006341109	0.634110949	1	5							0
119	163 EL DORADO UD	\$4,575,027	\$4,575,027	0.0003671821	0.367182073	0	0							0
120	164 EMERALD FOREST UD	\$3,560,421	\$3,560,421	0.0002854519	0.285751923	0	0							0
121	165 ENCANTO RE' ID	\$4,019,777	\$4,019,777	0.0003322618	0.332261831	0	0							0
122	170 HC MUD 286	\$921,484	\$921,484	0.0000739564	0.073956373	0	0							0
123	171 FALLBROOK UD	\$2,892,215	\$2,892,215	0.0002321231	0.232123111	0	0							0
124	172 FAUL KEY-GULLY MUD	\$1,865,481	\$1,865,481	0.0001566976	0.156697616	0	0							0
125	174 FOREST HILLS MUD	\$1,865,481	\$1,865,481	0.0001566976	0.156697616	0	0							0
126	175 FOUNTAINHEAD MUD	\$1,865,481	\$1,865,481	0.0001566976	0.156697616	0	0							0
127	176 FERRY ROAD MUD	\$529,838	\$529,838	0.0000425237	0.042523687	0	0							0
128	177 HC MUD 415	\$19,503,644	\$19,503,644	0.0001566976	0.156697616	2	10							0
129	178 HC ID 18	\$3,213,926	\$3,213,926	0.0000697440	0.069743957	0	0							0
130	179 HC MUD 304	\$868,988	\$868,988	0.0000697440	0.069743957	0	0							0
131	180 HC MUD 275	\$2,652,697	\$2,652,697	0.0002805247	0.280524726	0	0							0
132	182 GRANT ROAD PUD	\$3,495,291	\$3,495,291	0.0002805247	0.280524726	0	0							0
133	183 GREENWOOD UD	\$748,288	\$748,288	0.000065060	0.06506026	0	0							0
134	185 GREEN TRAILS MUD	\$2,640,293	\$2,640,293	0.0002115044	0.211904379	0	0							0
135	186 GREENS PARKWAY MUD	\$6,530,884	\$6,530,884	0.000646709	0.64670889	1	5							0
136	187 HC MUD 287	\$15,440,286	\$15,440,286	0.0012392050	1.239204974	1	5							0
137	189 HC MUD 489	\$2,261,023	\$2,261,023	0.0001614660	0.161464944	0	0							0
138	190 HC MUD 284	\$6,251,537	\$6,251,537	0.0005017362	0.501736249	1	5							0
139	193 HC MUD 285	\$4,030,412	\$4,030,412	0.0003234724	0.323472415	0	0							0
140	197 HC MUD 401	\$6,331,566	\$6,331,566	0.0005081582	0.508158209	1	5							0
141	205 HC MUD 321	\$1,547,603	\$1,547,603	0.0001242074	0.124207371	0	0							0
142	206 HC FMVD 6	\$2,589,369	\$2,589,369	0.0002078173	0.207817326	0	0							0
143	207 HC MUD 282	\$695,535	\$695,535	0.0000589222	0.05892218	0	0							0
144	208 HC MUD 316	\$1,788,930	\$1,788,930	0.0001436758	0.143675777	0	0							0
145	213 HC MUD 322	\$1,878,237	\$1,878,237	0.0001607434	0.160743363	0	0							0
146	220 HC MUD 342	\$3,181,153	\$3,181,153	0.0002353172	0.235312688	0	0							0
147	224 HC MUD 345	\$1,165,206	\$1,165,206	0.0000365170	0.03651699	0	0							0
148	225 HC MUD 346	\$156,848	\$156,848	0.0000125883	0.012588292	0	0							0
149	227 HC FMVD 27	\$719,523	\$719,523	0.0000577474	0.057747407	0	0							0
150	228 HC MUD 404	\$1,276,189	\$1,276,189	0.0001024243	0.102424253	0	0							0
151	229 HC MUD 412	\$3,093,811	\$3,093,811	0.0002483028	0.248302783	0	0							0
152	230 HC MUD 407	\$467,766	\$467,766	0.0000376419	0.037641918	0	0							0
153	231 HC MUD 405	\$580,721	\$580,721	0.0000468074	0.04680745	0	0							0
154	232 HC MUD 433	\$7,565,264	\$7,565,264	0.0006071722	0.607172223	1	5							0
155	234 HC MUD 451	\$1,139,927	\$1,139,927	0.00006914882	0.069148815	0	0							0
156	235 HC MUD 459	\$1,409,771	\$1,409,771	0.0001131459	0.113145264	0	0							0
157	236 HC MUD 416	\$2,353,943	\$2,353,943	0.0001889225	0.188922529	0	0							0
158	237 HC MUD 434	\$4,293,076	\$4,293,076	0.0003445533	0.344553277	0	0							0
159	238 HC MUD 439	\$504,496	\$504,496	0.0000404898	0.040489791	0	0							0
160	241 HC MUD 460	\$4,024,730	\$4,024,730	0.0003230164	0.323016389	0	0							0
161	242 HC MUD 460	\$2,028,544	\$2,028,544	0.0001628067	0.16280687	0	0							0
162	243 HC MUD 480	\$3,202,156	\$3,202,156	0.0002569983	0.256998325	0	0							0
163	246 HC MUD 432	\$6,448,641	\$6,448,641	0.0005175544	0.517554403	1	5							0
164	247 HC FMVD 47	\$1,581,350	\$1,581,350	0.0001269158	0.126915835	0	0							0
165	248 HC MUD 481	\$2,627,802	\$2,627,802	0.0002109019	0.210901878	1	5							0
166	249 HC MUD 406	\$8,176,822	\$8,176,822	0.000562546	0.56254586	0	0							0
167	251 HC FMVD 51	\$1,277,334	\$1,277,334	0.0001025161	0.102516148	0	0							0
168	252 CHAMPIONS MUD	\$1,504,234	\$1,504,234	0.0001207667	0.12076666	0	0							0
169	253 BRAZORIA COUNTY MUD 18	\$665,264	\$665,264	0.0000539827	0.053982693	0	0							0
170	254 KINGS MANOR MUD	\$551,942	\$551,942	0.0000442977	0.044297707	0	0							0

JUR NO.	TAXING UNIT	2023 ADJ. LEVY FOR CALC.	2023 ADJ. LEVY EXCLUDING COL. B	2024 ALLOCATION RATIO EXCLUDING COL. B	X 1,000	Round to nearest whole #	% \$	County	HISD	Other School Districts	COH	Other Cities	Conservation and Reclamation Districts	Comm Coll
171	285 H C MUD 501	\$6,049,763	\$6,049,763	0.0006460571	0.646057097	1	5							
172	256 HARRIS BRAZORIA COUNTIES MUD 509	\$4,091,827	\$4,091,827	0.0003284015	0.328401454	0	0							
173	257 H C MUD 500	\$1,666,815	\$1,666,815	0.0001337751	0.133775076	0	0							
174	258 HC FMSD 58	\$1,164,407	\$1,164,407	0.00009324529	0.093452864	0	0							
175	261 HC FMSD 61	\$4,020,084	\$4,020,084	0.0003262636	0.322643511	0	0							
176	264 HC ID 1	\$9,727,349	\$9,727,349	0.0007806966	0.780696631	1	5							
177	276 HC MUD 396	\$2,180,891	\$2,180,891	0.0001750327	0.175032738	0	0							
178	301 HC MUD 1	\$8,731,364	\$8,731,364	0.0007007610	0.700760964	1	5							
179	305 HC MUD 5	\$2,657,060	\$2,657,060	0.0002132501	0.213250063	0	0							
180	306 HC MUD 6	\$1,137,885	\$1,137,885	0.0000913243	0.091324264	0	0							
181	308 HC MUD 8	\$888,059	\$888,059	0.0000127246	0.071272456	0	0							
182	311 HC MUD 11	\$1,939,395	\$1,939,395	0.0001556518	0.155651776	0	0							
183	313 CLEAR BROOK CITY MUD	\$7,694,679	\$7,694,679	0.0006175588	0.6175588	1	5							
184	316 HC MUD 16	\$1,529,452	\$1,529,452	0.0001227506	0.12275061	0	0							
185	318 HC MUD 18	\$1,372,168	\$1,372,168	0.0001101273	0.110127326	0	0							
186	319 HC MUD 494	\$2,987,001	\$2,987,001	0.0002397304	0.239730436	0	0							
187	321 HC MUD 461	\$4,060,053	\$4,060,053	0.0003258513	0.325851339	0	0							
188	323 HC MUD 23	\$1,055,128	\$1,055,128	0.0000944824	0.094482361	0	0							
189	324 HC MUD 24	\$4,632,481	\$4,632,481	0.0003717932	0.371793271	0	0							
190	325 HC MUD 25	\$707,138	\$707,138	0.0000567534	0.056753413	0	0							
191	326 HC MUD 26	\$8,096,268	\$8,096,268	0.0006497895	0.649789491	1	5							
192	327 HARRIS - WALLER COUNTIES MUD 2	\$461,867	\$461,867	0.0000386736	0.038673635	0	0							
193	331 HC MUD 529	\$1,228,869	\$1,228,869	0.0000986254	0.098626449	0	0							
194	332 HC MUD 449	\$8,489,194	\$8,489,194	0.0006813249	0.681324907	1	5							
195	333 HC MUD 33	\$1,994,509	\$1,994,509	0.0001600751	0.16007511	0	0							
196	334 HC MUD 155	\$5,071,230	\$5,071,230	0.0004070063	0.407006285	0	0							
197	336 HC MUD 36	\$1,415,355	\$1,415,355	0.0001133593	0.113359424	0	0							
198	337 HC MUD 504	\$8,830,043	\$8,830,043	0.0007086807	0.708680733	1	5							
199	338 HC ID 12	\$209,641	\$209,641	0.0000168414	0.016841399	0	0							
200	339 HC MUD 530	\$3,780,516	\$3,780,516	0.0003034169	0.303416286	0	0							
201	340 HC MUD 531	\$3,161,423	\$3,161,423	0.0002537292	0.25372918	0	0							
202	341 PEARLAND MUNICIPAL MGMT 2	\$18,287	\$18,287	0.0000014677	0.001467676	0	0							
203	342 HC MUD 422	\$2,045,981	\$2,045,981	0.0001642051	0.164205144	0	0							
204	343 HC MUD 43	\$2,585,160	\$2,585,160	0.0002074795	0.20747952	0	0							
205	344 HC MUD 44	\$492,909	\$492,909	0.0000395598	0.039559843	0	0							
206	345 HC ID 18 (DA 1)	\$2,192,896	\$2,192,896	0.0001759972	0.175997234	0	0							
207	346 HC MUD 46	\$1,134,427	\$1,134,427	0.0000910467	0.091046732	0	0							
208	347 NORTHAMPTON MUD (DA)	\$1,358,251	\$1,358,251	0.0001090104	0.109010377	0	0							
209	348 HC MUD 48	\$249,089	\$249,089	0.0000199914	0.019991361	0	0							
210	349 HC MUD 49	\$6,987,658	\$6,987,658	0.0005608148	0.560814777	1	5							
211	350 HC MUD 50	\$2,287,836	\$2,287,836	0.0001836169	0.183616919	0	0							
212	351 HC WCID 161	\$3,819,699	\$3,819,699	0.0003065810	0.306581031	0	0							
213	353 HC MUD 53	\$3,873,360	\$3,873,360	0.0003108678	0.310867751	0	0							
214	354 HARRIS - WALLER COUNTIES MUD 3	\$121	\$121	0.0000000097	9.71121E-06	0	0							
215	355 HC MUD 55	\$5,683,328	\$5,683,328	0.0004561320	0.456131987	0	0							
216	356 HC MUD 495	\$10,504,435	\$10,504,435	0.0009430639	0.943063924	1	5							
217	357 INTERCONTINENTAL MUD	\$925,150	\$925,150	0.0000742505	0.074250599	0	0							
218	358 HC MUD 58	\$706,391	\$706,391	0.0000566935	0.05669346	0	0							
219	359 HC MUD 53	\$1,572,551	\$1,572,551	0.0001282096	0.128209645	0	0							
220	360 HC MUD 319	\$6,706,535	\$6,706,535	0.0005982524	0.598252435	1	5							
221	361 HC MUD 61	\$2,331,163	\$2,331,163	0.0001870943	0.187094254	0	0							
222	362 HC MUD 62	\$1,661,461	\$1,661,461	0.0001333454	0.133345376	0	0							
223	363 HC MUD 063	\$519,833	\$519,833	0.0000417207	0.041720706	0	0							
224	364 HC MUD 64	\$2,438,550	\$2,438,550	0.0001957129	0.195712909	0	0							
225	365 HC MUD 65	\$2,909,131	\$2,909,131	0.0002334808	0.233480753	0	0							
226	366 GENERATION PARK MGMT DIST	\$14,252,880	\$14,252,880	0.0011439063	1.143906259	1	5							
227	368 HC ID 15	\$1,939,410	\$1,939,410	0.0001556530	0.155652979	0	0							

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228	369 HC MUD 69	\$897,366	\$937,366	0.0000759302	0.075230227	0	0							
229	370 HC MUD 70	\$2,725,894	\$2,725,894	0.0002187745	0.218774536	0	0							
230	371 HC MUD 71	\$8,207,289	\$8,207,289	0.0007389577	0.738957706	1	5							
231	372 HC MUD 438	\$1,101,240	\$1,101,240	0.0000838332	0.088383213	0	0							
232	374 HC MUD 213A	\$3,060,939	\$3,060,939	0.0002456645	0.245664545	0	0							
233	375 HC MUD 213B	\$876,035	\$876,035	0.0000703087	0.070308732	0	0							
234	376 HC MUD 457	\$12,073,736	\$12,073,736	0.0009690127	0.969012731	1	5							
235	378 HC MUD 459	\$441,259	\$441,259	0.0000356553	0.03565296	0	0							
236	379 HC MUD 381	\$1,087,669	\$1,087,669	0.0000872940	0.087294033	0	0							
237	381 HC MUD 81	\$2,303,676	\$2,303,676	0.0001848882	0.184888205	0	0							
238	382 HC MUD 82	\$8,522,026	\$8,522,026	0.0006835999	0.683599935	1	5							
239	383 HC MUD 383	\$5,174,436	\$5,174,436	0.0004152894	0.415289382	0	0							
240	384 HC MUD 397	\$2,356,837	\$2,356,837	0.0001891548	0.189154795	0	0							
241	385 HC MUD 389	\$1,750,041	\$1,750,041	0.0001404546	0.140454621	0	0							
242	386 HC MUD 86	\$2,261,937	\$2,261,937	0.0001815383	0.18153832	0	0							
243	387 HC MUD 391	\$7,257,896	\$7,257,896	0.0005825035	0.582503912	1	5							
244	388 HC MUD 393	\$1,177,149	\$1,177,149	0.0000944755	0.09447551	0	0							
245	389 HC MUD 400	\$6,657,171	\$6,657,171	0.000542906	0.54290584	1	5							
246	392 HC MUD 411	\$849,210	\$849,210	0.0000681558	0.068158914	0	0							
247	394 HC MUD 410	\$2,270,106	\$2,270,106	0.0001821939	0.182193947	0	0							
248	395 HARRIS-MONTGOMERY CO MUD 386	\$18,598,030	\$18,598,030	0.0014926399	1.482638893	1	5							
249	396 HC MUD 96	\$2,979,214	\$2,979,214	0.0002391055	0.239105489	0	0							
250	399 HC MUD 420	\$1,615,103	\$1,615,103	0.0001296248	0.12962478	0	0							
251	400 HC RID 1	\$464,384	\$464,384	0.0000372705	0.037270486	0	0							
252	402 HC MUD 102	\$3,175,982	\$3,175,982	0.0002548977	0.254897655	0	0							
253	404 HC MUD 104	\$1,529,821	\$1,529,821	0.0001227802	0.122780225	0	0							
254	405 HC MUD 105	\$7,567,256	\$7,567,256	0.0006073321	0.607332097	1	5							
255	406 HC MUD 106	\$3,532,593	\$3,532,593	0.0002385185	0.238518506	0	0							
256	408 BAUER LANDING WCID	\$2,590,928	\$2,590,928	0.0002031270	0.203126974	0	0							
257	409 HC MUD 109	\$3,952,698	\$3,952,698	0.0003172353	0.317235252	0	0							
258	410 SOUTHEAST REGIONAL MANAGEMENT DIST	\$669,381	\$669,381	0.0000778005	0.077800486	0	0							
259	411 HC MUD 536	\$7,690,933	\$7,690,933	0.0006172582	0.617258154	1	5							
260	412 DOWDELL PUD (DA)	\$473,964	\$473,964	0.0000381999	0.038199872	0	0							
261	413 HC MUD 525	\$71,818	\$71,818	0.0000057640	0.05763862	0	0							
262	414 HC MUD 542	\$2,978,711	\$2,978,711	0.0002390651	0.239065098	0	0							
263	416 HC MUD 503	\$483,936	\$483,936	0.0000388397	0.038839688	0	0							
264	417 INTERCONTINENTAL CROSSING MUD	\$1,603,148	\$1,603,148	0.0001286654	0.128665977	0	0							
265	418 HC MUD 119	\$1,814,699	\$1,814,699	0.0001456439	0.145643936	0	0							
266	419 HC MUD 119	\$1,341,688	\$1,341,688	0.0001076795	0.10767946	0	0							
267	420 HC MUD 120	\$2,913,154	\$2,913,154	0.0002338036	0.233803631	0	0							
268	421 THE WOODLANDS ROAD UD 1	\$51,331	\$51,331	0.0000041197	0.004119718	0	0							
269	422 HC MUD 122	\$969,449	\$969,449	0.0000778059	0.077805944	0	0							
270	424 HC ID 13	\$76,549	\$76,549	0.0000061437	0.006143662	0	0							
271	425 HC ID 14	\$2,002,420	\$2,002,420	0.0001607100	0.16071003	0	0							
272	427 HC MUD 127	\$2,713,863	\$2,713,863	0.0002178090	0.217809853	0	0							
273	428 SAINT GEORGE PLACE MGMT DISTRICT	\$528,290	\$528,290	0.0000433984	0.043399448	0	0							
274	429 HC ID 23	\$303,986	\$303,986	0.0000243973	0.024397279	0	0							
275	430 HC MUD 130	\$2,064,815	\$2,064,815	0.0001669177	0.166917722	0	0							
276	431 HC MUD 582	\$1,656,135	\$1,656,135	0.0001312325	0.131232506	0	0							
277	432 HC MUD 132	\$577,466	\$577,466	0.0000463462	0.04634621	0	0							
278	433 HC MUD 423	\$5,186,295	\$5,186,295	0.0004162412	0.41624116	0	0							
279	435 HC MUD 551	\$1,315,755	\$1,315,755	0.0001058997	0.105899737	0	0							
280	436 HC MUD 136	\$499,194	\$499,194	0.0000400643	0.040064264	0	0							
281	438 NEWPORT MUD (DA)	\$65,448	\$65,448	0.0000044901	0.00445014	0	0							
282	441 HC MUD 538	\$2,689,711	\$2,689,711	0.0002158706	0.215870564	0	0							
283	442 HC MUD 473	\$935,255	\$935,255	0.0000750618	0.075061605	0	0							
284	443 HC PWSID 48	\$99,246	\$99,246	0.0000047550	0.00475496	0	0							

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285	444	HC MUD 144	\$1,154,698	\$1,154,698	0.00009267346	0.09267346	0	0							
286	447	HC MUD 147	\$909,982	\$909,982	0.0000730332	0.07303247	0	0							
287	448	HC MUD 148	\$2,919,651	\$2,919,651	0.0002343251	0.234325056	0	0							
288	449	HC MUD 149	\$1,420,870	\$1,420,870	0.0001140360	0.11403046	0	0							
289	450	HC MUD 150	\$2,347,004	\$2,347,004	0.0001883656	0.18836619	0	0							
290	451	HC MUD 151	\$2,154,174	\$2,154,174	0.0001728895	0.172889488	0	0							
291	452	HC MUD 152	\$1,752,128	\$1,752,128	0.0001408221	0.140822119	0	0							
292	453	HC MUD 153	\$4,494,403	\$4,494,403	0.0003807114	0.380711359	0	0							
293	454	HC MUD 154	\$3,765,980	\$3,765,980	0.0003022497	0.302249657	0	0							
294	455	HC MUD 155	\$1,515,962	\$1,515,962	0.0001216679	0.121667931	0	0							
295	456	HC MUD 156	\$2,036,365	\$2,036,365	0.0001634344	0.163434344	0	0							
296	457	HC MUD 157	\$5,749,415	\$5,749,415	0.0004164380	0.416435991	0	0							
297	458	HC MUD 158	\$2,186,269	\$2,186,269	0.0001754654	0.175465365	0	0							
298	460	HC MUD 158	\$810,139	\$810,139	0.0000659201	0.065020057	0	0							
299	462	HC MUD 162	\$1,061,239	\$1,061,239	0.0000851728	0.085172817	0	0							
300	463	HC MUD 163	\$724,771	\$724,771	0.0000581686	0.058168601	0	0							
301	464	BRAZORIA MUD 23	\$0	\$0	0.0000000000	0	0								
302	465	HC MUD 165	\$26,253,437	\$26,253,437	0.0021070468	2.107045797	2	10							
303	466	HC MUD 166	\$2,204,335	\$2,204,335	0.0001769153	0.176915304	0	0							
304	467	HC MUD 167	\$9,992,973	\$9,992,973	0.0008020151	0.802015056	1	5							
305	468	HC MUD 168	\$2,918,838	\$2,918,838	0.0002342598	0.234259817	0	0							
306	470	HC MUD 170	\$592,376	\$592,376	0.0000475429	0.047542855	0	0							
307	471	HC MUD 171	\$744,492	\$744,492	0.0000597514	0.059751967	0	0							
308	472	HC MUD 172	\$3,006,533	\$3,006,533	0.0002412980	0.241298033	0	0							
309	473	HC MUD 173	\$1,910,072	\$1,910,072	0.0001532984	0.153298373	0	0							
310	474	HC MUD 185	\$2,176,156	\$2,176,156	0.0001746537	0.174653717	0	0							
311	476	HC MUD 185	\$2,053,079	\$2,053,079	0.0001647758	0.164775815	0	0							
312	478	HC MUD 185	\$5,169,155	\$5,169,155	0.0004148658	0.41486554	0	0							
313	479	HC MUD 179	\$662,716	\$662,716	0.0000531882	0.053188196	0	0							
314	480	HC MUD 180	\$3,233,763	\$3,233,763	0.0002593500	0.25935037	0	0							
315	482	HC MUD 182	\$508,693	\$508,693	0.0000402266	0.04026633	0	0							
316	483	HC MUD 183	\$1,561,473	\$1,561,473	0.0001253205	0.125320548	0	0							
317	484	HC MUD 184	\$1,114,502	\$1,114,502	0.0000894476	0.089447593	0	0							
318	485	HC MUD 185	\$672,217	\$672,217	0.0000539507	0.053950727	0	0							
319	486	HC MUD 186	\$765,990	\$765,990	0.0000614768	0.061476751	0	0							
320	487	HC MUD 186	\$1,822,423	\$1,822,423	0.0001462638	0.146263848	0	0							
321	488	HC MUD 188	\$2,032,921	\$2,032,921	0.0001631580	0.163157976	0	0							
322	489	HC MUD 189	\$1,947,828	\$1,947,828	0.0001563286	0.15632859	0	0							
323	490	HC MUD 390	\$5,569,973	\$5,569,973	0.0004470344	0.447034352	0	0							
324	491	HC MUD 191	\$1,021,711	\$1,021,711	0.0000820004	0.082000382	0	0							
325	493	HC MUD 389	\$1,843,575	\$1,843,575	0.0001479615	0.147961463	0	0							
326	496	HC MUD 196	\$4,055,258	\$4,055,258	0.0003246655	0.32466503	0	0							
327	498	HC MUD 418	\$127,348	\$127,348	0.0000102207	0.010220683	0	0							
328	500	HC MUD 200	\$2,973,913	\$2,973,913	0.0002366900	0.236680021	0	0							
329	501	HC MUD 374	\$3,782,106	\$3,782,106	0.0003035439	0.303543896	0	0							
330	502	HC MUD 202	\$3,283,474	\$3,283,474	0.0002635247	0.263524737	0	0							
331	504	HC MUD 371	\$2,978,508	\$2,978,508	0.0002390489	0.239048006	0	0							
332	505	HC MUD 205	\$597,514	\$597,514	0.0000479522	0.047955221	0	0							
333	506	HC MUD 419	\$13,879,021	\$13,879,021	0.0011390111	1.13901119	1	5							
334	507	HC MUD 468	\$3,833,713	\$3,833,713	0.0003076658	0.307665766	0	0							
335	508	HC MUD 208	\$1,231,826	\$1,231,826	0.0000988638	0.098863771	0	0							
336	509	HC MUD 372	\$1,062,825	\$1,062,825	0.0000853001	0.085300106	0	0							
337	510	HC MUD 373	\$402,472	\$402,472	0.0000323016	0.032301559	0	0							
338	511	HC MUD 211	\$374,655	\$374,655	0.0000300650	0.030069025	0	0							
339	514	HC MUD 220	\$1,462,796	\$1,462,796	0.0001174009	0.117400939	0	0							
340	515	HC MUD 215	\$477,153	\$477,153	0.0000382953	0.038295299	0	0							
341	516	HC MUD 216	\$1,556,893	\$1,556,893	0.0001249530	0.124952967	0	0							

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342	517 HC MUD 217	\$1,411,115	\$1,411,115	0.0001132353	0.11323531	0	0							
343	519 HC MUD 341	\$1,354,186	\$1,354,186	0.0001086841	0.108684128	0	0							
344	520 HC MUD 370	\$2,673,961	\$2,673,961	0.0002146065	0.214606502	0	0							
345	521 HC MUD 221	\$1,628,534	\$1,628,534	0.0001307027	0.130702724	0	0							
346	522 HC MUD 222	\$1,395,293	\$1,395,293	0.0001198333	0.11983329	0	0							
347	524 HC MUD 354	\$2,240,072	\$2,240,072	0.0001978355	0.197833481	0	0							
348	525 HC MUD 355	\$418,948	\$418,948	0.0000336239	0.033623888	0	0							
349	526 HC MUD 357	\$3,269,103	\$3,269,103	0.0002823714	0.282371351	0	0							
350	527 HC MUD 359	\$345,621	\$345,621	0.0000277388	0.027738817	0	0							
351	528 HC MUD 358	\$2,803,276	\$2,803,276	0.0002249851	0.224985053	0	0							
352	529 HC MUD 360	\$1,983,140	\$1,983,140	0.0001591627	0.159162657	0	0							
353	530 HC MUD 230	\$2,353,699	\$2,353,699	0.0001889029	0.188902946	0	0							
354	531 HC MUD 231	\$319,088	\$319,088	0.0000258093	0.025609334	0	0							
355	532 HC MUD 361	\$1,120,158	\$1,120,158	0.0000899015	0.089901532	0	0							
356	533 HC MUD 233	\$939,809	\$939,809	0.0000754271	0.075427089	0	0							
357	534 HC MUD 364	\$2,699,032	\$2,699,032	0.0002166186	0.216618648	0	0							
358	535 HC MUD 365	\$2,640,437	\$2,640,437	0.0002119159	0.211915956	0	0							
359	538 HC MUD 238	\$2,812,318	\$2,812,318	0.0002257107	0.225710745	0	0							
360	539 HC MUD 239	\$2,613,961	\$2,613,961	0.0002097910	0.209791028	0	0							
361	541 HC MUD 257	\$1,958,862	\$1,958,862	0.0001572142	0.157214156	0	0							
362	542 HC MUD 261	\$788,997	\$788,997	0.0000633232	0.063323245	0	0							
363	544 HC MUD 281	\$1,720,192	\$1,720,192	0.0001380590	0.138059002	0	0							
364	545 HC MUD 281	\$1,743,451	\$1,743,451	0.0001399257	0.139925711	0	0							
365	548 HC MUD 248	\$3,145,468	\$3,145,468	0.0002524487	0.252448655	0	0							
366	549 HC MUD 249	\$2,779,181	\$2,779,181	0.0002230512	0.223051239	0	0							
367	Y 550 HC EMERG SRV DIST 7	\$18,046,627	\$0	0.0000000000	0	0	0							
368	555 HC MUD 366	\$36,559	\$436,559	0.0000393073	0.033930731	0	0							
369	556 HC UD 6	\$2,023,289	\$2,023,289	0.0001623849	0.162384932	0	0							
370	557 HC MUD 165 (DA 1)	\$1,482,249	\$1,482,249	0.0001188622	0.118862196	0	0							
371	559 HC MUD 528	\$224,128	\$224,128	0.0000798800	0.07988043	0	0							
372	564 HC UD 14	\$467,111	\$467,111	0.0000374893	0.037489349	0	0							
373	565 HC UD 15	\$2,058,312	\$2,058,312	0.0001651958	0.165195805	0	0							
374	566 HC UD 16	\$3,007,810	\$3,007,810	0.0002414005	0.241400523	0	0							
375	567 CROSBY MUD (DA 1)	\$998,010	\$998,010	0.0000319434	0.031943448	0	0							
376	568 VILLAGE AT KATY DEV. DISTRICT	\$171,305	\$171,305	0.0000137486	0.01374868	0	0							
377	600 HC WCID FONDREN ROAD	\$875,495	\$875,495	0.0000702654	0.070265393	0	0							
378	601 HC WCID 1	\$1,620,684	\$1,620,684	0.0001300727	0.130072699	0	0							
379	602 HC WCID 21	\$2,022,415	\$2,022,415	0.0001623148	0.162314787	0	0							
380	603 HC WCID 36	\$1,435,731	\$1,435,731	0.0001152288	0.115228759	0	0							
381	604 HC WCID 50	\$1,531,347	\$1,531,347	0.0001468901	0.14689007	0	0							
382	605 HC WCID 70	\$862,617	\$862,617	0.0000692318	0.069231831	0	0							
383	606 HC WCID 74	\$1,732,906	\$1,732,906	0.0001390794	0.139079401	0	0							
384	609 HC WCID 84	\$3,318,428	\$3,318,428	0.0002663301	0.266330072	0	0							
385	610 HC WCID 89	\$6,325,530	\$6,325,530	0.0005076738	0.507673772	1	5							
386	611 HC WCID 91	\$497,173	\$497,173	0.0000399021	0.039902062	0	0							
387	612 HC WCID 92	\$757,385	\$757,385	0.0000807861	0.080786132	0	0							
388	613 HC WCID 96	\$8,336,417	\$8,336,417	0.0006890633	0.689063346	1	5							
389	614 HC WCID 155	\$2,108,707	\$2,108,707	0.0001692402	0.169240402	0	0							
390	615 HC WCID 089	\$276,203	\$276,203	0.0000221675	0.022167474	0	0							
391	616 HC WCID 156	\$486,579	\$486,579	0.0000399018	0.03990181	0	0							
392	617 HC WCID 157	\$7,604,355	\$7,604,355	0.0006103066	0.610309586	1	5							
393	618 HC ID 25	\$636,642	\$636,642	0.0000510956	0.051095552	0	0							
394	622 HC WCID 109	\$1,987,296	\$1,987,296	0.0001694962	0.169496209	0	0							
395	623 HC WCID 110	\$3,872,803	\$3,872,803	0.0003108230	0.310823047	0	0							
396	624 HC WCID 113	\$740,198	\$740,198	0.0000594067	0.059406739	0	0							
397	625 HC WCID 114	\$1,354,574	\$1,354,574	0.0001087153	0.108715269	0	0							
398	626 HC WCID 116	\$1,063,702	\$1,063,702	0.0000985705	0.098570492	0	0							



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399	627	HC WCID 119	\$3,561,236	\$3,561,236	0.0002874227	0.287422652	0	0							
400	628	HC WCID 132	\$690,132	\$690,132	0.0000545860	0.054585968	0	0							
401	629	HC WCID 133	\$2,263,023	\$2,263,023	0.0001816255	0.18162548	0	0							
402	630	HC WCID 136	\$1,406,653	\$1,406,653	0.0001128930	0.11289302	0	0							
403	631	HC EMERG SRV DIST 46	\$5,913,231	\$0	0.0000000000	0	0								
404	632	HC WCID 145	\$915,289	\$915,289	0.0000734592	0.073459176	0	0							
405	633	HC EMERG SRV DIST 9	\$28,758,264	\$0	0.0000000000	0	0								
406	634	HC EMERG SRV DIST 13	\$10,263,801	\$0	0.0000000000	0	0								
407	635	HC EMERG SRV DIST 16	\$6,712,749	\$0	0.0000000000	0	0								
408	636	HC EMERG SRV DIST 20	\$7,381,735	\$0	0.0000000000	0	0								
409	637	HC EMERG SRV DIST 28	\$4,763,352	\$0	0.0000000000	0	0								
410	638	HC EMERG SRV DIST 47	\$5,629,423	\$0	0.0000000000	0	0								
411	639	HC EMERG SRV DIST 24	\$7,414,361	\$0	0.0000000000	0	0								
412	640	HC EMERG SRV DIST 14	\$561,575	\$0	0.0000000000	0	0								
413	641	HC EMERG SRV DIST 10	\$6,926,645	\$0	0.0000000000	0	0								
414	642	HC EMERG SRV DIST 25	\$2,883,122	\$0	0.0000000000	0	0								
415	643	HC EMERG SRV DIST 48	\$18,807,821	\$0	0.0000000000	0	0								
416	645	HC EMERG SRV DIST 29	\$4,214,672	\$0	0.0000000000	0	0								
417	647	HC EMERG SRV DIST 17	\$6,716,827	\$0	0.0000000000	0	0								
418	648	HC EMERG SRV DIST 21	\$4,661,909	\$0	0.0000000000	0	0								
419	649	HC EMERG SRV DIST 19	\$233,973	\$0	0.0000000000	0	0								
420	650	HARRIS-FT BEND MUD 1	\$395,205	\$395,205	0.0000317183	0.031718325	0	0							
421	651	HEATHERLOCH MUD	\$1,778,189	\$1,778,189	0.0001427134	0.142713399	0	0							
422	652	HORSEPEN BAYOU MUD	\$2,418,693	\$2,418,693	0.0001941192	0.194119228	0	0							
423	654	HUNTERS GLEN MUD	\$4,704,688	\$4,704,688	0.000375884	0.37588383	0	0							
424	656	INTERSTATE MUD	\$2,704,936	\$2,704,936	0.0002170925	0.217092491	0	0							
425	657	INVERNESS FOREST ID	\$1,361,646	\$1,361,646	0.0001092829	0.10928282	0	0							
426	658	LACKRABBIT ROAD PUD	\$1,304,099	\$1,304,099	0.0001046643	0.104664251	0	0							
427	660	HARRIS-FT BEND CO MUD 3	\$4,666,835	\$4,666,835	0.0003745504	0.37455039	0	0							
428	662	FORT BEND CO MUD 30	\$3,537	\$3,537	0.0000002839	0.000283872	0	0							
429	664	HC EMERG SRV DIST 75	\$1,366,245	\$0	0.0000000000	0	0								
430	665	HC ESD 15	\$1,214,957	\$0	0.0000000000	0	0								
431	666	HC EMERG SRV DIST 11	\$22,934,302	\$0	0.0000000000	0	0								
432	667	HC EMERG SRV DIST 50	\$4,629,257	\$0	0.0000000000	0	0								
433	668	HC EMERG SRV DIST 12	\$2,174,254	\$0	0.0000000000	0	0								
434	669	HC EMERG SRV DIST 80	\$1,590,290	\$0	0.0000000000	0	0								
435	670	HC EMERG SRV DIST 60	\$5,094,922	\$0	0.0000000000	0	0								
436	671	HC EMERG SRV DIST 1	\$23,164,602	\$0	0.0000000000	0	0								
437	672	HC EMERG SRV DIST 2	\$1,953,433	\$0	0.0000000000	0	0								
438	673	HC EMERG SRV DIST 3	\$4,661,050	\$0	0.0000000000	0	0								
439	674	HC EMERG SRV DIST 4	\$1,683,180	\$0	0.0000000000	0	0								
440	675	HC EMERG SRV DIST 5	\$857,888	\$0	0.0000000000	0	0								
441	676	HC EMERG SRV DIST 6	\$1,337,172	\$0	0.0000000000	0	0								
442	677	HARRIS-FT BND ESD 100	\$3,196,107	\$0	0.0000000000	0	0								
443	678	WALLER-HARRIS ESD 200	\$4,195,803	\$0	0.0000000000	0	0								
444	679	HC EMERG SRV DIST 8	\$5,751,567	\$0	0.0000000000	0	0								
445	681	KINGSBRIDGE MUD	\$126,753	\$126,753	0.0000100927	0.10092672	0	0							
446	682	KIRKMONT MUD	\$758,982	\$758,982	0.0000069143	0.06914304	0	0							
447	683	KLEIN PUD	\$1,391,554	\$1,391,554	0.0001116832	0.111683206	0	0							
448	684	KLEINWOOD MUD	\$1,966,215	\$1,966,215	0.0001578043	0.157804292	0	0							
449	687	HC MUD 572	\$224,166	\$224,166	0.0000179911	0.017991093	0	0							
450	691	LAKE MUD	\$1,951,387	\$1,951,387	0.0001566142	0.156614228	0	0							
451	692	LAKE FOREST UD	\$1,020,158	\$1,020,158	0.0000818757	0.081875242	0	0							
452	693	LANGHAM CREEK UD	\$4,513,346	\$4,513,346	0.000362317	0.36231685	0	0							
453	694	LONGHORN TOWN UD	\$696,204	\$696,204	0.0000558759	0.055875873	0	0							
454	695	LOUETTA NORTH PUD	\$1,205,676	\$1,205,676	0.00000967650	0.096765027	0	0							
455	696	LOUETTA ROAD UD	\$407,243	\$407,243	0.00003236945	0.032684469	0	0							

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456	697 LUCE BAYOU PUD	\$708.592	\$708.592	0.0000568693	0.056869305	0	0							
457	699 HC MUD 540	\$1,700.880	\$1,700.880	0.0001365931	0.136593062	0	0							
458	701 MALCOMSON ROAD UD	\$3,377.240	\$3,377.240	0.0002710502	0.2710502	0	0							
459	702 MASON CREEK UD	\$2,680.905	\$2,680.905	0.0002151638	0.215163813	0	0							
460	703 BRAZORIA CO MUD 28	\$821.643	\$821.643	0.0000659433	0.0594334	0	0							
461	704 MAYDE CREEK AUD	\$2,915.447	\$2,915.447	0.0002339877	0.233987662	0	0							
462	705 MEMORIAL HILLS UD	\$1,042.896	\$1,042.896	0.0000837006	0.083700646	0	0							
463	706 MEMORIAL VILLAGES WA	\$2,192.236	\$2,192.236	0.0001727339	0.172733948	0	0							
464	707 MEMORIAL VILLAGES WA	\$1,636.953	\$1,636.953	0.0001313784	0.131378415	0	0							
465	708 MILLS ROAD MUD	\$2,573.978	\$2,573.978	0.0002056821	0.205682076	0	0							
466	710 MISSION BEND MUD 1	\$574.246	\$574.246	0.0000460878	0.04608778	0	0							
467	711 MISSION BEND MUD 2	\$3,578.588	\$3,578.588	0.0002872100	0.287209688	0	0							
468	712 MORTON ROAD MUD	\$1,232.538	\$1,232.538	0.0000989209	0.098920915	0	0							
469	714 MT HOUSTON ROAD MUD	\$5,222.628	\$5,222.628	0.0004191572	0.419157171	0	0							
470	716 HC MUD 490	\$2,873.625	\$2,873.625	0.0002306311	0.230631116	0	0							
471	717 HC WCD 188	\$1,735.946	\$1,735.946	0.0001393234	0.139323385	0	0							
472	718 NEWPORT MUD	\$6,327.613	\$6,327.613	0.0005078409	0.50784095	1	5							
473	720 E ALDINE MGMT DIST (DA 1)	\$27.916	\$27.916	0.0000022405	0.00224048	0	0							
474	721 NORTHAMPTON MUD	\$2,455.920	\$2,455.920	0.0004378807	0.437880697	0	0							
475	722 NORTH BELT UD	\$2,283.142	\$2,283.142	0.0001832402	0.183240189	0	0							
476	724 NE HC MUD 1	\$3,976.481	\$3,976.481	0.0003191440	0.319144026	0	0							
477	725 NORTH FOREST MUD	\$328.530	\$328.530	0.0000263671	0.026367129	0	0							
478	727 NORTH MISSION GLEN MUD	\$21.239	\$21.239	0.0000017046	0.001704588	0	0							
479	728 NORTH PARK PUD	\$872.172	\$872.172	0.0000699987	0.069986686	0	0							
480	730 NORTHWEST FRWY MUD	\$1,338.192	\$1,338.192	0.0001074005	0.107400484	0	0							
481	731 N GATE CROSSING MUD 1	\$2,359.483	\$2,359.483	0.0001893672	0.189367157	0	0							
482	732 N GATE CROSSING MUD 2	\$3,023.739	\$3,023.739	0.0002426790	0.242679851	0	0							
483	734 N GATE CROSSING RD UD	\$549.770	\$549.770	0.0000441234	0.044123387	0	0							
484	735 HARRIS WALLER CNTS MUD 4	\$0	\$0	0.0000000000	0	0	0							
485	738 HARRIS WALLER CNTS MUD 5	\$504.004	\$504.004	0.0000404503	0.040450304	0	0							
486	739 HC MUD 534	\$3,230.751	\$3,230.751	0.0002592933	0.2592933	0	0							
487	740 HC MUD 559	\$576.767	\$576.767	0.0000462901	0.04629011	0	0							
488	745 NW HC MUD 5	\$22,150.650	\$22,150.650	0.0017777647	1.777764716	2	10							
489	746 NW HC MUD 6	\$1,545.504	\$1,545.504	0.0001240389	0.12403891	0	0							
490	749 NW HC MUD 9	\$1,859.238	\$1,859.238	0.0001492185	0.149218543	0	0							
491	750 NW HC MUD 10	\$5,388.298	\$5,388.298	0.0004324535	0.432453488	0	0							
492	752 NW HC MUD 12	\$5,185.706	\$5,185.706	0.0004161939	0.416193888	0	0							
493	755 NW HC MUD 15	\$2,981.634	\$2,981.634	0.0002392997	0.239299692	0	0							
494	756 NW HC MUD 16	\$2,853.639	\$2,853.639	0.0002290271	0.229027082	0	0							
495	759 NW HC MUD 19	\$5,058.161	\$5,058.161	0.0004058574	0.405857394	0	0							
496	760 NW HC MUD 20	\$624.522	\$624.522	0.0000501228	0.050122826	0	0							
497	761 NW HC MUD 21	\$785.371	\$785.371	0.0000630322	0.063032229	0	0							
498	762 NW HC MUD 22	\$1,645.694	\$1,645.694	0.0001320799	0.132079949	0	0							
499	763 NW HC MUD 23	\$1,846.674	\$1,846.674	0.0001482102	0.148210183	0	0							
500	764 NW HC MUD 24	\$2,544.695	\$2,544.695	0.0002042319	0.204231884	0	0							
501	768 NW HC MUD 28	\$933.851	\$933.851	0.0000758270	0.075828954	0	0							
502	769 NW HC MUD 29	\$603.570	\$603.570	0.0000484413	0.048441262	0	0							
503	770 NW HC MUD 30	\$2,708.901	\$2,708.901	0.0002174107	0.217410713	0	0							
504	771 NW HC MUD 32	\$3,367.299	\$3,367.299	0.0002702524	0.270252356	0	0							
505	776 NW HC MUD 36	\$1,603.798	\$1,603.798	0.0001287175	0.128717464	0	0							
506	777 NORTHWEST PARK MUD	\$4,648.667	\$4,648.667	0.0003730923	0.373092265	0	0							
507	778 NOTTINGHAM CNTRY MUD	\$3,360.878	\$3,360.878	0.0002687370	0.26873702	0	0							
508	779 NORTHWOOD MUD 1	\$787.657	\$787.657	0.0000632157	0.063215689	0	0							
509	781 OAKMONT PUD	\$3,685.940	\$3,685.940	0.0002396286	0.239628915	0	0							
510	783 PARKWAY UD	\$3,800.620	\$3,800.620	0.0000305029	0.305029791	0	0							
511	784 PINE BOUGH PUD	\$17,103	\$17,103	0.0000013727	0.001372651	0	0							
512	785 PINE FOREST MUD	\$940,482	\$940,482	0.0000758411	0.075841113	0	0							

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513	786 RANKIN ROAD WEST MUD	\$1,421,544	\$1,421,544	0.0001140901	0.11409014	0	0							0
514	787 PINE VILLAGE PUD	\$732,499	\$732,499	0.0000878888	0.08788834	0	0							0
515	788 PONDEROSA FOREST UD	\$513,081	\$513,081	0.0000417880	0.04178805	0	0							0
516	789 POST WOOD MUD	\$999,956	\$999,956	0.0000802463	0.080246346	0	0							0
517	790 PRESTONWOOD FOREST UD	\$1,026,714	\$1,026,714	0.000024019	0.02401912	0	0							0
518	791 REID ROAD MUD 1	\$1,771,971	\$1,771,971	0.0001422147	0.142214676	0	0							0
519	802 REID ROAD MUD 2	\$2,346,891	\$2,346,891	0.0001883651	0.18836555	0	0							0
520	903 RENN ROAD MUD	\$1,482,477	\$1,482,477	0.0001189805	0.118980496	0	0							0
521	904 RICEWOOD MUD	\$1,802,874	\$1,802,874	0.0001446949	0.144694866	0	0							0
522	806 ROLLING CREEK UD	\$2,891,490	\$2,891,490	0.0002320649	0.232064924	0	0							0
523	807 ROLLING FORK PUD	\$982,161	\$982,161	0.0000788262	0.078826182	0	0							0
524	809 ROYALWOOD MUD	\$331,065	\$331,065	0.0000265706	0.026570583	0	0							0
525	810 RICHEY ROAD MUD	\$881,957	\$881,957	0.0000707840	0.070784019	0	0							0
526	811 REMINGTON MUD 1	\$6,243,523	\$6,243,523	0.0005010921	0.501092033	1	5							0
527	822 SAGEMEADOW UD	\$2,946,402	\$2,946,402	0.0002045294	0.2045294	0	0							0
528	823 SEQUOIA ID	\$452,283	\$452,283	0.0000362993	0.036292989	0	0							0
529	824 SHASIA PUD	\$1,231,242	\$1,231,242	0.0000988169	0.098816901	0	0							0
530	825 SOUTHWEST HC MUD 1	\$514,086	\$514,086	0.0000412595	0.041259464	0	0							0
531	826 SPANISH CRYE PUD	\$186,504	\$186,504	0.00001763183	0.176318346	0	0							0
532	827 SPENCER ROAD PUD	\$2,196,897	\$2,196,897	0.0001763183	0.176318346	0	0							0
533	829 SPRING CRK FOREST PUD	\$1,164,272	\$1,164,272	0.0000934420	0.093442029	0	0							0
534	831 SPRING MEADOWS MUD	\$2,695,808	\$2,695,808	0.0002163599	0.216359897	0	0							0
535	832 SPRING WEST MUD	\$3,276,709	\$3,276,709	0.0002629818	0.262981793	0	0							0
536	833 SHELDON RC 2 MUD	\$2,000,566	\$2,000,566	0.0001605612	0.160561232	0	0							0
537	841 TAYLOR ROAD MUD	\$1,615,614	\$1,615,614	0.0001296658	0.129666791	0	0							0
538	842 TERRANOVA WEST MUD	\$1,617,076	\$1,617,076	0.0001345986	0.134598603	0	0							0
539	844 HC MUD 368	\$6,983,069	\$6,983,069	0.0005044656	0.504446474	1	5							0
540	846 TIMBERLAKE ID	\$871,605	\$871,605	0.0000689532	0.068953199	0	0							0
541	847 TIMBER LAKE UD	\$13,330,448	\$13,330,448	0.0010698738	1.069873801	1	5							0
542	848 TRAIL OF THE LAKES MUD	\$4,783,672	\$4,783,672	0.000338275	0.33827483	0	0							0
543	850 HC ID 3	\$5,378,688	\$5,378,688	0.0004318822	0.431882219	0	0							0
544	851 WESTADOR MUD	\$570,697	\$570,697	0.0000458029	0.045802944	0	0							0
545	851 WEST HC MUD 1	\$967,160	\$967,160	0.0000716222	0.071622235	0	0							0
546	852 WEST HC MUD 2	\$2,458,428	\$2,458,428	0.0001973083	0.197308276	0	0							0
547	854 WEST HC MUD 4	\$1,002,871	\$1,002,871	0.0000804883	0.080488323	0	0							0
548	855 WEST HC MUD 5	\$2,726,791	\$2,726,791	0.0002188465	0.218846527	0	0							0
549	856 WEST HC MUD 6	\$484,767	\$484,767	0.0000389064	0.038906383	0	0							0
550	857 WEST HC MUD 7	\$2,023,413	\$2,023,413	0.0001623949	0.162394884	0	0							0
551	859 WEST HC MUD 9	\$1,716,809	\$1,716,809	0.0001978785	0.197878749	0	0							0
552	870 WEST HC MUD 10	\$2,646,749	\$2,646,749	0.0002124228	0.212422824	0	0							0
553	871 WEST HC MUD 11	\$4,250,730	\$4,250,730	0.0003411547	0.341154675	0	0							0
554	874 WEST HC MUD 14	\$1,210,339	\$1,210,339	0.0000971393	0.09713927	0	0							0
555	875 WEST HC MUD 15	\$1,501,742	\$1,501,742	0.0001202627	0.120266644	0	0							0
556	876 WEST HC MUD 016	\$766,275	\$766,275	0.0000614996	0.061499625	0	0							0
557	877 WEST HC MUD 17	\$1,824,758	\$1,824,758	0.0001464513	0.14645125	0	0							0
558	879 WEST HC MUD 21	\$4,584,774	\$4,584,774	0.0003679643	0.367964346	0	0							0
559	893 W KEEGANS BAYOU ID	\$224,890	\$224,890	0.0000180492	0.0180492	0	0							0
560	894 WEST LAKE MUD 1	\$1,365,463	\$1,365,463	0.0001095892	0.10959197	0	0							0
561	895 WEST MEMPHIS MUD	\$1,332,061	\$1,332,061	0.0001069084	0.106908422	0	0							0
562	896 WESTON MUD	\$3,200,646	\$3,200,646	0.0002868771	0.286877136	0	0							0
563	897 WEST PARK MUD	\$2,973,143	\$2,973,143	0.0002386182	0.238618222	0	0							0
564	899 WHITE OAK BEND MUD	\$2,164,437	\$2,164,437	0.00001737132	0.173713175	0	0							0
565	901 WINDERMERE FOREST UD	\$840,875	\$840,875	0.0000674869	0.067486864	0	0							0
566	902 WOODCREEK MUD	\$1,334,764	\$1,334,764	0.0001071264	0.1071235359	0	0							0
567	907 NORTHPOINTE WCD	\$4,235,550	\$4,235,550	0.0003393964	0.339396361	0	0							0
568	910 KATY MGMT DISTRICT 1	\$1,206,105	\$1,206,105	0.0000967998	0.096799458	0	0							0
569	911 CINCO MUD 3	\$94,856	\$94,856	0.0000076129	0.007612944	0	0							0

	JUR NO.	TAXING UNIT	2023 ADJ LEVY FOR CALC.	2023 ADJ LEVY EXCLUDING COL. B	2024 ALLOCATION RATIO EXCLUDING COL. B	X 1,000	Round to nearest whole #	X \$	County	HSD	Other School Districts	COH	Other Cities	Conservation and Reclamation Districts	Comm Coll
570															
571	913	CINCO MUD 6	\$428,488	\$428,488	0.00000348895	0.034389548	0	0						0	
572	914	HC-FE BEND MUD 9	\$494,553	\$494,553	0.0000396918	0.039691787	0	0						0	
573	916	FT BEND WCID 5	\$47,813	\$47,813	0.0000038324	0.00383271	0	0						0	
574	917	WILLOW FORK DRNG DIST	\$394,732	\$394,732	0.0000316804	0.031680363	0	0						0	
575	921	FALL CREEK MGMT DIST	\$643,394	\$643,394	0.0000516375	0.051637453	0	0						0	
576	A02	HC MUD 578	\$768,245	\$768,245	0.0000616577	0.061657733	0	0						0	
577	A03	HC MUD 547	\$113,269	\$113,269	0.0000099907	0.009990732	0	0						0	
578	A04	WESTWOOD MGMT DISTRICT	\$672,753	\$672,753	0.0000539937	0.053993745	0	0						0	
579	A06	HC MUD 576	\$64	\$64	0.0000000051	5.13851E-06	0	0						0	
580	A07	HC WCID 164	\$68,423	\$68,423	0.0000054915	0.005491488	0	0						0	
581	A09	HC WCID 539	\$84	\$84	0.0000000067	6.74166E-06	0	0						0	
582	A10	HC MUD 532	\$1,668	\$1,668	0.000001339	0.00013387	0	0						0	
583	A11	HARRIS WALTER COUNTIES MUD 12	\$75,143	\$75,143	0.0000060308	0.00603082	0	0						0	
584	A14	ENGLAVE AT THE WOODLANDS DA	\$151,115	\$151,115	0.0000121282	0.012128173	0	0						0	
585	A15	HC MUD 589	\$65,119	\$65,119	0.0000052263	0.005226314	0	0						0	
			\$361,729	\$361,729	0.0000771864	0.077186353	0	0						0	

# City Council Meeting Agenda Item Data Sheet

Meeting Date: December 2, 2024

**Topic:**

Approve Minutes of the November 18, 2024, Special and Regular City Council meetings.

**Background:**

**Origination:** City Secretary Office

**Recommendation:**

Approve Minutes

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

**FUNDING (IF APPLICABLE)**

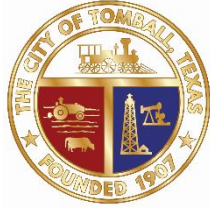
Are funds specifically designated in the current budget for the full amount required for this purpose?

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

**MINUTES OF SPECIAL CITY COUNCIL MEETING  
CITY OF TOMBALL, TEXAS**



**Monday, November 18, 2024  
5:00 PM**

- A. Mayor L. Klein-Quinn called the meeting of the City of Tomball Council to order at 5:00 P.M.

**PRESENT**

Council 1 John Ford  
Council 2 Paul Garcia  
Council 3 Dane Dunagin  
Council 4 Lisa A. Covington  
Council 5 Randy Parr

**OTHERS PRESENT**

City Manager - David Esquivel  
Assistant City Manager - Jessica Rogers  
City Secretary - Tracylynn Garcia  
City Attorney - Loren Smith  
Director of Community Development - Craig Meyers  
Human Resources Director - Kristie Lewis  
Fire Chief - Joe Sykora  
Finance Director - Bragg Farmer  
Public Works Director - Drew Huffman  
IT Director - Tom Wilson  
Director of Marketing & Tourism - Chrislord Templonuevo  
Director of Special Projects - Luisa Taylor  
Assistant City Secretary – Sasha Luna  
Project Manager - Meagan Mageo  
Police Chief - Jeff Bert  
Police Captain - Brandon Patin

- B. 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.]*



Christina Breaux – in favor of item C2  
1155 E. Hufsmith  
Tomball

C. General Discussion

1. Discussion regarding the Tree Preservation Ordinance.
2. Discussion regarding hours of operation at gas stations or convenience stores (with or without gasoline sales)
3. Discuss amendments to Council reimbursement policy.

D. Proposed Agenda Items

1. Approve a two-year Service Agreement with InfoSend, Inc. for Utility Billing Printing and Mailing Services (RFP 2024-12) for a total contract amount of \$110,000 (\$55,000 per year), approve the expenditure of funds therefor, and authorize the City Manager to execute any and all documents related to the purchases. These expenditures are included in the fiscal year 2024-2025 adopted budget.
2. Approve a two-year Service Agreement with RGS for consumer debt collection services for utility accounts (RFP 2024-09R), approve the expenditure of funds therefor, and authorize the City Manager to execute any and all documents related to the purchases. These expenditures are included in the fiscal year 2024-2025 adopted budget.
3. Authorize the City Manager to Execute an Interlocal Agreement between the City of Tomball and Harris County, by and through Harris County Public Health (HCPH), for a partnership in a wastewater-based epidemiology (WBE) program.

E. Discussion Future Workshop Topics

F. Meeting adjourned at 5:51 P.M.

PASSED AND APPROVED this 2<sup>nd</sup> day of December 2024.

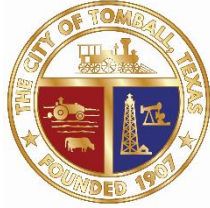
*Tracylynn Garcia*

Tracylynn Garcia  
City Secretary, TRMC, MMC, CPM

*Lori Klein Quinn*

Lori Klein Quinn  
Mayor

**MINUTES OF REGULAR CITY COUNCIL  
CITY OF TOMBALL, TEXAS**



**Monday, November 18, 2024  
6:00 PM**

- A. Mayor L. Klein-Quinn called the meeting of the City of Tomball Council to order at 6 P.M.

**PRESENT**

Council 1 John Ford  
Council 2 Paul Garcia  
Council 3 Dane Dunagin  
Council 4 Lisa A. Covington  
Council 5 Randy Parr

**OTHERS PRESENT**

City Manager - David Esquivel  
Assistant City Manager - Jessica Rogers  
City Secretary - Tracylynn Garcia  
City Attorney - Loren Smith  
Director of Community Development - Craig Meyers  
Human Resources Director - Kristie Lewis  
Fire Chief - Joe Sykora  
Finance Director - Bragg Farmer  
Public Works Director - Drew Huffman  
IT Director - Tom Wilson  
Director of Marketing & Tourism - Chrislord Templonuevo  
Director of Special Projects - Luisa Taylor  
Assistant City Secretary – Sasha Luna  
Project Manager - Meagan Mageo  
Police Chief - Jeff Bert  
Assistant Fire Chief - Jeff Cook  
Police Captain - Brandon Patin  
Police Lieutenant – Albert Chambers

- B. Invocation - Led by Pastor Rob Garcia with Real Life Ministries  
C. Pledges to U.S. and Texas Flags TPD Lt. A. Chambers

- 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.]*

Christina Breaux - in support of item I7  
1155 E. Huffsmith  
Tomball, Texas

- E. Presentations

1. Presentation by the Tomball Lions Club to the Tomball Fire Department and Explorer Post # 5451 in the amount of \$2000 for the 2024 Holiday Heroes Event.

- F. Reports and Announcements

1. Announcements

**I. Upcoming Events:**

- November 23, 2024 – 59<sup>th</sup> Annual Tomball Holiday Parade 10 a.m. to noon on Main St.
- December 7, 2024 – Holiday Heroes 8:00 a.m. – noon @ St. Anne’s Catholic Church & Tomball Walmart
- December 7, 2024 –Tomball Farmers Market Polar Express Market 9 a.m. to 1 p.m. at Farmers Market Lot
- December 7, 2024 – Louie’s Together Playground Grand Opening 2 p.m. – 3 p.m. @ Juergens Park
- December 7, 2024 – Deck the Depot Tree Lighting 4 p.m. to 8 p.m. @ Depot

- G. Old Business Consent Agenda: *[All matters listed under Consent Agenda are considered to be routine and will be enacted by one motion. There will be no separate discussion of these items. If discussion is desired, the item in question will be removed from the Consent Agenda and will be considered separately. Information concerning Consent Agenda items is available for public review.]*

1. Adopt, on Second Reading, Ordinance No. 2024-36, an Ordinance granting the request for annexation of a certain tract of land being 11.40 acres (496,734 square feet) tract of land situated in the John Edwards Survey, Abstract No. 20 and Chauncey Goodrich Survey, Abstract No. 311, in Harris County, Texas, being a portion of a called 18.739 acres recorded under County Clerk's File No. (C.C.F.No.) RP-2017-242129, Official Public Records, Harris County, Texas (O.P.R.H.C.T.); providing for a service plan; providing for severability.
2. Adopt, on Second Reading, Ordinance No. 2024-37, an Ordinance granting the request for annexation of a certain tract of land being 4.339 acres (189,008 square feet) tract of land situated in the John Edwards Survey, Abstract No. 20 and Chauncey Goodrich Survey, Abstract No. 311, in Harris County, Texas, being a portion of a called 18.739 acres recorded under County Clerk's File No. (C.C.F.No.) RP-2017-242129, Official Public Records, Harris County, Texas (O.P.R.H.C.T.); providing for a service plan; providing for severability.

Motion made by Council 1 Ford, Seconded by Council 4 Covington.

Voting Yea: Council 1 Ford, Council 2 Garcia, Council 3 Dunagin, Council 4 Covington, Council 5 Parr.

Motion carried unanimously.

- H. New Business Consent Agenda: *[All matters listed under Consent Agenda are considered to be routine and will be enacted by one motion. There will be no separate discussion of these items. If discussion is desired, the item in question will be removed from the Consent Agenda and will be considered separately. Information concerning Consent Agenda items is available for public review.]*

1. Approve Minutes of the November 4, 2024, Special and Regular City Council meetings.
2. 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 4, 2024 from 4:00-8:00 p.m.
3. Approve the expenditure of greater than \$50,000 with CentralSquare Technologies, LLC for computer aided dispatch software support and Crywolf Outsource False Alarm Reduction Program (FARP) monthly service charges, for a not-to-exceed amount of \$66,874.58 and authorize the City Manager to execute any and all documents related to the expenditure. These expenditures are included in the FY 2024-2025 Budget.

4. Approve an expenditure of greater than \$50,000 with Tyler Technologies, Inc. for software and implementation fees of a computer aided dispatch (CAD) system for a not-to-exceed amount of \$363,952, authorize the expenditure of funds therefore, and authorize the City Manager to execute the agreement. This expenditure is included in the FY 2024-2025 budget.
5. Approve an expenditure of greater than \$50,000 with Harris County Radio Services for radio airtime, programming, and part services, for a not-to-exceed amount of \$116,000.00, approve the expenditure of funds therefore, and authorize the City Manager to execute any and all documents related to the purchases. The purchase is included in the FY 2024-2025 Budget.
8. Consideration to approve Resolution 2024-41, a Resolution of the City Council of the City of Tomball, Texas, authorizing the City Manager to act for the City in connection with the City's expenditure of grants from the American Rescue Plan and the Coronavirus Local Fiscal Recovery Fund and making other provisions related to the subject.
9. Approve a contract with B & C Constructors, LP for general contractor services through a 1GPA Contract (Contract No. 24-06DP-01) for a not-to-exceed amount of \$445,000, approve the expenditure of funds therefor, and authorize the City Manager to execute any and all documents related to the purchases. These expenditures are included in the fiscal year 2024-2025 adopted budget.
10. Approve a contract with B & C Constructors, LP to complete the construction a building for the pool area at Jerry Matheson Park, through a BuyBoard Contract (Contract No. 728-24) for a not-to-exceed amount of \$150,320, 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 Fiscal Year 2024-2025 Budget and Capital Improvement Plan.
11. Approve a purchase of a SmartGov subscription (permitting software) with Granicus for an annual subscription in the amount of \$20,698.76 of the total contract amount of \$109,892.61 through an Omnia Partners Contract (Contract No. 01-115), approve the expenditure of funds therefor, and authorize the City Manager to execute any and all documents related to the purchase. The purchase is included in the adopted fiscal year 2024-2025 budget.
12. Approve a Professional Services Agreement with Oller Engineering, Inc for the design of water line replacement along Clayton Street, Project Number 2025-10003, for a not-to-exceed amount of \$140,000, authorize the expenditure of funds therefor, and authorize the City Manager to execute the agreement. The expenditure was included in the Fiscal Year 2024-2025 Budget as part of the 2025-2029 Capital Improvement Plan

13. Approve a contract with MACYAS Construction and Utilities, LLC for the construction of a sanitary sewer line extension along Rudolph Road (Project No. 2025-10009), for a not-to-exceed amount of \$129,764 (Bid No. 2025-01), authorize the expenditure of funds therefor, and authorize the City Manager to execute any and all documents. The expenditure was included in the Fiscal Year 2024-2025 Budget as part of the 2025-2029 Capital Improvement Plan.
14. Approve a purchase with Water & Play Expressions, Inc. for the purchase and installation of a shade structure for the splashpad at Jerry Matheson Park, through a BuyBoard Contract (Contract No. 679-22) for a not-to-exceed amount of \$159,598.24, 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 Fiscal Year 2024-2025 Budget and Capital Improvement Plan and is being reimbursed by a grant from CenterPoint Energy Foundation.

Motion made by Council 1 Ford, Seconded by Council 4 Covington to approve items 1-6 and 8-13 on New Business Consent.

Voting Yea: Council 1 Ford, Council 2 Garcia, Council 3 Dunagin, Council 4 Covington, Council 5 Parr

Motion carried unanimously.

7. Approve the purchase of supplies and materials from Amazon Capital Services, Inc. through the OMNIA Partners Cooperative (Contract # R-TC-17006) for a not-to-exceed amount of \$150,000, approve the expenditure of funds therefore, and authorize the City Manager to execute all documents related to the purchase. The purchases are included in the FY 2024-2025 budget.

Motion made by Council 1 Ford, Seconded by Council 5 Parr.

Voting Yea: Council 1 Ford, Council 2 Garcia, Council 3 Dunagin, Council 4 Covington, Council 5 Parr

Motion carried unanimously.

15. Approve a Professional Services Agreement with Westwood Professional Services, Inc. to provide professional landscape architecture services for the Tomball Gateway Monumentation, Project Number 2025-10002, for a not-to-exceed amount of \$51,700, authorize the expenditure of funds therefor, and authorize the City Manager to execute the agreement. The expenditure was included in the Fiscal Year 2024-2025 Budget.



Motion made by Council 5 Parr, Seconded by Council 1 Ford.

Voting Yea: Council 1 Ford, Council 2 Garcia, Council 3 Dunagin, Council 4 Covington, Council 5 Parr

Motion carried unanimously.

16. Approve a Service Agreement with Every-Bellies Catering, LLC for alcohol beverage services for City of Tomball festivals (RFP 2024-14) and authorize the City Manager to execute any and all documents related to the purchases.

Motion made by Council 1 Ford, Seconded by Council 4 Covington.

Voting Yea: Council 1 Ford, Council 2 Garcia, Council 3 Dunagin, Council 4 Covington, Council 5 Parr

Motion carried unanimously.

I. New Business

1. Approve Resolution No. 2024-43, a Resolution of the City Council of the City of Tomball, Texas, casting its vote to appoint directors to the Harris Central Appraisal District's board of directors.

No action taken.

2. Approve Resolution No. 2024-42, A Resolution of the City Council of the City of Tomball, Texas, Declaring The Intention to Institute Proceedings to Annex Certain Territory; describing such territory; setting December 16, 2024 at 6 o'clock pm as the date and time for Public Hearing at which all interested parties shall have an opportunity to be heard; providing for publication of such notice of said Public Hearing; directing preparation of a municipal service plan for the territory proposed to be annexed (being approximately 5.2 acres tract of land consisting of: a strip of land approximately forty-feet-wide containing 1.187 acres of land in the Chauncey Goodrich Survey, Abstract No. 311, in Harris County, Texas, and being an abandoned portion of Old Tomball-Waller Road and that certain 4.1037 acre tract of land situated in the Chauncey Goodrich Survey, Abstract 31, Harris County, Texas, and being that 4.1037 acre tract of land conveyed to Ernest George and wife, Ida George from Lee Etta Weindorff by deed dated November 24, 1964, filed for record under Harris County Clerk's Film Code No. 148-36-2242); and providing for severability.

Motion made by Council 1 Ford, Seconded by Council 4 Covington.

Voting Yea: Council 1 Ford, Council 2 Garcia, Council 3 Dunagin, Council 4 Covington, Council 5 Parr

Motion carried unanimously.

3. Approve a contract with IECONI for the construction of the Baker Drive Water Plant (Project No. 2024-10019), for a not-to-exceed amount of \$8,848,597.05 (Bid No. 2024-01R), authorize the expenditure of funds therefor, and authorize the City Manager to execute any and all documents. The expenditure was included in the Fiscal Year 2024-2025 Budget as part of the 2025-2029 Capital Improvement Plan.

Motion made by Council 1 Ford, Seconded by Council 5 Parr.

Voting Yea: Council 1 Ford, Council 2 Garcia, Council 3 Dunagin, Council 4 Covington, Council 5 Parr

Motion carried unanimously.

4. Presentation and discussion regarding a request from FLS Development, LLC (Harrisburg Homes) for the creation of a Public Improvement District for Graylou Grove in the City of Tomball.

Mr. S. Speer & Mrs. S. Speer with FLS spoke before the council regarding their request.

5. Conduct a public hearing and consideration to approve **Zoning Case Z24-18**: Request by John and Tracy Randall, to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 36.408 acres of land legally described as being three tracts of land situated in the Jesse Pruett Survey, Abstract No. 629 from Single-Family Estate Residential (SF-20-E) to the Light Industrial (LI) zoning district. The property is located at 21725 Hufsmith-Kohrville Road, within the City of Tomball, Harris County, Texas.

- Mayor opened the Public Hearing at: 7:23 p.m.

Tracy Randall spoke regarding her request.

- Hearing no further comments, Mayor closed the Public Hearing at: 7:24 p.m.

Adopt, on First Reading, Ordinance No. 2024-34, an Ordinance of the City of Tomball, Texas, amending Chapter 50 of the Tomball Code of Ordinances by rezoning approximately 36.408 acres of land legally described as being three tracts of land situated in the Jesse Pruett Survey, Abstract No. 629 from Single-Family Estate Residential (SF-20-E) to the Light Industrial (LI) zoning district. The property is located at 21725 Hufsmith-Kohrville Road, within the City of Tomball, Harris County, Texas; providing for severability; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters.

Motion made by Council 3 Dunagin, Seconded by Council 4 Covington.

Voting Yea: Council 1 Ford, Council 2 Garcia, Council 3 Dunagin, Council 4 Covington, Council 5 Parr

Motion carried unanimously.

6. Adopt, on First Reading, Ordinance No. 2024-38, an Ordinance of the City of Tomball, Texas amending its Code of Ordinances by amending Chapter 18, Environment, by adding a new Article XI, Tree preservation; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof; providing for severability, making findings of fact; and providing for other related matters

No action taken.

7. Adopt, on First Reading, Ordinance No. 2024-39, an Ordinance of the City of Tomball, Texas amending its Code of Ordinances by amending Chapter 18, Environment, by adding a new section 18-169, Business hours of operation; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof; providing for severability, making findings of fact; and providing for other related matters.

Motion made by Council 1 Ford, Seconded by Council 4 Covington.

Voting Yea: Council 1 Ford, Council 3 Dunagin, Council 4 Covington, Council 5 Parr

Voting Nay: Council 2 Garcia

Motion carried 4 votes yea, 1 vote nay.

8. Authorize the City Manager to execute the necessary documents for a grant application through the Federal Emergency Management Agency Assistance to Firefighters Grant, in the amount not to exceed \$500,000, for the purchase of firefighter Self Contained Breathing Apparatus (SCBA).

Motion made by Council 5 Parr, Seconded by Council 4 Covington.

Voting Yea: Council 1 Ford, Council 2 Garcia, Council 3 Dunagin, Council 4 Covington, Council 5 Parr

Motion carried unanimously.

9. 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

Executive Session Started: 7:35 PM

Executive Session Ended: 7:50 PM

J. Meeting adjourned at 7:50 p.m.

PASSED AND APPROVED this 2nd day of December 2024.

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Tracylynn Garcia  
City Secretary, TRMC, MMC, CPM

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Lori Klein Quinn  
Mayor

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# American Rescue Plan Act Funds

November 4, 2024



# Allocation Information

<b>Original Allocation</b>	<b>\$2,924,190.64</b>
<b>Authorized Expenditures (updated)</b>	
<b>Project</b>	<b>Updated Authorization</b>
Grant Administration	\$95,000.00
Water Meter Replacement	\$1,635,780.48
Depot Museum Enhancement	\$102,055.00
Louie's Together Playground	\$338,565.87
Jerry Matheson Park	\$696,572.00
<b>Total Updated Authorizations</b>	<b>\$2,867,973.35</b>
<b>Total Committed</b>	<b>\$2,867,973.35</b>
<b>Remaining Unobligated Allocation</b>	<b>\$56,217.29</b>





# Proposed Project Discussions

- City Council discussed projects/expenditures to be paid from ARPA funds:
  - Depot Christmas tree replacement - \$40,000 (already purchased)
  - Tomball Gateway Monuments - \$51,200
  - Outdoor speakers for Depot - \$62,000
- Staff recommendation:
  - ARPA funds to pay for Gateway Monument Consulting contract (\$51,200)
    - Additional funds (\$5,017.29) to be used for additional benches and picnic tables at Jerry Matheson park.



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# Business Hours of Operation Ordinance



## **Sec. 18-169. Business hours of operation.**

It shall be unlawful for a gas station or convenience store (with or without gasoline sales) to be open for business between the hours of 11:01 pm and 4:59 am. Exemptions to this provision include:

- (1) Gas stations or convenience stores (with or without gasoline sales) with frontage along FM 2920, SH 249 Business, Tomball Parkway, Hufsmith-Kohrville Road, and Holderrieth Road.
- (2) Gas stations or convenience stores (with or without gasoline sales) that are not contiguous to a residential zoning district as defined in Section 50-82.
- (3) During a disaster or emergency declaration as declared by the Mayor of the City of Tomball.



# Proposed Public Improvement District Graylou Grove

November 18, 2024



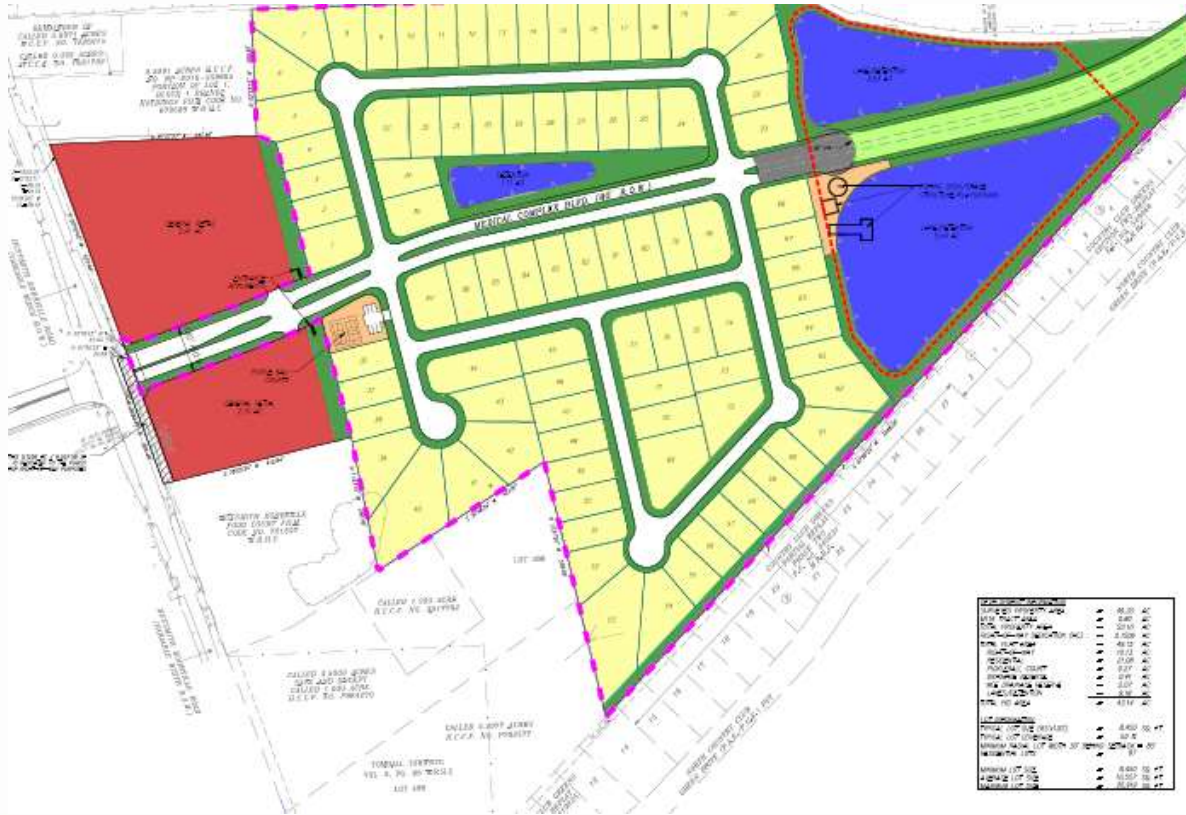
# FLS Development, LLC (Harrisburg Homes)

## Previous PID Request

- Petition for creation of Public Improvement District No. 15, Graylou Grove.
- Located on Hufsmith-Kohrville Road (at Medical Complex Blvd.)
- Total acreage to be included in PID is 43.149 acres.
- Mixed Use Development – Commercial & Residential
  - Approximately 87 single-family homes.
- Reimbursement Bond PID: \$8,000,000.
- Estimated market value of \$675,000
  - Maximum Annual Installment: \$6,413 (at \$0.95 per \$100 assessed value)



# Concept Plan for PID Petition



- Changes to revised concept plan:
  - Adding approximately six parking spots at the Pickleball Courts.
  - Temporary asphalt paving with turnaround at the detention area.
- Legend
  - Blue – Detention Areas
  - Orange – Amenity Areas
  - Yellow – Residential Lots (87)
  - Red – General Retail
  - Dark Green – Landscape Buffer
  - White – Public Roads
  - Light Green – ROW Dedication Only





# FLS Development, LLC (Harrisburg Homes) Proposed PID Request - Changes

- Mixed Use Development – Commercial & Residential
  - Approximately **98** single-family homes
- **Reimbursement Bond PID**
  - Amount pending
  - No upfront bonding requested
- Estimated market value of \$625,000 (no change)
- Proposed Assessment Rate:
  - \$0.95 per \$100 assessed value
    - Estimated annual installment: \$6,453.00



# Updated Concept Plan



- Changes to plan include
  - Lot size changed from 65' to 60' lots
  - Removal of pickleball court and parking
  - Excludes the extension of Medical Complex through the extent of the development
- Legend
  - Blue – Detention Areas
  - Orange – Amenity Areas
  - Red – General Retail

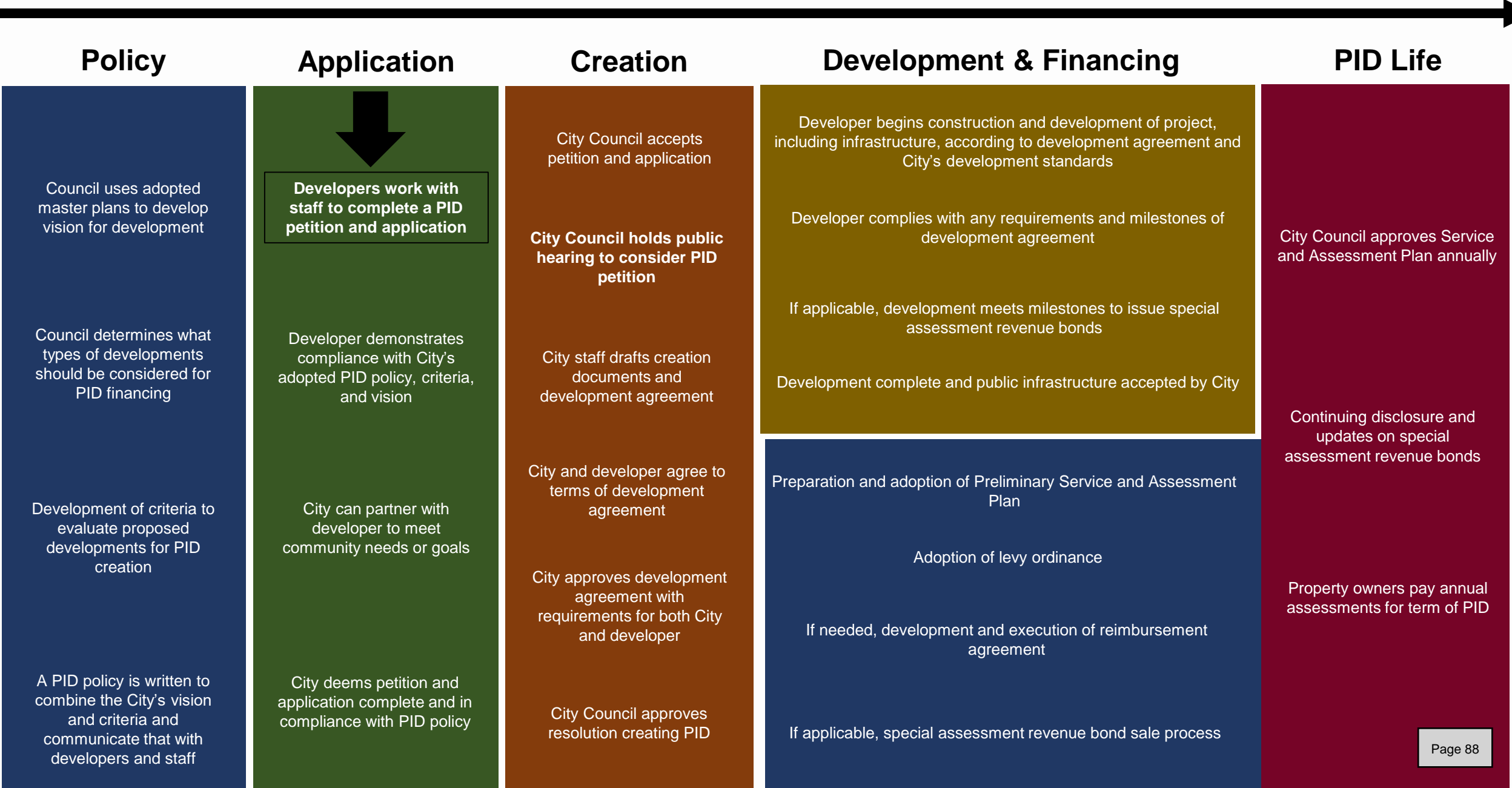


# City of Tomball PID Policy: Debt PID

- PID Policy adopted by City Council on September 19, 2022, outlining the minimum requirements for eligibility of a PID and guidelines for a Debt PID.
- Debt PID requires that the following guidelines be adhered to:
  - Minimum of 50 acres;
  - Minimum appraised value to lien ratio of 3:1;
  - All improvements to be funded with PID bonds must be fully engineered and competitively bid;
  - Maximum term of PID assessment is not to exceed 30 years with \$0.48 per \$100 assessment cap **OR** 15 years with \$0.96 per \$100 assessment cap; and
  - All PID bonds are subject to City Council approval.



# Public Improvement District Timeline



# Tentative Timeline for Development

- **November 18:**

- Discussion with City Council to determine requirements and/or feasibility of PID creation.

- **December 16:**

- Resolution Accepting PID Petition & Calling for Public Hearing

- **January 20:**

- Public Hearing
- Resolution Creating of PID
- Resolution approving Development Agreement
- Resolution accepting Annexation request

- **Date to be Determined** (estimated February 2025):

- Planned Development presented to Planning & Zoning

- **Date to be Determined** (estimated February 2025):

- Public Hearing for Annexation
- First Reading of Annexation Ordinance
- First Reading of Planned Development Ordinance

- **Date to be Determined** (estimated March 2025):

- Second Reading of Annexation Ordinance
- Second Reading of Planned Development Ordinance



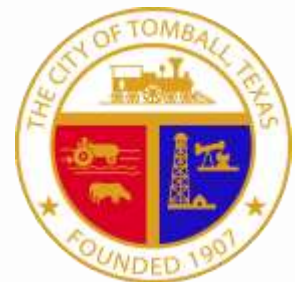
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# Discussion



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# Tree Preservation Ordinance





# Updates since November 7<sup>th</sup> Workshop

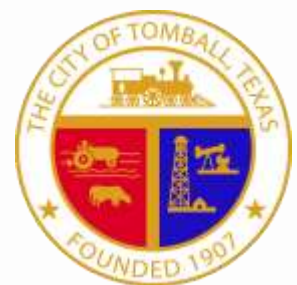
## Revised exemption:

- Trees that the Director of Community Development or their designee determine are dead, diseased, in severe decline, or deemed a safety hazard. The property owner or developer can elect to hire a certified Urban Forester, Landscape Architect, or Arborist to confirm or reverse the City's determination.



# Updates since November 7<sup>th</sup> Workshop

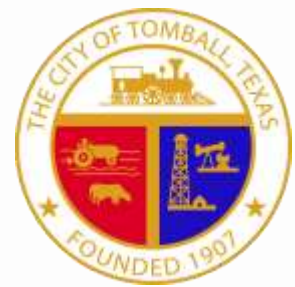
- Critical root zone replaced with drip line:
  - Drip line. An imaginary line extending from the external boundary of a tree's canopy to the ground.
  - Tree protection fencing to be installed at the edge of the tree's drip line instead of critical root zone (1" trunk diameter to 1' critical root zone radius).
- Magnolia tree added to the City of Tomball Tree List.



# Updates since November 7<sup>th</sup> Workshop

- Only trees less than 10 inches in diameter are exempt from tree mitigation fees on single-family and two-family residential properties. (Texas Local Government Code 212.905).
  - Protected trees are proposed to be 18 inches in diameter and larger.
- Single-family and two-family residential properties are **NOT** exempt from Tree Removal Permits as the ordinance is currently drafted.





# Purpose

To preserve, protect and enhance existing trees and mitigate the effects of tree removal within the city. Trees, particularly native species, add natural beauty and distinct local character, add shade, promote water conservation, provide locations for habitat, and increase property values.



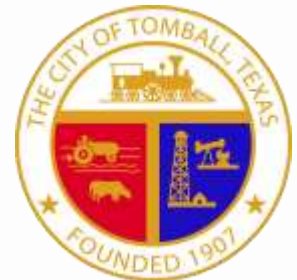
# Exemptions to tree protection/mitigation

- Trees deemed dead, diseased, or a safety hazard
- Where public streets, easements, or fire lanes are required



# Protected trees

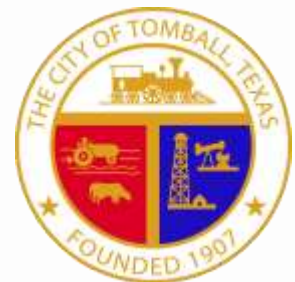
- Any tree species listed in the City of Tomball Tree List that measures 18 inches in diameter or larger (measured 4.5' above grade)
- A tree removal permit is required for protected trees
  - A tree survey is required prior to the removal of any protected tree.





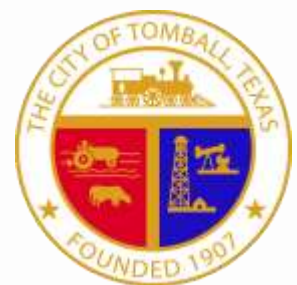
# City of Tomball Tree List (Protection and Replacement)

City of Tomball Tree List	
American Elm	Overcup Oak
American Holly	Pecan
American Sycamore	Pin Oak
Aristocrat Pear	Possumhaw Holly
American Sweetgum	Redbud
Arizona Cypress	Red Maple
Bald Cypress	River Birch
Black Gum	Sawtooth Oak
Boxelder	Shumard Oak
Bradford Pear	Slippery Elm
Bur Oak	Southern Magnolia
Cedar	Southern Sugar Maple
Cedar Elm	Swamp Chestnut Oak
Eastern Black Walnut	Sweet Gum
Eastern Red Cedar	Sycamore
Green Ash	Texas Red Oak
Lacebark Elm	Tulip Tree
Laurel Oak	Tulip Tree Liriodendron
Leyland Cypress	Water Oak
Live Oak	White Ash
London Plane Tree	White Oak
Magnolia	Willow Oak



# Alternatives to tree survey

- Affidavit provided by Urban Forester, Arborist, or Landscape Architect indicating no protected trees are on the property or if all protected trees are diseased or dead.
- Establishment of a tree preservation area
  - Must include extensive tree canopy and be at least 20% of the parcel area.



# Forested buffer zones

- 18-foot reserve along boundaries between new development and single-family zoned properties.
  - 15 feet if parallel abutting easements exist
- Preservation of all trees and underbrush.
- Exemptions include:
  - New subdivisions (plats) less than 5 acres.
  - Replats where the boundary is not changed and where additional lots are not being created along the boundary.



# Example





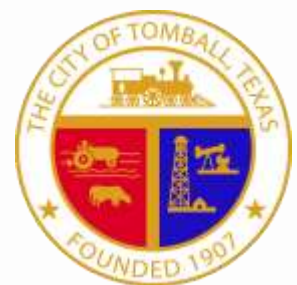
# Tree replacement/mitigation

- Mitigation 1:1 replacement to removal
- Minimum 4-inch caliper for replacement trees (measured 1 foot above grade)
- Replacement within 90 days
- Minimum 8-inch trees that are preserved count towards replacement credit
- Replacement trees must be on the City of Tomball Tree List



# Alternative mitigation methods

- If replacement trees are not possible onsite:
  - Fee-in-lieu of replacement towards tree replacement fund per the master fee schedule
  - Offsite mitigation (parks or other public spaces)



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# Discussion





# Rezoning Case Z24-18

- Request by John and Tracy Randall, to rezone 36.408 acres from Single-Family-20 Estate Residential (SF-20-E) to Light Industrial (LI).
  - The intent is to sell property.





# Location

21725 Hufsmith-Kohrville Road  
(between Medical Complex Drive and Spell Road)





# Site Photos



Subject property  
Undeveloped land



Neighboring property (north)  
Undeveloped land



Neighboring property (south)  
Cube Smart



# Site Photos



Neighboring property (east)  
Single-family residences



Neighboring property (west)  
Single-family residences

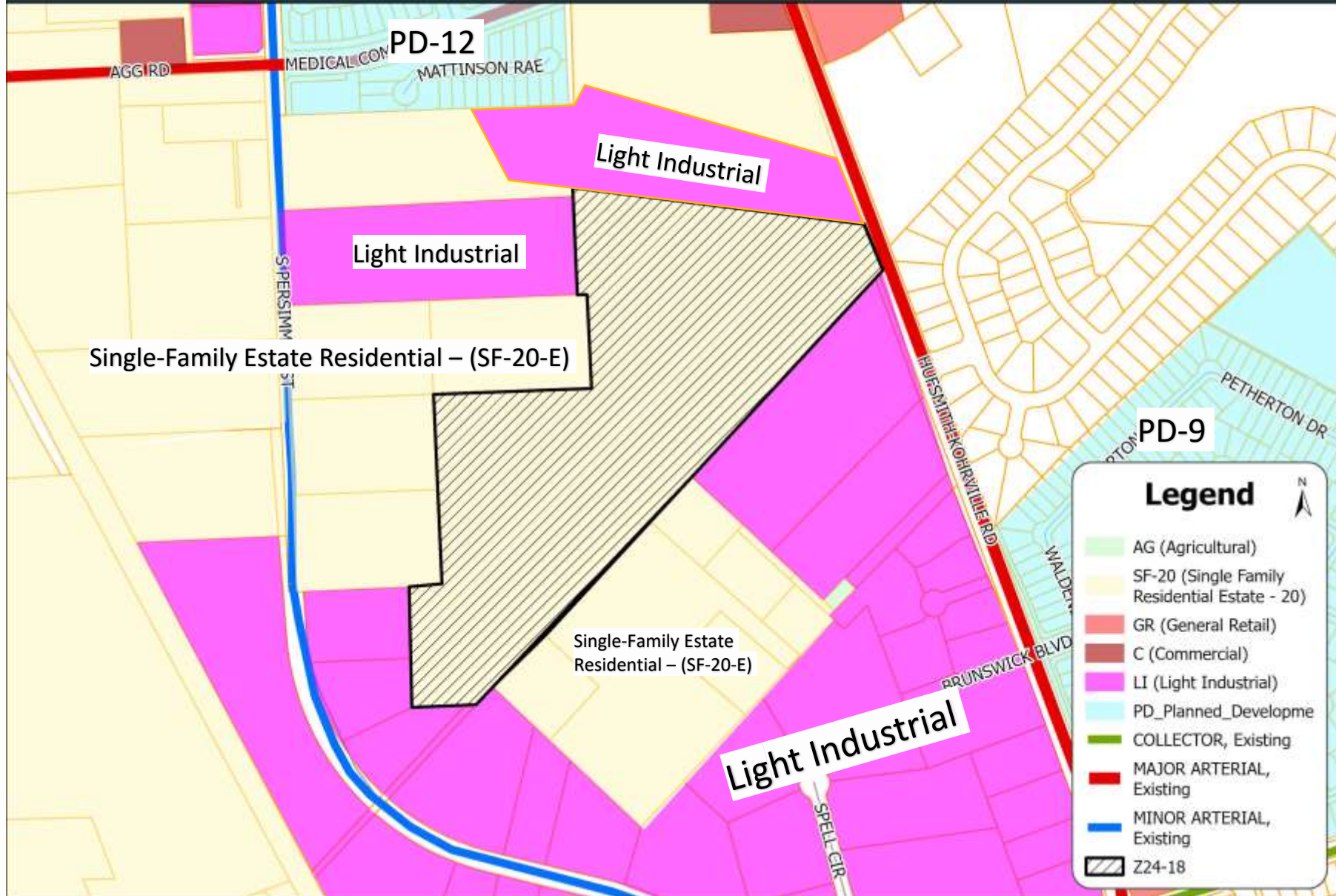


Neighboring property (west)  
Undeveloped land



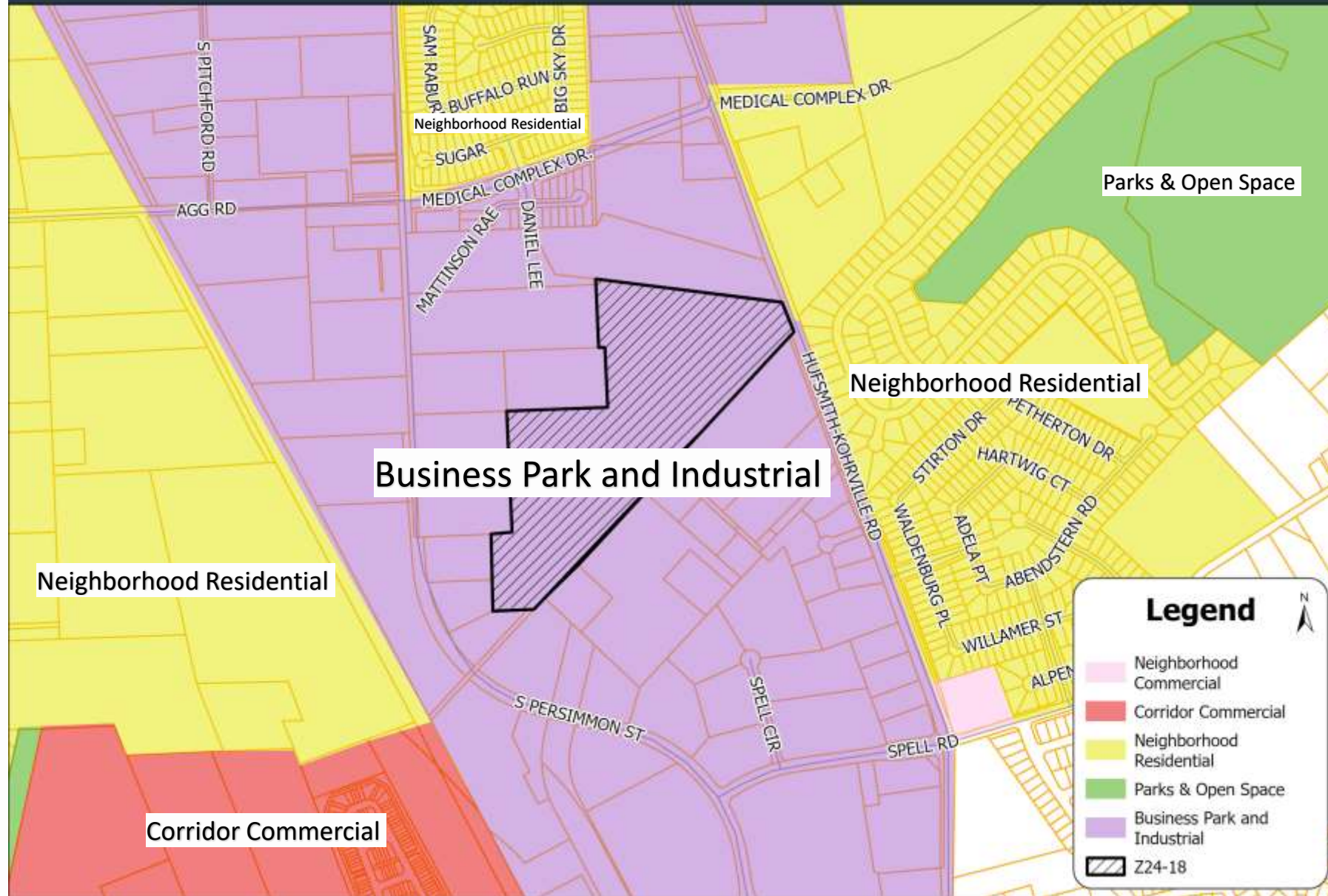


# Zoning





# Future Land Use





# Analysis (rezoning: SF-20-E to LI)

- The Business Park and Industrial designation is intended to create areas for employment.
- Should be located along adequate thoroughfares for industrial traffic.
- Compatible zoning districts include Office, Commercial, and Light Industrial.
- Compatible land uses include offices, warehousing, light manufacturing, equipment sales, and contractor services.







# Notification Boundary

300 feet



12 - In Favor ●  
0 - Opposed- ●

# Recommendation

- Planning & Zoning Commission recommends approval (4-0 vote).
- City Staff recommends approval.
  - Aligns with the Comprehensive Plan and Future Land Use designation.
  - The property has access to a major arterial (Hufsmith-Kohrville Road).
  - The proposed development is compatible with the Tomball Business & Technology Park, which is just to the south.
  - Consistent with recently approved rezonings to the Light Industrial District and development patterns in the area.



# Applicant



Case Number	Z24-18
Current Zoning	SF-20-E (Single Family Residential 20 - Estate)
Requested Zoning	LI (Light Industrial)

Address: 21725 Hufsmith Kohrville  
Property is in the future zoning map for Light Industrial





# City Council Meeting Agenda Item Data Sheet

Meeting Date: December 2, 2024

**Topic:**

Approve Resolution No. 2024-47, the 2024-25 Strategic Plan

**Background:**

In June of this year, the City Council and city staff held a two-day planning session to update the city’s strategic plan. During the session, participants focused on enhancing collaboration, clarifying roles and responsibilities, assessing the city’s strengths and weaknesses, and establishing strategic priorities for the upcoming year. The updated strategic plan reflects the outcomes of this session and includes five focus areas with proposed strategic initiatives and action strategies. This planning process is conducted annually, with the next update scheduled to begin in March 2025.

**Origination:** City Manager office

**Recommendation:**

Approve Resolution 2024-47, the 2024-25 Strategic Plan

**Party(ies) responsible for placing this item on agenda:** David Esquivel, PE

**FUNDING (IF APPLICABLE)**

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

Yes: \_\_\_\_\_ No: x \_\_\_\_\_ If yes, specify Account Number: # \_\_\_\_\_

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

Signed \_\_\_\_\_  
Staff Member Date

Approved by David Esquivel, PE 11/26/24  
City Manager Date

**RESOLUTION NO. 2024-47**

**A RESOLUTION OF THE CITY OF TOMBALL, TEXAS,  
APPROVING THE FISCAL YEAR 2024-2025 STRATEGIC PLAN.**

\* \* \* \* \*

**WHEREAS**, the Strategic Plan for the City of Tomball is a foundational visioning document for the City Council that provides guidance and direction for the implementation of significant projects and programs and informs resource allocation; and

**WHEREAS**, the City Council received recommendations from the City Manager regarding focus areas, strategic initiatives, action strategies and discussed the proposed FY 2024-2025 Strategic Plan at the June 19<sup>th</sup> and 20<sup>th</sup>, 2024 Special City Council Workshop; and

**WHEREAS**, the Tomball City Council wishes to adopt a Strategic Plan for Fiscal Year 2024-2025 to provide clear policy guidance and direction to City staff to shape the future of Tomball; **NOW, THEREFORE**

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

**Section 1.** The City Council finds that the facts and matters set forth in the preamble of this Resolution are true and correct.

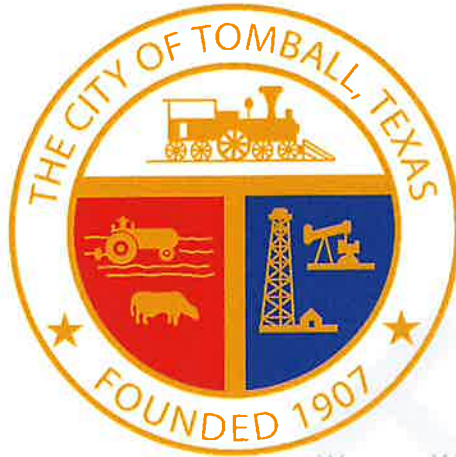
**Section 2.** The Fiscal Year 2024-2025 Strategic Plan is hereby adopted, a copy of which is attached hereto as Exhibit “A” and incorporated herein.

PASSED, APPROVED, AND RESOLVED this 2nd day of December 2024.

\_\_\_\_\_  
Lori Klein Quinn  
Mayor

ATTEST:

\_\_\_\_\_  
Tracylynn Garcia  
City Secretary



# Strategic Plan 2024-2025

## Vision & Operations

Adopted December 02, 2024

Resolution 2024-47 - Exhibit A

### City Council

Mayor	Lori Klein Quinn
Mayor Pro Tem	Dane Dunagin
Council Member	Paul Garcia
Council Member	John Ford
Council Member	Lisa A. Covington
Council Member	Randy Parr

### City Staff

City Manager	David Esquivel, PE
Asst. City Mgr.	Jessica Rogers
Human Resources	Kristie Lewis, Esq.
City Secretary	Tracylynn Garcia
Finance	Bragg Farmer
Public Works	Drew Huffman
Police	Jeffrey Bert
Fire	Joe Sykora
Marketing	Chrislord Templonuevo
Community Dev.	Craig Meyers, PE
Information Tech.	Tom Wilson
Special Projects	Luisa Taylor







# City of Tomball

*Lori Klein Quinn*  
Mayor

*David Esquivel, PE*  
City Manager

November 18, 2024

Dear Council Members,

I am pleased to present this summary of the strategic planning process and the resulting framework for guiding our wonderful city, Tomball. As our city continues to experience a steady growth trend, it is clear that both our residents and city leaders share a commitment to preserving our heritage and maintaining the cherished small-town character that makes Tomball unique.

In alignment with our community's values, this strategic plan prioritizes five focus areas:

1. **Livable City:** Enhancing quality of life for all residents by fostering, quality infrastructure, inclusive services, and encourage business growth.
2. **A Connected City:** Strengthening physical and social connections through improved mobility options, expand, maintain or enhance public infrastructure well as open channels for community engagement.
3. **An Effective City:** Building a responsive and efficient government by streamlining processes and enhancing city operations.
4. **A Safe City:** Prioritizing public safety through robust emergency services and proactive safety programs that reflect our residents' commitment to a secure, welcoming environment.
5. **A Fun City:** Creating vibrant recreational and cultural spaces that bring the community together and celebrate our shared heritage.

Throughout the strategic planning sessions, we integrated operational plans from each department, ensuring alignment with your vision and direction for Tomball. This comprehensive approach has provided a solid foundation for actionable strategies that reflect both our current needs and our aspirations for the future. Please note that the proposed action strategies will be updated and added throughout the upcoming fiscal year.

Several important themes emerged during our planning discussions, including the community's strong desire for safety, a sense of belonging, and the preservation of our small-town feel. Equally notable were the cultural values of service, kindness, and dedication to excellence, which remain cornerstones of our city's identity. These themes have not only shaped our strategic priorities but will also guide the city's service delivery across departments.

We look forward to sharing and updating the plan as we move forward. Together, we can build on our progress to keep Tomball a thriving, connected, and welcoming place for all.

Thank you for your continued guidance and support as we move forward in this shared vision for Tomball.

Sincerely,

David Esquivel, PE  
City Manager

# City of Tomball

## STRATEGIC PLANNING SESSION JUNE 2024

### I. Vision and Mission

#### Vision Statement

The City Council envisions people coming together to create the future of Tomball instilling a sense of community and pride (2019).

#### Mission Statement

The Mission of the City of Tomball is to promote a healthy and safe environment of increasingly higher quality of life for all citizens with sensitivity to the financial burden it may impose (2019).

### II. Summary

The City of Tomball held a strategic planning retreat involving city administration, staff, and council members. The two-day session aimed to enhance collaboration, define roles and responsibilities, assess the city's strengths and weaknesses, and establish strategic priorities for the coming years.

#### A. Key Objectives

1. Foster open communication and team building.
2. Clarify roles and responsibilities within the council-manager form of government.
3. Conduct a comprehensive SWOT analysis.
4. Develop draft elements of a strategic plan.
5. Align on the city's mission and vision.

#### B. Participants

- Mayor
- City Council Members
- City Manager and Assistant City Manager
- Department Heads (Marketing, Police, Community Development, HR, Public Works, IT, Fire)
- Facilitators: David Esquivel and Kelley Moore

#### C. Major Topics Discussed

- Communication Styles and Team Building
- Roles and Responsibilities of the Mayor, Council Members, and City Manager
- SWOT Analysis (Strengths, Weaknesses, Opportunities, Threats)
- Strategic Planning and Priority Setting
- Alignment on Mission and Vision

#### D. Key Outcomes

- Enhanced understanding of individual roles and contributions.
- Identification of strengths, weaknesses, opportunities, and threats.
- Development of initial elements of a 3-year strategic plan.
- Clear articulation of commitments between the council and staff.

- Establishment of a unified vision and mission for the city.

### III. Session review

#### A. Introduction

- Facilitator David introduced council members, staff, and facilitators.
- Kelley led familiarization activities including setting agreements for the process, a city timeline activity, and communication styles and team dynamics.
- Discussion on the council-manager form of government, emphasizing the roles of the Mayor, Council, and City Manager.

#### B. Agreements

- Listen with openness and intention to understand.
- Assume positive intent.
- Dialogue without attacking
- Do the serious, hard things
- RESPECT: Be willing to take another look
- Honor differences of opinion
- Show up with faith and trust in yourselves and each other
- B.U.T.T.E.R.—Best Use of Talent, Time, Energy, and Resources
- Create a culture on purpose, with purpose

#### C. Tomball Timeline Activity

- 1907-2020:
  - Farming and ranching community with German roots
  - 1906 Arrival of the railroad
  - 1933: Humble oil discovery, free gas until 1998
  - 1934: Formation of TFD
  - 1950s: Doc Graham and the first hospital
  - 1960s: School fire leading to community unity
  - 1973: First graduating class of 100
  - 1994: Formation of TEDC
  - North Harris Community College establishment
  - 2007: 100-year celebration
  - 2008: Transition from volunteer to professional fire department, adoption of zoning
  - 2012: Introduction of gyrocopters for PD
  - 2011: Creation of Tomball Business Park
  - 2014: Opening of SH 249
  - Creation of Tomball Farmer's Market, German Fest, and other events
  - Longtime businesses closing
- 2020
  - Post-COVID work culture
  - Multi-generational workforce challenges
  - Public safety hiring challenges
  - Changing community demographics and leadership
  - Social media evolution
  - Major infrastructure projects

- Response to February 2021 freeze and 2022 ransomware attack
- Unprecedented growth and development
- 2024:
  - Maintain Tomball’s identity with a balance between longtime and new residents
  - Adapt to technology changes and new director dynamics
  - Address service delivery changes
  - Manage school district demands and general finances
  - Tackle largest projects ever seen in Tomball
- 2025 and Beyond:
  - Vision for a walkable, cycle-able city
  - Development of trails and running paths
  - Embrace multi-modal transportation
  - Enhance attractions and venues
  - Address infrastructure and downtown parking needs
  - Regional detention solutions
  - Expand amenities for residents and incentives for staff

#### **D. Operations**

- Staff presented departmental updates and perspectives. (See retreat workbook for presentations.)
- Key points included marketing initiatives, public safety enhancements, community development projects, HR strategies, public works operations, IT improvements, and financial health.
- Discussion on the operational challenges and opportunities facing each department.

#### **E. Personal Responsibility**

Council members shared their motivations for running for office and their personal commitments to the city and staff.

##### **1. Council’s Why’s**

- Service
- Can’t complain if you don’t step up
- Get things done
- Better communication to citizens
- Felt called/destined to lead
- Maintain “small town feel” and status quo
- Keep Tomball clean and pretty
- Learn and explore what a city is

##### **2. Council Commitments to Staff**

- Respect and trust
- Honor their time
- Understand they have a tough job
- Understand boundaries and limitations
- Provide necessary resources
- Protect them from citizen critique
- Appreciate them
- Honor the chain of command



- Work in partnership

### 3. Staff's commitments to each other, to council, and to citizens

- Maintain and operationalize core values (professionalism, integrity, respect)
- Partnership to focus moving parts
- Communicate with a purpose
- Provide council with the bad news
- Work for the same people (the citizens)
- Educate council
- Act ethically without favor
- Act without a personal agenda
- Be open to receiving feedback
- Do what's right, not necessarily what's popular

## F. Organizational Discussion

Recap of the council's role in governance. Detailed SWOT analysis led to the identification of key priorities and concerns for the city.

### 1. Concerns

- Political: Decaying trust in higher government levels, lack of civil discourse, national election impacts, polarized identity politics, changing demographics
- Economic: Revenue growth limits, inflation, interest rates, regional economy, national election impacts, grant funding decreases
- Social: Preserving small-town feel, differing generational expectations, housing diversity and affordability, workforce needs, effective communication
- Technological: Infrastructure improvements, cybersecurity, efficiency, costly backbone infrastructure mandates
- Environmental: Managing tree removal, ethical environmental practices, sustainability efforts, climate impacts on resources
- Legal: State's stripping of local powers, home rule city authority changes, litigation culture, keeping up with legal/regulatory changes
- Policy/Expectations: Reviewing legal counsel expectations

## IV. Strategic Planning

Development of draft elements for a 3-year strategic plan. Focus areas included public safety, community engagement, infrastructure development, and economic growth.

### A. Important Themes

- Public safety
- Community
- Small-town feel
- Culture of service, kindness, and commitment

### B. Goals

- Smart city initiatives
- More development, particularly downtown
- Tree City USA / TX Scenic City designation

- Maintain great schools
- Establish Tomball as a destination city with music venues and entertainment
- Create longer stay attractions and commerce opportunities
- Build a convention center
- Develop S Live Oak partnerships
- Enhance infrastructure

### **C. Mission and Vision**

- Alignment on the city's mission and vision statements.
- Emphasis on maintaining Tomball's small-town feel while embracing growth and modernization.

### **D. We Are A (blank) Community**

- Fiscally Responsible
- Community-centric
- Safe
- Dependable (services)
- Vibrant

#### **1. Fiscally Responsible**

- Properly prioritize capital projects
- Staff the right number and quality of people
- Manage debt structure
- Regularly review revenue forecasts

#### **2. Community-Centric**

- Preserve small-town feel
- Display and record heritage
- Balance growth
- Expand community amenities/engagement
- Strengthen community partnerships
- Enhance communication

#### **3. Safe**

- Maintain police staffing levels
- Expand traffic safety programs
- Meet NFPA 1710 standards
- Improve emergency communication and public education
- Dependable Services:
- Ensure reliable water, wastewater, storm, and gas services
- Coordinate with the county on services
- Maintain parks, right of ways, and streets
- Communicate service impacts timely and reliably

#### **4. Vibrant**

- Create destinations and attractions
- Diversify events and activities

- Promote health and wellness initiatives
- Enhance entertainment options
- Develop arts and cultural areas

## **V. Action items**

### **A. City Manager**

- Update and incorporate any new objectives into the strategic plan.
- Provide draft of updated plan to Council for further discussion and/or adoption.

### **B. Mayor**

- Facilitate ongoing communication between the council and staff.
- Champion the strategic priorities in public forums and council meetings.
- Support initiatives that align with the city's mission and vision.

### **C. Council Members**

- Actively participate in follow-up meetings to refine and approve the strategic plan.
- Engage with constituents to gather feedback and ensure alignment with community needs.
- Uphold commitments made during the planning session, fostering a culture of respect and collaboration.

### **D. Staff**

- Operationalize the core values of professionalism, integrity, and respect in daily activities.
- Maintain open lines of communication with the council, providing updates and feedback.
- Implement departmental action plans that support the overall strategic goals of the city

## **VI. Updated recommended focus areas**

### **A. A Livable City**

- Preserve our small-town feel
- Seek, display, and record heritage
- Balance our growth
- Expand our community amenities and engagement
- Ensure the consistent and reliable delivery of water, treatment of wastewater, conveyance of stormwater, and delivery of gas service
- Ensure the timely and reliable communication of service impacts
- Create and promote health and wellness initiatives

### **B. A Connected City**

- Strengthen and develop our community relationships
- Promote communication
- Coordinate with Harris County on services

### **C. An Effective City**

- Properly prioritize capital projects

- Staff the right number and quality of people
- Manage the debt structure
- Regularly review revenue forecasts

**D. A Safe City**

- Maintain police staffing at 3.3 officers per 1,000 citizens
- Expand our system to meet National Fire Protection Association 1710
- Expand system to meet response goals
- Improve community communications programs for emergency use

**E. A Fun City**

- Promote destinations and attractions
- Diversify our events and activities
- Create more entertainment options
- Encourage and develop arts and cultural areas.

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**CITY OF TOMBALL  
PROPOSED STRATEGIC PLAN  
2024-2025**

(green text) – denotes new / updates  
Proposed Action Strategies will be updated and added throughout the fiscal year.

<b>Focus Area: A Livable City</b>	
<i>Strategies that promote the livability of Tomball for residents and encourage business growth.</i>	
<b>Proposed Strategic Initiatives</b>	<b>Proposed Action Strategies</b>
<p>Enhance beautification efforts in targeted areas across city.</p>	<ul style="list-style-type: none"> <li>● Implement aesthetic and beautification projects for Four Corners and Main Street to be incorporated into the FM 2920 reconstruction project.</li> <li>● Standardize all street signs and sign poles throughout city and replace as needed.</li> <li>● Enhance property maintenance and aesthetic requirements.</li> </ul>
<p>Enhance and beautify city gateways and entryways.</p>	<ul style="list-style-type: none"> <li>● Design and implement entryway monument program.</li> <li>● Explore Green Ribbon grant opportunities with TXDoT for medians and rights-of-way.</li> <li>● Work with developers at key locations to incorporate enhanced design aesthetics.</li> <li>● Explore ways to increase public art and cultural amenities.</li> <li>● Develop formal wayfinding sign program to be implemented across parks, parking lots, and pedestrian/visitor areas.</li> </ul>
<p>Improve existing park facilities and enhance natural features.</p>	<ul style="list-style-type: none"> <li>● Complete the implementation of the Theis Attaway Nature Center.</li> <li>● Support initiatives that promote the health and wellness of the community.</li> <li>● Create destinations and attractions for residents.</li> <li>● Develop a tree protection ordinance.</li> </ul>
<p>Update long-range planning and visioning documents and develop implementation plans to foster sustainable growth and development.</p>	<ul style="list-style-type: none"> <li>● Seek funding to update and implement the Livable Centers Downtown Plan.</li> <li>● Update model codes as necessary to encourage safety in the built environment.</li> <li>● Adopt updated Comprehensive Plan.</li> <li>● Update existing development codes and integrate into a Unified Development Code.</li> </ul>

<p>Provide programs and resources to support business growth and development.</p>	<ul style="list-style-type: none"> <li>• Work with TEDC to develop infrastructure and provide resources to encourage small businesses, retail, and sustainable commercial growth.</li> <li>• Diversify city-sponsored events.</li> </ul>
<p>Implement and enhance community heritage</p>	<ul style="list-style-type: none"> <li>• Display and record community heritage.</li> </ul>



**Focus Area: A Connected City**

*Strategies that increase mobility and expand, maintain, or enhance public infrastructure*

**Proposed Action Strategies**

<p>Expand water, wastewater, and gas utility systems to meet the demands of growth and replace aging infrastructure.</p>	<ul style="list-style-type: none"> <li>• Seek out grants and other funding sources for capital and infrastructure needs.</li> </ul>
<p>Expand and improve drainage infrastructure.</p>	<ul style="list-style-type: none"> <li>• Seek out grants and other funding sources for capital and infrastructure needs.</li> <li>• <b>Expand and prioritize maintenance of parks, rights of way, and streets.</b></li> <li>• <b>Adopt updated Master Drainage Plan.</b></li> </ul>
<p>Continue development of east/west connections, including sidewalks and trails.</p>	<ul style="list-style-type: none"> <li>• Work with developers to increase pedestrian connectivity when possible.</li> <li>• Develop sidewalk plan and identify possible funding for key sidewalk improvements.</li> <li>• Incorporate trails identified in Parks Master Plan into future capital programs.</li> <li>• Seek grants for the funding of infrastructure projects whenever possible.</li> </ul>
<p>Update visioning documents for road/street development and invest in high priority-high traffic areas.</p>	<ul style="list-style-type: none"> <li>• Explore options for sustainable funding mechanisms for roadway enhancements.</li> <li>• <b>Prioritize the CIP projects.</b></li> </ul>
<p>Coordinate with outside agencies to improve infrastructure.</p>	<ul style="list-style-type: none"> <li>• Work with TXDOT to design and construct the Main Street/FM2920 project and the remaining segments of FM 2920.</li> <li>• Work with Harris County Precinct 3 and 4 and Harris County Flood Control District on improvements to key corridors, channels, and basins.</li> </ul>
<p><b>Strengthen our existing community partnerships</b></p>	<ul style="list-style-type: none"> <li>• <b>Communicate service impacts in a timely and reliable fashion.</b></li> </ul>

*Strategies that foster innovation and a sustainable municipal government operation*

**Proposed Strategic Initiatives**

**Proposed Action Strategies**

<p>Enhanced transparency of City operations and functions and encourage citizen participation</p>	<ul style="list-style-type: none"> <li>• Develop a new Tomball citizen academy (for general city operations).</li> <li>• Update and maintain information on City's website with a focus on the most accessed information and pages.</li> <li>• Establish a system for regular review of the City Charter.</li> <li>• Establish an effective records management program for all City records.</li> </ul>
<p>Work with Boards and Commissions to involve members in the implementation of long-term plans</p>	<ul style="list-style-type: none"> <li>• Develop training materials and hold training sessions with each board.</li> <li>• Department orientations for newly elected or appointed officials.</li> </ul>
<p>Provide support, clarity, and resources to City staff to ensure everyone can effectively perform their job duties</p>	<ul style="list-style-type: none"> <li>• Develop formal onboarding and offboarding procedures for staff.</li> <li>• Ensure that the city is always staffed at the appropriate level in proportion with its growth.</li> </ul>
<p>Develop five-year IT roadmap to enhance cybersecurity, project hardware and software needs, and reduce the overall cost of operations through IT tool deployment</p>	<ul style="list-style-type: none"> <li>• Work with departments to establish software and hardware needs and consolidate redundant systems whenever possible.</li> <li>• Conduct bi-annual penetration testing followed up with a network security review.</li> </ul>
<p>Complete development of needed financial studies, plans, and audits to ensure the long-term health of Tomball finances</p>	<ul style="list-style-type: none"> <li>• Expand reporting of the City's financial forecasting of revenues and debt.</li> </ul>
<p>Plan for future staffing and facility needs</p>	<ul style="list-style-type: none"> <li>• Continue to identify potential employees and provide opportunities for them to learn and develop.</li> <li>• Enhance succession planning efforts.</li> </ul>

<p>Continue to use development financing tools, when applicable, to foster development and ensure developments comply with financial and legal requirements</p>	
<p>Develop strategies to continue operations during emergencies, operational system outages, or economic downturns</p>	<ul style="list-style-type: none"> <li>• Develop departmental continuity of operations plans to prioritize restoration of service in the event of an emergency or system outage.</li> </ul>
<p>Focus on the City's core values, which are Professionalism, Integrity, and Respect, in all aspects of operations and service delivery</p>	<ul style="list-style-type: none"> <li>• Maintain best practices and accreditations across City departments.</li> <li>• Update and document key documents, policies, and procedures and conduct regular reviews.</li> <li>• Provide regular feedback, coaching, and training to employees.</li> </ul>
<p>Recruit and retain high-performing employees</p>	<ul style="list-style-type: none"> <li>• Strengthen the City of Tomball employer "brand" and explore incentives to encourage recruitment and retention of highly qualified employees.</li> </ul>

*Strategies that enhance and preserve public safety and uphold community values*

**Proposed Strategic Initiatives**

**Proposed Action Strategies**

<p>Enhance public safety services to meet community growth and needs</p>	<ul style="list-style-type: none"> <li>• Enhance capabilities of Fire Prevention and Operations divisions.</li> <li>• Coordinate with ESD #15 regarding fire service area and community needs.</li> <li>• Improve emergency communication and education.</li> </ul>
<p>Encourage youth and community involvement in public safety</p>	<ul style="list-style-type: none"> <li>• Expand youth programs in public safety.</li> <li>• Coordinate with Tomball ISD and Lone Star College-Tomball on internships and educational programs.</li> <li>• Re-establish the Tomball Police Department citizen academy.</li> <li>• Enhance the community relations missions and fire prevention education.</li> </ul>
<p>Address growing traffic safety concerns</p>	<ul style="list-style-type: none"> <li>• Use speed trailers and other resources to prioritize education.</li> <li>• Develop new traffic initiatives and enforcement strategies.</li> <li>• Expand existing traffic safety programs.</li> </ul>
<p>Reduce substandard property features and encourage property maintenance and advanced aesthetics across Tomball homes and businesses</p>	<ul style="list-style-type: none"> <li>• Develop business and residential Yard of the Month program to encourage property maintenance.</li> <li>• Implement property maintenance and code compliance missions to address regular violations and targeted areas.</li> </ul>
<p>Work with Tomball partners and nonprofit agencies to support vulnerable populations</p>	
<p>Enhance emergency preparedness and emergency management capabilities</p>	<ul style="list-style-type: none"> <li>• Hold tabletop and training exercises to prepare staff for emergency situations.</li> <li>• Use technology to enhance public warning systems and provide real time data to public officials.</li> </ul>



**Focus Area: A Fun City**

*Strategies that develop Tomball as a family-friendly, fun-filled community with amenities for all ages*

**Proposed Action Strategies**

<p>Develop a long-term plan for the development of parks and recreation programs</p>	
<p>Develop engaging content for web and social media</p>	<ul style="list-style-type: none"> <li>• Update social media policies and guidelines.</li> <li>• Train staff on tools and resources and use user-driven data to develop and update content.</li> <li>• Schedule to post engaging and informative items for residents and visitors.</li> <li>• Establish webpage review process for Departments to engage in online content.</li> <li>• Provide engagement reports to Departments and develop plans to update outdated content across website.</li> </ul>
<p>Further develop amenities, activities, and programs to draw visitors to Old Town Tomball</p>	<ul style="list-style-type: none"> <li>• Develop new festival, event, or program ideas to engage new audiences.</li> <li>• Find new ways to attract visitors to Old Town.</li> </ul>
<p>Develop partnerships to foster the growth of events, promotions, and activities in Tomball</p>	<ul style="list-style-type: none"> <li>• Develop event sponsorship program to encourage local participation in events.</li> <li>• Continue coordination with local hotels to determine success of visitor attraction and marketing programs.</li> <li>• Work with other entertainment-focused local entities to build on visitor-attracting events.</li> </ul>
<p>Explore new marketing avenues and opportunities to attract young visitors, residents, and businesses to Tomball</p>	<ul style="list-style-type: none"> <li>• Create brand standards and style guide.</li> <li>• Develop an overall marketing and communications plan for City and Tomball Texan for Fun.</li> <li>• Hold regular discussions with hotel managers regarding what is attracting people to Tomball.</li> </ul>
<p>Establish a plan to enhance the Tomball information center</p>	<ul style="list-style-type: none"> <li>• Develop marketing and communications plan.</li> <li>• Brainstorm interactive elements that could be incorporated into the Information Center or ways to program the space.</li> </ul>
<p>Diversify city events</p>	

# APPENDIX A: Departmental SWOT Analyses

## City Council

### Strengths

- We have a great sense of community which motivates togetherness.
- Our citizens and staff are united in their love for Tomball.
- Sometimes there are unintended results of our past decisions which positively affect us.
- We make careful, informed decisions.
- Our farmer's market is thriving.
- The Chamber of Commerce is active in the business community.
- We have a safe community with low violent crime and active policing.
- Both our citizens and our staff are engaged in their community.
- Our marketing program is strong and dynamic.
- The Tomball Economic Development Corporation is wealthy and able to invest in the community.
- Our commercial structures are welcoming and numerous.
- Citizens are comfortable voicing their opinions.
- Our staff is professional and committed to careful planning and execution.
- We have done a good job of thinking ahead eight-to-ten years.
- Our utilities system provides citizens access to essentials and gives the City a vital line of revenue.
- We have beautiful parks.
- Tomball Emergency Assistance Ministries is present and able to provide essential items to Tomball.
- The Tomball Independent School District is excellent.
- The Lonestar Community College is a boon to the community by offering inexpensive education beyond high school.
- Tomball's hospital provides high quality care to our whole city.

### Weaknesses

- The growth of our revenues is limited by a variety of factors including state law, the expansion of our utilities network, and random factors such as rainfall.
- Uncertainty about the timing and pace of future development in Tomball complicates advanced planning.
- As we expand, we have fewer and fewer green spaces.
- Due to the supremacy of state law, there are limited measures we can take without state intervention.
- With the expansion of social media, it has become increasingly hard to combat misinformation about city programs.
- As our organization expands, we are bound to encounter conflicts of personality.
- We must continue our efforts to find new ways to communicate with our citizens.
- We would prefer to avoid over-legislating Tomball.
- While some of our decisions have unintended consequences that are positive, others are negative.
- We must have sound policies that do not prevent us from efficiently executing our jobs. This means being "policy sound not policy bound."



## Opportunities

- As much as keeping our trees is a challenge, it also presents an opportunity to continue beautifying our neighborhood.
- By building out walking trails and fitness equipment, we can give our citizens more opportunities to keep fit.
- We can work with other agencies to help improve our community.
- Our radio station can and should be utilized in new and creative ways.
- With a changing demographic comes new ideas about how we do things.
- There are many active people in the city limits. This means that we have even more opportunities to get them involved in City events.
- With some work, we can become a Texas Scenic City
- Through partnerships with other organizations and our citizens, we can invest in improvements to revitalize downtown.
- Wherever we have growth, we also have an opportunity to improve upon that growth and anything that was there before.
- It is possible that we can use artificial intelligence to help streamline City functions.
- We can continue expanding our utility system until we can provide for everyone in the City limits.
- In addition to expanding our systems, we can also update them.
- With growth, we will also have the opportunity to expand our public safety systems.
- Innovative forms of messaging can revolutionize how we interact with our citizens.

## Threats

- The current direction of the Texas state government in relation to its cities' autonomy risks inhibiting our growth.
- When we educate our citizens, we must be careful that we speak with one voice and do not unintentionally mislead them.
- We must be careful to ensure that rumors regarding the City, its departments, and related organizations do not overshadow the truth about these organizations and mislead our citizens.
- We have to be careful that opposition to development does not hamstring our ability to respond when it does come.
- We would like to do everything in our power to preserve our trees while continuing expansion.
- Tomball is a safe city, and we would like to keep it that way.
- Our infrastructure needs are growing, and it is difficult to keep up with the costs of a constantly expanding list of projects.
- Texas Senate Bill 2 has greatly reduced the latitude given to the City in its affairs.
- The State government can and, at times, does interfere with City-level issues.

## City Manager's Office

### Strengths

- The organizational structure of our department allows it to function efficiently for both our staff and citizens.
- Our staff is dedicated to the improvement of Tomball.
- Our department's endeavors are strengthened by the support and partnership of the community.
- The strength and diversity of our local economy is great.
- Our department continues to be a healthy and welcoming environment for our staff.
- The financial position of our department is excellent.
- Internal and external communication within our department is effective.

### Weaknesses

- The maturation of our department has brought growing pains.
- Leadership turnover hinders our functionality.
- As our staff undergoes changes, we need to create an identity consistent with our departmental goals.
- As our department expands, our projected needs outpace current revenue growth.
- Given our expected growth, we must increase recruitment to match our needs.
- The physical state of our facilities doesn't match the advancement of our department.
- While our current modes of communication work well, there is always room for improvement.

### Opportunities

- With the growth of our department and the nature of our work, we can prioritize staff development and cross-training.
- We have the opportunity to review and update policies and procedures based on our previous performance.
- Advancements in technologies such as artificial intelligence (A.I.) can increase the efficiency of our work.
- We can prepare for the future strategically by reviewing, prioritizing, and planning effectively.

### Threats

- State and federal-level directives that do not have any funding behind them force us to bear the upfront costs of changes without any support from the responsible agencies.
- Given the unpredictable economy, we must be aware of how it effects our costs and recruitment.
- Our department must be watchful for natural and man-made emergencies and their effect on our community.
- Both stability and instability on council and in staff can pose a threat. High turnover means we lose institutional knowledge, but having no change means that we could become stuck in our way of doing things.

## **Tomball Police Department**

### **Strengths**

- Our strong police force and civilian work force are dedicated to assisting our City and performing their jobs effectively.
- We are proficient in data-driven analysis of crimes and traffic problems.
- Our department has ample support for a broad range of planned initiatives.
- Our organization is accredited by the Texas Police Chiefs Association (TPCA) for our modern policies and best practices.

### **Weaknesses**

- The growth of our patrol team is hindered by higher-paying agencies in the Houston area and a nationwide shortage of officers.
- Follow-up investigations are particularly difficult because most suspects tend to be non-Tomball residents.

### **Opportunities**

- With the growth of surrounding agencies, we have the opportunity to strengthen inter-organizational relations to hone crime-fighting abilities.
- We can utilize flock cameras in the area to quickly identify criminals and their patterns as well as City crime trends.
- We have the opportunity to increase recruitment, community engagement, and awareness through a strong social media presence and a fully staffed community relations team.

### **Threats**

- As the number of thefts from stores in the area rises, we must encourage better communication between our department and those stores.
- With growing infrastructure, we must monitor key intersections closely due to the recent spike in major traffic accidents.
- Our current resources do not match the needs of Tomball's unhoused population.
- Our department's current staff is not sufficient for an increasing call volume.

## **Tomball Fire Department**

### **Strengths**

- Our access to high-quality technology helps our responses to be prompt and thorough.
- Each apparatus and piece of gear is in peak condition.
- We have positive relationships with our ESD and partners.
- Our firefighters receive significant training.
- The health and wellness of our firefighters continues to be high priority.

### **Weaknesses**

- We need additional support staff.
- Our facilities are old and aging.
- Apparatus maintenance is tasking and complicated.
- Growing development makes service challenging with limited staff.
- Our current software is approaching the end of its lifespan.
- We need to improve our fire prevention programs.
- We have limited experience among staff.

### **Opportunities**

- With emboldened recruitment efforts, we can increase administration and prevention staff.
- We have the opportunity to improve in-house training opportunities.
- We can increase fire prevention and life safety programs in the City.
- We can cross train suppression and prevention staff.
- With grant funding, we can improve our department's functions.

### **Threats**

- The cost of our equipment and facilities is increasing.
- We need to improve recruitment and retention of personnel.
- We often compete with Emergency Services Districts (ESDs) for new talents.
- Our facilities do not match the needs of our department.

## Public Works – General Fund

### Strengths

- Our staff is dedicated to offering quality service to our citizens.
- We are adept with equipment operation and technology.
- Our staff has a professional attitude when dealing with customers.
- Our department is self-sufficient and can perform smoothly in times of crisis.
- We have fostered a strong, supportive relationship with the community.
- New developments in technology greatly improve our systems and functions.
- Our department collaborates well with other government agencies.
- Department leadership provides ample support for its staff.

### Weaknesses

- The infrastructure in older parts of the City is outdated and insufficient for our growing community.
- With the City's growth, we are struggling to conserve park space for our citizens.
- We rely on outsourcing services to handle solid waste.
- Other government agencies outside of Tomball can inhibit our operations.
- Our function is limited by funding.
- Our facilities are aging and less resistant to damage.

### Opportunities

- With effective planning, we can expand and enhance City infrastructure.
- The growth of our department can give us room to hire staff with experience and great skillsets.
- We can replace older equipment to match the needs of our operations.
- We can develop progression plans to improve staff and leadership.

### Threats

- The quality of our service must match increased demands caused by the growth of City streets, drainage corridors, and rights of way.
- As cost of materials and construction increases, we need to be frugal with our purchases.
- The City's susceptibility to flooding is a threat to infrastructure development.
- There is increased competition for staff in both the public and private sector.
- Without improvement to our facilities, we will continue to be hindered in our function and performance.

## Public Works – Utilities

### Strengths

- We have a dedicated staff.
- We are in compliance with all relevant regulations.
- Our current system has met demand from the public.
- Our system continues to expand, and we estimate that we will be able to meet our delivery timelines on all high-priority projects.
- The staff has a high level of skill in operations and technology, and we also have strong customer service skills at our disposal.
- We have a reputation of delivering a high level of service.
- Support from our leadership remains strong.

### Weaknesses

- Our water, wastewater, and gas infrastructure has a majority age of over fifty years.
- There is significant inflow and infiltration in the wastewater collection system.
- There are certain “hot spots” in the water system model.
- An uneven flow to the North and South Wastewater Treatment Plants.
- Our staff continues to need specific certifications and licenses.
- We face unfunded mandates from the TCEQ and EPA that puts strain on our system.

### Opportunities

- We can upgrade our infrastructure through the master planning process.
- Our city limits contain a variety of water supplies such as ground and re-use water.
- We can continue to formalize our policies and procedures through operations and maintenance manuals.
- As we grow, we can add new skillsets and talent to our roster.
- Asset management can always be improved to help us execute work orders.
- When planning out infrastructure we must continue to act strategically and intentionally.
- Open communication and transparency both internally and with the public can continue to strengthen the department.

### Threats

- As the city grows, we face increasing needs to provide water for new people. Our number of water connections has increased from 4,000 in 2019 to 6,000 in 2024.
- Unfunded mandates from higher agencies puts additional strain on our system.
- Costs for building materials have risen 15-30% since 2019.
- With every retirement we lose a little institutional knowledge.
- We are in competition with other agencies for specialized staff.
- The growth of the city is outpacing our ability to respond to needs.
- With time, our operations are requiring an increasing amount of specialization.
- Emergencies, both natural and man-made, threaten our operations.



## Finance Department

### Strengths

- Our staff is dedicated and works together cohesively.
- Our department has well-defined roles while also allowing room for flexibility when needed.
- Our staff is eager to learn and grow in their respective roles.

### Weaknesses

- We are hindered by a lack of formalized processes and procedures.
- Lack of dedicated backup personnel for critical functions leaves holes in our operating.
- The tenure of our staff is short, averaging only two years.

### Opportunities

- With the enthusiasm of our staff, we have the ability to develop them and expand their knowledge.
- We have the ability to implement best practices and develop corresponding policies.

### Threats

- Turnover heavily impacts our department's operations and ability to meet demand.
- The growth of the city has led to an increased workload for our employees.

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## City Secretary's Office

### Strengths

- We provide excellent internal and external customer service.
- Communication within and without the department is strong.
- Our team members are reliable.
- Collaboration continues to lend heavily to our success as a department.

### Weaknesses

- Our city-wide Records Management Program needs more attention and expansion
- There is currently no onboarding or orientation for our City Council or Boards and Commissions members.
- There is little opportunity for growth within the department.
- External collaboration poses a challenge.

### Opportunities

- We can develop a succession plan for when our staff starts to move on.
- Technology offers us aid through programs such as Municipal Justice 10, JustFOIA, and Records Repository.

### Threats

- Litigation challenges the City.
- The actions of the state legislature impose additional burdens on the department.

## Community Development

### Strength

- Our staff members have great attitudes about work.
- We provide exceptional customer service to citizens.
- Our staff maintains a strong camaraderie with one another.
- Our staff is quick and eager to learn.
- Our team's communication is consistent and effective.

### Weaknesses

- Our current staff is light on experience.
- We lack consistent succession planning for the future of the department.

### Opportunities

- We have the opportunity to lessen our workload with the help of new technology.
- Our current organization gives us the chance to identify inefficiencies at a smaller scale.
- The growing workload can teach our staff to work smarter, not harder, in order to match demands.

### Threats

- Our department must grow to provide appropriate customer service to our developing City.
- Leadership and employee turnover stalls the work of the department.
- Our staff is often unsure how to approach work outside of their assigned duties.
- The size of our department leaves leadership too busy to delegate tasks and lead employees.
- Our office environment is not conducive to close teamwork.

## Marketing & Tourism

### Strengths

- We have open communication and strong connections with the members of our team.
- We are able to exercise our personal creativity while making it relevant to marketing efforts.
- Our staff is accountable on projects, events, and task-related strategies.
- Regular, positive engagement with community members contributes to a more effective marketing environment.
- Compared to other agencies, we have adapted well to evolving technologies and used them as tools to gain a competitive advantage.

### Weaknesses

- A lack of technical skills in radio operations could hinder our ability to leverage new opportunities effectively.
- Keeping up with industry trends, consumer preferences, and the competitive landscape requires continuous learning and research.
- We have a lack of staff to properly execute projects and initiatives.

### Opportunities

- We continuously develop our skills through online courses, industry conferences, and certifications.
- Single points of failure can be eliminated through cross training and succession planning.
- By allowing the support of A.I. technology, we can increase our efficiency.
- Gaining access to analytic tools for insights into consumer behavior, campaign performance, and market trends could be huge.
- We can engage our audience with surveys to gather new ideas on the public's interests.

### Threats

- Our volunteer staff at the Depot could depart at any time.
- Future budget constraints risk hamstringing the department.
- With a changing public face for the city, we could face backlash.

## Information Technology

### Strength

- Our staff have a great capacity to learn and utilize new technology.
- We have experience with the remediation of major technological events.
- Current department policies enhance our users' experiences.
- Our staff communicates well when working on projects.
- We have standardized equipment across all City operations.
- Our department is ready for audits and reviews at any time.
- We created effective fallback systems to consistently provide excellent technological services.

### Weaknesses

- We lack backup staff and succession planning.
- Current personnel are unfamiliar with project development.
- Our innovation may stall due to a lack of knowledge in new technologies.
- Our IT policies are currently limited.
- The City system has some vulnerabilities.

### Opportunities

- New technologies give us the opportunity to develop the knowledge of our team.
- The nature of IT allows us to form strong relationships with other departments.
- We can continue to foster project management skills among our staff.
- We will continue to implement audit recommendations.

### Threats

- Incorporating newer technologies can bring more risks to current systems.
- It may be difficult to provide solutions to new technologies.
- Implementing new technology may have a high monetary cost.
- We must be aware of which new software is peer-reviewed and which may be malware.
- Providing new solutions may leave vulnerabilities in the current system.

## Human Resources

### Strengths

- We have a robust schedule of city-wide engagement events and initiatives. This included ten launched in FY23.
- Clear and consistent communication helps our employees remain in-the-loop.
- We continue to improve our hiring processes.
- An employee-focused outreach and participation structure helps our staff feel appreciated.
- Our strong benefit administration philosophy ensures our staff is taken care of.
- Investing in our leadership and staff training and development continues to contribute to the overall productivity and quality-of-life for City staff.

### Weaknesses

- There is a learning curve and ongoing acclimation for less-tenured leadership and staff.
- Our risk management programs and policies need review.
- A current lack of standardized procedures needs addressing.

### Opportunities

- We must focus on a “whole employee investment.” This means providing compensation and benefits, health and wellness, and career development.
- Providing meaningful employee perks and benefits such as alternative work schedules and pre-paid legal services would make us more attractive as an employer.
- Impactful employee recognition and appreciation events and activities help retain staff.
- Technology can be leveraged to help smooth operations.
- All-around improvements to our recruiting and retention efforts would help make the City a more coveted employer and help us keep our current staff.
- By fostering the trust and the empowerment of our staff, we create a work environment that people truly want to be a part of.

### Threats

- Comparable municipalities with more appealing or competitive roles and benefits can take our current staff and deprive us of future applicants.
- Employee turnover remains a trouble for our institution.





# City Council Meeting

## Agenda Item

### Data Sheet

Meeting Date: December 2, 2024

**Topic:**

Approve the expenditure of greater than \$50,000 with AT&T Corp. for communication services, including FirstNet services, for a not-to-exceed amount of \$75,000.00 through a Department of Information Resources (DIR) Cooperative contract (DIR-TELE-CTSA-002), approve the expenditure of funds therefor, and authorize the City Manager to execute any and all documents related to the purchase.

**Background:**

The IT Department manages all the information technology-based solutions, including communication services for our first responders. AT&T FirstNet is the core communication services used for the overall cellular based communication services for the City. FirstNet has a lower cost point and provides excellent service for the various users.

Department	Budgeted Amount	Projected Spend
City Secretary	\$500.00	\$550.00
Community Development	\$6,500.00	\$6,000.00
ESD # 15	\$7,500.00	\$2,500.00
Facilities Maintenance	\$1,500.00	\$1,000.00
Fire	\$12,000.00	\$6,250.00
Gas	\$3,750.00	\$3,300.00
Information Technology	\$23,000.00	\$13,000.00
Marketing	\$0	\$500.00
Parks	\$2,000.00	\$1,800.00
Police	\$25,000.00	\$25,000.00
Public Works - Admin	\$5,500.00	\$4,700.00
Sewer	\$3,750.00	\$3,750.00
Streets	\$2,000.00	\$2,600.00
Utility Billing	\$500.00	\$550.00
Water	\$3,250.00	\$3,500.00
Total	\$96,750.00	\$75,000.00

Per the City’s adopted Procurement Policy and Manual, cumulative annual expenditures with a single vendor in excess of \$50,000 must be approved by City Council. This expenditure is included in the FY 2024-2025 Budget.

**Origination:** IT Director

**Recommendation:**

Approve expenditures with AT&T FirstNet

**Party(ies) responsible for placing this item on agenda:** Tom Wilson, IT 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: #various accounts

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

**Signed:** Tom Wilson **Approved by:** David Esquivel 11/26/2024  
Staff Member Date City Manager Date



Hello,

This letter is to confirm that the City of Tomball's FirstNet account is built based on the pricing available on AT&T's State of Texas DIR contract **DIR-TELE-CTSA-002**.

Account Number: 287287652456

Foundation Account: 57799152

For questions on terms and pricing, please feel free to contact your dedicated AT&T Mobility Account Manager, Cameron Ripple, at [pr1019@att.com](mailto:pr1019@att.com) or 346.246.9221.

Contract details can also be found here:

[DIR-TELE-CTSA-002 | Texas Department of Information Resources](#)

Thank you,

**Cameron Ripple**

**Client Solution Executive 4**

**FirstNet and Public Sector Mobility**

**AT&T Services, Inc.**

2948 I-45 North, Conroe, TX 77303

m|PTT 346-246-9221 | [pr1019@att.com](mailto:pr1019@att.com)

**MOBILIZING YOUR WORLD**

**FirstNet Dedicated Care: 800-574-7000**

# **TEX-AN 2021**

## **Communications Technology Services Agreement**

**Version 2.0**

**DIR Contract No DIR-TELE-CTSA-002**

Between

**The State of Texas, acting by and through the  
Texas Department of Information Resources**

and

**AT&T Corp. (Successful Respondent)**



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# TEX-AN 2021 Communications Technology Services Agreement

This TEX-AN 2021 Communications Technology Services Agreement (CTSA) is entered into by and between the State of Texas, acting by and through the Texas Department of Information Resources (DIR), with its principal place of business at 300 West 15th Street, Suite 1300, Austin, Texas 78701, and AT&T Corp. (Successful Respondent), with a principal place of business at One AT&T Way, Bedminster, New Jersey 07921.

## Preamble

WHEREAS, in accordance with the laws of the State, DIR issued the Request for Offer (RFO) for TEX-AN Communications 2021 (TEX-AN 2021) on the Texas Comptroller of Public Accounts' (CPAs) Electronic State Business Daily (ESBD) Website, Request for Offer (RFO) number DIR-CPO-TMP-552 (the RFO);

WHEREAS, in response to the RFO, Successful Respondent submitted Successful Respondent's Response, dated March 29, 2021, as revised, amended and supplemented thereafter (the Response)

WHEREAS, based on the Response, DIR and Successful Respondent have engaged in extensive negotiations, discussions, and due diligence that have culminated in the formation of the contractual relationship described in this TEX-AN 2021 Communications Technology Services Agreement (hereinafter CTSA or Contract); and

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, DIR and Successful Respondent (collectively, the "Parties" and each, a "Party") hereby agree as follows:

## 1 INTRODUCTION

### 1.1 Provision, Performance, and Management by Successful Respondent

DIR desires that certain communications technology Services procured in accordance with State law (pursuant to Chapter 2170, Texas Government Code) be provided, performed, and managed by Successful Respondent as and to the extent described in this CTSA. Successful Respondent has carefully reviewed DIR's requirements, has performed all due diligence it deems necessary, has received all information requested and required of DIR, and desires to deploy, perform, and manage such communications technology Services for DIR, the Customers, and, as required, other TEX-AN NG and TEX-AN 2021 Contract Holders. If Successful Respondent later discovers such due diligence was insufficient or lacking certain information, Successful Respondent shall assume any associated costs or expenses.

### 1.2 Successful Respondent's Experience and Qualifications

The Successful Respondent represents and warrants that it is an established provider of communications technology Services as awarded under this CTSA and has the skills, qualifications, expertise, financial

resources, and experience necessary to provide the communications technology Services, plans, reports, and other deliverables described in this CTSA.

### 1.3 Definitions

- a) The terms defined in this Agreement include the plural as well as the singular and the derivatives of such terms. Unless otherwise expressly stated, the words "herein," "hereof," and "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular article, section, subsection, exhibit, attachment, or other subdivision. Article, section, subsection, exhibit, and attachment references refer to articles, sections and subsections of, and exhibits and attachments to, this Agreement. The words "include" and "including" shall not be construed as terms of limitation. Unless otherwise modified, the words "day," "month," and "year" mean, respectively, calendar day, calendar month, and calendar year. The word "notice" and "notification" and their derivatives mean notice or notification in writing. References in this Agreement to any law shall be to such law in changed or amended form or to a newly adopted law replacing a prior law. All references to this Agreement shall include the exhibits and attachments to this Agreement unless otherwise provided. Other terms used in this Agreement are defined in the context in which they are used and have the meanings there indicated.
- b) Except as otherwise expressly provided in this CTSA, all capitalized terms (including derivatives of such terms) used in this CTSA shall have the meanings ascribed to them in **Exhibit A Definitions**; provided however, that any such defined terms, if not capitalized herein, shall have the same meaning as the defined term unless the context or industry usage require a different meaning. Words having well-known technical or trade meanings shall be accorded such meaning, unless expressly defined otherwise herein. Uncapitalized terms or phrases are to be given their usual meaning.
- c) Global drafting conventions.
  - 1) The terms "include," "includes," and "including" are terms of inclusion, and where used in this CTSA, are deemed to be followed by the words "without limitation."
  - 2) Any references to "sections," "exhibits," or "attachments" are deemed to be references to sections, exhibits, or attachments to this CTSA.
  - 3) Any references to agreements, contracts, statutes, or administrative rules or regulations in this CTSA are deemed references to these documents as amended, modified, or supplemented from time to time during the term of this CTSA.

### 1.4 Inducements

- a) In executing this CTSA, DIR relies on Successful Respondent's representations, warranties, and covenants regarding the following:
  - 1) Successful Respondent, including its agents and Subcontractors, regularly provide the types of Services described in the RFO to other public or private entities;
  - 2) Successful Respondent, including its agents and Subcontractors, have the skills, qualifications, expertise, financial resources, and experience necessary to perform the Services described in the RFO, Successful Respondent's Response, and this CTSA in an efficient and cost-effective manner with a high degree of quality and responsiveness, and have performed similar Services for other public or private entities;

- 3) Successful Respondent has thoroughly reviewed, analyzed, and understood the RFO, has timely raised all questions or objections to the RFO, and has had the opportunity to review and fully understand the DIR's current TEX-AN NG program, operating environment for the Services, this CTSA, and the needs and requirements of DIR, the Customers, and the State during the Term of the CTSA;
  - 4) Successful Respondent has had the opportunity to review and understand the State's stated objectives in entering into this CTSA and, based on such review and understanding, Successful Respondent has the ability and capability to perform the Services in accordance with the terms and conditions of this CTSA;
  - 5) Successful Respondent also has reviewed and understands all of the risks associated with the TEX-AN 2021 Program as described in the RFO and the CTSA, including the risk of non-appropriation of funds;
  - 6) Successful Respondent shall at all times be capable of and legally authorized to provide the Services; and
  - 7) The Rates to DIR, Prices, and any discounts offered hereunder shall be true and correct.
- b) Accordingly, on the basis of these representations, warranties, and covenants, DIR desires to engage Successful Respondent to perform the Services under the terms and conditions set forth in this CTSA, and Successful Respondent covenants to perform the Services under the terms and conditions set forth in this CTSA.

## **1.5 Construction of Agreement**

### **1.5.1 Severability**

If any provision of this CTSA (or any portion thereof) or the application of any such provision (or portion thereof) to any person, entity, or circumstance is held to be illegal, invalid, or otherwise unenforceable in any respect by a final judgment, order of the State Office of Administrative Hearings, or court of competent jurisdiction, such provision shall be deemed to be void and unenforceable. Notwithstanding the preceding sentence, the remaining provisions of this CTSA, if capable of substantial performance, shall remain in full force and effect. By entering into this CTSA, DIR makes no representations or warranties regarding the enforceability of the terms of this CTSA and DIR does not waive any applicable law that conflicts with the terms of this CTSA.

### **1.5.2 Survival of Terms**

Notwithstanding the expiration or and termination of this CTSA:

- a) any provision of this CTSA that contemplates performance or observance subsequent to any termination or expiration of this CTSA shall survive any termination or expiration of this CTSA and continue in full force and effect;
- b) all provisions of this Agreement shall survive the expiration or termination of this Agreement to the fullest extent necessary to give the Parties the full benefit of the bargain expressed herein
- c) any provisions that the Parties have expressly agreed will survive any termination or expiration shall survive the expiration or any termination of this Agreement;
- d) any terms that remain to be performed or by their nature would be intended to be applicable following any such termination or expiration, including the Administrative Fee, any and all payment obligations invoiced prior to the termination or expiration hereof, and indemnification rights and obligations;



- e) the limitation on use and disclosure of DIR or Customer Data shall survive the expiration or any termination of this Agreement and shall be perpetual;
- f) each party's confidentiality obligations under this CTSA shall continue for any period required by applicable law or until such time as the Confidential Information is publicly known and made generally available through no action or inaction of the receiving Party;
- g) all applicable services, warranties, or service agreements that were entered into between Successful Respondent and a Customer under the terms and conditions of the CTSA shall survive the expiration or termination of the CTSA; and
- h) all Purchase Orders issued and accepted by Successful Respondent shall survive expiration or termination of the CTSA for the term of the Purchase Order unless the Customer terminates the Purchase Order sooner. However, regardless of the term of the Purchase Order, no Purchase Order shall survive the expiration or termination of the CTSA for more than two (2) years, unless Customer makes an express finding and justification for the longer term. The finding and justification must either be included in the Purchase Order, or referenced in it prior to the expiration or termination of the CTSA and maintained in Customer's procurement record.
- i) The Successful Respondent agrees that DIR may require continued performance, not including termination assistance, beyond the initial or any renewal CTSA term, of any of the within described Services at the rates specified in the CTSA. This option may be exercised more than once, but the total extension of performance hereunder shall not exceed four (4) calendar months. Such extension of Services shall be subject to the requirements of the CTSA, with the sole and limited exception that the original date of termination shall be extended pursuant to this provision.

### 1.5.3 Headings

The article and section headings and the Table of Contents in this CTSA are for reference and convenience only and may not be considered in the interpretation of this CTSA.

## 1.6 No Implied Authority

- a) The authority delegated to Successful Respondent by DIR is limited to the terms of this CTSA. DIR is the State agency designated by the Texas Legislature to administer the TEX-AN 2021 Program, and no other agency of the State grants Successful Respondent any authority related to this TEX-AN 2021 Program. Successful Respondent may not rely upon implied authority, and specifically is not delegated authority under this CTSA to:
  - 1) make public policy;
  - 2) promulgate, amend, or disregard administrative regulations or program policy decisions made by DIR for administration of the TEX-AN 2021 Program; or
  - 3) unilaterally communicate or negotiate with any Customer or the Texas Legislature on behalf of DIR regarding the TEX-AN 2021 Program.
- b) Successful Respondent may not incur any debts, obligations, expenses, or liabilities of any kind on behalf of the State or DIR.

## 1.7 Legal Authority

- a) DIR is authorized to enter into this CTSA under Chapter 2170, Texas Government Code. Successful Respondent is authorized to enter into this CTSA pursuant to the authorization of its governing board or controlling owner or officer.

- b) The person or persons signing and executing this CTSA on behalf of the Parties, or representing themselves as signing and executing CTSA on behalf of the Parties, warrant and guarantee that he, she, or they have been duly authorized to execute this CTSA and to validly and legally bind the Parties to all of its terms, performances, and provisions.

## **2 CTSA DOCUMENTS**

### **2.1 Definition**

This CTSA includes each of the exhibits and attachments attached to this CTSA, which are hereby incorporated into and deemed part of this CTSA, and unless otherwise expressly stated all references to this CTSA shall include the exhibits and attachments. A listing of the exhibits and attachments is included in the Table of Contents.

### **2.2 Compliance with Procurement Laws**

This CTSA is the result of compliance with applicable procurement laws of the State. DIR issued a solicitation on the CPA's ESBD, RFO DIR-CPO-TMP-552, on January 4, 2021, for TEX-AN 2021 Communications Technology Services. Successful Respondent responded, and DIR conducted its evaluation. DIR determined that Successful Respondent should be invited into negotiations. DIR and Successful Respondent have engaged in extensive negotiations, discussions, and due diligence that have culminated in the formation of the contractual relationship described in this CTSA. Upon execution of all CTSA's arising from the RFO, a notice of award for RFO DIR-CPO-TMP-552 shall be posted by DIR on the ESBD.

### **2.3 Order of Precedence**

In the event of any conflict or contradiction between or among the various documents comprising the CTSA, the documents will control in the following order of precedence:

- a) Articles 1 through 22 of this CTSA, and all amendments thereto,
- b) Exhibit A Definitions to the CTSA, and all amendments thereto,
- c) All other Exhibits to the CTSA, and all amendments thereto,
- d) Attachments to the CTSA, and all amendments thereto,
- e) Appendices to the CTSA, and all amendments thereto;
- f) The RFO Number DIR-CPO-TMP-552, as amended and clarified by DIR official revisions or addenda, and incorporated by reference herein.
- g) Successful Respondent's final Response dated March 29, 2021, and incorporated by reference herein.

## **3 TERM**

### **3.1 Initial Term**

The Initial Term of this CTSA shall commence on the Effective Date, date of last signature, and continue for four (4) years from the Effective Date, unless this CTSA is terminated earlier as provided herein, in

which case the Initial Term of this CTSA shall end at 11:59:59 p.m., Central Time, on the effective date of such termination (the “Initial Term”).

### **3.2 Extension(s)**

By giving written notice to Successful Respondent no less than thirty (30) days prior to the expiration date of the Initial Term or the then-current Renewal Term, DIR, in its sole and absolute discretion, shall have the right to extend the Term of the CTSA for up to four (4) years from the expiration of the Initial Term, in any combination of months or years as necessary to complete the purpose of this procurement. DIR, in its sole and absolute discretion, may extend the CTSA more than once up to a total of an additional four-year period (each a “Renewal Term”). The exact period(s) of the extension(s) shall be specified in the DIR notice of extension. The total period of time during which the CTSA is in effect is the Term. No termination charges or penalties shall be applicable to any termination before or after the end of the Initial Term.

## **4 RELATIONSHIP AMONG DIR, SUCCESSFUL RESPONDENT, OTHER TEX-AN 2021 CONTRACT HOLDERS, AND CUSTOMERS**

### **4.1 DIR as Successful Respondent’s Customer**

Pursuant to its authority found in Chapter 2170, Texas Government Code, DIR is the single State agency mandated to procure telecommunications services on behalf of Customers. In all interactions under the CTSA, DIR is in the role of Successful Respondent’s customer, with the exception of Local Services, Small Office/Home Office (SO/HO) Internet Connectivity Services, wireless voice and Data Services, Technology Based Conferencing Services, and telecommunications managed Services (hereinafter collectively “Direct Sales Transaction Services”). Except as noted below, DIR will issue all Purchase Orders to Successful Respondent on behalf of itself and the Customers. Except as noted below, DIR shall act as the Successful Respondent’s billing agent for all Services ordered and consumed by the Customers and shall pay net proceeds from such billings to Successful Respondent.

### **4.2 Direct Sales Transaction Service Customers for Successful Respondent**

- a) If Successful Respondent is awarded any Direct Sales Transaction Services, then Successful Respondent shall receive Purchase Orders for such Direct Sales Transaction Services from the Direct Sales Transaction Service Customer(s). Successful Respondent shall bill Direct Sales Transaction Service Customers for the Services at the Prices allowed by this CTSA (or Statement of Work (SOW) as applicable) that includes the Administrative Fee. Successful Respondent shall remit the associated Administrative Fee to DIR on a monthly basis. Successful Respondent shall also be responsible for sales reports and other administrative duties associated with providing these Services to the Direct Sales Transaction Service Customers.
- b) Successful Respondent agrees to process all Direct Sales Transaction Service Customer orders for Services available under the CTSA through the CTSA. Successful Respondent shall not offer Direct Sales Transaction Services to Customers outside of the CTSA or for rates higher than negotiated herein. Successful Respondent agrees that all discounts offered to DIR are equal to or exceed any discount offered by Successful Respondent to any similarly situated Customer.



### 4.3 Customers as Authorized End Users of Successful Respondent's Services

As specified in Section 2170.004, Texas Government Code, certain Texas governmental and non-governmental entities are authorized to use the telecommunications services for which DIR contracts in this CTSA. For DIR's purposes, these entities are Customers. From the Successful Respondent's perspective, these entities may be referred to as "Authorized End Users," whether as organizations or persons employed by such organizations. All references herein to "Customer" include "Authorized End Users." When ordering certain Services from Successful Respondent, non-state agency Customers may enter into a certain TEX-AN 2021 Customer Services Agreement (CSA), with DIR, which sets forth the terms and conditions for the deployment, acceptance, and delivery of such certain Services by Successful Respondent to such Customer. Under each CSA, DIR shall be the billing agent on behalf of Successful Respondent to receive payment for the Services from the Customer. The minimally acceptable terms and conditions of the CSA are attached as **Exhibit F**. Customers operating under the CSA will ensure funds are committed for the payment of services to DIR where DIR is acting as Successful Respondent's billing agent. In addition, Successful Respondent understands and agrees that if Successful Respondent responds to certain Customer pricing requests or Statements of Work, then, in order to contract with the Customer, Successful Respondent may be required to comply with additional terms and conditions or certifications that an individual Customer may require due to state and federal law (e.g., privacy and security requirements).

### 4.4 Use of Third Parties

An award from the RFO is not exclusive to the Successful Respondent. Successful Respondent acknowledges that DIR intends to award or has awarded multiple CTSA's for Services out of the RFO to other Successful Respondents (TEX-AN 2021 Contract Holders). Successful Respondent further acknowledges that some of the Services provided by Successful Respondent hereunder may also be provided by other TEX-AN 2021 Contract Holders. Finally, Successful Respondent acknowledges that Successful Respondent may have a dependency on other TEX-AN 2021 Contract Holders to serve a particular Customer in a particular area. Therefore, Successful Respondent warrants and covenants, for itself and its Subcontractors, it shall not discriminate against another TEX-AN 2021 Contract Holder in the deployment and delivery of any Service in any manner to DIR and/or any Customer, or otherwise cause any disruption to Services as deployed and delivered to DIR and/or Customers by any other TEX-AN 2021 Contract Holder.

### 4.5 DIR (and Customer) Right of Use

- a) Notwithstanding anything to the contrary contained in this CTSA, Successful Respondent acknowledges and agrees that: (i) this is not a requirements CTSA and DIR and Customers shall not be required to obtain their requirements for any of the Services from Successful Respondent; and (ii) Successful Respondent is not the exclusive provider to DIR or the Customers of any of the Services and DIR and the Customers may at any time themselves and/or through third parties (each, a "DIR Contractor") provide and/or obtain any services (including services to supplement, replace, or render unnecessary the Services).
- b) Nothing in this Agreement shall be construed or interpreted as limiting DIR's right or ability to add or delete Customers, or DIR's or any Customer's right or ability during the Term to change requirements, move parts of Services in and out of scope, or to increase or decrease their demand for Services. To the extent DIR or a Customer obtains from Successful Respondent, or provides to itself, any of the Services, the charges, if any, shall be adjusted downward in accordance with **Exhibit B Pricing and Volumes**, to the extent applicable, or equitably adjusted downward in

proportion to the portion of the Services that Successful Respondent shall not be providing. Both Successful Respondent and Customer shall approve such adjustments in writing.

- c) DIR may elect to solicit and receive bids from third parties to perform any new services. If DIR elects to use third parties to perform new services: (i) such new services shall not be deemed "Services" under the provisions of this Agreement; and (ii) Successful Respondent shall cooperate with such third parties as provided above.

#### 4.5.1 Successful Respondent Cooperation

Successful Respondent acknowledges that its provision of the Services shall require significant cooperation with third parties, and Successful Respondent shall fully cooperate and work in good faith with third parties as described in this CTSA and to the extent otherwise requested by DIR.

#### 4.5.2 Notice by Successful Respondent

Without limiting its obligations under this CTSA, Successful Respondent shall expeditiously notify DIR when it becomes aware that an act or omission of DIR or Customer personnel or a DIR Contractor shall cause, or has caused, a problem or delay in providing the Services, and shall work with DIR, the Customers, and the DIR Contractor to prevent or circumvent such problem or delay. Successful Respondent shall cooperate with DIR, the Customers, and DIR Contractors to resolve differences and conflicts arising between the Services and other activities undertaken by DIR, the Customers and DIR Contractors.

### 4.6 Covenant of Cooperation

Successful Respondent hereby agrees and covenants that it shall fully cooperate with other TEX-AN 2021 Contract Holders in fulfilling the terms of this CTSA and/or CSA with DIR and/or Customers. Successful Respondent is required to cooperate to the fullest extent possible to assist DIR in communications and negotiations with all Customers as directed by DIR. Successful Respondent acknowledges that this covenant is material to DIR and that failure to maintain such cooperation may be grounds for termination for cause. Each Customer shall cooperate with its selected Contract Holders and DIR in fulfilling the terms of each CSA to which they are a party.

### 4.7 Special Covenant to Cooperate with DIR on Internal Business Process Improvements

All TEX-AN 2021 Contract Holders shall interface with DIR's internal service delivery system to support DIR's service delivery processes, including the BMC Helix ITSM platform version 20.08. Network and any subsequent versions to network demarcation points are determined on a case by case basis depending upon type of Service. Successful Respondent shall provide timely, complete, and commercially reasonable cooperation in the implementation and use of the DIR adopted systems at no additional cost to DIR or the Customers. As of the Effective Date, the BMC Helix ITSM platform includes service request management (Service ordering), asset management, performance and service level management, incident management (help desk/trouble tickets), change management, and knowledge management. Other systems in development to support Tex-AN-2021 include DIR enterprise billing and customer relationship management. As of the Effective Date, DIR and Successful Respondent have agreed to the following formats and Data to include detailed data for quotes, orders, trouble tickets, billing, Service Level Agreements, and network monitoring and formats to include email, delimited flat files, and web services XML as documented in **Appendix B Master Vendor Reporting Guide**. DIR will provide reasonable written notice to Successful Respondent as new systems become available for Successful Respondent's use. If Successful Respondent is unable to implement and use the DIR adopted internal

systems at no additional cost to DIR or Customers, DIR reserves the right to terminate the CTSA. Successful Respondent shall promptly notify DIR if it encounters an unforeseen challenge to implementing any DIR adopted internal systems. DIR agrees to negotiate in good faith to resolve the Successful Respondent's challenge, reserving the right to terminate the CTSA if no resolution is apparent within thirty (30) days of notification of the challenge.

## **5 AWARDED SERVICES**

### **5.1 Description**

A description of the Services awarded to Successful Respondent under this CTSA are found in Exhibit B to the CTSA. This CTSA is an indefinite quantity contract. DIR has not made and does not make any representations or warranties about the amount or type of Services that Successful Respondent may sell to DIR or the Customers as a result of executing this CTSA.

### **5.2 Rates, Prices, and Telecommunications Fees and Surcharges**

- a) The rates for the Services as set forth in Attachments to Exhibit B to the CTSA are the Rates to DIR, with the exception of the Prices for which Successful Respondent shall directly bill the Customers at the Prices set forth in Attachments to Exhibit B, or as negotiated through the SOW for Telecommunications Managed Services. For all other Services in use, Successful Respondent shall present a Monthly Consolidated Invoice to DIR based on the Rates to DIR. In its role as billing agent for Successful Respondent, DIR shall bill Customers the Rates to DIR, plus an additional percentage as the Administrative Fee, as authorized by Chapter 2170, Texas Government Code. Successful Respondent acknowledges and agrees that DIR shall retain its Administrative Fee from the amounts it collects from Customers.
- b) If the Successful Respondent is awarded Local Services, SO/HO Internet Connectivity Services, wireless Services, and/or Technology Based Conferencing Services, Attachments to Exhibit B also contains the Prices for these Services, which include the Successful Respondent's rate plus the Administrative Fee. Successful Respondent shall bill the Direct Sales Transaction Service Customers for the Price as defined in Exhibit B and shall remit the Administrative Fee to DIR on a monthly basis. Successful Respondent shall provide DIR with monthly Direct Sales Transaction Service Reports.
- c) If the Successful Respondent is awarded Telecommunication Managed Services, Successful Respondent shall work directly with Customers to negotiate an SOW that will include pricing for the Services, which will include the Successful Respondent's rate plus the Administrative Fee. Successful Respondent shall bill the Direct Sales Transaction Service Customer for the Price as defined in the SOW and shall remit the Administrative Fee to DIR on a monthly basis. Successful Respondent shall provide DIR with monthly Direct Sales Transaction Service Reports.
- d) Attachments to Exhibit B also lists for each awarded Service, all applicable telecommunications fees and/or surcharges that are required to be assessed by Successful Respondent against Customers in accordance with federal and/or state law. DIR shall include the listed telecommunications fees and surcharges on bills to Customers and Customers shall be responsible for paying such telecommunications fees and surcharges in full. If applicable to the Direct Sales Transaction Services, Successful Respondent shall include the telecommunications fees and surcharges on its bills to the Direct Sales Transaction Service Customers, and the Direct Sales Transaction Service Customers shall be responsible for paying such telecommunications fees and surcharges in full. No telecommunications fees and surcharges that are not set forth in



Attachments to Exhibit B may appear on bills to DIR or Customers. Notwithstanding the foregoing, if federal or state laws and regulations that impose additional fees and/or surcharges become effective after the Effective Date of this CTSA then such new fees and/or surcharges may be assessed by Successful Respondent against DIR Customers; however, such charges shall be implemented through the contract amendment process as outlined in this CTSA. Additionally, Successful Respondent reserves the right to update existing fees and/or surcharges as such updates are imposed by issuing government entity with notice to DIR and incorporation into the CTSA by compliance with Article 9 of this CTSA. DIR reserves the right to review telecommunications taxes, fees, and surcharges for applicability of payments by public entities and reserves the right to exempt Customers pursuant to federal, state, and/or local exemptions.

### **5.3 Authorized Changes to Rates to DIR and Prices**

Successful Respondent may propose Attachments to Exhibit B changes to lower the Rates to DIR and/or the Prices. DIR shall have reasonable time to review and determine, in its sole and absolute discretion, if the change to the rates to DIR is a best value for the State. If DIR approves the Rates to DIR or Price change, such change shall be implemented using the Electronic Administrative Update (EAU) process defined in CTSA Section 9.5 to amend the CTSA and document the new Rates to DIR and/or Price. The Parties agree to make new Rates to DIR or Prices available to Customers as quickly as possible. Successful Respondent initiated Point of Presence (POP) location changes, or any other changes that have an adverse effect (price increase) on Rates to DIR or Prices must be authorized by an amendment to the CTSA before being billed. Changes that lower pricing will be administered via the EAU process.

## **6 SUCCESSFUL RESPONDENT PERSONNEL MANAGEMENT**

### **6.1 Qualifications, Retention, and Replacement of Successful Respondent Employees**

Successful Respondent agrees to maintain the organizational and administrative capacity and capabilities to carry out all Successful Respondent duties and responsibilities, including providing and supporting the Services, under this CTSA. The personnel Successful Respondent assigns to perform the duties and responsibilities under this CTSA will be properly trained and qualified for the functions they are to perform. Notwithstanding transfer or turnover of its personnel, or of its agents' or Subcontractors' personnel, Successful Respondent remains obligated to perform all duties and responsibilities, including providing and supporting the Services, without degradation and in accordance with the terms of this CTSA.

### **6.2 Responsibility for Successful Respondent Personnel**

- a) Under no circumstances will Successful Respondent Personnel, be considered or deemed employees of DIR or the State, but will be considered Successful Respondent's employees, agents, or Subcontractors for all purposes. Successful Respondent, not the State, DIR, or the Customers, has the right, power, authority, and duty to supervise and direct the activities of the Successful Respondent Personnel and to compensate such Successful Respondent Personnel for any work performed by them hereunder. Successful Respondent, and not the State, DIR, or the Customers, shall be responsible and therefore solely liable for all acts and omissions of Successful Respondent Personnel associated or related in any manner with this CTSA or the related products, equipment, and Services, including acts and omissions constituting negligence, gross negligence, willful misconduct, and/or fraud.

- b) Except as expressly provided in this CTSA, neither Successful Respondent nor any of Successful Respondent Personnel may act in any sense as agents or representatives of DIR or the State of Texas.
- c) Successful Respondent Personnel shall be paid exclusively by Successful Respondent for all Services performed. Successful Respondent is responsible for and must comply with all requirements and obligations related to such Successful Respondent Personnel under local, State, or federal law, including minimum wage, social security, unemployment insurance, State and federal income tax, and workers' compensation obligations.
- d) Successful Respondent assumes sole and full responsibility for its acts and the acts of Successful Respondent Personnel relating to the performance of this CTSA.
- e) Successful Respondent agrees that any claim on behalf of any person arising out of employment, alleged employment, termination of employment, failing to employ, agency, or Subcontracts (including, but not limited to, claims of discrimination against Successful Respondent, its officers, or its agents or its Subcontractors) are the sole responsibility of Successful Respondent and are not the responsibility of DIR or any Customer, and that Successful Respondent will indemnify and hold harmless the State from any and all such claims asserted against the State, DIR or any Customer. Successful Respondent understands that any person who alleges a claim arising out of employment, alleged employment, termination of employment, failing to employ, agency, or Subcontract by Successful Respondent (including, but not limited to, claims of discrimination against Successful Respondent, its officers, or its agents or tis Subcontractors) will not be entitled to any compensation, rights, or benefits from DIR (including, but not limited to, tenure rights, medical and hospital care, sick and annual/vacation leave, severance pay, or retirement benefits).

### **6.3 Cooperation with DIR, Other Contract Holders, and Customers**

#### **6.3.1 General**

- a) Successful Respondent shall perform the Services in a manner that shall not: (1) disrupt or have an unnecessary adverse impact on the activities or operations of DIR, the Customers, or another TEX-AN 2021 Contract Holder; (2) degrade the Services then being received by DIR or the Customers; or (3) disrupt or interfere with the ability of DIR or the Customers to obtain the full benefit of the Services.
- b) In performing the Services and using the DIR Facilities, Successful Respondent shall observe and comply with all DIR and Customer policies, rules, and regulations applicable at or to DIR Facilities or the provision of the Services which have been communicated to Successful Respondent or Successful Respondent Personnel in advance in writing (which may include email communications and notices of information contained on web sites or conspicuously posted at DIR Facilities to the extent consistent with the way in which DIR or the Customers disseminate such information to their own employees) or by such means as are generally used by DIR or DIR Customers to disseminate such information to its employees or contractors and those applicable to specific DIR Facilities (collectively, DIR Rules). The Parties acknowledge and agree that, as of the Effective Date, the Successful Respondent is fully informed as to the DIR Rules that have been communicated to it consistent with the foregoing. Successful Respondent shall be responsible for the promulgation and distribution of DIR Rules to Successful Respondent Personnel as and to the extent necessary and appropriate. Additions or modifications to the DIR Rules may be: (i) disclosed to Successful Respondent and Successful Respondent Personnel in writing (which may include email communications and notices of information contained on web

sites to the extent consistent with the way in which DIR or Customers disseminate such information to their own employees); (ii) conspicuously posted at a DIR Facility; (iii) electronically posted; or (iv) communicated to Successful Respondent or Successful Respondent Personnel by means generally used by DIR and Customers to disseminate such information to its employees or contractors (including oral communications in immediately applicable or emergency situations). Successful Respondent and Successful Respondent Personnel shall observe and comply with such additional or modified DIR Rules.

### 6.3.2 DIR Cost Avoidance

As part of the performance measures reported to State leadership, DIR must provide the cost avoidance the State has achieved through the CTSA. Upon request by DIR, Successful Respondent shall provide DIR with a detailed report of a representative sample of products sold under the CTSA. The report shall contain: product part number, product description, list price and price to Customer under the CTSA. Additionally, Successful Respondent shall promptly provide DIR with all other CTSA performance related information that assists DIR in reporting any other performance measures for which it is responsible.

### 6.3.3 Cooperation with Other TEX-AN 2021 Contract Holders

Successful Respondent agrees to reasonably cooperate with and work with the other TEX-AN 2021 Contract Holders, Subcontractors, and third party representatives as requested by DIR. To the extent permitted by DIR's financial and personnel resources, DIR agrees to reasonably cooperate with Successful Respondent.

### 6.3.4 Cooperation with Customers

Successful Respondent must ensure that Successful Respondent employees, agents, and Subcontractors will cooperate with DIR and Customers at no charge to DIR or Customers for purposes relating to the administration of the TEX-AN 2021 Program including, but not limited to the following purposes:

- a) The investigation and prosecution of fraud, abuse, and waste in the TEX-AN 2021 Program;
- b) Audit, inspection, or other investigative purposes; and
- c) Testimony in judicial or quasi-judicial proceedings relating to the Services under this CTSA or other delivery of information to DIR or Customers' investigators or legal staff.

### 6.3.5 Successful Respondent's Subcontractor's Compliance

In all cases where Successful Respondent is required to ensure its Subcontractors' compliance with a section of this CTSA (or must otherwise require compliance by its Subcontractor with the terms of this CTSA, or is responsible for or required to indemnify the State for any taxes, benefits, compliance with law or other responsibilities of its Subcontractors, other than the performance of Services), Successful Respondent shall:

- a) include the necessary language of the section of the CTSA in the applicable Subcontract; and
- b) in consultation with DIR regarding the relative prudence of continuing to use the Subcontractor for Services as opposed to potentially terminating the Subcontract for breach, Successful Respondent shall, using commercially reasonable efforts, exercise contractual remedies upon such Subcontractor's non-compliance.

## 6.4 Conduct of and Responsibility for Successful Respondent Employees

- a) While performing the Services, Successful Respondent's Personnel must:



- 1) comply with applicable State, DIR, and Customer policies, procedures, rules, and regulations;
  - 2) comply with requests of DIR or Customers regarding personal and professional conduct generally applicable to the Service locations, including, but not limited to, conforming to all physical security standards and requirements, as required given the Service location;
  - 3) attend workplace training offered by DIR and/or the Customers at DIR's or Customer's request; and
  - 4) otherwise conduct themselves in a businesslike and professional manner.
- b) If DIR determines, in its sole and absolute discretion, that a particular employee, agent, or Subcontractor is not conducting him/herself or itself in accordance with this Section 4.4, DIR may provide Successful Respondent with notice and documentation concerning such conduct. Upon receipt of such notice, Successful Respondent must promptly investigate the matter and take appropriate action that may include:
- 1) Removing the employee, agent, or Subcontractor from Service delivery under this CTSA;
  - 2) Providing DIR with written notice of such removal; and
  - 3) Replacing the employee, agent, or Subcontractor with a similarly qualified individual acceptable to DIR, in its sole and absolute discretion, in the case of personnel and Subcontractors.
- c) Successful Respondent shall replace any employee, agent, or Subcontractor who, as determined by DIR, in its sole and absolute discretion, after consultation with Successful Respondent, is unable to work effectively with DIR staff or Customer staff or is not adequately performing assigned responsibilities. In such event, Successful Respondent shall provide replacement employee(s), agent(s), or Subcontractor(s) with equal or greater skills and qualifications as soon as reasonably practicable. Replacement of personnel shall be subject to DIR prior review and written approval, which approval will not be unreasonably withheld or delayed. The Parties will work together in the event of any such required replacement so as not to disrupt Service delivery under the CTSA. Other than in instances when DIR determines, in its sole and absolute discretion, that removal must be handled immediately to avoid imminent harm to the TEX-AN 2021 Program or safety to others, DIR and Successful Respondent will provide written notice and cooperate with the other Party in a manner intended to minimize staff turnover and the adverse impact any requested removal may have on the Services. Nothing in this CTSA will prevent Successful Respondent from replacing employees. If the Parties have not been able to resolve DIR's concerns within five (5) Business Days of DIR communicating its concerns, Successful Respondent shall not assign the individual to that position and shall propose to DIR the assignment of another individual of suitable ability and qualifications.
- d) Successful Respondent agrees that anyone used by Successful Respondent to fulfill the terms of this CTSA is an employee, agent, or Subcontractor of Successful Respondent and remains under Successful Respondent's sole direction and control.
- e) Successful Respondent agrees to be responsible for the following with respect to Successful Respondent Personnel:
- 1) Damages incurred by Successful Respondent Personnel in the performance of their duties under this CTSA; and
  - 2) Determination of the hours to be worked and the duties to be performed by Successful Respondent Personnel.

- 3) Successful Respondent agrees and will inform Successful Respondent Personnel that there is no right of action against DIR or any Customer for any duty owed by Successful Respondent pursuant to this CTSA. Successful Respondent expressly agrees that neither DIR nor any Customer assumes any liability for the actions of, or judgments rendered against, the Successful Respondent, its employees, agents, or Subcontractors. Successful Respondent agrees that it has no right to indemnification or contribution from DIR or any Customer for any judgments rendered against Successful Respondent or Successful Respondent Personnel. DIR's liability to the Successful Respondent Personnel, if any, will be governed by Chapter 101, Texas Civil Practice & Remedies Code.

## **6.5 Responsibility for Subcontractors and Third Party Providers**

- a) Successful Respondent remains fully responsible for obligations, services, and functions performed by its Subcontractors and third party providers to the same extent as if such obligations, services, and functions were performed by Successful Respondent's employees or agents and, for purposes of this CTSA, such work will be deemed work performed by Successful Respondent. DIR reserves the right to require the replacement of any Subcontractor found by DIR, in its sole and absolute discretion, to be unacceptable in accordance with CTSA Section 6.4.
- b) Successful Respondent must not disclose Confidential Information of DIR, a Customer, or the State to a Subcontractor unless and until such Subcontractor has agreed in writing to protect the confidentiality of such Confidential Information in the manner required of Successful Respondent under this CTSA.
- c) Successful Respondent must identify any Subcontractor that is a newly-formed subsidiary or entity, whether or not an Affiliate of Successful Respondent, substantiate the proposed Subcontractor's ability to perform the subcontracted Services, and certify to DIR that no loss of Service will occur as a result of the performance of such Subcontractor and provide any other information DIR may require. The Successful Respondent hereby assumes responsibility for all contractual responsibilities whether or not the Successful Respondent performs them. The Successful Respondent agrees that it is the sole point of contact for DIR with regard to all matters under this CTSA, including any matters with respect to Successful Respondent's Subcontractors.
- d) Successful Respondent shall not change a Subcontractor prior to submitting for DIR's approval, in its sole and absolute discretion, a revised HUB Subcontracting Plan. Only upon DIR's approval of a revised HUB Subcontracting Plan may Successful Respondent proceed with replacement of a Subcontractor.
- e) All Subcontracts are required to be in writing and signed by the Successful Respondent and Subcontractor

## **6.6 Security of Premises, Equipment, Data, and Personnel**

Successful Respondent may, from time to time during the performance of the CTSA, have access to the premises, Equipment, Software, and other property, including data, files, information, and/or materials (collectively referred to as "Data") belonging to DIR or Customers. Successful Respondent will use its best efforts to preserve the safety, security, and the integrity of the premises, software, Equipment, Data, and other property of DIR or Customer, in accordance with the instruction of DIR or Customers. Successful Respondent will be responsible for damage to DIR or Customer's premises, Software, Equipment, Data, other property, and its contents, when such damage is caused by Successful Respondent Personnel.

## 6.7 Background and/or Criminal History Investigation

- a) Prior to commencement of any Services, background checks (including national fingerprint record checks and drug testing) and/or criminal history investigation of certain of the Successful Respondent Personnel who will be involved in the provision of Services, may be performed by or at the request of DIR or certain Customers having legislative authority to require such investigations. Should any Successful Respondent Personnel who will be involved in the provision of Services to DIR under the CTSA, or to a Customer under a CSA, not be acceptable to DIR or Customer, in their sole and absolute discretion, as a result of the background and/or criminal history check, then DIR or Customer, in their sole and absolute discretion, may immediately require replacement of the Successful Respondent Personnel in question.
- b) As part of conducting a background and/or criminal history investigation pursuant to Section 6.7, Customer or its designee, including Customers with legislative authority, may obtain information regarding AT&T employees or subcontractors, which includes, but is not limited to, name, address, telephone number, driver's license number, date of birth, health information, biometric data and other personal information obtained in connection with the investigation (collectively, "Sensitive Personal Information" or "SPI"). Customer and its designee(s) shall consider SPI to be private, sensitive and confidential. SPI may be subject to certain privacy laws and regulations and requirements, including requirements of AT&T, and requires a high degree of protection. Customer shall comply with all applicable privacy laws and regulations and must treat such SPI with the same degree of care as Customer would treat SPI of its own employees and subcontractors including, without limitation:
  - 1) Collect SPI only as needed for a background and/or criminal history investigation or otherwise as permissible under this Agreement;
  - 2) Not use, disclose, or distribute any SPI except in connection with a background and/or criminal history investigation or otherwise as permissible under this Agreement;
  - 3) Store and transmit SPI securely, including without limitation encrypting SPI when it is at rest and being transmitted;
  - 4) Restrict access to SPI only to those employees of Customer or its designee(s) that require access to perform the services under this Agreement;
  - 5) Immediately notify AT&T if Customer becomes aware that (a) any of the above provisions has been breached; (b) any disclosure of SPI to any third party not expressly permitted herein to receive or have access to SPI; or (c) any breach of, or other security incident involving, Customer's systems or network that could cause or permit access to SPI inconsistent with the above-referenced provisions. Customer shall fully cooperate with AT&T in determining, as may be necessary or appropriate, actions that need to be taken including the full scope of the breach, disclosure or security incident, corrective steps to be taken by Customer, the nature and content of any notifications, law enforcement involvement, or news/press/media contact etc., and Customer shall not communicate directly with any AT&T employee or subcontractor without AT&T's consent, which such consent shall not be unreasonably withheld; and
  - 6) Implement any other administrative, physical, and technical safeguards to ensure proper use, and protect against any unauthorized disclosure, of SPI.



## 7 NOTICES

### 7.1 Delivery of Notice

Any notice or other legal communication required or permitted to be made or given by either Party pursuant to this CTSA, including any demand, will be in writing and deemed to have been duly given:

- a) Three (3) Business Days after the date of mailing if sent by certified U.S. mail, postage prepaid, with return receipt requested; or
- b) When delivered if delivered personally or sent by express courier service.

### 7.2 Notice

Any notice under this CTSA will be sufficient if delivered to the following persons or their successors:

If to Successful Respondent:

AT&T Corp  
4544 S Lamar Blvd.  
Austin, Texas 78745  
Renia Beal  
(737) 529-6966  
[rb8268@att.com](mailto:rb8268@att.com)  
Attn: Contract Manager

With a copy to:

AT&T Corp  
One AT&T Way  
Bedminster, New Jersey 07921-0752  
[mast@att.com](mailto:mast@att.com)  
Attn: Master Agreement Support Team

If to DIR:

Chief Procurement Officer  
Department of Information Resources  
300 W. 15th St., Suite 1300  
Austin, Texas 78701  
Phone: (512) 475-4700

With copies to:

General Counsel  
Department of Information Resources  
300 W. 15th Street, Suite 1300  
Austin, Texas 78701  
Phone: (512) 475-4700  
Facsimile: (512) 475-4759  
[DIRLegal@dir.texas.gov](mailto:DIRLegal@dir.texas.gov)

and

Texas Department of Information Resources  
300 West 15th Street, Suite 1300  
Austin, Texas 78701  
Attention: Director of Contract Management  
Phone: (512) 475-4700

### **7.3 Change of Designee**

Either Party may change the above-referenced designees or address with five (5) days' prior written notice to the other Party.

### **7.4 Notification of Problems**

Successful Respondent shall provide to DIR written notice of any acts or omissions (whether by DIR, a Customer, Successful Respondent, or any third party), any failure to perform any of each such party's obligations under the CTSA or CSA and any other events that may affect Successful Respondent's performance of Successful Respondent's obligations under the CTSA. Successful Respondent shall provide such written notice promptly after Successful Respondent first knew or should have known of such acts, omissions, or Failures or other events. Such written notice shall describe in reasonable detail such acts, omissions, Failures, or other events and the manner in which the foregoing may affect Successful Respondent's performance.

### **7.5 Notification of Defaults**

DIR and Successful Respondent shall promptly inform the other Party in writing of any breach of, misuse, or fraud in connection with any third party contract, Equipment lease, or third party materials license used in connection with the Services of which it becomes aware and shall cooperate with the other Party to prevent or stay any such breach, misuse, or fraud.

### **7.6 Notice of Adverse Impact**

If Successful Respondent becomes aware of any failure of Successful Respondent to comply with its obligations under this Agreement or any other situation (a) that has impacted or reasonably could impact the maintenance of DIR's or any Customer's financial integrity or internal controls, the accuracy of DIR's or any Customer's financial, accounting or other records and reports, or compliance with DIR Rules, DIR policies or procedures or applicable laws, or (b) that has had or reasonably could have any other material adverse impact on the Services in question or the impacted operations of DIR or the Customers, then, Successful Respondent shall immediately inform DIR in writing of such situation and the impact or expected impact and Successful Respondent and DIR shall meet to formulate an action plan to minimize or eliminate the impact of such situation.

## **8 GENERAL TERMS AND CONDITIONS**

### **8.1 Delegation of Authority**

Whenever, by any provision of this CTSA, any right, power, or duty is imposed or conferred on DIR, the right, power, or duty so imposed or conferred is possessed and exercised by the DIR Executive Director

unless any such right, power, or duty is specifically delegated to the duly appointed agents or employees of DIR. The DIR Executive Director will reduce any such delegation of authority to writing and provide a copy to Successful Respondent on request.

## **8.2 No Waiver of Sovereign Immunity**

The Parties expressly agree that no provision of this CTSA shall be construed as or constitute a waiver by DIR or the State of any immunities from suit or from liability that DIR or the State have by operation of law.

## **8.3 Force Majeure**

### **8.3.1 General**

No Party shall be liable for any default or delay in the performance of its obligations under this CTSA if and to the extent such default or delay is caused, directly or indirectly, by fire, flood, earthquake, elements of nature or acts of God, wars, riots, civil disorders, rebellions or revolutions, acts of terrorism, epidemics, or any other similar cause beyond the reasonable control of such Party except to the extent that the non-performing Party is at fault in failing to prevent or causing such default or delay, and provided that such default or delay cannot reasonably be circumvented by the non-performing Party through the use of alternate sources, workaround plans, or other means. A strike, lockout, or labor dispute involving Successful Respondent personnel shall not excuse Successful Respondent from its obligations hereunder.

### **8.3.2 Duration and Notification**

In the event of a Force Majeure Event, the non-performing Party shall be excused from further performance or observance of the obligation(s) so affected for as long as such circumstances prevail and such Party continues to use commercially reasonable efforts to recommence performance or observance whenever and to whatever extent possible without delay. Any Party so prevented, hindered, or delayed in its performance shall, as quickly as practicable under the circumstances, notify the Party to whom performance is due by telephone (to be confirmed in writing within one (1) day of the inception of such delay) and describe at a reasonable level of detail the circumstances of the Force Majeure Event, the steps being taken to address such Force Majeure Event, and the expected duration of such Force Majeure Event.

### **8.3.3 Substitute Services; Termination**

- a) If any Force Majeure Event described above has substantially prevented, hindered, or delayed, or is reasonably expected to substantially prevent, hinder, or delay the performance by Successful Respondent of Services necessary for the performance of critical DIR or Customer functions for longer than twenty-four (24) hours, Successful Respondent shall, unless and until otherwise directed by DIR, use commercially reasonable efforts to procure such Services from an alternate source at Successful Respondent's expense for so long as the delay in performance shall continue, up to the Charges actually paid to Successful Respondent for the Services with respect to the period of nonperformance. If Successful Respondent is unable to procure such substitute Services on an expedited basis or DIR or Customer elects to contract directly for such Services, DIR or Customer may procure such Services from an alternate source at DIR's or Customer's expense.
- b) In addition, if any Force Majeure Event described above substantially prevents, hinders, or delays the performance by Successful Respondent of Services necessary for the performance of critical DIR or Customer functions: (i) for more than seven (7) days, then DIR or Customer may, upon notice to Successful Respondent, terminate all or any portion of the Services so affected (including portions that are no longer required if the impacted portion is terminated) as of the



termination date specified in the notice; or (ii) for more than fifteen (15) days, then DIR may, upon notice to Successful Respondent, terminate this Agreement, in whole or in part, as of the termination date specified in the notice. Successful Respondent shall not have the right to additional payments or increased charges as a result of any Force Majeure Event affecting Successful Respondent's ability to perform.

#### 8.3.4 Payment Obligation

If Successful Respondent fails to provide Services in accordance with this CTSA due to the occurrence of a Force Majeure Event, all amounts payable to Successful Respondent hereunder shall be adjusted downward so that DIR or Customer is not required to pay any amounts for Services that DIR and/or any Customer are not receiving, whether from Successful Respondent or from an alternate source at Successful Respondent's expense pursuant to above.

#### 8.3.5 Allocation of Resources

Without limiting Successful Respondent's obligations under this Agreement, whenever a Force Majeure Event causes Successful Respondent to allocate limited resources between or among Successful Respondent's customers and Affiliates, DIR and Customers shall receive at least the same treatment as comparable Successful Respondent customers.

### 8.4 Competitive Pricing

- a) Successful Respondent shall only charge Rates to DIR and Prices that are no higher in the aggregate than the charges charged by Successful Respondent directly to substantially similar retail third party customers for the provision of the same or substantially similar Services on substantially similar terms and conditions.
- b) No later than each Contract Anniversary Date, Successful Respondent shall certify to DIR, in writing, that it has been in full compliance with Section 8.4 a) above at all times during the prior twelve (12) month period. Any failure of Successful Respondent to comply with this certification requirement or any certification filed by Successful Respondent that is not true shall constitute a Material Breach. If Successful Respondent has breached Section 3.4 (a) above, then Successful Respondent shall be obligated to award DIR and/or Customer, as appropriate, Credits on the next appropriate Invoice that are equal to the overcharges paid as a result of any such breach.
- c) DIR shall have the right, in its sole and absolute discretion, to conduct an audit of Successful Respondent's compliance with this Section 8.4 pursuant to the procedures set forth in CTSA, Section 13.6.

### 8.5 Publicity

- a) Except as provided in Subsection (b) below, Successful Respondent must not use the name of DIR, the State, or any other Customer, or refer to DIR or any such Customer(s) directly or indirectly in any media release, or public announcement, relating to this CTSA or its subject matter, including, in any promotional or marketing materials, customer lists, or business presentations (other than proposals or reports submitted to DIR, a Customer, an administrative agency of the State, or the federal government).
- b) Successful Respondent may publish, at its sole expense, any media release or public announcement, relating to this CTSA or its subject matter, including, in any promotional or marketing materials, customer lists, business presentations (other than proposals or reports submitted to DIR or a Customer, an administrative agency of the State, or a governmental agency or unit of another state or the federal government), or results of Successful Respondent

performance under this CTSA with DIR's prior review and approval, which DIR may exercise at its sole and absolute discretion. Successful Respondent will provide DIR a copy of any such publication no less than five (5) Business Days prior to its intended public release unless otherwise agreed by the Parties. Successful Respondent will provide additional copies at the request of DIR. Approval of the annual Marketing Plan will constitute approval by DIR for Successful Respondent to publish all materials approved in connection with such Marketing Plan.

## **8.6 Assignment**

### **8.6.1 Assignment by Successful Respondent**

Successful Respondent will not assign all or any portion of its rights under or interests in this CTSA (including by operation of law) or delegate any of its duties without prior written consent of DIR, which consent may be withheld in DIR's sole discretion. Any written request for assignment or delegation must be accompanied by written acceptance of the assignment by the Assignee, in a form acceptable to DIR in its sole and absolute discretion. Except where otherwise specifically agreed in writing by DIR, DIR's acceptance of any assignment or delegation does not release Successful Respondent from its obligations pursuant to this CTSA. The requirements of this Section 8.6.1 shall not apply in connection with Successful Respondent's assignment to (i) any Affiliate, or (ii) any person acquiring all or substantially all the assets of Successful Respondent or all or substantially all the assets of an Affiliate to which this CTSA, or any of the interests, rights, and obligations of Successful Respondent hereunder, previously has been assigned. DIR's consent to any assignment under this CTSA shall not constitute DIR's consent to further assignment.

### **8.6.2 Assignment by DIR**

DIR may, without the approval of Successful Respondent, assign or transfer its rights or obligations under this CTSA, in whole or in part, to any other State agency as directed by the State Legislature or as otherwise required under law. Successful Respondent understands and agrees DIR may in one (1) or more transactions assign or transfer this CTSA. DIR will provide written notification of such assignment to Successful Respondent.

### **8.6.3 Amendment**

Each Party agrees to cooperate to amend the CTSA as necessary to maintain an accurate record of the contracting Parties.

### **8.6.4 Assumption**

Each Party to whom an assignment or transfer is made (an "Assignee") must assume all or any part of Successful Respondent's or DIR's interests in this CTSA, the Services, and any documents executed with respect to this CTSA, including, without limitation, its obligation for all or any portion of the payments due hereunder.

### **8.6.5 Impermissible Assignment**

Any attempted assignment that does not comply with the terms of this section shall be null and void ab initio; provided, however, that if Successful Respondent assigns this CTSA in contravention of this section by operation of law, such assignment shall be voidable at the option of DIR.

## **8.7 RFO Errors and/or Omissions**

Successful Respondent will not take advantage of or exploit any errors and/or omissions in the RFO or the resulting CTSA. Successful Respondent must promptly notify DIR of any such errors and/or omissions that are discovered.

## **8.8 Abandonment or Default**

Abandon means to relinquish or renounce the CTSA for any reason other than for a Force Majeure Event. If the Successful Respondent abandons the CTSA, DIR reserves the right to cancel the CTSA without notice and either re-solicit and re-award the CTSA or take such further action or no action in the best interest of the State.

## **8.9 Time is of the Essence**

In consideration of the need to ensure uninterrupted and continuous Services, the Parties agree that time is of the essence in the performance of this CTSA.

## **8.10 Place of Performance**

Unless otherwise agreed to in writing, all Services performed by Successful Respondent, its Subcontractors, and agents under the CTSA must be performed in the contiguous United States.

## **8.11 Education Department General Administrative Regulations (EDGAR)**

The Education Department of General Administrative Regulations (EDGAR) are the federal regulations that govern all federal grants awarded by the U.S. Department of Education on or after December 26, 2014. EDGAR encourages the use of cooperative agreements for procurement or use of common or share goods and services in order to foster greater economy and efficiency. DIR uses an open market competitive procurement process to award contracts as required by State law, including Texas Government Code Chapters 2054 and 2157. If Successful Respondent provides evidence of its EDGAR compliance to DIR's satisfaction, DIR may identify Successful Respondent as certifying that all or a portion of Successful Respondent's listings are EDGAR eligible, and DIR may then permit Successful Respondent to so identify all or part of its offerings on Successful Respondent's DIR website. In such cases, upon request from eligible Customer(s), Successful Respondent must complete EDGAR certification affirmation forms to satisfy Customer requirement(s).

# **9 AMENDMENTS, MODIFICATIONS, AND PROCEDURES**

## **9.1 General Amendments and Modifications**

The Parties developed appropriate procedures for amending or modifying the CTSA in this Section 9. Except for the amendments subject to the below subsections, this CTSA may be amended by mutual written agreement. Amendments may be made for changes in law, circumstances affecting performance of the Services, or as otherwise agreed to by the Parties.

## **9.2 Amendments and Modifications Resulting from Changes in Law or Contract and as Mutually Agreed**

Except for changes subject to Section 9.1 above, this CTSA may be amended by mutual written agreement of the Parties if changes in federal or State laws, rules, regulations, policies, guidelines, or circumstances affect the performance of the Services, provisions need to be added or amended within the CTSA, or as otherwise agreed to in writing by the Parties.



### 9.3 Required Compliance with Amendment and Modification Procedures

No different or additional Services will be authorized or performed except pursuant to amendment or modification of this CTSA that is executed in compliance with the CTSA. No waiver of any term, covenant, or condition of this CTSA will be valid unless executed by both Parties. Successful Respondent shall not be entitled to payment for any Services that are not authorized by this CTSA or a properly executed amendment or modification to the CTSA.

### 9.4 Modifications Resulting from Imposition of Remedies

This CTSA may be modified under the terms of CTSA Article 16 Remedies and Disputes.

### 9.5 Adjustments to *Exhibit B, Attachment B-1* Initiated by Either Party.

- a) The Successful Respondent may propose changes in the contents of **Exhibit B** for Services of this CTSA.
- b) The process for submitting, reviewing, and approving/disapproving and appealing proposed adjustments or recommendations for changes to any element contained in Exhibit B, or the Attachments, shall be in accordance with this section and Article 3 of Exhibit B to the CTSA. The Parties desire to develop and implement efficiency updates to the Electronic Administrative Update (EAU) fast-track system process for the continuous improvement of the Rates to DIR and Prices available to the Customers under the CTSA, and other non-substantive administrative updates, without reliance on a formal amendment process. An approved change to the contents of Attachments to Exhibit B, approved in accordance with this section and Article 3 of Exhibit B, shall be considered an approved amendment of the CTSA for all purposes.

### 9.6 Benchmarking

DIR reserves the right to benchmark pricing of Services offered by Successful Respondent throughout the Term of the Contract, and to request price reductions to Successful Respondent Services that benchmarking may show to be outside industry standard pricing. Successful Respondent agrees to work in good faith with DIR to bring pricing into alignment in the best interest of the State.

### 9.7 All Other Changes

All other modifications to the CTSA must be accomplished through a formal written amendment executed by an authorized representative of DIR and Successful Respondent. DIR reserves the right to require periodic updates of the CTSA hereto, to maintain alignment with new and changed legislation, legal requirements, rules, and regulatory requirements relevant to the performance by Successful Respondent of this CTSA.

### 9.8 Mutual Covenant of Cooperation

For all such CTSA amendments, the Parties covenant to cooperate in the good faith and timely negotiation of such matters and to proceed to execution of necessary instruments without delay.

## 10 AVAILABILITY OF APPROPRIATED FUNDS AND STATUTORY AUTHORITY

- a) This CTSA is expressly conditioned on the availability of State and local government appropriated funds. Successful Respondent will have no right of action against DIR in the event

that DIR is unable to perform its obligations under this CTSA as a result of the suspension, termination, withdrawal, or failure of funding to DIR or lack of sufficient funding of DIR, or, by extension, failure or lack of funding from Customers, including non-appropriation or exercise of emergency budget execution authority for any Services, activities, or functions contained within the scope of this CTSA. DIR will negotiate in good faith with Successful Respondent to resolve any Successful Respondent claims for payment for Accepted Services that are pending at the time funds become unavailable. DIR will make reasonable efforts to provide written advance notice to Successful Respondent upon learning that funding for this CTSA may be changed or discontinued as set forth above.

- b) If DIR, any Customer(s), and/or the subject matter of this CTSA become subject to a legislative or regulatory change or the revocation of statutory or regulatory authority that would (1) render the continued provision of the Services impossible or unnecessary, (2) render this CTSA invalid, illegal, or otherwise unenforceable, (3) substantially decrease the amount and types of the Services, or (4) terminate the appropriations for this CTSA, then DIR may, upon notice to Successful Respondent, terminate this Agreement, in whole or in part, as of the termination date specified in the notice.

## **11 GOVERNING LAW AND REGULATIONS**

### **11.1 Governing Law and Venue**

This CTSA and the rights and obligations of the Parties under this CTSA is governed by and construed in accordance with the laws of the State of Texas without regard to conflict of laws principles. Provided Successful Respondent first complies with the procedures set forth in Section 16.11 Dispute Resolution, proper venue for a claim arising from this CTSA will be in a State court in Travis County, Texas. Nothing in this CTSA shall be construed to waive the State's sovereign immunity.

### **11.2 Successful Respondent Responsibility for Compliance with Laws and Regulations**

- a) Successful Respondent represents, warrants, and covenants that, with respect to the provision of the Services and the performance of any of Successful Respondent's other legal and contractual obligations hereunder, Successful Respondent is and shall be in compliance in all material respects with all applicable laws and shall remain in compliance with such laws during the Term, including, but not limited to, all State and federal telecommunications laws, tax laws, State and federal employment and immigration laws, State and federal regulatory requirements, licensing provisions, and identifying and procuring applicable permits, certificates, approvals, and inspections required under such laws.
- b) Successful Respondent is responsible for ensuring each of its Successful Respondent Personnel who are involved in the provision of Services under this CTSA are legally eligible to work in the State and the United States, properly licensed, certified, and/or have proper permits to perform any activity related to the Services.
- c) If any charge of non-compliance by Successful Respondent with any such laws occurs or Successful Respondent is aware that it is not in compliance with such laws that could have a material adverse impact on the performance, receipt, or use of the Services, Successful Respondent shall promptly notify DIR of such charge or non-compliance, as applicable. Successful Respondent warrants that the Services comply with all applicable federal, State, county, and municipal laws, regulations, codes, ordinances, guidelines, and policies. Successful Respondent will indemnify DIR and any Customer from and against any losses, liability, claims,

damages, penalties, costs, fees, or expenses arising from or in connection with Successful Respondent's (including Successful Respondent Personnel, third party providers, or Subcontractors) failure to comply with or violation of any federal, State, county, and/or municipal law, regulation, code, ordinance, or policy.

- d) At no additional charge, Successful Respondent shall provide DIR with data and reports in Successful Respondent's possession as reasonably necessary for DIR to comply with all laws applicable to the Services (including the Equipment, materials, and other resources it provides or has assumed operational responsibility hereunder).
- e) Successful Respondent represents, warrants, and covenants that the materials, Equipment, and systems owned, developed, implemented, provided, or used by Successful Respondent in providing the Services are in compliance with all applicable laws and shall remain in compliance with such laws during the Term.
- f) In the event of any changes in laws (including laws other than applicable to the provision of the Services and the performance of any of Successful Respondent's other legal and contractual obligations hereunder), Successful Respondent shall implement any necessary modifications to the Services, materials, Equipment, and systems prior to the deadline imposed by the regulatory or governmental body having jurisdiction for such requirement or change. Successful Respondent shall bear the costs associated with compliance with laws.

### **11.3 Compliance with Immigration Laws**

Successful Respondent shall comply with the requirements related to federal immigration laws and regulations, including but not limited to the Immigration and Reform Act of 1986, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), and the Immigration Act of 1990 (8 U.S.C.1101, et seq.) regarding employment verification and retention of verification forms for any individual(s) hired on or after the effective date of the IIRIRA, who will perform any labor or services under this CTSA. Nothing herein is intended to exclude compliance by Successful Respondent with all other relevant federal immigration statutes and regulations promulgated pursuant thereto.

### **11.4 Equal Opportunity Compliance**

Successful Respondent represents, warrants, and covenants that it shall abide by all applicable laws, regulations, and executive orders pertaining to equal employment opportunity, including federal or State laws and the laws of the state in which its primary place of business is located. In accordance with such laws, regulations, and executive orders, the Successful Respondent agrees that no person in the United States will, on the grounds of race, color, religion, national origin, sex, age, veteran status, or disability, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any Services or activity performed by Successful Respondent under this CTSA. If Successful Respondent is found by DIR, in its sole and absolute discretion, any regulator with jurisdiction over Successful Respondent's Services, or a court of competent jurisdiction to not be in compliance with these requirements during the Term of this CTSA, Successful Respondent agrees to take appropriate steps to correct these deficiencies. Upon request, Successful Respondent will furnish to DIR information regarding its non-discriminatory hiring and promotion policies, as well as specific information on the composition of its principals and staff, including the identification of minorities and women in management or other positions with discretionary or decision-making authority.



### **11.5 Historically Underutilized Business (HUB) Program**

Successful Respondent shall comply with Chapter 2161, Texas Government Code, in the provision of Services under this CTSA. Successful Respondent's HUB Subcontracting Plan is incorporated into the CTSA. Successful Respondent shall comply with DIR's then-current Policy on Utilization of Historically Underutilized Businesses for reporting HUB subcontractor participation in the CTSA and for changing the HUB Subcontracting Plan throughout the Term.

## **12 PERFORMANCE MEASUREMENT**

Successful Respondent performance of this CTSA will be measured by:

- a) Adherence to this CTSA, including all representations, warranties, certifications, and covenants;
- b) Delivery of the Services in accordance with the Service Level Agreements agreed to in Exhibit C Performance Management;
- c) Results of audits performed by DIR or its representatives in accordance with Article 13;
- d) Timeliness, completeness, and accuracy of required reports agreed to in this CTSA and as stated in the Master Vendor Reporting Guide; and
- e) Achievement of other performance measures developed and agreed to by Successful Respondent and DIR and as modified from time to time by written agreement.

## **13 AUDIT AND FINANCIAL COMPLIANCE**

### **13.1 CTSA Record Retention and Audit**

Successful Respondent agrees, and shall cause its agents and its Subcontractors to agree, to maintain complete and accurate records of, and supporting documentation for, all charges, transactions, authorizations, changes, implementations, reports, filings, returns, analyses, procedures, controls, records, data or information created, generates, collected, processed, or stored by Successful Respondent in the performance of its obligations this CTSA or any CSA, and are sufficient to ensure the accuracy and validity of Monthly Consolidated Invoices to DIR and direct billing to Customers for certain Direct Sales Transaction Services (collectively "CTSA Records"). Successful Respondent agrees, and shall cause its agents and Subcontractors to agree, to maintain and retain CTSA Records, including all original forms, records, and associated documentation, for a period of seven (7) years after the date of submission of the final billing or until the resolution of all litigation, claims, financial management reviews, or audits pertaining to this CTSA, whichever is longer.

### **13.2 Access to Records, Books, and Documents**

- a) Upon notice by DIR, Successful Respondent must provide, and cause its agents and its Subcontractors to provide, the officials and/or entities identified in this Section 13.2 with prompt, reasonable, and adequate access to any requested CTSA Records.
- b) Successful Respondent and its agents and its Subcontractors must provide the access described in this Section 13.2 upon DIR's request. This request may be for, but is not limited to, the following purposes:
  - 1) Examination;
  - 2) Audit;

- 3) Investigation;
  - 4) CTSA administration;
  - 5) Compliance with the Texas Public Information Act; or
  - 6) The making of copies, excerpts, or transcripts.
- c) The access required must be provided to the following officials and/or entities:
- 1) Any Independent Verification and Validation contractor or quality assurance contractor, when acting on behalf of DIR;
  - 2) The Office of the State Auditor, the CPA Claims Division, or their designee;
  - 3) A State or federal agency;
  - 4) A special or general investigating committee of the Texas Legislature or its designee; and
  - 5) Any auditor or other entity identified by DIR.
- d) Successful Respondent agrees, and will require its agents and its Subcontractors to agree, to provide the access described wherever Successful Respondent maintains such books, records, and supporting documentation. Successful Respondent further agrees, and will require its agents and its Subcontractors to agree, to provide such access in reasonable comfort and to provide any furnishings, Equipment, or other conveniences deemed reasonably necessary to fulfill the purposes described in this Section 13.2.

### **13.3 Audits by Governmental Authorities**

Acceptance of funds under the CTSA by Successful Respondent acts as acceptance of the authority of the State Auditor's Office, the CPA Claims Division, and any successor governmental authorities, to conduct audits and investigations in connection with those funds. The State Auditor's Office and the CPA Claims Division shall at any time have access to and rights to examine, audit, excerpt, and transcribe any pertinent books, documents, working papers, and records of Successful Respondent relating to this CTSA, notwithstanding any other provision of this CTSA. Successful Respondent, and its agents and its Subcontractors, agree to cooperate fully with and provide all assistance requested by the State Auditor's Office or the CPA Claims Division or its successor in the conduct of such audits or investigations, including providing all records requested. In addition to and without limitation on the other audit provisions of this CTSA, pursuant to Section 2262.154, Texas Government Code, the State Auditor's Office may conduct an audit or investigation of Successful Respondent or any other entity or person receiving funds from the State directly through this CTSA or indirectly through a subcontract under this CTSA. The acceptance of funds by Successful Respondent or any other entity or person directly under this Agreement or indirectly through a subcontract under this CTSA acts as acceptance of the authority of the State Auditor's Office, under the direction of the Legislative Audit Committee, to conduct an audit or investigation in connection with those funds. This CTSA may be unilaterally amended by DIR upon notice to Successful Respondent to bring this CTSA into compliance with any rules and procedures of the State Auditor's Office in the implementation and enforcement of Section 2262.154, Texas Government Code. Successful Respondent will ensure that this clause concerning the authority to audit funds received indirectly by Subcontractors through Successful Respondent and the requirement to cooperate is included in any subcontract it awards pertaining to the CTSA. Under the direction of the Legislative Audit Committee, a Successful Respondent that is the subject of an audit or investigation by the State Auditor's Office must provide the State Auditor's Office with access to any information the State Auditor's Office considers relevant to the investigation or audit.

### **13.4 Audits of Services, Deliverables, and Inspections**

- a) Upon notice from DIR, Successful Respondent will provide, and will cause its agents and its Subcontractors to provide, such auditors and inspectors as DIR may from time to time designate, with access to:
  - 1) Successful Respondent, agent, and Subcontractor Service locations, facilities, or installations; and
  - 2) Successful Respondent, agent, and Subcontractor Software and Equipment.
- b) Successful Respondent must provide, and shall cause its agents and its Subcontractors to provide, as part of the Services, any assistance that such auditors and inspectors may require to complete such audits or inspections.

### **13.5 Response/Compliance with Audit or Inspection Findings**

- a) If an audit by a governmental body, standards organization, or regulatory authority having jurisdiction over DIR, a Customer, or Successful Respondent results in a finding that Successful Respondent is not in compliance with any applicable law or standard, including any generally accepted accounting principle or other audit requirement relating to the performance of its obligations under this CTSA, Successful Respondent shall, if and to the extent such audit deficiency or finding of non-compliance results from Successful Respondent's failure to comply with its obligations under this CTSA, at its own expense and within the time period specified by such auditor, address and resolve the deficiency(ies) identified by such audit governmental body, standards organization, or regulatory authority, in the manner approved by DIR, to the extent necessary to comply with Successful Respondent's obligations under this CTSA.
- b) Successful Respondent must take action to ensure its employees', agents', or Subcontractors' compliance with or correction of any finding of non-compliance with any law, regulation, audit requirement, or generally accepted accounting principle relating to the Services or any other Deficiency contained in any audit, review, or inspection conducted under this Article 13. This action will include Successful Respondent's delivery to DIR, for DIR's approval, a Corrective Action Plan in accordance with Section 17.2 that addresses deficiencies identified in any audit(s), review(s), or inspection(s) within ten (10) days of the close of the audit(s), review(s), or inspection(s).
- c) As part of the Services, Successful Respondent must disclose to DIR, upon DIR's request, and will include in its Subcontracts a requirement that each of its Subcontractors will disclose upon request, a copy of those portions of its internal audit reports relating to the Services. If Successful Respondent determines as a result of its own internal audit that it has overcharged DIR or Customer, then Successful Respondent shall promptly pay to DIR or Customer the amount of such overcharge, together with interest at the rate specified by the CPA in accordance with Section 2251.025(b), Texas Government Code, from the date of receipt by Successful Respondent of the overcharged amount until the date of payment to DIR or Customer. In the event such an audit results in a determination that Successful Respondent has undercharged DIR or Customer, then, subject to DIR's right to dispute the amount of such undercharge, Successful Respondent shall promptly report such undercharge to DIR and may invoice DIR for such undercharged amounts.



### **13.6 Audit of Telecommunications Fees and Surcharges, Rates to DIR, Prices, and Assessments Conducted Pursuant to Section 13.3 of the CTSA**

- a) Successful Respondent will provide, and will cause its agents and its Subcontractors to provide, to DIR and its designees access to such financial records and supporting documentation requested by DIR to audit telecommunications fees and surcharges, Rates to DIR, Prices, and any assessment conducted pursuant to Section 13.3 of the CTSA. Successful Respondent's obligations hereunder with respect to its Subcontractors shall be fulfilled by complying with the Subcontractor Compliance Obligations.
- b) In addition to its monthly review and payment of Monthly Consolidated Invoices under the CTSA, DIR may audit the applicable telecommunications fees and surcharges, Rates to DIR, Prices, and any assessments conducted under Section 13.3 of the CTSA to determine that such telecommunications fees and surcharges, Rates to DIR, Prices to Direct Sales Transaction Service Customers, and any assessments conducted pursuant to Section 13.3 of the CTSA are accurate and in accordance with this CTSA.
- c) If, as a result of such audit, DIR determines that Successful Respondent has overcharged the State, DIR will notify Successful Respondent in writing of the amount of such overcharge, and provide to the Successful Respondent the work papers supporting such position. Successful Respondent will promptly pay to DIR the undisputed amount of the overcharge, plus interest as calculated in accordance with Chapter 2251, Texas Government Code, for late payments, and the Parties will use good faith efforts to resolve any disputed amounts as soon as practicable. In the event such audit reveals an overcharge of five percent (5%) or more to DIR which is not disputed and is in excess of five percent (5%) of the total invoiced amounts for such period, Successful Respondent will reimburse DIR for the reasonable cost of this audit.

## **14 TERMS AND CONDITIONS OF SUCCESSFUL RESPONDENT BILLING AND DIR AND CUSTOMER PAYMENT**

### **14.1 Monthly Consolidated Invoice to DIR**

The Successful Respondent shall provide DIR with a Monthly Consolidated Invoice for all Services whereby DIR acts as the Successful Respondent's billing agent provided by the Successful Respondent, at the Rates to DIR and with any applicable telecommunications fees and surcharges as allowed by this CTSA, in electronic format, with the ability to batch load. All such Monthly Consolidated Invoices shall conform to the standards as set forth in Appendix B, the Master Vendor Reporting Guide and Exhibit D, Billing Plan.

### **14.2 Invoices for Direct Sales Transaction to Customers**

The Successful Respondent shall provide to each Direct Sales Transaction Service Customer a monthly Invoice for the Direct Sales Transaction Service Services provided to such Customer, in electronic format, at the Prices (Rates to DIR plus Administrative Fee) and with any applicable telecommunications fees and surcharges as allowed by this CTSA.

### **14.3 Limitations on the Right to Bill**

The Successful Respondent shall not bill for any Services prior to the Service Order Completion Notice (SOCN) date for new Orders, and for disconnect Orders, the billing end date shall equal the disconnect date on a SOCN.

### **14.4 Telecommunications Fees, Surcharges, and Taxes**

- a) All applicable Federal Communication Commission (FCC), Texas Public Utilities Commission (PUC), or other authorized telecommunications fees and surcharges in effect as of the date of this CTSA which may appear on billings to Customers are disclosed in the appropriate section per Service in Exhibit B to the CTSA. Any additional FCC, PUC, or other authorized telecommunications fees or surcharges applicable to any Service may only be imposed during the Term, upon a written amendment of the CTSA to authorize such imposition under the CTSA. Successful Respondent acknowledges that certain Customers that are political subdivisions of the State, are exempt from the imposition and collection of certain State telecommunications fees, including the Texas Universal Service Fund charge and the Texas Infrastructure Fund assessment. In addition, State agency Customers have additional exemptions from State telecommunications fees, including the 9-1-1 emergency service fee, 9-1-1 equalization surcharge, poison control surcharge, and late charges imposed under Section 55.010, Texas Utilities Code. Successful Respondent agrees to not bill for any items which are not mandated by the FCC, PUC, or other proper authority and which are otherwise not applicable to the Services and for which Successful Respondent has requested and received valid exemption certificates from Customers. Successful Respondent agrees to promptly correct any incorrect billings of telecommunications fees and surcharges that occur. Successful Respondent acknowledges that DIR makes no representation about the exemption status of any Customers. Successful Respondent must request and receive any exemption certificates that may apply from each assistance organization directly.
- b) During the Term, all changes in the law or fee structures, which creates or authorizes Successful Respondent to impose an unlisted telecommunications fee or surcharge on the Services, which Successful Respondent desires to impose, shall require an amendment in order to be effective against the State, DIR, and Customers. In the event of a change in the law or telecommunications fees and surcharges structures, which results in an exemption from payment in favor of the State, DIR, and/or Customers, Successful Respondent shall give effect to the exemption without the necessity of an amendment hereto.
- c) Successful Respondent acknowledges that certain Government Entity Customers are exempt from State sales, use, and excise taxes, Section 151.309, Texas Tax Code, and federal excise tax, 26 USC Sections 4253 (i) and (j). Successful Respondent further acknowledges that State agency Customers are exempt from the assessment and collection of sales taxes imposed by political subdivisions of the State, in accordance with Sections 321.208 (municipalities) and 323.207 (counties), Texas Tax Code. The Government Entity Customers shall issue a tax exemption certificate upon request to Successful Respondent. Successful Respondent acknowledges that DIR makes no representation about the exemption status of any Customers. Successful Respondent must request and receive any exemption certificates that may apply from each assistance organizations directly.

### **14.5 No Rights of Set-off**

There is no general right of set-off for Successful Respondent against amounts owed to DIR under this CTSA. To collect Credits under Article 17, Remedies and Disputes, DIR may set-off the amount of

assessed Credits from amounts otherwise owed to Successful Respondent in accordance with the terms of Section 17.10. There is no general right of set-off for Successful Respondent against amounts owed by a Customer under any CSA.

## **14.6 Expenses**

Except as provided in this CTSA with respect to Rates to DIR, Prices, and authorized telecommunications fees and surcharges, all other expenses incurred by Successful Respondent in connection with its provision of the Services (including management; travel and lodging; document reproduction and shipping; Equipment, Software required by Successful Respondent Personnel; and long-distance telephone) will not be paid by DIR or Customer unless agreed upon by DIR or Customer in writing. Successful Respondent hereby waives any and all claims for additional compensation related to the Services except as set forth in Exhibit B hereto.

## **14.7 Dispute Handling and Adjustments**

- a) A Billing Inquiry is any question or issue about a Monthly Consolidated Invoice that may lead to a Billing Dispute. It is DIR's responsibility to validate Successful Respondent Monthly Consolidated Invoices each month. During that process, Billing Inquiries will arise, and the Successful Respondent shall timely answer or respond to billing inquiries. The Successful Respondent shall respond within one (1) Business Day of receipt of the Billing Inquiry.
- b) DIR may withhold any amount of any Invoice in dispute as provided in and in accordance with Chapter 2251, Texas Government Code. DIR shall comply with Chapter 2251, Texas Government Code, with respect to timely notice of such disputed amounts.
- c) For Invoice amounts that have been paid by DIR that become the subject of a Billing Dispute, in addition to any amounts that Successful Respondent may subsequently credit to DIR arising from resolution of such dispute, Successful Respondent shall include interest on the reimbursed amounts accrued monthly at the rate specified by the CPA in accordance with Section 2251.025(b), Texas Government Code, calculated from the ninetieth (90th) day following the date of DIR's Billing Dispute.
- d) DIR and Customer have the right to file a Billing Dispute. The Successful Respondent shall promptly resolve Billing Disputes that involve amounts less than or equal to \$15,000 no later than sixty (60) calendar days from the date DIR or Customer notifies Successful Respondent of the Billing Dispute and, for Billing Disputes that involve amounts greater than \$15,000, no later than ninety (90) calendar days from the date DIR or Customer notifies Successful Respondent of the Billing Dispute. This time frame starts with the notification of the Billing Dispute by DIR and ends with the satisfactory resolution of the Billing Dispute. Billing Disputes not resolved within one-hundred eighty (180) days of submission of the Billing Dispute will automatically resolve in favor of DIR or Customer. Successful Respondent shall issue Adjustment(s) within two (2) billing cycles after resolution. DIR may require a revised Monthly Consolidated Invoice that does not contain the disputed item(s). Successful Respondent shall allow non-payment by DIR for the disputed amount until there is a dispute resolution, as allowed by Chapter 2251, Texas Government Code.
- e) Direct Sales Transaction Service Customers shall have the same rights as DIR under Section 14.7, Subsection (a) and (b) above, for the Invoices they receive for Direct Sales Transaction Services.
- f) If DIR or a Direct Sales Transaction Service Customer disputes payment of all or any portion of an Invoice from the Successful Respondent, DIR or the Direct Sales Transaction Service Customer, respectively, will notify Successful Respondent of such Billing Dispute and the



Parties, either DIR and Successful Respondent or the Direct Sales Transaction Service Customer and Successful Respondent, as appropriate, will attempt in good faith to resolve the Billing Dispute in conformance with Chapter 2251, Texas Government Code. DIR and the Direct Sales Transaction Service Customer will not be required to pay any disputed portion of a Successful Respondent Invoice. Notwithstanding any such Billing Dispute, the Successful Respondent must continue to perform the Services in compliance with the terms of this CTSA pending resolution of Billing Disputes so long as all undisputed amounts continue to be paid to Successful Respondent.

#### **14.8 Billing Adjustments**

- a) A billing Adjustment is a modification or correction of a billing amount of an element of a Service or a Service Level Agreement (SLA) Credit. Billing Adjustments may be made on both recurring and non-recurring charges, and are used to settle Disputes and financial discrepancies.
- b) Successful Respondent shall include in its Monthly Consolidated Invoice to DIR or its Invoices to Direct Sales Transaction Service Customers, the following minimum items as billing Adjustments:
  - 1) Correction of a billing error and any related interest discovered by Successful Respondent, DIR, or the Direct Sales Transaction Service Customer, as appropriate;
  - 2) Back-billing, as discussed below;
  - 3) SLA Credits; and
  - 4) Any other elements Successful Respondent considers Adjustments as set forth in its Billing Plan, Exhibit D hereto.
- c) The Successful Respondent shall resolve all Billing Disputes by any one of the three following approaches:
  - 1) Issue a proposed dispute resolution for the full amount;
  - 2) Provide evidence acceptable to DIR or the Direct Sales Transaction Service Customer, as appropriate that the disputed amount will be reduced; or
  - 3) Provide evidence acceptable to DIR or the Direct Sales Transaction Service Customer, as appropriate, that the Billing Dispute is not valid.
- d) For all Billing Disputes, Successful Respondent shall receive agreement or denial from DIR or the Direct Sales Transaction Service Customer, in their sole and absolute discretion, as appropriate, on the proposed resolution before issuing a billing Adjustment.

#### **14.9 Back-billing and POP Moves**

- a) Rates to DIR or Prices for Services inadvertently left off previous Monthly Consolidated Invoices or direct Invoices by the Successful Respondent shall be back-billed no more than one hundred and twenty (120) calendar days for usage and one-hundred twenty (120) calendar days for circuits (however, in no case may the back-billing include a time period prior to the delivery of the SOCN). Pursuant to PUC Rule, 16 Texas Administrative Code 26.27, a six (6) month limit from the date of discovery of an error applies to back-billing of all billed Services. Back-billing shall be included in the Adjustments.
- b) Successful Respondent Initiated POP location moves shall not adversely affect the existing Rates to DIR and/or Prices to Direct Sales Transaction Service Customers for a Service.

#### **14.10 Liability for Taxes, Insurance, and Indemnification**

- a) SUCCESSFUL RESPONDENT AGREES AND ACKNOWLEDGES THAT DURING THE EXISTENCE OF THIS CTSA, SUCCESSFUL RESPONDENT WILL BE ENTIRELY RESPONSIBLE FOR THE LIABILITY AND PAYMENT OF SUCCESSFUL RESPONDENT PERSONNEL'S TAXES OF WHATEVER KIND, ARISING OUT OF THE PERFORMANCES IN THIS CTSA. SUCCESSFUL RESPONDENT AGREES TO COMPLY WITH ALL STATE AND FEDERAL LAWS APPLICABLE TO ANY SUCH PERSONS, INCLUDING LAWS REGARDING WAGES, TAXES, INSURANCE, AND WORKERS' COMPENSATION. SUCCESSFUL RESPONDENT AGREES AND ACKNOWLEDGES THAT SUCCESSFUL RESPONDENT'S PERSONNEL WILL NOT BE ENTITLED TO ANY STATE BENEFIT OR BENEFIT OF ANOTHER GOVERNMENTAL ENTITY CUSTOMER. DIR AND/OR THE STATE WILL NOT BE LIABLE TO THE SUCCESSFUL RESPONDENT, SUCCESSFUL RESPONDENT PERSONNEL, OR OTHERS FOR THE PAYMENT OF TAXES OR THE PROVISION OF UNEMPLOYMENT INSURANCE AND/OR WORKERS' COMPENSATION OR ANY BENEFIT AVAILABLE TO A STATE EMPLOYEE OR EMPLOYEE OF ANOTHER GOVERNMENTAL ENTITY CUSTOMER.
- b) SUCCESSFUL RESPONDENT AGREES TO INDEMNIFY AND HOLD HARMLESS DIR, ALL CUSTOMERS, THE STATE, AND/OR EACH OF THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES, RELATING TO TAX LIABILITY, UNEMPLOYMENT INSURANCE, AND/OR WORKERS' COMPENSATION OR EXPECTATIONS OF BENEFITS BY SUCCESSFUL RESPONDENT OR SUCCESSFUL RESPONDENT PERSONNEL IN THEIR PERFORMANCE UNDER THIS CTSA. SUCCESSFUL RESPONDENT WILL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES AND OUT OF POCKET EXPENSES. THE DEFENSE WILL BE COORDINATED BY THE OFFICE OF THE ATTORNEY GENERAL FOR TEXAS STATE AGENCY CUSTOMERS AND BY CUSTOMER'S LEGAL COUNSEL FOR NON-STATE AGENCY CUSTOMERS.
- c) NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY, THE PARTIES AGREE THAT TO THE EXTENT THE FOREGOING PROVISIONS IMPOSE OBLIGATIONS WITH RESPECT TO SUBCONTRACTORS UPON SUCCESSFUL RESPONDENT, SUCCESSFUL RESPONDENT'S OBLIGATIONS WILL BE MET BY FULFILLMENT OF THE SUBCONTRACTOR COMPLIANCE OBLIGATIONS. AFTER COMPLIANCE WITH THE SAME, SUCCESSFUL RESPONDENT SHALL HAVE NO LIABILITY TO ANYONE UNDER THIS PROVISION WITH RESPECT TO ITS SUBCONTRACTORS.

#### **14.11 Independent Contractor Status**

Successful Respondent, in furnishing Services hereunder, is acting as an independent contractor, and Successful Respondent has the sole obligation to supervise, manage, contract, direct, procure, perform, or cause to be performed, all work to be performed by Successful Respondent under this CTSA. The relationship of the Parties under this CTSA shall not constitute a partnership or joint venture for any purpose. Successful Respondent is not an agent of DIR or the Customers and has no right, power, or authority, expressly or impliedly, to represent or bind DIR or any Customer as to any matters.

#### **14.12 No Additional Consideration**

Successful Respondent, its agents, its Subcontractors, and Successful Respondent Personnel will not be entitled to nor receive from DIR any additional consideration, compensation, salary, wages, or any other type of remuneration for Services rendered under this CTSA, except as set forth in Exhibit B.

Specifically, Successful Respondent will not be entitled by virtue of this CTSA to any consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays, or other paid leaves of absence of any type or kind whatsoever. In addition, all costs associated with transportation, delivery, and insurance relating to the Successful Respondent's, agents', Subcontractors', or Successful Respondent Personnel's performance of this CTSA will be paid for by the Successful Respondent.

#### **14.13 Prompt Payment Act**

When payments by DIR or Customers are necessary under this CTSA, or a CSA, payment by Government Entities will be made in accordance with the Texas Prompt Payment law, Chapter 2251, Texas Government Code. Non-governmental entities shall follow Chapter 2251, Texas Government Code, in making payments due hereunder.

#### **14.14 Payments for Services**

During the term of this CTSA, Successful Respondent will receive funds in consideration for the Services, calculated in accordance with Exhibit B. Payment for Disentanglement Services will be in accordance with a written agreement between the Parties.

#### **14.15 DIR Administrative Fee and Direct Sales Transaction Services Reporting**

##### **14.15.1 DIR Administrative Fee**

DIR's TEX-AN 2021 Program is a cost recovery program. The Successful Respondent shall pay an Administrative Fee to DIR to defray the DIR costs of operating and administering the TEX-AN 2021 Program.

- a) DIR, in its discretion with DIR Board approval, formulates the Administrative Fee per Service designed to fulfill its program needs, as authorized in Chapter 2170, Texas Government Code. Such Administrative Fee may change over time, and DIR may change the amount of the Administrative Fee upon thirty (30) calendar days written notice to Successful Respondent without the need for a formal CTSA amendment.
- b) With the exception of Direct Sales Transaction Services, DIR shall bill for such Administrative Fee and collect same from the Customers.
- c) Successful Respondent shall include the applicable Direct Sales Transaction Service Administrative Fee, as a component of its Price, in its bills to the Direct Sales Transaction Service Customers and shall remit the Administrative Fee to DIR on a monthly basis. See Section 14.15.2(b), Reporting of Direct Sales Transactions and Payment of Administrative Fees, below.
- d) Successful Respondent consents to DIR retaining the Administrative Fee portion of receipts received from Direct Sales Transaction Service Customers and consents to receiving the net proceeds as payment in full for its non-Direct Sales Transaction Service sold hereunder. Such payment shall be made as long as the net amount received by Successful Respondent is equal to the undisputed billed amount.



#### 14.15.2 Direct Sales Transaction Service Reporting

- a) Successful Respondent shall be responsible for reporting all Direct Sales Transaction Services purchased under the CTSA. Successful Respondent shall file the monthly reports and Subcontract reports in accordance with the due dates specified in this Section 14.15.
- b) Successful Respondent shall electronically provide DIR with a detailed monthly report in the format required by DIR showing the dollar volume of any and all sales under the CTSA for the previous calendar month period. Reports are due on the fifteenth (15th) calendar day of the month following the month of the sale. If the fifteenth (15th) calendar day falls on a weekend or State or federal holiday, the report shall be due on the next Business Day. The monthly report shall include, per transaction: the detailed sales for the period, Customer name, Invoice date, Invoice number, description, quantity, MSRP or List Price, unit price, extended price, Customer Purchase Order number, contact name, Customer's complete billing address, the estimated Administrative Fee for the reporting period, Subcontractor name, the electronic product environmental assessment Tool (EPEAT) designation (if applicable), configuration (if applicable), CTSA discount percentage, actual discount percentage, negotiated CTSA price (if fixed price is offered instead of discount off of MSRP), and other information as required by DIR. Each report must contain all information listed above per transaction or the report will be rejected and returned to the Successful Respondent for correction in accordance with this section. Successful Respondent shall report in a manner required by DIR which is subject to change dependent upon DIR's business needs. Failure to do so may result in CTSA termination.
- c) DIR shall have the right to verify required reports and to take any actions necessary to enforce its rights under this Section, including but not limited to, audits and investigations in accordance with terms and conditions of Article 13.
- d) DIR will review monthly vendor sales reports (VSR), close the sales period, and notify the Successful Respondent of the Administrative Fee due to DIR. The monthly VSR is due the fifteenth (15th) of the month following the reporting month, or the next business day if the 15th falls on a weekend or State holiday. DIR will send notification of the final Administrative Fee and any late fees by the fourteenth (14th) calendar day in the second month following the reporting month. Successful Respondent shall pay the total fee by the twenty-fifth (25th) calendar day in the second month following the reporting month. For example, vendor sales reports for invoiced sales during the month of January is due by February 15. DIR reviews and closes January sales reports and notifies Successful Respondent of final Administrative Fees by March 14th and Successful Respondent must submit payment by March 25th.
- e) Successful Respondent shall reference the DIR Contract number, reporting period, and Administrative Fee amount on any remittance instruments.
- f) Successful Respondent shall correct any inaccurate reports or Administrative Fee payments and deliver such corrected reports and Administrative Fee payments within three (3) Business Days upon written notification by DIR. If Successful Respondent is unable to correct inaccurate reports or Administrative Fee payments within three (3) Business Days or delivers late reports or Administrative Fee payments, Successful Respondent must contact DIR and provide a Corrective Action Plan, including the timeline for completion of fee payments correction. The Corrective Action Plan shall be subject to DIR approval and discretion.
- g) Should Successful Respondent fail to correct inaccurate reports or cure the delay in timely delivery of reports and payments within the Corrective Action Plan timeline, DIR reserves the right to require an independent third party audit of the Successful Respondent's records as specified in CTSA Section 13.5, at Successful Respondent's expense.

## 15 DISCLOSURE AND CONFIDENTIALITY OF INFORMATION

### 15.1 Confidentiality

- a) Confidential Information.
- 1) Successful Respondent and DIR each acknowledge that the other possesses and shall continue to possess information that has been developed or received by it, has commercial, proprietary, or other value in its or its constituents' or customers' activities or operations, and is not generally available to the public, subject, however to the applicability of the Texas Public Information Act (Chapter 552, Texas Government Code) and other applicable law. Except as otherwise specifically agreed in writing by the Parties, "Confidential Information" means:
    - i. all information marked confidential, restricted, or proprietary by either Party and
    - ii. any other information that is treated as confidential by the disclosing Party and would reasonably be understood to be confidential, whether or not so marked.
  - 2) In the case of DIR and the Customers, Confidential Information also shall include developed materials, DIR or Customer Data, Customer information, attorney-client privileged materials, attorney work product, research information, information that contains trade secrets, human resources and personnel information, or other information or data obtained, received, transmitted, processed, stored, archived, or maintained by Successful Respondent under this CTSA. Successful Respondent's Confidential Information shall not include Confidential Information of DIR or Customers, and provided further, however characterization of information as Confidential Information of Successful Respondent shall not limit or restrict the rights of DIR or Customers to exercise their rights (including rights related to auditing and benchmarking) provided for under this CTSA.
  - 3) Successful Respondent shall cause its agents and Subcontractors to treat all information that is obtained through performance of the Services under this CTSA, including information relating to DIR and Customers as Confidential Information to the extent that confidential treatment is provided under State and federal law, regulations, or administrative rules.
- b) Successful Respondent is responsible for understanding and causing its agents and Subcontractors to understand the degree to which information obtained through performance of this CTSA is confidential under State and federal law, regulations, or administrative rules.
- c) Successful Respondent shall not and shall cause its agents and Subcontractors to not use or access any information obtained through performance of this CTSA in any manner except as is necessary for the fulfillment of requested Services under this CTSA.
- d) Successful Respondent shall securely store DIR's and Customer's Confidential Information until such Confidential Information is returned or destroyed in accordance with this section. Successful Respondent must have systems in effect to protect all records and all other documents deemed Confidential Information that are maintained in connection with the Services. Any disclosure or transfer of Confidential Information by Successful Respondent, including information required by DIR, will be in accordance with applicable State and federal law, regulations, or administrative rules. If the Successful Respondent receives a request for information deemed to be Confidential Information, the Successful Respondent shall immediately notify DIR of such request, and shall make best efforts to protect such information from public disclosure.

- e) In addition to the requirements expressly stated in this Section 15.1, Successful Respondent must comply with any policy, rule, or requirement of DIR that relates to the safeguarding or disclosure of information relating to the TEX-AN 2021 Program recipients, Successful Respondent's operations, or Successful Respondent's performance of this CTSA.
- f) Within thirty (30) days of the expiration or termination of this CTSA for any reason, all Confidential Information of a Party, disclosed to another Party, including all copies made by the other Party, will be returned to the disclosing Party or, and to the extent authorized by applicable record retention laws and policies, at the disclosing Party's option, erased or destroyed. The recipient of the Confidential Information will provide the disclosing Party certificates evidencing such erasure or destruction. Notwithstanding anything in this CTSA to the contrary, the Successful Respondent may retain, for the duration of the seven (7) year audit period, safeguarded (and encrypted if Sensitive Personal Information as defined under the laws of the State is included) copies of the following records and Data it receives or prepares during or in connection with the TEX-AN 2021 Program and CTSA, to comply with the record keeping requirements of Section 13.1 and for archival and defense purposes:
  - 1) Supporting financial information and documents that are adequate to ensure CTSA compliance and are sufficient to ensure the accuracy and validity of Successful Respondent Invoices;
  - 2) Financial information, records and reports;
  - 3) Transaction logs;
  - 4) Successful Respondent's customer database data files;
  - 5) Successful Respondent human resources documentation;
  - 6) Audit reports;
  - 7) Operational reporting (e.g., security logs, security metrics reporting/audits, and relevant network reports/logs); and
  - 8) Data for the TEX-AN 2021 Program and CTSA and its applications, including maintenance log files, uptime log files, relevant network access log files, and other required analytics.
- g) With the exception of Confidential Information of Customers, Confidential Information of a Party will not be afforded the protection of this CTSA if such data:
  - 1) is, at the time of disclosure, generally available to the public other than through a breach of the receiving Party's or a third party's confidentiality obligations;
  - 2) after disclosure, is published by the disclosing Party or otherwise becomes generally available to the public other than through a breach of the receiving Party's or a third party's confidentiality obligations;
  - 3) was lawfully in the possession of the receiving Party immediately prior to the time of disclosure to it;
  - 4) is received from a third party having a lawful right to disclose such information; or
  - 5) is independently developed by the receiving Party without reference to the disclosing Party's Confidential Information. The exclusions in this section shall not apply to sensitive or regulated Data such as personal health information and personal identifying information
- h) DIR will require its agents, Subcontractors, and Successful Respondent Personnel to comply with the terms of this Section 15.1 as it relates to Successful Respondent Confidential Information. Prior to disclosing Successful Respondent Confidential Information to other Contract Holders, DIR will obtain an executed confidentiality agreement in a form acceptable to Successful Respondent, whose consent to use will not be unreasonably withheld or delayed.



## 15.2 Disclosure or Loss of DIR's and Customers' Confidential Information

- a) Successful Respondent shall immediately report to DIR and the affected Customer any and all unauthorized disclosures, exposures, uses, or losses of DIR's and/or the Customer's Confidential Information, including Security Incidents, of which it or Successful Respondent Personnel is aware or has knowledge, including the Successful Respondent's reasonable belief that the Confidential Information may have been disclosed or exposed in an unauthorized manner. Successful Respondent acknowledges that any publication, exposure, loss, or disclosure of DIR's and/or Customer's Confidential Information may cause immediate and irreparable harm to DIR and /or the Customer and may constitute a violation of State or federal laws.
- b) In the event Successful Respondent discovers or is notified of a breach, potential breach, exposure, loss, or inappropriate disclosure of Confidential Information, including Security Incidents, Successful Respondent shall, in addition to its other obligations in this CTSA, immediately once Successful Respondent knows or should have known such a breach, potential breach, exposure, loss, or inappropriate disclosure has occurred:
- 1) notify DIR of such breach, potential breach, exposure, loss, or inappropriate disclosure;
  - 2) investigate (with DIR's participation if so desired by DIR) such breach, potential breach, exposure, loss, or inappropriate disclosure and perform a risk assessment, root cause analysis, and Corrective Action Plan thereon;
  - 3) provide a written report to DIR of such risk assessment, root cause analysis, and Corrective Action Plan;
  - 4) remediate the effects of such breach, potential breach, exposure, loss, or inappropriate disclosure as soon as practicable or coordinate such remediation if Successful Respondent does not have responsibility for the matters which are the source of the breach, potential breach, exposure, loss or inappropriate disclosure; and
  - 5) provide DIR with reasonable assurances that such breach, potential breach, exposure, loss, or inappropriate disclosure shall not recur.
- c) If Successful Respondent or Successful Respondent Personnel should publish, expose, lose, or disclose such Confidential Information without authorization, DIR and/or the affected Customer will immediately be entitled to seek injunctive relief or any other remedies to which it is, or they are, entitled under law or equity without requiring a cure period as described in Article 17. DIR and/or Customers will have the right to recover from Successful Respondent all damages and liabilities caused by or arising from Successful Respondent's, its agent(s) and/or its Subcontractors', failure to protect DIR's and Customers' Confidential Information, including but not limited to the cost of providing notice to affected individuals, the cost of providing thirty-six (36) months of credit-monitoring services, the cost of creating a call center to support affected individuals for thirty (30) days past notification, any related governmental fees or fines assessed against DIR or Customers, any damages assessed by a court of competent jurisdiction against DIR or Customer(s) related to such event, and any other losses related to such event. Successful Respondent will defend with counsel approved by DIR and/or the affected Customer, indemnify and hold harmless DIR and the affected Customer from all damages, costs, liabilities, and expenses as described above (including without limitation reasonable attorneys' fees and costs) caused by or arising from Successful Respondent Personnel's failure to protect DIR's and/or Customers' Confidential Information. Defense and settlement matters shall be coordinated by the Texas Office of the Attorney General for State agency Customers and by counsel of Customer's choice for non-State agency Customers.

- d) Successful Respondent will require its agent(s) and/or its Subcontractor(s), to comply with the terms of this Article 15.

### **15.3 Public Information**

- a) Successful Respondent acknowledges that DIR and some of the Customers are subject to the Texas Public Information Act (Chapter 552, Texas Government Code). Notwithstanding the provisions of this article, Successful Respondent also acknowledges that DIR will comply with the Texas Public Information Act, and with all opinions of the Texas Office of the Attorney General concerning the Public Information Act. DIR agrees that it will promptly notify Successful Respondent of each request for disclosure of public information filed in accordance with the Texas Public Information Act that requests any of the Successful Respondent's Confidential Information, including data to which Successful Respondent has a proprietary or commercial interest. DIR will deliver all copies of such requests for public information to Successful Respondent in accordance with Chapter 552, Texas Government Code.
- b) With respect to any information that is subject to the Texas Public Information Act, Successful Respondent is solely responsible for demonstrating to the Texas Office of the Attorney General, the specific reasons why the requested information is confidential or otherwise exempted from required public disclosure under the Texas Public Information Act. Successful Respondent will provide DIR with copies of all such communications.
- c) Under the terms of the CTSA, DIR may provide Successful Respondent with information related to Customers and/or the TEX-AN 2021 Program. Successful Respondent will not re-sell or otherwise distribute or release any such information to any party in any manner without DIR's or the Customer's, as appropriate, express written consent (which consent shall be in their sole and absolute discretion), unless such disclosure is required by law or pursuant to Section 15.1(g) herein.

### **15.4 Unauthorized Acts**

Each Party agrees to:

- a) Notify the other Party promptly of any unauthorized exposure, disclosure, possession, use, or knowledge, or any unauthorized attempt to possess, use, or gain knowledge, of any Confidential Information by any person or entity that may become known to it;
- b) Promptly furnish to the other Party full details of the unauthorized exposure, disclosure, possession, use, or knowledge, or any unauthorized attempt to possess, use or gain knowledge, and use reasonable efforts to assist the other Party in investigating or preventing the recurrence of any unauthorized possession, use, or knowledge, or attempt thereof, of Confidential Information. For DIR the reasonable efforts to assist Successful Respondent shall be subject to and limited by the Texas Public Information Act and any other applicable laws; and
- c) Cooperate with the other Party in any litigation and investigation against third parties deemed necessary by such Party to protect its proprietary rights. For DIR the reasonable efforts to assist the Successful Respondent shall be subject to and limited by the Texas Public Information Act and any other applicable laws.

### **15.5 Legal Action**

Successful Respondent may not commence any legal action or proceeding in respect to any unauthorized possession, use, or knowledge, or any unauthorized attempt to possess, use, or gain knowledge, of DIR

and/or Customer's Confidential Information by any person or entity, which action or proceeding identifies DIR and/or the Customers or their Confidential Information without consent from DIR and/or Customers, which consent shall be in their sole and absolute discretion.

## **16 LIABILITY**

### **16.1 Property Damage**

- a) Successful Respondent will protect DIR's and Customers' real and personal property from damage arising from Successful Respondent's, Successful Respondent Personnel's, and its Subcontractors' performance of this CTSA, and Successful Respondent will be responsible for any loss, destruction, or damage to DIR's and Customers' property that results from or is caused by Successful Respondent's, Successful Respondent Personnel's, or its Subcontractors' negligent or wrongful acts or omissions. Upon the loss of, destruction of, or damage to any property of DIR and Customers, Successful Respondent will notify DIR and the applicable Customer promptly and, subject to direction from DIR and the applicable Customer, will take all steps to protect that property from further damage.
- b) Successful Respondent agrees to observe and require Successful Respondent Personnel and Subcontractors to observe no less than industry standard safety measures and proper operating procedures at DIR's and Customers' sites at all times and otherwise to comply with the procedures and safety standards imposed by DIR and Customers, whichever is the more rigorous standard.
- c) Successful Respondent will distribute a policy statement to all of Successful Respondent Personnel and Subcontractors that directs the Successful Respondent Personnel or Subcontractor to immediately report to DIR and the applicable Customer and Successful Respondent the existence of any special defect or unsafe condition encountered while on DIR's or Customers' premises. Successful Respondent shall immediately report to DIR and the applicable Customer the existence of any special defect or an unsafe condition it encounters or otherwise learns about.

### **16.2 Risk of Loss**

As applicable to any Equipment used in the performance of Services by Successful Respondent, during the period such Equipment is in possession of Successful Respondent, its carriers, or DIR or Customers, prior to being Accepted by DIR and/or the applicable Customer, Successful Respondent will insure and bear the risk of loss or damage thereto, unless such loss or damage is caused by the negligence or intentional misconduct of DIR or the applicable Customer.

### **16.3 Limitation of Liability**

- a) For any claim or cause of action arising under or related to the CTSA, neither Party will be liable to the other Party for indirect, punitive, special, or consequential damages, even if it is advised of the possibility of such damages.
- b) Items Not Considered as Damages. The following will not be considered damages subject to, and will not be counted toward the liability exclusion or cap specified herein:
  - 1) SLA Credits assessed against Successful Respondent pursuant to this CTSA.



- 2) Amounts withheld by DIR in accordance with this CTSA due to incorrect charges or Services not provided.
  - 3) Amounts paid by DIR but subsequently recovered from Successful Respondent due to incorrect charges or services not provided.
  - 4) Successful Respondent Invoiced Rates to DIR, Prices, telecommunications fees and surcharges and other amounts that are due and owing to Successful Respondent for Services under this CTSA.
- c) Duty to Mitigate. Each Party shall use appropriate efforts to mitigate its damages to the extent within its reasonable control and consistent with the Parties' respective performance obligations under this Agreement; provided, however, this provision is not intended to expand or diminish a Party's rights or obligations under this Agreement, alter the plain meaning of the provisions contained herein, or limit a Party's rights to act in its own self-interest.

## **17 REMEDIES AND DISPUTES**

### **17.1 Understanding and Expectations**

DIR can choose any and all remedies including all others afforded by law at its own discretion.

### **17.2 Tailored Remedies**

#### **17.2.1 Understanding of the Parties**

Successful Respondent agrees and understands that DIR may pursue tailored contractual remedies for noncompliance with this CTSA. At any time and at its sole and absolute discretion, DIR may impose or pursue one or more remedies for each item of noncompliance and will determine remedies on a case-by-case basis. DIR's pursuit or non-pursuit of a tailored remedy does not constitute a waiver of any other remedy that DIR may have at law or equity, including, but not limited to, the remedies set forth in Section 17.3 below. Prior to imposing any remedies, DIR will provide notice to the Successful Respondent of the non-compliance, and such notice shall include a reasonable cure period in accordance with Section 17.2.2.2 5) ii, or as specified elsewhere in this CTSA. In all instances under which DIR may pursue multiple remedies, DIR has the option, in its sole and absolute discretion, to collect either Credits or actual damages.

#### **17.2.2 Notice and Opportunity to Cure for Deficiencies**

- a) In the event that DIR reasonably determines that Successful Respondent has failed or is reasonably likely to fail to meet performance expectations, standards, SLAs, or schedules (a Deficiency), but that, in the determination of DIR, in its sole and absolute discretion, do not result in a Material Breach or delay in the delivery or operation of the Services, DIR shall notify Successful Respondent in writing. If Successful Respondent has determined that it has failed or is reasonably likely to fail to meet performance expectations, standards, SLAs, or schedules, Successful Respondent shall notify DIR.
- b) Upon notice or discovery, Successful Respondent will take immediate steps to mitigate any harmful effects of such Deficiency and promptly perform a root cause analysis. Successful Respondent will, within ten (10) calendar days (or another date approved in writing by DIR) of receipt of written notice of a Deficiency from DIR or delivery of such notification to DIR, provide DIR a written response that:
  - 1) Explains the reasons for the Deficiency, Successful Respondent's plan to address or cure the Deficiency, and the date and time by which the Deficiency will be cured; or

- 2) If Successful Respondent disagrees with DIR's findings, its reasons for disagreeing with DIR's findings.
- c) Successful Respondent's proposed cure of a Deficiency is subject to the approval of DIR, in its sole and absolute discretion. Successful Respondent's repeated commission of Deficiencies or failure to resolve any Deficiencies may be regarded by DIR as a Material Breach and entitle DIR to pursue any other remedy provided in this CTSA or any other appropriate remedy DIR may have at law or equity. At any time, DIR may, in its own discretion and based on the passage of time and information discovered by DIR or provided by Successful Respondent, determine that a Deficiency is a Material Breach. In that instance, DIR will notify Successful Respondent in accordance with the below requirements.

#### 17.2.2.1 Notice and Opportunity to Cure for Material Breach

- a) DIR will notify Successful Respondent in writing of specific areas of Successful Respondent performance that fail to meet performance expectations, standards, SLAs, or schedules, and that, in the determination of DIR, in its sole and absolute discretion, do constitute a Material Breach in the delivery or operation of the Services or a Material Breach of the CTSA. Successful Respondent may also commit a Material Breach if it attempts or threatens to commit a Material Breach
- b) Upon notice or discovery of a Material Breach, Successful Respondent will take immediate steps to mitigate any harmful effects of such Material Breach and promptly perform a root cause analysis. Successful Respondent will, within ten (10) calendar days (or another date approved by DIR) of receipt of written notice of a Material Breach, provide DIR a detailed written Corrective Action Plan to correct or resolve a Material Breach of this CTSA.
- c) The Corrective Action Plan must provide:
  - 1) A detailed explanation of the reasons for the cited Material Breach as determined by the root cause analysis;
  - 2) A specific proposal to cure or resolve the Material Breach promptly and completely.
- d) The Corrective Action Plan is subject to approval or modification by DIR, in its sole and absolute discretion.
- e) DIR will notify Successful Respondent in writing of DIR's final disposition of the Corrective Action Plan. If DIR accepts Successful Respondent's proposed Corrective Action Plan, DIR may:
  - 1) Condition such approval on completion of tasks in the order or priority that DIR may prescribe;
  - 2) Disapprove portions of Successful Respondent's proposed Corrective Action Plan; or
  - 3) Require additional or different Corrective Action Plan(s).
- f) At any time during this process, DIR reserves the right, in its sole and absolute discretion, to:
  - 1) Suspend all, or part of, this CTSA; or
  - 2) Issue a written Stop Marketing Order which prohibits Successful Respondent or any of its agents, or Subcontractors, third party providers or from further marketing the Services during investigation of the alleged Material Breach and pending corrective action, if necessary, by Successful Respondent, or a decision by DIR to terminate the CTSA for Cause. DIR may delay the implementation of the Stop Marketing Order if it



affects the completion of any of the Services in accordance with a Customer's approved schedule under a CSA.

- g) DIR's acceptance of a Corrective Action Plan under this Section 17.2 will not:
- 1) Excuse Successful Respondent's prior Material Breach(es);
  - 2) Relieve Successful Respondent of its duty to comply with performance standards; or
  - 3) Prohibit DIR from assessing additional tailored remedies or pursuing other appropriate remedies for continued Deficiencies or Material Breaches.

#### 17.2.2.2 Administrative Remedies

- a) At its sole and absolute discretion, DIR may impose one or more of the following remedies for each item of non-compliance, both Deficiencies and Material Breaches, and will determine the scope and severity of the remedy on a case-by-case basis:
- 1) Assess Credits in accordance with the terms of this CTSA;
  - 2) Conduct accelerated monitoring of Successful Respondent including more frequent or more extensive monitoring by DIR or its agents;
  - 3) Require additional, more detailed, marketing, and/or performance reports to be submitted by Successful Respondent;
  - 4) Decline to extend this CTSA; and/or
  - 5) Terminate this CTSA, in its entirety or in part, in accordance with Section 17.3, provided, however, that the right to terminate hereunder shall be limited to those instances where:
    - i. The non-compliance constitutes a Material Breach;
    - ii. DIR gives Successful Respondent written notice of such Material Breach and a thirty (30) calendar day cure period, or other cure period that DIR in its sole discretion agrees to in writing; and
    - iii. Successful Respondent does not cure the Material Breach within the applicable cure period.
- b) For purposes of this CTSA, an item of non-compliance, both Deficiencies and Material Breaches, means a specific action of Successful Respondent that:
- 1) Violates a provision of this CTSA and/or a TEX-AN 2021 Customer Service Agreement;
  - 2) Fails to meet an agreed SLA; or
  - 3) Represents a failure of Successful Respondent to be responsive to a request of DIR and/or a Customer relating to the Services for information, assistance, or support within the timeframe specified by DIR and/or the Customer provided that such request for information, assistance, or support is within the Services specified to be provided in this CTSA and/or CSA, as amended from time to time.
- c) DIR will provide notice to Successful Respondent of the imposition of an administrative remedy in accordance with this Section 17.2, with the exception of accelerated monitoring, which may be unannounced. DIR may require Successful Respondent to file a written response in accordance with this Section.

### 17.2.2.3 Damages

- a) DIR will be entitled to actual damages resulting from the Successful Respondent's failure to comply with any of the terms of this CTSA. In some cases, the actual damage to DIR or the Customers as a result of Successful Respondent's failure to meet any provision of, or obligation under, this CTSA and/or to meet specific SLAs or performance standards set forth in this CTSA are difficult or impossible to determine with precise accuracy. Therefore, agreed Credits may be assessed in writing against and in such event will be paid by Successful Respondent for failure to meet any aspect of Successful Respondent's responsibilities under this CTSA and/or to meet the specific performance standards identified in Exhibit C Performance Management. Credits will be assessed if DIR determines, in its sole and absolute discretion, such failure is the fault of Successful Respondent (including the Successful Respondent Personnel) and is not materially caused or contributed to by DIR, Customers, or their agents. If at any time, DIR determines, in its sole and absolute discretion, that Successful Respondent has not met a provision of, or has not fulfilled an obligation under this CTSA and/or the specific performance standards due to mitigating circumstances, DIR reserves the right to waive all or part of the Credits. All such waivers must be in writing, contain the reasons for the waiver, and must be signed by the appropriate executive of DIR.
- b) The Credits prescribed in this Section 17.2 are not intended to be in the nature of a penalty, but are intended to be reasonable estimates of DIR's projected financial loss and damage resulting from the Successful Respondent's nonperformance, including financial loss as a result of Service delivery delays to DIR and/or the Customers. Accordingly, in the event Successful Respondent fails to perform in accordance with this CTSA, DIR may assess Credits as provided in this Section 17.2.
- c) If Successful Respondent fails to perform any of the Services as ordered by DIR or the Customers, DIR may assess Credits for each occurrence of such failure, to the extent consistent with DIR's tailored approach to remedies and State law.
- d) In accordance with Exhibit C Performance Management, DIR may elect, in its sole and absolute discretion, to collect Credits:
  - 1) Through direct assessment and demand for payment; or
  - 2) By deduction of amounts assessed as Credits as set-off against payments then due to Successful Respondent for the Services or that become due at any time after assessment of the Credits. DIR will make deductions until the full amount payable by the Successful Respondent is received by DIR or Customer.
- e) Credits and actual damages imposed under any provision of this CTSA will be limited to the amounts and triggering events specified in this CTSA.
- f) Acknowledgment of Actual Damages

The absence of actual damages listed in this section shall not be construed or interpreted as an agreement to exclude it as an actual damage under this CTSA. For the avoidance of doubt, the following shall be considered actual damages and Successful Respondent shall not assert that they are indirect, incidental, collateral, consequential, or special damages, or lost profits to the extent they result directly from the Successful Respondent's failure to perform in accordance with this CTSA:

  - 1) Costs and expenses of restoring or reloading any lost, stolen, or damaged Data;
  - 2) Costs and expenses of implementing a work-around in respect of a failure to provide the Services or any part thereof;

- 3) Costs and expenses of replacing lost, stolen, or damaged Equipment and materials;
  - 4) Cover damages, including the costs and expenses incurred to procure the Services or corrected Services from an alternate source;
  - 5) Costs and expenses incurred to bring the Services in-house or to contract to obtain the Services from an alternate source;
  - 6) Straight time, overtime, or related expenses incurred by DIR or Customer in performing 1) through 5) above, including overhead allocations for employees, wages, and salaries of additional employees, travel expenses, overtime expenses, telecommunication charges, and similar charges;
  - 7) Fines, penalties, sanctions, interest, or other monetary remedies incurred as a result of a failure to comply with applicable laws;
  - 8) Credits assessed against Successful Respondent in accordance with this CTSA; and
  - 9) Costs and expenses of protecting and compensating the State and its constituents after a Security Incident, including but not limited to notifications, fines and penalties, damages established by a court of law, costs to establish a call center, and thirty-six (36) months of credit monitoring for effected individuals.
- g) Liquidated Damages [Requirements regarding Liquidated Damages will be negotiated per contract.]

#### 17.2.2.4 Equitable Remedies

- a) Successful Respondent acknowledges that, if Successful Respondent commits a Material Breach (or attempts or threatens to commit a Material Breach) of its obligations under this CTSA, DIR, the Customers, and the State will be irreparably harmed. In such a circumstance, DIR, for and on behalf of its Customers and the State, may proceed directly to court.
- b) If a court of competent jurisdiction finds that Successful Respondent has committed an uncured Material Breach (or attempted or threatened to commit a Material Breach), Successful Respondent agrees that, without any additional findings of irreparable injury or other conditions to injunctive relief, it will not oppose the entry of an appropriate injunctive order compelling performance by Successful Respondent and restraining it from committing any further Material Breaches (or attempted or threatened Material Breaches).

#### 17.2.2.5 Suspension of CTSA

- a) DIR may suspend performance of all or any part of this CTSA if:
  - 1) DIR determines that Successful Respondent has committed a Material Breach of this CTSA and, after written notice from DIR, such Material Breach is not cured by Successful Respondent during the cure period as further described in Section 17.2.2.2 5) ii of the CTSA; provided however, if no specific cure period is specified under this CTSA, such cure period will be not less than ten (10) calendar days.
  - 2) DIR has reason to believe that Successful Respondent, Successful Respondent Personnel, and/or Successful Respondent's Subcontractors, have committed, assisted in the commission of, or failed to take appropriate action concerning fraud, malfeasance, or misfeasance concerning this CTSA and if DIR, in its sole and



absolute discretion, believes that the suspension is necessary to prevent a material loss or material damages to the State, and the portion of the CTSA being suspended has a direct relationship to the alleged fraud, malfeasance, or misfeasance concerning this CTSA.

- 3) DIR determines that suspension of this CTSA in whole or in part is convenient or in the best interests of the State or the TEX-AN 2021 Program.
- b) DIR will notify Successful Respondent in writing of its intention to suspend this CTSA in whole or in part. Such notice will:
  - 1) Be delivered in writing to Successful Respondent; and
  - 2) Include a concise description of the facts or matter leading to DIR's decision.

### **17.3 Termination of CTSA**

In addition to other provisions of this Article 17 allowing termination, this CTSA will terminate upon the Expiration Date unless extended in accordance with the terms of this CTSA, or terminated sooner under the terms of this CTSA. Prior to completion of the Term, all or a part of this CTSA may be terminated for any of the following reasons:

#### **17.3.1 Termination by Mutual Agreement of the Parties.**

This CTSA may be terminated by mutual agreement of the Parties. Such agreement must be in writing.

#### **17.3.2 Termination in the Best Interest of the State.**

DIR may terminate this CTSA, in whole or in part, without penalty to or other liability on DIR, at any time when, in its sole discretion, DIR determines that termination is in the best interests of the State. The termination will be effective on the date specified in DIR's notice of termination.

#### **17.3.3 Termination for Cause**

Subject to the applicable notice and cure provisions in Section 17.2, DIR reserves the right to terminate this CTSA, in whole or in part, without recourse, upon the following conditions (each a Cause):

##### **17.3.3.1 Successful Respondent Insolvency**

Subject to relevant law, DIR may terminate this CTSA if Successful Respondent:

- a) makes an assignment for the benefit of all or substantially all of its creditors;
- b) admits in writing its inability to pay its debts generally as they become due, including passing a resolution for voluntary liquidation;
- c) consents to or is subject to the appointment of a receiver, trustee, manager, or liquidator over all or any part of its property;
- d) becomes or is declared insolvent or is the subject of any bona fide proceedings related to its liquidation, administration, provisional liquidation, insolvency, or the appointment of a receiver or similar officer for it; or
- e) enters into an agreement or arrangement for the composition, extension, or readjustment of substantially all of its obligations or any class of such obligations.

##### **17.3.3.2 Failure to Adhere to Laws, Rules, Ordinances, or Orders**

- a) DIR may terminate this CTSA upon making a determination, in its sole and absolute discretion, that Successful Respondent failed to adhere to any laws, ordinances, rules,

regulations, or orders of any public authority having jurisdiction and such violation prevents or substantially impairs performance of Successful Respondent's duties under this CTSA.

- b) DIR may terminate this CTSA if a court of competent jurisdiction finds Successful Respondent failed to adhere to any laws, ordinances, rules, regulations, or orders of any public authority having jurisdiction and such violation prevents or substantially impairs performance of Successful Respondent's duties under this CTSA.

#### 17.3.3.3 Breach of Confidentiality

DIR may terminate this CTSA if DIR determines, in its sole and absolute discretion, that Successful Respondent breached Article 15 or any confidentiality or privacy laws with respect to the Services provided under this CTSA and related Data.

#### 17.3.3.4 Failure to Maintain Adequate Personnel or Resources

DIR may terminate this CTSA if, after providing notice and an opportunity to cure, DIR determines, in its sole and absolute discretion, that Successful Respondent has failed to supply sufficient personnel or resources and such failure results in Successful Respondent's inability to fulfill its duties to provide Services in any way under this CTSA.

#### 17.3.3.5 Termination for Gifts and Gratuities

- a) DIR may terminate this CTSA following its determination that Successful Respondent, Successful Respondent Personnel, or Successful Respondent's Subcontractors have either offered or given any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service (collectively "Thing of Value") to an officer or employee of DIR, a Customer, or the State in violation of State law. DIR may terminate this CTSA following a determination by a competent judicial or quasi-judicial authority and Successful Respondent's exhaustion of all legal remedies that Successful Respondent, Successful Respondent Personnel, or Successful Respondent's Subcontractors have either offered or given a Thing of Value to an officer or employee of DIR, a Customer, or the State in violation of State law.
- b) Termination of a Subcontract by Successful Respondent pursuant to this provision will not be a cause for termination of this CTSA unless:
  - 1) Successful Respondent fails to replace such terminated Subcontractor within a reasonable time; and
  - 2) Such Failure constitutes Cause as described in this Section 16.3.

#### 17.3.3.6 Material Adverse Change in Successful Respondent's Financial Condition

If (1) Successful Respondent receives a "going concern" qualification from its external auditor or (2) Standard & Poor's lowers Successful Respondent's long term credit rating to lower than BB- and in the reasonable opinion of DIR such change in the financial condition of Successful Respondent may impair or otherwise compromise the ability of Successful Respondent to perform its obligations under this Agreement, then DIR may, in its sole discretion, terminate this Agreement by giving Successful Respondent at least thirty (30) calendar days prior notice. With respect to the events described in (2) above, prior to exercising its right to terminate, DIR shall meet with Successful Respondent within ten (10) calendar days following notification (or awareness) of such event and permit Successful Respondent to submit to DIR within fifteen (15) calendar days of such meeting a plan that comprehensively addresses DIR's concerns related to Successful Respondent's ability to perform its obligations under this Agreement (the "Service Delivery Plan"). DIR shall not unreasonably withhold its approval of such Service Delivery Plan.



If DIR does not approve the initial Service Delivery Plan it shall inform the Successful Respondent of its reasons and the Successful Respondent shall take those reasons into account in the preparation of a further Service Delivery Plan, which shall be resubmitted to DIR within ten (10) calendar days. If in DIR's reasonable discretion the updated Service Delivery Plan does not address DIR's concerns related to Successful Respondent's ability to continue delivering the Services, then DIR will have the right to terminate this Agreement as described above.

#### 17.3.3.7 Termination for Successful Respondent's Material Breach of this CTSA

DIR has the right to terminate this CTSA, in whole or in part, if DIR determines, in its sole and absolute discretion, that Successful Respondent has committed a Material Breach. Prior to exercising its right to terminate all or a part of this CTSA, DIR will provide the Successful Respondent written notice and an opportunity to cure the Material Breach in accordance with Section 17.2, and if such cure is made and accepted by DIR, in its sole and absolute discretion, DIR will not terminate the CTSA.

#### 17.3.3.8 Prohibited Vendor's List

DIR has the absolute right to terminate this CTSA, without recourse, in the event that:

- a) Successful Respondent becomes listed on the prohibited vendors list authorized by Executive Order #13224, "Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism," published by the United States Department of the Treasury, Office of Foreign Assets Control, or
- b) Successful Respondent becomes suspended or debarred from doing business with the federal government as listed in the Excluded Parties List System (EPLS) maintained by the General Services Administration, or
- c) Successful Respondent is found by DIR to be ineligible to hold this CTSA under Section 2155.006(b), Texas Government Code.

### 17.4 DIR Rights Upon Successful Respondent's Bankruptcy

#### 17.4.1 General Rights

In the event of Successful Respondent's bankruptcy or other formal procedure or of the filing of any petition under bankruptcy laws affecting the rights of Successful Respondent which is not stayed or dismissed within thirty (30) days of filing, in addition to the other rights and remedies set forth herein, to the maximum extent permitted by law, DIR and Customers shall have the immediate right to retain and take possession for safekeeping all DIR and Customer Data, DIR and Customer Confidential Information, DIR and Customer licensed third party materials, DIR and Customer owned Equipment, DIR and Customer owned Materials, DIR and Customer owned developed materials, and all other materials, Equipment, or systems to which DIR and/or the Customers are or would be entitled during the Term or upon the expiration or any termination of this CTSA. Successful Respondent shall cooperate fully with DIR and the Customers and assist DIR and the Customers in identifying and taking possession of the items listed in the preceding sentence. DIR and Customers shall have the right to hold such Data, Confidential Information, materials, Equipment, and systems until such time as the trustee or receiver in bankruptcy or other appropriate insolvency office holder can provide adequate assurances and evidence to DIR and Customer that they shall be protected from sale, release, inspection, publication, or inclusion in any publicly accessible record, document, material, or filing. Successful Respondent and DIR agree that without this material provision, DIR would not have entered into this CTSA or provided any right to the possession or use of such Data, Confidential Information, or materials covered by this CTSA.

#### 17.4.2 DIR Rights in Event of Bankruptcy Rejection

Notwithstanding any other provision of this CTSA to the contrary and to the maximum extent permitted by applicable laws, in the event that Successful Respondent becomes a debtor under the United States Bankruptcy Code (11 U.S.C. §101 et. seq. or any similar Law in any other country (the "Bankruptcy Code")) and rejects this Agreement pursuant to Section 365 of the Bankruptcy Code (a "Bankruptcy Rejection"):

- a) any and all of the licensee and sublicensee rights of DIR and the Customers arising under or otherwise set forth in this CTSA, including the rights of DIR and the Customers shall be deemed fully retained by and vested in DIR and the Customers as protected intellectual property rights under Section 365(n)(1)(B) of the Bankruptcy Code and further shall be deemed to exist immediately before the commencement of the bankruptcy case in which Successful Respondent is the debtor;
- b) DIR and the Customers shall have all of the rights afforded to non-debtor licensees and sublicensees under Section 365(n) of the Bankruptcy Code; and
- c) to the extent any rights of DIR and the Customers under this CTSA which arise after the expiration or any termination of this CTSA are determined by a bankruptcy court not to be "intellectual property rights" for purposes of Section 365(n),

all of such rights shall remain vested in and fully retained by DIR and/or the Customers after any bankruptcy rejection as though this CTSA were terminated or expired. DIR shall under no circumstances be required to terminate this CTSA, in whole or in part, after a bankruptcy rejection in order to enjoy or acquire any of its rights under this CTSA, including any of the rights of DIR or the Customers unless and to the extent required by applicable law.

#### 17.5 Effective Date of Termination

Termination will be effective as of the date specified in the notice of termination.

#### 17.6 Extension of Termination Effective Date

Any termination date may be extended upon the mutual agreement of the Parties; however, such date shall not be extended beyond the Expiration Date of this CTSA.

#### 17.7 Payment and Other Provisions at CTSA Termination

- a) DIR further agrees to negotiate in good faith with Successful Respondent to equitably adjust and settle any accrued or outstanding liabilities for a Service which has not been Accepted that:
  - 1) Is due or delivered prior to or upon termination of this CTSA; and
  - 2) Benefits DIR, a Customer, or the State, notwithstanding its status as not having been Accepted.
- b) Successful Respondent agrees to negotiate in good faith with DIR and/or Customer to equitably adjust and settle any outstanding disputes currently on file between the parties.
- c) Successful Respondent must provide DIR access to records, facilities, and documentation as is required to efficiently and expeditiously close out the Services under this CTSA.
- d) Successful Respondent must prepare a Disentanglement Plan, upon notice of termination and within ten (10) Business Days, which is acceptable to and approved by DIR, in its sole and

absolute discretion. Such Disentanglement Plan will be implemented during the time period between DIR's Acceptance of the Disentanglement Plan and the termination date.

- e) Subsections 17.7 a) and 17.7 b) shall only be applicable to time and materials work performed under the CTSA and/or CSAs or as otherwise allowed hereunder.
- f) For all other Rates to DIR and Prices set forth in Exhibit B, DIR or Direct Sales Transaction Service Customers, as appropriate, will pay for all Services provided as of the effective termination date. Article 14 Terms and Conditions of Successful Respondent Billing and DIR and Customer Payment, shall govern the billing and payment for Services under this Section 11.7.

## **17.8 Amendment of CTSA in the Event of Remedies**

DIR may propose an amendment of this CTSA in response to the imposition of a remedy under this Article 17. Any amendments offered pursuant to this Section 17.8 must be limited to the matters causing the exercise of a remedy and in writing. Successful Respondent must negotiate such proposed amendments in good faith.

## **17.9 Disentanglement Assistance**

Upon receipt of notice of full or partial termination of this CTSA by DIR, Successful Respondent shall provide all Disentanglement assistance necessary to enable DIR and/or its designee to effectively close out this CTSA and transition the Services and Customers to another TEX-AN 2021 Contract Holder as provided in the Disentanglement Plan (see Article 21. Transition Plan for Expiration).

## **17.10 Successful Respondent Responsibility for Associated Costs**

If DIR terminates this CTSA for Cause, the Successful Respondent will be responsible to DIR for all costs incurred by DIR, the State, or any of its Customers to replace the Successful Respondent. These costs include, but are not limited to, the costs of transitioning all Customers to a new TEX-AN 2021 Contract Holder or procuring a substitute, and the cost of any claim or litigation that is attributable to Successful Respondent's failure to perform the Services in accordance with the terms of this CTSA. For purposes of clarity, the Successful Respondent's liability for State's costs of transitioning all Customers to a new TEX-AN 2021 Contract Holder will be limited to the total charges incurred by DIR and the Customers from the new TEX-AN 2021 Contract Holder in transitioning.

## **17.11 Dispute Resolution**

### **17.11.1 General Agreement of the Parties**

The Parties mutually agree that the interests of fairness, efficiency, and good business practices are best served when the Parties employ all reasonable and informal means to resolve any Dispute under this CTSA. The Parties express their mutual commitment to using all reasonable and informal means of resolving Disputes prior to invoking a remedy provided elsewhere in this Article 17.

### **17.11.2 Duty to Negotiate in Good Faith.**

Any Dispute that in the judgment of any Party to this CTSA may materially or substantially affect the performance of any Party will be reduced to writing and delivered to the other Party per the formal notice procedures discussed above. The Parties must then negotiate in good faith and use reasonable efforts to resolve such dispute and the Parties will not resort to pursuing further remedies unless they have reasonably determined that a negotiated resolution is not possible. The resolution of any dispute disposed



of by agreement between the Parties will be reduced to writing and delivered to all Parties within ten (10) Business Days.

### 17.11.3 Claims for Breach of CTSA

#### 17.11.3.1 General Requirement

As required by and in accordance with Chapter 2260, Texas Government Code, Successful Respondent's claim for breach of this CTSA must be resolved in accordance with the dispute resolution process established by DIR.

#### 17.11.3.2 Negotiation of Claims

- a) The Parties expressly agree that the Successful Respondent's claim for breach of this CTSA that the Parties cannot resolve in the ordinary course of business or through the use of all reasonable and informal means will be submitted to the negotiation process provided in Chapter 2260, Subchapter B, Texas Government Code.
- b) The Parties expressly agree that the Successful Respondent's compliance with Chapter 2260, Subchapter B, Texas Government Code, is a condition precedent to the filing of a contested case proceeding under Chapter 2260, Subchapter C, Texas Government Code.

#### 17.11.3.3 Contested Case Proceedings

The contested case process provided in Chapter 2260, Subchapter C, Texas Government Code, will be Successful Respondent's sole and exclusive process for seeking a remedy for any and all alleged breaches of the CTSA by DIR if the Parties are unable to resolve their disputes under Subsection 17.11.3.2 of this section. The Parties expressly agree that compliance with the contested case process provided in Chapter 2260, Subchapter C, Texas Government Code, is a condition precedent to seeking consent to sue from the Texas Legislature under Chapter 107, Texas Civil Practices & Remedies Code. Neither the execution of this CTSA by DIR nor any other conduct of any representative of DIR relating to this CTSA shall be construed as or be considered a waiver of the State's sovereign immunity.

#### 17.11.3.4 DIR Rules

The submission, processing, and resolution of Successful Respondent's claim is governed by the rules adopted by DIR pursuant to Chapter 2260, Texas Government Code, found at Title 1, Chapter 201, Texas Administrative Code.

#### 17.11.3.5 Successful Respondent's Duty to Perform

Neither the occurrence of an event constituting an alleged breach of CTSA nor the pending status of any claim for breach of CTSA is grounds for the suspension of performance, in whole or in part, by Successful Respondent of any duty or obligation with respect to the performance of Services under this CTSA and all CSAs. Any changes to this CTSA as a result of a dispute resolution will be implemented in accordance with Article 9.

## 17.12 Liability of Successful Respondent

- a) Successful Respondent bears all risk of loss or damage due to:
  - 1) Defects in Services;
  - 2) Unfitness or obsolescence of Services; and
  - 3) The negligence or intentional misconduct of Successful Respondent or its employees, agents, or Subcontractors;

- b) Successful Respondent shall defend, indemnify and hold harmless the State, DIR and Customers, and/or their employees, agents, representatives, contractors, Assignees, officers, directors, successors, and/or designees from any and all liability, actions, claims, demands, or suits and all related costs, attorney fees, and expenses arising out of, or resulting from any acts or omissions of the Successful Respondent, Successful Respondent Personnel, Successful Respondent's Subcontractors, or suppliers of Subcontractors in the execution or performance of the CTSA, a CSA and any Purchase Orders issued under the CTSA regardless of the negligence of the Customer, the State, DIR, and/or their employees, agents, representatives, contractors, Assignees, officers, directors, successors, and/or designees. The defense shall be coordinated by the Texas Office of the Attorney General for State agency Customers and by Customer's legal counsel for non-State agency Customers.
- c) Successful Respondent will ship all Equipment, if any, related to the provision of Services under this CTSA and any CSAs entered into pursuant hereto, freight prepaid, freight on board (FOB) DIR's or Customer's destination or other designated location. The method of shipment will be consistent with the nature of the Equipment and hazards of transportation. Regardless of FOB point, Successful Respondent agrees to carry adequate freight insurance and bear all risks of loss, damage, or destruction of Equipment, in whole or in part, ordered hereunder that occurs prior to written Acceptance, except loss or damage attributable to DIR's or Customer's fault or negligence; and such loss, damage, or destruction will not release Successful Respondent from any obligation hereunder. After written Acceptance, the risk of loss or damage will be borne by DIR or the Customer, as appropriate, except loss or damage attributable to Successful Respondent's fault or negligence.

## 18 ASSURANCES AND CERTIFICATIONS

### 18.1 Conflicts of Interest

#### 18.1.1 Representation

Successful Respondent agrees to comply with applicable State and federal laws, rules, and regulations regarding conflicts of interest in the performance of its duties under this CTSA. Successful Respondent warrants that it has no interest and will not acquire any direct or indirect interest that would conflict in any manner or degree with its performance under this CTSA.

#### 18.1.2 General Duty Regarding Conflicts of Interest

- a) Successful Respondent will establish safeguards to prohibit Successful Respondent Personnel and Subcontractors from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain. Successful Respondent shall, and Successful Respondent shall cause its Successful Respondent Personnel and Subcontractors, to operate with complete independence and objectivity without actual, potential, or apparent conflict of interest with respect to the activities conducted under this CTSA. Successful Respondent has disclosed, in its Response to the RFO, any existing conflicts of interest, including any situations that create an appearance of a conflict of interest. Successful Respondent has also disclosed the current or past employment of former state employees within two (2) years of the date of its Response to the RFO, under the terms of the disclosure requirement contained in the RFO.
- b) Successful Respondent shall for itself and on behalf of its Subcontractors, has identified (and will identify for the duration of the Term): A. all current or former employees of the State assigned or proposed to work on the CTSA twenty percent (20%) or more of their time and has disclosed



them to DIR and has disclosed or does not employ any relative of a current or former State employee within two (2) degrees of consanguinity or affinity, and, if these facts change during the course of the CTSA, Successful Respondent certifies for itself and on behalf of its Subcontractors, it shall disclose the name and other pertinent information about the employment of current and former employees and their relatives within two (2) degrees of consanguinity or affinity, and B. any former executive head of a State agency employed by Successful Respondent;

## **19 REPRESENTATIONS, WARRANTIES, AND COVENANTS**

### **19.1 Authorization**

Successful Respondent hereby represents and warrants the following:

- a) The execution, delivery, and performance of this CTSA has been duly authorized by Successful Respondent and no approval, authorization, or consent of any governmental or regulatory agency is required to be obtained in order for Successful Respondent to enter into this CTSA and perform its obligations under this CTSA.
- b) Successful Respondent has obtained all licenses, assignments, certifications, permits, and authorizations necessary to perform the Services under this CTSA and currently is in good standing with all regulatory agencies that regulate any or all aspects of Successful Respondent's performance of Services under this CTSA. Successful Respondent will maintain all required certifications, licenses, permits, and authorizations during the term of this CTSA.

### **19.2 Ability to Perform**

Successful Respondent warrants that it has the financial resources to fund the expenditures required to provide the Services under this CTSA without advances by DIR or assignment of any payments by DIR to a financing source.

### **19.3 Successful Respondent Certifications**

Successful Respondent certifies, for itself, its agents, and on behalf of Subcontractors, as follows (all references within this section to Successful Respondent include Successful Respondent's agents and Subcontractors):

- a) Successful Respondent has not given, offered to give, and does not intend to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the CTSA;
- b) Successful Respondent is not currently delinquent in the payment of any franchise tax owed the State and is not ineligible to receive payment under Section 231.006 of the Texas Family Code and acknowledges the CTSA may be terminated and payment withheld if this certification is inaccurate;
- c) neither Successful Respondent, nor anyone acting for it, has violated the antitrust laws of the United States or the State, nor communicated directly or indirectly to any competitor or any other person engaged in such line of business for the purpose of obtaining an unfair price advantage;
- d) Successful Respondent has not received payment from DIR or any of its employees for participating in the preparation of the CTSA;

- e) under Sections 2155.004, 2155.006, and 2261.053, Texas Government Code, Successful Respondent is not ineligible to receive the specified Contract and acknowledges that this CTSA may be terminated and payment withheld if this certification is inaccurate;
- f) to the best of its knowledge and belief, Successful Respondent knows there are no suits or proceedings pending or threatened against or affecting it, which if determined adversely to it will have a material adverse effect on the ability to fulfill its obligations under the CTSA;
- g) Successful Respondent and its principals are not suspended or debarred from doing business with the federal government as listed in the System for Award Management (SAM) maintained by the General Services Administration;
- h) as of the Effective Date of the CTSA, Successful Respondent is not listed in any of the divestment statute lists published on the CPA's website (<https://comptroller.texas.gov/purchasing/publications/divestment.php>);
- i) as of the Effective Date, Successful Respondent is not listed in the prohibited vendors list authorized by Executive Order #13224, "Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism," published by the United States Department of the Treasury, Office of Foreign Assets Control;
- j) Successful Respondent has identified (and will identify for the duration of the Term):
  - 1) all current or former employees of the State assigned or proposed to work on the CTSA twenty percent (20%) or more of their time and has disclosed them to DIR and has disclosed or does not employ any relative of a current or former state employee within two (2) degrees of consanguinity or affinity, and, if these facts change during the course of the Agreement, Successful Respondent certifies for itself and on behalf of its Subcontractors, it shall disclose the name and other pertinent information about the employment of current and former employees and their relatives within two (2) degrees of consanguinity or affinity, and
  - 2) any former executive head of a State agency employed by Successful Respondent;
- k) that, for its performance of this CTSA, Successful Respondent shall purchase products and materials produced in the State when available at the price and time comparable to products and materials produced outside the State, to the extent that such is required under Section 2155.4441, Texas Government Code;
- l) Successful Respondent agrees that all equipment and materials used in fulfilling the requirements of this CTSA are of high-quality and consistent with or better than applicable industry standards, if any. All work and Services performed pursuant to this CTSA shall be of high professional quality and workmanship and according consistent with or better than applicable industry standards, if any;
- m) to the extent applicable to this scope of this CTSA, Successful Respondent is in compliance with Subchapter Y, Chapter 361, Health and Safety Code, related to the Computer Equipment Recycling Program and its rules, 30 Texas Administrative Code Chapter 328;
- n) Successful Respondent agrees that any payments due under this CTSA will be applied towards any debt, including but not limited to delinquent taxes and child support that is owed to the State;
- o) Successful Respondent is in compliance Section 669.003, Texas Government Code, relating to contracting with executive head of a State agency;
- p) the provision of goods and services or other performance under the CTSA will not constitute an actual or potential conflict of interest, Successful Respondent will not create the appearance of

impropriety, and, if these facts change during the course of the CTSA, Successful Respondent certifies it shall disclose the actual or potential conflict of interest and any circumstances that create the appearance of impropriety;

- q) Successful Respondent has complied with the Section 556.0055, Texas Government Code, restriction on lobbying expenditures.
- r) Successful Respondent understands and acknowledges the applicability of Sections 2155.444 and 2155.4441, Texas Government Code, in fulfilling the terms of the CTSA;
- s) DIR's or the Customer's payment to Successful Respondent and Successful Respondent's receipt of appropriated or other funds under this CTSA are not prohibited by Sections 556.005 or 556.008, Texas Government Code;
- t) to the extent applicable to this scope of this CTSA, Successful Respondent is authorized to sell and provide warranty support for all products and Services listed in Exhibit B of this CTSA;
- u) in accordance with Section 2271.002 of the Texas Government Code, by signature hereon, Successful Respondent does not boycott Israel and will not boycott Israel during the term of this CTSA. Successful Respondent agrees to take all necessary steps to ensure this certification remains true during the Term of this CTSA;
- v) Successful Respondent represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Section 2252.152 of the Texas Government Code.
- w) that in accordance with Section 2155.0061, Texas Government Code, the individual or business entity named in this CTSA is not ineligible to receive the specified contract and acknowledges that this CTSA may be terminated and payment withheld if this certification is inaccurate; and
- x) during the Term, Successful Respondent shall promptly disclose to DIR all changes that occur to the foregoing certifications, representations, and warranties. Successful Respondent covenants to fully cooperate in the development and execution of resulting documentation necessary to maintain an accurate record of the certifications, representations, and warranties.

#### **19.4 Workmanship and Performance**

- a) All Services provided under this CTSA will be provided in a manner consistent with the standards of quality as outlined in this CTSA.
- b) All Services must meet or exceed the required levels of performance specified in or pursuant to this CTSA, and will meet or exceed DIR's Goals and Objectives, as set forth in the RFO, Section 1.3.
- c) Successful Respondent shall, and it shall cause Successful Respondent Personnel and Subcontractors, to perform the Services in a workmanlike manner, in accordance with best practices and high professional standards consistent with applicable industry standards used in well-managed operations performing Services similar to the Services awarded in this CTSA.

#### **19.5 Compliance with Agreement**

Successful Respondent represents, warrants, and covenants that it will not take any action inconsistent with any of the terms and conditions set forth in this CTSA without the express, prior written approval of DIR, in DIR's sole and absolute discretion.



## 19.6 Infringement and Misappropriation

- a) Successful Respondent represents, warrants, and covenants that all Services provided by Successful Respondent will not infringe or misappropriate any right of, and will be free of any claim of, any third person or entity based on copyright, patent, trade secret, or other Intellectual Property rights. Successful Respondent agrees that it shall include the indemnity provision provided in Section [14.10 b\)](#) into its Subcontracts, in which Subcontractors participate in the development or delivery of the Services or Software.
- b) As of the Effective Date, there is, to Successful Respondent's knowledge, no pending claim, suit, or proceeding against or affecting Successful Respondent or any of its Affiliates or Subcontractors that would reasonably be expected to adversely affect Successful Respondent's ability to perform and fulfill its obligations under this CTSA including, without limitation, actions pertaining to the proprietary rights to the relevant intellectual property. Successful Respondent shall notify DIR within fifteen (15) days of Successful Respondent's knowledge of any such claim, suit, or proceeding. Successful Respondent shall notify DIR, within forty-eight (48) hours, if process is served on Successful Respondent in connection with this CTSA where such matter may affect the Services or a Party's rights including any subpoena for Successful Respondent's records, and shall send a written notice of the service together with a copy of the same to DIR within seventy-two (72) hours of such service.

## 19.7 Organizational Conflicts of Interest

### 19.7.1 Definition

An organizational conflict of interest is a set of facts or circumstances, a relationship, or other situation under which Successful Respondent, agent or Subcontractor has past, present, or currently planned personal or financial activities or interests that either directly or indirectly:

- a) Impairs or diminishes Successful Respondent's, agent's, or Subcontractor's ability to render impartial or non-discriminatory Services to DIR and the Customers; or
- b) Provides the Successful Respondent, agent, or Subcontractor an unfair competitive advantage in the Procurement and future DIR procurements.

### 19.7.2 Warranty

Except as otherwise disclosed and approved by DIR prior to the Effective Date of this CTSA, Successful Respondent warrants that, as of the Effective Date and to the best of its knowledge and belief, there are no relevant facts or circumstances that could give rise to an organizational conflict of interest affecting this CTSA. Successful Respondent affirms that it has neither given, nor shall give, at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant or any employee or representative of same, at any time during the procurement process or in connection with the procurement process except as allowed under relevant State and federal law.

### 19.7.3 Continuing Duty to Disclose

- a) Successful Respondent agrees that, if after the Effective Date, Successful Respondent discovers or is made aware of an organizational conflict of interest, Successful Respondent will immediately and fully disclose such interest in writing to DIR. In addition, Successful Respondent must promptly disclose any relationship that might be perceived or represented as a conflict after its discovery by Successful Respondent or by DIR as a potential conflict. DIR reserves the right, in its sole and absolute discretion, to make a final determination regarding the existence of conflicts of interest, and Successful Respondent agrees to abide by DIR's decision.

- b) The disclosure will include a description of the action(s) that Successful Respondent has taken or proposes to take to avoid or mitigate such organizational conflicts of interest.

#### 19.7.4 Remedy

If DIR determines that an organizational conflict of interest exists, DIR may, at its sole discretion, terminate the CTSA. If DIR determines that Successful Respondent was aware of an organizational conflict of interest before the award of this CTSA and did not disclose the conflict in its Response to the RFO, such nondisclosure will be considered a Material Breach. Furthermore, the facts and circumstances related to such Material Breach may be submitted to the Texas Office of the Attorney General, Texas Ethics Commission, or appropriate State or federal law enforcement officials for further action.

#### 19.7.5 Flow Down Obligation

Successful Respondent must include the provisions of CTSA Section 19.7 in all agent agreements and Subcontracts for work to be performed similar to the Services provided by Successful Respondent under this CTSA to preserve the State's rights against such agents and Subcontractors.

### 19.8 DIR Personnel Recruitment Prohibition

- a) Successful Respondent has not retained or promised to retain any agent, Subcontractor, person, or company, or utilized or promised to utilize an agent, or a Subcontractor that participated in DIR's development of specific criteria of this CTSA or who participated in the procurement that resulted in the selection of the Successful Respondent for this CTSA.
- b) Successful Respondent will not recruit or employ any DIR professional or technical personnel who have worked on Projects relating to the subject matter of this CTSA, or who have had any influence on decisions affecting the subject matter of this CTSA, for two (2) years following the expiration and/or termination of this CTSA.

### 19.9 Anti-kickback Provision

Successful Respondent certifies that it will comply with the Anti-Kickback Act of 1986, 41 USC §§51-58 and Federal Acquisition Regulation 52.203-7.

### 19.10 Debt or Back Taxes Owed to the State

In accordance with Section 403.055, Texas Government Code, Successful Respondent agrees that any payments due to Successful Respondent under this CTSA will be first applied toward any debt and/or back taxes Successful Respondent owes the State. Successful Respondent further agrees that payments will be so applied until such debts and back taxes are paid in full.

### 19.11 Outstanding Debts and Judgments

Successful Respondent certifies that it is not presently indebted to the State, and that Successful Respondent is not subject to an outstanding judgment in a suit by the State against Successful Respondent for collection of the balance. For purposes of this Section, an indebtedness is any amount sum of money that is due and owing to the State and is not currently under dispute. A false statement regarding Successful Respondent's status will be treated as a Material Breach.



### **19.12 Antitrust**

In submitting a Response, and in executing this CTSA, Successful Respondent certifies and agrees as follows:

- a) Neither Successful Respondent, nor agent, nor Subcontractor, nor the person represented by the Successful Respondent, nor any person acting for the represented person has:
  - 1) violated the antitrust laws codified by Sections 15.01, et seq., Texas Business & Commerce Code or the federal antitrust laws; or
  - 2) directly or indirectly communicated the Response associated with this CTSA to a competitor or other person engaged in the same line of business.
- b) Successful Respondent hereby assigns to DIR any and all claims for overcharges associated with this CTSA arising under the antitrust laws of the United States, 15 U.S.C. Section 1, et seq. (1973), as amended, and the antitrust laws of the State, Sections 15.01, et seq., Texas Business & Commerce Code.

### **19.13 Agency Executive**

Under Section 669.003, Texas Government Code, relating to contracting with an executive of a State agency, Successful Respondent represents that no employee, consultant, officer, or director of Successful Respondent, or any other person involved with Successful Respondent, has, in the past four (4) years, served as an executive of DIR, or any other State agency, was involved with or has any interest in the RFO or any CTSA resulting from the RFO. If Successful Respondent employs or has used the services of a former executive head of DIR or other State agency, then Successful Respondent shall provide DIR the following information concerning such individual: Name of former executive, name of State agency, date of separation from State agency, position with Successful Respondent, and date of employment with Successful Respondent.

### **19.14 Deceptive Trade Practices; Unfair Business Practices**

Successful Respondent represents and warrants that in the past ten (10) years, it has not been the subject of allegations of deceptive trade practices violations under Chapter 17, Texas Business & Commerce Code, or allegations of any unfair business practice in any administrative hearing or litigation and that Successful Respondent has not been found to be liable for such practices in such proceedings. Successful Respondent certifies that it has no officers who have served as officers of other entities who have been the subject allegations of deceptive trade practices violations or allegations of any unfair business practices in an administrative hearing or court suit and that such officers have not been found to be liable for such practices in such proceedings.

### **19.15 Cybersecurity Training**

In accordance with Section 2054.5192, Texas Government Code, for any contract with a State agency or institution of higher education, if Successful Respondent, or a Subcontractor, officer, or Successful Respondent Personnel, will have access to a State computer system or database, then Successful Respondent shall ensure that such Successful Respondent Personnel, officer, or Subcontractor shall complete a cybersecurity training program certified under Section 2054.519, Texas Government Code, as selected by the State agency Customer. The cybersecurity training program must be completed by such Successful Respondent Personnel, officer, or Subcontractor during the Term of the CTSA and during any renewal period. Successful Respondent shall verify to the Customer state agency or institution of higher

education completion of the program by each such Successful Respondent Personnel, officer, or Subcontractor.

### **19.16 Drug Free Workplace Policy**

Successful Respondent shall comply with the applicable provisions of the Drug-Free Work Place Act of 1988 (41 U.S.C. §§8101-8106) and maintain a drug-free work environment; and the final rule, government-wide requirements for drug-free work place (Financial Assistance), issued by the Office of Management and Budget (2 C.F.R. Part 182) to implement the provisions of the Drug Free Work Place Act of 1988 is incorporated by reference and the Successful Respondent shall comply with the relevant provisions thereof, including any amendments to the final rule that may hereafter be issued.

### **19.17 Preservation of Records**

In accordance with Section 552.372 of the Texas Government Code, Respondent agrees to (1) preserve all contracting information related to the contract as provided by the records retention requirements applicable to the Agency for the duration of the contract, (2) promptly provide to the Agency any contracting information related to the contract that is in the custody or possession of the Respondent on request of the Agency, and (3) on termination or expiration of the contract, either provide at no cost to the Agency all contracting information related to the contract that is in the custody or possession of the Respondent or preserve the contracting information related to the contract as provided by the records retention requirements applicable to the Agency. Except as provided by Section 552.374(c) of the Texas Government Code, the requirements of Subchapter J, Chapter 552, Government Code, may apply to the contract and the Respondent agrees that the contract can be terminated if the Respondent knowingly or intentionally fails to comply with a requirement of that subchapter.

## **20 INTELLECTUAL PROPERTY**

### **20.1 Infringement Indemnification**

- a) Successful Respondent will, at its expense, indemnify, and hold harmless DIR and the Customers, their respective employees, officers, directors, contractors, and agents from and against any losses, liabilities, damages, penalties, costs, and fees, including without limitation attorneys' fees and expenses, from any claim or action against DIR and/or Customers that is based on a claim of breach of the warranty set forth in SECTION 19.7.2 OF THE CTSA, DIR and/or Customer will promptly notify Successful Respondent in writing of the claim, provide Successful Respondent a copy of all information received by DIR and/or Customers with respect to the claim, and cooperate with Successful Respondent in defending or settling the claim. The defense will be coordinated by the Texas Office of the Attorney General for Texas State agencies and by Customer's legal counsel for non-State agency Customers.
- b) If any Service, or part thereof, that is the subject of an action described in Section 19.1(a), is held to constitute an infringement or misappropriation, or the use thereof is enjoined or restricted or if a proceeding appears to Successful Respondent to be likely to be brought with respect there to, Successful Respondent will, at its own expense, either:
  - 1) Procure for DIR and/or the affected Customer the right to continue using the Services; or
  - 2) Modify or replace the Services to comply with the specifications in the CTSA, if any, and to not violate any Intellectual Property rights.

## 20.2 Exceptions

Successful Respondent is not responsible for any claimed breaches of the warranties set forth in Section 19.1 to the extent caused by:

- a) Modifications made to the Service in question by any party other than Successful Respondent or its agents or Subcontractors, or by DIR and/or Customer and/or their agents working at Successful Respondent's direction and in accordance with another vendors' specifications; or
- b) The combination, operation, or use of the Service with other items if Successful Respondent did not supply or approve for use with the item; or
- c) DIR's and/or Customer's failure to use any new or corrected versions of the Service made available or provided by Successful Respondent.

## 20.3 Rights in Data

- a) DIR or Customers will be and remain the owner of all Data made available by DIR or Customers to Successful Respondent or its agents, its Subcontractors or representatives pursuant to the CTSA. Successful Respondent and Successful Respondent Personnel will not use DIR or Customer Data for any purpose other than providing the Services, nor will any part of DIR or Customer Data be disclosed, sold, assigned, leased, or otherwise disposed of to the general public or to specific third parties (other than with respect to providing the Services) or commercially exploited by or on behalf of Successful Respondent, nor will any Successful Respondent Personnel other than those on a strictly need to know basis have access to DIR or Customer Data. Successful Respondent will not possess or assert any lien or other right against DIR or Customer Data. Without limiting the generality of this Section 20.3, Successful Respondent will only use personally identifiable information as strictly necessary to provide the Services and will disclose such information only to its employees who have a strict need to know such information, provided Successful Respondent obtains such employees' written agreement to keep such information confidential and to use it only as required in the performance of Services. Successful Respondent will comply at all times with all State and federal laws and regulations applicable to such personally identifiable information. Additionally, Successful Respondent may disclose such information to its Subcontractors who have a need to know in connection with the performance of Services, provided Successful Respondent obtains such Subcontractors' written agreement to keep such information confidential and to use it only as required in the performance of Services.
- b) DIR or Customer is and will remain the owner of all DIR or Customer Data pursuant to the CTSA. Except as otherwise provided in this CTSA, or as otherwise restricted by law, and excluding Successful Respondent Confidential Information, DIR and Customer may use the data provided by the Successful Respondent for any purpose relating to the operation and enhancement of TEX-AN 2021 Program. DIR or Customer will not possess or assert any lien or other right against the Successful Respondent's data.

## 20.4 Ownership of Pre-existing Materials

DIR or Customers and Successful Respondent will continue to own their respective proprietary technologies and information developed before entering into the CTSA. Any Software licensed through the Successful Respondent and sold to DIR or Customers as a part of a Service, will be licensed directly to DIR or Customers, as appropriate.



## **20.5 Third party Commercial Software**

If applicable and necessary, all third party commercial Software used in performing the Services will be provided to DIR or Customers under a separate license agreement between DIR or Customers and the owner (or authorized licensor) of such software.

## **20.6 Pre-existing Materials for Custom Software Deliverables Related to Services**

Neither Successful Respondent nor any of its agents, representatives, or Subcontractors will incorporate any pre-existing materials (including third party commercial software) into custom software deliverables related to Services or use any pre-existing materials to produce custom software deliverables related to Services if such pre-existing materials will be needed by DIR or Customer in order to use the custom software deliverables related to Services unless:

- a) Such pre-existing materials and their owners are identified to DIR or Customer in writing prior to implementation or installation, and
- b) Such pre-existing materials are either readily commercially available products for which Successful Respondent or its Subcontractor, as the case may be, has obtained a license (in form and substance approved by DIR, in its sole and absolute discretion) in the name of DIR or Customer, or are materials that Successful Respondent or its Subcontractor, as the case may be, has the right to license to DIR or Customer and has agreed to license to DIR or Customer on terms and conditions approved by DIR, in its sole and absolute discretion, prior to using such pre-existing materials to perform the Services. Successful Respondent represents, warrants, and covenants that it shall not, during the term of the CTSA or any time afterwards, assert any ownership rights, in any DIR-owned or Customer-owned Software, source code, and other materials.

## **20.7 Ownership of Work Product by DIR or Customer**

The Services shall not be considered “work for hire” for DIR or Customers; however, the same shall be subject to licensing, on the same terms and provisions, as provided for herein, as reasonable, necessary, or required.

## **20.8 License to Intellectual Property**

- a) If necessary to the performance of Services hereunder, upon notice from Successful Respondent, DIR and/or Customers shall enter into good faith negotiations to license to Successful Respondent any Intellectual Property owned by DIR and/or Customers.
- b) In the event the Successful Respondent makes or has made any modifications or configurations to any Software owned by DIR and/or a Customer under this CTSA, DIR and/or the Customer, as appropriate, shall own the modifications or configurations and the related scripts, processes, and documentation, and Successful Respondent hereby assigns all of its rights, titles and interests (including Intellectual Property rights) arising in such modifications or configurations and the related scripts, processes, and documentation to the appropriate party, either DIR or the Customer. Upon the request of DIR or the Customer, Successful Respondent will give a written assignment of the modifications or configurations and the related scripts, processes, and documentation to the requesting party. During the Term, Successful Respondent retains a terminable, non-transferable, non-exclusive and paid-up license to use the modifications in performing Services under this CTSA, and to use the modifications to provide Services to other

Customers, including the right to sub-license or further license those modifications only to Customers.

- c) The Successful Respondent shall own all modifications to the Successful Respondent owned Software made by the Successful Respondent and any modifications to the Successful Respondent Proprietary Software made on behalf of DIR and/or a Customer. DIR and/or the affected Customer hereby assign its rights, titles, and interests (including Intellectual Property rights) arising in such modifications to the Successful Respondent. Successful Respondent shall provide DIR and/or Customer with a nonexclusive, non-transferable, royalty-free limited right and license during the Term to use the modifications for purposes of receiving Services. Successful Respondent's license to DIR and/or the Customer to use Successful Respondent Proprietary Software shall extend to such modifications; provided, however, Successful Respondent's warranties and indemnities with respect to Successful Respondent Proprietary Software do not extend to any modifications made on behalf of DIR and/or a Customer by contractors other than Successful Respondent and its Subcontractors.

## **21 TRANSITION PLAN FOR EXPIRATION OF THE CTSA**

Refer to Section 9, Termination Assistance, of the TEX-AN 2021 Statement of Work (SOW).

### **21.1 Scope**

This transition plan for expiration of the CTSA addresses the orderly Transition to DIR, or the successor service provider, of all Services provided by Successful Respondent to DIR and/or Customers pursuant to a CSA through the CTSA, that has an expiration date beyond the Expiration Date of the CTSA (the Transition Effective Date), including planning activities which will be conducted prior to the Transition Effective Date. This transition plan does not apply to other contracts that Successful Respondent may hold with DIR outside the scope of this CTSA. Successful Respondent agrees that all references in this Article 21 to DIR, includes all employees of the agency and all designated contractors or consultants that may assist DIR in the Transition. DIR and Successful Respondent agree that the term "Transition" as used in this Article 21 means disposition from Successful Respondent to DIR, or the successor service provider, by any lawful method, including by sale and purchase, assumption, transfer, assignment, or other method.

### **21.2 General Statement for Transition**

No later than twelve (12) months before the Transition Effective Date (commencement of Transition Period), Successful Respondent shall commence planning for the orderly Transition of all of the Services that have an expiration date beyond the Transition Effective Date under this CTSA to DIR or the successor service provider, in accordance with the terms of this Article, as the same may be amended from time to time. DIR and Successful Respondent desire to provide for the Transition of all things and matters comprising the Services, which have expiration dates beyond the Transition Effective Date. This Article shall not be construed narrowly, but broadly, to ensure the Transition of all Services with expiration dates beyond the Transition Effective Date occurs on or by that date. The parties do not intend for there to be residual Service-related matters that do not Transition on or by the Transition Effective Date.



### **21.3 Agreement for Transition Assistance Services**

Transition Assistance Services, as specified in this Article 21, shall be provided from the commencement of the Transition Period and for up to twelve (12) months after the Transition Effective Date, unless further extended by the Parties. DIR will provide Successful Respondent with written notice of its intent to have Transition Assistance Services, in whole or in part, provided by Successful Respondent after the Transition Effective Date, by giving at least sixty (60) calendar days advance notice. Such notice shall contain a list of the specific Transition Assistance Services required and the duration for each of the Transition Assistance Services sought. Successful Respondent shall review the notice and provide a written proposal response for the specific services sought, as more particularly described in Section 21.04(b)(5), within thirty (30) calendar days of receipt of DIR's notice. The parties agree to negotiate in good faith to conclude a written agreement for the required Transition Assistance Services no later than one-hundred twenty (120) calendar days prior to the Transition Effective Date.

### **21.4 Transition Assistance Services**

Transition Assistance Services shall include:

- a) Full cooperation and participation in the Transition planning process, as more particularly described in Section 21.6, which shall commence no later than the commencement of the Transition Period, at DIR's sole and absolute discretion, and shall involve a series of meetings among the representatives of DIR, Vendor, the successor service provider, if known, representatives of Successful Respondent's current State agency Customers and other parties whose participation would enhance the planning process, which process is more fully described in Phase Four (4) set forth in this Section 21.4; and
- b) Successful Respondent providing to DIR, or the successor Service Provider, all of the items and matters called out for in this Article 21, and other items or information reasonably necessary to complete the transition of the Services under the CTSA. Without limiting the foregoing, the Transition Assistance Services shall occur in five (5) phases:
  - 1) Phase 1 – Initial Reporting of Services Subject to Transition. On or by December 31st two (2) years prior to the Transition Effective Date, Successful Respondent shall provide a written report, in the form required by DIR, disclosing all Services, as of December 1st of the same year, that have expiration dates beyond the applicable Transition Effective Date under the CTSA. Without limiting the foregoing, Successful Respondent shall report on and include:
    - i. All Software that Successful Respondent uses to perform its Services with each Customer under each of the Services, including complete source and machine readable data, associated manuals, procedures, processes, documentation, descriptions, data files, specifications, configurations, and other such items as available in accordance with existing third party licensing agreements. For each item of Software listed, Successful Respondent shall provide a copy of the associated Software license held by Successful Respondent. Successful Respondent shall ensure the transferability of the associated licenses to a successor entity under conditions similar to that of this Transition with no fees or costs for Transition to DIR or the successor service provider, if any;
    - ii. All hardware and other Equipment, including all hardware leases for Equipment used to perform each Service, including leases which have a term beyond the Transition Effective Date. Successful Respondent shall provide a copy of the

- assignment/transfer and early termination clauses for each lease with a term beyond the Transition Effective Date and report on the status of transferability and any costs for transfer or early termination, if any. Successful Respondent shall report all known costs for transfer or termination of such leases, including the existing leases or as the same may be amended prior to the Transition Effective Date;
- iii. All maintenance agreements for Software, hardware, or other Equipment and assets, including copies of their assignment/transfer and early termination clauses, a status report on transferability to DIR or its designee and the costs for transfer or early termination, if any;
  - iv. All third party supplier agreements, which have an effective date beyond the Transition Effective Date, including copies of their assignment/transfer and early termination clauses, a status report on transferability to DIR or its designee and the costs for transfer or early termination, if any;
  - v. Copies of the CSAs with the Customers for Services.
- 2) Phase 2 – Ongoing Reports on Services through the Transition Effective Date. Phase 2 is composed of five (5) activities, as listed below:
- i. Follow Up Reporting. For each item reported in Phase I, Successful Respondent shall update DIR on a semi-annual basis up to the Transition Effective Date. The first such update after December 31st shall be due on or by June 30th of the following year.
  - ii. New TEX-AN 2021 CSA. For every CSA issued by Successful Respondent to a Customer between the initiation of the reporting period two (2) years out from the Transition Effective Date and the Transition Effective Date, Successful Respondent shall seek and receive DIR's approval prior to entering into any CSA. DIR shall be provided no less than five (5) Business Days in which to review the documentation for each proposed CSA, in substantially final form. In each instance Successful Respondent shall provide that the CSA contains: 1) a complete assignment or transfer to DIR, or its successor service provider, on or by the Transition Effective Date, preferably at no cost to DIR or its designee, and 2) a termination for convenience clause in favor of Successful Respondent and DIR in all such CSAs. Successful Respondent shall use commercially reasonable efforts to minimize the fee for assignment or transfer to DIR, or its successor service provider.
  - iii. Equipment Condition Report. Successful Respondent will develop a checklist and conduct checks/reviews of the installed Equipment and produce a report on or by six (6) months prior to the Transition Effective Date. Such report shall detail, at a minimum, the then-current condition of each piece of installed Equipment and the preventative maintenance needed within the next six (6) months after the report is issued. For all items, Successful Respondent shall provide details about existing maintenance contracts.
  - iv. Subcontractor Report. On or by January 1st two (2) years prior to the Transition Effective Date, and semi-annually thereafter up to the Transition Effective Date, Successful Respondent shall identify all then-current Subcontracts that provide Services under any CSA issued pursuant to the CTSA, in a form and level of detail approved by DIR, in its sole and absolute discretion.
  - v. Notwithstanding any other provision in this Article 21, Successful Respondent agrees to provide another updated report for all CSAs on or by August 31st, one (1) year

prior to the Transition Effective Date, and six (6) months prior to the Transition Effective Date.

- 3) Phase 3 – Completion of all documentation for Transition
  - i. DIR, or the successor service provider and Successful Respondent shall complete Transition associated documentation necessary to effect the Transition of all CSAs under the CTSA in a timely manner, including, at a minimum, the Transition of all CSAs reported to DIR under Subsections (1) and (2) hereof. Successful Respondent shall facilitate interactions and necessary documentation with third party vendors, its Subcontractors, lessors, and other providers, at the request of DIR, or at the request of the successor service provider. DIR reserves the right, in its sole and absolute discretion, to require that DIR, the successor service provider, and Successful Respondent conduct a formal closing for the Transition, in order to ensure the completion of all necessary documentation.
  - ii. DIR, or the successor service provider, shall cause each Transition document to provide the complete transfer of all right, title, and interest in and to the CSAs, including any related lease or third party contract related to the underlying Equipment, from Successful Respondent to DIR, or the successor service provider, effective as of the Transition Effective Date. Each Transition document shall also provide that from and after the Transition Effective Date, Successful Respondent shall have no obligation or liability to any third party vendor or lessor whatsoever related to the underlying Equipment. Successful Respondent shall ensure that the granting of such license, sublicense, assignment, and other relevant rights is not subject to third party approval or payment by DIR, Customer, or the successor service provider of license, assignment, or transfer fees or penalties. Successful Respondent shall have no responsibility to pay any third party vendor or lessor from and after the Transition Effective Date.
- 4) Phase 4 – Planning Phase for Transition from the CTSA to an Agreement with a successor service provider. Successful Respondent shall fully and completely participate in all meetings called by DIR for the purpose of planning and implementing the transition of CSAs from the CTSA to the successor service provider. The goal of this planning phase is to provide an orderly transition of CSA operations under the CTSA to the operations with a successor service provider. Such planning activities shall commence no later than January 1st of the year of the Transition Effective Date, at DIR's direction and shall continue until all transition activities are complete. These Transition activities shall include, but not be limited to, the following:
  - i. Pre-planning no later than January 1st to March 31st of the year of the Transition Effective Date. These DIR meetings will include the Successful Respondent's current Customers, as determined by DIR, the successor service provider, Successful Respondent, and DIR. The scope of the pre-planning is to plan for the transfers of the current Customers' CSA operations, scheduling of all necessary activities, development of roles and responsibilities matrix related to Transition of the CSA, and planning for all the other steps of the Transition process, as listed below. The goal of this pre-planning phase is to produce a mutually acceptable Transition Plan document that defines roles and responsibilities for accomplishing each step in the Transition among the participating parties.
  - ii. Turnover of CSA operations to the successor service provider. In each step in the Transition planning and execution process, Successful Respondent is required to



provide information as requested by DIR, the successor service provider and /or the current Successful Respondent's Customers in accordance with the agreed upon Transition Plan. Such information shall include, but not be limited to the following tangible items and matters of inherent knowledge:

- A. Assets Lists (hardware, Software, schematics, maintenance agreements, third party agreements)
  - B. Procedures
  - C. Policies
  - D. Practices
  - E. Protocols
  - F. Customer biographies
  - G. Organization charts
  - H. Customer and Successful Respondent (including Subcontractors) decision makers; authorized Successful Respondent Personnel
  - I. Institutional knowledge; unwritten rules; operational personnel; client background information; authorization lists;
  - J. Operational details
  - K. and
  - L. Quick reference manuals.
- 5) Phase 5 – Post-Transition Effective Date Services by Successful Respondent. At DIR's option, DIR will request and Successful Respondent shall respond with a proposal for Successful Respondent to provide assistance for continuing management and operation of the CSA as conducted under the CTSA for a period beyond Transition Effective Date up to one (1) year after the Transition Effective Date, but only upon the execution of an appropriate contract for such services, on terms and conditions as agreed by DIR, or the successor service provider, and Successful Respondent. In the event that DIR, or the successor service provider, requires the services of Successful Respondent during the Post-Transition Effective Date period, then DIR shall execute a separate agreement with Successful Respondent to provide services on a time and material basis.

## **21.5 Covenant of Cooperation**

During the period of time from the commencement of the Transition, as defined, to the completion of Transition Assistance Services, Successful Respondent agrees to fully cooperate with DIR, and as appropriate, with the successor service provider, to fulfill the terms of the CTSA. DIR and Successful Respondent agree to fulfill the terms of this Article 21 in a manner that is the least disruptive to the Customers under the CSA. DIR and Successful Respondent agree to notify the other Party in the event either discovers a condition, contract, or other matter that would benefit or adversely affect performance of the CSA, if generally known. In the event it is determined that amendment to this Article 21 is in the best interest of the State, Successful Respondent agrees to negotiate amendments to this Article 21 in good faith with DIR. In all events, the Parties agree to cooperate in the negotiation and execution of such other and further documents as necessary to fulfill the terms of this Article 21.

## **21.6 Other Successful Respondent Agreements with Customers**

DIR and Successful Respondent agree that this Article does not apply to any other contracts that Successful Respondent has, or may have in the future, with Customer that are separate transactions from the CSA authorized under the CTSA.

## **22 MISCELLANEOUS**

### **22.1 Entire Agreement**

This CTSA, including with any documents, attachments, and exhibits specifically referred to herein or attached hereto, each of which is incorporated herein for all purposes, constitutes the entire agreement with respect to the subject matter hereof between the Parties. On execution of this CTSA, all prior agreements and understandings between the Parties relating to the subject matter hereof shall be null and void. The Parties specifically acknowledge that there are no unwritten side agreements or oral agreements between them which alter, amend, modify, or supplement this CTSA as of the Effective Date.

### **22.2 Counterparts**

This CTSA may be executed in one (1) or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same single agreement. Electronic signatures shall be deemed original signatures.



**22.3 Authority to Execute**

IN WITNESS WHEREOF, the Parties have executed this TEX-AN 2021 Communications Technology Services Agreement in their capacities as stated below with authority to bind their organizations on the dates set forth by their signatures. This Agreement shall be effective from the date of the last signature thereto (the Effective Date).

**Department of Information Resources**

**AT&T Corp. (Successful Respondent)**

Signature on File

Amanda Crawford  
Executive Director

Signature on File

Jason Porter  
President-Public Sector & FirstNet

11/5/2021 \_\_\_\_\_

Date

10/27/2021 \_\_\_\_\_

Date

M.H. \_\_\_\_\_

Legal

# **Exhibit A To TEX-AN 2021 Communications Technology Services Agreement**

Between

**The State of Texas, acting by and through the  
Texas Department of Information Resources**

and

**AT&T Corp. (Successful Respondent)**

## EXHIBIT A. DEFINITIONS

### 1 INTRODUCTION

The purpose of *Exhibit A Definitions* is to define certain terms used for the CTSA. This only contains definitions for words or phrases to which DIR is ascribing a special meaning. Words and phrases not listed here are to be given their usual definition within the context of the sentence in which they are used.

### 2 DEFINITIONS AND ACRONYMS

Term	Definition
<b>ADA</b>	Americans with Disabilities Act.
<b>ADC</b>	Austin Data Center.
<b>Acceptance</b>	Agreement from DIR and/or its Customer(s) that Service installations, moves, or changes have been successfully completed.
<b>Adjustment</b>	Correction to an Invoice resulting from a billing error or as a result of Billing Dispute reconciliation.
<b>Administrative Fee</b>	In general, the fee paid to DIR to defray the DIR costs of operating and administering the TEX-AN 2021 Program. The fee is a percentage applied to Successful Respondent's Service costs.
<b>Affiliate</b>	(i) Any person or entity directly or indirectly owning, controlling or holding, with power to vote, fifty percent (50%) or more of the outstanding voting securities of Successful Respondent; (ii) any person or entity for which fifty percent (50%) or more of the outstanding voting securities are directly or indirectly owned, controlled or held, with power to vote by Successful Respondent; or (iii) any person, or entity directly or indirectly controlling, controlled by, or under common control with, Successful Respondent.
<b>Assignee</b>	An individual or organization that receives an assignment of all or part of the interests of one of the Party's to the CTSA, and that undertakes to assume the responsibilities of that original Party.
<b>Assurance</b>	Set of processes used to maintain and guarantee the required performance of a Service.
<b>Attachment</b>	A form or document appended to an exhibit to the CTSA.
<b>Authorized End Users or Authorized User</b>	Individuals or organizations that are eligible to use the Services by statute, also known as <b>Customers</b> .
<b>Availability</b>	The ratio of the time when a Service is functional and available to the user for the performance of prescribed functions (e.g., to originate and terminate Calls) to the total amount of time in the reporting interval, minus scheduled maintenance Downtime. Availability is expressed as a decimal between 0 and 1 and is normally calculated for one (1) calendar month.
<b>Bill</b>	A formal statement of charges. See also Invoice.
<b>Billing Dispute</b>	A Billing Inquiry may lead to a written notice from the DIR or Customer to the Successful Respondent regarding an error in data or billing element requiring an adjustment or correction to the Monthly Consolidated Invoice which may include any applicable Credits.

<b>Term</b>	<b>Definition</b>
<b>Billing Inquiry</b>	Question or inquiry submitted by DIR or Customer to the Successful Respondent regarding billing which, if not satisfactorily resolved by DIR and the Successful Respondent, may result in a Billing Dispute.
<b>Billing Plan</b>	A plan submitted with Successful Respondent's Response demonstrating compliance with the RFO for billing matters. The final Billing Plan, as approved by DIR per Exhibit D, Billing Plan.
<b>BMIC</b>	Basic Maintenance of Internal Connections.
<b>Business Day</b>	Monday through Friday, excluding State holidays, 7:30 a.m. to 5:00 p.m. local time. State holidays will include all holidays with the status "All Agencies closed" as designated by the State Auditor's Office. State holidays will not include State optional holidays or holidays that require skeleton crews. If the CTSA calls for performance on a day that is not a Business Day, then performance is intended to occur on the next Business Day.
<b>Cause</b>	Has the meaning as provided in Section <a href="#">17.3</a> of this CTSA.
<b>CFO</b>	Chief Financial Office.
<b>Change(s)</b>	Any planned modification to a Service Instance or to a Successful Respondent's network. Changes may include corrections, enhancements, modifications, additions, and replacements.
<b>Commercially Available</b>	As applied to a Service in a geographic area, a Service or related Service feature provided legally by a Successful Respondent to one (1) or more entities, which as independent entities from such Successful Respondent, use the Services for its legal commercial business purposes.
<b>Comptroller of Public Accounts (CPA)</b>	A State agency. The State's chief tax collector, accountant, revenue estimator and treasurer. CPA includes the Texas State Treasury.
<b>Confidential Information</b>	Is defined in CTSA Section 15.1(a).
<b>Consolidated State Network</b>	Means the consolidated telecommunications system as defined by Section 2170.001(a)(2), Texas Government Code, as the network of telecommunications services serving the State government. This Consolidated State Network is composed of DIR, Customer, and Successful Respondent Network segments as defined herein.
<b>Contract (or CTSA)</b>	Means the TEX-AN 2021 Communications Technology Services Agreement, or (CTSA) – The final version of this contractually binding agreement between the Texas Department of Information Resources and the Successful Respondent awarded pursuant to the RFO, including all exhibits and attachments thereto.
<b>Contract Anniversary Date</b>	The date marking the end of the period commencing on the Effective Date and ending one (1) year later and for each year in the Term thereafter.
<b>Contract Holder(s)</b>	Other Successful Respondents awarded a Contract pursuant to RFO DIR-CPO-TMP-552 and part of the TEX-AN 2021 Program.
<b>Corrective Action Plan</b>	Has the meaning assigned in Section <a href="#">17.2</a> , Tailored Remedies.
<b>COTS</b>	Commercial off-the shelf.
<b>Credit(s)</b>	Monetary assessments against amounts owed.
<b>CTCD</b>	Certified Texas Contract Developer.
<b>CTCM</b>	Certified Texas Contract Manager.

<b>Term</b>	<b>Definition</b>
<b>CTS</b>	Communication Technology Services.
<b>Current Service Area</b>	The geographic area where the Successful Respondent is currently providing Commercially Available services.
<b>Customer</b>	Any eligible purchaser of Services. Customers are defined in accordance with Section 2170.004, Texas Government Code.
<b>Customer Circuit Record Code (CKR)</b>	DIR internal tracking number based on the agency/division of the Customer and the type of Service ordered.
<b>Customer Facilities</b>	Building and infrastructure owned or operated by Customer.
<b>Customer Network</b>	Customer networks are built and maintained by the Customer. Customer Networks may or may not connect to the DIR Network or a Successful Respondent Network, depending upon whether the Customer needs access to Services provided by the DIR Network or a Successful Respondent Network. Network to network demarcation points are determined on a case by case basis depending upon type of Service.
<b>Customer Premises Equipment (CPE)</b>	All communications terminal Equipment that is located on the Customer's premises.
<b>Data</b>	Information available in physical and/or electronic form.
<b>Data Destruction</b>	Handling, securing and disposing of data in both physical and electronic form, in compliance with, federal and State Laws that include, but are not limited to: 1 Texas Administrative Code Chapter 202; Section 403.278, Texas Government Code; Chapter 2175, Texas Government Code; the Internal Revenue Code; the Fair and Accurate Credit Transactions Act; the Family Educational Rights and Privacy Act ; the Health Insurance Portability and Accountability Act of 1996 ; and the Gramm-Leach-Bliley Act.
<b>Deficiency(ies)</b>	Has the meaning as used in Section <a href="#">17.2.2</a> of this CTSA.
<b>Deliverable</b>	A report or item that must be completed and delivered under the terms of the CTSA or a CSA. The measurable result or output of a process prepared, developed, or procured by Successful Respondent as part of the Services under the CTSA or a CSA.
<b>Department of Information Resources (DIR)</b>	State agency that oversees and assists in managing the information resource assets of the State pursuant to Chapters 2054, 2059, and 2170, Texas Government Code, as the same may be amended from time to time.
<b>Descriptions</b>	The description(s) of the awarded Services set forth in Exhibit B.
<b>Developing Technologies</b>	Includes technologies Respondents currently have and those that are in work and soon to become available.
<b>DIR Contractor</b>	Has the meaning as defined in Section <a href="#">4.5</a> of this CTSA.
<b>DIR Cooperative (Coop) Contracts Program</b>	A streamlined cooperative purchasing program for state, local, public education, and other public entities within and outside the State of Texas, administered by the CPO of DIR.
<b>DIR Facilities</b>	Building and infrastructure owned or operated by DIR.
<b>DIR Network(s)</b>	The DIR Network provides connectivity for primarily State government agencies but also includes educational institutions, political subdivisions, and assistance organizations. Customer and Contract Holder Networks connect to the DIR Network for interconnectivity and for enterprise services such as connectivity to the State data centers and internet service.
<b>DIR Rules</b>	Rules and procedures promulgated by DIR in accordance with the Texas Administrative Procedures Act and Texas Administrative Code.



<b>Term</b>	<b>Definition</b>
<b>Direct Sales Transaction Services</b>	Direct Sales Transaction Services – Refer to Section <a href="#">4.1</a> of this CTSA Services that are direct billed as determined by DIR.
<b>Disentanglement</b>	The process of winding up all issues in the business relationship between DIR, Customer, and Successful Respondent in the event of any termination of the CTSA. See Section <a href="#">17.7</a> , Payment and Other Provisions at CTSA Termination.
<b>Disentanglement Plan</b>	The plan developed and submitted by Successful Respondent and approved by DIR, in its sole and absolute discretion, to provide for the orderly and efficient winding up of the issues of the business relationship between Successful Respondent, Customer, and DIR in the event of any termination of the CTSA. See Section <a href="#">17.7</a> , <a href="#">Payment and Other Provisions at CTSA Termination</a> .
<b>Disputes</b>	A Billing Dispute is a disagreement over the accuracy of charges in an Invoice either to DIR or a Customer. Other Disputes may be disagreements over actions taken or not taken pursuant to the CTSA or a CSA, which are subject to the provisions of Section 16.10 Dispute Resolution of the CTSA.
<b>Downtime</b>	Period of time when the system is unavailable, in whole or in part. Downtime may be scheduled or unscheduled.
<b>DWDM</b>	Dense wave division multiplexing.
<b>Effective Date</b>	The commencement date for the CTSA, which is the date on which the last Party signs the CTSA.
<b>Electronic Administrative Update (EAU)</b>	An electronic fast-track system process for the continuous improvement of the Rates to DIR and Prices available to the Customers under the CTSA, and other non-substantive administrative updates, without reliance on a formal amendment process.
<b>Electronic State Business Daily</b>	A web portal operated by the CPA, to which all State agencies must post procurement opportunities, in compliance with Section 2155.083, Texas Government Code.
<b>Emerging Technologies</b>	Any technology within scope of the RFO currently not available from a Successful Respondent that may become available during the term of the CTSA.
<b>EPLS</b>	Excluded Persons List System.
<b>Equipment</b>	Computer hardware, routers, telecommunication devices, peripherals, and similar materials (and all modifications, replacements, upgrades, enhancements, documentation, materials, and media related thereto) that are used or provided in connection with this CTSA or Services related to this CTSA.
<b>ESBD</b>	Electronic State Business Daily.
<b>Executive Leadership Team</b>	A committee of DIR executives tasked with helping resolve issues that may arise between DIR and Successful Respondent.
<b>Expiration Date</b>	As defined in CTSA Section 3.1.
<b>Failure</b>	A detected cessation of capability to perform a specified function or functions within previously established limits, which is beyond adjustment by the operator through means of controls normally accessible during routine operations of the system.
<b>FCC</b>	The Federal Communication Commission, with regulatory authority over the telecommunications industry, including certain telecommunications carriers.

<b>Term</b>	<b>Definition</b>
<b>Feature</b>	Additional capability beyond the basic Service that may be selected at the Customer's option. Features normally are separately priced, although some Features have been defined to be Not Separately Priced .
<b>Force Majeure Event</b>	An event experienced by a Party that is within the scope of the CTSA clause found at Section 8.3.2.
<b>Government Entity or Entities</b>	Has the meaning provided in Texas Government Code § 2170.004.
<b>Grade of Service</b>	A number of network design variables used to provide a measure of adequacy for a group of resources under specified conditions.
<b>HUB</b>	Historically Underutilized Business.
<b>HSP</b>	HUB Subcontracting Plan.
<b>HVAC</b>	Heating, ventilation, and air conditioning.
<b>IC</b>	Internal connections.
<b>ID</b>	Identification.
<b>Independent Verification and Validation contractors</b>	A third party provider of independent assessment and testing methodologies for quality assurance or performance verification purposes.
<b>Initial Term</b>	Has the meaning provided in Section 3.1 of the CTSA.
<b>Intellectual Property</b>	Any trademarks, patents, inventions, copyrights, trade secrets, or domain names created prior to, on, or after the Effective Date.
<b>Invoice</b>	Depending on the context in which used, may mean the Monthly Consolidated Invoice issued by Successful Respondent to DIR, or an Invoice issued to a Direct Sales Transaction Service Customer for Direct Sales Transaction Services. In the proper context, Invoice may refer to both types of Invoices.
<b>Invoice File</b>	Summarized Invoice data that are delivered by the Successful Respondent to DIR, or a Customer, in a machine-readable format.
<b>IT</b>	Information technology.
<b>IVR</b>	Interactive voice response.
<b>Key Performance Indicator (KPI)</b>	Measurable Service attribute that is critical to its proper functioning and delivery to the Customer.
<b>LAN</b>	Local area network.
<b>Local Services</b>	A type of Service as discussed in Section 11.2 e) of the SOW, which may be directly sold to Customers by Successful Respondent as set forth in Article 4 of the CTSA, if awarded to Successful Respondent under this CTSA.
<b>Managed Network Services</b>	Has the meaning set forth in RFO Section 2.1.a) including facility, power, and HVAC solutions.
<b>Managed Services</b>	Has the meaning set forth in RFO Section 2.1.
<b>Management Plan(s)</b>	Has the meaning provided in Section <a href="#">2.3</a> and in the CTSA's Exhibit named Plans.
<b>Marketing Plan</b>	A plan submitted with Successful Respondent's Response to demonstrate Successful Respondent's resources and activities to promote the CTSA and gain Customers. The Marketing Plan, as approved by DIR, in its sole and absolute discretion, shall become an attachment to the CTSA.
<b>Material Breach</b>	Has the meaning set forth in Section 16.2 Tailored Remedies.
<b>MIBS</b>	Managed internal broadband services.
<b>MPLS</b>	Multiple protocol label switching.

<b>Term</b>	<b>Definition</b>
<b>Monthly Consolidated Invoice</b>	A formal, single statement of charges provided by Successful Respondent to DIR, which includes the Invoice file, Detailed Billing File, Adjustment file, and monthly informational memorandum for all Services provided by Successful Respondent.
<b>Monthly Recurring Charge (MRC)</b>	Regular fees repeatedly billed each month by Successful Respondents for Services performed. See also Non-Recurring Charge (NRC).
<b>Move, Add, Change, or Delete (MACD)</b>	Term describing a variance to Services.
<b>Network Access</b>	Has the meaning set forth in RFO Section 2.1.a) and 2.1.b).
<b>Network Power Management Services</b>	Has the meaning set forth in Section ??? of the SOW addressing Network Power Management Services and Section ??? of the SOW addressing Network Power Management Services Response Instructions.
<b>Network Security Operations Center (NSOC)</b>	The NSOC, which is owned by DIR, protects TEX-AN 2021 computer systems and information assets from unauthorized external intervention or improper use, in accordance with Chapter 2059, Texas Government Code.
<b>Next Generation 911 (also NextGen 911)</b>	Has the meaning set forth in Section ??? of the SOW addressing 911 Services to a 911 Administrative Entity and Section ??? addressing 911 Services to a 911 Administrative Entity Response Instructions.
<b>Non-Recurring Charge (NRC)</b>	Extraordinary or unusual fees that are unlikely to occur again in the normal course of performing Services. They include fees for facilities, Services, or products that occurred one time or infrequently. Examples include expedite fees, installations, or special construction.
<b>Not Separately Priced (NSP)</b>	The price and or cost for a particular cost or fee element which includes another cost or fee element.
<b>NSOC</b>	Network and security operations center.
<b>Order</b>	A request or authorization by DIR or Customer, as applicable, to acquire a Service.
<b>Parties or Party</b>	Has the meaning given in the Preamble to CTSA.
<b>PBX</b>	Private branch exchange.
<b>Performance Data</b>	Measured and recorded data that reflect resource utilization.
<b>Performance Management</b>	Has the meaning given in the Performance Management Exhibit.
<b>Point of Presence (POP)</b>	Successful Respondent-owned or controlled physical location (1) where Successful Respondent-owned or controlled network facilities used to provide Services are located and (2) where access to or from on-net locations is connected to the Successful Respondent's Network.
<b>Prices</b>	Are the values for Direct Sales Transaction Services as reflected in Exhibit B to the CTSA which Successful Respondent is allowed to directly bill to Customers and are composed of the Successful Respondent's price plus the Administrative Fee, and also includes the values billed to Customers by DIR acting as the Successful Respondent's billing agent.
<b>Project</b>	A transaction that requires special, custom, or unique treatment by the Successful Respondent due to size, complexity, or importance of the Services ordered.
<b>Public Information</b>	As defined by the Texas Public Information Act, Texas Government Code, Chapter 552.



<b>Term</b>	<b>Definition</b>
<b>Public Safety</b>	Has the meaning as describe in Section 4.1 of the SOW addressing 911 Services to a 911 Administrative Entity and in Section 11.9 of the SOW addressing 911 Services to a 911 Administrative Entity Response Instructions.
<b>PUC</b>	The Texas Public Utility Commission.
<b>Purchase Order</b>	DIR's or Customer's fiscal form or format, which is used when making a purchase of Services (e.g., formal written Purchase Order, Procurement Card, Electronic Purchase Order, or another authorized instrument).
<b>Rates to DIR</b>	The Successful Respondent's charges to DIR for Services, as established and agreed to between DIR and the Successful Respondent in the CTSA. Rates to DIR do not include the Administrative Fee.
<b>Renewal Term(s)</b>	Has the meaning set forth in Section 3.2 of the CTSA.
<b>Request for Offer (RFO)</b>	Has the meaning given in the Preamble to the CTSA.
<b>Respondent</b>	A firm, company, entity or individual that responds to the solicitation. Unless the Contract clearly indicates otherwise, all terms and conditions of the Contract that refer to Respondent apply with equal force to Successful Respondent.
<b>Response</b>	Has the meaning given in the Preamble to the CTSA.
<b>RFO</b>	Request for offer.
<b>RFRO</b>	Request for revised offer.
<b>SAM</b>	System for Award Management.
<b>SD WAN</b>	Software defined wide area network.
<b>SDC</b>	San Angelo Data Center.
<b>SDN</b>	Software defined networking.
<b>Security Incident</b>	An event which results in accidental or deliberate unauthorized access, exposure, loss, disclosure, modification, disruption, or destruction of information resources, including DIR or Customer data.
<b>Service Level Agreement(s) (SLA(s))</b>	Agreement between DIR and Successful Respondent which establishes the minimum standard of performance for Services by the Successful Respondent under the CTSA. Compliance with SLAs is determined by measurement of KPIs and AQLs. The SLA(s) also specifies the amount of Credit to which DIR or the Customer is entitled if the Successful Respondent fails to meet the applicable AQL.
<b>Service Instance</b>	Has the meaning as used in Section <a href="#">2.4</a> of the CTSA's Performance Management Exhibit.
<b>Service Order Completion Notice (SOCN)</b>	Written notice from Successful Respondent that contains data elements notifying DIR and/or the Customer that the Service for a given Order has been fully installed and is ready for Acceptance.
<b>Service(s)</b>	Means the TEX-AN 2021 Communications Technology Services (TEX-AN 2021 Services) as specified in the CTSA and awarded under the CTSA.
<b>SHB</b>	Sam Houston building
<b>SIM Platform</b>	Security information management system hardware and Software that monitors the security of the DIR Network.
<b>Small Office/Home Office (SO/HO) Internet Connectivity</b>	A type of Service as specified in Section <a href="#">4.1</a> of the CTSA, which may be directly sold to Customers by Successful Respondent as set forth in Article <a href="#">4 Relationship among DIR, Successful Respondent, other TEX-AN 2021 Contract Holders, and Customers</a> of the CTSA, if awarded to Successful

Term	Definition
	Respondent under this CTSA. Service available only to locations with twenty-five (25) or less Internet users per location.
<b>Software</b>	All Materials consisting of software programs and programming (and all modifications, replacements, Upgrades, enhancements, documentation, materials and media related thereto), including Antivirus Software, Application Software, Development Tools, and System Software.
<b>State</b>	The State of Texas.
<b>Statement of Work (SOW)</b>	Document used to clarify project requirements and document additional terms, conditions, and payment details for services rendered.
<b>Stop Marketing Order</b>	Has the meaning set forth in Section 16.2 Tailored Remedies.
<b>STS</b>	Share Technology Services.
<b>Subcontract</b>	Any written agreement between Successful Respondent and other third party to fulfill the requirements of this CTSA.
<b>Subcontractor</b>	A party to a Subcontract which is not the Successful Respondent.
<b>Subcontractor Compliance Obligations</b>	Has the meaning set forth in Section 6.3.5 Subcontractor's Compliance.
<b>Successful Respondent</b>	The entity(ies) awarded a CTSA under this solicitation.
<b>Successful Respondent Network</b>	A Successful Respondent Network is built and maintained by Successful Respondent for supporting Customer and DIR Requirements. A Successful Respondent Network provides Customer connectivity similar to the DIR Network. Successful Respondent Networks also provide access between Customer Networks and the enterprise services on the DIR Network.
<b>Successful Respondent Personnel</b>	People, including employees, agents, and individuals serving as subcontractors to the Successful Respondent.
<b>Successful Respondent's Proprietary Software</b>	All software owned by Successful Respondent or its Affiliates and used in providing the Services.
<b>Technology Based Conferencing Services</b>	Audio, video, and web-based conferencing services available as part of an integrated solution, or as a subscription-based solution, but does not include the sale of hardware. Conferencing hardware is available through DIR Cooperative Contracts.
<b>Telecommunication Managed Services (or Telecom Managed Services)</b>	Offerings include, but are not limited to, management of Customer owned, or Successful Respondent provided Equipment in support of management of call processing architecture, call centers or contact center services, interactive voice response (IVR)/auto-attendant services, managed private branch exchange (PBX) services, management of voice and data networks, network optimization services, and hosted solutions on a subscriptions basis. Services are negotiated through an SOW process and a sample SOW document is located as Appendix A.
<b>Telecommunications Service Priority (TSP)</b>	The Services identified by DIR, or per applicable laws and regulations, as Services for Successful Respondents to initiate, restore, or otherwise provide on a priority basis to ensure the continued effective operation of State-defined critical Services.



<b>Term</b>	<b>Definition</b>
<b>Term</b>	The period of time during which the CTSA is in effect between DIR and the Successful Respondent, as more particularly described in CTSA Article <a href="#">3 Term</a> .
<b>TEX-AN</b>	The activities and contracts authorized by Chapter 2170, Texas Government Code, administered by DIR on behalf of the State.
<b>TEX-AN 2021 Communications Technology Services Agreement, or (CTSA)</b>	The final version of this contractually binding agreement between DIR and the Successful Respondent, including all exhibits and attachments thereto.
<b>TEX-AN Next Generation or TEX-AN NG</b>	Means the current TEX-AN Program as it exists today.
<b>TEX-AN 2021 Customer Services Agreement (CSA)</b>	A contractual document containing the terms, conditions, and scope for Services to be deployed and operated under this CTSA, and executed by the Customer, Successful Respondent, and DIR. Attachments H-1 and H-2 contain the template for the form of TEX-AN 2021 Customer Services Agreement.
<b>Texas.gov</b>	Official State internet portal in accordance with Chapter 2054, Texas Government Code.
<b>The Electronic Product Environmental Assessment Tool (EPEAT)</b>	A method for purchasers (governments, institutions, consumers, etc.) to evaluate the effect of a product on the environment. It assesses various lifecycle environmental aspects of a device and ranks products as Gold, Silver, or Bronze based on a set of environmental performance criteria.
<b>Transition</b>	Process for the coordinated transfer of any Service from the outgoing contract holder at the termination or expiration of this CTSA to an incoming Successful Respondent.
<b>Transition Assistance Services</b>	Are defined as set forth in Section 21.4, Transition Assistance Services.
<b>Transition Effective Date</b>	Has the meaning set forth in Section 21.1, Scope.
<b>Transition Period</b>	Has the meaning set forth in Section 21.2, General Statement for Transition.
<b>Transition Plan for Expiration of the CTSA (Transition Plan)</b>	The plan for the period of time and activities for the transition of TEX-AN 2021 Services under this CTSA from the Successful Respondent to DIR or a successor service provider designated by DIR at the end of the Term. See Article 21 of the CTSA.
<b>VIS</b>	Vendor Information System.
<b>Voice</b>	Has the meaning described in Section 3.1, Voice Services of the SOW.
<b>VPAT</b>	Voluntary Product Accessibility Template.
<b>WAN</b>	Wide area network.
<b>WCAG</b>	Web content accessibility guidelines
<b>Wired</b>	In the context of this RFO, Wired refers to the transmission of data over a wire-based communication technology.
<b>Wireless</b>	In the context of this RFO, Wireless is the electromagnetic transfer of information between two or more points that are not connected by an electrical conductor.

— End of Exhibit A —

# **Exhibit B To TEX-AN 2021 Communications Technology Services Agreement**

Between

**The State of Texas, acting by and through the  
Texas Department of Information Resources**

and

**AT&T Corp. (Successful Respondent)**

**EXHIBIT B.**  
**DESCRIPTIONS, RATES TO DIR, PRICES, AND RELATED**  
**TELECOMMUNICATIONS FEES AND**  
**SURCHARGES FOR AWARDED SERVICES**

## **1 INTRODUCTION**

The purpose of Exhibit B is to address the agreed-upon Descriptions, Rates to DIR, Prices, and related telecommunications fees and surcharges for Awarded Services.

## **2 CONTRACTUAL PRINCIPLES**

- a) This Exhibit B addresses the following principles:
- b) The specifics for the Descriptions, Rates to DIR, Prices, and related telecommunications fees and surcharges for Awarded Services within scope of this CTSA are contained in this Exhibit B, Attachment B-1 through Attachment B-4. The Successful Respondent's Descriptions, Rates to DIR, Prices, and fees are consistent with the terms of the CTSA.
- c) The Marketing Plan is the Successful Respondent's projection of the activities it will engage in to maximize the economic value of the CTSA during the Term of the CTSA. The Marketing Plan includes a statement of operations for the awarded Services and the narrative discussion including all key assumptions, risks, and risk mitigation strategies used to generate Purchase Orders from Customers.

## **3 METHODOLOGY FOR UPDATING ASSOCIATED ATTACHMENTS**

### **3.1 Recommendations**

Either DIR or Successful Respondent may submit to the other Party a recommendation for changes to Attachment C-1. Such recommendation will be in writing and will:

- a) Specifically identify the portion or portions of the Attachments to be changed,
- b) Include the specific Rates to DIR, Prices, or telecommunications fees and surcharges to be changed and/or Descriptions to be altered in the Attachments, and
- c) Identify the reasons for the proposal and anticipated revenue impact from the change or repercussions for Failure to adopt the change. A copy of the recommendation will be provided to the other Party. The Parties will use electronic communications to submit, review, and implement changes to the Attachments. Attachment changes shall be provided to Customers via the Successful Respondent's webpage and DIR's TEX-AN 2021 Program webpage.

### **3.2 Review and Input**

- a) DIR will determine whether input on the recommendation from other Customers is appropriate and will promptly circulate the recommendation to those identified. If DIR does request input from any Customer, DIR will require any input to be provided in writing and submitted within a

specified period of time, not to exceed thirty (30) Business Days from the date of the recommendation.

- b) DIR and Successful Respondent will each receive a copy of the written input from the Customers, if applicable. The Party making the recommendation may propose adjustments to the recommendation to address any input of the Customers.

**3.3 Approval**

If DIR and Successful Respondent agree upon the recommendation, the Parties will execute a revision to Attachments, as applicable, which will be effective when signed by authorized representatives of both DIR and Successful Respondent. The revised Attachments will be posted in a location agreed to by Successful Respondent and DIR. Revisions may be in the form of electronic records of the new Descriptions, Rates to DIR, Prices, and/ or telecommunications fees and surcharges for changes to Attachment B-1. Successful Respondent shall update its webpage accessible to Customers immediately to have the revised portions of the Attachment B-1 available to Customers as soon as possible.

**3.4 Appeal**

If DIR and Successful Respondent cannot agree on a recommendation, the recommendation may be submitted to the Executive Leadership Team for resolution.

**4 ATTACHMENTS TO EXHIBIT B**

The following attachments are incorporated as part of Exhibit B:

Attachments to Exhibit B	Description and Contents
Attachment B-1 Descriptions, Rates to DIR, Prices, and related telecommunications fees and surcharges for Awarded Services	Attachment B-1 contains the Descriptions, Rates to DIR, Prices, and the telecommunications fees and surcharges for the Awarded Services.
Attachment B-2 Descriptions, Rates to DIR, Prices and related telecommunications fees and surcharges for Carrier Class Services; and only applicable to Successful Respondents that are awarded Carrier Class Services.	Attachment B-2 contains service descriptions, rates to DIR and customer prices and related telecommunications fees, taxes and surcharges related to Carrier Class Services and include the respective administrative fee (12% for services where DIR acts as billing agent, and 4% for direct sales services) for services described therein. Attachment B-2 is attached to the CTSA as referenced here.
Attachment B-3 Descriptions, Rates to DIR, Prices and related telecommunications fees and surcharges for Wireless Services; and only applicable to Successful Respondents that are awarded Wireless Services.	Attachment B-3 contains service descriptions, rates to DIR and customer prices and related telecommunications fees, taxes and surcharges related to Wireless Services and include the respective administrative fee of 2% for services described therein. Attachment B-3 is attached to the CTSA as referenced here.
Attachment B-4 Descriptions, Rates to DIR, Prices and related telecommunications fees and surcharges for Telecom Managed Services; and only applicable to Successful Respondents that are awarded Telecom Managed Services.	Attachment B-4 contains service descriptions, rates to DIR and customer prices and related telecommunications fees, taxes and surcharges related to Telecom Managed Services and include the respective administrative fee of .50% for services described therein. There is no pricing related to Attachment B-4, but the Sample Statement of Work Template for Telecom Managed Services is included as an attachment to the CTSA.

## **Attachment B-1.**

The parties will agree which services at what prices will be contained in the tables in this section.

1. **Carrier Class Services**

Includes, but not limited to, Voice Service, local and long distance, VOIP, bundled voice services, managed PBX, and unified communications voice services, data services, including Ethernet, Internet, MPLS, broadband services, and Small Office/Home Office (SOHO) service, next generation 911 services, fiber based technologies, and network power management services. Carrier Class Services awarded under this contract are those specifically stated in Attachment B-2 to Exhibit B.

2. **Wireless Services**

Includes, but not limited to wireless voice, data and bundled plans, bundled mobile device and network management services, intelligent community services, wireless business services, microwaves, satellite voice plans, wireless WAN, and wireless broadband. Wireless Services awarded under this contract are those specifically stated in Attachment B-3 to Exhibit B

3. **Telecom Managed Services**

Includes, but not limited to, managed or hosted voice and data network solutions, network optimization analysis and review, network project management, call attendant, IVR, and relate services as detailed by customers through the Statement of Work Template and bid process.

Pricing for services awarded under this contract can be found in Attachment B-2, and Attachment B-3.

— **End of Exhibit B** —



# **TEX-AN 2021 Communications Technology Services Agreement**

Between

**The State of Texas, acting by and through the  
Texas Department of Information Resources**

and

**AT&T Corp. (Successful Respondent)**

## **EXHIBIT C. PERFORMANCE MANAGEMENT**

### **1 INTRODUCTION**

The purpose of Exhibit C is to comprehensively address the agreed-upon Performance Management for delivery of awarded Services.

### **2 PERFORMANCE MANAGEMENT CONTRACTUAL PRINCIPLES**

Exhibit C Performance Management addresses the following principles:

#### **2.1 Credit Assessments**

DIR has chosen to address a majority of the risks related to Successful Respondent performance through the assessment of Credits against Rates to DIR and Prices for Services. The following provisions form the basis for assessing Credits as described in the CTSA:

- a) If the Successful Respondent does not fulfill its Services as specified under the CTSA, DIR and the Customers will be damaged;
- b) Establishing the precise amount or value of such damage may be difficult to quantify; and
- c) Except as otherwise provided in the CTSA, Credits will start to accumulate immediately following the end of the Service billing period in which an applicable SLA was not met.

#### **2.2 Service Level Agreements (SLAs)**

- a) Successful Respondent will comply with the performance criteria outlined in this Exhibit C.
- b) For each Service, Successful Respondent and DIR have agreed on acceptable SLAs and acceptable Credits associated with failure to deliver on each SLA, as set forth in Service Level Agreement (SLA) Plan. Successful Respondent will provide continuous improvement of the SLAs over the life of the CTSA. DIR and the Successful Respondent will review all of the SLAs on an annual basis.
- c) All proposed plans and mechanisms to be used for reporting shall be subject to approval by DIR, and all approved SLAs will be governed by the CTSA, as well as any special provisions agreed upon by DIR, Customer, and the Successful Respondent with respect to each SLA and/or CSA.

#### **2.3 Reporting**

- a) Failure of the Successful Respondent to submit the Management Plans required in Exhibit D Plans and Reports required in Attachment C-1 may result in Credits in the amount of \$500 per day after a five (5) day cure period. The same Credits also apply to Management Plans that are changed due to any future updates or revision requests that may be required by DIR. A revised plan addressing changes recommended by DIR must be submitted to DIR within five (5) Business Days of receiving notice from DIR. Changes to Management Plans will be made in accordance with Exhibit D Plans, Article 3 Methodology for Updating Associated Exhibit Attachments and Plans.

- b) Due dates for the initial drafts and final drafts of the Management Plans are specified in Exhibit D Plans.

## **2.4 Service Instance Performance**

- a) The Successful Respondent will measure SLAs per Service as defined below, and report on performance as described in the CTSA.
- b) Per Service, as applicable:
  - 1) Mean Time to Repair
  - 2) Service Availability
  - 3) Latency
  - 4) Packet Delivery Rate
  - 5) Jitter
  - 6) Chronic Outage

## **2.5 Reports**

Tailored remedies as described in the CTSA, may be used by DIR if the Successful Respondent fails to produce and submit all required reports as documented by the schedule of reports agreed to by the Parties pursuant to the Master Vendor Reporting Guide and stated in this Attachment C-1. Successful Respondent will not be liable for any failure or delay in performing its obligations under this Section if such failure or delay is due to Force Majeure Events. Additional reporting may be required by DIR in accordance with the CTSA.

## **2.6 Reporting on Performance Management**

All plans and mechanisms to be used for reporting shall be subject to approval by DIR.

# **3 METHODOLOGY FOR UPDATING ASSOCIATED ATTACHMENT C-1**

Attachment C-1 sets forth the actual reports related to Performance Management due on a monthly basis and as related to Successful Respondent business functions.

## **3.1 Recommendations**

Either DIR or Successful Respondent may submit to the other Party a recommendation for changes to reports listed in Attachment C-1. Such recommendation will be in writing and will:

- a) Specifically identify the portion or portions of the Master Vendor Reporting Guide to be changed,
- b) Include the specific information to be changed and/or descriptions to be altered, and
- c) Identify the reasons for the proposal and anticipated revenue impact from the change or repercussions for failure to adopt the change. A copy of the recommendation will be provided to the other Party. The parties will use electronic communications to submit, review, and implement changes to Master Vendor Reporting Guide and Attachment C-1. Attachment C-1 changes shall be provided to Customers via DIR's contract landing webpage.

### 3.2 Review and Input

- a) DIR will determine whether input on the recommendation from other Customers is appropriate and will promptly circulate the recommendation to those identified. If DIR does request input from any Customer, DIR will require any input to be provided in writing and submitted within a specified period of time, not to exceed thirty (30) Business Days from the date of the recommendation.
- b) DIR and Successful Respondent will each receive a copy of the written input from the Customers, if applicable. The Party making the recommendation may propose adjustments to the recommendation to address any input of the Customers.

### 3.3 Approval

If DIR and Successful Respondent agree upon the recommendation, the Parties will execute a revision to Attachment C-1 or Master Vendor Reporting Guide, as applicable, which will be effective when signed by authorized representatives of both DIR and Successful Respondent. The revised Attachment C-1 will be posted in a location agreed to by Successful Respondent and DIR. Revisions may be in the form of electronic records of the new, or updated reports related to Attachment C-1 or the Master Vendor Reporting Guide.

### 3.4 Appeal

If the DIR and Successful Respondent cannot agree on a recommendation, the recommendation may be submitted to the Executive Leadership Team for resolution.

## 4 DOCUMENTS REFERENCED IN EXHIBIT C PERFORMANCE MANAGEMENT

### 4.1 Attachments to Exhibit C

Attachment C-1 is incorporated herein as part of Exhibit C Performance Management.

### **Attachment C-1. Tables reflecting Performance Measurement Reports due on a monthly basis**

The tables in Attachment C-1 set forth the actual Performance Measurement Reports as related to Successful Respondent business functions.

- (1) Change/Release Management Report.
- (2) After Action Reports,
- (3) Request for Change Report.
- (4) Trouble Ticket Aging Report
- (5) SLA Non-Compliance Report
- (6) Outbound CDR Report
- (7) Inbound CDR
- (9) Marketing Report

- (10) Invoice Summary Report
- (11) Status for Projects by Customer Report
- (12) HUB Subcontractor Report,
- (13) Direct Sales Transactions Reports
- (14) Monthly Recurring Charge (MRC) Report
- (15) Non-Recurring Charge (NRC) Report
- (16) Adjustments/Credits Report
- (17) Long Distance (LD) Usage

— End of Exhibit C —



# **TEX-AN 2021 Communications Technology Services Agreement**

Between

**The State of Texas, acting by and through the  
Texas Department of Information Resources**

and

**AT&T Corp (Successful Respondent)**

## **EXHIBIT D. PLANS**

### **1 INTRODUCTION**

The purpose of Exhibit D Plans is to comprehensively address agreed-upon CTSA Management Plans related to services where DIR acts as the Successful Respondent's billing agent, with the exception of the Marketing Plan which is required of all Successful Respondents.

### **2 REQUIREMENTS**

- a) The Successful Respondent is responsible for Services delivered under the CTSA.
- b) The Successful Respondent shall demonstrate strong project management practices.
- c) The Successful Respondent shall create, maintain, implement, and update Management Plans in accordance with this Exhibit D.
- d) Initial and final drafts of the Management Plans are to be submitted to DIR for approval within the timeframes specified in Table 1 of Section 4.2, Plans and Timelines in this Exhibit D.
- e) The Successful Respondent will provide updated Management Plans annually or as requested by DIR.
- f) The Management Plans and Services to be provided by Successful Respondent are included in Attachment D-1 to Exhibit D:

### **3 METHODOLOGY FOR UPDATING ASSOCIATED PLANS**

#### **3.1 Recommendations**

Either DIR or Successful Respondent may submit to the other Party a recommendation for changes or additions to Plans. Such recommendation will be in writing and will:

- a) Specifically identify the portion or portions of the plan to be changed,
- b) Include the specific language to accomplish the proposed change, and
- c) Identify the reasons for the proposal and anticipated improvements from the change or repercussions for failure to adopt the change. A copy of the recommendation will be provided to the other Party.

#### **3.2 Review and Input**

- a) DIR will determine whether input on the recommendation from any other Customers is appropriate and will promptly circulate the recommendation to those identified. If DIR does request input from any other Customers, DIR will require any input to be provided in writing and submitted within a specified period of time, not to exceed sixty (60) Business Days from the date of the recommendation.
- b) DIR and Successful Respondent will each receive a copy of the written input from the other Customers, if applicable. The Party making the recommendation may propose adjustments to the recommendation to address any input of the other Customers.

**3.3 Approval**

- a) If DIR and Successful Respondent agree upon the recommendation, the Parties will execute a revision to the Plan, as applicable, which will be effective when signed by authorized representatives of both DIR and Successful Respondent and the revised Plan will be posted in a location agreed to by Successful Respondent and DIR.
- b) An approved Plan revision resulting in a substantial change to CTSA operations may trigger a formal amendment process.

**3.4 Appeal**

If the DIR and Successful Respondent cannot agree on a recommendation, the recommendation may be submitted to the Executive Leadership Team for resolution.

**4 DOCUMENTS REFERENCED IN EXHIBIT D PLANS**

**4.1 Attachments to Exhibit D**

Once accepted by DIR, the final version of the Exhibit D attachments will be incorporated as part of Exhibit D Plans.

**4.2 Exhibit D Plans**

The following plans are associated with Exhibit D Plans:

- 4.2.1 Attachments D-1 through D-7 to be determined by the Parties and posted to the contract landing page on the DIR website.

<b>Plan #</b>	<b>Management Plan Name</b>
D1	Program Management Plan
D2	Marketing Plan
D3	Service Delivery & Order Process Plan
D4	Help Desk Plan
D5	Change Management Plan
D6	Service Level Agreement (SLA) Plan
D7	Billing Plan

— End of Exhibit D —

# **TEX-AN 2021 Communications Technology Services Agreement**

Between

**The State of Texas, acting by and through the  
Texas Department of Information Resources**

and

**AT&T Corp. (Successful Respondent)**

## **EXHIBIT E. INSURANCE**

### **1 INTRODUCTION**

The purpose of Exhibit E Insurance is to address the Successful Respondent insurance requirements for the CTSA.

### **2 INSURANCE CONTRACTUAL PRINCIPLES**

- a) Successful Respondent agrees to keep in full force and effect and maintain at its sole cost and expense the following policies of insurance with the specified minimum limits of liability during the term of this CTSA and shall provide proof of such insurance coverage to DIR within five (5) Business Days following the execution of the CTSA. Successful Respondent may not begin performance under the CTSA until such proof of insurance coverage is provided to, and approved by, DIR, in its sole and absolute discretion. All required insurance must be issued by companies whose A.M. Best Company Financial Strength Ratings are at least A – financially rated and duly licensed, admitted, and authorized to do business in the State. DIR will be included as Additional Insured on all required coverage by endorsement with respect to the CTSA (except for Worker’s Compensation coverage). Notwithstanding the foregoing, the parties agree that Successful Respondent’s carrier(s) for non-Worker’s Compensation and non-Business Automobile Liability coverages may be a company other than one admitted in the State, so long as the company has a minimum A.M. Best Company Financial Strength Rating of A- and complies with all other requirements stated herein. The minimum acceptable insurance provisions are as follows:
- 1) **Commercial General Liability:** Commercial General Liability must include a combined single limit of \$500,000 per occurrence for coverage A, and B, including products/completed operations, where appropriate, with a separate aggregate of \$500,000. The policy shall contain the following provisions:
    - i. Blanket Contractual liability coverage;
    - ii. Independent Contractor coverage;
    - iii. State, DIR and Customer included as an additional insured by endorsement with respect to the CTSA;
    - iv. Thirty (30)-day Notice of Termination in favor of DIR and/or Customer; and
    - v. Waiver of Transfer Right of Recovery Against Others in favor of DIR and/or Customer.
  - 2) **Workers’ Compensation Insurance:** Workers’ Compensation Insurance and Employers’ Liability coverage must include limits consistent with statutory benefits outlined in the Texas Workers’ Compensation Act (Art. 8308-1.01 et seq. Tex. Rev. Civ. Stat) and minimum policy limits for Employers’ Liability of \$250,000 bodily injury per accident, \$500,000 bodily injury disease policy limit, and \$250,000 per disease per employee.
  - 3) **Business Automobile Liability Insurance:** Business Automobile Liability Insurance must cover all owned, non-owned, and hired vehicles with a minimum combined single limit of \$500,000 per occurrence for bodily injury and property damage. Alternative acceptable limits are \$250,000 bodily injury per person, \$500,000 bodily injury per occurrence and at



least \$100,000 property damage liability per accident. The policy shall contain the following endorsements in favor of DIR and/or Customer:

- i. Waiver of Subrogation;
  - ii. 30-day Notice of Termination; and
  - iii. Include DIR as Additional Insured by endorsement with respect to the CTSA.
- 4) Professional Liability (also known as Errors and Omissions Liability) and, as and to the extent becoming commercially available, Cyber Risk Insurance covering acts, errors and omissions arising out of Successful Respondent’s operations or Services. The per claim and policy aggregate amount(s) shall be negotiated by the Parties.
- b) Similar coverage as described above shall be required from Successful Respondent in each instance in which it agrees to perform work related to Services at a Customer’s premises. A certificate of insurance demonstrating compliance with these coverages and including the Customer as the additional Insured by endorsement with respect to the CTSA shall be provided to the Customer prior to Successful Respondent commencing work at a Customer’s premises.

**3 METHODOLOGY FOR UPDATING ASSOCIATED EXHIBIT E ATTACHMENTS AND PLANS**

There is no need to update Attachment E-1 Successful Respondent’s Certificate of Insurance. Any changes to insurance requirements will be made at the exhibit level.

**4 DOCUMENTS REFERENCED IN EXHIBIT E INSURANCE**

**4.1 Exhibit E Insurance Attachments**

In Attachment E-1 Successful Respondent’s Certificate of Insurance, Successful Respondent has included its Certificate of Insurance, which sets forth the Successful Respondent’s insurance coverage.

Attachments to Exhibit E	Description
Attachment E-1 Successful Respondent’s Certificate of Insurance	Successful Respondent’s Certificate of Insurance

**4.2 Attachment E-1. Successful Respondent’s Certificate of Insurance**

— End of Exhibit E —

# **TEX-AN 2021 Communications Technology Services Agreement**

Between

**The State of Texas, acting by and through the  
Texas Department of Information Resources**

and

**AT&T Corp. (Successful Respondent)**

**EXHIBIT F.  
FORM OF TEX-AN 2021  
CUSTOMER SERVICES AGREEMENT**

**1 INTRODUCTION**

The purpose of *Exhibit F Form of TEX-AN 2021 Customer Services Agreement* is to address the agreed-upon form of the CSA.

**2 CONTRACTUAL PRINCIPLES**

- a) Attachment F-1 TEX-AN 2021 Customer Service Agreement is the template for the Form of the CSA among DIR and Customer.
- b) Attachment F-1 TEX-AN 2021 Customer Service Agreement is a template which will be the basis of negotiations with Customers, and contains the terms and conditions between and among the Customer and DIR. The terms and conditions of a CSA may be negotiated to meet Customer business needs, so long as the CSA terms and conditions do not conflict with or weaken the terms of the CTSA.

**3 METHODOLOGY FOR UPDATING ASSOCIATED EXHIBIT ATTACHMENT**

**3.1 Recommendations**

In addition to negotiations with Customers to reach an acceptable CSA, DIR or Customer may submit to the other Party a recommendation for changes or additions to Attachment F-1 TEX-AN 2021 Customer Service Agreement. Such recommendation will be in writing and will:

- a) Specifically identify the portion or portions of the attachment requested to be changed,
- b) Include the specific language to accomplish the proposed change, and

Identify the reasons for the proposal and anticipated improvements from the change or repercussions for failure to adopt the change.

**4 DOCUMENTS REFERENCED IN EXHIBIT F FORM OF TEX-AN 2021 CUSTOMER SERVICES AGREEMENT**

The following attachments are incorporated as part of Exhibit F Form of TEX-AN 2021 Customer Services Agreement:

Attachments to <i>Exhibit F</i>	Description and Contents
<i>Attachment F-1 Form of TEX-AN 2021 Customer Services Agreement</i>	<i>Attachment F-1 Form of TEX-AN 2021 Customer Services Agreement</i> provides the agreement to be executed by authorized representatives of the Customer and DIR to maximize standardization of the terms and conditions and provide DIR the opportunity for oversight of the contractual relationship between Customer and DIR.

# City Council Meeting

## Agenda Item

### Data Sheet

Meeting Date: December 2, 2024

**Topic:**

Approve the expenditure exceeding \$50,000 with CyberOne, LLC for a total not-to-exceed amount of \$73,100.00 for consulting and software services which includes the annual renewal of CrowdStrike security services, and penetration testing (PEN testing). These services are in accordance with the organization's approved budget for fiscal years 2024-2025.

**Background:**

The IT department has been working to enhance our overall network and security models. The department's efforts. CyberOne (DIR-CPO-4321) has been instrumental in assisting with the implementation of the City's core security tool, CrowdStrike that will be up for renewal this new fiscal year.

Additionally, The City of Tomball is looking at CyberOne to conduct a security audit called a Penetration Test (DIR-CPO-4851). This test can find potential areas where the city could be vulnerable. This identification will provide a means for the IT Team to close any gaps that may be found.

Item	Amount
CrowdStrike Annual Renewal	\$56,000
Annual PEN Testing	\$17,100
<b>Total</b>	<b>\$73,100</b>

Per the City's adopted Procurement Policy and Manual, cumulative annual expenditures with a single vendor in excess of \$50,000 must be approved by City Council.

**Origination:** IT Director

**Recommendation:**

Staff recommend approving the not-to-exceed \$73,100.00 cumulative purchases with CyberOne, LLC from the Fiscal 2024-2025 Budget.

**Party(ies) responsible for placing this item on agenda:** Tom Wilson IT 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: #100-117-6320, 6304

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

Signed Tom Wilson  
Staff Member \_\_\_\_\_ Date \_\_\_\_\_

Approved by \_\_\_\_\_  
City Manager \_\_\_\_\_ Date \_\_\_\_\_





RNL 2025-The City of Tomball Texas -Crowdstrike+Spotlight-DIR-4321-1 Yr

Quote #Q-33316

Prepared For: Customer

**The City of Tomball Texas**

Ben Lato  
501 James St  
501 James St, TX 77375

P: (281) 290-1433

E: blato@tomballtx.gov

Account Manager:

**CyberOne**

James Bryant  
6851 Communications Parkway  
Plano, TX 75024

P: (469) 562-8842

E: james.bryant@cyberonesecurity.com

Prepared By:

**CyberOne**

Reeti Ahuja  
6851 Communications Parkway  
Plano, TX 75024

P: (469) 520-4326

E: reeti.ahuja@cyberonesecurity.com

Payment Terms:

**Net 30 Days**

Date:

**11/18/2024**

Expires:

**2/5/2025**

Line	SKU	Description	Qty	Start Date	End Date	Item MSRP	Unit Price	Amount
1	CS.FCSB.SOLN.FLEX	Falcon Complete Flex (Commercial or EU) Upto 299 (Up to 299 Endpoints)	1	2/6/2025	2/5/2026	\$82,449.25	\$46,500.00	\$46,500.00
2	CS.INSIG HTB.SOLN	CrowdStrike Insight	1	2/6/2025	2/5/2026	\$0.00	\$0.00	\$0.00
3	CS.PREVE NTB.SOLN	CrowdStrike Prevent	1	2/6/2025	2/5/2026	\$0.00	\$0.00	\$0.00
4	CS.DISC.B.SOLN	CrowdStrike Discover	1	2/6/2025	2/5/2026	\$0.00	\$0.00	\$0.00
5	CS.FALC OMPS.SVC	CrowdStrike Falcon Complete Subscription	1	2/6/2025	2/5/2026	\$0.00	\$0.00	\$0.00
6	CS.OWB.SVC	CrowdStrike Overwatch	1	2/6/2025	2/5/2026	\$0.00	\$0.00	\$0.00
7	CS.TGB.STD	CrowdStrike Threat Graph Standard	1	2/6/2025	2/5/2026	\$0.00	\$0.00	\$0.00
8	CS.FALCOM PONBC.SOLN	CrowdStrike Falcon Complete Complimentary CID - 12 Month Term	1	2/6/2025	2/5/2026	\$0.00	\$0.00	\$0.00
9	RR.PSO. ENT.PASS	CrowdStrike University LMS Subscription Customer Access Pass	2	2/6/2025	2/5/2026	\$0.00	\$0.00	\$0.00
10	RR.HOS. ENT.EXPS	CrowdStrike Express Support - Warranty	1	2/6/2025	2/5/2026	\$2,883.14	\$2,594.82	\$2,594.82
11	CS.SPOTLT.SOLN	CrowdStrike Falcon Spotlight	299	2/6/2025	2/5/2026	\$35.19	\$19.25	\$5,755.75

<b>GRAND TOTAL</b>	<b>\$54,850.57</b>
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Notes

Customer acknowledges its use of the CrowdStrike products contained in this Quotation shall be in accordance with the terms and conditions located at <https://www.crowdstrike.com/terms-conditions/> unless Customer and CrowdStrike have entered into a separate agreement.



Terms & Conditions

This quote ("Quotation") is contingent upon credit approval and shall be deemed accepted by: (i) Customer signing the Quotation, indicating its acceptance ("Accepted Quotation"), and returning the signed copy to CyberOne; or (ii) Customer issuing a valid purchase order referencing this Quotation for the products or services ("Purchase Order"). CyberOne's acceptance of an Accepted Quotation or Purchase Order referencing this Quotation forms a legally binding agreement and Customer shall be obligated to pay the amounts noted herein to CyberOne. Complete Quotation terms and conditions may be found at https://cyberonesecurity.com/terms/. Unless a separate applicable executed service agreement between the parties exists, then CyberOne Professional Services purchased by Customer pursuant to this Quotation shall be governed by the CyberOne Professional Services Agreement ("PSA") in effect as of the date of this Quotation. The CyberOne PSA may be found at https://cyberonesecurity.com/psa/. Customer acknowledges its use of third-party products and services shall be in accordance with the third party's terms and conditions. Payment terms are as set forth above and are calculated from the date of Customer's receipt of CyberOne's invoice. A late payment penalty of 1.5% per month or the maximum rate permitted by law, whichever is less, may be assessed on late payments. Credit card payments will have a 3.5% convenience fee added if allowed by local law; if such a convenience fee is disallowed under local law, acceptable forms of payment shall be by check or ACH. The pricing set forth in this Quotation may not include sales and use taxes, which will be included, if applicable, on the invoice. If not charged for sales and use tax, Customer is responsible for sales and use tax reporting.

Acceptance

CyberOne

The City of Tomball Texas

James Bryant

Signature / Name

11/18/2024

Date

Signature / Name

Initials

Date

# SECURITY ASSESSMENT



4/5/2024

Statement of Work (DIR-CPO-4851)

Security Assessment for City of Tomball by CyberOne, LLC.

# Security Assessment

## STATEMENT OF WORK (DIR-CPO-4851)

### Table of Contents

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## EXECUTIVE SUMMARY

CyberOne, LLC. (CyberOne) is pleased to present this proposal for an Internal and External Penetration Test for City of Tomball (“Client” or “Customer”). The threat landscape is changing where personal information of customers and employees is a key target of hackers. The assessment will focus on the attack methods commonly used by malicious actors to gain access to customer and employee data.

This project is performed to identify vulnerabilities which an attacker may use to breach the network. This simulated multi-layered attack is performed on your organization to measure how well your people, processes, facilities, and technologies can withstand a real-life attack situation.

## ABOUT CYBERONE

CyberOne is a Plano, TX based security company that is majority employee-owned with the goal to cost-effectively improve the security and compliance management capabilities of our customers by leveraging deep industry subject matter expertise. While focused on security and compliance services, we also resell a limited set of security products, and assist organizations that are moving from a reactive security to proactive security model, or who are working to address security and compliance challenges.

Our professional services teams provide a compliment of offerings to assist organizations with the development, maintenance, and assessment of Information Security, Risk, and Compliance Management Programs. Our teams of security analysts, assessors, and engineers deliver top tier real-world expertise regarding building and maintaining world class information security capabilities and governance programs, and have helped numerous organizations in the following markets achieve their security and compliance objectives:

- Retail and E-Commerce
- Banking and Financial Services
- Healthcare and Clinical Services
- State and Local Government
- Public Service and Transportation Organizations
- Technology Products and Services
- Manufacturing and Distribution
- Utilities and Critical Infrastructure

CyberOne also has an in-house research offensive and defensive team – TEAMARES – that focuses on investigating new threats and potential vulnerabilities industry-wide to protect our customers and partners. TEAMARES is also a premiere provider of all offensive and defensive security services including:

- Penetration Testing
- Web and Mobile Application Testing
- Full Red Team Engagements
- Password Quality Assessments
- SCADA and IoT Penetration Testing
- Incident Response
- Endpoint Digital Forensics
- Malware Reverse Engineering



## ASSESSMENT ACTIVITIES

This assessment will simulate an advanced hacking team who is using multiple methods to obtain access into the Client network. During the assessment, a standardized methodology and framework called the MITRE ATT&CK is utilized to maintain a consistent approach to the testing. The use and understanding of this standard provide consistency, targeting specific compliance requirements, the ability to reproduce similar assessments in the future, and a consistent reporting approach.

CyberOne will perform an assessment based on the assessment requirements as understood by CyberOne. However, the MITRE ATT&CK methodology will be adapted to meet the Client's individual needs. CyberOne will attempt to exploit identified vulnerabilities to obtain a foothold into the environment. All exploitation methods will seek to disrupt, circumvent, or otherwise defeat the confidentiality, availability, or integrity of the Customer's environment. This may include using widely known exploits or workarounds unique to the Customer's environment. To fully understand the vulnerability profile of the environment, multiple scanners and scanning techniques will be used to uncover the full array of vulnerabilities. A large amount of the vulnerability discovery process will also be performed manually. This adaptation will be applied through the following phases requested by the Client:

### Penetration Testing

- External Penetration Testing
  - Perform Foot printing and Reconnaissance Activities for Client
  - Manual scanning of identified network ranges
  - Performance of manual and automated checks for vulnerabilities,
  - Manually validate vulnerabilities
  - Web application attacks (unauthenticated) to identify vulnerable systems
  - Engagement goals:
    - Decreased external exposure.
    - Increasing user and management security awareness.
    - Gain insights into security posture.
    - Gap analysis
  - Scope Includes:
    - Approximately 10 live hosts
- Internal Penetration Testing
  - Perform Footprint and Reconnaissance internally.
  - Simulate an attack who has already gained access to internal network or an insider threat.
  - Utilize common hacking tools and techniques to enumerate trusts, common passwords, and privileged accounts.
  - Engagement goals:
    - Decreased external exposure.
    - Increasing user and management security awareness.
    - Gain insights into security posture.
    - Gap analysis
  - Scope Includes:
    - Approximately 240 live hosts

## DOCUMENTATION

Using previous penetration testing experience, knowledge of current attacks, and our internal knowledge database, CyberOne will analyze the results of the assessment and validate findings to provide meaningful results that will enable the Customer to get to the root cause of the discovered vulnerabilities.

Our report will include an executive summary, high-level recommendations for remediation, and a detailed technical findings section. The executive summary section will reiterate the scope and purpose of the project and a list of key findings discovered during the assessment. A brief synopsis of remediation recommendations will follow the executive summary, which serves to highlight steps the Client can take to mitigate risk. The technical findings section will be compiled into a matrix by finding and each finding will include information regarding risk severity level, systems impacted, description of finding, business risk summary, recommendations for remediation and remediation effort level.

Project Documentation includes a combined report including:

- Executive Level Summary of Findings and Recommendations.
- Review of the work performed according to ISACA auditing standards.
- A quantitative overall risk score based on the average and impact of discovered vulnerabilities.
- Managerial level results from the penetration assessment which includes a narrative walkthrough of the steps performed based on the project timeline.
- Technical Findings of identified vulnerabilities, risk level, remediation effort and recommendations for correction.
- Executive Presentation of Findings.
- A post-assessment debrief with the ability to review the results of the assessment with the assessment team, ask detailed questions, understand strategic remediation guidance and engage in discussions as needed.

## PROJECT MANAGEMENT

CyberOne will designate a project manager to oversee the project, manage CyberOne resources, and be the Customer's primary contact with CyberOne regarding the following:

- Management of scope (formal or informal requests for changes)
- Conducting Status Meetings
- Preparing Status Reports
- Other activities as specified in this Statement of Work

Additionally, project escalation and quality assurance resources will be designated to ensure that the Client receives the highest quality of service.

## CHANGE PROCESS

The general change process will be implemented as illustrated in the Figure below. Either CyberOne or the Customer may initiate a change, in writing, to the Project. The change will be evaluated, and any Project impact will be identified. If the evaluation of a change request submitted by the Customer takes in excess of four (4) hours to complete, the cost of evaluation may be charged to Customer and any schedule slippage as a result of performing the evaluation will be documented as a formal change to the schedule. The price, scope, and schedule impact, if any, will be analyzed and documented. The change impact will then be processed for the Customer authorization or closure.

The change request form will include a description of the change, reason for it, and the initiator as well as the impact to the scope, price, quality, schedule, resources, and risks. All changes must be mutually agreed on by the parties in writing. Once approved, changes to the initial project will be implemented as described.

If CyberOne and the Customer are unable to resolve the disposition of the change order, the Project SOW will remain as defined in this document.

## ESCALATION PROCESS

Timely resolution of issues is critical to maintaining project control and customer satisfaction. The purpose of the escalation process is to help ensure that issues are identified and resolved quickly. The escalation process provides a mechanism to alert the Project Managers and other management personnel to issues not being resolved. Either CyberOne or the Customer may escalate a project issue as follows:

1. Raise the issue initially to the CyberOne Project Manager or Project Lead.
2. If not resolved at this level, an issue report will be generated, and the issue will be escalated to the Project Sponsor.
3. Certain internal CyberOne issues may need to be escalated to the CyberOne VP or Managing Partner for resolution.

## PROJECT RESPONSIBILITIES & ASSUMPTIONS

This section details the assumptions and high-level responsibilities associated with the delivery of this Statement of Work.

### CLIENT RESPONSIBILITIES

- Assign a Project Sponsor who:
  - Is available to CyberOne personnel throughout the life of the project.
  - Acts as an escalation point when conflicts cannot be resolved by the Project Manager.
- Assign a Project Manager who is:
  - Responsible for all the Client aspects of this Project.
  - Authorized to make all decisions relative to the Project, including identification and assignment of the Client resources.
  - Available to CyberOne consulting personnel throughout the Project's life.
  - Is authorized to sign the Status Reports, approve consultant hours, and approve project changes.
  - Responsible for coordinating all interviews, onsite reviews, and meeting schedules.
  - Authorized to approve Project changes.
- Complete any documentation requests associated with this statement of work in a timely fashion and provide requested information to CyberOne project lead.
- Assign managers, process owners, and other personnel, as appropriate, to work with CyberOne throughout the project's life. The Client is expected to engage and participate throughout the project lifecycle phases. Project performance is predicated on the Client's staff, and response to documentation and information requests. Delays in providing this staffing or information may lead to a Change Order, and result in additional cost and/or delay in completion of the Services.

### CYBERONE RESPONSIBILITIES

In addition to the Services defined throughout this SOW, CyberOne shall:

- Provide a single point of contact to the Client for the duration of the project for coordination and scheduling of project tasks, documentation, and any changes to scope requiring a change order.
- Coordinate activities of all CyberOne resources and provide the Client with a calling tree.
- Provide notification prior to the start of intrusive testing along with source IP addresses/ranges.
- Stop performing testing if degradation is identified on applications and networks being reviewed.
- Provide immediate notification if critical vulnerabilities are identified.
- Provide project documentation within an agreed upon timeframe, based on timelines and milestones defined at project kick-off.
- CyberOne resources may work remotely for portions of this engagement which do not require an on-site presence.
- Provide a single round of retesting services to validate remediation of vulnerabilities identified during the project within 90 calendar days from the delivery of the initial report.
  - Any additional Customer retesting requests will be considered on a case-by-case basis and may incur additional expenses.

- All retesting services must be scheduled at least 10 business days in advance to ensure resource availability.

**GENERAL ASSUMPTIONS**

- The Client will make reasonable efforts in advance of CyberOne’s project activities to assemble all documentation and work papers within scope as identified by CyberOne.
- Any formal reporting of individual controls performed as part of ad-hoc testing will reference specific components which were evaluated and will not be construed to apply universally to all controls, environments, or components which may be applicable but were not evaluated as part of individual testing.
- The Client acknowledges and agrees that: (i) any outcome of the services involving compliance assessment is limited to a point-in-time examination of the Client’s compliance or non-compliance status with the applicable standards or industry best practices set forth in the Scope of Work and that the outcome of any audits, assessments or testing by, and the opinions, advice, recommendations and/or certification of CyberOne do not constitute any form of representation, warranty or guarantee that the Client systems are 100% secure from every form of attack, and (ii) in assisting in the examination of the Client’s compliance or non-compliance status, CyberOne relies upon accurate, authentic and complete information provided by the Client as well as the use of certain sampling techniques.
- Customer understands that CyberOne will take every possible precaution to safeguard against incidental interruption of Customer’s environment. If an interruption is caused through accidental or unavoidable means, CyberOne will immediately notify Customer.
- By the nature of any network assessment process, CyberOne may be required to test the Customer’s network. By signing this Agreement, Customer gives CyberOne permission to mimic unauthorized personnel and use intrusion methodologies that attempt to gain access to Customer’s systems according to any subsequent Statement of Work supporting such a service. Customer is permitting CyberOne to attack the network as defined in any associated Statement of Work.

**ORDER AND PAYMENT INFORMATION**

CyberOne proposes to provide the Services and Deliverables at a fixed price not including travel expenses.

**Table 1. Combined Project Cost**

Type	SKU	Description	Combined Cost
Consulting	C1-PROSRV-TA-RED-NONR	External Penetration Test	\$5,700
Consulting	C1-PROSRV-TA-RED-NONR-AL	Internal Penetration Test	\$11,400
<b>Total Package Price USD</b>			<b>\$17,100</b>

**Payment Terms**

CyberOne will invoice the Client for half of the assessment (50%) at the project kickoff and the remaining amount and expenses at the delivery of the engagement report. All CyberOne invoices are payable NET 30 days.

**Expenses**

This assessment will be performed remotely, and no travel expenses or licensing fees are required. Any incidentals (e.g. shipping hardware) will be discussed with and approved by the client in advance and will be expensed at cost. If the Customer requests services that require travel, such as in-person debriefs or presentations outside of the DFW area, travel and incidentals will be billed in addition to the quoted package price.



**Billing Contact:**

City of Tomball	
<b>Contact Name:</b>	Tom Wilson Director of IT Security (281) 290-1405 <a href="mailto:twilson@tombaltx.gov">twilson@tombaltx.gov</a>
CyberOne	
<b>Address:</b> <b>City, State, Zip (Country):</b>	6851 Communications Parkway Plano, TX 75024
<b>Senior Account Manager:</b> <b>Phone No.:</b> <b>E-mail:</b>	James Bryant 469.562.8842 <a href="mailto:james.bryant@cyberonesecurity.com">james.bryant@cyberonesecurity.com</a>
<b>Professional Services Project Manager:</b> <b>Mobile No.:</b> <b>E-mail:</b>	TBD  <a href="mailto:pmo@cyberonesecurity.com">pmo@cyberonesecurity.com</a>
<b>Prepared By:</b> <b>SOW Number:</b> <b>Issuance Date:</b> <b>Version:</b>	Andrew Johnson 28827 April 5, 2024 1.0

## Agreement

In addition to the Client's execution of this SOW, CyberOne shall require a valid acceptable purchase order referencing this SOW in order to begin to provide the Services hereunder and the signature represents that their execution of this SOW is a binding commitment to purchase the Services described herein. However, in the event that the Client does not issue purchase orders as a matter of business practice, the Client hereby warrants and represents that: i) its signature on this SOW authorizes CyberOne to provide the Services hereunder, and ii) that the Client shall pay for Services provided to the Client without the necessity of a purchase order, and iii) the Client will not contest payment for the provision of Services hereunder due to the fact that no purchase order was issued. Professional Services Terms and Conditions are addressed within the DIR CPO 4851 contract.

This SOW is valid for 60-days after issue date.

Effective Date:

**City of Tomball**

**CyberOne, LLC.**

\_\_\_\_\_  
*Authorized Signature*

\_\_\_\_\_  
*Authorized Signature*

\_\_\_\_\_  
*Printed Name*

\_\_\_\_\_  
*Printed Name*

\_\_\_\_\_  
*Title*

\_\_\_\_\_  
*Title*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Date*

**Please email your documents to:**

CyberOne, LLC.

ATTN: Sales Operations

Phone: 214.810.6760

Email: [operations@cyberonesecurity.com](mailto:operations@cyberonesecurity.com)

# City Council Meeting Agenda Item Data Sheet

Meeting Date: December 2, 2024

**Topic:**

Authorize the City Manager to execute an amendment to the Interlocal Agreement between the City of Tomball and Harris County Emergency Services District No. 15 (ESD15) for Fire Protection, Fire Suppression, and Rescue Services.

**Background:**

In the FY25 Budget Council approved the addition of 3 Full-Time Firefighter positions in the Fire Department. This addition requires an amendment to the contract that was approved in October of 2023 between the City and ESD15.

The amendment to the interlocal agreement provides for the ESD 15s additional portion of the 3 firefighters approved in the FY25 City of Tomball Budget.

**Origination:** Fire Department

**Recommendation:**

Approval

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

**FUNDING (IF APPLICABLE)**

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

Yes: \_\_\_\_\_ No: \_\_\_\_\_ If yes, specify Account Number: # \_\_\_\_\_

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

Signed Joe Sykora 10/30/2024 Approved by \_\_\_\_\_  
Staff Member Date City Manager Date

**THE STATE OF TEXAS**                   §  
   §  
**COUNTY OF HARRIS**                   §

**AMENDMENT TO INTERLOCAL AGREEMENT FOR  
THE PROVISION OF FIRE PROTECTION SERVICES WITHIN THE SERVICE  
AREA OF HARRIS COUNTY EMERGENCY SERVICES DISTRICT NO. 15**

THIS AMENDMENT TO INTERLOCAL AGREEMENT FOR THE PROVISION OF FIRE PROTECTION SERVICES WITHIN THE SERVICE AREA OF HARRIS COUNTY EMERGENCY SERVICES DISTRICT NO. 15 ("Agreement") is made and entered into this 6<sup>th</sup> day of November, 2023, but is effective as of January 1, 2024 ("Effective Date"), between the **CITY OF TOMBALL** (hereinafter referred to as "City"), and **HARRIS COUNTY EMERGENCY SERVICES DISTRICT NO. 15** (hereinafter referred to as "District"), a political subdivision of the State of Texas.

**WITNESSETH:**

**WHEREAS**, the City is a political subdivision under contract with the District to provide fire protection and suppression services to protect life and property from fire and to provide emergency medical first responder and rescue services to the District's territory;

**WHEREAS**, the City has the capacity to provide fire protection and suppression services to protect life and property from fire and to provide emergency medical first responder and rescue services to the District's territory;

**WHEREAS**, the District desires the City's assistance to provide fire protection and suppression services to protect life and property from fire and to provide emergency medical first responder and rescue services to the District's territory in a cost effective and efficient manner to the District;

**WHEREAS**, the Parties, by action of their respective governing bodies, previously entered into the **INTERLOCAL AGREEMENT FOR THE PROVISION OF FIRE PROTECTION SERVICES WITHIN THE SERVICE AREA OF HARRIS COUNTY EMERGENCY SERVICES DISTRICT NO. 15 ADMINISTRATIVE SERVICES AGREEMENT** which was effective February 24, 2023. Both parties have agreed to an amendment under Section IV of the agreement in its entirety with all other sections remaining unchanged;

**NOW, THEREFORE**, in good and valuable consideration of the mutual covenants and promises herein contained, the parties, each intending to be legally bound, hereby agree as follows:

4.1. The City will assign three (3) firefighters per shift for a total of nine (9) firefighters to serve at the Telge Road Fire Station and four (4) Firefighters per shift for a total of twelve (12) firefighters to serve at the Mahaffey Road Fire Station beginning January 1, 2025, for a total of twenty-one (21) firefighters. Both the City and the District may reevaluate at any time during the

term of this contract if more firefighters are needed to be staffed at any of the two (2) Stations and if it is feasible.

[The remainder of this page is left intentionally blank. Signatures on the following page.]



**IN WITNESS THEREOF**, the parties hereto, intending to be legally bound hereby, have caused this Amendment to Administrative Services Agreement to be executed by their respective duly authorized representatives as of the day indicated.

**CITY OF TOMBALL**

**HARRIS COUNTY EMERGENCY SERVICES DISTRICT NO. 15**

BY: \_\_\_\_\_

BY: Terry Whistler

Name: David Esquivel, City Manager

Name: Terry Whistler, President

Date: \_\_\_\_\_

Date: November 14, 2024

# City Council Meeting

## Agenda Item

### Data Sheet

Meeting Date: December 2, 2024

**Topic:**

Approve an expenditure of greater than \$50,000 with Axon Enterprise Inc. for video and surveillance services and licenses for a not-to-exceed amount of \$132,972.82. This expenditure is included in the FY 2024-2025 Budget.

**Background:**

The IT Department manages all technology-based solutions, including personal, vehicle video, and surveillance services for our first responders. Axon Enterprise, Inc. is the provider for video and surveillance service used by the City's Police Department officers. Axon holds a dominant position in this field and delivers excellent service to a variety of users.

Item	Amount
Body worn camera TAP Bundle/Licenses/storage	\$83,362.55
AB3C/BWCam TAP/Dynamic Bundle	\$6,058.37
Axon Body TAP Refresh/ECOM License/Warranty	\$11,990.54
Fleet ALPR License/Integration services	\$ 9,224.00
FLEET ADVANCED Bundle w TAP True up	\$2,600.02
Body Worn/AB3 Camera Multi-Bay Dock	\$1,323.54
Basic to pro conversion	\$2,184.00
Pro License Bundle	\$795.60
TASER 7 Basic Bundle	\$2,762.78
FLEET ADVANCED Bundle w TAP True up (3)	\$7,671.42
Camera docks, taser replacement parts (Miscellaneous items)	\$5,000.00
<b>Total:</b>	<b>\$132,972.82</b>

Per the City’s adopted Procurement Policy and Manual, cumulative annual expenditures with a single vendor in excess of \$50,000 must be approved by City Council. This purchase was made under a Buyboard Cooperative purchasing contract (Contract No. 648-21) with the payments extending for five years for various products and services purchased.

**Origination:** IT Director

**Recommendation:**

Staff recommend approving the purchase of these video and surveillance services from Axon. in an amount not to exceed \$132,972.82 as appropriated in the Fiscal Year 2024-2025 Budget.

**Party(ies) responsible for placing this item on agenda:** Tom Wilson IT 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: 100-117-6320

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

Signed Tom Wilson Approved by \_\_\_\_\_  
Staff Member \_\_\_\_\_ Date \_\_\_\_\_ City Manager \_\_\_\_\_ Date \_\_\_\_\_



**Axon Enterprise, Inc.**  
 17800 N 85th St.  
 Scottsdale, Arizona 85255  
 United States  
 VAT: 86-0741227  
 Domestic: (800) 978-2737  
 International: +1.800.978.2737

Q-382453-45601.786AS

Issued: 11/05/2024

Quote Expiration: 10/31/2022

Estimated Contract Start Date: 11/01/2022

Account Number: 106442

Payment Terms: N30

Delivery Method: Fedex - Ground

SHIP TO	BILL TO
Tomball Police Dept. - TX 400 Fannin St Tomball, TX 77375-4618 USA	Tomball Police Dept. - TX 401 Market St Tomball TX 77375-4645 USA Email:

SALES REPRESENTATIVE	PRIMARY CONTACT
Adam Smith Phone: 602-751-1798 Email: asmith@taser.com Fax: (480) 463-2201	Brandon Patin Phone: (832) 745-2891 Email: bpatin@tomballtx.gov Fax:

**Quote Summary**

Program Length	60 Months
<b>TOTAL COST</b>	<b>\$59,952.72</b>
<b>ESTIMATED TOTAL W/ TAX</b>	<b>\$59,952.72</b>

**Discount Summary**

Average Savings Per Year	\$1,901.14
<b>TOTAL SAVINGS</b>	<b>\$9,505.68</b>

# Payment Summary

Date	Subtotal	Tax	Total
Oct 2022	\$11,990.54	\$0.00	\$11,990.54
Oct 2023	\$11,990.54	\$0.00	\$11,990.54
Oct 2024	\$11,990.54	\$0.00	\$11,990.54
Oct 2025	\$11,990.54	\$0.00	\$11,990.54
Oct 2026	\$11,990.56	\$0.00	\$11,990.56
<b>Total</b>	<b>\$59,952.72</b>	<b>\$0.00</b>	<b>\$59,952.72</b>



Quote List Price:  
Quote Subtotal:

\$69,458.40  
\$59,952.72

## Pricing

All deliverables are detailed in Delivery Schedules section lower in proposal

Item	Description	Term	Qty	List Price	Net Price	Subtotal	Tax	Total
<b>AB3 Camera Bundle</b>								
11534	AXON BODY - CABLE - USB-C TO USB-A (AB3 OR FLEX 2)		14	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
74028	AXON BODY - MOUNT - WING CLIP RAPIDLOCK		14	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
73202	AXON BODY 3 - CAMERA - NA10 US BLK RAPIDLOCK		12	\$699.00	\$664.05	\$7,968.60	\$0.00	\$7,968.60
<b>Body Worn Camera TAP Bundle</b>								
80464	AXON BODY - TAP WARRANTY - CAMERA	60m	12	\$700.20	\$505.85	\$6,070.20	\$0.00	\$6,070.20
73309	AXON BODY - TAP REFRESH 1 - CAMERA		12	\$741.00	\$535.33	\$6,423.96	\$0.00	\$6,423.96
73310	AXON BODY - TAP REFRESH 2 - CAMERA		12	\$768.00	\$554.83	\$6,657.96	\$0.00	\$6,657.96
<b>Individual Items</b>								
73682	AXON EVIDENCE - AUTO TAGGING LICENSE	60m	12	\$540.00	\$513.00	\$6,156.00	\$0.00	\$6,156.00
73840	AXON EVIDENCE - ECOM LICENSE - BASIC	60m	12	\$900.00	\$855.00	\$10,260.00	\$0.00	\$10,260.00
73686	AXON EVIDENCE - STORAGE - UNLIMITED (AXON DEVICE)	60m	12	\$1,440.00	\$1,368.00	\$16,416.00	\$0.00	\$16,416.00
<b>Total</b>						<b>\$59,952.72</b>	<b>\$0.00</b>	<b>\$59,952.72</b>

## Delivery Schedule

### Hardware

Bundle	Item	Description	QTY	Shipping Location	Estimated Delivery Date
AB3 Camera Bundle	11534	AXON BODY - CABLE - USB-C TO USB-A (AB3 OR FLEX 2)	14		11/01/2022
AB3 Camera Bundle	73202	AXON BODY 3 - CAMERA - NA10 US BLK RAPIDLOCK	12		11/01/2022
AB3 Camera Bundle	74028	AXON BODY - MOUNT - WING CLIP RAPIDLOCK	14		11/01/2022
Body Worn Camera TAP Bundle	73309	AXON BODY - TAP REFRESH 1 - CAMERA	12		05/01/2025
Body Worn Camera TAP Bundle	73310	AXON BODY - TAP REFRESH 2 - CAMERA	12		11/01/2027

### Software

Bundle	Item	Description	QTY	Estimated Start Date	Estimated End Date
A la Carte	73682	AXON EVIDENCE - AUTO TAGGING LICENSE	12	11/01/2022	10/31/2027
A la Carte	73686	AXON EVIDENCE - STORAGE - UNLIMITED (AXON DEVICE)	12	11/01/2022	10/31/2027
A la Carte	73840	AXON EVIDENCE - ECOM LICENSE - BASIC	12	11/01/2022	10/31/2027

### Warranties

Bundle	Item	Description	QTY	Estimated Start Date	Estimated End Date
Body Worn Camera TAP Bundle	80464	AXON BODY - TAP WARRANTY - CAMERA	12	11/01/2022	10/31/2027

## Shipping Locations

Location Number	Street	City	State	Zip	Country
	400 Fannin St	Tomball	TX	77375-4618	USA

## Payment Details

### Oct 2022

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 1	11534	AXON BODY - CABLE - USB-C TO USB-A (AB3 OR FLEX 2)	14	\$0.00	\$0.00	\$0.00
Year 1	73202	AXON BODY 3 - CAMERA - NA10 US BLK RAPIDLOCK	12	\$1,593.72	\$0.00	\$1,593.72
Year 1	73309	AXON BODY - TAP REFRESH 1 - CAMERA	12	\$1,284.79	\$0.00	\$1,284.79
Year 1	73310	AXON BODY - TAP REFRESH 2 - CAMERA	12	\$1,331.59	\$0.00	\$1,331.59
Year 1	73682	AXON EVIDENCE - AUTO TAGGING LICENSE	12	\$1,231.20	\$0.00	\$1,231.20
Year 1	73686	AXON EVIDENCE - STORAGE - UNLIMITED (AXON DEVICE)	12	\$3,283.20	\$0.00	\$3,283.20
Year 1	73840	AXON EVIDENCE - ECOM LICENSE - BASIC	12	\$2,052.00	\$0.00	\$2,052.00
Year 1	74028	AXON BODY - MOUNT - WING CLIP RAPIDLOCK	14	\$0.00	\$0.00	\$0.00
Year 1	80464	AXON BODY - TAP WARRANTY - CAMERA	12	\$1,214.04	\$0.00	\$1,214.04
<b>Total</b>				<b>\$11,990.54</b>	<b>\$0.00</b>	<b>\$11,990.54</b>

### Oct 2023

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 2	11534	AXON BODY - CABLE - USB-C TO USB-A (AB3 OR FLEX 2)	14	\$0.00	\$0.00	\$0.00
Year 2	73202	AXON BODY 3 - CAMERA - NA10 US BLK RAPIDLOCK	12	\$1,593.72	\$0.00	\$1,593.72
Year 2	73309	AXON BODY - TAP REFRESH 1 - CAMERA	12	\$1,284.79	\$0.00	\$1,284.79
Year 2	73310	AXON BODY - TAP REFRESH 2 - CAMERA	12	\$1,331.59	\$0.00	\$1,331.59
Year 2	73682	AXON EVIDENCE - AUTO TAGGING LICENSE	12	\$1,231.20	\$0.00	\$1,231.20
Year 2	73686	AXON EVIDENCE - STORAGE - UNLIMITED (AXON DEVICE)	12	\$3,283.20	\$0.00	\$3,283.20
Year 2	73840	AXON EVIDENCE - ECOM LICENSE - BASIC	12	\$2,052.00	\$0.00	\$2,052.00
Year 2	74028	AXON BODY - MOUNT - WING CLIP RAPIDLOCK	14	\$0.00	\$0.00	\$0.00
Year 2	80464	AXON BODY - TAP WARRANTY - CAMERA	12	\$1,214.04	\$0.00	\$1,214.04
<b>Total</b>				<b>\$11,990.54</b>	<b>\$0.00</b>	<b>\$11,990.54</b>

### Oct 2024

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 3	11534	AXON BODY - CABLE - USB-C TO USB-A (AB3 OR FLEX 2)	14	\$0.00	\$0.00	\$0.00
Year 3	73202	AXON BODY 3 - CAMERA - NA10 US BLK RAPIDLOCK	12	\$1,593.72	\$0.00	\$1,593.72
Year 3	73309	AXON BODY - TAP REFRESH 1 - CAMERA	12	\$1,284.79	\$0.00	\$1,284.79
Year 3	73310	AXON BODY - TAP REFRESH 2 - CAMERA	12	\$1,331.59	\$0.00	\$1,331.59
Year 3	73682	AXON EVIDENCE - AUTO TAGGING LICENSE	12	\$1,231.20	\$0.00	\$1,231.20
Year 3	73686	AXON EVIDENCE - STORAGE - UNLIMITED (AXON DEVICE)	12	\$3,283.20	\$0.00	\$3,283.20
Year 3	73840	AXON EVIDENCE - ECOM LICENSE - BASIC	12	\$2,052.00	\$0.00	\$2,052.00
Year 3	74028	AXON BODY - MOUNT - WING CLIP RAPIDLOCK	14	\$0.00	\$0.00	\$0.00
Year 3	80464	AXON BODY - TAP WARRANTY - CAMERA	12	\$1,214.04	\$0.00	\$1,214.04

**Oct 2024**

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
<b>Total</b>				<b>\$11,990.54</b>	<b>\$0.00</b>	<b>\$11,990.54</b>

**Oct 2025**

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 4	11534	AXON BODY - CABLE - USB-C TO USB-A (AB3 OR FLEX 2)	14	\$0.00	\$0.00	\$0.00
Year 4	73202	AXON BODY 3 - CAMERA - NA10 US BLK RAPIDLOCK	12	\$1,593.72	\$0.00	\$1,593.72
Year 4	73309	AXON BODY - TAP REFRESH 1 - CAMERA	12	\$1,284.79	\$0.00	\$1,284.79
Year 4	73310	AXON BODY - TAP REFRESH 2 - CAMERA	12	\$1,331.59	\$0.00	\$1,331.59
Year 4	73682	AXON EVIDENCE - AUTO TAGGING LICENSE	12	\$1,231.20	\$0.00	\$1,231.20
Year 4	73686	AXON EVIDENCE - STORAGE - UNLIMITED (AXON DEVICE)	12	\$3,283.20	\$0.00	\$3,283.20
Year 4	73840	AXON EVIDENCE - ECOM LICENSE - BASIC	12	\$2,052.00	\$0.00	\$2,052.00
Year 4	74028	AXON BODY - MOUNT - WING CLIP RAPIDLOCK	14	\$0.00	\$0.00	\$0.00
Year 4	80464	AXON BODY - TAP WARRANTY - CAMERA	12	\$1,214.04	\$0.00	\$1,214.04
<b>Total</b>				<b>\$11,990.54</b>	<b>\$0.00</b>	<b>\$11,990.54</b>

**Oct 2026**

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 5	11534	AXON BODY - CABLE - USB-C TO USB-A (AB3 OR FLEX 2)	14	\$0.00	\$0.00	\$0.00
Year 5	73202	AXON BODY 3 - CAMERA - NA10 US BLK RAPIDLOCK	12	\$1,593.72	\$0.00	\$1,593.72
Year 5	73309	AXON BODY - TAP REFRESH 1 - CAMERA	12	\$1,284.79	\$0.00	\$1,284.79
Year 5	73310	AXON BODY - TAP REFRESH 2 - CAMERA	12	\$1,331.59	\$0.00	\$1,331.59
Year 5	73682	AXON EVIDENCE - AUTO TAGGING LICENSE	12	\$1,231.20	\$0.00	\$1,231.20
Year 5	73686	AXON EVIDENCE - STORAGE - UNLIMITED (AXON DEVICE)	12	\$3,283.22	\$0.00	\$3,283.22
Year 5	73840	AXON EVIDENCE - ECOM LICENSE - BASIC	12	\$2,052.00	\$0.00	\$2,052.00
Year 5	74028	AXON BODY - MOUNT - WING CLIP RAPIDLOCK	14	\$0.00	\$0.00	\$0.00
Year 5	80464	AXON BODY - TAP WARRANTY - CAMERA	12	\$1,214.04	\$0.00	\$1,214.04
<b>Total</b>				<b>\$11,990.56</b>	<b>\$0.00</b>	<b>\$11,990.56</b>

***Sky-hero products are manufactured in European Union and are classified as military grade, transfer and re-export is strictly prohibited.***

**Tax is estimated based on rates applicable at date of quote and subject to change at time of invoicing. If a tax exemption certificate should be applied, please submit prior to invoicing.**

Contract ZZ - EXPIRED - BuyBoard Contract 648-21 is incorporated by reference into the terms and conditions of this Agreement. In the event of conflict the terms of Axon's Master Services and Purchasing Agreement shall govern.

## Standard Terms and Conditions

### Axon Enterprise Inc. Sales Terms and Conditions

Axon Master Services and Purchasing Agreement:

This Quote is limited to and conditional upon your acceptance of the provisions set forth herein and Axon's Master Services and Purchasing Agreement (posted at <https://www.axon.com/sales-terms-and-conditions>), as well as the attached Statement of Work (SOW) for Axon Fleet and/or Axon Interview Room purchase, if applicable. In the event you and Axon have entered into a prior agreement to govern all future purchases, that agreement shall govern to the extent it includes the products and services being purchased and does not conflict with the Axon Customer Experience Improvement Program Appendix as described below.

ACEIP:

The Axon Customer Experience Improvement Program Appendix, which includes the sharing of de-identified segments of Agency Content with Axon to develop new products and improve your product experience (posted at [www.axon.com/legal/sales-terms-and-conditions](http://www.axon.com/legal/sales-terms-and-conditions)), is incorporated herein by reference. By signing below, you agree to the terms of the Axon Customer Experience Improvement Program.

Acceptance of Terms:

Any purchase order issued in response to this Quote is subject solely to the above referenced terms and conditions. By signing below, you represent that you are lawfully able to enter into contracts. If you are signing on behalf of an entity (including but not limited to the company, municipality, or government agency for whom you work), you represent to Axon that you have legal authority to bind that entity. If you do not have this authority, please do not sign this Quote.



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Signature

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Date Signed

11/5/2024





**Axon Enterprise, Inc.**  
 17800 N 85th St.  
 Scottsdale, Arizona 85255  
 United States  
 VAT: 86-0741227  
 Domestic: (800) 978-2737  
 International: +1.800.978.2737

Q-410409-45601.713AS

Issued: 11/05/2024

Quote Expiration: 09/15/2022

Estimated Contract Start Date: 10/01/2022

Account Number: 106442

Payment Terms: N30

Delivery Method:

SHIP TO	BILL TO
Tomball Police Dept. - TX 400 Fannin St Tomball, TX 77375-4618 USA	Tomball Police Dept. - TX 401 Market St Tomball TX 77375-4645 USA Email:

SALES REPRESENTATIVE	PRIMARY CONTACT
Adam Smith Phone: 602-751-1798 Email: asmith@taser.com Fax: (480) 463-2201	Brandon Patin Phone: (832) 745-2891 Email: bpatin@tomballtx.gov Fax:

**Quote Summary**

Program Length	55 Months
<b>TOTAL COST</b>	<b>\$46,120.00</b>
<b>ESTIMATED TOTAL W/ TAX</b>	<b>\$46,120.00</b>

**Discount Summary**

Average Savings Per Year	\$0.00
<b>TOTAL SAVINGS</b>	<b>\$0.00</b>

**Payment Summary**

<b>Date</b>	<b>Subtotal</b>	<b>Tax</b>	<b>Total</b>
Oct 2022	\$9,224.00	\$0.00	\$9,224.00
Apr 2023	\$9,224.00	\$0.00	\$9,224.00
Apr 2024	\$9,224.00	\$0.00	\$9,224.00
Apr 2025	\$9,224.00	\$0.00	\$9,224.00
Apr 2026	\$9,224.00	\$0.00	\$9,224.00
<b>Total</b>	<b>\$46,120.00</b>	<b>\$0.00</b>	<b>\$46,120.00</b>

Quote Unbundled Price:	\$46,120.00
Quote List Price:	\$46,120.00
Quote Subtotal:	\$46,120.00

## Pricing

*All deliverables are detailed in Delivery Schedules section lower in proposal*

Item	Description	Qty	Term	Unbundled	List Price	Net Price	Subtotal	Tax	Total
<b>A la Carte Software</b>									
80401	AXON FLEET 3 - ALPR LICENSE - 1 CAMERA	16	55		\$49.00	\$49.00	\$43,120.00	\$0.00	\$43,120.00
<b>A la Carte Services</b>									
100159	AXON FLEET 3 - SERVICES - ALPR API INTEGRATION	1			\$3,000.00	\$3,000.00	\$3,000.00	\$0.00	\$3,000.00
<b>Total</b>							<b>\$46,120.00</b>	<b>\$0.00</b>	<b>\$46,120.00</b>

## Delivery Schedule

### Software

Bundle	Item	Description	QTY	Estimated Start Date	Estimated End Date
A la Carte	80401	AXON FLEET 3 - ALPR LICENSE - 1 CAMERA	16	10/01/2022	04/30/2027

### Services

Bundle	Item	Description	QTY
A la Carte	100159	AXON FLEET 3 - SERVICES - ALPR API INTEGRATION	1

## Shipping Locations

Location Number	Street	City	State	Zip	Country
	400 Fannin St	Tomball	TX	77375-4618	USA

## Payment Details

### Oct 2022

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 1	100159	AXON FLEET 3 - SERVICES - ALPR API INTEGRATION	1	\$600.00	\$0.00	\$600.00
Year 1	80401	AXON FLEET 3 - ALPR LICENSE - 1 CAMERA	16	\$8,624.00	\$0.00	\$8,624.00
<b>Total</b>				<b>\$9,224.00</b>	<b>\$0.00</b>	<b>\$9,224.00</b>

### Apr 2023

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 2	100159	AXON FLEET 3 - SERVICES - ALPR API INTEGRATION	1	\$600.00	\$0.00	\$600.00
Year 2	80401	AXON FLEET 3 - ALPR LICENSE - 1 CAMERA	16	\$8,624.00	\$0.00	\$8,624.00
<b>Total</b>				<b>\$9,224.00</b>	<b>\$0.00</b>	<b>\$9,224.00</b>

### Apr 2024

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 3	100159	AXON FLEET 3 - SERVICES - ALPR API INTEGRATION	1	\$600.00	\$0.00	\$600.00
Year 3	80401	AXON FLEET 3 - ALPR LICENSE - 1 CAMERA	16	\$8,624.00	\$0.00	\$8,624.00
<b>Total</b>				<b>\$9,224.00</b>	<b>\$0.00</b>	<b>\$9,224.00</b>

### Apr 2025

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 4	100159	AXON FLEET 3 - SERVICES - ALPR API INTEGRATION	1	\$600.00	\$0.00	\$600.00
Year 4	80401	AXON FLEET 3 - ALPR LICENSE - 1 CAMERA	16	\$8,624.00	\$0.00	\$8,624.00
<b>Total</b>				<b>\$9,224.00</b>	<b>\$0.00</b>	<b>\$9,224.00</b>

### Apr 2026

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 5	100159	AXON FLEET 3 - SERVICES - ALPR API INTEGRATION	1	\$600.00	\$0.00	\$600.00
Year 5	80401	AXON FLEET 3 - ALPR LICENSE - 1 CAMERA	16	\$8,624.00	\$0.00	\$8,624.00
<b>Total</b>				<b>\$9,224.00</b>	<b>\$0.00</b>	<b>\$9,224.00</b>



***Sky-hero products are manufactured in European Union and are classified as military grade, transfer and re-export is strictly prohibited.***

**Tax is estimated based on rates applicable at date of quote and subject to change at time of invoicing. If a tax exemption certificate should be applied, please submit prior to invoicing.**

Contract ZZ - EXPIRED - BuyBoard Contract 648-21 is incorporated by reference into the terms and conditions of this Agreement. In the event of conflict the terms of Axon's Master Services and Purchasing Agreement shall govern.

## Standard Terms and Conditions

### Axon Enterprise Inc. Sales Terms and Conditions

Axon Master Services and Purchasing Agreement:

This Quote is limited to and conditional upon your acceptance of the provisions set forth herein and Axon's Master Services and Purchasing Agreement (posted at <https://www.axon.com/sales-terms-and-conditions>), as well as the attached Statement of Work (SOW) for Axon Fleet and/or Axon Interview Room purchase, if applicable. In the event you and Axon have entered into a prior agreement to govern all future purchases, that agreement shall govern to the extent it includes the products and services being purchased and does not conflict with the Axon Customer Experience Improvement Program Appendix as described below.

ACEIP:

The Axon Customer Experience Improvement Program Appendix, which includes the sharing of de-identified segments of Agency Content with Axon to develop new products and improve your product experience (posted at [www.axon.com/legal/sales-terms-and-conditions](http://www.axon.com/legal/sales-terms-and-conditions)), is incorporated herein by reference. By signing below, you agree to the terms of the Axon Customer Experience Improvement Program.

Acceptance of Terms:

Any purchase order issued in response to this Quote is subject solely to the above referenced terms and conditions. By signing below, you represent that you are lawfully able to enter into contracts. If you are signing on behalf of an entity (including but not limited to the company, municipality, or government agency for whom you work), you represent to Axon that you have legal authority to bind that entity. If you do not have this authority, please do not sign this Quote.

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Signature

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Date Signed

11/5/2024





**Axon Enterprise, Inc.**  
 17800 N 85th St.  
 Scottsdale, Arizona 85255  
 United States  
 VAT: 86-0741227  
 Domestic: (800) 978-2737  
 International: +1.800.978.2737

Q-378714-45601.662AS

Issued: 11/05/2024

Quote Expiration: 03/31/2022

Estimated Contract Start Date: 04/01/2022

Account Number: 106442

Payment Terms: N30

Delivery Method: Fedex - Ground

SHIP TO	BILL TO
Tomball Police Dept. - TX 400 Fannin St Tomball, TX 77375-4618 USA	Tomball Police Dept. - TX 401 Market St Tomball TX 77375-4645 USA Email:

SALES REPRESENTATIVE	PRIMARY CONTACT
Adam Smith Phone: 602-751-1798 Email: asmith@taser.com Fax: (480) 463-2201	Brandon Patin Phone: (832) 745-2891 Email: bpatin@tomballtx.gov Fax:

**Quote Summary**

Program Length	60 Months
<b>TOTAL COST</b>	<b>\$30,291.85</b>
<b>ESTIMATED TOTAL W/ TAX</b>	<b>\$30,291.85</b>

**Discount Summary**

Average Savings Per Year	\$887.47
<b>TOTAL SAVINGS</b>	<b>\$4,437.35</b>

# Payment Summary

Date	Subtotal	Tax	Total
Apr 2022	\$6,058.37	\$0.00	\$6,058.37
Apr 2023	\$6,058.37	\$0.00	\$6,058.37
Apr 2024	\$6,058.37	\$0.00	\$6,058.37
Apr 2025	\$6,058.37	\$0.00	\$6,058.37
Apr 2026	\$6,058.37	\$0.00	\$6,058.37
<b>Total</b>	<b>\$30,291.85</b>	<b>\$0.00</b>	<b>\$30,291.85</b>

Quote List Price:  
Quote Subtotal:

\$34,729.20  
\$30,291.85

## Pricing

All deliverables are detailed in Delivery Schedules section lower in proposal

Item	Description	Term	Qty	List Price	Net Price	Subtotal	Tax	Total
<b>AB3 Camera Bundle</b>								
74028	AXON BODY - MOUNT - WING CLIP RAPIDLOCK		7	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
11534	AXON BODY - CABLE - USB-C TO USB-A (AB3 OR FLEX 2)		7	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
73202	AXON BODY 3 - CAMERA - NA10 US BLK RAPIDLOCK		6	\$699.00	\$671.04	\$4,026.24	\$0.00	\$4,026.24
<b>Body Worn Camera TAP Bundle</b>								
80464	AXON BODY - TAP WARRANTY - CAMERA	60m	6	\$700.20	\$511.17	\$3,067.04	\$0.00	\$3,067.04
73309	AXON BODY - TAP REFRESH 1 - CAMERA		6	\$741.00	\$540.96	\$3,245.75	\$0.00	\$3,245.75
73310	AXON BODY - TAP REFRESH 2 - CAMERA		6	\$768.00	\$560.67	\$3,364.02	\$0.00	\$3,364.02
<b>Individual Items</b>								
73682	AXON EVIDENCE - AUTO TAGGING LICENSE	60m	6	\$540.00	\$518.40	\$3,110.40	\$0.00	\$3,110.40
73840	AXON EVIDENCE - ECOM LICENSE - BASIC	60m	6	\$900.00	\$864.00	\$5,184.00	\$0.00	\$5,184.00
73686	AXON EVIDENCE - STORAGE - UNLIMITED (AXON DEVICE)	60m	6	\$1,440.00	\$1,382.40	\$8,294.40	\$0.00	\$8,294.40
<b>Total</b>						<b>\$30,291.85</b>	<b>\$0.00</b>	<b>\$30,291.85</b>



## Delivery Schedule

### Hardware

Bundle	Item	Description	QTY	Shipping Location	Estimated Delivery Date
AB3 Camera Bundle	11534	AXON BODY - CABLE - USB-C TO USB-A (AB3 OR FLEX 2)	7		04/01/2022
AB3 Camera Bundle	73202	AXON BODY 3 - CAMERA - NA10 US BLK RAPIDLOCK	6		04/01/2022
AB3 Camera Bundle	74028	AXON BODY - MOUNT - WING CLIP RAPIDLOCK	7		04/01/2022
Body Worn Camera TAP Bundle	73309	AXON BODY - TAP REFRESH 1 - CAMERA	6		10/01/2024
Body Worn Camera TAP Bundle	73310	AXON BODY - TAP REFRESH 2 - CAMERA	6		04/01/2027

### Software

Bundle	Item	Description	QTY	Estimated Start Date	Estimated End Date
A la Carte	73682	AXON EVIDENCE - AUTO TAGGING LICENSE	6	04/01/2022	03/31/2027
A la Carte	73686	AXON EVIDENCE - STORAGE - UNLIMITED (AXON DEVICE)	6	04/01/2022	03/31/2027
A la Carte	73840	AXON EVIDENCE - ECOM LICENSE - BASIC	6	04/01/2022	03/31/2027

### Warranties

Bundle	Item	Description	QTY	Estimated Start Date	Estimated End Date
Body Worn Camera TAP Bundle	80464	AXON BODY - TAP WARRANTY - CAMERA	6	04/01/2022	03/31/2027

## Shipping Locations

Location Number	Street	City	State	Zip	Country
	400 Fannin St	Tomball	TX	77375-4618	USA

## Payment Details

### Apr 2022

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 1	11534	AXON BODY - CABLE - USB-C TO USB-A (AB3 OR FLEX 2)	7	\$0.00	\$0.00	\$0.00
Year 1	73202	AXON BODY 3 - CAMERA - NA10 US BLK RAPIDLOCK	6	\$805.25	\$0.00	\$805.25
Year 1	73309	AXON BODY - TAP REFRESH 1 - CAMERA	6	\$649.15	\$0.00	\$649.15
Year 1	73310	AXON BODY - TAP REFRESH 2 - CAMERA	6	\$672.80	\$0.00	\$672.80
Year 1	73682	AXON EVIDENCE - AUTO TAGGING LICENSE	6	\$622.08	\$0.00	\$622.08
Year 1	73686	AXON EVIDENCE - STORAGE - UNLIMITED (AXON DEVICE)	6	\$1,658.88	\$0.00	\$1,658.88
Year 1	73840	AXON EVIDENCE - ECOM LICENSE - BASIC	6	\$1,036.80	\$0.00	\$1,036.80
Year 1	74028	AXON BODY - MOUNT - WING CLIP RAPIDLOCK	7	\$0.00	\$0.00	\$0.00
Year 1	80464	AXON BODY - TAP WARRANTY - CAMERA	0	\$0.00	\$0.00	\$0.00
Year 1	80464	AXON BODY - TAP WARRANTY - CAMERA	6	\$613.41	\$0.00	\$613.41
<b>Total</b>				<b>\$6,058.37</b>	<b>\$0.00</b>	<b>\$6,058.37</b>

### Apr 2023

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 2	11534	AXON BODY - CABLE - USB-C TO USB-A (AB3 OR FLEX 2)	7	\$0.00	\$0.00	\$0.00
Year 2	73202	AXON BODY 3 - CAMERA - NA10 US BLK RAPIDLOCK	6	\$805.25	\$0.00	\$805.25
Year 2	73309	AXON BODY - TAP REFRESH 1 - CAMERA	6	\$649.15	\$0.00	\$649.15
Year 2	73310	AXON BODY - TAP REFRESH 2 - CAMERA	6	\$672.80	\$0.00	\$672.80
Year 2	73682	AXON EVIDENCE - AUTO TAGGING LICENSE	6	\$622.08	\$0.00	\$622.08
Year 2	73686	AXON EVIDENCE - STORAGE - UNLIMITED (AXON DEVICE)	6	\$1,658.88	\$0.00	\$1,658.88
Year 2	73840	AXON EVIDENCE - ECOM LICENSE - BASIC	6	\$1,036.80	\$0.00	\$1,036.80
Year 2	74028	AXON BODY - MOUNT - WING CLIP RAPIDLOCK	7	\$0.00	\$0.00	\$0.00
Year 2	80464	AXON BODY - TAP WARRANTY - CAMERA	6	\$613.41	\$0.00	\$613.41
Year 2	80464	AXON BODY - TAP WARRANTY - CAMERA	0	\$0.00	\$0.00	\$0.00
<b>Total</b>				<b>\$6,058.37</b>	<b>\$0.00</b>	<b>\$6,058.37</b>

### Apr 2024

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 3	11534	AXON BODY - CABLE - USB-C TO USB-A (AB3 OR FLEX 2)	7	\$0.00	\$0.00	\$0.00
Year 3	73202	AXON BODY 3 - CAMERA - NA10 US BLK RAPIDLOCK	6	\$805.25	\$0.00	\$805.25
Year 3	73309	AXON BODY - TAP REFRESH 1 - CAMERA	6	\$649.15	\$0.00	\$649.15
Year 3	73310	AXON BODY - TAP REFRESH 2 - CAMERA	6	\$672.80	\$0.00	\$672.80
Year 3	73682	AXON EVIDENCE - AUTO TAGGING LICENSE	6	\$622.08	\$0.00	\$622.08
Year 3	73686	AXON EVIDENCE - STORAGE - UNLIMITED (AXON DEVICE)	6	\$1,658.88	\$0.00	\$1,658.88
Year 3	73840	AXON EVIDENCE - ECOM LICENSE - BASIC	6	\$1,036.80	\$0.00	\$1,036.80

**Apr 2024**

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 3	74028	AXON BODY - MOUNT - WING CLIP RAPIDLOCK	7	\$0.00	\$0.00	\$0.00
Year 3	80464	AXON BODY - TAP WARRANTY - CAMERA	0	\$0.00	\$0.00	\$0.00
Year 3	80464	AXON BODY - TAP WARRANTY - CAMERA	6	\$613.41	\$0.00	\$613.41
<b>Total</b>				<b>\$6,058.37</b>	<b>\$0.00</b>	<b>\$6,058.37</b>

**Apr 2025**

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 4	11534	AXON BODY - CABLE - USB-C TO USB-A (AB3 OR FLEX 2)	7	\$0.00	\$0.00	\$0.00
Year 4	73202	AXON BODY 3 - CAMERA - NA10 US BLK RAPIDLOCK	6	\$805.25	\$0.00	\$805.25
Year 4	73309	AXON BODY - TAP REFRESH 1 - CAMERA	6	\$649.15	\$0.00	\$649.15
Year 4	73310	AXON BODY - TAP REFRESH 2 - CAMERA	6	\$672.80	\$0.00	\$672.80
Year 4	73682	AXON EVIDENCE - AUTO TAGGING LICENSE	6	\$622.08	\$0.00	\$622.08
Year 4	73686	AXON EVIDENCE - STORAGE - UNLIMITED (AXON DEVICE)	6	\$1,658.88	\$0.00	\$1,658.88
Year 4	73840	AXON EVIDENCE - ECOM LICENSE - BASIC	6	\$1,036.80	\$0.00	\$1,036.80
Year 4	80428	AXON BODY - MOUNT - WING CLIP RAPIDLOCK	7	\$0.00	\$0.00	\$0.00
Year 4	80464	AXON BODY - TAP WARRANTY - CAMERA	0	\$0.00	\$0.00	\$0.00
Year 4	80464	AXON BODY - TAP WARRANTY - CAMERA	6	\$613.41	\$0.00	\$613.41
<b>Total</b>				<b>\$6,058.37</b>	<b>\$0.00</b>	<b>\$6,058.37</b>

**Apr 2026**

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 5	11534	AXON BODY - CABLE - USB-C TO USB-A (AB3 OR FLEX 2)	7	\$0.00	\$0.00	\$0.00
Year 5	73202	AXON BODY 3 - CAMERA - NA10 US BLK RAPIDLOCK	6	\$805.25	\$0.00	\$805.25
Year 5	73309	AXON BODY - TAP REFRESH 1 - CAMERA	6	\$649.15	\$0.00	\$649.15
Year 5	73310	AXON BODY - TAP REFRESH 2 - CAMERA	6	\$672.80	\$0.00	\$672.80
Year 5	73682	AXON EVIDENCE - AUTO TAGGING LICENSE	6	\$622.08	\$0.00	\$622.08
Year 5	73686	AXON EVIDENCE - STORAGE - UNLIMITED (AXON DEVICE)	6	\$1,658.88	\$0.00	\$1,658.88
Year 5	73840	AXON EVIDENCE - ECOM LICENSE - BASIC	6	\$1,036.80	\$0.00	\$1,036.80
Year 5	74028	AXON BODY - MOUNT - WING CLIP RAPIDLOCK	7	\$0.00	\$0.00	\$0.00
Year 5	80464	AXON BODY - TAP WARRANTY - CAMERA	6	\$613.41	\$0.00	\$613.41
Year 5	80464	AXON BODY - TAP WARRANTY - CAMERA	0	\$0.00	\$0.00	\$0.00
<b>Total</b>				<b>\$6,058.37</b>	<b>\$0.00</b>	<b>\$6,058.37</b>

***Sky-hero products are manufactured in European Union and are classified as military grade, transfer and re-export is strictly prohibited.***

**Tax is estimated based on rates applicable at date of quote and subject to change at time of invoicing. If a tax exemption certificate should be applied, please submit prior to invoicing.**

Contract ZZ - EXPIRED - BuyBoard Contract 648-21 is incorporated by reference into the terms and conditions of this Agreement. In the event of conflict the terms of Axon's Master Services and Purchasing Agreement shall govern.

## Standard Terms and Conditions

### Axon Enterprise Inc. Sales Terms and Conditions

Axon Master Services and Purchasing Agreement:

This Quote is limited to and conditional upon your acceptance of the provisions set forth herein and Axon's Master Services and Purchasing Agreement (posted at <https://www.axon.com/sales-terms-and-conditions>), as well as the attached Statement of Work (SOW) for Axon Fleet and/or Axon Interview Room purchase, if applicable. In the event you and Axon have entered into a prior agreement to govern all future purchases, that agreement shall govern to the extent it includes the products and services being purchased and does not conflict with the Axon Customer Experience Improvement Program Appendix as described below.

ACEIP:

The Axon Customer Experience Improvement Program Appendix, which includes the sharing of de-identified segments of Agency Content with Axon to develop new products and improve your product experience (posted at [www.axon.com/legal/sales-terms-and-conditions](http://www.axon.com/legal/sales-terms-and-conditions)), is incorporated herein by reference. By signing below, you agree to the terms of the Axon Customer Experience Improvement Program.

Acceptance of Terms:

Any purchase order issued in response to this Quote is subject solely to the above referenced terms and conditions. By signing below, you represent that you are lawfully able to enter into contracts. If you are signing on behalf of an entity (including but not limited to the company, municipality, or government agency for whom you work), you represent to Axon that you have legal authority to bind that entity. If you do not have this authority, please do not sign this Quote.

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Signature

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Date Signed

11/5/2024







**Axon Enterprise, Inc.**  
 17800 N 85th St.  
 Scottsdale, Arizona 85255  
 United States  
 VAT: 86-0741227  
 Domestic: (800) 978-2737  
 International: +1.800.978.2737

Q-442665-45601.718AS

Issued: 11/05/2024

Quote Expiration: 12/31/2022

Estimated Contract Start Date: 01/15/2023

Account Number: 106442

Payment Terms: N30

Delivery Method:

SHIP TO	BILL TO
Tomball Police Dept. - TX 400 Fannin St Tomball, TX 77375-4618 USA	Tomball Police Dept. - TX 401 Market St Tomball TX 77375-4645 USA Email:

SALES REPRESENTATIVE	PRIMARY CONTACT
Adam Smith Phone: 602-751-1798 Email: asmith@taser.com Fax: (480) 463-2201	Brandon Patin Phone: (832) 745-2891 Email: bpatin@tomballtx.gov Fax:

**Quote Summary**

Program Length	51.5333 Months
<b>TOTAL COST</b>	<b>\$8,736.00</b>
<b>ESTIMATED TOTAL W/ TAX</b>	<b>\$8,736.00</b>

**Discount Summary**

Average Savings Per Year	\$0.00
<b>TOTAL SAVINGS</b>	<b>\$0.00</b>

**Payment Summary**

<b>Date</b>	<b>Subtotal</b>	<b>Tax</b>	<b>Total</b>
Dec 2022	\$2,184.00	\$0.00	\$2,184.00
Apr 2024	\$2,184.00	\$0.00	\$2,184.00
Apr 2025	\$2,184.00	\$0.00	\$2,184.00
Apr 2026	\$2,184.00	\$0.00	\$2,184.00
<b>Total</b>	<b>\$8,736.00</b>	<b>\$0.00</b>	<b>\$8,736.00</b>

Quote Unbundled Price: \$8,736.00  
 Quote List Price: \$8,736.00  
 Quote Subtotal: \$8,736.00

**Pricing**

*All deliverables are detailed in Delivery Schedules section lower in proposal*

Item	Description	Qty	Term	Unbundled	List Price	Net Price	Subtotal	Tax	Total
<b>A la Carte Software</b>									
100673	AXON EVIDENCE - ECOM LICENSE - CONVERSION BASIC TO PRO	7	52		\$24.00	\$24.00	\$8,736.00	\$0.00	\$8,736.00
<b>Total</b>							<b>\$8,736.00</b>	<b>\$0.00</b>	<b>\$8,736.00</b>

**Delivery Schedule**

**Software**

Bundle	Item	Description	QTY	Estimated Start Date	Estimated End Date
A la Carte	100673	AXON EVIDENCE - ECOM LICENSE - CONVERSION BASIC TO PRO	7	01/15/2023	04/30/2027

## Shipping Locations

Location Number	Street	City	State	Zip	Country
	400 Fannin St	Tomball	TX	77375-4618	USA

## Payment Details

### Dec 2022

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 1	100673	AXON EVIDENCE - ECOM LICENSE - CONVERSION BASIC TO PRO	7	\$2,184.00	\$0.00	\$2,184.00
<b>Total</b>				<b>\$2,184.00</b>	<b>\$0.00</b>	<b>\$2,184.00</b>

### Apr 2024

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 2	100673	AXON EVIDENCE - ECOM LICENSE - CONVERSION BASIC TO PRO	7	\$2,184.00	\$0.00	\$2,184.00
<b>Total</b>				<b>\$2,184.00</b>	<b>\$0.00</b>	<b>\$2,184.00</b>

### Apr 2025

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 3	100673	AXON EVIDENCE - ECOM LICENSE - CONVERSION BASIC TO PRO	7	\$2,184.00	\$0.00	\$2,184.00
<b>Total</b>				<b>\$2,184.00</b>	<b>\$0.00</b>	<b>\$2,184.00</b>

### Apr 2026

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 4	100673	AXON EVIDENCE - ECOM LICENSE - CONVERSION BASIC TO PRO	7	\$2,184.00	\$0.00	\$2,184.00
<b>Total</b>				<b>\$2,184.00</b>	<b>\$0.00</b>	<b>\$2,184.00</b>

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Contract ZZ - EXPIRED - BuyBoard Contract 648-21 is incorporated by reference into the terms and conditions of this Agreement. In the event of conflict the terms of Axon's Master Services and Purchasing Agreement shall govern.

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Signature

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Date Signed

11/5/2024







**Axon Enterprise, Inc.**  
 17800 N 85th St.  
 Scottsdale, Arizona 85255  
 United States  
 VAT: 86-0741227  
 Domestic: (800) 978-2737  
 International: +1.800.978.2737

Q-448963-45601.662AS

Issued: 11/05/2024

Quote Expiration: 01/31/2023

Estimated Contract Start Date: 02/15/2023

Account Number: 106442

Payment Terms: N30

Delivery Method:

SHIP TO	BILL TO
Tomball Police Dept. - TX 400 Fannin St Tomball, TX 77375-4618 USA	Tomball Police Dept. - TX 401 Market St Tomball TX 77375-4645 USA Email:

SALES REPRESENTATIVE	PRIMARY CONTACT
Adam Smith Phone: 602-751-1798 Email: asmith@taser.com Fax: (480) 463-2201	Brandon Patin Phone: (832) 745-2891 Email: bpatin@tomballtx.gov Fax:

**Quote Summary**

Program Length	50.5333 Months
<b>TOTAL COST</b>	<b>\$3,978.00</b>
<b>ESTIMATED TOTAL W/ TAX</b>	<b>\$3,978.00</b>

**Discount Summary**

Average Savings Per Year	\$0.00
<b>TOTAL SAVINGS</b>	<b>\$0.00</b>

**Payment Summary**

<b>Date</b>	<b>Subtotal</b>	<b>Tax</b>	<b>Total</b>
Jan 2023	\$795.60	\$0.00	\$795.60
Oct 2023	\$795.60	\$0.00	\$795.60
Oct 2024	\$795.60	\$0.00	\$795.60
Oct 2025	\$795.60	\$0.00	\$795.60
Oct 2026	\$795.60	\$0.00	\$795.60
<b>Total</b>	<b>\$3,978.00</b>	<b>\$0.00</b>	<b>\$3,978.00</b>

Quote Unbundled Price: \$3,978.00  
 Quote List Price: \$3,978.00  
 Quote Subtotal: \$3,978.00

**Pricing**

*All deliverables are detailed in Delivery Schedules section lower in proposal*

Item	Description	Qty	Term	Unbundled	List Price	Net Price	Subtotal	Tax	Total
<b>A la Carte Software</b>									
ProLicense	Pro License Bundle	2	51		\$39.00	\$39.00	\$3,978.00	\$0.00	\$3,978.00
<b>Total</b>							<b>\$3,978.00</b>	<b>\$0.00</b>	<b>\$3,978.00</b>

**Delivery Schedule**

**Software**

Bundle	Item	Description	QTY	Estimated Start Date	Estimated End Date
Pro License Bundle	73683	AXON EVIDENCE - STORAGE - 10GB A LA CARTE	6	02/15/2023	04/30/2027
Pro License Bundle	73746	AXON EVIDENCE - ECOM LICENSE - PRO	2	02/15/2023	04/30/2027

## Shipping Locations

Location Number	Street	City	State	Zip	Country
	400 Fannin St	Tomball	TX	77375-4618	USA

## Payment Details

### Jan 2023

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 1	ProLicense	Pro License Bundle	2	\$795.60	\$0.00	\$795.60
<b>Total</b>				<b>\$795.60</b>	<b>\$0.00</b>	<b>\$795.60</b>

### Oct 2023

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 2	ProLicense	Pro License Bundle	2	\$795.60	\$0.00	\$795.60
<b>Total</b>				<b>\$795.60</b>	<b>\$0.00</b>	<b>\$795.60</b>

### Oct 2024

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 3	ProLicense	Pro License Bundle	2	\$795.60	\$0.00	\$795.60
<b>Total</b>				<b>\$795.60</b>	<b>\$0.00</b>	<b>\$795.60</b>

### Oct 2025

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 4	ProLicense	Pro License Bundle	2	\$795.60	\$0.00	\$795.60
<b>Total</b>				<b>\$795.60</b>	<b>\$0.00</b>	<b>\$795.60</b>

### Oct 2026

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 5	ProLicense	Pro License Bundle	2	\$795.60	\$0.00	\$795.60
<b>Total</b>				<b>\$795.60</b>	<b>\$0.00</b>	<b>\$795.60</b>

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Contract ZZ - EXPIRED - BuyBoard Contract 648-21 is incorporated by reference into the terms and conditions of this Agreement. In the event of conflict the terms of Axon's Master Services and Purchasing Agreement shall govern.

## Standard Terms and Conditions

### Axon Enterprise Inc. Sales Terms and Conditions

Axon Master Services and Purchasing Agreement:

This Quote is limited to and conditional upon your acceptance of the provisions set forth herein and Axon's Master Services and Purchasing Agreement (posted at <https://www.axon.com/sales-terms-and-conditions>), as well as the attached Statement of Work (SOW) for Axon Fleet and/or Axon Interview Room purchase, if applicable. In the event you and Axon have entered into a prior agreement to govern all future purchases, that agreement shall govern to the extent it includes the products and services being purchased and does not conflict with the Axon Customer Experience Improvement Program Appendix as described below.

ACEIP:

The Axon Customer Experience Improvement Program Appendix, which includes the sharing of de-identified segments of Agency Content with Axon to develop new products and improve your product experience (posted at [www.axon.com/legal/sales-terms-and-conditions](http://www.axon.com/legal/sales-terms-and-conditions)), is incorporated herein by reference. By signing below, you agree to the terms of the Axon Customer Experience Improvement Program.

Acceptance of Terms:

Any purchase order issued in response to this Quote is subject solely to the above referenced terms and conditions. By signing below, you represent that you are lawfully able to enter into contracts. If you are signing on behalf of an entity (including but not limited to the company, municipality, or government agency for whom you work), you represent to Axon that you have legal authority to bind that entity. If you do not have this authority, please do not sign this Quote.

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Signature

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Date Signed

11/5/2024







**Axon Enterprise, Inc.**  
 17800 N 85th St.  
 Scottsdale, Arizona 85255  
 United States  
 VAT: 86-0741227  
 Domestic: (800) 978-2737  
 International: +1.800.978.2737

Q-503615-45601.758AS

Issued: 11/05/2024

Quote Expiration: 10/27/2023

Estimated Contract Start Date: 11/01/2023

Account Number: 106442

Payment Terms: N30

Delivery Method:

SHIP TO	BILL TO
Tomball Police Dept. - TX 400 Fannin St Tomball, TX 77375-4618 USA	Tomball Police Dept. - TX 401 Market St Tomball TX 77375-4645 USA Email: tulostt@hotmail.com

SALES REPRESENTATIVE	PRIMARY CONTACT
Adam Smith Phone: 602-751-1798 Email: asmith@taser.com Fax: (480) 463-2201	Keith Ferguson Phone: (281) 351-5451 Email: kferguson@tomballtx.gov Fax:

**Quote Summary**

Program Length	59 Months
<b>TOTAL COST</b>	<b>\$13,813.90</b>
<b>ESTIMATED TOTAL W/ TAX</b>	<b>\$13,813.90</b>

**Discount Summary**

Average Savings Per Year	\$923.45
<b>TOTAL SAVINGS</b>	<b>\$4,540.30</b>

**Payment Summary**

<b>Date</b>	<b>Subtotal</b>	<b>Tax</b>	<b>Total</b>
Oct 2023	\$2,762.78	\$0.00	\$2,762.78
Oct 2024	\$2,762.78	\$0.00	\$2,762.78
Oct 2025	\$2,762.78	\$0.00	\$2,762.78
Oct 2026	\$2,762.78	\$0.00	\$2,762.78
Oct 2027	\$2,762.78	\$0.00	\$2,762.78
<b>Total</b>	<b>\$13,813.90</b>	<b>\$0.00</b>	<b>\$13,813.90</b>

Quote Unbundled Price:	\$18,354.20
Quote List Price:	\$15,180.00
Quote Subtotal:	\$13,813.90

## Pricing

All deliverables are detailed in Delivery Schedules section lower in proposal

Item	Description	Qty	Term	Unbundled	List Price	Net Price	Subtotal	Tax	Total
<b>Program</b>									
T7Basic	TASER 7 Basic Bundle	5	59	\$56.76	\$46.00	\$41.86	\$12,348.70	\$0.00	\$12,348.70
<b>A la Carte Hardware</b>									
22176	AXON TASER 7 - CARTRIDGE - LIVE CLOSE QUART (12-DEGREE) NS	20			\$40.25	\$36.63	\$732.60	\$0.00	\$732.60
22175	AXON TASER 7 - CARTRIDGE - LIVE STANDOFF (3.5-DEGREE) NS	20			\$40.25	\$36.63	\$732.60	\$0.00	\$732.60
<b>Total</b>							<b>\$13,813.90</b>	<b>\$0.00</b>	<b>\$13,813.90</b>

## Delivery Schedule

### Hardware

Bundle	Item	Description	QTY	Shipping Location	Estimated Delivery Date
TASER 7 Basic Bundle	20008	AXON TASER 7 - HANDLE - HIGH VIS GRN LASER CLASS 3R YLW	5		10/01/2023
TASER 7 Basic Bundle	20018	AXON TASER - BATTERY PACK - TACTICAL	6		10/01/2023
TASER 7 Basic Bundle	20160	AXON TASER 7 - HOLSTER - SAFARILAND RH+CART CARRIER	5		10/01/2023
TASER 7 Basic Bundle	70033	AXON - DOCK WALL MOUNT - BRACKET ASSY	1		10/01/2023
TASER 7 Basic Bundle	71019	AXON BODY - DOCK POWERCORD - NORTH AMERICA	1		10/01/2023
TASER 7 Basic Bundle	74200	AXON TASER - DOCK - SIX BAY PLUS CORE	1		10/01/2023
TASER 7 Basic Bundle	80087	AXON TASER - TARGET - CONDUCTIVE PROFESSIONAL RUGGEDIZED	1		10/01/2023
TASER 7 Basic Bundle	80090	AXON TASER - TARGET FRAME - PROFESSIONAL 27.5 IN X 75 IN	1		10/01/2023
A la Carte	22175	AXON TASER 7 - CARTRIDGE - LIVE STANDOFF (3.5-DEGREE) NS	20		10/01/2023
A la Carte	22176	AXON TASER 7 - CARTRIDGE - LIVE CLOSE QUART (12-DEGREE) NS	20		10/01/2023

### Software

Bundle	Item	Description	QTY	Estimated Start Date	Estimated End Date
TASER 7 Basic Bundle	20248	AXON TASER - EVIDENCE.COM LICENSE	5	11/01/2023	09/30/2028
TASER 7 Basic Bundle	20248	AXON TASER - EVIDENCE.COM LICENSE	1	11/01/2023	09/30/2028

## Warranties

Bundle	Item	Description	QTY	Estimated Start Date	Estimated End Date
TASER 7 Basic Bundle	80374	AXON TASER - EXT WARRANTY - BATTERY PACK T7/T10	6	10/01/2024	09/30/2028
TASER 7 Basic Bundle	80395	AXON TASER 7 - EXT WARRANTY - HANDLE	5	10/01/2024	09/30/2028
TASER 7 Basic Bundle	80396	AXON TASER - EXT WARRANTY - DOCK SIX BAY T7/T10	1	10/01/2024	09/30/2028

## Shipping Locations

Location Number	Street	City	State	Zip	Country
	400 Fannin St	Tomball	TX	77375-4618	USA

## Payment Details

### Oct 2023

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 1	22175	AXON TASER 7 - CARTRIDGE - LIVE STANDOFF (3.5-DEGREE) NS	20	\$146.52	\$0.00	\$146.52
Year 1	22176	AXON TASER 7 - CARTRIDGE - LIVE CLOSE QUART (12-DEGREE) NS	20	\$146.52	\$0.00	\$146.52
Year 1	T7Basic	TASER 7 Basic Bundle	5	\$2,469.74	\$0.00	\$2,469.74
<b>Total</b>				<b>\$2,762.78</b>	<b>\$0.00</b>	<b>\$2,762.78</b>

### Oct 2024

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 2	22175	AXON TASER 7 - CARTRIDGE - LIVE STANDOFF (3.5-DEGREE) NS	20	\$146.52	\$0.00	\$146.52
Year 2	22176	AXON TASER 7 - CARTRIDGE - LIVE CLOSE QUART (12-DEGREE) NS	20	\$146.52	\$0.00	\$146.52
Year 2	T7Basic	TASER 7 Basic Bundle	5	\$2,469.74	\$0.00	\$2,469.74
<b>Total</b>				<b>\$2,762.78</b>	<b>\$0.00</b>	<b>\$2,762.78</b>

### Oct 2025

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 3	22175	AXON TASER 7 - CARTRIDGE - LIVE STANDOFF (3.5-DEGREE) NS	20	\$146.52	\$0.00	\$146.52
Year 3	22176	AXON TASER 7 - CARTRIDGE - LIVE CLOSE QUART (12-DEGREE) NS	20	\$146.52	\$0.00	\$146.52
Year 3	T7Basic	TASER 7 Basic Bundle	5	\$2,469.74	\$0.00	\$2,469.74
<b>Total</b>				<b>\$2,762.78</b>	<b>\$0.00</b>	<b>\$2,762.78</b>

### Oct 2026

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 4	22175	AXON TASER 7 - CARTRIDGE - LIVE STANDOFF (3.5-DEGREE) NS	20	\$146.52	\$0.00	\$146.52
Year 4	22176	AXON TASER 7 - CARTRIDGE - LIVE CLOSE QUART (12-DEGREE) NS	20	\$146.52	\$0.00	\$146.52
Year 4	T7Basic	TASER 7 Basic Bundle	5	\$2,469.74	\$0.00	\$2,469.74
<b>Total</b>				<b>\$2,762.78</b>	<b>\$0.00</b>	<b>\$2,762.78</b>

### Oct 2027

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 5	22175	AXON TASER 7 - CARTRIDGE - LIVE STANDOFF (3.5-DEGREE) NS	20	\$146.52	\$0.00	\$146.52
Year 5	22176	AXON TASER 7 - CARTRIDGE - LIVE CLOSE QUART (12-DEGREE) NS	20	\$146.52	\$0.00	\$146.52
Year 5	T7Basic	TASER 7 Basic Bundle	5	\$2,469.74	\$0.00	\$2,469.74
<b>Total</b>				<b>\$2,762.78</b>	<b>\$0.00</b>	<b>\$2,762.78</b>

***Sky-hero products are manufactured in European Union and are classified as military grade, transfer and re-export is strictly prohibited.***

**Tax is estimated based on rates applicable at date of quote and subject to change at time of invoicing. If a tax exemption certificate should be applied, please submit prior to invoicing.**

Contract ZZ - EXPIRED - BuyBoard Contract 648-21 is incorporated by reference into the terms and conditions of this Agreement. In the event of conflict the terms of Axon's Master Services and Purchasing Agreement shall govern.

## Standard Terms and Conditions

### Axon Enterprise Inc. Sales Terms and Conditions

Axon Master Services and Purchasing Agreement:

This Quote is limited to and conditional upon your acceptance of the provisions set forth herein and Axon's Master Services and Purchasing Agreement (posted at <https://www.axon.com/sales-terms-and-conditions>), as well as the attached Statement of Work (SOW) for Axon Fleet and/or Axon Interview Room purchase, if applicable. In the event you and Axon have entered into a prior agreement to govern all future purchases, that agreement shall govern to the extent it includes the products and services being purchased and does not conflict with the Axon Customer Experience Improvement Program Appendix as described below.

ACEIP:

The Axon Customer Experience Improvement Program Appendix, which includes the sharing of de-identified segments of Agency Content with Axon to develop new products and improve your product experience (posted at [www.axon.com/legal/sales-terms-and-conditions](http://www.axon.com/legal/sales-terms-and-conditions)), is incorporated herein by reference. By signing below, you agree to the terms of the Axon Customer Experience Improvement Program.

Acceptance of Terms:

Any purchase order issued in response to this Quote is subject solely to the above referenced terms and conditions. By signing below, you represent that you are lawfully able to enter into contracts. If you are signing on behalf of an entity (including but not limited to the company, municipality, or government agency for whom you work), you represent to Axon that you have legal authority to bind that entity. If you do not have this authority, please do not sign this Quote.



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Signature

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Date Signed

11/5/2024





**Axon Enterprise, Inc.**  
 17800 N 85th St.  
 Scottsdale, Arizona 85255  
 United States  
 VAT: 86-0741227  
 Domestic: (800) 978-2737  
 International: +1.800.978.2737

Q-331466-44482.811DW

Issued: 10/13/2021

Quote Expiration: 10/31/2021

EST Contract Start Date: 11/01/2021

Account Number: 106442

Payment Terms: N30

Delivery Method: Fedex - Ground

SHIP TO	BILL TO
400 Fannin St 400 Fannin St Tomball, TX 77375-4618 USA	Tomball Police Dept. - TX 401 Market St Tomball, TX 77375-4645 USA Email:

SALES REPRESENTATIVE	PRIMARY CONTACT
Daniel Woodhull Phone: Email: dwoodhull@axon.com Fax:	Phone: (281) 290-1344 Email: bpatin@tomballtx.gov Fax:

Program Length	60 Months
<b>TOTAL COST</b>	<b>\$416,812.74</b>
<b>ESTIMATED TOTAL W/ TAX</b>	<b>\$416,812.74</b>

Bundle Savings	\$71,596.78
Additional Savings	\$11,222.24
<b>TOTAL SAVINGS</b>	<b>\$82,819.02</b>

PAYMENT PLAN: AB3		
PLAN NAME	INVOICE DATE	AMOUNT DUE
Year 1	Nov, 2021	\$48,034.55
Year 2	Nov, 2022	\$48,034.55
Year 3	Nov, 2023	\$48,034.55
Year 4	Nov, 2024	\$48,034.55
Year 5	Nov, 2025	\$48,034.55

**PAYMENT PLAN: Fleet 3 2022**

**PLAN NAME**

**INVOICE DATE**

**AMOUNT DUE**

1		Apr, 2022	\$35,328.00
2		Apr, 2023	\$35,328.00
3		Apr, 2024	\$35,328.00
4		Apr, 2025	\$35,328.00
5		Apr, 2026	\$35,328.00

**RECURRING BILLING**

Item	Description	QTY	Frequency	Amount Due
73686	EVIDENCE.COM UNLIMITED AXON DEVICE STORAGE	40	Annual	\$57,600.00
73682	AUTO TAGGING LICENSE	40	Annual	\$21,600.00
85144	AXON STARTER	1		\$0.00
80464	EXT WARRANTY, CAMERA (TAP)	40		\$19,423.88
73309	AXON CAMERA REFRESH ONE	41		\$21,467.66
73310	AXON CAMERA REFRESH TWO	41		\$22,462.85
80464	EXT WARRANTY, CAMERA (TAP)	1		\$485.60
80465	EXT WARRANTY, MULTI-BAY DOCK (TAP)	5		\$2,325.68
73689	MULTI-BAY BWC DOCK 1ST REFRESH	5		\$2,971.70
73688	MULTI-BAY BWC DOCK 2ND REFRESH	5		\$3,110.13
73840	EVIDENCE.COM BASIC LICENSE	54	Annual	\$44,970.78
73683	10 GB EVIDENCE.COM A-LA-CART STORAGE	54	Annual	\$1,199.22
73746	PROFESSIONAL EVIDENCE.COM LICENSE (Formerly SKU 73746)	4	Annual	\$8,626.57
73683	10 GB EVIDENCE.COM A-LA-CART STORAGE	12	Annual	\$265.43
80402	RESPOND DEVICE LICENSE - FLEET 3 - LICENSE	16		\$14,400.00
80410	FLEET, EVIDENCE LICENSE, 1 CAMERA STORAGE, LICENSE	32		\$27,370.59
80400	FLEET, VEHICLE LICENSE, LICENSE	16		\$16,100.35
73391	FLEET 3 NEW INSTALLATION (PER VEHICLE)	16		\$16,100.35
72040	FLEET REFRESH, 2 CAMERA KIT	16		\$36,359.96
80495	EXT WARRANTY, FLEET 3, 2 CAMERA KIT	16		\$5,169.29
80379	EXT WARRANTY, FLEET 2 SIGNAL UNIT	16		\$669.24

**RECURRING BILLING**

Item	Description	QTY	Frequency	Amount Due
73686	EVIDENCE.COM UNLIMITED AXON DEVICE STORAGE	40	Annual	\$57,600.00
73682	AUTO TAGGING LICENSE	40	Annual	\$21,600.00

85144	AXON STARTER	1	\$0.00
80464	EXT WARRANTY, CAMERA (TAP)	40	\$19,423.88
73309	AXON CAMERA REFRESH ONE	41	\$21,467.66
73310	AXON CAMERA REFRESH TWO	41	\$22,462.85
80464	EXT WARRANTY, CAMERA (TAP)	1	\$485.60
80465	EXT WARRANTY, MULTI-BAY DOCK (TAP)	5	\$2,325.68
73689	MULTI-BAY BWC DOCK 1ST REFRESH	5	\$2,971.70
73688	MULTI-BAY BWC DOCK 2ND REFRESH	5	\$3,110.13
73840	EVIDENCE.COM BASIC LICENSE	54	\$44,970.78
73683	10 GB EVIDENCE.COM A-LA-CART STORAGE	54	\$1,199.22
73746	PROFESSIONAL EVIDENCE.COM LICENSE (Formerly SKU 73746)	4	\$8,626.57
73683	10 GB EVIDENCE.COM A-LA-CART STORAGE	12	\$265.43
80402	RESPOND DEVICE LICENSE - FLEET 3 - LICENSE	16	\$14,400.00
80410	FLEET, EVIDENCE LICENSE, 1 CAMERA STORAGE, LICENSE	32	\$27,370.59
80400	FLEET, VEHICLE LICENSE, LICENSE	16	\$16,100.35
73391	FLEET 3 NEW INSTALLATION (PER VEHICLE)	16	\$16,100.35
72040	FLEET REFRESH, 2 CAMERA KIT	16	\$36,359.96
80495	EXT WARRANTY, FLEET 3, 2 CAMERA KIT	16	\$5,169.29
80379	EXT WARRANTY, FLEET 2 SIGNAL UNIT	16	\$669.24

Quote Details

**Bundle Summary**

Item	Description	QTY
BWCamTAP	Body Worn Camera TAP Bundle	40
BWCamMBDTAP	Body Worn Camera Multi-Bay Dock TAP Bundle	5
AB3MBD	AB3 Multi Bay Dock Bundle	5
BasicLicense	Basic License Bundle	54
ProLicense	Pro License Bundle	4
AB3C	AB3 Camera Bundle	40
Fleet3B+TAP	Fleet 3 Basic + TAP	16

<b>Bundle: Body Worn Camera TAP Bundle</b>	<b>Quantity: 40</b>	<b>Start: 11/1/2021</b>	<b>End: 10/31/2026</b>	<b>Total: 63839.99 USD</b>		
Category	Item	Description	QTY	List Unit Price	Net Unit Price	Total(USD)

Camera Warranty	80464	EXT WARRANTY, CAMERA (TAP)	40	\$11.67	\$8.09	\$19,423.88
Camera Refresh 1 with Spares	73309	AXON CAMERA REFRESH ONE	41	\$755.00	\$523.60	\$21,467.66
Camera Refresh 2 with Spares	73310	AXON CAMERA REFRESH TWO	41	\$790.00	\$547.87	\$22,462.85
Spare Camera Warranty	80464	EXT WARRANTY, CAMERA (TAP)	1	\$11.67	\$8.09	\$485.60

**Bundle: Body Worn Camera Multi-Bay Dock TAP Bundle      Quantity: 5      Start: 11/1/2021      End: 10/31/2026      Total: 8407.51 USD**

Category	Item	Description	QTY	List Unit Price	Net Unit Price	Total(USD)
Dock Warranty	80465	EXT WARRANTY, MULTI-BAY DOCK (TAP)	5	\$21.00	\$7.75	\$2,325.68
Multi-Bay Dock Refresh 1	73689	MULTI-BAY BWC DOCK 1ST REFRESH	5	\$1,610.00	\$594.34	\$2,971.70
Multi-Bay Dock Refresh 2	73688	MULTI-BAY BWC DOCK 2ND REFRESH	5	\$1,685.00	\$622.03	\$3,110.13

**Bundle: AB3 Multi Bay Dock Bundle      Quantity: 5      Start: 11/1/2021      End: 10/31/2026      Total: 7101.25 USD**

Category	Item	Description	QTY	List Unit Price	Net Unit Price	Total(USD)
Dock	74210	AXON BODY 3 - 8 BAY DOCK	5	\$1,495.00	\$1,420.25	\$7,101.25
Power Cord	71019	NORTH AMER POWER CORD FOR AB3 8-BAY, AB2 1-BAY / 6-BAY DOCK	5	\$0.00	\$0.00	\$0.00

**Bundle: Basic License Bundle      Quantity: 54      Start: 11/1/2021      End: 10/31/2026      Total: 46170 USD**

Category	Item	Description	QTY	List Unit Price	Net Unit Price	Total(USD)
E.com License	73840	EVIDENCE.COM BASIC LICENSE	54	\$15.00	\$13.88	\$44,970.78
A La Carte Storage	73683	10 GB EVIDENCE.COM A-LA-CART STORAGE	54	\$0.40	\$0.37	\$1,199.22

**Bundle: Pro License Bundle      Quantity: 4      Start: 11/1/2021      End: 10/31/2026      Total: 8892 USD**

Category	Item	Description	QTY	List Unit Price	Net Unit Price	Total(USD)
E.com License	73746	PROFESSIONAL EVIDENCE.COM LICENSE (Formerly SKU 73746)	4	\$39.00	\$35.94	\$8,626.57
A La Carte Storage	73683	10 GB EVIDENCE.COM A-LA-CART STORAGE	12	\$0.40	\$0.37	\$265.43

**Bundle: AB3 Camera Bundle      Quantity: 40      Start: 11/1/2021      End: 10/31/2026      Total: 26562 USD**

Category	Item	Description	QTY	List Unit Price	Net Unit Price	Total(USD)
Camera	73202	AXON BODY 3 - NA10	40	\$699.00	\$664.05	\$26,562.00



Spare Camera	73202	AXON BODY 3 - NA10	1	\$0.00	\$0.00	\$0.00
Camera Mount	74028	WING CLIP MOUNT, AXON RAPIDLOCK	44	\$0.00	\$0.00	\$0.00
USB	11534	USB-C to USB-A CABLE FOR AB3 OR FLEX 2	44	\$0.00	\$0.00	\$0.00

**Bundle: Fleet 3 Basic + TAP    Quantity: 16    Start: 5/1/2022    End: 4/30/2027    Total: 162239.99 USD**

Category	Item	Description	QTY	List Unit Price	Net Unit Price	Total(USD)
Storage	80410	FLEET, EVIDENCE LICENSE, 1 CAMERA STORAGE, LICENSE	32	\$17.00	\$14.26	\$27,370.59
E.com License	80400	FLEET, VEHICLE LICENSE, LICENSE	16	\$20.00	\$16.77	\$16,100.35
Camera Kit & Warranty	72036	FLEET 3 STANDARD 2 CAMERA KIT	16	\$2,405.00	\$2,016.74	\$32,267.78
SIM	72048	FLEET SIM, ATT	16	\$15.00	\$12.58	\$201.25
Router	11634	CRADLEPOINT IBR900-1200M-NPS+5 YEAR NETCLOUD	16	\$1,509.00	\$1,265.39	\$20,246.19
Router Antenna	71200	FLEET ANT, AIRGAIN, 5-IN-1, 2LTE, 2WIFI, 1GNSS, BL	16	\$249.00	\$208.80	\$3,340.82
Ethernet Cable	74110	FLEET ETHERNET CABLE, CAT6, 25 FT	16	\$25.00	\$20.96	\$335.42
Vehicle Installation	73391	FLEET 3 NEW INSTALLATION (PER VEHICLE)	16	\$1,200.00	\$1,006.27	\$16,100.35
Camera Refresh	72040	FLEET REFRESH, 2 CAMERA KIT	16	\$2,710.00	\$2,272.50	\$36,359.96
Axon Signal Unit	70112	AXON SIGNAL UNIT	16	\$279.00	\$233.96	\$3,743.33
Cable Assembly	70117	AXON SIGNAL UNIT, CABLE ASSEMBLY	16	\$25.00	\$20.96	\$335.42
Other	80495	EXT WARRANTY, FLEET 3, 2 CAMERA KIT	16	\$8.96	\$7.51	\$5,169.29
Other	80379	EXT WARRANTY, FLEET 2 SIGNAL UNIT	16	\$1.16	\$0.97	\$669.24

**Hardware**

Requested Ship Date	Item	Description	QTY
10/01/2021	80464	EXT WARRANTY, CAMERA (TAP)	40
10/01/2021	80464	EXT WARRANTY, CAMERA (TAP)	1
10/01/2021	11534	USB-C to USB-A CABLE FOR AB3 OR FLEX 2	44
10/01/2021	74028	WING CLIP MOUNT, AXON RAPIDLOCK	44
10/01/2021	73202	AXON BODY 3 - NA10	1
10/01/2021	73202	AXON BODY 3 - NA10	40
10/01/2021	71019	NORTH AMER POWER CORD FOR AB3 8-BAY, AB2 1-BAY / 6-BAY DOCK	5
10/01/2021	74210	AXON BODY 3 - 8 BAY DOCK	5
10/01/2021	80465	EXT WARRANTY, MULTI-BAY DOCK (TAP)	5
04/01/2022	72036	FLEET 3 STANDARD 2 CAMERA KIT	16
04/01/2022	80495	EXT WARRANTY, FLEET 3, 2 CAMERA KIT	16
04/01/2022	70117	AXON SIGNAL UNIT, CABLE ASSEMBLY	16
04/01/2022	70112	AXON SIGNAL UNIT	16



04/01/2022	80379	EXT WARRANTY, FLEET 2 SIGNAL UNIT	16
04/01/2022	71200	FLEET ANT. AIRGAIN, 5-IN-1, 2LTE, 2WIFI, 1GNSS, BL	16
04/01/2022	11634	CRADLEPOINT IBR900-1200M-NPS+5 YEAR NETCLOUD	16
04/01/2022	72048	FLEET SIM, ATT	16
04/01/2022	74110	FLEET ETHERNET CABLE, CAT6, 25 FT	16

**Tax is estimated based on rates applicable at date of quote and subject to change at time of invoicing. If a tax exemption certificate should be applied, please submit prior to invoicing.**

Contract BuyBoard Contract 648-21 is incorporated by reference into the terms and conditions of this Agreement. In the event of conflict the terms of Axon's Master Services and Purchasing Agreement shall govern.

## Standard Terms and Conditions

### Axon Enterprise Inc. Sales Terms and Conditions

#### Axon Master Services and Purchasing Agreement:

This Quote is limited to and conditional upon your acceptance of the provisions set forth herein and Axon's Master Services and Purchasing Agreement (posted at [www.axon.com/legal/sales-terms-and-conditions](http://www.axon.com/legal/sales-terms-and-conditions)), as well as the attached Statement of Work (SOW) for Axon Fleet and/or Axon Interview Room purchase, if applicable. In the event you and Axon have entered into a prior agreement to govern all future purchases, that agreement shall govern to the extent it includes the products and services being purchased and does not conflict with the Axon Customer Experience Improvement Program Appendix as described below.

#### ACEIP:

The Axon Customer Experience Improvement Program Appendix, which includes the sharing of de-identified segments of Agency Content with Axon to develop new products and improve your product experience (posted at [www.axon.com/legal/sales-terms-and-conditions](http://www.axon.com/legal/sales-terms-and-conditions)), is incorporated herein by reference. By signing below, you agree to the terms of the Axon Customer Experience Improvement Program.

#### Acceptance of Terms:

Any purchase order issued in response to this Quote is subject solely to the above referenced terms and conditions. By signing below, you represent that you are lawfully able to enter into contracts. If you are signing on behalf of an entity (including but not limited to the company, municipality, or government agency for whom you work), you represent to Axon that you have legal authority to bind that entity. If you do not have this authority, please do not sign this Quote.

Signature

ISPR

Date Signed

10-14-21

10/13/2021



**Axon Enterprise, Inc.**  
 17800 N 85th St.  
 Scottsdale, Arizona 85255  
 United States  
 VAT: 86-0741227  
 Domestic: (800) 978-2737  
 International: +1.800.978.2737

Q-434825-45601.717AS

Issued: 11/05/2024

Quote Expiration: 11/30/2022

Estimated Contract Start Date: 12/15/2022

Account Number: 106442

Payment Terms: N30

Delivery Method:

SHIP TO	BILL TO
Tomball Police Dept. - TX 400 Fannin St Tomball, TX 77375-4618 USA	Tomball Police Dept. - TX 401 Market St Tomball TX 77375-4645 USA Email:

SALES REPRESENTATIVE	PRIMARY CONTACT
Adam Smith Phone: 602-751-1798 Email: asmith@taser.com Fax: (480) 463-2201	Brandon Patin Phone: (832) 745-2891 Email: bpatin@tomballtx.gov Fax:

**Quote Summary**

Program Length	58.5484 Months
<b>TOTAL COST</b>	<b>\$6,617.73</b>
<b>ESTIMATED TOTAL W/ TAX</b>	<b>\$6,617.73</b>

**Discount Summary**

Average Savings Per Year	\$843.59
<b>TOTAL SAVINGS</b>	<b>\$4,115.91</b>

**Payment Summary**

<b>Date</b>	<b>Subtotal</b>	<b>Tax</b>	<b>Total</b>
Nov 2022	\$1,323.54	\$0.00	\$1,323.54
Oct 2023	\$1,323.55	\$0.00	\$1,323.55
Oct 2024	\$1,323.55	\$0.00	\$1,323.55
Oct 2025	\$1,323.55	\$0.00	\$1,323.55
Oct 2026	\$1,323.54	\$0.00	\$1,323.54
<b>Total</b>	<b>\$6,617.73</b>	<b>\$0.00</b>	<b>\$6,617.73</b>

Quote Unbundled Price:	\$10,733.64
Quote List Price:	\$6,558.80
Quote Subtotal:	\$6,617.73

## Pricing

*All deliverables are detailed in Delivery Schedules section lower in proposal*

Item	Description	Qty	Term	Unbundled	List Price	Net Price	Subtotal	Tax	Total
<b>Program</b>									
BWCamMBDTAP	Body Worn Camera Multi-Bay Dock TAP Bundle	2	59	\$64.88	\$29.50	\$30.00	\$3,539.93	\$0.00	\$3,539.93
<b>A la Carte Hardware</b>									
AB3MBD	AB3 Multi Bay Dock Bundle	2			\$1,538.90	\$1,538.90	\$3,077.80	\$0.00	\$3,077.80
<b>Total</b>							<b>\$6,617.73</b>	<b>\$0.00</b>	<b>\$6,617.73</b>

## Delivery Schedule

### Hardware

Bundle	Item	Description	QTY	Shipping Location	Estimated Delivery Date
AB3 Multi Bay Dock Bundle	70033	AXON - DOCK WALL MOUNT - BRACKET ASSY	2		11/15/2022
AB3 Multi Bay Dock Bundle	71019	AXON BODY - DOCK POWERCORD - NORTH AMERICA	2		11/15/2022
AB3 Multi Bay Dock Bundle	74210	AXON BODY 3 - DOCK - EIGHT BAY	2		11/15/2022
Body Worn Camera Multi-Bay Dock TAP Bundle	73689	AXON BODY - TAP REFRESH 1 - DOCK MULTI BAY	2		05/15/2025
Body Worn Camera Multi-Bay Dock TAP Bundle	73688	AXON BODY - TAP REFRESH 2 - DOCK MULTI BAY	2		10/15/2027

### Warranties

Bundle	Item	Description	QTY	Estimated Start Date	Estimated End Date
Body Worn Camera Multi-Bay Dock TAP Bundle	80465	AXON BODY - TAP WARRANTY - MULTI BAY DOCK	2	11/15/2023	10/31/2027



## Shipping Locations

Location Number	Street	City	State	Zip	Country
	400 Fannin St	Tomball	TX	77375-4618	USA

## Payment Details

### Nov 2022

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 1	AB3MBD	AB3 Multi Bay Dock Bundle	2	\$615.55	\$0.00	\$615.55
Year 1	BWCamMBDTAP	Body Worn Camera Multi-Bay Dock TAP Bundle	2	\$707.99	\$0.00	\$707.99
<b>Total</b>				<b>\$1,323.54</b>	<b>\$0.00</b>	<b>\$1,323.54</b>

### Oct 2023

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 2	AB3MBD	AB3 Multi Bay Dock Bundle	2	\$615.57	\$0.00	\$615.57
Year 2	BWCamMBDTAP	Body Worn Camera Multi-Bay Dock TAP Bundle	2	\$707.98	\$0.00	\$707.98
<b>Total</b>				<b>\$1,323.55</b>	<b>\$0.00</b>	<b>\$1,323.55</b>

### Oct 2024

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 3	AB3MBD	AB3 Multi Bay Dock Bundle	2	\$615.57	\$0.00	\$615.57
Year 3	BWCamMBDTAP	Body Worn Camera Multi-Bay Dock TAP Bundle	2	\$707.98	\$0.00	\$707.98
<b>Total</b>				<b>\$1,323.55</b>	<b>\$0.00</b>	<b>\$1,323.55</b>

### Oct 2025

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 4	AB3MBD	AB3 Multi Bay Dock Bundle	2	\$615.57	\$0.00	\$615.57
Year 4	BWCamMBDTAP	Body Worn Camera Multi-Bay Dock TAP Bundle	2	\$707.98	\$0.00	\$707.98
<b>Total</b>				<b>\$1,323.55</b>	<b>\$0.00</b>	<b>\$1,323.55</b>

### Oct 2026

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 5	AB3MBD	AB3 Multi Bay Dock Bundle	2	\$615.56	\$0.00	\$615.56
Year 5	BWCamMBDTAP	Body Worn Camera Multi-Bay Dock TAP Bundle	2	\$707.98	\$0.00	\$707.98
<b>Total</b>				<b>\$1,323.54</b>	<b>\$0.00</b>	<b>\$1,323.54</b>

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Contract ZZ - EXPIRED - BuyBoard Contract 648-21 is incorporated by reference into the terms and conditions of this Agreement. In the event of conflict the terms of Axon's Master Services and Purchasing Agreement shall govern.

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Signature

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Date Signed

11/5/2024





**Axon Enterprise, Inc.**  
 17800 N 85th St.  
 Scottsdale, Arizona 85255  
 United States  
 VAT: 86-0741227  
 Domestic: (800) 978-2737  
 International: +1.800.978.2737

Q-526544-45601.663AS

Issued: 11/05/2024

Quote Expiration: 11/30/2023

Estimated Contract Start Date: 12/15/2023

Account Number: 106442

Payment Terms: N30

Delivery Method:

SHIP TO	BILL TO
Tomball Police Dept. - TX 400 Fannin St Tomball, TX 77375-4618 USA	Tomball Police Dept. - TX 401 Market St Tomball TX 77375-4645 USA Email:

SALES REPRESENTATIVE	PRIMARY CONTACT
Adam Smith Phone: 602-751-1798 Email: asmith@taser.com Fax: (480) 463-2201	Brandon Patin Phone: (832) 745-2891 Email: bpatin@tomballtx.gov Fax:

**Quote Summary**

Program Length	40.5333 Months
<b>TOTAL COST</b>	<b>\$39,109.67</b>
<b>ESTIMATED TOTAL W/ TAX</b>	<b>\$39,109.67</b>

**Discount Summary**

Average Savings Per Year	\$4,286.31
<b>TOTAL SAVINGS</b>	<b>\$14,478.19</b>

**Payment Summary**

<b>Date</b>	<b>Subtotal</b>	<b>Tax</b>	<b>Total</b>
Nov 2023	\$16,095.41	\$0.00	\$16,095.41
Apr 2024	\$7,671.42	\$0.00	\$7,671.42
Apr 2025	\$7,671.42	\$0.00	\$7,671.42
Apr 2026	\$7,671.42	\$0.00	\$7,671.42
<b>Total</b>	<b>\$39,109.67</b>	<b>\$0.00</b>	<b>\$39,109.67</b>

Quote Unbundled Price:	\$53,587.86
Quote List Price:	\$38,786.04
Quote Subtotal:	\$39,109.67

## Pricing

All deliverables are detailed in Delivery Schedules section lower in proposal

Item	Description	Qty	Term	Unbundled	List Price	Net Price	Subtotal	Tax	Total
<b>Program</b>									
80462	TRUE UP - FLEET 3 ADVANCED WITH TAP	3	25		\$108.00	\$112.32	\$8,424.00	\$0.00	\$8,424.00
Fleet3A	Fleet 3 Advanced	3	41	\$369.82	\$249.48	\$249.48	\$30,685.67	\$0.00	\$30,685.67
<b>Total</b>							<b>\$39,109.67</b>	<b>\$0.00</b>	<b>\$39,109.67</b>

## Delivery Schedule

### Hardware

Bundle	Item	Description	QTY	Shipping Location	Estimated Delivery Date
Fleet 3 Advanced	11634	AXON FLEET - CRADLEPOINT IBR900-1200M-B-NPS+5YR NETCLOUD	3		11/15/2023
Fleet 3 Advanced	70112	AXON SIGNAL - SIGNAL UNIT	3		11/15/2023
Fleet 3 Advanced	71200	AXON FLEET - AIRGAIN ANT - 5-IN-1 2LTE 2WIFI 1GNSS BL	3		11/15/2023
Fleet 3 Advanced	72034	AXON FLEET 3 - SIM INSERTION - VZW	3		11/15/2023
Fleet 3 Advanced	72036	AXON FLEET 3 - STANDARD 2 CAMERA KIT	3		11/15/2023
Fleet 3 Advanced	72040	AXON FLEET - TAP REFRESH 1 - 2 CAMERA KIT	3		03/01/2027

### Software

Bundle	Item	Description	QTY	Estimated Start Date	Estimated End Date
Fleet 3 Advanced	80400	AXON EVIDENCE - FLEET VEHICLE LICENSE	3	12/15/2023	04/30/2027
Fleet 3 Advanced	80401	AXON FLEET 3 - ALPR LICENSE - 1 CAMERA	3	12/15/2023	04/30/2027
Fleet 3 Advanced	80402	AXON RESPOND - LICENSE - FLEET 3	3	12/15/2023	04/30/2027
Fleet 3 Advanced	80410	AXON EVIDENCE - STORAGE - FLEET 1 CAMERA UNLIMITED	6	12/15/2023	04/30/2027

### Services

Bundle	Item	Description	QTY
Fleet 3 Advanced	73391	AXON FLEET 3 - DEPLOYMENT PER VEHICLE - NOT OVERSIZED	3

### Warranties

Bundle	Item	Description	QTY	Estimated Start Date	Estimated End Date
Fleet 3 Advanced	80379	AXON SIGNAL - EXT WARRANTY - SIGNAL UNIT	3	11/15/2024	04/30/2027
Fleet 3 Advanced	80495	AXON FLEET 3 - EXT WARRANTY - 2 CAMERA KIT	3	11/15/2024	04/30/2027



## Shipping Locations

Location Number	Street	City	State	Zip	Country
	400 Fannin St	Tomball	TX	77375-4618	USA

## Payment Details

### Nov 2023

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
True Up	80462	TRUE UP - FLEET 3 ADVANCED WITH TAP	3	\$8,424.00	\$0.00	\$8,424.00
Year 1	Fleet3A	Fleet 3 Advanced	3	\$7,671.41	\$0.00	\$7,671.41
<b>Total</b>				<b>\$16,095.41</b>	<b>\$0.00</b>	<b>\$16,095.41</b>

### Apr 2024

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 2	Fleet3A	Fleet 3 Advanced	3	\$7,671.42	\$0.00	\$7,671.42
<b>Total</b>				<b>\$7,671.42</b>	<b>\$0.00</b>	<b>\$7,671.42</b>

### Apr 2025

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 3	Fleet3A	Fleet 3 Advanced	3	\$7,671.42	\$0.00	\$7,671.42
<b>Total</b>				<b>\$7,671.42</b>	<b>\$0.00</b>	<b>\$7,671.42</b>

### Apr 2026

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 4	Fleet3A	Fleet 3 Advanced	3	\$7,671.42	\$0.00	\$7,671.42
<b>Total</b>				<b>\$7,671.42</b>	<b>\$0.00</b>	<b>\$7,671.42</b>

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Contract ZZ - EXPIRED - BuyBoard Contract 648-21 is incorporated by reference into the terms and conditions of this Agreement. In the event of conflict the terms of Axon's Master Services and Purchasing Agreement shall govern.

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Signature

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Date Signed

11/5/2024





**Axon Enterprise, Inc.**  
 17800 N 85th St.  
 Scottsdale, Arizona 85255  
 United States  
 VAT: 86-0741227  
 Domestic: (800) 978-2737  
 International: +1.800.978.2737

Q-430943-45601.715AS

Issued: 11/05/2024

Quote Expiration: 12/31/2022

Estimated Contract Start Date: 03/01/2023

Account Number: 106442

Payment Terms: N30

Delivery Method:

SHIP TO	BILL TO
Tomball Police Dept. - TX 400 Fannin St Tomball, TX 77375-4618 USA	Tomball Police Dept. - TX 401 Market St Tomball TX 77375-4645 USA Email:

SALES REPRESENTATIVE	PRIMARY CONTACT
Adam Smith Phone: 602-751-1798 Email: asmith@taser.com Fax: (480) 463-2201	Brandon Patin Phone: (832) 745-2891 Email: bpatin@tomballtx.gov Fax:

**Quote Summary**

Program Length	50 Months
<b>TOTAL COST</b>	<b>\$11,480.00</b>
<b>ESTIMATED TOTAL W/ TAX</b>	<b>\$11,480.00</b>

**Discount Summary**

Average Savings Per Year	\$1,172.16
<b>TOTAL SAVINGS</b>	<b>\$4,884.00</b>

**Payment Summary**

<b>Date</b>	<b>Subtotal</b>	<b>Tax</b>	<b>Total</b>
Feb 2023	\$3,680.00	\$0.00	\$3,680.00
Apr 2024	\$2,600.00	\$0.00	\$2,600.00
Apr 2025	\$2,600.00	\$0.00	\$2,600.00
Apr 2026	\$2,600.00	\$0.00	\$2,600.00
<b>Total</b>	<b>\$11,480.00</b>	<b>\$0.00</b>	<b>\$11,480.00</b>

Quote Unbundled Price: \$16,364.00  
 Quote List Price: \$12,079.00  
 Quote Subtotal: \$11,480.00

**Pricing**

*All deliverables are detailed in Delivery Schedules section lower in proposal*

Item	Description	Qty	Term	Unbundled	List Price	Net Price	Subtotal	Tax	Total
<b>Program</b>									
80462	TRUE UP - FLEET 3 ADVANCED WITH TAP	1	10		\$108.00	\$108.00	\$1,080.00	\$0.00	\$1,080.00
Fleet3A	Fleet 3 Advanced	1	50	\$293.70	\$208.00	\$208.00	\$10,400.00	\$0.00	\$10,400.00
<b>A la Carte Hardware</b>									
100182	AXON BODY - MOUNT - RAPIDLOCK HIGH RETENTION WING CLIP	20			\$29.95	\$0.00	\$0.00	\$0.00	\$0.00
<b>Total</b>							<b>\$11,480.00</b>	<b>\$0.00</b>	<b>\$11,480.00</b>

**Delivery Schedule**

**Hardware**

Bundle	Item	Description	QTY	Shipping Location	Estimated Delivery Date
A la Carte	100182	AXON BODY - MOUNT - RAPIDLOCK HIGH RETENTION WING CLIP	20		11/01/2022
Fleet 3 Advanced	11634	AXON FLEET - CRADLEPOINT IBR900-1200M-B-NPS+5YR NETCLOUD	1		02/01/2023
Fleet 3 Advanced	70112	AXON SIGNAL - SIGNAL UNIT	1		02/01/2023
Fleet 3 Advanced	71200	AXON FLEET - AIRGAIN ANT - 5-IN-1 2LTE 2WIFI 1GNSS BL	1		02/01/2023
Fleet 3 Advanced	72036	AXON FLEET 3 - STANDARD 2 CAMERA KIT	1		02/01/2023
Fleet 3 Advanced	72048	AXON FLEET 3 - SIM INSERTION - ATT	1		02/01/2023
Fleet 3 Advanced	72040	AXON FLEET - TAP REFRESH 1 - 2 CAMERA KIT	1		02/01/2028

**Software**

Bundle	Item	Description	QTY	Estimated Start Date	Estimated End Date
Fleet 3 Advanced	80400	AXON EVIDENCE - FLEET VEHICLE LICENSE	1	03/01/2023	04/30/2027
Fleet 3 Advanced	80401	AXON FLEET 3 - ALPR LICENSE - 1 CAMERA	1	03/01/2023	04/30/2027
Fleet 3 Advanced	80402	AXON RESPOND - LICENSE - FLEET 3	1	03/01/2023	04/30/2027
Fleet 3 Advanced	80410	AXON EVIDENCE - STORAGE - FLEET 1 CAMERA UNLIMITED	2	03/01/2023	04/30/2027

**Services**

Bundle	Item	Description	QTY
Fleet 3 Advanced	73391	AXON FLEET 3 - DEPLOYMENT PER VEHICLE - NOT OVERSIZED	1

**Warranties**

Bundle	Item	Description	QTY	Estimated Start Date	Estimated End Date
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## Warranties

Bundle	Item	Description	QTY	Estimated Start Date	Estimated End Date
Fleet 3 Advanced	80379	AXON SIGNAL - EXT WARRANTY - SIGNAL UNIT	1	02/01/2024	04/30/2027
Fleet 3 Advanced	80495	AXON FLEET 3 - EXT WARRANTY - 2 CAMERA KIT	1	02/01/2024	04/30/2027

## Shipping Locations

Location Number	Street	City	State	Zip	Country
	400 Fannin St	Tomball	TX	77375-4618	USA

## Payment Details

### Feb 2023

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
True Up	80462	TRUE UP - FLEET 3 ADVANCED WITH TAP	1	\$1,080.00	\$0.00	\$1,080.00
Year 1	100182	AXON BODY - MOUNT - RAPIDLOCK HIGH RETENTION WING CLIP	20	\$0.00	\$0.00	\$0.00
Year 1	Fleet3A	Fleet 3 Advanced	1	\$2,600.00	\$0.00	\$2,600.00
<b>Total</b>				<b>\$3,680.00</b>	<b>\$0.00</b>	<b>\$3,680.00</b>

### Apr 2024

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 2	100182	AXON BODY - MOUNT - RAPIDLOCK HIGH RETENTION WING CLIP	20	\$0.00	\$0.00	\$0.00
Year 2	Fleet3A	Fleet 3 Advanced	1	\$2,600.00	\$0.00	\$2,600.00
<b>Total</b>				<b>\$2,600.00</b>	<b>\$0.00</b>	<b>\$2,600.00</b>

### Apr 2025

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 3	100182	AXON BODY - MOUNT - RAPIDLOCK HIGH RETENTION WING CLIP	20	\$0.00	\$0.00	\$0.00
Year 3	Fleet3A	Fleet 3 Advanced	1	\$2,600.00	\$0.00	\$2,600.00
<b>Total</b>				<b>\$2,600.00</b>	<b>\$0.00</b>	<b>\$2,600.00</b>

### Apr 2026

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 4	100182	AXON BODY - MOUNT - RAPIDLOCK HIGH RETENTION WING CLIP	20	\$0.00	\$0.00	\$0.00
Year 4	Fleet3A	Fleet 3 Advanced	1	\$2,600.00	\$0.00	\$2,600.00
<b>Total</b>				<b>\$2,600.00</b>	<b>\$0.00</b>	<b>\$2,600.00</b>

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Signature

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Date Signed

11/5/2024



# City Council Meeting

## Agenda Item

### Data Sheet

Meeting Date: December 2, 2024

**Topic:**

Approve the purchase of a vehicle from Donalson CDJR, LLC through TIPS Cooperative Purchasing Network (Contract #210907) for a not-to-exceed amount of \$47,112.50, approve the expenditure of funds therefore, and authorize the City Manager to execute any and all documents related to the purchase. This item was not included in the FY 2024-2025 budget as it is related to an insurance claim.

**Background:**

City vehicle #25-192 was involved in an accident in November that TML insurance deemed a total loss. As such, the City needs to purchase a replacement vehicle, partially funded through insurance. The vehicle is a marked black and white patrol vehicle for the Police Department. TML made a payment to the city in the amount of \$28,000 for the vehicle. Additional funds are available in the Fleet Replacement Fund for the remaining cost of the vehicle.

Item	Amount
Donalson CDJR, LLC (total cost of vehicle)	\$47,112.50
Insurance Payment for Vehicle	(\$28,000)
Net Expenditure	\$19,112.50

Staff is requesting approval of the expenditure request of a not-to-exceed amount of \$47,112.50 for this vehicle.

**Origination:** Police Department

**Recommendation:**

Staff recommends approving the purchase of a vehicle from Donalson CDJR, LLC through TIPS Contract #210907 for a not-to-exceed amount of \$47,112.50.

**Party(ies) responsible for placing this item on agenda:** Brandon Patin, Captain

**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: #650-651-6405

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

**Signed:** Brandon Patin **Approved by:** \_\_\_\_\_  
 Staff Member Date City Manager Date







**PRODUCT PRICING SUMMARY**  
**TIPS USA 210907 AUTOMOBILES**  
**VENDOR DONALSON CDJR, LLC, 1305 Hwy 96 BYPASS, Silsbee TX 77656**

End User: CITY OF TOMBALL Prepared by: SETH GAMBLIN  
 Contact: \_\_\_\_\_ Phone: 512.436.1313  
 Email: \_\_\_\_\_ Email: [SGAMBLIN.SILSBEEFLEET@GMA](mailto:SGAMBLIN.SILSBEEFLEET@GMA)  
 Product Description: DODGE DURANGO POLICE V8 Date: November 14, 2024

A. Bid Item: \_\_\_\_\_ A. Base Price: \$ **45,997.00**

**B. Factory Options**

Code	Description	Bid Price	Code	Description	Bid Price
WDEE75	2024 DODGE DURANGO POLICE	\$ -		POLICE GROUP	\$ -
EZH	5.7L V8 HEMI MDS VVT ENGINE AWD			ABS 4-WHEEL HD DISC BRAKES	
DFD	8 SPEED AUTO TRANS	\$ -		255/60R18 BSW ON/OFF ROAD TIRES	
				POLICE TUNED SUSPENSION	
A7	CLOTH BUCKET / REAR VINYL	\$ 135.00		I/P MOUNTING ELEC SHIFTER	
ADL	SKID PLATE GROUP	\$ 350.00		130 MPH MAXIMUM SPEED CALIBRATION	
				AUX SWITCHES	
				4 KEY FOBS	

Total of B. Published Options: \$ **485.00**

Published Option Discount (5%) \$ **(342.75)**

**C. Unpublished Options**

\$= 1.7 %

Description	Bid Price	Options	Bid Price
LNF-LEFTHAND LED SPOTLIGHT	\$ 800.00	EXTERIOR COLOR- BLACK	
		INTERIOR-	
		UNIT ON THE GROUND NOW	
		155349	

\$ **800.00**

D. Floor Plan Interest (for in-stock and/or equipped vehicles):

\$ -

E. Lot Insurance (for in-stock and/or equipped vehicles):

F. Contract Price Adjustment:

G. Additional Delivery Charge: 99 miles

\$ **173.25**

H. Subtotal:

\$ **47,112.50**

I. Quantity Ordered 1

\$ **47,112.50**

J. Trade in:

K.

L. Total Purchase Price

\$ **47,112.50**

# City Council Meeting

## Agenda Item

### Data Sheet

Meeting Date: December 2, 2024

**Topic:**

Approve Resolution Number 2024-44, a Resolution of the City Council of the City of Tomball, Texas authorizing the submission of a Texas Community Development Block Grant (TxCDBG) Program Application to the Texas Department of Agriculture for the Community Development Fund.

**Background:**

Resolution Number 2024-xx authorizes the City to submit a Texas Community Development Block Grant (TxCDBG) Program Application to the Texas Department of Agriculture for the Community Development Fund for drainage improvements.

The TxCDBG Program is accepting applications for water, wastewater, and drainage improvement projects that benefit the community. Award amounts will not exceed \$750,000, with a \$112,500 match required by the City, if awarded. Phase one applications are due to the Texas Department of Agriculture by December 9, 2024, in order to be considered. All projects submitted by that date will be evaluated for the feasibility of being completed in the required timeframe among other factors, and cities will be scored. The scoring criteria will result in cities being invited to apply for grant funding.

Drainage improvements have been identified in the Drainage Master Plan, pending Council adoption in December. Based on the draft master plan, drainage projects for the next five years were in the adopted 2025-2029 Capital Improvement Plan. Staff has evaluated the projects included and based on the maximum grant funding available, staff has chosen the Hampton Place Storm Sewer Improvements identified in the draft master plan to be submitted for preliminary consideration. A breakdown of the estimated cost is below.

<b>Hampton Place Storm Sewer Improvements</b>	
<b>Budget Breakdown</b>	
<b>Element</b>	<b>Estimated Amount</b>
Engineering	\$83,492
Construction	\$723,508
Contingency	\$43,000
<b>Estimated Budget</b>	<b>\$850,000</b>

**Origination:** Project Management

**Recommendation:**

Staff recommends approving Resolution Number 2024-44 and authorizing City to submit a Texas Community Development Block Grant (TxCDBG) Program Application to the Texas Department of Agriculture for the Community Development Fund for drainage improvements.

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

**FUNDING (IF APPLICABLE)**

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

Yes: \_\_\_\_\_ No: \_\_\_\_\_ If yes, specify Account Number: # \_\_\_\_\_

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

Signed Meagan Mageo Approved by \_\_\_\_\_  
Staff Member Date City Manager Date

**RESOLUTION NO. 2024-44**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
TOMBALL, TEXAS AUTHORIZING THE SUBMISSION OF A  
TEXAS COMMUNITY DEVELOPMENT BLOCK GRANT  
PROGRAM APPLICATION TO THE TEXAS DEPARTMENT OF  
AGRICULTURE FOR THE COMMUNITY DEVELOPMENT  
FUND.**

\* \* \* \* \*

**WHEREAS**, the City Council of the City of Tomball desires to develop a viable community, including decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low-to-moderate income; and

**WHEREAS**, it is necessary and in the best interests of the City of Tomball to apply for funding under the Texas Community Development Block Grant Program; and

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF  
TOMBALL, TEXAS**

1. That a Texas Community Block Grant Program application for the Community Development Fund is hereby authorized to be filed on behalf of the City with the Texas Department of Agriculture, and to be placed in competition for funding under the Community Development Fund.
2. That the City of Tomball commits to dedicating no less than 51% of grant funds for activities identified by the state planning region as First Priority Drainage Improvements.
3. That all funds will be used in accordance with all applicable federal, state, local and programmatic requirements including but not limited to procurement, environmental review, labor standards, real property acquisition, and civil rights requirements.
4. That the City of Tomball is committing to provide \$112,500.00 in matching funds toward the application's activities, with the specific usage and funding source to be determined prior to any award of grant funding.

**PASSED, APPROVED, AND RESOLVED** this 2nd day of December 2024.

---

Lori Klein Quinn  
Mayor

ATTEST:

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Tracylynn Garcia  
City Secretary

# City Council Meeting

## Agenda Item

### Data Sheet

**Meeting Date:** December 2, 2024

**Topic:**

Approve a services agreement renewal with PVS DX, Inc. (formally DXI Industries, Inc.) for the purchase of chlorine and sulfur dioxide gas for water treatment for Fiscal Year 2025, for a not-to-exceed amount of \$225,000 (Bid No. 2024-04), approve the expenditure of funds therefor, and authorize the City Manager to execute any and all documents related to the purchases. These expenditures are included in the fiscal year 2024-2025 budget.

**Background:**

The proposed services agreement renewal with PVS Chemicals, Inc. (formally DXI Industries, Inc.) is a one-year renewal, beginning December 4, 2024 and expiring December 3, 2025, with the option for four additional one-year renewals remaining. DXI Industries was selected through the competitive sealed bid process (Bid No. 2024-04), which allowed interested parties to submit sealed bids for the chemicals required for water treatment and one bid was received. The City had used DXI in the past to provide the required chemicals and had a positive experience with the services and products provided.

In December 2023, staff received notification that DX Group (DXI Industries) merged all entities under DX Group to streamline their organization to “PVS DX, Inc.”

This item authorizes the renewal of the annual services agreement renewal with PVS DX, Inc. for the purchase of chlorine and sulfur dioxide gas based on the amount included in the adopted fiscal year 2025 budget and submitted pricing for chemicals. The proposed pricing per cylinder remains the same with no increase for the contract renewal period. In addition to the chemical cost, the required excise tax is accounted for in annual contract amount. The excise tax is an environmental tax that no entity is exempt for paying as it imposed on chemicals such as chlorine gas. Staff is increasing the not-to-exceed contract amount by \$5,635 to account for additional chlorine required for higher pumping during summer months.

Chemical	Price per Cylinder	Estimated Quantity	Estimated Annual Purchases
Chlorine Gas (150 pounds)	\$281.00	275	\$72,275.00
Chlorine Gas (1 ton)	\$2,097.00	50	\$104,850.00
Sulfur Dioxide Gas (1 ton)	\$2,097.00	20	\$41,940.00
Other – Excise Tax	N/A	N/A	\$300.00
Allowance for additional chemicals	N/A	N/A	\$5,635.00
<b>Estimated Annual Contract: \$225,000 per year</b>			



**Origination:** Public Works Department

**Recommendation:**

Staff recommends approving a services agreement with PVS DX, Inc. for the purchase of chlorine and sulfur dioxide gas for an amount no-to-exceed \$225,000.

**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: #600-613-6110 & 600-614-6110

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

Signed Meagan Mageo Approved by \_\_\_\_\_  
Staff Member Date City Manager Date

**CITY OF TOMBALL  
SERVICES AGREEMENT RENEWAL**

**THE STATE OF TEXAS** §

**COUNTY OF HARRIS** §

**Description of Services: Chlorine & Sulfur Dioxide Gas**

This Renewal is made and entered into by the **City of Tomball** (referred to as the “City”), with an office at 501 James Street, Tomball, TX and, **PVS DX, Inc ( Formerly DXI)** (the “Company”), with an office at **300 Jackson Hill Street, Houston, Texas 77007** City hereby engages the services of Company as an independent contract for supplying chemicals, upon the following terms and conditions.

**1. SCOPE OF AGREEMENT RENEWAL**

- 1.1. The City hereby agrees to employ Company and Company agrees to perform the necessary services as set forth in Exhibit A – Scope of Work and Exhibit B – Contract Pricing, attached hereto and incorporated herein for all purposes.
- 1.2. In the event of a conflict among the terms of this Agreement and the Exhibit A, the term most favorable to the City, in the City’s sole discretion, shall control.

**2. TERM OF AGREEMENT RENEWAL; TERMINATION**

- 2.1. This Agreement Renewal shall be effective upon proper execution by the City. It shall be effective from **December 5, 2024 through December 4, 2025**, with four (4) additional one-year renewal options remaining. The City reserves the right to withdraw from the Agreement immediately if its governing body fails to appropriate funds necessary for the satisfaction of its contractual obligations. ***Either party may terminate this Agreement for any reason with ninety days (90) written notice to the other party.***
- 2.2. The City’s obligations under this Agreement shall not constitute a general obligation of the City or indebtedness under the constitution or laws of the State of Texas. Nothing contained herein shall ever be construed so as to require City to create a sinking fund or to assess, levy and collect any tax to fund its obligations under this Agreement.
- 2.3. The City reserves the right to enforce the performance of this Agreement in any manner prescribed by law or deemed to be in the best interest of the City in the event of breach or default of any provision of this Agreement, including immediate termination of this Agreement.

**3. ENTIRE AGREEMENT RENEWAL**

This Agreement Renewal represents the entire agreement between Company and the City and no prior or contemporaneous oral or written Agreements or representations shall be construed to alter its terms. No additional terms shall become part of this Agreement without the written consent of both parties and compliance with relevant state law. This Agreement supersedes all other prior agreements either oral or in writing.

**4. ASSIGNMENT**

Company shall not assign or subcontract its obligations under this Agreement without the prior written consent of the City.

5. COMPENSATION

For and in consideration of the services rendered by the Company pursuant to this Agreement, the City shall pay the Company only for the actual work performed under the Scope of Work, on the basis set forth in Attachment B, up to an amount not-to-exceed \$225,000.

6. MODIFICATION OF RATES

Base Rate adjustments for changes in the Consumer Price Index (CPI) will be considered by the City no more than once per year during the renewal term of the Contract, during the month of October of each Contract Year.

7. IDEMNITY

7.1. DEFINITIONS

For the purpose of this section the following definitions apply:

- a. "City" shall mean all officers, agents and employees of the City of Tomball.
- b. "Claims" shall mean all claims, liens, suits, demands, accusations, allegations, assertions, complaints, petitions, proceedings and causes of action of every kind and description brought for damages.
- c. "Company" includes the corporation, company, partnership, or other entity, its owners, officers, and/or partners, and their agents, successors, and assigns.
- d. "Company's employees" shall mean any employees, officers, agents, subcontractors, licensees and invitees of Company.
- e. "Damages" shall mean each and every injury, wound, hurt, harm, fee, damage, cost, expense, outlay, expenditure or loss of any and every nature, including but not limited to:
  - i. injury or damage to any property or right
  - ii. injury, damage, or death to any person or entity
  - iii. attorneys' fees, witness fees, expert witness fees and expenses,
  - iv. any settlement amounts; and
  - v. all other costs and expenses of litigation
- f. "Premise Defects" shall mean any defect, real or alleged, which now exists or which may hereafter arise upon the premises.

**7.2. Indemnity**

**COMPANY AGREES TO INDEMNIFY, HOLD HARMLESS, AND DEFEND THE CITY FROM AND AGAINST LIABILITY FOR ANY CLAIMS FOR DAMAGES ARISING OUT OF THE COMPANY'S WORK AND ACTIVITIES CONDUCTED IN CONNECTION WITH THIS AGREEMENT.**

**COMPANY IS AN INDEPENDENT CONTRACTOR AND IS NOT, WITH RESPECT TO ITS ACTS OR OMISSIONS, AN AGENT OR EMPLOYEE OF THE CITY.**

**COMPANY MUST AT ALL TIMES EXERCISE REASONABLE PRECAUTIONS ON BEHALF OF, AND BE SOLELY RESPONSIBLE FOR, THE SAFETY OF COMPANY'S EMPLOYEES WHILE IN THE VICINITY WHERE THE WORK IS BEING DONE. THE CITY IS NOT LIABLE OR RESPONSIBLE FOR THE**

**NEGLIGENCE OR INTENTIONAL ACTS OR OMISSIONS OF COMPANY OR COMPANY'S EMPLOYEES.**

**THE CITY ASSUMES NO RESPONSIBILITY OR LIABILITY FOR DAMAGES WHICH ARE DIRECTLY OR INDIRECTLY ATTRIBUTABLE TO PREMISE DEFECTS.**

**THE CITY AND COMPANY MUST PROVIDE THE OTHER PROMPT AND TIMELY NOTICE OF ANY COVERED EVENT WHICH IN ANY WAY AFFECTS OR MIGHT AFFECT THE COMPANY OR CITY. THE CITY HAS THE RIGHT TO COMPROMISE AND DEFEND THE SAME TO THE EXTENT OF ITS OWN INTERESTS.**

**THE INDEMNITY OBLIGATIONS HEREIN SHALL SURVIVE THE TERMINATION OF THE AGREEMENT FOR ANY REASON AND SHALL SURVIVE THE COMPLETION OF THE WORK.**

**8. INSURANCE**

**8.1. AMOUNTS OF INSURANCE**

Company agrees to provide and to maintain the following types and amounts of insurance, for the term of this Contract:

<b>TYPE</b>	<b>AMOUNT</b>
(a) Workers Compensation Employer's Liability	(where required – Statutory by State Law) \$100,000 per occurrence
(b) Commercial (Public) Liability, including but not limited to: a. Premises/ Operations b. Independent Contractors c. Personal Injury d. Products/Completed Operations e. Contractual Liability (insuring above indemnity provisions)	Combined Single Limit

All insured at combined single limits for bodily injury and property damage at \$500,000 per occurrence.

(c) Comprehensive Automobile Liability, in include coverage for:

- a. Owned/Leased Automobiles
- b. Non-owned Automobiles
- c. Hired Cars

All insured at combined single limits for bodily injury and property damage for \$500,000 per occurrence.

**8.2. OTHER INSURANCE REQUIREMENTS**

Company understands that it is its sole responsibility to provide the required Certificates and that failure to timely comply with the requirements of this article shall be a cause for termination of this Contract.

Insurance required herein shall be issued by a company or companies of sound and adequate financial responsibility and authorized to do business in the State of Texas. All policies shall be

subject to examination and approval by the City Attorney's Office for their adequacy as to form, content, form of protection, and providing company.

Insurance required by this Contract for the City as additional insured shall be primary insurance and not contributing with any other insurance available to City, under any third party liability policy.

Company further agrees that with respect to the above required liability insurances, the City shall:

- a. Be named as an additional insured;
- b. Be provided with a waiver of subrogation, in favor of the City,
- c. Be provided with 30 days advance written notice of cancellation, nonrenewal, or reduction in coverage (all "endeavor to" and similar language of reservation stricken from cancellation section of certificate); and
- d. Prior to execution of this Agreement, be provided through the office of the City Attorney with their original Certificate of Insurance evidencing the above requirement.

The insurance requirements set out in this section are independent from all other obligations of Company under this Agreement and apply whether or not required by any other provision of this Agreement.

#### 9. PAYMENT AND PERFORMANCE

Payment for services described in this Agreement will be made in accordance with the Texas Prompt Payment Act, Chapter 2251 of the Texas Government Code, or as subsequently amended.

#### 10. VENUE; RECOVERY OF FEES; DISPUTE RESOLUTION; CHOICE OF LAW

Any suit or claim or cause of action regarding this Agreement shall be brought in Harris County, Texas, as the choice of venue and jurisdiction and site of performance by the parties. If the City is the prevailing party in any such action, the City may recover reasonable costs, including costs of court, attorney's fees, expert witnesses' fees, and trial consultants' fees. The parties further agree that the law of the State of Texas shall govern any interpretation of the terms of this Agreement.

#### 11. COMPANY CERTIFICATIONS

Company certifies that neither it, nor any of its agents or employees, have or will offer or accept gifts or anything of value, or enter into any business arrangement, with any employee, official, or agent of the City.

Company certifies, pursuant to Texas Government Code Chapter 2270, that it does not boycott Israel and will not boycott Israel during the term of this Agreement. Company further certifies, pursuant to Texas Government Code Chapter 2252, Subchapter F, that it does not engage in business with Iran, Sudan, or a foreign terrorist organization as may be designated by the United States Secretary of State pursuant to his authorization in 8 U.S.C. Section 1189.

#### 12. NO WAIVER OF IMMUNITY

The City does not waive any statutory or common law right to sovereign immunity by virtue of the execution of this Agreement.

#### 13. NOTICES

Any written notice provided under this Agreement or required by law shall be deemed to have been given and received on the next day after such notice has been deposited by Registered or Certified

Mail with sufficient postage affixed thereto and addressed to the other party to the Agreement; provided, that this shall not prevent the giving of actual notice in any manner.

Notice to Company may be sent to the following address:

1919 JACINTOPORT  
HOUSTON, TX 77015



14. CONTRACT ADMINISTRATOR

This Agreement shall be administered on the City's behalf by the Project Manager, and all notices, questions, or documentation, arising under this Agreement shall be addressed to the Project Manager at:

City of Tomball, Texas  
Attn: Project Manager  
501 James Street  
Tomball, Texas 77375

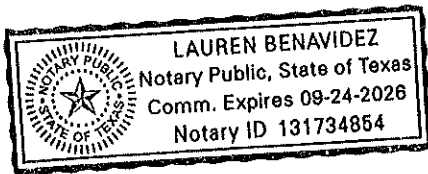
AGREED to and ACCPETED this 19 day of November, 2024.

PVS DX INC.  
Company  
Lenny Leal  
Signature  
Lenny Leal  
Print Name  
Regional Sales Mgr.  
Title

THE STATE OF TEXAS §

COUNTY OF HARRIS §

This instrument was acknowledged before me on this 19 day of November, 2024,  
by Lenny Leal, on behalf of said entity.



[Signature]  
Notary Public, State of Texas

AGREED to and ACCPETED this \_\_\_ day of \_\_\_\_\_, 2024.

City of Tomball

\_\_\_\_\_  
David Esquivel, PE  
City Manager

**Attest:**

\_\_\_\_\_  
Tracylynn Garcia  
City Secretary

## **EXHIBIT A CHLORINE AND SULFUR DIOXIDE GAS**

### **GENERAL DESCRIPTION:**

The City of Tomball (City) is soliciting sealed bids for Bid Number 2024-04, for an annual agreement for the purchase of chlorine and sulfur dioxide gas for water treatment. Below are the General Specifications for all interested bidders.

The selected bidder will provide the chemicals required based on the full scope of the work.

### **GENERAL SPECIFICATIONS**

It is the intention of the City of Tomball to enter into a contract with a reliable Vendor to furnish chlorine and sulfur dioxide gas in accordance with the following specifications for the Fiscal Year 2023-2024, beginning December 1, 2023 and ending November 30, 2024. The City of Tomball will have the right and option to extend the term for five (5) additional one (1) year period with the same terms and conditions. The City of Tomball will also have the right and option to terminate the Contract upon thirty (30) days written notice.

The services to be furnished in this agreement will be for the purchase and delivery of chlorine gas in 150-pound capacity cylinders and one (1) ton capacity cylinders and sulfur dioxide gas in one (1) ton capacity cylinders to be ordered as needed and delivered to the specified locations as deemed by the City according to the specifications listed below:

- I. Chemicals to be supplied:
  - A. Chlorine shall be 100% gas
    - i. Packaging and delivery:
      1. 150-pound cylinders
      2. 1-ton cylinders
    - ii. Estimate Yearly Usage:
      1. 150-pound cylinders: 250
      2. 1-ton cylinders: 50
  - B. Sulfur Dioxide shall be 100% gas
    - i. Packaging and deliver:
      1. 1-ton cylinders
    - ii. Estimated Yearly Usage:
      1. 1-ton cylinders: 25
- II. Vendor Requirements
  - A. Vendor agrees to provide an annual contract commencing on December 1, 2023 through November 30, 2024. All quoted prices will be effective for a period of one (1) year from the date of the contract with an option to renew for five (5) additional one-year terms.
  - B. All deliveries shall be made during normal business hours, Monday through Friday from 8 a.m. to 4 p.m. CST, where designated by the City of Tomball Public Works Department. No weekend deliveries will be permitted.

- C. All chemicals shall be purchased upon demand and delivered to the specified destination within 24 hours of request. If a logistics issue will delay a scheduled delivery than the delivery must be made early.
- III. Insurance Requirements
  - Vendors shall obtain and keep the duration of the contract insurance against claims for injuries to persons or damage to property, which arise from or in connection with the performance of the executed agreement. The Vendor shall pay the cost of such insurance.
  - A. The amount of insurance shall not be less than:
    - i. Commercial General Liability: Minimum of \$1,000,000 commercial general liability coverage with \$1,000,000 for each occurrence. Policy to include coverage for operations, contractual liability, personal injury liability, products/completed operations liability, broad-form property damage (if applicable) and independent Vendor's liability (if applicable) written on an occurrence form.
    - ii. Business Automobile Liability: \$1,000,000 combined single limit per occurrence for bodily injury and property damage for owned, non-owned and hired autos.
    - iii. Workers' Compensation and Employer's Liability: Worker's Compensation limits as required by the Labor Code of the State of Utah and employer's liability with limits of \$1,000,000 per accident.
  - B. Each insurance policy required by this Agreement shall have the following clauses:
    - i. "This insurance shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty days prior written notice by certified mail, return receipt requested, has been given to the City of Tomball".
    - ii. "It is agreed that any insurance or self-insurance maintained by the City of Tomball, its elected or appointed officials, employees, agents and volunteers shall be excess of Vendor's insurance and shall not contribute with insurance provided by this policy."
  - C. Each insurance policy required by this Agreement, excepting policies for Workers' Compensation, shall have the following clause in a separate endorsement:
    - i. "The City of Tomball, its elected and appointed officials, employees, volunteers and agents are to be named as additional insureds in respect to operations and activities of or on behalf of, the named insured as performed under Agreement with the City of Tomball."
  - D. Insurance is to be placed with insurers acceptable to and approved by the City of Tomball. Vendor's insurer must be authorized to do business in Texas at the time the license is executed and throughout the period the license is maintained, unless otherwise agreed to in writing by the City of Tomball. Failure to keep or renew coverage or to supply evidence of renewal will be treated as a material breach of contract.
  - E. City shall be given original certificates of insurance and endorsements effecting coverage required within, signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements are to be received by the city before work begins on the premises.
  - F. City reserves the right to require complete, certified copies of all required insurance policies at any time.
  - G. Any deductibles or self-insured retentions must be declared to and approved by the city. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respect to the City, their elected and appointed officials, employees, agents, and volunteers; or Vendor shall provide a financial guarantee satisfactory to the City

- guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- H. Vendor shall include all its Vendors as insured under its policies or shall furnish separate certificates and endorsements for each Vendor. All coverages for Vendor's Vendors shall be subject to all the requirements stated herein.
  - I. Nothing contained herein shall be construed as limiting in any way the extent to which Vendor may be held responsible for payments of damages to persons or property resulting from the activities of Vendor or its agents, employees, invitees, or Vendors upon the Premises during the License Period.

**Bid Number 2024-04: Chlorine & Sulfur Dioxide Gas**

Bid Form

Item	Chemical	Cylinder Amount	Price per Cylinder
1	Chlorine Gas	150 pound	\$281.00
2	Chlorine Gas	1 ton	\$2,097.00
3	Sulfur Dioxide Gas	1 ton	\$2,097.00



# City Council Meeting

## Agenda Item

### Data Sheet

Meeting Date: December 2, 2024

**Topic:**

Approve a two-year Service Agreement with InfoSend, Inc. for Utility Billing Printing and Mailing Services (RFP 2024-12) for a total contract amount of \$110,000 (\$55,000 per year), approve the expenditure of funds therefor, and authorize the City Manager to execute any and all documents related to the purchases. These expenditures are included in the fiscal year 2024-2025 adopted budget.

**Background:**

To obtain the most favorable pricing and in accordance with the City’s Procurement Policy, sealed proposals (RFP 2024-12) were solicited for the services, which allowed interested parties to submit their qualifications and proposals to act as the primary vendor for utility billing printing and mailing services for City of Tomball utility accounts. A total of four (4) proposals were received, and after a thorough review it was determined that InfoSend was the lowest responsive bidder.

The agreement will include printing of monthly bills, delinquent notices, billing inserts, and mailing of all items. It was anticipated that this service would involve processing approximately 48,000 utility bills and inserts, and 8,000 delinquent statements annually. A breakdown of the submitted pricing is depicted below with an estimated annual contract amount. Staff is increasing the not-to-exceed contract amount by \$6,472 to account for additional utility accounts added during the year.

Description	Rate	Estimated Annual Cost
Monthly Billing Statements (double sided)	\$0.105	\$5,040.00
Monthly Insert (double sided)	\$0.206	\$9,888.00
Delinquent Statements (single sided)	\$0.105	\$840.00
#10 Envelopes (mailing envelopes)	\$0.024	\$1,344.00
#9 Envelopes (return envelopes)	\$0.021	\$1,176.00
Postage	\$0.540	\$30,240.00
Allowance for New Accounts		\$6,472
<b>Estimated Annual Contract: \$55,000 per year</b>		

The proposed services agreement will be for a two-year term beginning December 3, 2024, and expiring December 2, 2026, with a proposed contract amount of \$55,000 annually during the term of the contract.

**Origination:** Project Management

**Recommendation:**

Staff recommends approving a Service Agreement with InfoSend for Utility Billing print and mailing services for a not-to-exceed amount of \$110,000.

**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: # 600-612-6109  
# 600-612-6304

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

Signed Meagan Mageo Approved by \_\_\_\_\_  
Staff Member Date City Manager Date

**CITY OF TOMBALL  
SERVICES AGREEMENT**

**THE STATE OF TEXAS** §

**COUNTY OF HARRIS** §

**Description of Services: Utility Billing Printing & Mailing**

This Agreement is made and entered into by the **City of Tomball** (referred to as the “City”), with an office at 501 James Street, Tomball, TX and, **InfoSend, Inc.** (the “Company”), with an office at **4240 E. La Palma Avenue, Anaheim, California 92807**, City hereby engages the services of Company as an independent contract, upon the following terms and conditions.

**1. SCOPE OF AGREEMENT**

- 1.1. The City hereby agrees to employ Company and Company agrees to perform the necessary services as set forth in Exhibit A – Scope of Work and Exhibit B – Contract Pricing, attached hereto and incorporated herein for all purposes.
- 1.2. In the event of a conflict among the terms of this Agreement and the Exhibit A, the term most favorable to the City, in the City’s sole discretion, shall control.

**2. TERM OF AGREEMENT; TERMINATION**

- 2.1. This Agreement shall be effective upon proper execution by the City. It shall be effective from **December 3, 2024 through December 2, 2026**, with the right and option to extend the term for three (3) additional one (1) year periods with the same terms and conditions upon the mutual agreement of the parties with a price escalation factor per Section 6. The City reserves the right to withdraw from the Agreement immediately if its governing body fails to appropriate funds necessary for the satisfaction of its contractual obligations. ***Either party may terminate this Agreement for any reason with ninety days (90) written notice to the other party.***
- 2.2. The City’s obligations under this Agreement shall not constitute a general obligation of the City or indebtedness under the constitution or laws of the State of Texas. Nothing contained herein shall ever be construed so as to require City to create a sinking fund or to assess, levy and collect any tax to fund its obligations under this Agreement.
- 2.3. The City reserves the right to enforce the performance of this Agreement in any manner prescribed by law or deemed to be in the best interest of the City in the event of breach or default of any provision of this Agreement, including immediate termination of this Agreement.

**3. ENTIRE AGREEMENT**

This Agreement represents the entire agreement between Company and the City and no prior or contemporaneous oral or written Agreements or representations shall be construed to alter its terms. No additional terms shall become part of this Agreement without the written consent of both parties and compliance with relevant state law. This Agreement supersedes all other prior agreements either oral or in writing.

4. ASSIGNMENT

Company shall not assign or subcontract its obligations under this Agreement without the prior written consent of the City.

5. COMPENSATION

For and in consideration of the services rendered by the Company pursuant to this Agreement, the City shall pay the Company only for the actual work performed under the Scope of Work, on the basis set forth in Attachment B, up to an amount not-to-exceed **\$110,000** (\$55,000 annually).

6. MODIFICATION OF RATES

Base Rate adjustments for changes in the Consumer Price Index (CPI) will be considered by the City no more than once per year during the renewal term of the Contract.

7. IDEMNITY

7.1. DEFINITIONS

For the purpose of this section the following definitions apply:

- a. "City" shall mean all officers, agents and employees of the City of Tomball.
- b. "Claims" shall mean all claims, liens, suits, demands, accusations, allegations, assertions, complaints, petitions, proceedings and causes of action of every kind and description brought for damages.
- c. "Company" includes the corporation, company, partnership, or other entity, its owners, officers, and/or partners, and their agents, successors, and assigns.
- d. "Company's employees" shall mean any employees, officers, agents, subcontractors, licensees and invitees of Company.
- e. "Damages" shall mean each and every injury, wound, hurt, harm, fee, damage, cost, expense, outlay, expenditure or loss of any and every nature, including but not limited to:
  - i. injury or damage to any property or right
  - ii. injury, damage, or death to any person or entity
  - iii. attorneys' fees, witness fees, expert witness fees and expenses,
  - iv. any settlement amounts; and
  - v. all other costs and expenses of litigation
- f. "Premise Defects" shall mean any defect, real or alleged, which now exists or which may hereafter arise upon the premises.



## 7.2. Indemnity

**COMPANY AGREES TO INDEMNIFY, HOLD HARMLESS, AND DEFEND THE CITY FROM AND AGAINST LIABILITY FOR ANY CLAIMS FOR DAMAGES ARISING OUT OF THE COMPANY'S WORK AND ACTIVITIES CONDUCTED IN CONNECTION WITH THIS AGREEMENT.**

**COMPANY IS AN INDEPENDENT CONTRACTOR AND IS NOT, WITH RESPECT TO ITS ACTS OR OMISSIONS, AN AGENT OR EMPLOYEE OF THE CITY.**

**COMPANY MUST AT ALL TIMES EXERCISE REASONABLE PRECAUTIONS ON BEHALF OF, AND BE SOLELY RESPONSIBLE FOR, THE SAFETY OF COMPANY'S EMPLOYEES WHILE IN THE VICINITY WHERE THE WORK IS BEING DONE. THE CITY IS NOT LIABLE OR RESPONSIBLE FOR THE NEGLIGENCE OR INTENTIONAL ACTS OR OMISSIONS OF COMPANY OR COMPANY'S EMPLOYEES.**

**THE CITY ASSUMES NO RESPONSIBILITY OR LIABILITY FOR DAMAGES WHICH ARE DIRECTLY OR INDIRECTLY ATTRIBUTABLE TO PREMISE DEFECTS.**

**THE CITY AND COMPANY MUST PROVIDE THE OTHER PROMPT AND TIMELY NOTICE OF ANY COVERED EVENT WHICH IN ANY WAY AFFECTS OR MIGHT AFFECT THE COMPANY OR CITY. THE CITY HAS THE RIGHT TO COMPROMISE AND DEFEND THE SAME TO THE EXTENT OF ITS OWN INTERESTS.**

**THE INDEMNITY OBLIGATIONS HEREIN SHALL SURVIVE THE TERMINATION OF THE AGREEMENT FOR ANY REASON AND SHALL SURVIVE THE COMPLETION OF THE WORK.**

## 8. INSURANCE

### 8.1. AMOUNTS OF INSURANCE

Company agrees to provide and to maintain the following types and amounts of insurance, for the term of this Contract:

TYPE	AMOUNT
(a) Workers Compensation Employer's Liability	(where required – Statutory by State Law) \$100,000 per occurrence

- (b) Commercial (Public) Liability, including but not limited to:
- a. Premises/ Operations Combined Single Limit
  - b. Independent Contractors
  - c. Personal Injury
  - d. Products/Completed Operations
  - e. Contractual Liability (insuring above indemnity provisions)

All insured at combined single limits for bodily injury and property damage at \$500,000 per occurrence.

- (c) Comprehensive Automobile Liability, in include coverage for:
- a. Owned/Leased Automobiles

b. Non-owned Automobiles

c. Hired Cars

All insured at combined single limits for bodily injury and property damage for \$500,000 per occurrence.

## 8.2. OTHER INSURANCE REQUIREMENTS

Company understands that it is its sole responsibility to provide the required Certificates and that failure to timely comply with the requirements of this article shall be a cause for termination of this Contract.

Insurance required herein shall be issued by a company or companies of sound and adequate financial responsibility and authorized to do business in the State of Texas. All policies shall be subject to examination and approval by the City Attorney's Office for their adequacy as to form, content, form of protection, and providing company.

Insurance required by this Contract for the City as additional insured shall be primary insurance and not contributing with any other insurance available to City, under any third party liability policy.

Company further agrees that with respect to the above required liability insurances, the City shall:

- a. Be named as an additional insured;
- b. Be provided with a waiver of subrogation, in favor of the City,
- c. Be provided with 30 days advance written notice of cancellation, nonrenewal, or reduction in coverage (all "endeavor to" and similar language of reservation stricken from cancellation section of certificate); and
- d. Prior to execution of this Agreement, be provided through the office of the City Attorney with their original Certificate of Insurance evidencing the above requirement.

The insurance requirements set out in this section are independent from all other obligations of Company under this Agreement and apply whether or not required by any other provision of this Agreement.

## 9. PAYMENT AND PERFORMANCE

Payment for services described in this Agreement will be made in accordance with the Texas Prompt Payment Act, Chapter 2251 of the Texas Government Code, or as subsequently amended.

## 10. VENUE; RECOVERY OF FEES; DISPUTE RESOLUTION; CHOICE OF LAW

Any suit or claim or cause of action regarding this Agreement shall be brought in Harris County, Texas, as the choice of venue and jurisdiction and site of performance by the parties. If the City is the prevailing party in any such action, the City may recover reasonable costs, including costs of court, attorney's fees, expert witnesses' fees, and trial consultants' fees. The parties further agree that the law of the State of Texas shall govern any interpretation of the terms of this Agreement.

## 11. COMPANY CERTIFICATIONS

Company certifies that neither it, nor any of its agents or employees, have or will offer or accept gifts or anything of value, or enter into any business arrangement, with any employee, official, or agent of the City.

Company certifies, pursuant to Texas Government Code Chapter 2270, that it does not boycott Israel and will not boycott Israel during the term of this Agreement. Company further certifies, pursuant to Texas Government Code Chapter 2252, Subchapter F, that it does not engage in business



with Iran, Sudan, or a foreign terrorist organization as may be designated by the United States Secretary of State pursuant to his authorization in 8 U.S.C. Section 1189.

#### 12. NO WAIVER OF IMMUNITY

The City does not waive any statutory or common law right to sovereign immunity by virtue of the execution of this Agreement.

#### 13. NOTICES

Any written notice provided under this Agreement or required by law shall be deemed to have been given and received on the next day after such notice has been deposited by Registered or Certified Mail with sufficient postage affixed thereto and addressed to the other party to the Agreement; provided, that this shall not prevent the giving of actual notice in any manner.

Notice to Company may be sent to the following address:

C/O: President  
4240 E La Palma Ave  
Anaheim, CA 92807

#### 14. CONTRACT ADMINISTRATOR

This Agreement shall be administered on the City's behalf by the Project Manager, and all notices, questions, or documentation, arising under this Agreement shall be addressed to the Project Manager at:

City of Tomball, Texas  
Attn: Project Manager  
501 James Street  
Tomball, Texas 77375

#### 15. FORCE MAJEURE

Neither party shall be liable, or deemed to be in default, to the other for any failure or delay in performing an obligation under this Agreement to the extent that its performance is delayed, impaired or rendered impossible by an event beyond its control ("Force Majeure Event") such as, but not limited to, natural disasters, war, terrorist acts, riots, labor strikes or shortages, civil disturbances, extra-ordinary losses of utilities (including telecommunications services).

AGREED to and ACCPETED this 12<sup>m</sup> day of November, 2024.

Info Send, Inc.  
Company

[Signature]  
Signature

Russ Rezai  
Print Name

President  
Title

**THE STATE OF TEXAS** §

**COUNTY OF HARRIS** §

This instrument was acknowledged before me on this \_\_\_ day of \_\_\_\_\_, 2024,  
by \_\_\_\_\_, on behalf of said entity.

\_\_\_\_\_  
Notary Public, State of Texas

AGREED to and ACCPETED this \_\_\_ day of \_\_\_\_\_, 2024.

City of Tomball

\_\_\_\_\_  
David Esquivel, PE  
City Manager

**Attest:**

\_\_\_\_\_  
Tracylynn Garcia  
City Secretary

## ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of Orange

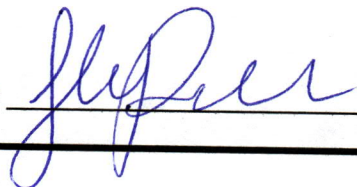
On November 12, 2024 before me, Sharon Elizabeth Rodas, Notary Public  
(insert name and title of the officer)

personally appeared Rusteen Rezai  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

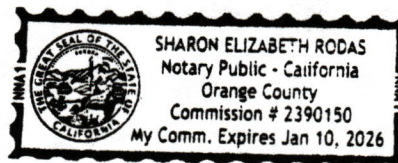
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature



(Seal)





**RFP 2024-09R – UTILITY BILLING COLLECTION SERVICES**  
**EXHIBIT A**  
**SCOPE OF WORK**

**I. General Description**

The City of Tomball (the City) is requesting proposals to secure the services of a collection agency to provide consumer debt collection service by locating, contacting, and securing payment from past due utility customers or accountholders of the City. The City provides utility services to approximately 3,731 accounts for water, wastewater, natural gas, and solid waste.

The City generates and distributes monthly bills, as well as delinquent notices to all utility customers who fail to make payment by the due date stated on the monthly bill. Deposits are collected according to the City's Code of Ordinances, Chapter 46 – Utilities, Article II, Section 46-56-Utility Account Deposits. Existing deposits are applied to any outstanding amount due at the time of termination of an account. Any remaining amount owed is included in the final bill.

**II. Ability to Perform**

The Vendor shall indicate the expertise and experience of the firm relative to the Scope of Work and specific requirements contained in this RFP. The Vendor shall provide pertinent financial data, which demonstrates the Vendors capability to successfully perform (e.g. annual financial reports and statements, Dun and Bradstreet and/or other credit bureau ratings). The information submitted shall include, but is not limited to, recent data describing Vendor's current organization, date of incorporation, dollar volume, number of employees, home office location, and other company profile information.

**III. Requirements**

The Vendor shall provide a written narrative describing the ability to meet the minimum requirements set forth herein. Sufficient detail shall be provided to demonstrate the Vendor's understanding, ability and/or willingness to satisfy all specified requirements. At a minimum, the Vendor shall address the following:

- A. Collection of delinquent items related to the billing of utility services.
- B. Development of a systems interface in coordination with the City for the data format, electronic transfer and maintenance of account information and reports as well as adherence to the technical specifications agreed to after award of the contract.

**IV. Service Requirements**

The City will require both routine collections related to the management of account receivables and skip tracing services. All items sent to the collection agency, other than those intended for skip tracing only, will be pursued until the delinquent amount is satisfied or for a period of 90 days. After the 90-day period, all uncollected items will be returned to the City unless the City authorizes further collection activity. The Vendor shall:

- A. Pursue recovery of all City items forwarded for collection through a series of collection letters and telephone calls.

- B. At a minimum, allow payments via mail or telephone using a credit card, ACH, EFT, money order or cashier's check.
- C. Provide lockbox or secure operation for processing mail-in payments. City approval of the Vendor's chosen operation is required.
- D. Remit collected funds separately to the designated financial institution via EFT within three (3) business days of receipt using pre-established City guidelines.
- E. Provide skip tracing or equal and approved method with documentation providing number of resources and credit bureaus.
- F. Address and contact information may be requested by the City when violation notes are sent and returned as undeliverable for any reason.
- G. Address and contact information obtained for collection purposes shall be used by the collection agency to pursue unpaid items.
- H. All information obtained through skip tracing and other approved methods shall be provided to the City.
- I. Contact accountholders by mail, telephone, or fax. A collector shall not contact an accountholder before 8:00 a.m. CST or after 8:00 p.m. CST. Maintain an automated record of phone calls and log all correspondence with debtors. Correspondence shall indicate an escalation of importance with resolution from one letter to the next.
- J. In the event a debt is reported to the major credit bureaus, the Vendor must do so in accordance with all applicable Federal and State laws.
- K. Maintain a toll-free telephone number for customer service and include the number in all correspondence to debtors.
- L. Maintain a high level of customer service while pursuing unpaid debts.
- M. Provide procedures for disputes and Cease and Desist Letters.
- N. Not use any false statement during the collection process.
- O. Have the ability to expand services to accommodate additional collection volumes as may be required by future conditions.
- P. Remit payments on collections as described below:
  - a. Payment received from the accountholder/customer shall be remitted to the designated financial institution via EFT within three (3) business days of receipt.
  - b. Payments received for debt items, where the collection period has exceeded 90 days, shall be remitted within three (3) business days.
  - c. The City does not recognize a partial payment as a satisfaction of a debt submitted to the collection agency. Any partial payment received by the collection agency shall be remitted to the City within three (3) business days.
  - d. The collection agency shall document partial payment and continue to collect the debt until it is paid in full. If the 90-day collection period expires prior to complete payment, the collection agency shall cease their efforts with the debt item and return it the City as an unsatisfied debt.
  - e. The City will notify the Vendor when payments made to the City by accountholder/customer during the collection process are received through a City office, so that the Vendor may reconcile the account.

**V. Implementation Plan**

The Vendor shall provide an Implementation Plan within 30 days of the contract award. The Implementation Plan shall include the following:



- A. Proposed operations start up process including a timeline schedule with dates and major milestones to be accomplished.
- B. Description of the deployment process of the debt collection services.
- C. Description of the expansion of debt collection services to support higher collection volumes as may be required by future conditions.

**VI. Reports**

The Vendor shall submit regular and timely reports to the City. Reports and formatting standards will be approved by the City and shall be delivered to the City's authorized representative. Reports shall include, but not be limited to the following:

- A. Summary Reports
  - i. Summarized by debt collection type, date range, method of payment, method of contact, amount collected, status, and any unique identifiers requested by the City shall be submitted every 30 days.
- B. Weekly Transmittal Reports
  - i. Provide daily collection and deposit activity detail by date to allow the City to verify and reconcile bank activity.
- C. Monthly Account Analysis Statement
  - i. An account analysis statement shall be provided to the City within five (5) business days from the end of the month.
    - 1. Provide activity summary by date on the following, but not limited to:
      - a. Number of accounts collected.
      - b. Pending accounts.
      - c. Returned uncollected accounts.
      - d. Dollar amount collected.

**VII. Technical Requirements**

The Vendor's operating system and use or disposal of any information shall be secure. The Vendor shall:

- A. Provide online account management to include at a minimum:
  - i. Submission of collection and skip tracing items to and from the City electronically.
  - ii. Access to Vendor's database for real time viewing of collection status.
  - iii. Real or near-real time updating of individual item or account status.
  - iv. Online log of contact initiated (mail, email, telephone) with debtors, including images of any collection documentation sent to or received from debtor.

**VIII. Data and Information Security**

All information regarding the collection services administered on behalf of the City shall be maintained in a secure environment. To prevent current or discarded information from being exposed to a third-party by unauthorized access or use, the Vendor shall adhere to the City's Record Retention Schedule as identified by the State of Texas.



**IX. Ownership of Data**

The City shall retain ownership of all data provided to the Vendor by the City or obtained by the Vendor related to this project.

**X. Proposed Cost and Fees**

The Vendor shall submit a completed Proposed Pricing Schedule (Exhibit A) with their sealed proposal. In addition, the Vendor shall include an itemized list of all proposed costs for any services, equipment, and/or supplies offered but not included in Exhibit A, Proposed Pricing Schedule.

- A. For all accounts referred by the City, unless otherwise instructed by the City's Finance Director, the Vendor fee shall be deducted from the principal amount of the debt prior to remittance to the City.
- B. Should there be any changes in laws or City policy that allow a different method for recovering collection fees, the Vendor shall modify its methods accordingly, upon instruction from the City's Finance Director.
- C. If an account is reduced or cancelled by the City, no collection fee will be due to the Vendor for the amount so reduced or cancelled.

**EXHIBIT B  
COST PROPOSAL**

Description	Estimated Quantity for contract life of two (2) years	Rate	Extended Price
<b>Programming Services*</b> Initial Set Up for Formatting Fee	1	\$0	\$0
<b>Graphic Design Service*</b> Design of Utility Bill Layout	1	\$0	\$0
<b>Monthly Billing Statements*</b> Single Sided	90,000	\$ 0.105	\$ 9,450.00
<b>Monthly Billing Statements*</b> Double Sided	90,000	\$ 0.110	\$ 9,900.00
<b>Delinquent Statements*</b> Single Sided	19,200	\$ 0.105	\$ 2,016.00
<b>Monthly Insert*</b> Single Sided	90,000	\$ 0.196	\$ 17,640.00
<b>Monthly Insert*</b> Double Sided	90,000	\$ 0.206	\$ 18,540.00
<b>#10 Envelopes*</b>	109,200	\$ 0.024	\$ 2,620.80
<b>#9 Envelopes*</b>	109,200	\$ 0.021	\$ 2,293.20
<b>Postage**</b>	109,200	\$ 0.540	\$ 58,968.00

\*Waived during initial install. After initial install, pricing is \$150/hour.

\*Waived during initial install. After initial install, pricing is \$95/hour.

\*Price includes data processing, printing up to 4/0 ink, and one sheet of paper.

\*Price includes data processing, printing up to 4/4 ink, and one sheet of paper.

\*Price includes data processing, printing up to 4/0 ink, and one sheet of paper.

\*Pricing for inserts is based on a monthly quantity of 3,800 pieces. Insert pricing good for 90 days from time of quote and will be quoted as needed.

\*Pricing for inserts is based on a monthly quantity of 3,800 pieces. Insert pricing good for 90 days from time of quote and will be quoted as needed.

\*InfoSend standard #10 double window envelope

\*InfoSend standard #9 single window envelope

\*\*Pricing based on qualified pieces for the presorted first-class automated 5-digit rate is \$0.545. InfoSend bills postage as a true pass-through cost and will pass on to the Client the Full-Service IMb discount of \$0.005 per qualified piece, for an updated final rate of \$0.540. Not all pieces will qualify. Postage rates may increase based on future USPS price increases.

Estimated quantities are based on current statements printed. Statements and inserts will vary between single and double sided.

Prices listed above are good for 90 calendar days after receipt of proposal

Signature:   
 Name: Russ Reza  
 Date: 09/16/2024



## InfoSend Data Processing, Print and Mail Pricing

### Client Volume Assumptions

#### Customers Contacted or Billed Monthly

3,750 Statements  
800 Notices

#### Number of Batches Monthly

Two

### Document Production Summary

<b>Statements &amp; Notices</b> Package includes: Data processing, one printed page up to 4/0 ink, InfoSend outgoing #10 envelope, InfoSend #9 return envelope	<b>\$0.15 per document</b>
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<b>Statements &amp; Notices</b> Package includes: Data processing, one printed page up to 4/4 ink, InfoSend outgoing #10 envelope, InfoSend #9 return envelope	<b>\$0.155 per document</b>
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Finished mail pieces are delivered to the USPS **within one (1) business day (within 24 hours of receipt)**. If electronic PDF samples (proofs) are requested then the mailing will be completed within one day of sample approval. File upload deadline for next-day mailing is 1:30PM local time at the production facility designated for your account. If samples are required then they must be approved by 3:30PM local time for the file to be mailed by the next business day.

The below provides the components of the summary price given above. All pricing is based on "Client Volume Assumptions" listed and excludes applicable sales tax.

### Data Processing

Setup Fee - Express PDF Input Files	\$0.00 (Waived during initial install)
Setup Fee – Data Only Input Files	\$0.00 (Waived during initial install)
Document Re-Design Fee	\$0.00 (Waived during initial install)
<b>Data Processing Fee (per document)</b>	<b>\$0.01</b>

### Printing and Mailing Service

<b>Statement and Notices - Printing &amp; Mailing Fee with up to 4/0 Ink</b>	<b>\$0.079</b>
<b>USPS Postage</b>	<b>Pass-through</b> A postage deposit will be required prior to starting service.
Print Color Options (colors per side) *	\$0.079 for up to 4/0 printing \$0.084 for up to 4/4 printing
Inline Insert Print Fee*	\$0.079 Black printing \$0.084 Color printing
Batch Fee (per mailing batch under 200 mail pieces)	\$5.00
Excess Pages Handwork Surcharge (per mail piece)	\$0.35
Address Updates – per "hit" (address that gets updated)	\$0.30 NCOA \$0.30 ACS

\*Prices assume normal ink/toner coverage for business documents. Flood coating the entire page in color or other types of extremely high coverage designs may cost more or not be technically feasible. Extremely high coverage designs can cause content to bleed through to the other side of the page or to cause the page to curl too much to work properly with high-speed mail inserting equipment.

The postage deposit is subject to ongoing review and may be adjusted at any time to account for changes to Client average mailing volume or changes to USPS postage rates with at least thirty (30) days' written notice to Client.



<b>Materials</b>	
Standard 8.5" x 11" Paper Stock (per sheet)	\$0.016
Standard Double Window Outgoing #10 Envelope	\$0.024
Standard Single Window Return #9 Envelope	\$0.021
Outgoing Flat Envelope – used for mail pieces with excess pages	\$0.18

<b>Insert Services</b>	
InfoSend Produced	Quoted based on specification
Envelope Messaging (Snipes)	Quoted based on specification
Electronic Inserts	\$0.010
Inserting Fee	\$0.010 per insert
<p>Fee to insert an InfoSend produced or Client provided marketing or informational insert. Client provided (drop-shipped) inserts must be professionally packaged and ready for usage. If folding is required then additional fees apply based on folding requirements. Minimum fee is \$0.01 per insert for folding. If inserts are not professionally packaged and damaged in shipment or require additional labor to prepare for inserting then additional fees can apply.</p> <p>Per item fee assumes the insert will be included in all mail pieces. Selective inserting is available but requirements must be reviewed on a case by case basis to determine if additional fees will apply for setup and handling.</p>	

<b>Optional Document Services</b>	
Print Image Archiving (Per Document Image), with included USPS mail tracking	\$0.010 - For 12 Months of Retention \$0.015 - For 18 Months of Retention \$0.020 - For 24 Months of Retention \$0.025 - For 36 Months of Retention
Print Image Archive API Monthly Support Fee	\$100.00
Final Doc Transfer (FDT)	<p>Option 1: \$0.02 per document. One PDF will be provided per batch with multiple documents in it. InfoSend standard batch file format provides account and page numbers for each record in the batch.</p> <p>Option 2: \$0.03per document. Each document will be provided in a separate PDF file. A custom batch file format can be provided if the InfoSend standard format will not work.</p>
Professional Services Rate (per hour)	\$150.00
Returned Mail Handling	\$0.35 per reported returned mail piece
Remit Tracking	\$50 monthly support fee
Email Bill Statement to Customers	\$0.07 each
eBilling Monthly Support Fee	\$50.00



# Fee Explanations

## Data Processing

- **Setup Fee - Express PDF Input:** Requires a final composed PDF is uploaded to InfoSend for processing. Clients maintain control of document look and feel, but InfoSend designs a program to parse the necessary data from the PDF.
- **Setup Fee - Data Only Input:** Requires the client provide a flat data extract, InfoSend creates, hosts and maintains an application to generate documents. Existing document design is copied.
- **Document Re-Design Fee:** Using the "Data Only Input" method, InfoSend's Client Services Team assists in redesigning the format of printed documents to improve communications or to take advantage of new printing capabilities.
- **Data Processing Fee:** Per document image that is processed by the InfoSend system for output.

## Printing and Mailing Service

- **Print Fee:** Price includes baseline number of colors printed on the front and back of the document. All variable and static images are dynamically imaged onto white form with a perforation.
- **Postage:** Clients are invoiced for the exact postage used. Leveraging InfoSend's USPS compliance and expertise, clients are provided the lowest possible USPS automated rates when client batches qualify.
- **Optional Color Upgrades:** Different options are available at different prices. Numbers fewer than 4 equal individual colors, 4 equals full color. The number 1 means black or grey. All sheets are billed at the same rate; the price for the sheet with the highest number of colors is the applicable fee. **4 equals CMYK (full color).**
- **Batch Fee:** Assessed to cover InfoSend costs when batches transferred to InfoSend fall below threshold.
- **Inline Insert Print Fee:** Price for inserts printed on demand as additional pages. Allows for more dynamic customer messaging without the extra pre-production lead time and overhead.
- **Excess Pages Handwork Surcharge:** Surcharge is assessed per mail piece (not per page). This surcharge only applies to multiple page bills that have too many pages to be inserted into a #10 envelope by machine. This surcharge covers the necessary manual labor required to process these mail pieces.
- **Address Updates – NCOALink or ACS:** Per reported update. InfoSend electronically reports the addresses it received in your data that need to be updated because the customer filed a Change of Address Report with the USPS. Cost is per update.

## Materials

- **Paper Stock:** White paper stock with or without perforation. Paper is 8.5x11" and 24lb. Price includes all inventory costs. A larger 8.5x14" format is available at a higher material cost and higher printing cost.
- **Outgoing #10 Envelope:** #10 InfoSend Standard Double Window Outgoing Envelope. Includes security tint printed on the inside of the paper stock and clear film that prevent the contents of the envelope from being viewed. Sourced with sustainably logged paper (SFI).
- **Return #9 Envelope:** #9 InfoSend Standard Single Window Return Envelope. Includes the same security tint and SFI paper as the #10.
- **Outgoing Flat Envelope:** Single window envelope, only used for multiple page statements that do not fit in the #10 envelope.

## Insert Services

- **InfoSend Produced Inserts:** Utilizing InfoSend printing and/or design services, inserts can be produced by InfoSend. Price quoted on request.
- **Envelope Messaging (Snipes):** Custom messages and images can be printed onto the standard InfoSend #10 double window envelope as a more cost-effective alternative to pre-manufactured custom envelopes. The price depends on the artwork – number of colors and whether it prints on one or both sides of the envelope, as well as order quantity. Price is quoted upon request.
- **Electronic Inserts:** Fee per digital image of a physically produced insert included in the PDF copy of a document. Ensures that client representatives and client customers can get the same information in the electronic bill as would go out physically.
- **Inserting Fee:** Client provided or InfoSend produced inserts to be included with InfoSend produced mail. Additional fee applies if insert arrives at InfoSend but requires folding prior to insertion. Setup fees may apply for programming selective inserting. InfoSend-printed inserts are quoted upon request.

## Optional Document Services

- **Enhanced Print Quality:** The baseline print image quality for transactional documents such as statements and invoices is 600 x 600 DPI. Work produced from InfoSend's Anaheim facility can be printed at an enhanced image quality at an additional cost. This option uses high definition pigment ink & variable drop sizes to achieve a perceived 1200 x 1200 DPI image quality.
- **Print Image Archiving:** Fee per document to process, index, and store a document as a PDF for a set number of months. PDFs are securely accessed using an InfoSend website application, and includes USPS mail tracking for all outbound First Class mailed documents. Setup fees may apply depending on configuration needs.
- **Print Image Archive API Monthly Support Fee:** A flat monthly support fee to provide API access to documents in the InfoSend Print Image Archive. InfoSend will work with the designated third parties that a Client chooses, and provide support and open access to API calls on a monthly basis.
- **Final Doc Transfer FTP:** Each completed InfoSend batch is indexed and transferred to you via FTP or SFTP to store on your own network. InfoSend's standard Batch File format is one PDF per batch with an XML companion file providing meta data and page numbers. If the client requires a custom scheme, including individual PDFs per each image in a batch, the Custom fee applies. Note: setup fees may also apply for some custom setups.
- **Professional Services Fee:** Per hour and performed only upon request for customizations made to processing program or document format after go-live. Work is only started after receiving client approval of a formal quote.
- **Returned Mail Handling:** InfoSend will provide electronic reporting of mail that is returned by USPS, saving clients the hassle of receiving and opening returned mail to update records. All records which are not delivered will be securely destroyed and recycled after reporting.
- **Remit Tracking:** For clients utilizing the Print Image Archiving service, InfoSend can also track inbound mail from customers utilizing an included remittance stub in the outbound mail. With Remit Tracking clients will be able to see when a customer responded to the original mail piece, as well as get a daily report of inbound mail with an estimated value of payment remittances based on the outbound mail.

# City Council Meeting

## Agenda Item

### Data Sheet

Meeting Date: December 2, 2024

**Topic:**

Approve a two-year Service Agreement with RGS for consumer debt collection services for utility accounts (RFP 2024-09R), approve the expenditure of funds therefor, and authorize the City Manager to execute any and all documents related to the purchases. These expenditures are included in the fiscal year 2025-2025 adopted budget.

**Background:**

To obtain the most favorable pricing and in accordance with the City’s Procurement Policy, sealed proposals (RFP 2024-09) were solicited for the services, which allowed interested parties to submit their qualifications and proposals to act as the primary vendor for consumer debt collection services for utility accounts with unpaid balances greater than 90 days. Following the RFP process the City received no submitted proposal and readvertised the services (RFP 2024-09R). The City received one (1) proposal, and after a thorough review and interview, it was determined that RGS could provide the services requested.

The agreement will include providing services of a collection agency to provide consumer debt collection services by locating, contacting, and securing payment from past due utility customers or accountholders of the City.

Vendors were required to submit their fee percentage based on the delinquency of the accounts being sent to collections. RGS is compensated through their proposed fee, which is applied to the collections secured that are redirected to the City. Below is a breakdown demonstrating the estimated fees that could be paid to RGS based on our current accounts pending collection as of June 1, 2024.

Description	Collection Amount*	Fee Percentage	Total Fee
91 days – 180 days (3/10/2024 – 6/8/2024)	\$53,843.58	18%	\$9,691.84
181 days – 1 year (9/3/2023 – 3/9/2024)	\$131,402.36	20%	\$26,280.47
Over 1 year (beginning 9/5/2023)	\$672,363.50	25%	\$168,090.88
<b>Estimated Total Fee: \$204,063.19</b>			

\*Estimate only as of 6/1/2024

The proposed services agreement will be for a two-year term beginning December 3, 2024, and expiring December 2, 2026.

**Origination:** Project Management

**Recommendation:**



Staff recommends approving a Service Agreement with RGS for consumer debt collection services.

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

**FUNDING (IF APPLICABLE)**

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

Yes: \_\_\_\_\_ No: \_\_\_\_\_ If yes, specify Account Number: \_\_\_\_\_

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

Signed Meagan Mageo Approved by \_\_\_\_\_  
Staff Member Date City Manager Date

GENERAL SERVICES  
AGREEMENT

BETWEEN

CITY OF TOMBALL, TEXAS

---

AND

RGS FINANCIAL, LLC

THIS AGREEMENT, made and entered into as of this 4th, day of November 2024, by and between RGS FINANCIAL, LLC, hereafter called “Collector” and CITY OF TOMBALL, TX, hereafter called “Creditor” (the “Agreement”). This Agreement consists of the General Services Agreement and the schedule listed below:

**Schedule A: Collector Fee Schedule**

**WITNESSETH:**

WHEREAS, Creditor has unpaid accounts, loans, fines, fees, and/or other receivables (collectively “Debts”) which it desires Collector to attempt to recover on behalf of Creditor; and

Collector is qualified to collect Debts and desires to recover such Debts as referred for collection by Creditor.

IT IS THEREFORE MUTUALLY AGREED AS FOLLOWS:

**SECTION 1- SERVICES AND FEES**

- 1.1 Collector agrees to accept for collection, upon terms, conditions, and provisions herein set forth, Debts as Creditor refers for collection. Collector agrees to maintain licenses, as required by law, in states necessary to collect these Debts, and to employ lawful, ethical and nondiscriminatory means, methods and procedures, including but not limited to compliance with all federal and state laws relating to the collection of these Debts.
- 1.2 Collector shall remit to the Creditor the **NET** total of funds collected for the Creditor by the tenth (10<sup>th</sup>) day of each month during the term of this Agreement. Collector will provide separate payments as well as separate monthly accounting statements of all payments received and credited during said period. For any Debts placed with Collector, Creditor agrees to remit collection fees due to Collector in the event payments are made directly to the Creditor or anyone working on behalf of the Creditor that accepts payments of Debts.
  - i. If Collector remits to the Creditor the gross total of funds collected for the month and Creditor fails to pay Collector’s collection fees within sixty (60) days of Creditor receiving said gross funds, then each month thereafter Collector shall automatically remit to the Creditor the net total of funds collected (funds collected minus collection costs owed). Collector may also remove from Creditor’s net remit any outstanding receivable until the receivable is paid in full. If this provision of the Agreement is triggered by Creditor’s failure to remit funds, Creditor agrees

Collector shall remit net funds due to Creditor for the remaining term of the Agreement.

1.3 Types of Accounts and Fees:

- i. First Placements:
  - a. “First Placements” are Debts placed for collection by Creditor for the first time.
  - b. A set percentage of the total amount collected, as provided in the attached Schedule A, will be the sole consideration paid to Collector for First Placements (“First Placements Collection Fee”). Creditor shall not be liable for any costs and/or expenses incurred by Collector in the collection of Debts. Costs and/or expenses (“Costs and/or Expenses”) are defined as those monies necessary for the ordinary course of the Collector’s business operations (i.e. telephone expenses, computer costs, labor, collection letter costs, etc.). Costs and/or Expenses exclude any fees associated with Debts Creditor pursues through litigation except as otherwise addressed herein.
  
- ii. Second/Third Placements:
  - a. “Second/Third Placements” are Debts previously placed with Collector or any other collection entity (that were subsequently closed and returned to Creditor) that have been placed with Collector for an additional collection effort.
  - b. A set percentage of the total amount collected, as provided in the attached Schedule A, will be the sole consideration paid to Collector for Second/Third Placements (“Second/Third Placements Collection Fee”). Creditor shall not be liable for any costs and/or expenses incurred by Collector in the collection of Debts. Costs and/or expenses (“Costs and/or Expenses”) are defined as those monies necessary for the ordinary course of the Collector’s business operations (i.e. telephone expenses, computer costs, labor, collection letter costs, etc.). Costs and/or Expenses exclude any fees associated with Debts Creditor pursues through litigation except as otherwise addressed herein.
  
- iii. Accounts Approved for Litigation:
  - a. “Litigation Accounts” are Debts (First Placements, Second/Third Placements) Creditor has, in writing, authorized a lawsuit to be filed against the consumer and/or cosigner in the applicable court as required by law and Collector has, at Creditor’s direction, forwarded the account to Creditor’s law firm in the applicable jurisdiction.

- b. A set percentage of the total amount collected, as provided in the attached Schedule A, will be the sole consideration paid to Collector for Litigation Accounts (“Litigation Account Collection Fee”). Litigation Accounts. Creditor shall not be liable for any costs and/or expenses incurred by Collector in the collection of Debts. Costs and/or expenses (“Costs and/or Expenses”) shall be defined as those monies necessary for the ordinary course of the Collector’s business operations (i.e. telephone expenses, computer costs, labor, collection letter costs, etc.). Costs and/or Expenses do not include those monies necessary for Creditor to defend any claim or counterclaim (federal or state) brought by a consumer against the Creditor after the Creditor has pursued a Debt through litigation.
- c. If Collector advances any court costs (or other hard costs) relating to collection litigation against a consumer and/or cosigner and Creditor closes an account for any reason after costs have been paid by Collector, Creditor shall pay said advanced costs back to Collector within forty-five (45) days of closing the account.
- d. If Creditor authorizes litigation against a consumer and the consumer brings a counterclaim against Collector and/or the Creditor associated with the collection efforts of Creditor's attorneys, all attorney’s fees associated with defending the claim or counterclaim are the responsibility of the Creditor and are specifically excluded from the “Costs and/or Expenses” as that term is previously used in this Agreement.
- e. Lawsuit Authorization: Collector has no independent authority to forward a Debt to a law firm to file suit. Collector must receive written authority from Creditor prior to sending any Debt to a law firm. Collector shall make every effort to collect Debts to avoid Creditor filing a lawsuit. Creditor agrees to be bound by the terms and/or conditions outlined in the Suit Authorization Form. By authorizing litigation on a Debt, Creditor warrants the principal amount of the Debt and any amount above the principal Debt obligation is supported by a legible and enforceable contract between the consumer and the Creditor and/or is specifically allowed by applicable law. By authorizing litigation on a Debt, Creditor also warrants that said Debt is within the statute of limitations for the applicable jurisdiction. Creditor shall accurately disclose the following on each Suit Authorization Form: (a) the date the last voluntary payment was made on the Debt; and (b) all deferral or forbearance periods, including start and end dates.
- f. The decision to file a lawsuit to recover a Debt is solely that of the Creditor. Collector’s role is limited to providing account information to and from the law firm and the Creditor. Creditor chooses counsel to file the lawsuit on its behalf. If the Institution authorizes placement of an account with a law

firm that regularly litigates Debts for Collector's other Creditor clients, Creditor understands and agrees the Creditor is the client of the law firm and is responsible for any and all decisions related to the litigation.

iv. Fee Adjustments

- a. Beginning one (1) year from the date of execution of this Agreement and continuing each year thereafter, the fee schedule set forth in Schedule A may be increased by Collector, provided that in no event shall any such fee increase exceed the most recently available annual change in the Consumer Price Index ("CPI"). Collector shall give Creditor thirty (30) days prior written notice of any increase to the fees set forth in Schedule A.

1.4 Creditor Determines Amount of All Debts:

- i. Creditor, in its sole discretion, determines the amount of all Debts placed for collection with Collector. The amount and accuracy of each Debt placed for collection is the sole responsibility of the Creditor and Debt amounts shall comply with all applicable federal and state laws and regulations while the Debt is placed with Collector. Creditor agrees to notify Collector in writing immediately upon any change in consumer Debt calculations and/or consumer demographics (including any change in bankruptcy status).
- ii. Each Debt placed for collection may or may not include principal, interest, late fees, fines, and/or Creditor assessed fees. Creditor hereby warrants that any amount above the principal Debt obligation is supported by a legible and properly executed written agreement between the consumer and the Creditor and/or is specifically allowed by applicable law.
  - a. Written Agreement. Creditor hereby warrants it has in its possession, custody, or control a legible copy of the entire written agreement between the Creditor and the consumer. If the written agreement is an electronic agreement (signed electronically), Creditor warrants it has in its possession a legible record of the consumer's e-signature that comports with the E-Sign Act. Creditor warrants the written agreement expressly allows for any amount incidental to the principal obligation being assessed by Creditor.
- iii. Creditor hereby understands and agrees that Creditor (not Collector) determines Debt amounts, including the assessment of any amount in addition to the applicable Debt's principal amount. Any communication with a consumer by the Creditor shall correctly and accurately inform the consumer of how Creditor Debts are calculated and inform consumers that all amounts related to a Debt are determined and assessed by the Creditor. At no time shall Creditor communicate to any person



or entity, in writing or otherwise, that any Debt amount is assessed, charged, or determined by Collector.

- iv. As set forth above, Collector charges Creditor certain amounts for collecting certain Debts. Collector does not charge the consumer any amount for collecting certain Debts. The Parties understand and agree that fees charged by Collector for performance of the services outlined herein are wholly unrelated to any consumer's Debt obligation to Creditor.

1.5 Credit Reporting. Upon written request by the Creditor, Collector shall furnish to national credit bureaus, bi-monthly, at no charge to Creditor, information containing current consumer Debt information (hereinafter "Information"). Collector shall bear the cost of preparation and delivery of tapes and other media to the national credit bureaus. Collector and Creditor understand the Information provided to the national credit bureaus will become property of the national credit bureaus. Collector shall report the consumer data provided by the Creditor. Creditor warrants the accuracy of the consumer data it provides. Creditor will take any/all actions requested by Collector during any Debt investigation required by the Fair Credit Reporting Act. Collector shall furnish Information only on those Debts that are currently placed with Collector for collection. Collector shall not have any obligation to furnish Information on Debts that are closed and/or returned to the Creditor.

1.6 Payment Processing. For purposes of collecting Debts; (1) Creditor agrees all Debts placed for collection are for goods and services provided by Creditor, (2) Collector may act as an agent for Creditor when accepting Debt payments, (3) Collector's receipt of funds to pay Debts are treated as a direct receipt of funds by Creditor, and (4) Collector is authorized to provide receipt of payments to consumers reflecting a payment to Collector as agent for Creditor.

## **SECTION 2- ACCURACY OF ACCOUNT INFORMATION**

- 2.1 In addition to any other representation or warranty contained elsewhere in this Agreement, Creditor represents and warrants to Collector:
- i. Debts placed for collection are just obligations that are owed by the individual(s) associated with said Debt(s). If the individual has the same name as a parent or child (is a Junior, Senior, II, III, etc.), Creditor shall identify the accurate generation code/suffix in the placement file;
  - ii. amounts associated with Debts placed for collection are accurate and supported by legible and complete documentation Creditor generates in the ordinary course of its business;

- iii. Debt is not currently being collected by the Creditor or any other entity working on the Creditor's behalf;
- iv. Creditor is not aware of any material dispute as to the validity of any Debt placed for collection and the obligated consumer has not requested that Institution and/or any prior collection agency cease and desist collection activity for the Debt placed with Collector for recovery;
- v. if Collector reports to the any credit reporting agency on behalf of the Creditor, the date of delinquency provided by Creditor is an accurate date of delinquency as that term is used in the Fair Credit Reporting Act;
- vi. dates of default and dates of last voluntary payment provided to Collector by Creditor are accurate and are documented by the Creditor in records Creditor keeps in the ordinary course of its business operations. If the Debt is owed by more than one individual (i.e., consumer and cosigner), Creditor must identify the specific individual who made the last payment;
- vii. individual(s) associated with the Debt(s) are not involved with an ongoing bankruptcy;
- viii. Creditor will only place Debts for a consumer who has been discharged from a bankruptcy filing if; (1) the Debt at issue was incurred after the consumer filed for bankruptcy protection, or (2) Creditor warrants the Debt was not discharged pursuant to 11 U.S.C. § 523(a)(8) and Creditor will defend any threat or claim challenging Creditor's warranty; and
- ix. Consumer E-mail addresses provided to Collector when a Debt is placed for collection are accurate and were obtained directly from the consumer when the consumer registered and/or enrolled at the Creditor.

2.2 Accurate Credit Reporting Information. In addition to 2.1 above, Creditor, pursuant to current credit reporting standards, agrees to provide the following required information for accounts they wish Collector to report to credit reporting agencies:

- i. Consumer's full name (first name, middle name or initial (if available), last name and generation code/suffix (Jr/Sr);
- ii. Consumer's full address;
- iii. Consumer's full Social Security Number (if full Social Security Number is not available, full date of birth is required); and
- iv. Consumer's date of birth.

2.3 Creditor agrees to immediately notify Collector, in writing, of any change in consumer account information. This includes, but is not limited to, address changes, drop/add fees waived, other school fees waived, and balance adjustments. Collector agrees to notify the national credit bureaus bi-monthly of any change in information reported to the national credit bureaus.

- 2.4 Creditor agrees to provide a timely and accurate written response to Collector if Collector is investigating, or re-investigating, any disputed Account (whether the dispute is generated and received from a credit reporting agency or otherwise).
- 2.5 Creditor warrants that Creditor (initial appropriately) \_\_\_\_\_ HAS or \_\_\_\_HAS NOT, at the time of the transaction that led to the Debt, obtained express written consent from consumers to contact the consumers' cellular telephone numbers via automated telephone dialing equipment and/or to leave an automated and/or pre-recorded voice or text message. If Creditor has obtained consent, Creditor will immediately notify Collector if any consumer revokes that consent at any time by any means.

### **SECTION 3- COMPLIANCE AND PERFORMANCE STANDARDS**

- 3.1 Creditor agrees to perform any pre-placement collection efforts required by law or regulation prior to turning Debts over to the Collector.
- 3.2 Collector agrees to implement comprehensive collection procedures in the attempt to achieve a maximum recovery of Debts. Such procedures may include, but are not limited to, a reasonable number of telephone calls along with a reasonable number of letters. Skip tracing procedures will be used wherever necessary and appropriate to locate a consumer.
- 3.3 Creditor understands and agrees Collector utilizes technology to identify consumers that regularly file lawsuits against the debt collection industry. Creditor further understands and agrees that Debts placed with Collector by Creditor that belong to consumers who are identified as serial litigants against the debt collection industry may be returned to Creditor at the sole discretion of Collector. Creditor understands and agrees that it will not place with Collector those Debts returned by other collection agencies if the agency returned the Debt because the consumer regularly sues the collection industry (or regularly issues unfiled litigation threats with a demand for monetary payments). The term serial litigant shall be defined by Collector at its sole discretion on a consumer-by-consumer basis.
- 3.4 Collector agrees to take affirmative action in complying with all applicable federal and state requirements concerning fair employment and employment of the handicapped, and concerning the treatment of all employees, without regard or discrimination by reason of race, color, religion, sex, national origin, physical handicap, and/or any other protected class of individual.
- 3.5 Collector shall promptly undertake, through proper and lawful means, the collection of all Debts referred by the Creditor without regard to the amount. Collector shall maintain

policies and procedures that conform to industry standards concerning adherence to guidelines established by the Fair Debt Collection Practices Act and make every reasonable effort to conform to said policies and procedures.

- 3.6 Collector acknowledges that all documents and information provided by Creditor will remain confidential. Collector will not disclose any such information to any person or entity for any purpose except as necessary to perform the tasks it is assigned to complete by Client or as otherwise required by law.
- 3.7 Collector agrees to compliance training with all current and future employees regarding federal and state legal and regulatory requirements governing the collection of consumer debt.
- 3.8 Collector agrees to abide by the principles of the Gramm-Leach-Bliley Act (GLB) as described in [16.CFR Part 314] of the May 23, 2002 Federal Register to secure and protect any non-public information for all accounts placed with Collector. Collector agrees to maintain a Safeguard of Information Procedure Report outlining the steps in place to ensure protection of all non-public information.
- 3.9 Creditor understands Collector is required, at times, to abide by regulations, processes, and procedures implemented by the Consumer Financial Protection Bureau (CFPB). Creditor agrees to reasonably cooperate with Collector to assist in Collector's compliance with CFPB regulations, processes, and procedures. Creditor's cooperation includes, but is not limited to, assisting Collector in responding to consumer complaints processed through the CFPB consumer complaint portal. Creditor agrees Collector may release any information related to a consumer or a consumer's account(s) that is necessary to facilitate a prompt and accurate response as required by the CFPB.
- 3.10 Creditor understands and agrees Collector may, because of this Agreement, be required to respond to state and/or federal regulators resulting from and associated with collection work performed on behalf of Creditor. An example of the type of inquiry includes, but is not limited to, Collector's receipt of a subpoena. Upon receipt of any state and/or federal inquiry, Collector shall notify Creditor. Creditor may, at its own expense, take any action necessary to protect its interests (i.e., filing a motion to quash a subpoena). Unless Collector is notified the inquiry has been withdrawn or is ruled invalid, Collector shall work with the state and/or federal regulator to respond to the inquiry fully and accurately. Creditor understands and agrees the response process places a significant operational burden on Collector. Creditor agrees to pay all of Collector's reasonable costs associated with an inquiry response. Costs shall include, but not be limited to, reasonable attorney's fees and reasonable hourly rates for Collector's employees that work on the response.

Creditor agrees Collector's employee rate shall be \$150/hour. Collector shall provide Creditor a detailed breakdown of the hours spent, and employee(s) involved. If Collector's employees and/or Collector's attorney(s) are required to travel in association with the inquiry, Creditor agrees to pay all reasonable travel costs which include, but are not limited to, coach air fare, meals, ground travel costs, and reasonable hotel accommodations.

3.11 Network Security: Collector and Creditor each desire to establish connectivity between each of their respective computer networks to enable the parties to electronically transmit and exchange data and other information in a secure environment.

- a. Creditor will allow only approved employees ("Authorized Creditor Employees") to communicate via secure email or SFTP. Creditor shall be solely responsible for ensuring that Authorized Creditor Employees are not security risks, and upon Collector's request, Creditor will provide Collector with any information reasonably necessary for Collector to evaluate security issues relating to any Authorized Creditor Employee access to the Network Connection.
- b. Each Party will be solely responsible for the selection, implementation, and maintenance of security procedures and policies that are sufficient to ensure that (a) such Party's use of the electronic communications are secure and is used only for authorized purposes, and (b) such Party's business records and data are protected against improper access, use, loss alteration or destruction.

3.12 Network Access: Subject to the terms and conditions of this Agreement, in order to facilitate the transmission, transfer and exchange of Data and other Confidential Information between the parties, each Party grants to the other Party a revocable, non-exclusive, and non-transferable right to electronically access, in accordance with the technical specifications referred to in section 3.11 above, the other Party's computer network for purposes of analyzing, evaluating, billing, collecting, processing, storing, searching, viewing, downloading, delivering, exchanging, and converting data and other Confidential Information and for no other purpose.

- a. Any access rights granted by a party to the other party may be revoked at any time following the delivery of written notice of such revocation to the other party. Neither party is authorized to sell, assign, transfer, publish, disclose, display, download, reverse engineer, copy, reproduce, sublicense, transfer, distribute, or otherwise make available to any third party any software, hardware or other programs provided by a party to the other party for use herein.
- b. Network access and use of the Data is expressly limited to the business purposes identified by this Agreement. To the extent the business relationship between

the Parties is terminated, the network access rights set forth in this Agreement shall also be terminated at the same such time, unless otherwise expressly agreed to in writing between the parties. Each Party will be responsible for all costs incurred by that Party under this Agreement, including, without limitation, costs for phone charges, telecommunications equipment and personnel for maintaining the network connection. Collector-approved method of remote access is based on VPN technology which forces all traffic through an encrypted tunnel. Therefore, all remote access traffic passed between Collector network and the end user is fully encrypted.

### 3.13 Security Procedures

- a. Each Party will be solely responsible for the selection, implementation, and maintenance of security procedures and policies that are sufficient to ensure that (1) such party's Confidential Information is secure and is used only for authorized purposes, (2) such party's business records and data are protected against improper access, use, loss alteration or destruction, (3) such Party's privacy and security policies and procedures adequately protect non-public personal information as defined by HIPAA, HITECH Act, GLBA, FDCPA and any and all other applicable federal, state and/or local laws, rules and regulations, and (4) such party will immediately communicate any breach or potential breach of its security policy or procedure as it relates to the other party's Confidential Information.
- b. Creditor and Collector each desire to establish connectivity between each of their respective computer networks to enable the parties to electronically transmit and exchange data and other information in a secure environment. Creditor and Collector desire to establish the connectivity guidelines, standards and methods and desires to establish controls with respect to such methods to protect the integrity of their respective computer networks, data and information, and maintain the confidentiality of information exchanged under this Agreement. Such connectivity shall be through secure email and SFTP.
- c. Collector has and shall maintain a designated Security Officer responsible for information security, safeguarding consumer information as defined by applicable laws. Collector has identified and assessed risks to consumer information in each relevant area of its operations and evaluated the effectiveness of current safeguards for controlling identified risks. Collector has designed a safeguards program and selected appropriate sub-contractors who are compliant with the program, to effectively implement Collector's services for Creditor. Collector will continue to monitor, test, evaluate and adjust the



program in response to relevant circumstances, including changes in business arrangements, operations, or the results of testing and monitoring or as needed to comply with any applicable law or regulation affecting the use or disclosure of consumer information. Collector uses and discloses information only as necessary to perform the specific functions and responsibilities for which it was retained by Creditor. Services provided by Collector are performed as part of Creditor's normal operations. Creditor is responsible for obtaining all required consents and authorizations for the release of consumer information and for Collector's use or further release of such information, as required.

#### **SECTION 4 – INDEMNITY AND INSURANCE**

- 4.1 General Indemnity. Creditor will indemnify and hold harmless Collector, and its respective directors, officers, employees, agents, attorneys, successors and assigns from and against all claims, losses, liabilities, damages, suits, actions, government intervention, taxes, penalties or interest, and legal expenses or other hard costs (including reasonable attorney's fees) arising out of or in connection with the acts or omissions of the Creditor under or related to this Agreement, including but not limited to, any breach of a representation or warranty contained in this Agreement. This paragraph also includes, but is not limited to, claims (or unfiled demands) involving the amount of a Debt, the dates of default, date of the last voluntary payment, counterclaims or separate claims filed against the Collector that assert violations associated with any Litigation Account, dates of delinquency, the validity of any contract between a consumer and Creditor, and/or the services provided by Creditor to consumer.
- 4.2 Consumer Claim Indemnity. In addition to the general indemnification outlined herein, Creditor agrees to fully indemnify Collector for any claim made (including unfiled demands) by a consumer that any Debt amount or portion of a Debt amount placed for collection violates any applicable law including, but not limited to, any claim for a violation of 15 U.S.C. § 1692(e), §1692f(1), or any similar state law. Indemnification for this type of claim (a claim that any amount incidental to the principal amount of the Debt should not be collected) shall include all costs, attorney's fees, disgorgement, statutory liability, any resulting judgment amount, any lost profits, or any other amount resulting from the claim. Additionally, attorney's fees shall be payable by Creditor to Collector regardless of whether or not said fees are incurred as the result of formal legal action. If Creditor, as indemnitor under 4.1 or 4.2, takes over litigation against Collector, Collector shall have the right to approve Creditor's defense counsel, any proposed settlement or resolution, and any settlement documentation ahead of execution. Approval by Collector shall not be unreasonably withheld.

- 4.3 Limited Liability. In no event will Collector be liable for any loss of profit or revenue by Creditor, or for any other consequential, incidental, future, punitive, or indirect damages incurred or suffered by Creditor arising as a result of or related to the services performed and/or Agreement, whether in contract, tort, or otherwise, even if Collector and/or Creditor has been advised of the possibility of such loss or damages. The total liability of Collector for all claims of any kind arising as a result of or related to the services performed and/or Agreement, or to any act or omission of Collector, whether in contract, tort, or otherwise, is limited to the lesser of actual damages or three (3) months of commissions paid to Collector by Creditor pursuant to this Agreement for the three (3) month period immediately prior to the claim. Collector shall not be liable to Creditor for any claim made by any consumer(s) alleging any violation of the Telephone Consumer Protection Act.
- 4.4 Insurance. Collector will maintain a fidelity bond in the amount of five million (\$5,000,000) dollars; said bond being for the benefit of Creditor. Collector will, upon Creditor's written request, provide Creditor with a copy of said bond and will provide Creditor with advance written notice of any change in the bond.

#### **SECTION 5- TERM**

- 5.1 This Agreement shall be in effect for two (2) years from the date of execution with the right and option to extend the term for three (3) additional one (1) year periods with the same terms and conditions provided both parties agree prior to contract expiration. Either the Collector or Creditor may terminate the agreement upon thirty (30) days prior written notice to the other. Termination by Creditor for cause, default, or negligence on the part of the Collector shall be excused from the thirty (30) day notice. The Parties remain responsible for remitting any monies that are or become due following termination of this Agreement.
- 5.2 In addition, beginning one (1) year from the date of execution of this Agreement and continuing each year thereafter, the fees in the attached Schedule A may be increased as set forth in Section 1.3 (iv.) of this Agreement.

#### **SECTION 6- CHOICE OF LAW**

- 6.1 This Agreement shall be interpreted in accordance with the laws of the State of Texas. For purposes of all legal proceedings between the Parties arising out of this Agreement, whether founded in law or equity, the Parties hereby irrevocably consent to the jurisdiction of the courts located in Dallas County, Texas or the United States District Court for the Northern District of Texas. The Parties hereby expressly waive any right to a trial by a jury regarding any action, legal or equitable, arising out of this Agreement. Prior to bringing

any legal or equitable action in any court of law, the Parties hereby irrevocably consent to confidential mediation in Dallas County, Texas. Said mediation shall be conducted within sixty (60) days of a Party providing written notice of said Party's claim(s) and request to mediate. The Parties shall make a good faith effort to agree upon a mediator. To the extent the Parties are unable to agree, the mediator shall be chosen from a list of certified mediators provided by the Texas Bar Association.

## **SECTION 7- GENERAL PROVISIONS**

- 7.1 Neither party shall be liable under any contracts or obligations of the other, except pursuant to the specific terms of this Agreement. Neither Party shall have authority to bind the other Party to any debt, contractual, or other undertaking.
- 7.2 Independent Contractor Relationship. The Parties to this Agreement are independent contractors to one another and nothing in this Agreement shall be deemed to create a relationship of principal and agent between the Parties. Additionally, nothing in this Agreement shall be construed to create an employer/employee, master/servant or partnership/joint venture relationship between the Parties. Each Party shall be exclusively responsible for selecting, supervising and compensating its own employees and/or representatives in the performance of their responsibilities under this Agreement. Neither Party shall have the authority to bind the other or to transact business in the name of the other nor to make representations or promises on behalf of the other except as expressly granted under this Agreement. An express exemption to this provision is when the Creditor directs Collector to send correspondence on Creditor's behalf that is a communication to a consumer from the Creditor (i.e. on Creditor letterhead & directing the consumer back to the Creditor for further communication and/or payment). This type of communication is created, sent, and managed at the direction and control of the Creditor whereby, for the limited purpose of this type of communication, Collector is a "de facto employee" of the Creditor as that term is used in Fair Debt Collection Practices Act jurisprudence.
- 7.3 Creditor authorizes Collector to endorse any check or other negotiable instrument received by Collector for payment of or towards a placed Debt that is sent to Collector but payable to the Creditor.
- 7.4 Neither Party shall be deemed in breach of this Agreement during any period of time in which it is unable to perform its obligations as a result of the occurrence of any event of force majeure, which shall include, but not be limited to, acts of God, act or order of government, commercial power failure, government action, war, insurrection, terrorism, fire, strike, pandemic, failure of telecommunications facilities or any other circumstances

beyond the reasonable control of that Party. The required time for a Party's performance hereunder shall be extended to account for any such force majeure event.

- 7.5 Modification: This document contains the entire agreement relating to the subject matter hereof between Collector and Creditor and supersedes any prior or contemporaneous oral or written agreements or representations. Except for the Fee Adjustment pursuant to Section 1.3(iv), this Agreement may be modified only by a written agreement duly executed by authorized representatives of both Collector and Creditor except for the suit authorization form executed by the Creditor. The terms and conditions of the suit authorization form modify this Agreement, to the extent the terms and conditions set forth therein do not conflict with the terms of this Agreement. To the extent said terms and conditions do conflict with this Agreement, the terms and conditions of this Agreement shall control.
- 7.6 If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the other provisions shall remain in full force and shall in no way be affected, impaired or invalidated, unless to do so would substantially destroy the fundamental purposes of this Agreement or substantially and unfairly alter the respective burdens and benefits of the Parties hereunder.
- 7.7 Any waiver by either Party of a breach of any provision of this Agreement shall not operate as or be construed as a waiver of any other provision or any subsequent breach.
- 7.8 This Agreement shall not be assigned or transferred by Collector without Creditor's prior written consent, nor shall any of the duties or responsibilities of Collector be assigned or transferred. This Agreement shall not be assigned or transferred by Creditor, except to an entity which is in control of, controlled by, or under common control with Creditor.
- 7.9 All terms of this Agreement shall be binding upon, inure to the benefit of, and be enforceable by the Parties hereto, and their heirs, legal representatives, successors and permitted assigns.
- 7.10 This Agreement is the result of negotiation between the Parties, and no ambiguity herein shall be construed against either party because of that party's role in drafting this Agreement.
- 7.11 A fully executed facsimile or electronic copy of this Agreement shall be treated as an original Agreement and signatures may be made in counterparts to the Agreement.

- 7.12 Each party represents that its execution and performance of this Agreement will not violate any term, covenant or understanding with any other person or entity or place such party in breach of any contractual or legal obligation to a third party.
- 7.13 This Agreement is executed for the benefit of the named Parties only. Nothing in this Agreement or in the negotiation of this Agreement shall have the effect of conferring any rights or expectations on any third party. No one other than a Party to this Agreement or a Party's permitted successor or assign shall have the right to enforce any covenant, term or condition in this Agreement.
- 7.14 Non-Solicitation- During the term of this Agreement and for a period of twelve (12) months subsequent to the termination thereof, neither Party shall, either on its own account or for any person, firm, partnership, corporations, or other entity (a) solicit, interfere with, or endeavor to cause any employee of the other Party to leave his or her employment, or (b) induce or attempt to induce any such employee to breach his or her promise to his or her employer.
- 7.15 Any notice or other communication required or permitted by this Agreement shall be in writing and shall either be hand-delivered, sent via overnight mail by a nationally recognized courier service, or sent postage prepaid by certified or registered mail, return receipt requested, to the following addresses or to such other addresses or persons as may be furnished from time to time in writing by one party to the other party. The notice shall be effective on the date of delivery if delivered by hand, the date of delivery as indicated on the receipt if sent via overnight mail, or the date indicated on the return receipt whether or not such notice is accepted by the addressee.

If to Creditor:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

If to Collector:

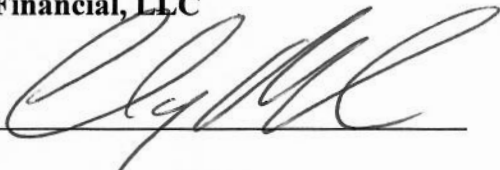
RGS Financial, LLC  
 Executive Vice President  
 1700 Jay Ell Drive, Suite 200  
 Richardson, TX 75081

IN WITNESS WHEREOF, Collector and Creditor have caused this Agreement to be executed by their duly authorized representatives on the date first above written:

**Creditor**

**RGS Financial, LLC**

By: \_\_\_\_\_

By:  \_\_\_\_\_

Printed Name: \_\_\_\_\_

Printed Name: Clay Mahan

Title: \_\_\_\_\_

Title: Executive Vice President

Date: \_\_\_\_\_

Date: November 4, 2024



**Schedule A - Collector Fee Schedule**

Collection fee(s) charged to Creditor will be based on the following table:

<b>Placement Type</b>	<b>Fee</b>
Aged 0-180 days	<b>Eighteen percent (18%)</b> of the total amount collected will be the sole consideration paid to Collector
Aged 181 days – 365 days	<b>Twenty percent (20%)</b> of the total amount collected will be the sole consideration paid to Collector for Second/Third Placements.
Aged 1 year plus	<b>Twenty five percent (25%)</b> of the total amount collected will be the sole consideration paid to Collector for Litigation Accounts

Collector and Creditor have expressly agreed to the fees set forth in this **Schedule A- Collector Fee Schedule**

Creditor expressly agrees to adjustments of this Schedule A as set forth in Section 1.3 (iv.) of the Agreement.

**Creditor**

**RGS Financial, LLC**

By: \_\_\_\_\_

By:  \_\_\_\_\_

Printed Name: \_\_\_\_\_

Printed Name: Clay Mahan

Title: \_\_\_\_\_

Title: Executive Vice President

Date: \_\_\_\_\_

Date: November 4, 2024

# City Council Meeting Agenda Item Data Sheet

Meeting Date: December 2, 2024

**Topic:**

Presentation, discussion and possible action to regarding the establishment of a 4 way stop at the intersection of Stella Lane and Camille Drive

**Background:**

Residents in the neighborhood of Stella and Camille Drive have requested that this intersection be changed to a 4 way stop, currently it is a stop only for Camille Drive. After reviewing the layout and traffic, it is recommended to make the intersection into a 4 way stop. Staff recommends approval.

**Origination:** Public Works

**Recommendation:**

Approval

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

**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: #100-154-6106

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

Signed \_\_\_\_\_  
Staff Member Date

Approved by David Esquivel Nov. 26, 2024  
City Manager Date

# City Council Meeting Agenda Item Data Sheet

Meeting Date: December 2, 2024

**Topic:**

Adopt, on First Reading, Ordinance No. 2024-38, an Ordinance of the City of Tomball, Texas amending its Code of Ordinances by amending Chapter 18, Environment, by adding a new Article XI, Tree preservation; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof; providing for severability, making findings of fact; and providing for other related matters

**Background:**

**Origination:** Community Development Department

**Recommendation:**

**Party(ies) responsible for placing this item on agenda:** Craig T. Meyers, P.E.

**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 Sasha Luna Approved by \_\_\_\_\_  
Staff Member Date City Manager Date

**ORDINANCE NO. 2024-38**

**AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS AMENDING ITS CODE OF ORDINANCES BY AMENDING CHAPTER 18, ENVIRONMENT, BY ADDING A NEW ARTICLE XI, TREE PRESERVATION; PROVIDING FOR A PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF; PROVIDING FOR SEVERABILITY, MAKING FINDINGS OF FACT; AND PROVIDING FOR OTHER RELATED MATTERS.**

\* \* \* \* \*

**WHEREAS**, the City Council of the City of Tomball, Texas, finds that it is in the best interest of the health, safety and welfare of the citizens to add tree preservation provisions as set forth herein; now therefore,

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

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

**Section 2.** The Code of Ordinances is amended by adding a new Article XI, Tree preservation to read as follows:

Sec. 18-339.-Purpose.

The purpose of this section is to preserve, protect, and enhance existing trees and mitigate the effects of tree removal within the City of Tomball. Trees, particularly native species, add natural beauty and distinct local character, add shade, promote water conservation, provide locations for habitat, and increase property values. The provisions of this section are intended to support the long-term viability of healthy trees and promote natural ecological, environmental, and aesthetic quality in the community.

Sec. 18-340.-Applicability.

The provisions of this section shall apply to all property within the city limits.

Sec. 18-341.-Exemptions.

Exemptions from the requirements of this section are as follows:

- (a) Trees that the Director of Community Development or their designee determine are dead, diseased, in severe decline, or deemed a safety hazard. The property owner or developer can elect to hire a certified Urban Forester, Landscape Architect, or Arborist to confirm or reverse the City's determination.
- (b) Trees within existing and proposed public rights-of-way, utility easements, and fire lanes.
- (c) Or as otherwise exempt under applicable law, including Section 212.905 of the Texas Local Government Code.

Sec. 18-342.-Appeals.

The City Council shall consider appeals if it determines that compliance with this section creates an undue hardship for the applicant. An applicant may submit an alternative plan or request relief from compliance as part of an appeal application.

Sec. 18-343.-Definitions.

Caliper inch. The diameter of the trunk of a tree as measured at twelve (12) inches above grade. This measurement method is used for replacement trees.

Diameter inch (diameter breast-height). The diameter of the trunk measured four-and-one-half feet (54 inches) above grade. This measurement method is used for mature trees during a tree survey.

Clear-cutting. The indiscriminate cutting, plowing, or grubbing of trees without regard to type or size for the purpose of clearing the land.

Critically alter. Uprooting, removing the canopy or severing the main trunk of a tree, or causing damage which may cause a tree to die. This includes but is not limited to the removal of a tree from a property, damage inflicted upon a tree by machinery, storage of materials or the compaction of soil above the root system of a tree, a change in the natural grade above the root system of a tree, or excessive pruning.

Drip line. An imaginary line extending from the external boundary of a tree's canopy to the ground.

Mitigation. The method by which trees are replaced is either through replanting on the subject property, planting or transplanting to another location or same property, or through payment of fees-in-lieu of replanting approved by the City.

Parcel of land. Land in the City of Tomball which has been platted or not platted.

Protective fencing. Chain link, silt fence, or other fencing used to protect preserved trees during construction activities.

Protected tree. Any tree species listed in the City of Tomball Tree List (Table 18-344.1) that measures 18 diameter inches or larger. Species not listed in Table 18-344.1 do not require protection or replacement.

Tree, dead (or declining). A tree that is dead or in severe decline with substantial structural defects, no remedial options available, and no chance of recovery.

Tree, replacement. Trees planted to mitigate the loss of trees during development.

Tree fund. A City-administered fund established for collection of fees-in-lieu or replacement trees paid as mitigation and may include other contributions made in support of tree protection efforts.

Tree Survey. A plan or drawing to scale that identifies the exact size, location, condition (healthy, dead, or declining), and species of protected trees and the disposition of each protected tree during development. The plan shall indicate whether each protected tree is to be preserved or removed. The plan shall indicate the location and types of treatments to be utilized to protect trees during development such as fencing, mulching, root pruning, and other measures.

#### Sec. 18-344.-Protected tree species.

The requirements for tree replacement and mitigation as outlined in this section apply only to the trees listed in the City of Tomball Tree List (Table 18-344.1).



Table 18-344.1

City of Tomball Tree List	
American Elm	Overcup Oak
American Holly	Pecan
American Sycamore	Pin Oak
Aristocrat Pear	Possumhaw Holly
American Sweetgum	Redbud
Arizona Cypress	Red Maple
Bald Cypress	River Birch
Black Gum	Sawtooth Oak
Boxelder	Shumard Oak
Bradford Pear	Slippery Elm
Bur Oak	Southern Magnolia
Cedar	Southern Sugar Maple
Cedar Elm	Swamp Chestnut Oak
Eastern Black Walnut	Sweet Gum
Eastern Red Cedar	Sycamore
Green Ash	Texas Red Oak
Lacebark Elm	Tulip Tree
Laurel Oak	Tulip Tree Liriodendron
Leyland Cypress	Water Oak
Live Oak	White Ash
London Plane Tree	White Oak
Magnolia	Willow Oak

Sec. 18-345.-Tree removal permit.

- (a) Tree removal permit required. A tree removal permit is required for the removal of any protected tree within the City of Tomball.
- (b) Tree Removal Permit Application. A tree removal permit application and any associated permit application fees established by the City shall be submitted to the Community Development Department in conformance with the requirements of this section.
- (c) Approval. The Director of Community Development or their designee shall have the authority to issue a Tree Removal Permit if it complies with all the requirements of this Code
- (d) Expiration. A Tree Removal Permit shall expire two years after its issuance.

Sec. 18-346.-Tree survey.

(a) Tree survey required.

A tree survey shall be submitted prior to the removal of any protected trees. The tree survey shall be performed by a certified Urban Forester, Landscape Architect, or Arborist. The submitted tree survey shall include the exact size, location, condition (healthy, dead, or declining), and species of each tree that measures 18 caliper inches or larger and is listed on the City of Tomball Tree List (Table 18-344.1). It is recommended that the tree survey includes trees on the City of Tomball Tree List that measure eight (8) caliper inches or larger to retain eligibility for preserved tree credits according to Section 18-349. – Tree Preservation Incentives and Chapter 50.

(b) Tree survey requirements.

The tree survey shall be submitted on a scaled drawing of the property which includes the following information:

- (1) A vicinity map locating the property within the community;
- (2) The boundaries of the property and its calculated area;
- (3) The location of all existing streets, drainage and utility easements that are on or adjacent to the property;
- (4) The location of any required buffer zones;
- (5) Include all protected trees 18-inch diameter or larger and all trees 8-inch diameter or larger that are listed on the City of Tomball Tree List that will be preserved for tree credits. Each protected tree that is individually located by the survey will need to be flagged with blue plastic flagging. The tree survey submittals must include a table cross referenced to the diagram with the identification number, species, and diameter; and
- (6) Location of tree protection fencing installed at the edge of the drip line.

(c) Alternatives to a tree survey.

- (1) No Protected Trees on Site. In lieu of a tree survey, the applicant may submit an affidavit from a certified Urban Forester, Landscape Architect, or Arborist certifying that there are no protected trees on the property or all protected trees on the property are entirely dead or in severe decline. The affidavit shall be approved by the Director of Community Development or their designee to be accepted as an alternative to the required tree survey.
- (2) Preservation areas. In lieu of a tree survey, the applicant may submit a landscape plan together with the plat submittal or a tree removal permit depicting no-disturbance

preservation areas that include substantial existing tree canopy coverage that will not be disturbed or critically altered during grading or construction, with the following conditions:

- (a) The no-disturbance preservation areas shall constitute a minimum of 20% of the parcel area.
- (b) To confirm the existence of substantial existing tree canopy coverage in the designated areas, the submittal shall include aerial photographs and on-site photos.
- (c) Trees within the designated areas do not need to be identified as a protected tree species.

#### Sec. 18-347.-Buffer zones.

For plats submitted after the effective date of this provision that are adjacent to existing properties zoned for residential uses that are not part of the new subdivision, a buffer zone is required in the new subdivision along the common boundary between the new subdivision and the existing residential zone. The buffer zone shall be established as a platted reserve restricted exclusively for trees and landscaping, being a strip not less than 18 feet deep running parallel and adjacent to the common boundary and not less than 15 feet deep behind the back line of any easement or series of abutting parallel easements along the common boundary. Outside of any existing or proposed easement within the buffer zone, all trees and underbrush within this buffer zone, if they exist, are subject to mandatory preservation.

Exemptions from the buffer zone requirements include:

- (a) Subdivisions that are less than five acres in size; and
- (b) Replats of existing subdivisions where the boundary between the subdivision being replatted and the existing residential zone is unchanged and where additional lots are not being created along the boundary.

#### Sec. 18-348.-Tree Replacement Standards

- (a) Mitigation of Removed Trees. Protected trees meeting the minimum size and species requirements shall be replaced at a rate of 1 inch caliper of new trees for every 1-inch diameter of protected trees removed. The total number of caliper inches required to be mitigated shall not exceed 100 caliper inches per acre.
- (b) Replacement Tree Size. All replacement trees required per the mitigation ratio shall be a minimum of four (4) caliper inches. Trees must be a species listed in City of Tomball Tree List (Table 18-344.1).

(c) Landscape Credit. Replacement trees that are planted on site as mitigation for removal of protected trees are eligible to be counted toward the landscaping requirements of Chapter 50.

(d) Timing of Mitigation Compliance.

(1) Replacement trees shall be planted within 90 days of issuance of the tree removal permit. If the replacement trees cannot be planted within 90 days, the Director of Community Development or their designee may approve a delay in replacement of up to six months after the date of tree removal permit issuance.

(2) If an applicant cannot replace the mitigation trees required or gain approval to plant on an alternate site, a fee-in-lieu payment into the tree fund shall be required before the tree removal permit can be issued.

Sec. 18-349.-Tree Preservation Incentives

(a) Preserved Tree Credits. Trees listed in the City of Tomball Tree List (Table 18-344.1) that are preserved onsite and measure eight (8) diameter inches or greater may be credited toward the replacement trees required for mitigation or toward the landscape requirements in Chapter 50.

(b) Preserved tree credits will be granted according to the standards set out in Table 18-349.1.

Table 18-349.1

Preserved Tree Size (in diameter inches)	Credits Toward Replacement Tree Requirement (Mitigation)
8" – 11"	8 caliper inches
12" – 17"	12 caliper inches

(c) Code Conflicts. In certain cases, the preservation of protected trees may be desirable enough to take priority over full compliance of certain conflicting subdivision and zoning regulations, including, but not limited to, setbacks, lot design standards, building heights, sidewalks, lighting, signage, parking spaces, parking lot design, and driveway separation. When a conflict exists between the preservation of a protected tree and the provisions of subdivision or zoning ordinances, the applicant may request an alternative standard or design. The applicant's request may be considered and approved by the Director of Community Development or their designee, provided that a reasonable application of public health and safety standards are maintained with the proposed design.

Sec. 18-350.-Alternative Mitigation Methods

(a) Fee-in-Lieu payment. If replacement tree plantings cannot be fully accommodated on site with adequate space and conditions for long-term health, then an alternative fee-in-lieu payment to the Tree Mitigation Fund, which is hereby established, may be considered. If the applicant can demonstrate every effort has been made to plant the required replacement

trees on site, the Director of Community Development or their designee may consider a fee-in-lieu payment for the remaining balance of replacement tree value. Payments to the fund will be on a per caliper inch basis at a rate established in the City's Master Fee Schedule. Replacement trees and fee-in-lieu payments may be combined to satisfy the requirement.

- (b) Off-site mitigation. If replacement tree plantings cannot be fully accommodated on site, then replacement trees may be proposed to be planted in a location mutually agreed upon by the Director of Community Development or their designee and the applicant, including parks and other public places such as streets, medians, and other common open spaces.

Sec. 18-351.-Tree Mitigation and Enforcement Funds

- (a) The Director of Community Development or their designee shall establish a dedicated account to be known as the Tree Mitigation Fund.
  - (1) Mitigation fees paid as provided by Section 18-350 – Alternative Mitigation Methods of this article shall be recorded for the benefit of the fund and accounted for in a manner that distinguishes such funds from other general funds of the city. The balance of such fund remaining at the end of each fiscal year shall be appropriated as the beginning balance of the fund for the following fiscal year. The assets of the fund may be used as provided by this section, and for no other purpose.
  - (2) The assets of the fund shall be expended to purchase and plant new trees in public parks, parkways, medians and rights-of-way of public streets and upon the grounds of other public property of the city. Planting costs payable from the fund include the installation of related irrigation equipment and other measures necessary to protect and subsequent maintenance following planting. An amount not to exceed 20 percent of the fund balance at the beginning of each fiscal year may be expended to promote public awareness of the objectives of this article, including Earth Day, or Arbor Day programs for the distribution of sapling trees to the general public.
  - (3) The Director of Community Development or their designee shall establish a dedicated account to be known as the Tree Enforcement Fund.
    - (a) Penalties for violations paid shall be recorded for the benefit of the fund and accounted for in a manner that distinguishes such funds from other general funds of the City. The balance of such fund remaining at the end of each fiscal year shall be appropriated as the beginning balance of the fund for the following fiscal year. The assets of the fund may be used as provided by this section, and for no other purpose.
    - (b) The assets of the fund can be expended to hire or contract with a certified Urban Forester, Landscape Architect, or Arborist to help with enforcement, inspections and reviews as well as to promote public awareness of the

objectives of this article and may be used for necessary expenses, equipment, or contractual obligations related to the enforcement of this article.

**Section 3.** Any person who shall intentionally, knowingly, recklessly or with criminal negligence violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction, shall be fined in an amount not to exceed \$2,000. Each day of violation shall constitute a separate offense.

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

**Section 5.** This Ordinance shall take effect immediately from and after its passage and the publication of the caption hereof, as provided by law and the City’s Home Rule Charter.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE \_\_\_\_ DAY OF \_\_\_\_\_ 2024.

COUNCILMAN FORD	_____
COUNCILMAN GARCIA	_____
COUNCILMAN DUNAGIN	_____
COUNCILMAN COVINGTON	_____
COUNCILMAN PARR	_____



SECOND READING:

READ, PASSED, AND ORDAINED AS SET OUT BELOW AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL, HELD ON THE \_\_\_\_ DAY OF \_\_\_\_\_ 2024.

COUNCILMAN FORD	_____
COUNCILMAN GARCIA	_____
COUNCILMAN DUNAGIN	_____
COUNCILMAN COVINGTON	_____
COUNCILMAN PARR	_____

\_\_\_\_\_  
LORI KLEIN QUINN, Mayor  
City of Tomball

ATTEST:

\_\_\_\_\_  
Tracy Garcia, City Secretary  
City of Tomball

# Regular City Council Agenda Item Data Sheet

Meeting Date: December 2, 2024

**Topic:**

Approve, on First Reading, Resolution No. 2024-46-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 Niky’s Mini Donuts, LLC to make direct incentives to, or expenditures for, rental assistance for new or expanded business enterprise to be located at 1417 Graham Drive, Suite 400, Tomball, Texas 77375. The estimated amount of expenditures for such Project is an amount not to exceed \$10,000.00.

**Background:**

On November 12, 2024, the Tomball Economic Development Corporation (TEDC) Board of Directors unanimously approved, as a Project of the Corporation, an economic development performance agreement with Niky’s Mini Donuts, LLC 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. 2024-46-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 \_\_\_\_\_ Approved by \_\_\_\_\_  
Staff Member-TEDC Date Executive Director-TEDC Date

# TOMBALL

ECONOMIC DEVELOPMENT CORP.

**TO:** Honorable Mayor and City Council

**FROM:** Kelly Violette  
Executive Director

**MEETING DATE:** December 2, 2024

**SUBJECT:** Niky's Mini Donuts, LLC

**ITEM TYPE:** Action

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The Tomball Economic Development Corporation has received a request from Analyn Norato, Manager/ Co-Owner, of Niky's Mini Donuts, LLC for funding assistance through the TEDC's Rental Incentive Program for a new donut shop and dessert franchise.

Ms. Norato plans to open a family-owned dessert franchise in Tomball that serves fresh mini donuts, a wide assortment of candy, specialty coffee, ice cream, and more. Niky's Mini Donuts plans to locate their business at 1417 Graham Drive, Suite 400, Tomball, Texas 77375. The space is approximately 1,875 square feet located in the new Headquarters TOO development.

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, not to exceed \$10,000.00 per business.

The lease agreement that was submitted in conjunction with the request letter shows a five-year lease commitment with a monthly rent amount of \$4,837.50 for the first 12 months. The proposed grant amount is \$10,000.00, payable after the first year of operation based on landlord verification of rents paid and meeting the performance agreement criteria.

## Noratwins LLC DBA Niky's Mini Donut

1417 Graham Dr. Ste 400, Tomball, TX 77375  
2326 Scarlett Pine Bend Tomball, TX 77375 (Registered Business Address)  
**Phone:** 346.588.3436 | **Web:** [nikysminidonuts.com](http://nikysminidonuts.com)

November 4, 2024

Tiffani Wooten, CEcD  
Assistant Director  
Tomball Economic Development Corporation

Dear Tiffani,

Niky's Mini Donut Shop is a family-owned dessert franchise coming soon to Tomball, TX, and we're excited to establish our very first business here. Our shop will be a family-friendly space where visitors can enjoy fresh mini donuts, a wide assortment of candy, specialty coffee, ice cream, and more. Our goal is to offer high-quality treats and a welcoming atmosphere for families, friends, and neighbors to gather and create memories.

As we prepare to open, we've been actively engaging with the community, including participating in local initiatives like Tidy Up Tomball, and we're committed to supporting Tomball's growth and community spirit. Our founder/franchisor has started participating in fundraising events with local Tomball schools, and we're excited to continue supporting these initiatives in the future. Building connections with our community is essential to us, and we aim to be a positive presence in Tomball, both through our products and contributions.

As a new franchise, there are considerable initial expenses involved in building and establishing our presence. We are applying for the Rental Incentive Grant to help offset these early costs, allowing us to focus on enhancing our offerings for our future customers. This support would enable us to better serve the Tomball community, generate local jobs, and add to the area's thriving local economy.

Thank you very much for considering our application. We look forward to the opportunity to contribute to the Tomball community with the support of the Tomball Economic Development Corporation.

Sincerely,



Analyn Norato  
Manager / Co Owner  
Niky's Mini Donuts Tomball



**NEW BUSINESS RENTAL INCENTIVE PROGRAM**

**PART A –BUSINESS OWNER APPLICATION**

The New Business Rental Incentive Program seeks to reduce area vacancies and facilitate the establishment of new businesses in previously underutilized areas of the City. The intent of the program is to facilitate business growth and expansion by assisting businesses in leasing space. All grant award decisions of the Tomball Economic Development Corporation (TEDC) Board of Directors are discretionary and final. Through the Program, the TEDC will provide up to 25% of the base monthly rent for the first year of operation only, not to exceed \$10,000 per business.

**Business Owner Applicant Information**

Name of Business: Niky's Mini Donuts Tomball

Current Business Physical Address: 1431 Graham Dr. Ste # 400

City, State & Zip Tomball, TX 77375

Mailing Address: 2326 Scarlett Pine Bend

City, State & Zip Tomball, TX 77375

Business Phone: (346) 588 3436 / (626) 536 3281

Business Website: nikysminidonuts.com

Business Owner Name: Analyn & Enrique Norato

Applicant's Name (if different): Analyn Norato

Position /Title: Manager

Phone and Email: (346) 588 3436

Nature of Business: Dessert Shop

NAICS Code: 722515

Legal Form of Business:

- Sole Proprietor
- Partnership Number of Partners \_\_\_\_\_
- Corporation
- Limited Liability Corp
- Other \_\_\_\_\_

Days and Hours of Operation

Days Open: Mon-Sun

Hours Open: 11AM-10PM

Business Start/Opening Date 04-01-2025

## Employees

Full Time Employees (40 hours per week): 2

Part Time Employees (less than 40 hours per week): 4

Does the Business Owner Have any Relationship to the Property Owner/Landlord?

No  Yes  (please explain)

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## Moving and Space Improvement Cost and Funding Information

### Investment Data

Tenant Space Improvement (finish)	\$ <u>200,000</u>
Landlord Space Improvement (finish)	\$ <u>63,750</u>
Equipment and Display	\$ <u>122,618</u>
Product Stock (for Opening)	\$ <u>17,500</u>
Marketing (First Year)	\$ <u>6,500</u>

### Sources of Funding for Move/Expansion

Funds invested by owner	\$ <u>52,000</u>
Funds from other sources*	\$ <u>468,000</u>
Total estimated cost to move/expand	\$ <u>520,000</u>

\* Source of Funding and Amounts SBA loan which will also include equity injection by owner

## New Lease Property Information

Address of space to be leased: 1431 Graham Dr. Tomball, TX 77375

Total amount of square feet to be leased and occupied: 1875

Term of lease (minimum 3 years): 5 years

Gross rental rate \$ 6,094 per month \$ 39 per s.f.

Additional lease terms and other monthly charges: Base rent \$31+ \$8 NNN 1-2 years

---

Indicate any rate increases: Base rent \$33+ NNN year 3-5

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## Certification

By signing below, the Business Owner of record (applicant) understands and agrees to the following:

1. All information contained in this application, the attached exhibits and other materials submitted in connection with this application are true and accurate to the best of the business owner's knowledge. Business owner understands and agrees that false or untruthful information may be grounds for the TEDC to stop processing this application or to withdraw any approval previously obtained based in whole or in part on such false or untruthful statements.
2. The TEDC is under no obligation to approve the request contained in the application. No promises of approval are conveyed with the acceptance of this application.
3. All tax obligations to the City of Tomball are current.
4. The business is currently in good standing with the City, and has no pending municipal code violations.
5. The business is not currently occupying the space with or without a lease in place.
6. The APPLICANT hereby certifies that the APPLICANT 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. APPLICANT understands and agrees that if, after receiving a Grant, APPLICANT is convicted of a violation under 8 U.S.C. Section 1324a(f), the APPLICANT shall be required to reimburse to the TEDC the grant amount received. Payments must be paid in full within thirty (30) days after the date of written notification by the TEDC. The form of such payment shall be a cashier's check or money order, made payable to the Tomball Economic Development Corporation. The TEDC has the right to recover court costs and reasonable attorney's fees as a result of any civil action required to recover such repayment.

AnalyN Norato

\_\_\_\_\_  
Printed Name of Principal Owner



\_\_\_\_\_  
Signature

10/24/2024

\_\_\_\_\_  
Date

**Please submit the completed application along with a copy of the Proposed Lease Agreement to:**

Kelly Violette

Tomball Economic Development Corporation

29201 Quinn Road, Suite B

Tomball, TX 77375

**For further questions about the Program, please contact Kelly Violette, Executive Director, at 281.401.4086 or [kviolette@tomballtxedc.org](mailto:kviolette@tomballtxedc.org).**



**NEW BUSINESS RENTAL INCENTIVE PROGRAM**

**PART B – PROPERTY OWNER/LANDLORD APPLICATION**

**Complete all items carefully and accurately to the best of your knowledge and return with a copy of Proof of Ownership to:**

Kelly Violette  
Tomball Economic Development Corporation  
29201 Quinn Road, Suite B  
Tomball, TX 77375

Property Address: 1417 Graham Drive, Tomball, TX 77375

Property Owner of Record: HeadquartersTooLLC

Mailing Address: 1431 Graham Drive, Suite 175

City, State & Zip Tomball TX 77375

Phone: 7139991927 Email: peter@tpc-re.com

Name(s) of Authorized Signatories: Peter Licata

Name of Management Company: TPC Real Estate

Name of Representative/Contact Person: Peter Licata

Management Company Address: Same as above

City, State & Zip \_\_\_\_\_

Phone: \_\_\_\_\_ Email: same as above

Name of proposed business at site:

Niky's

Name of business owner:

Analyn Norato

DOES THE BUSINESS OWNER OR THE BUSINESS HAVE ANY RELATIONSHIP TO THE  
PROPERTY OWNER/LANDLORD? NO  YES  Please explain

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**SITE & LEASE INFORMATION**

Total amount of square feet to be leased and occupied by business: 1875

Term of lease: 5 years

Gross rental rate \$6094 per month \$39 per s.f.

Additional lease terms and other monthly charges: \_\_\_\_\_

Indicate any rate increases: increase of \$2 sf after year 2

Is the subject space currently vacant? Yes  No

If yes, how long has the space been vacant? 4 months

Name of previous tenant: na

Previous Rental Rate: \$na Per Month \$na Per Square Foot

**CERTIFICATIONS**

**Are all real estate and personal property taxes due the City of Tomball paid in full?**

Subject Property: YES  NO  (Please explain on supplemental sheet)

Other Properties: YES  NO  N/A

**Are all City of Tomball water and sewer bills due paid in full?**

Subject Property: YES  NO  (Please explain on supplemental sheet)

Other Properties: YES  NO  N/A

**Have you been cited for any existing zoning, building or property maintenance code violations that remain uncorrected?**

Subject Property: YES  NO  (Please explain on supplemental sheet)

Other Properties: YES  NO  N/A

**Are you involved in any litigation with the City of Tomball?**

YES (Please explain on supplemental sheet)

NO

**By signing below, the Landlord/Property Owner of record understands and agrees to the following:**

1. All information contained in this application, the attached exhibits and other materials submitted in connection with this application are true and accurate to the best of the land owner's knowledge. Landowner understands and agrees that false or untruthful information may be grounds for the TEDC to stop processing this application or to withdraw any approval previously obtained based in whole or in part on such false or untruthful statements.
2. The TEDC is under no obligation to approve the request contained in the application. No promises of approval are conveyed with the acceptance of this application.
3. All tax obligations to the City of Tomball are current.
4. The property is currently in good standing with the City, and has no pending municipal code violations.
5. The business is not currently occupying the space with or without a lease in place.

Headquarters Too LLC

---

Printed Name of Property Owner/Landlord



---

Signature

Oct 30, 2024

---

Date



# COMMERCIAL LEASE CONSTRUCTION ADDENDUM (Tenant to Complete Construction)

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## ADDENDUM TO THE COMMERCIAL LEASE BETWEEN THE UNDERSIGNED PARTIES CONCERNING THE LEASED PREMISES AT 1417 Graham Drive, Tomball, TX 77375

The following provisions apply and will control in the event of a conflict with other provisions stated in the lease:

A. Execution and License to Enter: This addendum is executed as a part of the above-referenced lease. Landlord authorizes Tenant to construct the improvements described in this addendum provided that Tenant complies with all of the terms of this addendum. In the event the term of the lease has not yet commenced, Landlord grants Tenant a license to enter into the Property and the leased premises effective upon lease execution for the purposes of constructing the improvements described under this addendum. This license is made under all the terms and provisions in the lease, except as to the covenant to pay rent.

B. Construction Costs: Tenant will pay the full cost to construct the improvements that Tenant is to construct under this addendum, including but not limited to the cost of material, engineering studies, environmental studies, contractors, permits, plans, architects, inspectors, subcontractors, and materialmen. Not later than 10 days after the construction is complete and Tenant has satisfied all of Tenant's obligations under this addendum, Landlord will reimburse Tenant the cost to construct the improvements in an amount that does not exceed \$63,750.00

C. Approval of Plans:

(1) Not later than 12/31/2024, Tenant will submit to Landlord plans and specifications detailing the improvements Tenant desires to complete to the leased premises. The plans must detail all architectural, mechanical, electrical, and plumbing requirements for the improvements and must describe the proposed improvements along with the materials to be used and the interior floor plan of the leased premises. The plans must be drawn by a licensed professional architect in accordance with generally accepted architectural standards or by another person approved by Landlord and must be sufficient for a contractor to use to construct the desired improvements.

(2) Within 10 days after Landlord receives the plans in accordance with Paragraph C(1), Landlord will notify Tenant whether the plans are "approved" or "disapproved" by marking such on the plans and delivering the plans back to Tenant. Landlord will not unreasonably withhold approval of the plans. If Landlord does not notify Tenant of a disapproval within the time specified, the plans will be deemed approved.

(3) If the plans are disapproved, Landlord will detail the reasons for the disapproval either on the plans or in a separate notice to Tenant. If the plans are disapproved, Tenant will, within 15 days after receipt of the disapproval notice from Landlord, submit amended plans to Landlord that incorporate revisions necessary to satisfy Landlord's reasons for the disapproval. Landlord will not unreasonably withhold approval of any amended plans. If Tenant is unable or unwilling to satisfy Landlord's reasons for disapproval by \_\_\_\_\_, and:

(a) if this addendum is executed after the lease commenced, then Tenant will not construct the improvements and this Addendum will have no further effect; or



(b) if this addendum is executed before the lease commences the lease will terminate and Landlord will refund any security deposit and advanced rent paid by Tenant.

(4) "Final plans" means the plans that Landlord approves under this Paragraph C.

D. Change Orders: Tenant must obtain Landlord's advanced written approval of any proposed changes to the final plans. Landlord will approve or disapprove any proposed change within 10 days after Landlord receives a copy of the proposed change order from Tenant. Landlord will not unreasonably withhold approval of any proposed change order. If Landlord does not notify Tenant of a disapproval of a proposed change order within the time specified, the proposed change order is deemed approved.

E. Contractor: Before construction begins Tenant will enter into a written construction contract with a contractor(s) acceptable to Landlord to construct the improvements in accordance with the final plans. Any subcontractors employed by Tenant or Tenant's contractors must be acceptable to Landlord. Landlord will not unreasonably withhold approval of contractors and subcontractors.

F. Construction:

(1) Tenant will diligently complete the improvements in accordance with the final plans and will satisfy any requirements of any governmental authorities having jurisdiction over the improvements. The construction of the improvements must be performed in a good workmanlike manner and must comply with all applicable laws, ordinances, rules, and governmental orders and regulations. Construction of the improvements may not:

- (a) damage the Property except as specifically permitted by the final plans, including but not limited to damage to or interference with any structural component, system, or part of the Property;
- (b) interfere with the rights or operations of any other tenant in the Property or with Landlord's management of the Property; and
- (c) not obstruct any common area, walk, or drive except as Landlord permits.

(2) Landlord and Landlord's designees may inspect the construction of the improvements from time to time. If Landlord notifies Tenant of any construction defect or non-compliance with the final plans, Tenant must promptly correct the defect or non-compliance.

(3) All construction staging areas and dumpster locations are subject to Landlord's approval. Construction debris will not be allowed to accumulate on the Property. All construction debris will be completely removed from the Property upon completion of construction.

G. Completion:

(1) Tenant must substantially complete the construction of the improvements to the leased premises in accordance with this addendum on or before 03/01/2025.

Except as provided in this paragraph, the failure to complete construction of the improvements by the date specified does not relieve Tenant of Tenant's obligations to pay rent or satisfy other terms and conditions of the lease. The time by which Tenant must complete construction may be extended only if: (a) Landlord causes the delay; (b) governmental authorities delay issuing permits or performing inspections through no fault of Tenant; or (c) a construction delay is caused by strike, lock-out, shortage of material, governmental restriction, riot, flood, or a cause outside Tenant's control. Any extension under this paragraph may be exercised by Tenant only if Tenant promptly notifies Landlord in writing of the extension after Tenant knows or has reason to know of any applicable delay which is cause for an extension. Any extension under this paragraph may not exceed the lesser of: the number of days of the delay caused by the specified cause for the delay or \_\_\_\_\_ days. If a delay authorized by this Paragraph applies, the Commencement Date and Expiration Date of the lease shall likewise be extended along with an appropriate adjustment in the rent due dates. If a delay is caused by Landlord and the delay exceeds the time for which an extension is permitted under this paragraph, Tenant may exercise its remedies under the default provision of the lease.

- (2) Construction is complete when all the improvements are constructed in accordance with the final plans and Tenant provides Landlord with: (a) a final certificate executed by the supervising person; and (b) if required by a governmental body, a certificate of occupancy permitting Tenant to occupy the leased premises for the purposes set forth in the lease.
- (3) The supervising person is \_\_\_\_\_ . The certificate of the supervising person is conclusive in any dispute involving the construction performed or required to be performed under this addendum.

H. No Liens:

- (1) Tenant guarantees that Tenant will pay all costs of any liability related to the construction of the improvements described in this addendum and further guarantees the lien-free completion of the improvements against the leased premises and Property. Tenant may not create or place any lien or encumbrance, of any kind, upon the leased premises or Property that encumbers Landlord's interest in the leased premises or Property.
- (2) Before Landlord reimburses Tenant for the cost of the improvements, Tenant must:
  - (a) deliver to Landlord a waiver of liens in recordable form acceptable to Landlord from each contractor, subcontractor, and materialman. The waivers must specify that: (a) the contractor, subcontractor, or materialman waive any and all claims against Landlord and waive any and all lien rights against Landlord's interest in the leased premises and Property; and (b) the contractor or subcontractor agree to hold Landlord harmless from any and all claims arising from or in connection with its work or materials;
  - (b) obtain any required certificate of occupancy; and
  - (c) commence business in the leased premises.
- (3) If any lien is filed or asserted against any portion of the leased premises or Property as a result of the acts of Tenant or Tenant's contractors, subcontractors, or materialmen, Tenant must remove any such lien or lien claim within 20 days after receipt of notice from Landlord.
- (4) Tenant will indemnify and keep Landlord harmless from all damages, costs, expenses, and attorney's fees that may arise from any lien or claim that may be filed or threatened as a result of the improvements to be constructed under this addendum.

I. Bonds: Before commencement of any construction, Tenant and Tenant's contractors, at no cost to Landlord, must post the following bonds in favor of the Landlord in the amounts specified: \_\_\_\_\_

J. Insurance:

- (1) Before any construction commences, Tenant must deliver to Landlord evidence that the insurance required by Paragraph 8A of the lease will be in effect not later than the day construction begins.
- (2) Before any construction commences, Tenant must deliver to Landlord certificates of insurance, from insurers acceptable to Landlord, evidencing that any contractor maintains insurance to protect Landlord, Tenant, and the contractor from:
  - (a) workman compensation claims and other employee benefit acts in an amount not less than \$150,000 \_\_\_\_\_ per occurrence;
  - (b) claims for damages from bodily injury or death to employees and others in an amount not less than \$100,000 \_\_\_\_\_ per person and \$100,000 \_\_\_\_\_ per occurrence; and

(c) property damage in an amount not less than \$250,000 per occurrence.

(3) The insurance required by this Paragraph J must cover any and all claims that may arise out of or as a result of the operations of the contractor or the contractor's subcontractor(s).

(4) The coverage required by this Paragraph J must be maintained by Tenant or Tenant's contractors, at Tenant's or the contractors' sole expense, during all times of any construction period. If Tenant fails or if any of Tenant's contractors fail to maintain the required insurance in full force and effect at all required times, Landlord may:

- (a) purchase such insurance on behalf of Tenant or the contractor(s) and Tenant must immediately reimburse Landlord for such expense; or
- (b) exercise Landlord's remedies for Tenant's default under the lease.

K. Tenant's Assumption of Liability: Tenant must promptly pay and discharge all costs, expenses, claims for damages, liens, lien claims, and any other liabilities which may arise from or in connection with the construction of the improvements described in this addendum. Tenant agrees to hold Landlord harmless from all costs, expenses, damages, liens, lien claims, and any other liabilities, which may arise from or in connection with the construction of the improvements described in this addendum.

L. Special Provisions: *(If applicable, include any business details, factual statements, or any requirements the parties must satisfy [for example, Landlord's obligation to complete shell construction by a certain date or by the time the license under Paragraph A commences].)*

Landlord: HEADQUARTERS TOO LLC

Tenant: NORATWINS LLC

By: \_\_\_\_\_

By: \_\_\_\_\_

By (signature):

By (signature): *Analyn Norato* dotloop verified  
10/18/24 8:41 AM CDT  
ECTV-WCKS-690MX-97ZX

Printed Name: \_\_\_\_\_

Printed Name: Analyn Norato

Title: \_\_\_\_\_

Title: Manager

By: \_\_\_\_\_

By: \_\_\_\_\_

By (signature):

By (signature):

Printed Name: \_\_\_\_\_

Printed Name: Enrique Norato

Title: \_\_\_\_\_

Title: Member



## COMMERCIAL LANDLORD'S RULES AND REGULATIONS

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**REGARDING THE COMMERCIAL LEASE CONCERNING THE LEASED PREMISES AT** \_\_\_\_\_  
1417 Graham Drive, Tomball, TX 77375

**NOTICE:** These rules and regulations are adopted to maintain and enhance the safety and appearance of the Property. From time to time Landlord, at its discretion, may amend these rules and regulations for the purposes for which they were adopted. Under the above-referenced lease, Tenant agrees to comply with these rules and regulations as they may be amended. Exceptions or waivers must be authorized by Landlord in writing. "Property" means the building or complex in which the leased premises are located, inclusive of any common areas, drives, parking areas, walks, and landscaped areas.

- A. Goods, merchandise, equipment, or any personal property may not be stored on the Property, except for inventory within the leased premises necessary for Tenant's normal business operations.
- B. Food is not permitted on the Property, except as inventory for sale and for a small amount of food for Tenant's personal consumption.
- C. Other than those provided by Landlord or specifically authorized by Landlord, no vending machines are permitted on the Property.
- D. The Property may not be used for lodging or sleeping quarters in any manner.
- E. Unless authorized by law or the lease, no animals may be brought or kept on the Property.
- F. No obstruction or interference that impedes use of the common areas, walks, drives, loading areas, parking areas, corridors, hallways, vestibules, and stairs is permitted on the Property.
- G. Persons parking on the Property must comply with all posted signs and directions regulating the parking areas.
- H. No flammable, toxic, noxious, or hazardous materials may be kept on the Property except for over-the-counter cleaning materials kept in enclosed storage closets or cabinets.
- I. Tenants moving in or out of the Property must use only the service entrances and service elevators during the move. All moves must be made at times that do not cause inconvenience in the normal use of the Property.
- J. Deliveries and shipping of goods and merchandise in or out of the Property must be made only through the service entrances, service elevators, loading docks, or other designated shipping and receiving areas. Shipments and deliveries must be made at times that do not cause inconvenience to tenants or patrons on the Property.
- K. Leased premises must be kept clean and free of debris. Trash must be deposited into appropriate receptacles. Trash receptacles controlled by Tenant must not be allowed to overflow, attract rodents or vermin, or emit odors.

(TXR-2108) 1-26-10

Initialed for Identification by Landlord:

and Tenant: 



Page 427

Landlord's Rules and Regulations concerning 1417 Graham Drive, Tomball, TX 77375

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- L. Repair requests must be submitted to Landlord in writing in compliance with the lease.
- M. No modification to the Property and leased premises may be made unless authorized by Landlord, in writing, or permitted by the lease.
- N. No illegal or offensive activity is permitted on the Property nor is any activity that constitutes a nuisance or interferes with the rights of other tenants.
- O. Unless specifically authorized by Landlord, no solicitation or business operations are permitted in the common areas.
- P. Other:

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# COMMERCIAL LEASE GUARANTY

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**GUARANTY TO COMMERCIAL LEASE CONCERNING THE LEASED PREMISES AT** \_\_\_\_\_ **between**  
1417 Graham Drive, Tomball, TX 77375 \_\_\_\_\_ **(Landlord) and**  
Headquarters TOO LLC \_\_\_\_\_ **(Tenant).**  
NORATWINS LLC \_\_\_\_\_

- A. In consideration for Landlord leasing the leased premises to Tenant, the undersigned Guarantor (whether one or more) guarantee Tenant's performance under the above-referenced lease.
- B. If Tenant fails to timely make any payment under the lease, Guarantor will promptly make such payment to Landlord at the place of payment specified in the lease. Guarantor is also responsible for any property damage to the leased premises or Property (as defined in the lease) for which Tenant is responsible under the lease. If Tenant breaches the lease, Guarantor will: (i) cure the breach as may be required of Tenant by the lease; or (ii) compensate Landlord for Landlord's loss resulting from the breach.
- C. Guarantor guarantees Tenant's obligations under the lease regardless of any modification, amendment, renewal, extension, or breach of the lease. Guarantor waives any rights to notices of acceptance, modification, amendment, extension, or breach of the lease. Each Guarantor is jointly and severally liable for all provisions of this guaranty. This guaranty is binding upon Guarantor's heirs, executors, administrators, successors, and assigns. Filing for bankruptcy by Tenant will not diminish Guarantor's obligations under this guaranty.
- D. The laws of the State of Texas govern the interpretation, validity, performance, and enforcement of this guaranty. Any person who is a prevailing party in any legal proceeding brought under or related to this guaranty is entitled to recover attorney's fees from the nonprevailing party.
- E. Guarantor authorizes Landlord to obtain a copy of any consumer or credit report of Guarantor from any consumer reporting agency and to verify relevant information related to Guarantor's creditworthiness from other persons such as banks, creditors, employers, existing and previous landlords, and other persons.
- F. Guarantor will provide Guarantor's current financial information (balance sheet and income statement) to Landlord within 30 days after request by Landlord. Landlord may request the financial information no more frequently than once every 12 months.
- G. Special Provisions: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Guarantor:**  
Signature:   
Printed Name: Analyn Norato  
Address: 2326 Scarlett Pine Bend Tomball, TX 77375  
\_\_\_\_\_  
Phone: 626-536-3281 Fax: \_\_\_\_\_  
SS# or Tax ID#: 783-53-8074 Date: 10/18/2024

**Guarantor:**  
Signature:   
Printed Name: Enrique Norato  
Address: 2326 Scarlett Pine Bend Tomball, TX 77375  
\_\_\_\_\_  
Phone: 626-905-6385 Fax: \_\_\_\_\_  
SS# or Tax ID#: 615-58-7577 Date: 10/18/2024

**Witness:**

**Witness:**





# COMMERCIAL LEASE

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CONCERNING THE LEASED PREMISES AT 1417 Graham Drive, Tomball, TX 77375  
between Headquarters TOO LLC (Landlord)  
and NORATWINS LLC (Tenant).

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<u>No.</u>	<u>Paragraph Description</u>	<u>Pg.</u>	<u>ADDENDA &amp; EXHIBITS (check all that apply)</u>
1.	Parties .....	2	<input type="checkbox"/> Exhibit _____
2.	Leased Premises .....	2	<input type="checkbox"/> Exhibit _____
3.	Term .....	2	<input type="checkbox"/> Exhibit _____
4.	Rent and Expenses.....	3	<input type="checkbox"/> Commercial Property Condition Statement (TXR-1408)
5.	Security Deposit.....	5	<input type="checkbox"/> Commercial Lease Addendum for Broker's Fee (TXR-2102)
6.	Taxes.....	6	<input type="checkbox"/> Commercial Lease Addendum for Option to Extend Term (TXR-2104)
7.	Utilities .....	6	<input type="checkbox"/> Commercial Lease Addendum for Tenant's Right of First Refusal (TXR-2105)
8.	Insurance.....	7	<input type="checkbox"/> Commercial Lease Addendum for Percentage Rent (TXR-2106)
9.	Use and Hours.....	7	<input type="checkbox"/> Commercial Lease Addendum for Parking (TXR-2107)
10.	Legal Compliance .....	7	<input checked="" type="checkbox"/> Commercial Landlord's Rules and Regulations (TXR-2108)
11.	Signs.....	8	<input checked="" type="checkbox"/> Commercial Lease Guaranty (TXR-2109)
12.	Access by Landlord.....	8	<input type="checkbox"/> Commercial Lease Addendum for Tenant's Option for Additional Space (TXR-2110)
13.	Move-In Condition.....	9	<input checked="" type="checkbox"/> Commercial Lease Construction Addendum (TXR-2111) or (TXR-2112)
14.	Move-Out Condition .....	9	<input type="checkbox"/> Commercial Lease Addendum for Contingencies (TXR-2119)
15.	Maintenance and Repairs .....	9	<input type="checkbox"/> Information About Brokerage Services (TXR-2501)
16.	Alterations.....	11	<input type="checkbox"/> _____
17.	Liens .....	11	<input type="checkbox"/> _____
18.	Liability.....	11	<input type="checkbox"/> _____
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20.	Default .....	11	<input type="checkbox"/> _____
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(TXR-2101) 07-08-22 Initialed for Identification by Landlord:   and Tenant:     
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# COMMERCIAL LEASE

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### 1. PARTIES: The parties to this lease are:

Landlord: Headquarters TOO LLC; and  
Tenant: NORATWINS LLC

### 2. LEASED PREMISES:

A. Landlord leases to Tenant the following described real property, known as the "leased premises," along with all its improvements (Check only one box):

(1) Multiple-Tenant Property: Suite or Unit Number 400 containing approximately 1875 square feet of rentable area ("rsf") in 1417 Graham Drive (project name) at 1417 Graham Drive (address) in Tomball (city), Harris (county), Texas, which is legally described on attached Exhibit \_\_\_\_\_ or as follows:

(2) Single-Tenant Property: The real property containing approximately \_\_\_\_\_ square feet of rentable area ("rsf") at: \_\_\_\_\_ (address) in \_\_\_\_\_ (city), \_\_\_\_\_ (county), Texas, which is legally described on attached Exhibit \_\_\_\_\_ or as follows: \_\_\_\_\_


B. If Paragraph 2A(1) applies:

- (1) "Property" means the building or complex in which the leased premises are located, inclusive of any common areas, drives, parking areas, and walks; and
- (2) the parties agree that the rentable area of the leased premises may not equal the actual or useable area within the leased premises and may include an allocation of common areas in the Property. The rentable area  will  will not be adjusted if re-measured.

### 3. TERM:

A. Term: The term of this lease is 60 months and 0 days, commencing on: 11/01/2024 (Commencement Date) and ending on 10/31/2029 (Expiration Date).

B. Delay of Occupancy: If Tenant is unable to occupy the leased premises on the Commencement Date because of construction on the leased premises to be completed by Landlord that is not substantially complete or a prior tenant's holding over of the leased premises, Landlord will not be liable to Tenant for

(TXR-2101) 07-08-22 Initialed for Identification by Landlord:   and Tenant:    
10/18/2024 8:42 AM CDT dotloop verified

such delay and this lease will remain enforceable. In the event of such a delay, the Commencement Date will automatically be extended to the date Tenant is able to occupy the Property and the Expiration Date will also be extended by a like number of days, so that the length of this lease remains unchanged. If Tenant is unable to occupy the leased premises after the 90 \_\_\_\_\_ day after the Commencement Date because of construction on the leased premises to be completed by Landlord that is not substantially complete or a prior tenant's holding over of the leased premises, Tenant may terminate this lease by giving written notice to Landlord before the leased premises become available to be occupied by Tenant and Landlord will refund to Tenant any amounts paid to Landlord by Tenant. This Paragraph 3B does not apply to any delay in occupancy caused by cleaning or repairs.

C. Certificate of Occupancy: Unless the parties agree otherwise, Tenant is responsible for obtaining a certificate of occupancy for the leased premises if required by a governmental body.

**4. RENT AND EXPENSES:**

A. Base Monthly Rent: On or before the first day of each month during this lease, Tenant will pay Landlord base monthly rent as described on attached Exhibit \_\_\_\_\_ or as follows:

Dates		Rate per rentable square foot (optional)		Base Monthly Rent \$
From	To	\$ Monthly Rate	\$ Annual Rate	
11/01/2024	03/31/2025	0.00 / rsf / month	0.00 / rsf / year	0.00
04/01/2025	10/31/2026	2.58 / rsf / month	31.00 / rsf / year	4,837.50
11/01/2026	10/31/2029	2.75 / rsf / month	33.00 / rsf / year	5,156.25
		/ rsf / month	/ rsf / year	
		/ rsf / month	/ rsf / year	
		/ rsf / month	/ rsf / year	

B. Additional Rent: In addition to the base monthly rent, Tenant will pay Landlord the expense reimbursement detailed in Paragraph 4J (if applicable) and all other amounts, as provided by the attached (Check all that apply.):

- (1) Commercial Lease Addendum for Percentage Rent (TXR-2106)
- (2) Commercial Lease Addendum for Parking (TXR-2107)
- (3) \_\_\_\_\_

All amounts payable under the applicable addenda are deemed to be "rent" for the purposes of this lease.

C. First Full Month's Rent: The first full monthly rent is due on or before 11/01/2024 \_\_\_\_\_

D. Prorated Rent: If the Commencement Date is on a day other than the first day of a month, Tenant will pay Landlord as prorated rent, an amount equal to the base monthly rent multiplied by the following fraction: the number of days from the Commencement Date to the first day of the following month divided by the number of days in the month in which this lease commences. The prorated rent is due on or before the Commencement Date.

E. Place of Payment: Tenant will remit all amounts due to Landlord under this lease to the following person at the place stated or to such other person or place as Landlord may later designate in writing:

Name: Appfolio

Address: Online; Appfolio

- F. **Method of Payment:** Tenant must pay all rent timely without demand, deduction, or offset, except as permitted by law or this lease. If Tenant fails to timely pay any amounts due under this lease or if any check of Tenant is returned to Landlord by the institution on which it was drawn, Landlord after providing written notice to Tenant may require Tenant to pay subsequent amounts that become due under this lease in certified funds. This paragraph does not limit Landlord from seeking other remedies under this lease for Tenant's failure to make timely payments with good funds.
- G. **Late Charges:** If Landlord does not actually receive a rent payment at the designated place of payment within 5 days after the date it is due, Tenant will pay Landlord a late charge equal to 10% of the amount due. In this paragraph, the mailbox is not the agent for receipt for Landlord. The late charge is a cost associated with the collection of rent and Landlord's acceptance of a late charge does not waive Landlord's right to exercise remedies under Paragraph 20.
- H. **Returned Checks:** Tenant will pay \$100 for each check Tenant tenders to Landlord which is returned by the institution on which it is drawn for any reason, plus any late charges until Landlord receives payment.
- I. **Application of Funds:** Regardless of any notation on a payment, Landlord may apply funds received from Tenant first to any non-rent obligations of Tenant, including but not limited to: late charges and returned check charges, repairs, brokerage fees, periodic utilities and thereafter to rent.

*(Check box only if Tenant reimburses Landlord for some or all expenses. Do not check for "gross" leases.)*

- J. **Expense Reimbursement.** In addition to base monthly rent stated in Paragraph 4A, Tenant will pay Landlord the expense reimbursement described in this Paragraph 4J. Tenant will pay the expense reimbursement as additional rent each month at the time the base-monthly rent is due. All amounts payable under this Paragraph 4J are deemed to be "rent" for the purposes of this lease.
- (1) **Reimbursable Periods.** Additional rent under this Paragraph 4J is due for all months listed in the chart in Paragraph 4A, even if the base monthly rent is zero.

(2) **Definitions:**

- (a) "Tenant's pro rata share" is 12.10 %.
- (b) "CAM" means all of Landlord's expenses reasonably incurred to maintain, repair, operate, manage, and secure the Property (for example, security, lighting, painting, cleaning, decorations, utilities, trash removal, pest control, promotional expenses, and other expenses reasonably related the Property's operations); including all expenses incurred by Landlord under Paragraph 15, but not including expenses for structural components and roof replacement; CAM does not include capital expenditures, interest, depreciation, tenant improvements, insurance, taxes, or brokers' leasing fees. Notwithstanding the foregoing, CAM does include the amortized costs incurred by Landlord in making capital improvements or other modifications to the Property to the extent such improvements or modifications reduce CAM overall. These costs will be amortized over the useful life of the improvement or modification on a straight-line basis; however, in no event will the charge for such amortization included in CAM exceed the actual reduction in CAM achieved by the improvements and modifications.
- (c) "Insurance" means Landlord's costs to insure the leased premises and the Property including but not limited to insurance for casualty loss, general liability, and reasonable rent loss.
- (d) "Taxes" means the real property ad valorem taxes assessed against the leased premises and Property inclusive of all general and special assessments and surcharges.

- (e) **"Structural"** means all of Landlord's expenses reasonably incurred to maintain, repair, and replace the roof, foundation, exterior walls, load bearing walls and other structural components of the Property.
- (f) **"Roof"** means all roofing components including, but not limited to decking, flashing, membrane, and skylights.

(3). **Method:** The additional rent under this Paragraph 4J will be computed under the following method (Check only one box): Note: "CAM" does not include taxes and insurance costs.

- (a) **Base-year expenses:** Each month Tenant will pay Tenant's pro rata share of the projected monthly expenses for the Property that exceed the amount of the monthly base-year expenses for the calendar year \_\_\_\_\_ for:  taxes;  insurance;  CAM;  structural; and  \_\_\_\_\_
- (b) **Expense-stop:** Each month Tenant will pay Tenant's pro rata share of the projected monthly expenses for the Property that exceed \$ \_\_\_\_\_ per square foot per year for:  taxes;  insurance;  CAM;  structural;  roof replacement; and  \_\_\_\_\_
- (c) **Net:** Each month Tenant will pay Tenant's pro rata share of the projected monthly expenses for the Property for:  taxes;  insurance;  CAM;  structural;  roof replacement; and  pro rata of water, grease trap along with any other restaurant user, and dumpster.

(4) **Projected Monthly Expenses:** On or about December 31 of each calendar year, Landlord will project the applicable monthly expenses (those that Tenant is to pay under this lease) for the following calendar year and will notify Tenant of the projected expenses. The projected expenses are based on Landlord's estimates of such expenses. The actual expenses may vary.

**Notice:** The applicable projected expenses at the time the lease commences are shown in the table below. The total area of the Property presently used by Landlord for calculating expense reimbursements is 15,500 \_\_\_\_\_ rentable square feet (including any add on factor for common areas).

Projected Expenses	
\$ Monthly Rate	\$ Annual Rate
0.67 / rsf / month	8.00 / rsf / year

(5) **Reconciliation:** Within 120 days after the end of each calendar year, Landlord will notify Tenant of the actual costs of the applicable expenses (those that Tenant is to pay under this lease) for the previous year. If the actual costs of the applicable expenses exceed the amounts paid or owed by Tenant for the previous year, Tenant must pay the deficient amount to Landlord within 30 days after Landlord notifies Tenant of the deficient amount. If the actual costs of the applicable expenses are less than the amounts paid by Tenant for the previous year, Landlord will refund the excess to Tenant or will credit the excess to Tenant's next rent payment(s). Tenant may audit or examine those items in Landlord's records that relate to Tenant's obligations under this Paragraph 4J. Landlord will promptly refund to Tenant any overpayment revealed by an audit or examination. If the audit or examination reveals an error of more than 5% over the amounts Landlord collected in a calendar year from Tenant under this lease, Landlord will pay the reasonable cost of the audit or examination. Landlord may not seek a deficiency from Tenant under this paragraph if Landlord fails to timely provide the required notice.

**5. SECURITY DEPOSIT:**

- A. Upon execution of this lease, Tenant will pay \$6,406.26 to Landlord as a security deposit.
- B. Landlord may apply the security deposit to any amounts owed by Tenant under this lease. If Landlord applies any part of the security deposit during any time this lease is in effect to amounts owed by Tenant, Tenant must, within 10 days after receipt of notice from Landlord, restore the security deposit to the amount stated.
- C. Within 60 days after Tenant surrenders the leased premises and provides Landlord written notice of Tenant's forwarding address, Landlord will refund the security deposit less any amounts applied toward amounts owed by Tenant or other charges authorized by this lease.

**6. TAXES:** Unless otherwise agreed by the parties, Landlord will pay all real property ad valorem taxes assessed against the leased premises. Tenant waives all rights to protest the appraised value of the leased premises and the Property, or appeal the same and all rights to receive notices of reappraisal set forth in sections 41.413 and 42.015 of the Texas Tax Code.

**7. UTILITIES:**

A. The party designated below will pay for the following utility charges to the leased premises and any connection charges for the utilities. (Check all that apply.)

	<u>N/A</u>	<u>Landlord</u>	<u>Tenant</u>
(1) Water	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(2) Sewer	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(3) Electric	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(4) Gas	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(5) Telephone	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(6) Internet	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(7) Cable	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(8) Trash	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(9) _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(10) All other utilities	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

B. The party responsible for the charges under Paragraph 7A will pay the charges directly to the utility service provider. The responsible party may select the utility service provider, except that if Tenant selects the provider, any access or alterations to the Property or leased premises necessary for the utilities may be made only with Landlord's prior consent, which Landlord will not unreasonably withhold. If Landlord incurs any liability for utility or connection charges for which Tenant is responsible to pay and Landlord pays such amount, Tenant will immediately upon written notice from Landlord reimburse Landlord such amount.

C. **Notice:** Tenant should determine if all necessary utilities are available to the leased premises and are adequate for Tenant's intended use.

D. **After-Hours HVAC Charges:** "HVAC services" mean heating, ventilating, and air conditioning of the leased premises. (Check one box only.)

(1) Landlord is obligated to provide the HVAC services to the leased premises only during the Property's operating hours specified under Paragraph 9C.



- (2) Landlord will provide the HVAC services to the leased premises during the operating hours specified under Paragraph 9C for no additional charge and will, at Tenant's request, provide HVAC services to the leased premises during other hours for an additional charge of \$ \_\_\_\_\_ per hour. Tenant will pay Landlord the charges under this paragraph immediately upon receipt of Landlord's invoice. Hourly charges are charged on a half-hour basis. Any partial hour will be rounded up to the next half hour. Tenant will comply with Landlord's procedures to make a request to provide the additional HVAC services under this paragraph.
- (3) Tenant will pay for the HVAC services under this lease.

**8. INSURANCE:**

- A. During all times this lease is in effect, Tenant must, at Tenant's expense, maintain in full force and effect from an insurer authorized to operate in Texas:
  - (1) commercial general liability insurance naming Landlord as an additional insured with policy limits on an occurrence basis in a minimum amount of: *(check only (a) or (b) below)*
    - (a) \$1,000,000; or
    - (b) \$2,000,000.

If neither box is checked the minimum amount will be \$1,000,000.
  - (2) personal property damage insurance for the business operations being conducted in the leased premises and contents in the leased premises in an amount sufficient to replace such contents after a casualty loss; and
  - (3) business interruption insurance sufficient to pay 12 months of rent payments.
- B. Before the Commencement Date, Tenant must provide Landlord with a copy of insurance certificates evidencing the required coverage. If the insurance coverage is renewed or changes in any manner or degree at any time this lease is in effect, Tenant must, not later than 10 days after the renewal or change, provide Landlord a copy of an insurance certificate evidencing the renewal or change.
- C. If Tenant fails to maintain the required insurance in full force and effect at all times this lease is in effect, Landlord may:
  - (1) purchase insurance that will provide Landlord the same coverage as the required insurance and Tenant must immediately reimburse Landlord for such expense; or
  - (2) exercise Landlord's remedies under Paragraph 20.
- D. Unless the parties agree otherwise, Landlord will maintain in full force and effect insurance for: (1) fire and extended coverage in an amount to cover the reasonable replacement cost of the improvements of the Property; and (2) any commercial general liability insurance in an amount that Landlord determines reasonable and appropriate.
- E. If there is an increase in Landlord's insurance premiums for the leased premises or Property or its contents that is caused by Tenant, Tenant's use of the leased premises, or any improvements made by or for Tenant, Tenant will, for each year this lease is in effect, pay Landlord the increase immediately after Landlord notifies Tenant of the increase. Any charge to Tenant under this Paragraph 8E will be equal to the actual amount of the increase in Landlord's insurance premium.

**9. USE AND HOURS:**

- A. Tenant may use the leased premises for the following purpose and no other: Operate a Niky's Ice Cream and Donut Franchise

Commercial Lease concerning: 1417 Graham Drive, Tomball, TX 77375

- B. Unless otherwise specified in this lease, Tenant will operate and conduct its business in the leased premises during business hours that are typical of the industry in which Tenant represents it operates.
- C. The Property maintains operating hours of (*specify hours, days of week, and if inclusive or exclusive of weekends and holidays*): minimum of 5 days a week, 7 hours per day

**10. LEGAL COMPLIANCE:**

- A. Tenant may not use or permit any part of the leased premises or the Property to be used for:
  - (1) any activity which is a nuisance or is offensive, noisy, or dangerous;
  - (2) any activity that interferes with any other tenant's normal business operations or Landlord's management of the Property;
  - (3) any activity that violates any applicable law, regulation, zoning ordinance, restrictive covenant, governmental order, owners' association rules, tenants' association rules, Landlord's rules or regulations, or this lease;
  - (4) any hazardous activity that would require any insurance premium on the Property or leased premises to increase or that would void any such insurance;
  - (5) any activity that violates any applicable federal, state, or local law, including but not limited to those laws related to air quality, water quality, hazardous materials, wastewater, waste disposal, air emissions, or other environmental matters;
  - (6) the permanent or temporary storage of any hazardous material; or
  - (7) any activity other than their permitted use

B. "Hazardous material" means any pollutant, toxic substance, hazardous waste, hazardous material, hazardous substance, solvent, or oil as defined by any federal, state, or local environmental law, regulation, ordinance, or rule existing as of the date of this lease or later enacted.

C. Landlord does not represent or warrant that the leased premises or Property conform to applicable restrictions, zoning ordinances, setback lines, parking requirements, impervious ground cover ratio requirements, and other matters that may relate to Tenant's intended use. Tenant must satisfy itself that the leased premises may be used as Tenant intends by independently investigating all matters related to the use of the leased premises or Property. Tenant agrees that it is not relying on any warranty or representation made by Landlord, Landlord's agent, or any broker concerning the use of the leased premises or Property.

**11. SIGNS:**

- A. Tenant may not post or paint any signs or place any decoration outside the leased premises or on the Property without Landlord's written consent. Landlord may remove any unauthorized sign or decorations, and Tenant will promptly reimburse Landlord for its cost to remove any unauthorized sign or decorations.
- B. Any authorized sign must comply with all laws, restrictions, zoning ordinances, and any governmental order relating to signs on the leased premises or Property. Landlord may temporarily remove any authorized sign to complete repairs or alterations to the leased premises or the Property.
- C. By providing written notice to Tenant before this lease ends, Landlord may require Tenant, upon move-out and at Tenant's expense, to remove, without damage to the Property or leased premises, any or all signs or decorations that were placed on the Property or leased premises by or at the request of Tenant. Any signs or decorations that Landlord does not require Tenant to remove and that are fixtures, become the property of the Landlord and must be surrendered to Landlord at the time this lease ends.

**12. ACCESS BY LANDLORD:**

- A. During Tenant’s normal business hours Landlord may enter the leased premises for any reasonable purpose, including but not limited to purposes for repairs, maintenance, alterations, and showing the leased premises to prospective tenants or purchasers. Landlord may access the leased premises after Tenant’s normal business hours if: (1) entry is made with Tenant’s permission; or (2) entry is necessary to complete emergency repairs. Landlord will not unreasonably interfere with Tenant’s business operations when accessing the leased premises.
- B. During the last 90 days of this lease, Landlord may place a “For Lease” or similarly worded sign on the leased premises.

**13. MOVE-IN CONDITION:** Tenant has inspected the leased premises and accepts it in its present (as-is) condition unless expressly noted otherwise in this lease or in an addendum. Landlord and any agent have made no express or implied warranties as to the condition or permitted use of the leased premises or Property.

**14. MOVE-OUT CONDITION AND FORFEITURE OF TENANT’S PERSONAL PROPERTY:**

- A. At the time this lease ends, Tenant will surrender the leased premises in the same condition as when received, except for normal wear and tear. Tenant will leave the leased premises in a clean condition free of all trash, debris, personal property, hazardous materials, and environmental contaminants.
- B. If Tenant leaves any personal property in the leased premises after Tenant surrenders possession of the leased premises, Landlord may: (1) require Tenant, at Tenant’s expense, to remove the personal property by providing written notice to Tenant; or (2) retain such personal property as forfeited property to Landlord.
- C. “Surrender” means vacating the leased premises and returning all keys and access devices to Landlord. “Normal wear and tear” means deterioration that occurs without negligence, carelessness, accident, or abuse.
- D. By providing written notice to Tenant before this lease ends, Landlord may require Tenant, upon move-out and at Tenant’s expense, to remove, without damage to the Property or leased premises, any or all fixtures that were placed on the Property or leased premises by or at the request of Tenant. Any fixtures that Landlord does not require Tenant to remove become the property of the Landlord and must be surrendered to Landlord at the time this lease ends.

**15. MAINTENANCE AND REPAIRS:**


- A. Cleaning: Tenant must keep the leased premises clean and sanitary and promptly dispose of all garbage in appropriate receptacles.  Landlord  Tenant will provide, at its expense, janitorial services to the leased premises that are customary and ordinary for the property type. Tenant will maintain any grease trap on the Property which Tenant uses, including but not limited to periodic emptying and cleaning, as well as making any modification to the grease trap that may be necessary to comply with any applicable law.
- B. Repairs of Conditions Caused by a Party: Each party must promptly repair a condition in need of repair that is caused, either intentionally or negligently, by that party or that party’s guests, patrons, invitees, contractors or permitted subtenants.
- C. Repair and Maintenance Responsibility: Except as otherwise provided by this Paragraph 15, the party designated below, at its expense, is responsible to maintain and repair the following specified items in the leased premises (if any). The specified items must be maintained in clean and good operable

condition. If a governmental regulation or order requires a modification to any of the specified items, the party designated to maintain the item must complete and pay the expense of the modification. The specified items include and relate only to real property in the leased premises. Tenant is responsible for the repair and maintenance of its personal property. (Check all that apply.)

	N/A	Landlord	Tenant
(1) Foundation, exterior walls, and other structural components.....	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(2) Roof replacement.....	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(3) Roof repair.....	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(4) Glass and windows.....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(5) Fire protection equipment .....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(6) Fire sprinkler systems.....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(7) Exterior and overhead doors, including closure devices, molding, locks, and hardware.....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(8) Grounds maintenance, including landscaping and irrigation systems.....	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(9) Interior doors, including closure devices, frames, molding, locks, and hardware.....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(10) Parking areas and walks.....	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(11) Plumbing systems, drainage systems and sump pumps.....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(12) Electrical systems, mechanical systems.....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(13) Ballast and lamp replacement.....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(14) Heating, Ventilation and Air Conditioning (HVAC) systems.....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(15) HVAC system replacement.....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(16) Signs and lighting: .....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(a) Pylon.....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(b) Fascia.....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(c) Monument.....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(d) Door/Suite.....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(e) Directional.....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(f) Other: .....	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(17) Extermination and pest control, excluding wood-destroying insects..	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(18) Fences and Gates.....	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(19) Storage yards and storage buildings.....	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(20) Wood-destroying insect treatment and repairs.....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(21) Cranes and related systems.....	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(22) .....	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(23) .....	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(24) All other items and systems.....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

D. Repair Persons: Repairs must be completed by trained, qualified, and insured repair persons.

E. HVAC Service Contract: If Tenant maintains the HVAC system under Paragraph 15C(14), Tenant  is  is not required to maintain, at its expense, a regularly scheduled maintenance and service contract for the HVAC system. The maintenance and service contract must be purchased from a HVAC maintenance company that regularly provides such contracts to similar properties. If Tenant fails to maintain a required HVAC maintenance and service contract in effect at all times during this lease, Landlord may do so and Tenant will reimburse Landlord for the expense of such maintenance and service contract or Landlord may exercise Landlord's remedies under Paragraph 20.

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- F. **Common Areas:** Landlord will maintain any common areas in the Property in a manner as Landlord determines to be in the best interest of the Property. Landlord will maintain any elevator and signs in the common area. Landlord may change the size, dimension, and location of any common areas, or allocate areas for short term or reserved parking for specific tenants, provided that such change does not materially impair Tenant's use and access to the leased premises. Tenant has the non-exclusive license to use the common areas in compliance with Landlord's rules and regulations. Tenant may not solicit any business in the common areas or interfere with any other person's right to use the common areas. This paragraph does not apply if Paragraph 2A(2) applies.
- G. **Notice of Repairs:** Tenant must promptly notify Landlord of any item that is in need of repair and that is Landlord's responsibility to repair. All requests for repairs to Landlord must be in writing.
- H. **Failure to Repair:** Landlord must make a repair for which Landlord is responsible within a reasonable period of time after Tenant provides Landlord written notice of the needed repair. If Tenant fails to repair or maintain an item for which Tenant is responsible within 10 days after Landlord provides Tenant written notice of the needed repair or maintenance, Landlord may: (1) repair or maintain the item, without liability for any damage or loss to Tenant, and Tenant must immediately reimburse Landlord for the cost to repair or maintain; or (2) exercise Landlord's remedies under Paragraph 20.

**16. ALTERATIONS:**

- A. Tenant may not alter (including making any penetrations to the roof, exterior walls or foundation), improve, or add to the Property or the leased premises without Landlord's written consent. Landlord will not unreasonably withhold consent for the Tenant to make reasonable non-structural alterations, modifications, or improvements to the leased premises.
- B. Tenant may not alter any locks or any security devices on the Property or the leased premises without Landlord's consent. If Landlord authorizes the changing, addition, or rekeying of any locks or other security devices, Tenant must immediately deliver the new keys and access devices to Landlord.
- C. If a governmental order requires alteration or modification to the leased premises, the party obligated to maintain and repair the item to be modified or altered as designated in Paragraph 15 will, at its expense, modify or alter the item in compliance with the order and in compliance with Paragraphs 16A and 17.
- D. Any alterations, improvements, fixtures or additions to the Property or leased premises installed by either party during the term of this lease will become Landlord's property and must be surrendered to Landlord at the time this lease ends, except for those fixtures Landlord requires Tenant to remove under Paragraph 11 or 14 or if the parties agree otherwise in writing.

**17. LIENS:** Tenant may not do anything that will cause the title of the Property or leased premises to be encumbered in any way. If Tenant causes a lien to be filed against the Property or leased premises, Tenant will within 20 days after receipt of Landlord's demand: (1) pay the lien and have the lien released of record; or (2) take action to discharge the lien. Tenant will provide Landlord a copy of any release Tenant obtains pursuant to this paragraph.

**18. LIABILITY:** To the extent permitted by law, Landlord is NOT responsible to Tenant or Tenant's employees, patrons, guests, or invitees for any damages, injuries, or losses to person or property caused by:

- A. an act, omission, or neglect of: Tenant; Tenant's agent; Tenant's guest; Tenant's employees; Tenant's patrons; Tenant's invitees; or any other tenant on the Property;

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B. fire, flood, water leaks, ice, snow, hail, winds, explosion, smoke, riot, strike, interruption of utilities, theft, burglary, robbery, assault, terrorism, vandalism, other persons, environmental contaminants, or other occurrences or casualty losses.

**19. INDEMNITY:** Each party will indemnify, defend, and hold the other party harmless from any property damage, personal injury, suits, actions, liabilities, damages, cost of repairs or service to the leased premises or Property, or any other loss caused, negligently or otherwise, by that party or that party's employees, patrons, guests, or invitees.

**20. DEFAULT:**

- A. If Landlord fails to comply with this lease within 30 days after Tenant notifies Landlord of Landlord's failure to comply, Landlord will be in default and Tenant may seek any remedy provided by law. If, however, Landlord's non-compliance reasonably requires more than 30 days to cure, Landlord will not be in default if the cure is commenced within the 30-day period and is diligently pursued.
- B. If Landlord does not actually receive at the place designated for payment any rent due under this lease within 5 days after it is due, Tenant will be in default. If Tenant fails to comply with this lease for any other reason within 20 days after Landlord notifies Tenant of its failure to comply, Tenant will be in default.
- C. If Tenant is in default, Landlord may, with at least 3 days written notice to Tenant: (i) terminate this lease, or (ii) terminate Tenant's right to occupy the leased premises without terminating this lease and may accelerate all rents which are payable during the remainder of this lease or any renewal period. Landlord will attempt to mitigate any damage or loss caused by Tenant's breach by using commercially reasonable means. If Tenant is in default, Tenant will be liable for:
  - (1) any lost rent;
  - (2) Landlord's cost of reletting the leased premises, including brokerage fees, advertising fees, and other fees necessary to relet the leased premises;
  - (3) repairs to the leased premises for use beyond normal wear and tear;
  - (4) all Landlord's costs associated with eviction of Tenant, such as attorney's fees, court costs, and prejudgment interest;
  - (5) all Landlord's costs associated with collection of rent such as collection fees, late charges, and returned check charges;
  - (6) cost of removing any of Tenant's equipment or fixtures left on the leased premises or Property;
  - (7) cost to remove any trash, debris, personal property, hazardous materials, or environmental contaminants left by Tenant or Tenant's employees, patrons, guests, or invitees in the leased premises or Property;
  - (8) cost to replace any unreturned keys or access devices to the leased premises, parking areas, or Property; and
  - (9) any other recovery to which Landlord may be entitled under this lease or under law.

**21. ABANDONMENT, INTERRUPTION OF UTILITIES, REMOVAL OF PROPERTY, AND LOCKOUT:** Chapter 93 of the Texas Property Code governs the rights and obligations of the parties with regard to: (a) abandonment of the leased premises; (b) interruption of utilities; (c) removal of Tenant's property; and (d) "lock-out" of Tenant.

**22. HOLDOVER:** If Tenant fails to vacate the leased premises at the time this lease ends, Tenant will become a tenant-at-will and must vacate the leased premises immediately upon receipt of demand from Landlord. No holding over by Tenant, with or without the consent of Landlord, will extend this lease. Tenant will indemnify Landlord and any prospective tenants for any and all damages caused by the holdover. Rent for any holdover period will be 150% of the base monthly rent plus any additional rent calculated on a daily basis and will be immediately due and payable daily without notice or demand.



**23. LANDLORD'S LIEN AND SECURITY INTEREST:** To secure Tenant's performance under this lease, Tenant grants to Landlord a lien and security interest against all of Tenant's nonexempt personal property that is in the leased premises or on the Property. This lease is a security agreement for the purposes of the Uniform Commercial Code. Landlord may file a financing statement to perfect Landlord's security interest under the Uniform Commercial Code.

**24. ASSIGNMENT AND SUBLETTING:** Landlord may assign this lease to any subsequent owner of the Property. Tenant may not assign this lease or sublet any part of the leased premises without Landlord's written consent. An assignment of this lease or subletting of the leased premises without Landlord's written consent is voidable by Landlord. If Tenant assigns this lease or sublets any part of the leased premises, Tenant will remain liable for all of Tenant's obligations under this lease regardless if the assignment or sublease is made with or without the consent of Landlord.

**25. RELOCATION:**

- A. By providing Tenant with not less than 90 days advanced written notice, Landlord may require Tenant to relocate to another location in the Property, provided that the other location is equal in size or larger than the leased premises then occupied by Tenant and contains similar leasehold improvements. Landlord will pay Tenant's reasonable out-of-pocket moving expenses for moving to the other location. "Moving expenses" means reasonable expenses incurred by Tenant payable to professional movers, utility companies for connection and disconnection fees, wiring companies for connecting and disconnecting Tenant's office equipment required by the relocation, and printing companies for reprinting Tenant's stationery, business cards, and marketing materials containing Tenant's address. A relocation of Tenant will not change or affect any other provision of this lease that is then in effect, including rent and reimbursement amounts, except that the description of the suite or unit number will automatically be amended.
- B. Landlord may not require Tenant to relocate to another location in the Property without Tenant's prior consent.

**26. SUBORDINATION:**

- A. This lease and Tenant's leasehold interest are and will be subject, subordinate, and inferior to:
  - (1) any lien, encumbrance, or ground lease now or hereafter placed on the leased premises or the Property that Landlord authorizes;
  - (2) all advances made under any such lien, encumbrance, or ground lease;
  - (3) the interest payable on any such lien or encumbrance;
  - (4) any and all renewals and extensions of any such lien, encumbrance, or ground lease;
  - (5) any restrictive covenant affecting the leased premises or the Property; and
  - (6) the rights of any owners' association affecting the leased premises or Property.
- B. Tenant must, on demand, execute a subordination, attornment, and non-disturbance agreement that Landlord may request that Tenant execute, provided that such agreement is made on the condition that this lease and Tenant's rights under this lease are recognized by the lien-holder.

**27. ESTOPPEL CERTIFICATES AND FINANCIAL INFORMATION:**

- A. Within 10 days after receipt of a written request from Landlord, Tenant will execute and deliver to Landlord an estoppel certificate that identifies the terms and conditions of this lease.
- B. Within 30 days after receipt of a written request from Landlord, Tenant will provide to Landlord Tenant's current financial information (balance sheet and income statement). Landlord may request the financial information no more frequently than once every 12 months.

**28. CASUALTY LOSS:**


- A. Tenant must immediately notify Landlord of any casualty loss in the leased premises. Within 20 days after receipt of Tenant’s notice of a casualty loss, Landlord will notify Tenant if the leased premises are less than or more than 50% unusable, on a per square foot basis, and if Landlord can substantially restore the leased premises within 120 days after Tenant notifies Landlord of the casualty loss.
- B. If the leased premises are less than 50% unusable and Landlord can substantially restore the leased premises within 120 days after Tenant notifies Landlord of the casualty, Landlord will restore the leased premises to substantially the same condition as before the casualty. If Landlord fails to substantially restore within the time required, Tenant may terminate this lease.
- C. If the leased premises are more than 50% unusable and Landlord can substantially restore the leased premises within 120 days after Tenant notifies Landlord of the casualty, Landlord may: (1) terminate this lease; or (2) restore the leased premises to substantially the same condition as before the casualty. If Landlord chooses to restore and does not substantially restore the leased premises within the time required, Tenant may terminate this lease.
- D. If Landlord notifies Tenant that Landlord cannot substantially restore the leased premises within 120 days after Tenant notifies Landlord of the casualty loss, Landlord may: (1) choose not to restore and terminate this lease; or (2) choose to restore, notify Tenant of the estimated time to restore, and give Tenant the option to terminate this lease by notifying Landlord within 10 days.
- E. If this lease does not terminate because of a casualty loss, rent will be reduced from the date Tenant notifies Landlord of the casualty loss to the date the leased premises are substantially restored by an amount proportionate to the extent the leased premises are unusable.

**29. CONDEMNATION:** If after a condemnation or purchase in lieu of condemnation the leased premises are totally unusable for the purposes stated in this lease, this lease will terminate. If after a condemnation or purchase in lieu of condemnation the leased premises or Property are partially unusable for the purposes of this lease, this lease will continue and rent will be reduced in an amount proportionate to the extent the leased premises are unusable. Any condemnation award or proceeds in lieu of condemnation are the property of Landlord and Tenant has no claim to such proceeds or award. Tenant may seek compensation from the condemning authority for its moving expenses and damages to Tenant’s personal property.

**30. ATTORNEY’S FEES:** Any person who is a prevailing party in any legal proceeding brought under or related to the transaction described in this lease is entitled to recover prejudgment interest, reasonable attorney’s fees, and all other costs of litigation from the nonprevailing party.

**31. REPRESENTATIONS:**

- A. Tenant's statements in this lease and any application for rental are material representations relied upon by Landlord. Each party signing this lease represents that he or she is of legal age to enter into a binding contract and is authorized to sign this lease. If Tenant makes any misrepresentation in this lease or in any application for rental, Tenant is in default.
- B. Landlord is not aware of any material defect on the Property that would affect the health and safety of an ordinary person or any environmental hazard on or affecting the Property that would affect the health or safety of an ordinary person, except: \_\_\_\_\_
- C. Each party and each signatory to this lease represents that: (1) it is not a person named as a Specially Designated National and Blocked Person as defined in Presidential Executive Order 13224; (2) it is not acting, directly or indirectly, for or on behalf of a Specially Designated and Blocked Person; and (3) is not

(TXR-2101) 07-08-22      Initialed for Identification by Landlord:   and Tenant: 

Commercial Lease concerning: 1417 Graham Drive, Tomball, TX 77375

arranging or facilitating this lease or any transaction related to this lease for a Specially Designated and Blocked Person. Any party or any signatory to this lease who is a Specially Designated and Blocked person will indemnify and hold harmless any other person who relies on this representation and who suffers any claim, damage, loss, liability or expense as a result of this representation.

**32. BROKERS:**

A. The brokers to this lease are:

Principal Broker: \_\_\_\_\_ Cooperating Broker: \_\_\_\_\_

Agent: \_\_\_\_\_ Agent: \_\_\_\_\_

Address: \_\_\_\_\_ Address: \_\_\_\_\_

Phone & Fax: \_\_\_\_\_ Phone & Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_ E-mail: \_\_\_\_\_

License No.: \_\_\_\_\_ License No.: \_\_\_\_\_

Principal Broker: (Check only one box)

- represents Landlord only.
- represents Tenant only.
- is an intermediary between Landlord and Tenant.

Cooperating Broker represents Tenant.

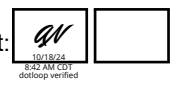
B. Fees:

- (1) Principal Broker's fee will be paid according to: (Check only one box).
  - (a) a separate written commission agreement between Principal Broker and:
    - Landlord  Tenant.
  - (b) the attached Commercial Lease Addendum for Broker's Fee (TXR-2102).
- (2) Cooperating Broker's fee will be paid according to: (Check only one box).
  - (a) a separate written commission agreement between Cooperating Broker and:
    - Principal Broker  Landlord  Tenant.
  - (b) the attached Commercial Lease Addendum for Broker's Fee (TXR-2102).

**33. ADDENDA:** Incorporated into this lease are the addenda, exhibits and other information marked in the Addenda and Exhibit section of the Table of Contents. If Landlord's Rules and Regulations are made part of this lease, Tenant agrees to comply with the Rules and Regulations as Landlord may, at its discretion, amend from time to time.

**34. NOTICES:** All notices under this lease must be in writing and are effective when hand-delivered, mailed by certified mail return receipt requested, sent by a national or regional overnight delivery service that provides a delivery receipt, or sent by confirmed facsimile transmission to:

Landlord at: Headquarters TOO LLC  
Address: 1431 Graham, Ste 175, Tomball, TX 77375  
Attention: TPC Real Estate  
Fax: \_\_\_\_\_



Commercial Lease concerning: 1417 Graham Drive, Tomball, TX 77375

and a copy to:

Address: \_\_\_\_\_  
Attention: \_\_\_\_\_  
Fax: \_\_\_\_\_

Landlord also consents to receive notices by e-mail at: PETER@TPC-RE.COM

Tenant at the leased premises,

and to: NORATWINS LLC  
Address: 2326 Scarlett Pine Bend Tomball, TX 77375  
Attention: \_\_\_\_\_  
Fax: \_\_\_\_\_

and a copy to:  
Address: \_\_\_\_\_  
Attention: \_\_\_\_\_  
Fax: \_\_\_\_\_

Tenant also consents to receive notices by e-mail at: analeen28@yahoo.com

**35. SPECIAL PROVISIONS:** The following special provisions apply and will control in the event of a conflict with other provisions of this lease. *(If special provisions are contained in an addendum, identify the applicable addendum on the cover page of this lease.)*

Tenant to use Landlord's roofer for any roof penetrations.  
Tenant to use Sharpview signs for storefront signage. Wire-way, black side, black cap, and black perferrated front. 75% of storefront for usage. The general look and color scheme is approved by the landlord but further approval for size still needed.

If Tenant can not get permits after diligently pursuing, Landlord will be allowed to obtain permits for the Tenant. Tenant will provide Landlord with all necessary plans, and information to obtain said permit. Tenant will reimburse Landlord for any and all out of pocket costs of obtaining the permit. After 180 days of receiving plans and information if Landlord can not obtain permits, then the Tenant or Landlord may terminate this lease.

So long as the Tenant is not in default of the lease and in continuous operation, the Landlord will not lease to another Tenant whose primary business is the sale of Ice Cream or Donuts.


So long as the Tenant is not in default of the lease and in continuous operation, Tenant will have the right to Renew this lease for an additional five (5) years at a 12% increase of the Base Rent. Tenant shall exercise the Renewal by giving the Landlord written notice at least one hundred eighty (180) days prior to the expiration of the initial term of this lease.

**36. AGREEMENT OF PARTIES:**

- A. Entire Agreement: This lease contains the entire agreement between Landlord and Tenant and may not be changed except by written agreement.
- B. Binding Effect: This lease is binding upon and inures to the benefit of the parties and their respective heirs, executors, administrators, successors, and permitted assigns.
- C. Joint and Several: All Tenants are jointly and severally liable for all provisions of this lease. Any act or notice to, or refund to, or signature of, any one or more of the Tenants regarding any term of this lease, its renewal, or its termination is binding on all Tenants.

(TXR-2101) 07-08-22

Initialed for Identification by Landlord:

and Tenant: 



- D. **Controlling Law:** The laws of the State of Texas govern the interpretation, performance, and enforcement of this lease.
- E. **Severable Clauses:** If any clause in this lease is found invalid or unenforceable by a court of law, the remainder of this lease will not be affected and all other provisions of this lease will remain valid and enforceable.
- F. **Waiver:** Landlord's delay, waiver, or non-enforcement of acceleration, contractual or statutory lien, rental due date, or any other right will not be deemed a waiver of any other or subsequent breach by Tenant or any other term in this lease.
- G. **Quiet Enjoyment:** Provided that Tenant is not in default of this lease, Landlord covenants that Tenant will enjoy possession and use of the leased premises free from material interference.
- H. **Force Majeure:** If the performance of any party to this lease is delayed by strike, lock-out, shortage of material, governmental restriction, riot, war, epidemic, pandemic, quarantine, or by other cause, without fault and beyond the control of the party obligated (financial inability excepted), performance of such act will be abated for the period of the delay; provided, however, nothing in this paragraph excuses Tenant from the prompt payment of rent or other charge, nor will Tenant's inability to obtain governmental approval for its intended use of the leased premises excuse any of Tenant's obligations hereunder.
- I. **Time:** Time is of the essence. The parties require strict compliance with the times for performance.
- J. **Counterparts:** If this lease is executed in a number of identical counterparts, each counterpart is an original and all counterparts, collectively, constitute one agreement.

**37. EFFECTIVE DATE:** The effective date of this lease is the date the last party executes this lease and initials any changes.

**38. LICENSE HOLDER DISCLOSURE:** Texas law requires a real estate license holder who is a party to a transaction or acting on behalf of a spouse, parent, child, business entity in which the license holder owns more than 10%, or a trust for which the license holder acts as a trustee or of which the license holder or the license holder's spouse, parent or child is a beneficiary, to notify the other party in writing before entering into a contract of sale or rental agreement. Disclose if applicable: Principle Broker is a part of Ownership



Commercial Lease concerning: 1417 Graham Drive, Tomball, TX 77375

**Brokers are not qualified to render legal advice, property inspections, surveys, engineering studies, environmental assessments, tax advice, or compliance inspections. The parties should seek experts to render such services. READ THIS LEASE CAREFULLY. If you do not understand the effect of this Lease, consult your attorney BEFORE signing.**

**Landlord:** Headquarters TOO LLC

**Tenant:** \_\_\_\_\_

By: \_\_\_\_\_

By (signature):

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_

By: \_\_\_\_\_

By (signature): *Analyn Norato* dotloop verified  
10/18/24 8:42 AM CDT  
UTBT-09E-N39-3CH

Printed Name: Analyn Norato

Title: Manager Date: 10/18/2024

By: \_\_\_\_\_

By (signature):

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_

By: \_\_\_\_\_

By (signature):

Printed Name: Enrique Norato

Title: Member Date: 10/18/2024



**RESOLUTION NO. 2024-46-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 NIKY’S MINI DONUTS, LLC 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 Ten Thousand Dollars (\$10,000.00), found by the Board to be required or suitable to promote a new business development by Niky’s Mini Donuts, 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 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 Ten Thousand Dollars (\$10,000.00), to Niky’s Mini Donuts, LLC, in accordance with an economic development agreement by and between the TEDC and Niky’s Mini Donuts, LLC, to promote and develop a new or expanded business enterprise, to be located at 1417 Graham Drive, Suite 400, 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:

\_\_\_\_\_  
Tracy Garcia, City Secretary

**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 **Niki’s Mini Donuts, LLC** (the “Company”), 2326 Scarlett Pine Bend, Tomball, TX 77375.

**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 1,875 square foot existing commercial space located at 1417 Graham Drive, Suite 400, Tomball, Texas 77375 (the “Property”), and more particularly described in Exhibit “A,” attached hereto and made a part hereof; and

**WHEREAS**, the Company proposes to open a Mini Donut Shop with many other high-quality treats at the Property; and

**WHEREAS**, the Company proposes to create Two (2) 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 Ten Thousand Dollars (\$10,000.00), 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 Two (2) 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 Ten Thousand Dollars (\$10,000.00). 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: Niki's Mini Donuts, LLC  
1417 Graham Drive, Suite 400  
Tomball, TX 77375  
Attn: Analyn Norato, Manager/Co-Owner

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 \_\_\_\_\_ 2025 (the “Effective Date”).

**NIKI’S MINI DONUTS, LLC**

By: \_\_\_\_\_

Name: Analyn Norato

Title: Manager/Co-Owner

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 \_\_\_ 2025, by Analyne Norato, Manager/Co-Owner of Niki’s Mini Donuts, 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 \_12th\_ day of \_November\_ 2024, 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**

Property Address: 1417 Graham Drive, Suite 400, Tomball, TX 77375

DRAFT

# Regular City Council Agenda Item Data Sheet

Meeting Date: December 2, 2024

**Topic:**

Approve, on First Reading, Resolution No. 2024-45-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 NIVIS SERIES, 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 office/retail development to be located at 424 Holderrieth Blvd, Tomball, Texas 77375. The estimated amount of expenditures for such Project is an amount not to exceed \$34,170.00.

**Background:**

On November 12, 2024, the Tomball Economic Development Corporation (TEDC) Board of Directors unanimously approved, as a Project of the Corporation, a performance agreement with NIVIS SERIES, LLC for assistance with infrastructure costs related to the development of a commercial office/retail development to be located at 424 Holderrieth Blvd, 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. 2024-45-TEDC after two separate readings.

**Origination:** Tomball Economic Development Corporation Board of Directors

**Recommendation:** Approval of Resolution No. 2024-45-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

# TOMBALL

ECONOMIC DEVELOPMENT CORP.

**TO:** Honorable Mayor and City Council

**FROM:** Kelly Violette  
Executive Director

**MEETING DATE:** December 2, 2024

**SUBJECT:** NIVIS SERIES, LLC

**ITEM TYPE:** Action

---

The Tomball Economic Development Corporation has received a request from Tam DOUNG, Owner, NIVIS SERIES, LLC, for assistance with infrastructure costs related to the construction of a commercial office/retail space on approximately .9995 acres located at 424 Holderrieth Blvd, Tomball, Texas 77375.

The development will consist of two standalone buildings, totaling 10,350 square feet. The first building will be an approximately 4,000 square-foot two-story structure consisting of a 2,300 sq. ft. coffee shop and 1,700 sq. ft. of small office/conference space. The second building will be 6,300 sq. ft. and contain 5 retail/office spaces. Each space will have approximately 1,260 sq. ft. per tenant. The projected capital investment for the project is \$3,698,658.00.

The eligible infrastructure improvements include water, sanitary sewer, storm drainage, electric and gas utilities, and related site improvements totaling approximately \$341,700.00.

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 \$116,293.00.

If the agreement between the TEDC and NIVIS SERIES, LLC is approved as a Project of the Corporation, the grant funding amount will not exceed \$34,170.00, based on 10% of the actual expenditures for the eligible infrastructure improvements.



NIVIS SERIES LLC  
424 Holderrieth Blvd  
Tomball, TX 77375

Date: October 02, 2024

Tomball Economic Development  
29201 Quinn Road, Suite B  
Tomball, TX 77375

RE: Cuppo Office Building – Request for Grant

To Whom It May Concern:

My name is Tam Duong, the owner of NIVIS SERIES LLC. I would like to formally request a grant and seek assistance for the infrastructure and site construction costs to build a 10,350 sqft commercial building locating right in the heart of Tomball medical center. This commercial site will be built out with a 2,300 sqft community coffee shop with a built-in 1,750 sqft small office/conference spaces for working remotely, hosting meetings/events, and other business needs for corporate citizens as well as medical professionals nearby with meeting/conference needs. Additionally, I will also build a 6,300 retail space building for office leases for small businesses or other medical facility needs.

### **Overview Project**

As we have successfully managed a coffee shop boutique for five years in the City of Jersey Village where our concept was to bring a city-like specialty coffee shop to the suburb area. We would like to bring our own success story and implement this proven concept in the City of Tomball. We plan to build a 2,300sqft coffee shop boutique with a 1,700 sqft built-in office/conference open spaces to allow young professionals, students, working from home populations to find their nooks locally and nearby in Tomball without driving a distance. The office/conference space will be on the 2<sup>nd</sup> floor of the coffee shop with a private entrance sharing an open ceiling with the coffee shop. This will create a unique “coffee shop effect” office setting which will make it convenient for customers to host private meetings, office events, workshops, and remote working needs while grabbing their coffee/lunch.

In addition to the anchor coffee/office building, I will also build an additional 6,300 sqft retail space with 5 spaces, each space will have approximately 1,260 sqft. Potential tenants are medical related tenants and small business offices. The parking lot will have 51 parking spots with a potential installation of electrical ports for electrical vehicles. The location of our building strategically sits in the heart of Tomball medical center with steps away from Lone Star Community College. Having a community coffee shop with office built-in, I strongly believe that our business fits perfectly the unmet need of having a quick bite café while providing offsite office spaces for medical and corporate professional nearby. With a continuous tremendous growth of development in Tomball, the development of this site will bring great economic values to the city.

**Project Cost and Timing**

	<b>Cost</b>
<b>1 acre land</b>	<b>\$600,000</b>
<b>Sitework and Building Cost</b>	<b>\$2,168,189</b>
<b>Generation Conditions</b>	<b>\$108,469</b>
<b>Insurance &amp; Fees</b>	<b>\$170,000</b>
<b>Contingencies</b>	<b>152,000</b>
<b>Interior Build Out</b>	<b>\$500,000</b>
<b>Total Project Cost (Estimated)</b>	<b>\$3,698,658</b>

The construction is estimated to start beginning of 2025 and completed by 4Q 2025

**Benefits to Tomball**

We are excited to bring this development to the City of Tomball and strongly believe that this commercial and community specialty coffee shop building will provide tremendous economic as well as culture benefits who Tomball. The benefits to Tomball include:

1. Fulfill the gap to provide a coffee shop / office spaces for medical professionals in Tomball
2. Create additional jobs for young full-time workers, part-time students, and the community
3. Create collaborative partnerships with other small businesses to cater complimentary products at our coffee shop to support our local business.
4. Increase new and additional traffic for newcomers to Tomball for students, young professionals, and other work-from-home corporate citizens
5. Increase property tax revenue to the City and Tomball ISD schools
6. Increase onsite office spaces for the work-from-home/work-from-anywhere to bring in more other business demands
7. Provide flexible/non-typical meeting spaces or corporate events for corporates/hospital nearby
8. Provide HCA Houston Healthcare Medical Center more options to fulfill a gap in bringing easy access to breakfast/food/coffee establishments nearby
9. Provide additional retail spaces for lease for all business and medical needs in Tomball which in return bring additional revenue to the City of Tomball.

All the Best,

Tam Duong

NIVIS SERIES LLC

Email: [tduong@nivisco.com](mailto:tduong@nivisco.com) or [info@cuppocoffee.com](mailto:info@cuppocoffee.com)



# CUPPO - Tomball - Impact Report

## Scenario 1 with Client Data

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 10-year period.

### Economic Impact Overview

The table below summarizes the economic impact of the project over the first 10 years in terms of job creation, salaries paid to workers, and taxable sales.

SUMMARY OF ECONOMIC IMPACT OVER 10 YEARS IN CITY OF TOMBALL			
IMPACT	DIRECT	SPIN-OFF	TOTAL
Jobs	30.0	6.9	<b>36.9</b>
Annual Salaries/Wages at Full Ops (Yr 5)	\$1,640,933	\$890,235	<b>\$2,531,169</b>
Salaries/Wages over 10 Years	\$5,094,262	\$2,763,726	<b>\$7,857,988</b>
Taxable Sales/Purchases in City of Tomball	\$1,756,566	\$34,547	<b>\$1,791,113</b>

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 10 YEARS IN CITY OF TOMBALL			
IMPACT	DIRECT	SPIN-OFF	TOTAL
Workers who will move to City of Tomball	0.8	0.2	<b>1.0</b>
New residents in City of Tomball	2.1	0.5	<b>2.6</b>
New residential properties constructed in City of Tomball	0.1	0.0	<b>0.1</b>
New students to attend local school district	0.4	0.1	<b>0.5</b>

Totals may not sum due to rounding

The new taxable property to be supported by the Project over the next 10 years is summarized in the following table.

SUMMARY OF TAXABLE PROPERTY OVER THE FIRST 10 YEARS IN CITY OF TOMBALL							
YR.	NEW RESIDENTIAL PROPERTY	LAND	BUILDINGS...	FF&E	INVENTORIES	NON-RESIDENTIAL PROPERTY	TOTAL PROPERTY
1	\$11,631	\$550,000	\$2,601,821	\$200,000	\$200,000	\$3,551,821	<b>\$3,563,452</b>
2	\$17,796	\$1,155,000	\$2,862,501	\$230,000	\$220,000	\$4,467,501	<b>\$4,485,297</b>
3	\$24,202	\$1,819,620	\$3,144,549	\$255,000	\$242,000	\$5,461,169	<b>\$5,485,371</b>
4	\$30,858	\$2,548,854	\$3,450,221	\$275,000	\$266,200	\$6,540,275	<b>\$6,571,132</b>
5	\$37,770	\$3,348,100	\$3,781,429	\$290,000	\$292,820	\$7,712,349	<b>\$7,750,119</b>
6	\$38,525	\$3,415,062	\$3,857,057	\$250,000	\$0	\$7,522,119	<b>\$7,560,645</b>
7	\$39,296	\$3,483,363	\$3,934,198	\$210,000	\$0	\$7,627,562	<b>\$7,666,858</b>
8	\$40,082	\$3,553,031	\$4,012,882	\$170,000	\$0	\$7,735,913	<b>\$7,775,995</b>
9	\$40,883	\$3,624,091	\$4,093,140	\$130,000	\$0	\$7,847,231	<b>\$7,888,115</b>
10	\$41,701	\$3,696,573	\$4,175,003	\$110,000	\$0	\$7,981,576	<b>\$8,023,277</b>

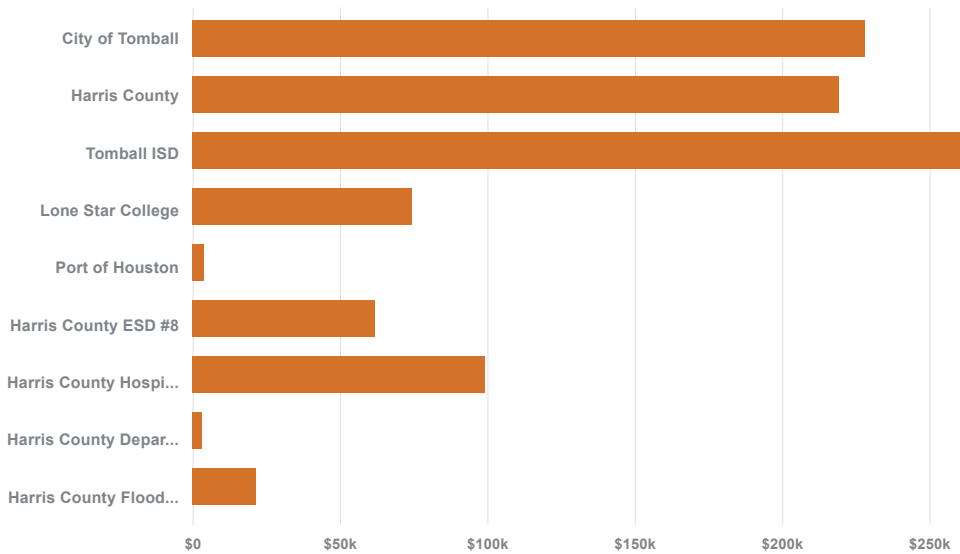
### Fiscal Impact Overview

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 10 YEARS				
	BENEFITS	COSTS	NET BENEFITS	PRESENT VALUE*
City of Tomball	\$512,749	(\$284,717)	\$228,031	\$176,024
Harris County	\$263,157	(\$43,738)	\$219,419	\$164,591
Tomball ISD	\$712,590	(\$450,191)	\$262,399	\$196,670
Lone Star College	\$74,309	\$0	\$74,309	\$55,670
Port of Houston	\$3,964	\$0	\$3,964	\$2,970
Harris County ESD #8	\$62,029	\$0	\$62,029	\$46,470
Harris County Hospital District	\$99,053	\$0	\$99,053	\$74,207
Harris County Department of Education	\$3,315	\$0	\$3,315	\$2,483
Harris County Flood Control	\$21,443	\$0	\$21,443	\$16,065
<b>Total</b>	<b>\$1,752,608</b>	<b>(\$778,646)</b>	<b>\$973,962</b>	<b>\$735,151</b>

\*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.

Net Benefits Over the Next 10 Years

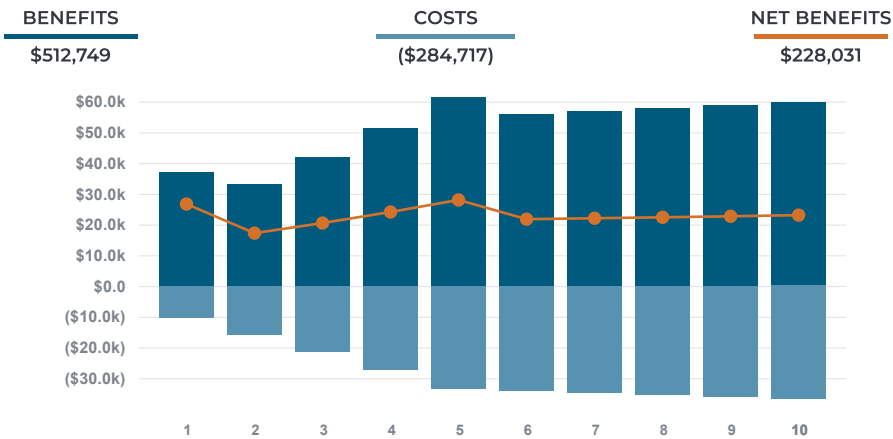


## City of Tomball Fiscal Impact

The table below displays the estimated additional benefits, costs, and net benefits to be received by City of Tomball over the next 10 years of the Project.

NET BENEFITS OVER 10 YEARS: CITY OF TOMBALL			
BENEFITS	PROJECT	HOUSEHOLDS	TOTAL
Sales Taxes	\$33,858	\$1,964	\$35,822
Real Property Taxes	\$185,104	\$0	\$185,104
FF&E Property Taxes	\$6,218	\$0	\$6,218
Inventory Property Taxes	\$3,581	\$0	\$3,581
New Residential Property Taxes	\$0	\$947	\$947
Hotel Occupancy Taxes	\$233	\$0	\$233
Building Permits and Fees	\$0	\$0	\$0
Utility Revenue	\$164,269	\$13,359	\$177,628
Utility Franchise Fees	\$9,434	\$764	\$10,199
Miscellaneous Taxes and User Fees	\$86,019	\$6,997	\$93,016
<b>Benefits Subtotal</b>	<b>\$488,717</b>	<b>\$24,032</b>	<b>\$512,749</b>
COSTS	PROJECT	HOUSEHOLDS	TOTAL
Cost of Government Services	(\$82,412)	(\$6,684)	(\$89,096)
Cost of Utility Services	(\$180,918)	(\$14,703)	(\$195,621)
<b>Costs Subtotal</b>	<b>(\$263,330)</b>	<b>(\$21,387)</b>	<b>(\$284,717)</b>
<b>Net Benefits</b>	<b>\$225,387</b>	<b>\$2,644</b>	<b>\$228,031</b>

Annual Fiscal Net Benefits for City of Tomball





**RESOLUTION NO. 2024-45-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 NIVIS SERIES, 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 Thirty Four Thousand One Hundred and Seventy Dollars (\$34,170.00) found by the Board to be required or suitable to promote a new business development by NIVIS SERIES, 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 Thirty Four Thousand One Hundred and Seventy Dollars (\$34,170.00) to NIVIS SERIES, LLC, in accordance with an economic development agreement by and between the TEDC and NIVIS SERIES, LLC, to promote and develop a new or expanded business enterprises, to be located at 424 Holderrieth Blvd, 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:

\_\_\_\_\_  
Tracy Garcia, City Secretary

## 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 **NIVIS SERIES, LLC.** (the “Company”), 17511 Stamford Oaks 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 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 .9995-acre tract of land within the City, located at 424 Holderrieth Blvd., Tomball, Texas 77375 (the “Property”), more particularly described in Exhibit “A,” attached hereto and made a part hereof; and

**WHEREAS**, the Company plans to expend over Three Million Dollars (\$3,000,000) to construct a 4,000 square-foot and a 6,300 square-foot commercial building and related site improvements (the “Improvements”) on the site, more particularly described in Exhibit “B,” attached hereto and made a part hereof; and

**WHEREAS**, the Board of Directors of the TEDC has determined that the Project will stimulate growth and development, and will promote new and expanded business development in the City and the surrounding area; and

**WHEREAS**, the TEDC agrees to provide to the Company the sum of Thirty-Four Thousand One Hundred and Seventy Dollars (\$34,170.00), or an amount equal to up to ten percent (10%) 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 covenants and agrees that it will construct and maintain on the Property a 4,000 square-foot and a 6,300 square-foot commercial building (the “Improvements”) identified and described in Exhibit “B,” attached hereto and made a part hereof. In conjunction with the development of the Property, the Company further agrees to construct the 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.

Construction of the Improvements on the Property, including construction of the Infrastructure Improvements, must commence within 180 days from the date of this Agreement (the “Start Date”), and the Company shall notify the TEDC of such Start Date. The construction of the Improvements to the Property, including construction of the Infrastructure Improvements, shall be completed, and all necessary occupancy 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”).

4.

By the end of the Term, the Company shall provide evidence to the TEDC that the Improvements are directly responsible for the creation of thirty (30) jobs in the City. 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 Thirty-Four Thousand One Hundred and Seventy Dollars (\$34,170.00), or an amount equal to ten percent (10%) of actual construction costs if less than the sum stated above upon completion of construction and occupancy of each commercial 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 one-half percent ( $\frac{1}{2}\%$ ) 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, 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 one-half percent ( $\frac{1}{2}\%$ ) 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. 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: NIVIS SERIES, LLC  
17511 Stamford Oaks Drive  
Tomball, Texas 77377  
Attn: Tam Duong  
Owner, NIVIS SERIES, LLC

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 \_\_\_\_\_ 2025 (the "Effective Date").

**NIVIS SERIES, LLC**

By: \_\_\_\_\_  
Name: Tam Duong, Owner  
Title: Owner

ATTEST:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**TOMBALL ECONOMIC DEVELOPMENT CORPORATION**

By: \_\_\_\_\_

Name:

Title: President, Board of Directors

ATTEST:

By: \_\_\_\_\_

Name:

Title: Secretary, Board of Directors

DRAFT

ACKNOWLEDGMENT

THE STATE OF TEXAS §  
  §  
COUNTY OF HARRIS §

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_  
2025, by Tam Duong, Owner, NIVIS SERIES, 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 \_\_12th\_\_ day of  
\_November\_\_\_\_\_ 2024, by \_\_\_\_\_, 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: \_\_\_\_\_

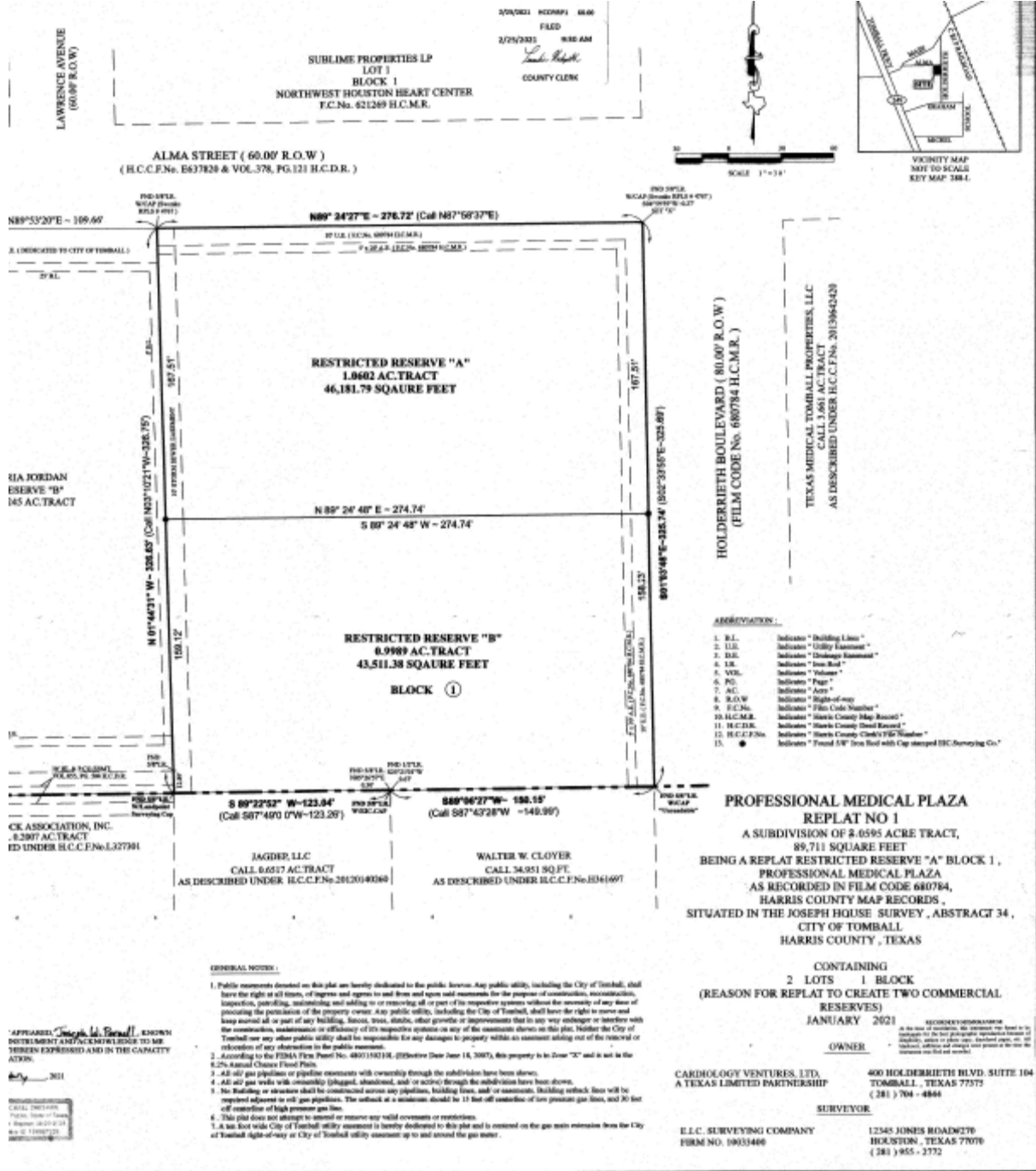
(SEAL)

# Exhibit A

## Legal Description of Property

RESTRICTED RESERVE "B" .9995 ACRES – PROFESSIONAL MEDICAL PLAZA  
REPLAT NO. 1

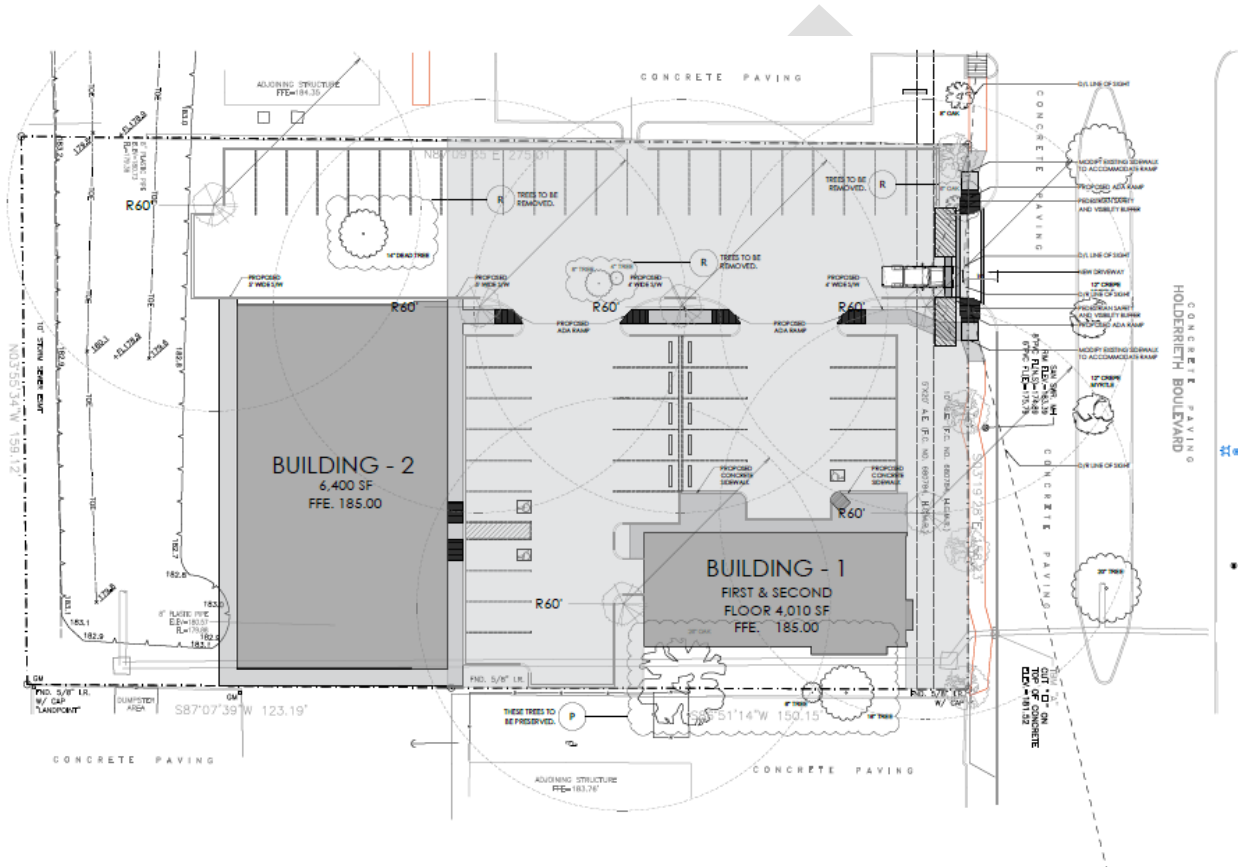
424 HOLDERRIETH BLVD, TOMBALL, TX 77375





**Exhibit B**  
**Description of Improvements**

Construction of a 4,000 square foot and a 6,300 Square foot of commercial building and related site improvements located at 424 Holderrieth Blvd., Tomball, TX 77375.



**Exhibit C**

**Description of Infrastructure Improvements**

<b>Targeted Infrastructure</b>	<b>TOTAL COST</b>
SITE PREP	\$ 36,200.00
SURVEYING	\$ 2,500.00
DEMOLITION	\$ 8,500.00
EROSION CONTROL	\$ 17,400.00
SEWER AND WATER	\$ 23,000.00
STORM DRAIN	\$ 27,600.00
ELECTRIC	\$ 200,000.00
SWPPP	\$ 26,500.00
<b>TOTAL SITE COSTS</b>	<b>\$ 341,700.00</b>



# **Memorandum of Understanding Conducting Cooperative Prescribed Fire and Mechanical Fuel Mitigation**

This Memorandum of Understanding (MOU) is entered into by and between the Texas A&M Forest Service, a member of The Texas A&M University System, an agency of the State of Texas (TFS), and City of Tomball (COOPERATOR).

## **I. PURPOSE**

The purpose of this MOU is to provide opportunities to capitalize on training during mechanical fuel mitigation projects, prescribed fire, and field training activities to meet qualifications for wildfire certification (Activities), which is available to COOPERATOR through TFS. TFS will benefit by having additional labor available during Activities. This MOU delineates responsibilities and procedures for conducting Activities.

## **II. SCOPE**

The provisions of this MOU apply to Activities performed under the management of TFS as a part of its normal forest management within the State of Texas on land owned by TFS or other governmental entities.

## **III. PERIOD OF PERFORMANCE**

This MOU will commence on the date of the last part to sign and will continue for a period of five years, unless terminated earlier in accordance with section VII.B.

## **IV. RESPONSIBILITIES**

### **A. TFS will:**

1. Manage, organize and provide personnel management of the Activities, according to guidelines prescribed by TFS.
2. Provide coordination between TFS and COOPERATOR.
3. Assist COOPERATOR in documenting the participation of COOPERATOR's personnel in a cooperative prescribed fire exercise for training file purposes.

### **B. The COOPERATOR will:**

1. Maintain a roster of all its personnel who will be participating in Activities and provide the roster to TFS before each Activity.

2. Provide a primary point of contact to TFS for the purpose of notification.
3. Have basic fireline qualifications as required by his/her jurisdiction.
4. Provide administrative support to its personnel when performing activities under this MOU.
5. Provide all tools and equipment, including appropriate personal protective equipment, to its personnel necessary to complete performance under this MOU.
6. Advise TFS point of contact of any change in notification process, i.e. address or phone number changes.
7. Only assign personnel to participate under this MOU that are physically capable of performing assigned duties and maintain knowledge, skills and abilities necessary to operate safely and effectively in the assigned position.

## **V. ADMINISTRATIVE, FINANCIAL AND PERSONNEL MANAGEMENT**

### **A. Reimbursement**

1. Each party will bear its own costs and expenses incurred under this MOU without expectation of reimbursement from the other party..

### **B. Medical Care for Injury or Illness**

1. If COOPERATOR's personnel incurs an injury or illness during the performance of this MOU, TFS will cooperate logistically with COOPERATOR to help ensure COOPERATOR's personnel receives appropriate emergency care.

### **C. Liability**

1. It is mutually agreed that TFS and COOPERATOR will each be responsible for their own losses arising out of the performance of this MOU to the extent authorized by law.

## **VI. NOTICES**

Any notice required or permitted under this Agreement must be in writing, and will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address set out below. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, email or other commercially reasonable means and will be effective when actually received. A&M System and PROVIDER can change their respective

notice address by sending to the other party a notice of the new address. Notices should be addressed as follows:

TFS:  
Joel Hambright  
513 State Hwy 75N  
Huntsville, TX 77320-1121  
936-295-5688  
jhambright@tfs.tamu.edu

COOPERATOR:  
City of Tomball Fire Department  
401 Market Street  
Tomball, Texas 77375  
281-351-7101  
[jsykora@tomballtx.gov](mailto:jsykora@tomballtx.gov)

## **VII. GENERAL PROVISIONS**

- A. This MOU may be modified or amended only by the written agreement of both parties.
- B. Either party, upon 30 day written notice, may terminate this MOU.
- C. The substantive laws of the State of Texas (and not its conflicts of law principles) govern all matters arising out of or relating to this MOU and all of the transactions it contemplates. Venue for any for any claim arising out of or relating to this MOU or any of the transactions it contemplates will be in Brazos County, Texas.
- D. This MOU, with the rights and privileges it creates, is assignable only with the written consent of both parties.
- E. Each provision of this MOU is severable. If any provision is rendered invalid or unenforceable by statute or regulations or declared null and void by any court of competent jurisdiction, the remaining provisions will remain in full force and effect if the essential terms of this MOU remain valid, legal, and enforceable.
- F. Compliance with Laws. Each Party hereto will comply with all federal, state, and local laws, rules, and regulations applicable to the performance of its obligations under this MOU.
- G. This MOU constitutes the entire and only agreement between the Parties hereto and supersedes any prior understanding, written or oral agreements between the Parties, or “side deals” which are not described in this MOU. This MOU may be amended

only by a subsequent written agreement signed by authorized representatives of both Parties.

- H. Notwithstanding any provision of this MOU to the contrary, the Parties hereto are independent contractors. No employer-employee, partnership, agency, or joint venture relationship is created by this MOU or by COOPERATOR's service to TFS. Except as specifically required under the terms of this MOU, COOPERATOR (and its representatives, agents, employees and subcontractors) will not represent themselves to be an agent or representative of TFS or A&M SYSTEM. As an independent contractor, COOPERATOR is solely responsible for all taxes, withholdings, and other statutory or contractual obligations of any sort, including but not limited to workers' compensation insurance. COOPERATOR and its employees must observe and abide by all applicable TFS policies, regulations, rules and procedures, including those applicable to conduct on its premises.
- I. COOPERATOR acknowledges that TFS is obligated to strictly comply with the Texas Public Information Act, Chapter 552, Texas Government Code (the "PIA"), in responding to any request for public information pertaining to this MOU, as well as any other disclosure of information required by applicable Texas law. Upon TFS's written request, and at no cost to TFS, COOPERATOR will provide specified public information (as such term is defined in Section 552.002 of the PIA) exchanged or created under this MOU that is not otherwise excepted from disclosure under the PIA to TFS in a non-proprietary format acceptable to TFS that is accessible by the public.
- J. TFS is an agency of the state of Texas and under the Constitution and the laws of the state of Texas possesses certain rights and privileges, is subject to certain limitations and restrictions, and only has authority as is granted to it under the Constitution and the laws of the state of Texas. COOPERATOR expressly acknowledges that TFS is an agency of the state of Texas and nothing in this MOU will be construed as a waiver or relinquishment by TFS of its right to claim such exemptions, remedies, privileges, and immunities as may be provided by law.
- K. Each Party acknowledges that all rights in any trademarks, service marks, slogans, logos, designs, and other similar means of distinction associated with that Party (its "Marks"), including all goodwill pertaining to the Marks, are the sole property of that Party. Neither Party may use the Marks of the other without the advance written consent of that Party, except that each Party may use the name of the other Party in factual statements that, in context, are not misleading.

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COOPERATOR hereby acknowledges that they have read and understand this entire MOU. All oral or written agreements between the parties hereto relating to the subject matter of this MOU that were made prior to the execution of this MOU have been reduced to writing and are contained herein. COOPERATOR and TFS agrees to abide by all terms and conditions specified herein, intend that the terms and conditions of this MOU be legally binding, and certify that the information provided is true and correct in all respects to the best of their knowledge and belief.



This MOU is entered into by and between the following parties:

**TEXAS A&M FOREST SERVICE:**

Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Director  
Date: \_\_\_\_\_

**COOPERATOR**

Signature: \_\_\_\_\_  
Name: David Esquivel  
Title: City Manager  
Date: \_\_\_\_\_

Signature: \_\_\_\_\_  
Name: Joe Sykora  
Title: Fire Chief  
Date: \_\_\_\_\_

Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

# City Council Meeting Agenda Item Data Sheet

**Meeting Date:** December 2, 2024

**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

**Background:**

**Origination:** David Esquivel, City Manager

**Recommendation:**

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

David Esquivel, City Manager