

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



**Monday, April 17, 2023  
6:00 PM**

Notice is hereby given of a Regular meeting of the Tomball City Council, to be held on Monday, April 17, 2023 at 6:00 PM, City Hall, 401 Market Street, Tomball, Texas 77375, for the purpose of considering the following agenda items. All agenda items are subject to action. The Tomball City Council reserves the right to meet in a closed session for consultation with attorney on any agenda item should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

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

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

- A. Call to Order
- B. Invocation - Led by Pastor David Hinkle – Tomball Bible 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

- I. Presentation on the progress of the Parks, Recreation, and Trails System Master Plan.

F. Reports and Announcements

1. Announcements

- April 21, 2023 – Tomball Rotary Fish Fry at Juergens Park
- April 17-22, 2023 – Tomball Annual Spring Clean-Up and Chipping Week
- April 22, 2023 – Tomball Consolidated Recycling Day – Lone Star College-Tomball Campus, 30555 Tomball Parkway, South Entrance – 10:00 a.m.-2:00 p.m.
- April 25, 2023 – Parks Master Plan Open House – Tomball Community Center 6-8 pm
- May 4, 2023 – National Day of Prayer – Tomball Community Center 6-7 pm

- II. Recognition of Building Department Inspector Christopher Plummer for passing the State Plumbing exam.

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

G. Old Business

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

2. Adopt on Second Reading Ordinance No. 2023-08, An Ordinance Of The City Of Tomball, Texas Amending Section 48-139 Of Its Code Of Ordinances, Storage Lot Requirements, Of Division 1, Generally, Of Article III, Tow Trucks And Tows, Of Chapter 48, Vehicles For Hire, By Allowing Wrecker Storage Lots To Be Located Within The City, Its Extraterritorial Jurisdiction Or Within Five (5) Miles Of The Extraterritorial Jurisdiction Of The City; Containing findings and Other Provisions Relating To The Subject; Declaring Certain Conduct To Be Unlawful; Providing A Penalty In An Amount Not To Exceed \$2,000.00 For Each Violation Of This Ordinance With Every Day Constituting A New Violation; Providing For Severability; Providing for Publication; and Providing An Effective Date.
- H. New Business Consent Agenda: *[All matters listed under Consent Agenda are considered to be routine and will be enacted by one motion. There will be no separate discussion of these items. If discussion is desired, the item in question will be removed from the Consent Agenda and will be considered separately. Information concerning Consent Agenda items is available for public review.]*
  1. Approve the Minutes of the April 3, 2023, Regular City Council Meeting
  2. Approve Resolution No. 2023-22, a Resolution of the City Council Of The City Of Tomball, Texas, Sponsoring The City's Annual July 4th Celebration, To Be Held In Tomball On July 4th Of Each Year Closing State Highway Business 249 From Hicks Street To The North Entrance To The Kroger Parking Lot From 12:00 P.M. Until 11:00 P.M., And Authorizing The City Manager To Issue A Letter To TxDOT Requesting The Closure Of The Designated Portion Of State Highway Business 249.
  3. Approve for the purchase of network switches from Waypoint Business Solutions through the Choice Partners Cooperative for a not-to-exceed amount of \$43,399.80, approve the expenditure of funds therefor, and authorize the City Manager to execute any and all documents related to the purchase. The purchases are included in the FY 2022-2023 Budget.
  4. Approve a Professional Services Agreement with Willdan Financial Services, Administrative Contract Number 0000-10089, Utility Rate Study, for a not-to-exceed amount of \$45,000 (RFP 2023-096), authorize the expenditure of funds therefor, and authorize the City Manager to execute the agreement. This amount is included in the FY 2022-2023 budget.
  5. Approve Resolution No. 2023-23, a Resolution of the City Council of the City of Tomball, Texas approving the Amended and Restated Reimbursement Agreement for the Seven Oaks Public Improvement District Number 14.

6. Approve a contract with Landmark Structures I, LP for the construction of the Grand Parkway Elevated Storage Tank for E&P Project 2021-10053 (Bid 2023-03) for a not-to-exceed amount of \$5,178,000, authorize the expenditure of funds therefor, and authorize the City Manager to execute contract. The amount is included in the Fiscal Year 2022-2023 budget.

I. New Business

1. Discussion, direction, and possible action regarding Legislative Items at the 2023 Texas Legislative Session.
2. Approve request from Tomball Rotary Club for City Support and In-Kind Services for the Tomball Rotary Annual Big Show at the Depot in downtown Tomball, on Saturday, October 14, 2023
3. Authorize the donation of obsolete firefighting nozzles, adapters, various equipment and uniforms to the East Texas Mutual Aid Association.
4. Approve Resolution No. 2023-25, a Resolution of the City of Tomball, Texas, amending sections of the Master Fee Schedule for Fiscal Year 2022-2023.
5. Appoint members to position 1, 3 and alternate position 2 and 4 to the Board of Adjustment (BOA) for a two-year term expiring March 2, 2025.
6. Appointment of Member to the Capital Improvement Advisory Committee (CIPAC).
7. Discussion and possible direction regarding any changes to Chapter 18 Environment - Article IV Noise Ordinance.
8. 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 closes session.
  - Sec. 551.072 – Deliberations regarding Real Property
  - Sec. 551.076 – Deliberations regarding Security Devices

J. Adjournment

**CERTIFICATION**

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall, City of Tomball, Texas, a place readily accessible to the general public at all times, on the 13th day of April 2023 by 5:00 PM, and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

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Tracylynn Garcia, TRMC, CMC, CPM  
City Secretary

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary's office at (281) 290-1019 or FAX (281) 351-6256 for further information.

# City Council Meeting Agenda Item Data Sheet

Meeting Date: April 17, 2023

**Topic:**

Presentation on the progress of the Parks, Recreation, and Trails System Master Plan.

**Background:**

Receive presentation regarding the progress of the Parks, Recreation, and Trails System Master Plan.

Following Council approval for the Professional Services Agreement with our consultant, Four and One, LLC, staff has been working to complete the beginning steps of the draft Parks, Recreation, and Trails System Master Plan. An important step for completing the master plan was the creation of our Parks Focus Group which was approved by Council on February 6, 2023. Staff and our consultant have met with members of the focus group twice to receive input and suggestions. The input was utilized to create a survey for the public to identify the wants and needs of the community.

Staff will be hosting a come-and-go style open house on April 25, 2023, from 6 p.m. to 8 p.m. at the Community Center. The open house will allow the community to ask questions, observe other parks in surrounding communities, and provide feedback to staff for the direction of parks and trails systems.

Following the open house, staff will be presenting the survey information and feedback received to Council for direction.

**Origination:** Public Works Department

**Recommendation:**

**Party(ies) responsible for placing this item on agenda:** Drew Huffman, Public Works Director

**FUNDING (IF APPLICABLE)**

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

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

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

Signed Drew Huffman  
Staff Member \_\_\_\_\_  
Date \_\_\_\_\_

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

# City Council Meeting Agenda Item Data Sheet

Meeting Date: \_\_\_\_\_

**Topic:**

- April 21, 2023 – Tomball Rotary Fish Fry at Juergens Park
- April 17-22, 2023 – Tomball Annual Spring Clean-Up and Chipping Week
- April 22, 2023 – Tomball Consolidated Recycling Day – Lone Star College-Tomball Campus, 30555 Tomball Parkway, South Entrance – 10:00 a.m.-2:00 p.m.
- April 25, 2023 – Parks Master Plan Open House – Tomball Community Center 6-8 pm
- May 4, 2023 – National Day of Prayer – Tomball Community Center 6-7 pm

**Background:**

n/a

**Origination:** n/a

**Recommendation:**

n/a

**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

# City Council Meeting Agenda Item Data Sheet

Meeting Date: 04/17/2023

**Topic:**

Recognition of Building Department Inspector Christopher Plummer for passing the State Plumbing exam.

**Background:**

To qualify for this to take the exam Chris needed to have:

- high school diploma or General Equivalency Diploma (GED); and
- completed 500 hours of training and experience in the plumbing industry; or
- you are currently licensed as:
  - a Master Plumber in Texas;
  - a Journeyman Plumber in Texas;
  - a Professional Engineer in Texas;
  - an Architect in Texas; or
  - a Plumbing Inspector in another state that has licensing requirements substantially equivalent to the licensing requirements of the TSBPE

**Origination:** Nathan Dietrich

**Recommendation:** N/A

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

**FUNDING (IF APPLICABLE)**

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

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

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

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



# City Council Meeting

## Agenda Item

### Data Sheet

Meeting Date: April 3, 2023

**Topic:**

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

**Background:**

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

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

**Origination:** Project Management

**Recommendation:**

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

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

**FUNDING (IF APPLICABLE)**

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

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

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

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

**ORDINANCE NO. 2023-06**

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

\* \* \* \* \*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 11. Administrator and Collector of Assessments.

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

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

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

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

FIRST READING:

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

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

SECOND READING:

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

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

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

ATTEST:

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

# Seven Oaks Public Improvement District

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SERVICE AND ASSESSMENT PLAN

APRIL 17, 2023



AUSTIN, TX | NORTH RICHLAND HILLS, TX | HOUSTON, TX



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## INTRODUCTION

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

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

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

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

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

## SECTION I: DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**“City”** means the City of Tomball, Texas.

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

**“County”** means Harris County, Texas.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## SECTION II: THE DISTRICT

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

## SECTION III: AUTHORIZED IMPROVEMENTS

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

### A. Public Improvements

- *Paving*

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

- *Water Distribution*

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

- *Sanitary Sewer*

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

- *Drainage*

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



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

- *Clearing and Grubbing*

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

- *Detention and Grading*

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

- *Soft Costs*

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

## **B. Bond Issuance Costs**

- *Debt Service Reserve Fund*

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

- *Delinquency and Prepayment Fund*

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

- *Underwriter's Discount*

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

- *Cost of Issuance*

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

## **C. First Year Annual Collection Costs**

- *Deposit to Administrative Fund*

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

#### SECTION IV: SERVICE PLAN

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

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

#### SECTION V: ASSESSMENT PLAN

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

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

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

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

### **A. Assessment Methodology**

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

### **B. Assessments**

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

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

### **C. Findings of Special Benefit**

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

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

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

#### **D. Annual Collection Costs**

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

#### **E. Additional Interest**

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

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

## **SECTION VI: TERMS OF THE ASSESSMENTS**

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

## A. Reallocation of Assessments

### 1. Upon Division Prior to Recording of Subdivision Plat

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

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

Where the terms have the following meanings:

A = the Assessment for the newly divided Assessed Property

B = the Assessment for the Assessed Property prior to division

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

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

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

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

### 2. Upon Subdivision by a Recorded Subdivision Plat

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

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

Where the terms have the following meanings:

A = the Assessment for the newly subdivided Lot

B = the Assessment for the Parcel prior to subdivision

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

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

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

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

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

### 3. *Upon Consolidation*

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

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

## **B. Mandatory Prepayment of Assessments**

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

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

### **C. True-up of Assessments if Maximum Assessment Exceeded**

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

### **D. Reduction of Assessments**

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

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

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

### **E. Prepayment of Assessments**

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

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

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

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

#### **F. Payment of Assessment in Annual Installments**

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

## **SECTION VII: ASSESSMENT ROLL**

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

## **SECTION VIII: ADDITIONAL PROVISIONS**

### **A. Administrative Review**

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

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

### **B. Amendments**

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

### **C. Administration and Interpretation**

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

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

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

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

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

**E. Severability**

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

## LIST OF EXHIBITS

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

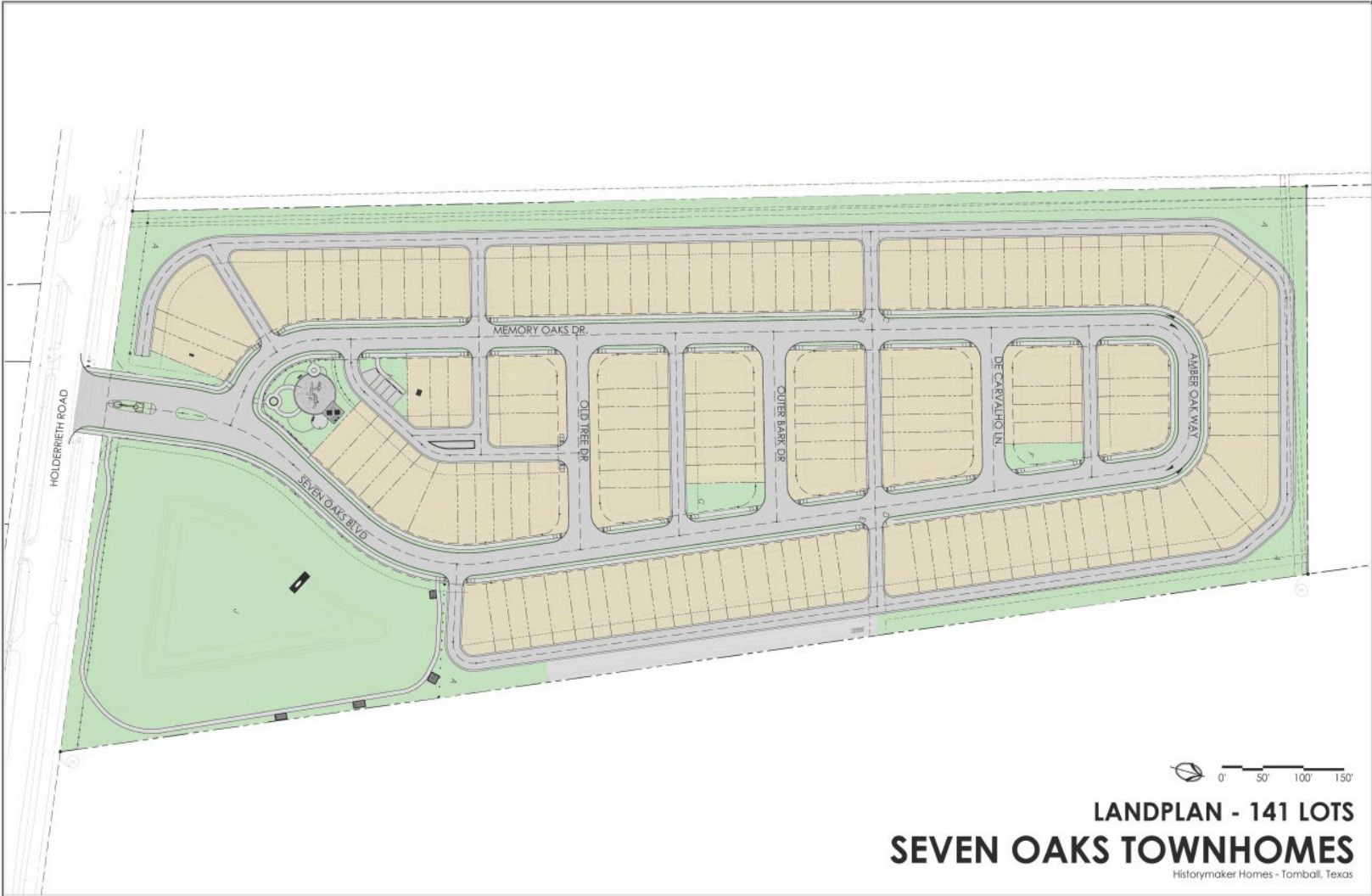
<b>Exhibit A</b>	Map of the District
<b>Exhibit B</b>	Authorized Improvements
<b>Exhibit C</b>	Service Plan
<b>Exhibit D</b>	Sources and Uses of Funds
<b>Exhibit E</b>	Maximum Assessment and Tax Rate Equivalent
<b>Exhibit F-1</b>	Assessment Roll
<b>Exhibit F-2</b>	Annual Installments
<b>Exhibit G-1</b>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

## LIST OF APPENDICES

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

<b>Appendix A</b>	District Engineer's Report
<b>Appendix B</b>	Buyer Disclosures

**EXHIBIT A – MAP OF THE DISTRICT**



## EXHIBIT B – AUTHORIZED IMPROVEMENTS

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

**Footnotes:**

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

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

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

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

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

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

## EXHIBIT C – SERVICE PLAN

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

**Footnotes:**

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



**EXHIBIT D – SOURCES AND USES OF FUNDS**

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

**Footnotes:**

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

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

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

**EXHIBIT E – MAXIMUM ASSESSMENT AND TAX RATE EQUIVALENT**

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

**Footnotes:**

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

**EXHIBIT F-1 – ASSESSMENT ROLL**

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

**Footnotes:**

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

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

**EXHIBIT F-2 – ANNUAL INSTALLMENTS FOR ASSESSMENT ROLL**

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

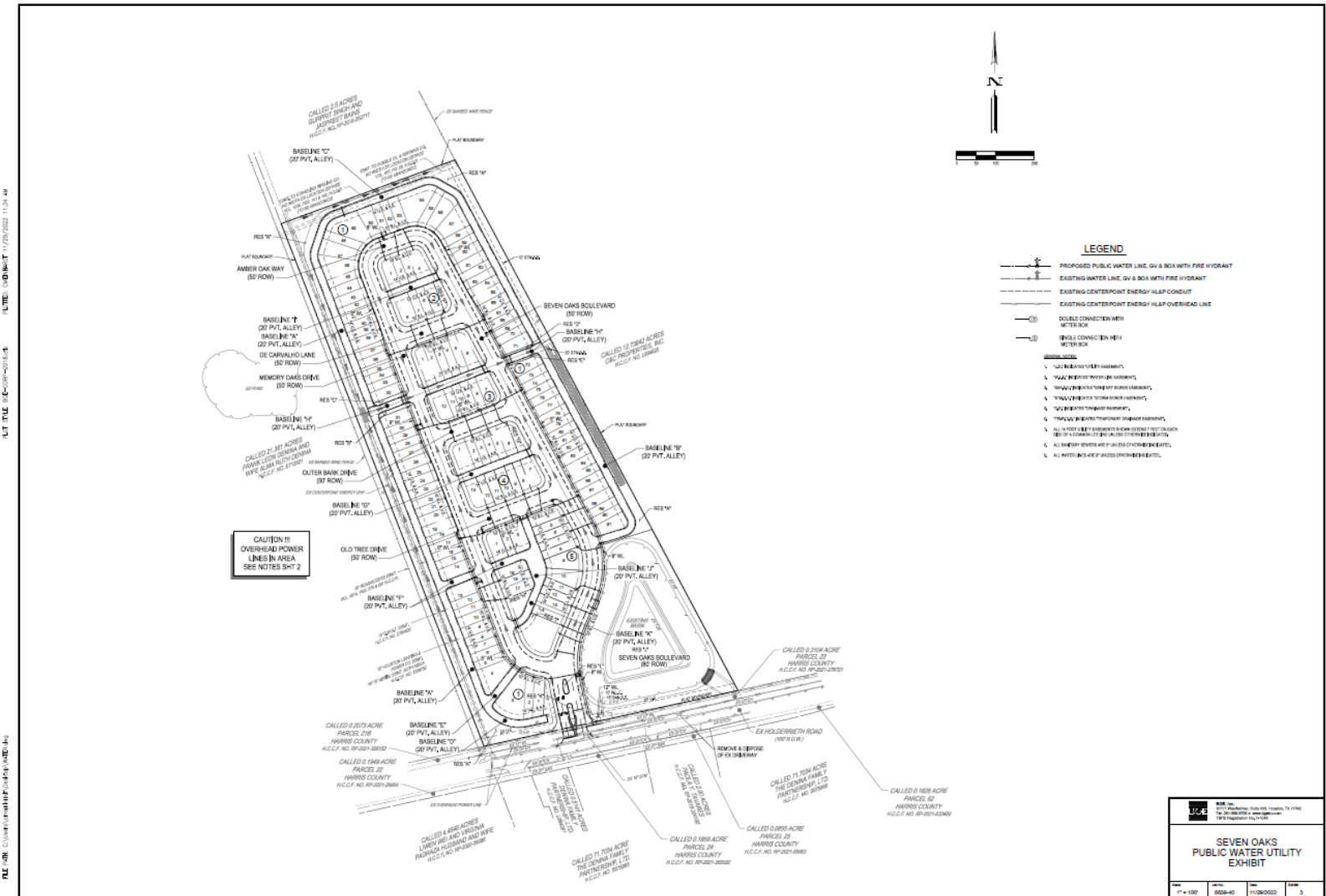
**Footnotes:**

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

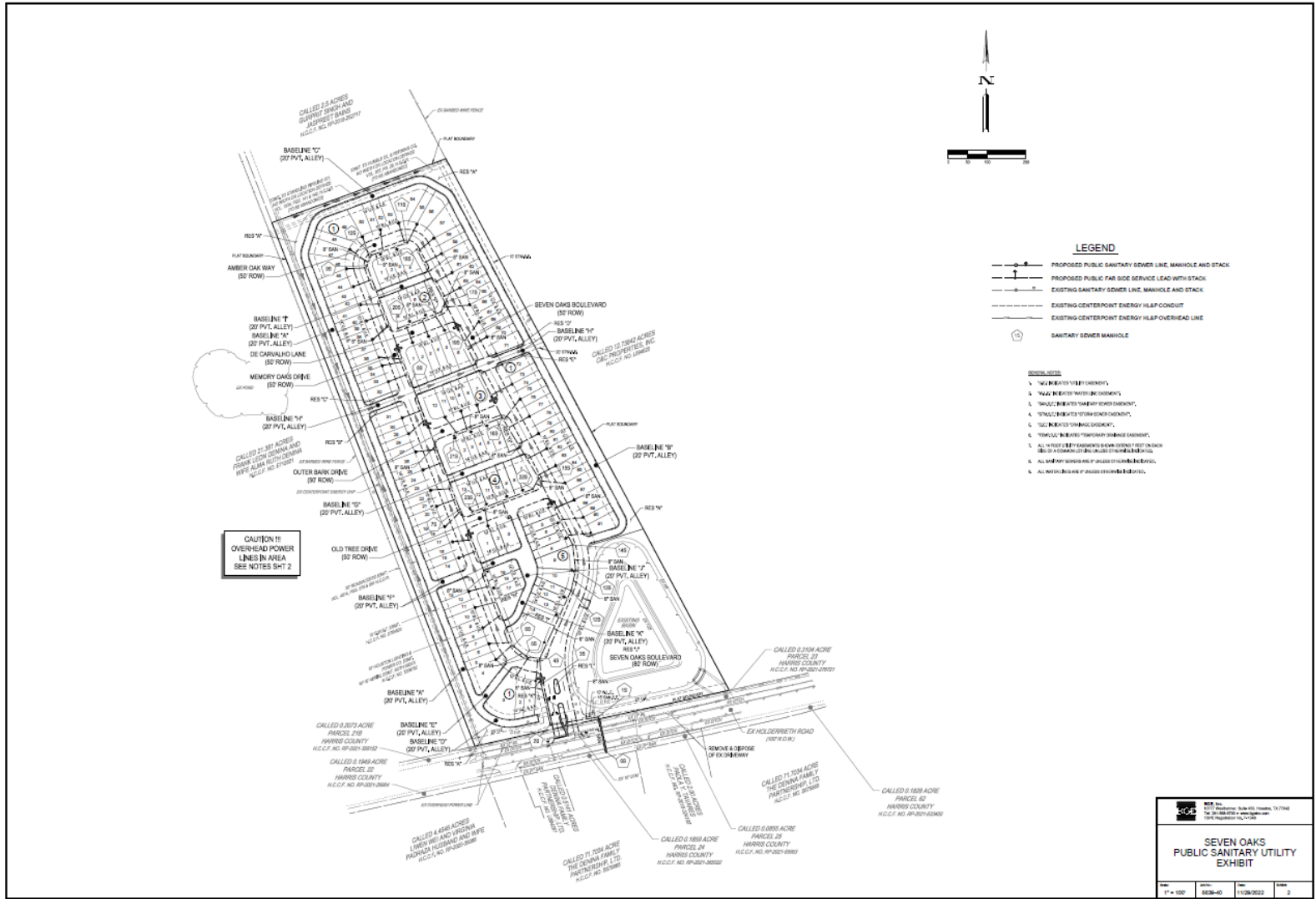
[b] Additional Interest will be collected if PID Bonds are issued.

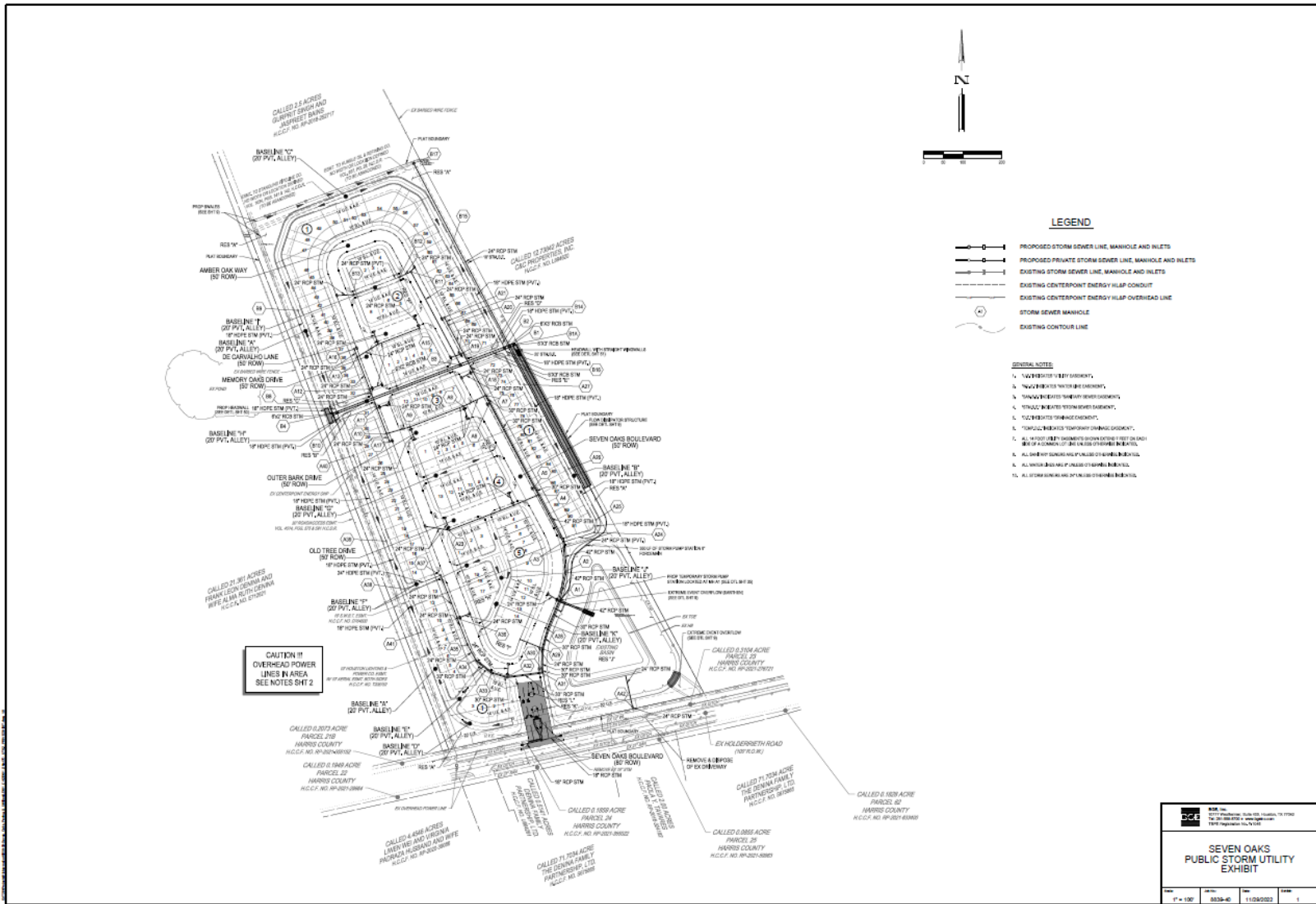
[c] The figures shown above are estimates only and subject to change in Annual Service Plan Updates. Changes in Annual Collection Costs, Additional Interest, or other available offsets could increase or decrease the amounts shown.

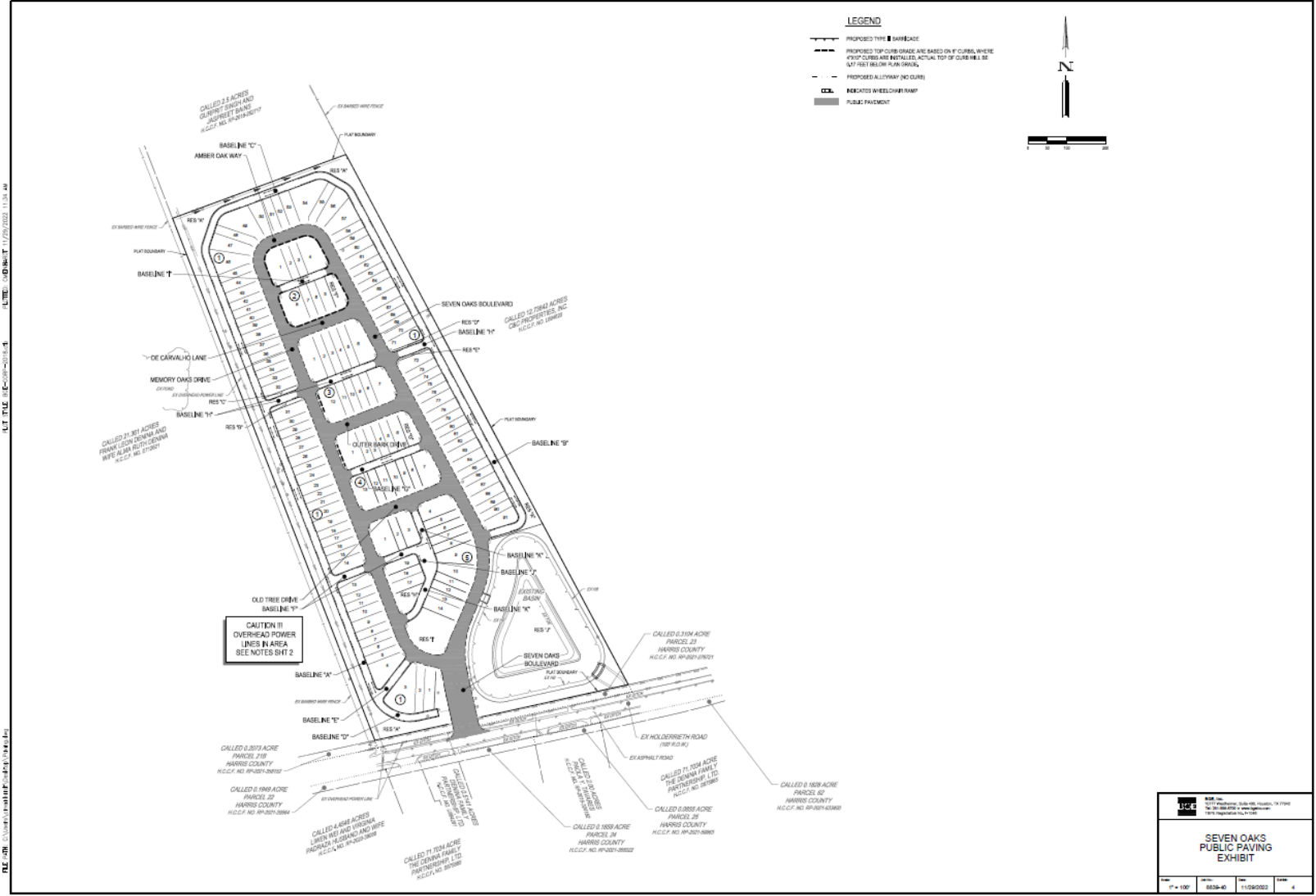
# EXHIBIT G-1 – MAPS OF PUBLIC IMPROVEMENTS



FILE NAME: C:\Users\j\OneDrive\Documents\Projects\7176\7176.dwg  
 FILE TITLE: REC-000-0018-01  
 PLT FILE: REC-000-0018-01.plt  
 PLOT DATE: 11/29/2022 11:33 AM

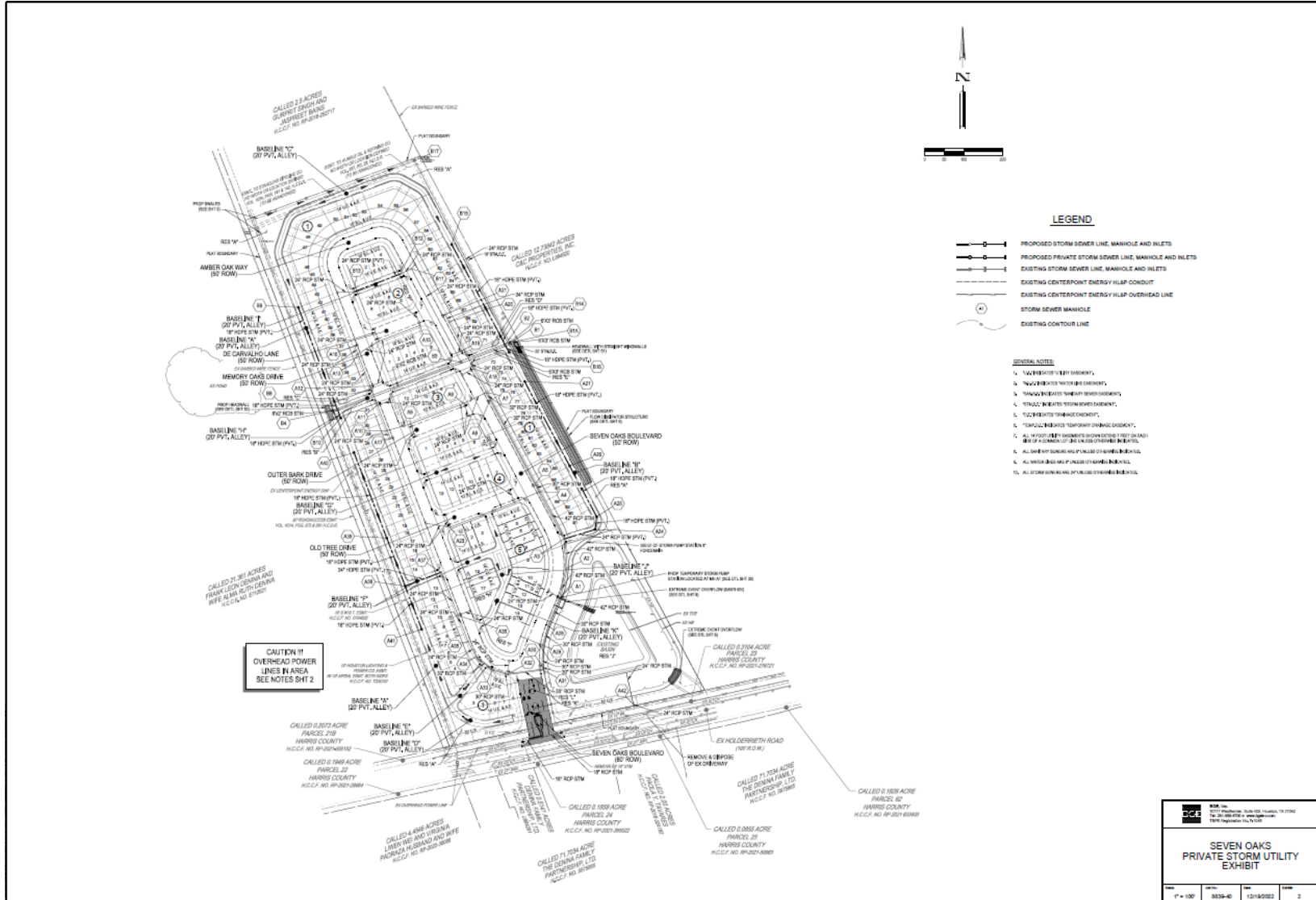


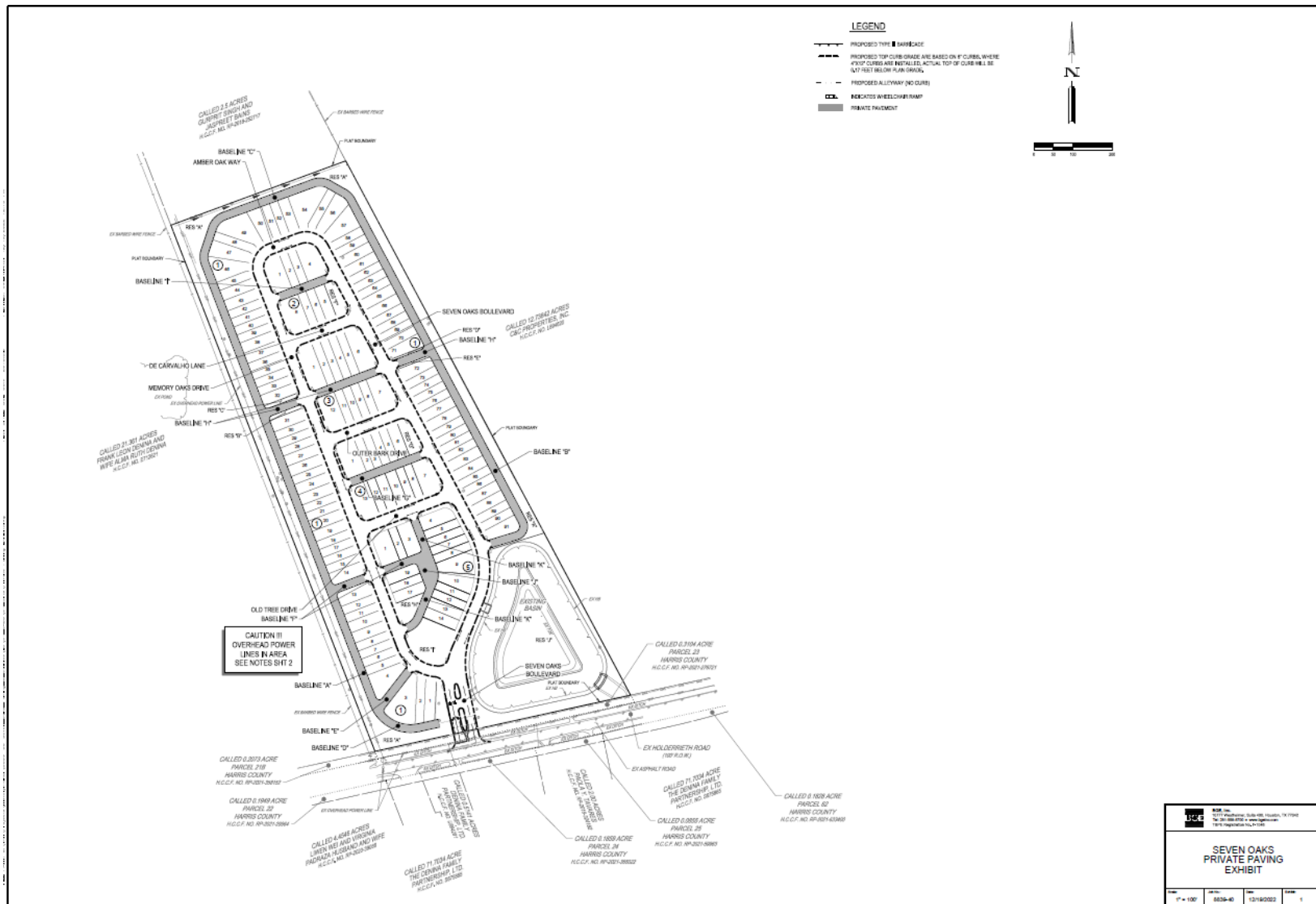






# EXHIBIT G-2 – MAPS OF PRIVATE IMPROVEMENTS





**EXHIBIT H – FORM OF NOTICE OF ASSESSMENT TERMINATION**



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

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

**Re: City of Tomball Lien Release documents for filing**

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

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

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

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

Sincerely,  
[Signature]

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

**AFTER RECORDING RETURN TO:**

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

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

**FULL RELEASE OF PUBLIC IMPROVEMENT DISTRICT LIEN**

STATE OF TEXAS

§  
§  
§

**KNOW ALL MEN BY THESE PRESENTS:**

COUNTY OF HARRIS

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

**RECITALS**

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

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

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

**WHEREAS**, on or about April 3, 2023, the City Council, approved Ordinance No. \_\_\_\_\_, (hereinafter referred to as the "Assessment Ordinance") approving a service and assessment plan and assessment roll for the Property within the Seven Oaks Public Improvement District; and

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

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

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

**RELEASE**

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

**EXECUTED** to be **EFFECTIVE** this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**CITY OF TOMBALL, TEXAS,**

By: \_\_\_\_\_  
[Name], [Title]

**ATTEST:**

\_\_\_\_\_  
[Secretary Name], City Secretary

**STATE OF TEXAS**                   §  
                                                  §  
**COUNTY OF HARRIS**           §

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

\_\_\_\_\_  
Notary Public, State of Texas

## EXHIBIT I – LEGAL DESCRIPTION

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

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

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

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

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

006394.000008\4865-0975-1837.v1

## APPENDIX A – DISTRICT ENGINEER’S REPORT



HMH Lifestyles LP (dba Historymaker Homes)

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

November 22, 2022

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

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

Notes:

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



11/28/2022

*Darin Fentress*



## **APPENDIX B – BUYER DISCLOSURES**

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

- Initial Parcel
- Lot Type 1

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

NOTICE OF OBLIGATIONS RELATED TO PUBLIC IMPROVEMENT DISTRICT

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

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

This notice requirement does not apply to a transfer:

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

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

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

AFTER RECORDING<sup>1</sup> RETURN TO:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
PROPERTY ADDRESS

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

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

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

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

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

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

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

DATE:

DATE:

\_\_\_\_\_  
SIGNATURE OF PURCHASER

\_\_\_\_\_  
SIGNATURE OF PURCHASER

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

DATE:

DATE:

\_\_\_\_\_  
SIGNATURE OF SELLER

\_\_\_\_\_  
SIGNATURE OF SELLER]<sup>2</sup>

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

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

DATE:

DATE:

\_\_\_\_\_  
SIGNATURE OF PURCHASER

\_\_\_\_\_  
SIGNATURE OF PURCHASER

STATE OF TEXAS

§

COUNTY OF HARRIS

§

§

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

Given under my hand and seal of office on this \_\_\_\_\_, 20\_\_.

Notary Public, State of Texas]<sup>3</sup>

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

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

DATE:

DATE:

\_\_\_\_\_  
SIGNATURE OF SELLER

\_\_\_\_\_  
SIGNATURE OF SELLER

STATE OF TEXAS

§

COUNTY OF HARRIS

§

§

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

Given under my hand and seal of office on this \_\_\_\_\_, 20\_\_.

Notary Public, State of Texas]<sup>4</sup>

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

## ANNUAL INSTALLMENTS - INITIAL PARCEL

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

**Footnotes:**

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

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

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

## SEVEN OAKS PUBLIC IMPROVEMENT DISTRICT – LOT TYPE 1 BUYER DISCLOSURE

### NOTICE OF OBLIGATIONS RELATED TO PUBLIC IMPROVEMENT DISTRICT

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

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

This notice requirement does not apply to a transfer:

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

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

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



AFTER RECORDING<sup>1</sup> RETURN TO:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
PROPERTY ADDRESS

**LOT TYPE 1 PRINCIPAL ASSESSMENT: \$24,702.13**

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

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

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

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

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

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

DATE:

DATE:

\_\_\_\_\_  
SIGNATURE OF PURCHASER

\_\_\_\_\_  
SIGNATURE OF PURCHASER

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

DATE:

DATE:

\_\_\_\_\_  
SIGNATURE OF SELLER

\_\_\_\_\_  
SIGNATURE OF SELLER]<sup>2</sup>

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

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

DATE:

DATE:

\_\_\_\_\_  
SIGNATURE OF PURCHASER

\_\_\_\_\_  
SIGNATURE OF PURCHASER

STATE OF TEXAS

§

COUNTY OF HARRIS

§

§

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

Given under my hand and seal of office on this \_\_\_\_\_, 20\_\_.

Notary Public, State of Texas]<sup>3</sup>

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

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

DATE:

DATE:

\_\_\_\_\_  
SIGNATURE OF SELLER

\_\_\_\_\_  
SIGNATURE OF SELLER

STATE OF TEXAS

§  
§  
§

COUNTY OF HARRIS

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

Given under my hand and seal of office on this \_\_\_\_\_, 20\_\_.

Notary Public, State of Texas]<sup>4</sup>

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

## ANNUAL INSTALLMENTS - LOT TYPE 1

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

**Footnotes:**

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

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

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

# City Council Meeting

## Agenda Item

### Data Sheet

Meeting Date: April 17, 2023

**Topic:**

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

**Background:**

First Reading and adoption passed on April 3, 2023. This ordinance is to amend Chapter 48 of the Code of Ordinances of the City of Tomball to increase the allowable distance that a tow license holder may keep a vehicle repository outside of the extraterritorial jurisdiction of the City of Tomball. Currently, the City of Tomball Code of Ordinances, Section 48-139 requires that all tow license holders maintain a vehicle repository within the corporate limits of the city or within the extraterritorial jurisdiction of the city. This proposed amendment to the ordinance would allow tow truck license holders to maintain a vehicle repository within five miles of the extraterritorial jurisdiction of the city. By providing for this expansion, it increases the availability of more options for the tow yards.

**Origination:** Tomball Police Department

**Recommendation:**

Approve

**Party(ies) responsible for placing this item on agenda:** Jeff Bert, Police Chief

**FUNDING (IF APPLICABLE)**

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

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

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

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

**ORDINANCE NO. 2023-08**

**AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS AMENDING SECTION 48-139 OF ITS CODE OF ORDINANCES, STORAGE LOT REQUIREMENTS, OF DIVISION 1, GENERALLY, OF ARTICLE III, TOW TRUCKS AND TOWS, OF CHAPTER 48, VEHICLES FOR HIRE, BY ALLOWING WRECKER STORAGE LOTS TO BE LOCATED WITHIN FIVE (5) MILES OF THE CORPORATE LIMITS OF THE CITY; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE SUBJECT; DECLARING CERTAIN CONDUCT TO BE UNLAWFUL; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000.00 FOR EACH VIOLATION OF THIS ORDINANCE WITH EVERY DAY CONSTITUTING A NEW VIOLATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.**

\* \* \* \* \*

**WHEREAS**, the City of Tomball, Texas (the “City”) is a home-rule municipality pursuant to section 5 article 11 of the Texas Constitution and as such, is vested with the power of local self-government; and

**WHEREAS**, the City desires to allow wrecker storage yards to be located within five (5) miles of the corporate limits of the City; and

**WHEREAS**, the City Council finds it to be in the best interest of the health, safety and welfare of its residents to amend its code of ordinances as set forth herein; now, therefore,

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

**Section 1.** The findings contained in the preamble of this Ordinance are hereby found to be true and correct and are hereby adopted as part of this Ordinance.

**Section 2.** Section 48-139, Storage lot requirements, of Division 1, Generally, of Article III, Tow trucks and tows, of Chapter 48, Vehicles for hire, is hereby amended to delete therefrom the language struckthrough below and to add the language underscored below, such Section 48-139 to read as follows:

**“Section 48-139. - Storage lot requirements.**

(a) All tow truck license holders under this article shall maintain or have access to a vehicle depository located in the corporate limits of the city or located within ~~the extraterritorial jurisdiction of the~~ five miles of the corporate limits of the city, as that term is defined in V.T.C.A., Local Government Code ch. 42. The chief of police or the chief's designated representative shall make the determination of ~~the limits of the city's territorial jurisdiction whether the proposed location is within the corporate boundaries or within five (5) miles of the corporate limits of the city~~ upon written request to do so or in connection with any tow truck permit application. Such vehicle depositories maintained or used by tow truck license holders shall be state licensed vehicle storage lots pursuant to the Vehicle Storage Facility Act (V.T.C.A., Occupations Code ch. 2303).

(b) Any vehicle hauled or towed without the owner's consent shall be taken to a state-licensed storage facility authorized by this section, or to such other location as directed by the owner or authorized person, with the approval of the police officer at the scene. Additionally, each tow truck license holder shall have its own private storage lot. The sharing of storage lots is prohibited.”

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

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



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

FIRST READING:

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

COUNCILMAN FORD \_\_\_\_\_  
COUNCILMAN STOLL \_\_\_\_\_  
COUNCILMAN PARR \_\_\_\_\_  
COUNCILMAN TOWNSEND \_\_\_\_\_  
COUNCILMAN DUNAGIN \_\_\_\_\_

SECOND READING:

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

COUNCILMAN FORD \_\_\_\_\_  
COUNCILMAN STOLL \_\_\_\_\_  
COUNCILMAN PARR \_\_\_\_\_  
COUNCILMAN TOWNSEND \_\_\_\_\_  
COUNCILMAN DUNAGIN \_\_\_\_\_

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

ATTEST:

\_\_\_\_\_  
TRACYLYNN GARCIA, City Secretary  
City of Tomball

**City Council Meeting  
Agenda Item  
Data Sheet**

**Meeting Date:** April 17, 2023

**Topic:**

Approve the Minutes of the April 3, 2023, Regular City Council Meeting

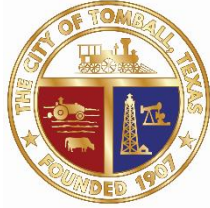
**Background:**

**Origination:** City Secretary

**Recommendation:**

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

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



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

The City Council of the City of Tomball, Texas, conducted the meeting scheduled for April 03, 2023, 6:00 PM, at 401 Market Street, Tomball, Texas 77375, via physical attendance and video/telephone conference.

- A. Mayor L. Klein-Quinn called the meeting of the City of Tomball Council to Order at 6:00 p.m.

**PRESENT**

Mayor Lori Klein Quinn  
Council 1 John Ford  
Council 2 Mark Stoll  
Council 3 Dane Dunagin  
Council 4 Derek Townsend, Sr.  
Council 5 Randy Parr

**OTHERS PRESENT:**

City Manager – David Esquivel  
Assistant City Manager – Jessica Rogers  
City Secretary – Tracylynn Garcia  
City Attorney – Loren Smith  
Director of Public Works – Drew Huffman  
Police Chief – Jeff Bert  
Director of Community Development – Nathan Dietrich  
Fire Chief - Joe Sykora  
Director of Finance – Katherine Tapscott  
IT Sr. Specialist – Ben Lato (video)  
Executive Director-TEDC – Kelly Violette  
Marketing Manager - Chrislord Templonuevo  
Community Center Manager – Rosalie Dillon  
Project Coordinator – Meagan Mageo  
Senior Administrative Assistant – Sasha Luna

- B. Invocation - Led by Pastor Adam McIntosh – St. David’s Church  
C. Pledges to U.S. and Texas Flags led by Fire Chief Joe Sykora

D. Public Comments and Receipt of Petitions; *[At this time, anyone will be allowed to speak on any matter other than personnel matters or matters under litigation, for length of time not to exceed three minutes. No Council/Board discussion or action may take place on a matter until such matter has been placed on an agenda and posted in accordance with law - GC, 551.042.]*

Racheal Rutledge 405 Epps St Tomball, Texas 77375	-	concerns regarding the purchase of the church
Lisa Daniels 403 Epps St. Tomball, Texas 77375	-	concerns regarding the rezoning change with the purchase of the church
Greg Leboeuf 307 Epps St. Tomball, Texas	-	concerns with purchase of the church being turned into a business park

E. Presentations

1. Doug Tippey recognized staff members of Municipal Court on receiving Level 1 of the Texas Court Clerk Certification program.

F. Reports and Announcements

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

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

Items 5 and 6 were pulled at the request of the Council and Staff and were voted on separately.

1. Approve, on Second Reading, Resolution No. 2023-10-TEDC, a Resolution of the City Council of the City of Tomball, Texas, authorizing and approving the Tomball Economic Development Corporation's Project to Expend Funds in accordance with an Economic Development Agreement by and between the Corporation and the City of Tomball to make direct incentives to, or expenditures for, improvements to Jerry Matheson Park located at 1240 Ulrich Rd., Tomball, Texas 77375, as authorized under Sections 505.152 and 505.154 of the Texas Local Government Code. The estimated amount of expenditures for such Project is \$200,000.00.
2. Approve, on Second Reading, Resolution No. 2023-11-TEDC, a Resolution of the City Council of the City of Tomball, Texas, authorizing and approving the Tomball Economic Development Corporation's Project to Expend Funds in accordance with an Economic Development Agreement by and between the Corporation and the City of Tomball to make direct incentives to, or expenditures for, improvements to the North and South 100 Block Alleyways located in the City of Tomball, Texas, as authorized under Sections 505.152 and 505.154 of the Texas Local Government Code. The estimated amount of expenditures for such Project is \$600,000.00.
3. Approve, on Second Reading, Resolution No. 2023-12-TEDC, a Resolution of the City Council of the City of Tomball, Texas, authorizing and approving the Tomball Economic Development Corporation's Project to Expend Funds in accordance with an Economic Development Agreement by and between the Corporation and the City of Tomball to make direct incentives to, or expenditures for, improvements to Louie's Together Playground located at 1331 Ulrich Rd., Tomball, Texas 77375, as authorized under Sections 505.152 and 505.154 of the Texas Local Government Code. The estimated amount of expenditures for such Project is \$200,000.00.

4. Approve, on Second Reading, Resolution No. 2023-13-TEDC, a Resolution of the City Council of the City of Tomball, Texas, authorizing and approving the Tomball Economic Development Corporation's Project to Expend Funds in accordance with an Economic Development Agreement by and between the Corporation and the City of Tomball to make direct incentives to, or expenditures for, design of the South Wastewater Treatment Plant expansion located in the City of Tomball, Texas, as authorized under Sections 505.152 and 505.154 of the Texas Local Government Code. The estimated amount of expenditures for such Project is \$415,000.00.
  
7. Adopt on Second Reading Ordinance No. 2023-07, an Ordinance Amending The Code of Ordinances of The City of Tomball, Texas, By Adding a New Subsection (ff-1) to Section 20-28, Amendments to The 2015 International Fire Code, of Article II, Fire Code, of Chapter 20, Fire Prevention And Protection; Regulating The Installation, Operation, Maintenance, Repair, Retrofitting, Testing, Commissioning And Decommissioning Of Energy Systems Used for Generating or Storing Energy; Providing A Penalty In An Amount Not To Exceed \$2,000.00 Per Day for Violation of Any Provision Hereof, With Each Day Constituting a Separate Offense; Providing a Repealer; Providing For Severability, And Making Other Findings Related Thereto.

Motion made by Council 4 Townsend, Sr., Seconded by Council 2 Stoll.

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

Motion carried unanimously.

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

Motion to adopt Ordinance as amended to prohibit amplified music was made by Council 5 Parr, Seconded by Council 3 Dunagin.

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

Motion as amended carried unanimously.

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

No action taken.

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

1. Approve the Minutes of the March 20, 2023, Regular City Council Meeting.
2. Approve Resolution No. 2023-20, a Resolution of the City of Tomball, Texas, authorizing the acceptance of American Rescue Plan Act (ARPA) – Coronavirus Local Fiscal Recovery Funds (CLFRF) and authorizing the City Manager and Assistant City Manager to act as the City’s Executive Officer and Authorized Representative in all matters pertaining to the City’s implementation of the ARPA-CLFRF Funds.
3. Approve Resolution No. 2023-21, a Resolution of the City of Tomball, Texas, adopting the policies in connection with the City of Tomball Texas participation in federally funded projects associated with the American Rescue Plan Act (ARPA) – Coronavirus Local Fiscal Recovery Funds (CLFRF) and adherence to the regulations described therein.

4. Approve a purchase from Hydra-Shield Manufacturing, Inc. for the purchase of Hydra Storz adaptors, as a sole source provider (United States Patent Number 7,128,091), for a not-to-exceed amount of \$70,839.34, approve the expenditure of funds therefor, and authorize the City Manager to execute any and all documents related to the purchase. This expenditure is included in the FY 2022-2023 Budget.
5. Approve a Professional Services Agreement with Paypoint HR, for Administrative Contract Number 0000-10090, Classification and Compensation Study, for a not-to-exceed amount of \$37,500 (RFP 2023-04R), authorize the expenditure of funds therefor, and authorize the City Manager to execute the agreement. This amount is included in the FY 2022-2023 budget.

Motion made by Council 1 Ford, Seconded by Council 4 Townsend, Sr..

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

Motion carried unanimously.

#### I. New Business

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

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

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

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



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

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

Motion carried unanimously.

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

Motion made by Council 4 Townsend, Sr., Seconded by Council 5 Parr to read Ordinance No. 2023-08 by caption only.

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

Motion carried unanimously.

Motion made by Council 4 Townsend, Sr., Seconded by Council 2 Stoll to adopt on First Reading Ordinance No. 2023-08.

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

Motion carried unanimously.

## J. Adjournment

Motion made by Council 4 Townsend, Sr., Seconded by Council 2 Stoll.

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

Motion carried unanimously.

PASSED AND APPROVED this 17<sup>th</sup> day of April 2023.

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Tracylynn Garcia  
City Secretary, TRMC, CMC, CPM

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Lori Klein Quinn  
Mayor

# City Council Meeting Agenda Item Data Sheet

Meeting Date: April 17, 2023

**Topic:**

Approve A Resolution Of The City Council Of The City Of Tomball, Texas, Sponsoring The City's Annual July 4th Celebration, To Be Held In Tomball On July 4th Of Each Year Closing State Highway Business 249 From Hicks Street To The North Entrance To The Kroger Parking Lot From 12:00 P.M. Until 11:00 P.M., And Authorizing The City Manager To Issue A Letter To TxDOT Requesting The Closure Of The Designated Portion Of State Highway Business 249

**Background:**

For the last 50 years the City of Tomball and the Tomball Fire Department have hosted a celebration of our Nation's Independence. In recent years we have incorporated a street festival that includes live music and family activities. Very few years have passed without a Fireworks Show, unfortunately last year we were unable to host our fireworks show due to a drought. However, street festivities continued as planned.

Resolution 2023-23 is presented for Council approval for submission in the City's request to TxDOT for the closure of Business 249 between Keefer and Hicks on July 4<sup>th</sup> to host the street festivities and allow for a seating area for the fireworks show.

Approval of this agreement will allow the Mayor to execute the Resolution, authorizing the City to sponsor the event and authorize the City Manager to issue a Multi-Year Agreement letter to the Texas Department of Transportation.

**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 04/11/2023 Approved by \_\_\_\_\_  
Staff Member Date City Manager Date

STATE OF TEXAS §

COUNTY OF TRAVIS §

**AGREEMENT FOR THE TEMPORARY CLOSURE  
OF STATE RIGHT OF WAY – MULTI-YEAR AGREEMENT**

**THIS AGREEMENT** is made by and between the State of Texas, acting by and through the Texas Department of Transportation, hereinafter called the “State,” and the City of Tomball, a municipal corporation, acting by and through its duly authorized officers, hereinafter called the “local government.”

**W I T N E S S E T H**

**WHEREAS**, the State owns and operates a system of highways for public use and benefit, including Business State Highway 249, in Tomball, Harris County; and

**WHEREAS**, the local government has requested the temporary closure of of Business State Highway 249 from the 28800 block to the 29200 block for the purpose of the City of Tomball 4<sup>th</sup> of July Celebration, from July 4, 2021 at 12:00 p.m. to July 4, 2021 at 12:00 (midnight), from July 4<sup>th</sup> at 12 p.m. to July 4<sup>th</sup> 11:59 p.m. as described in the attached “**Exhibit A**,” hereinafter identified as the “**Event**,” and

**WHEREAS**, the Event will be located within the local government’s incorporated area; and

**WHEREAS**, the State, in recognition of the public purpose of the Event, wishes to cooperate with the City so long as the safety and convenience of the traveling public is ensured and that the closure of the State’s right of way will be performed within the State’s requirements; and

**WHEREAS**, on the 17<sup>th</sup> day of April, 2023, the Tomball City Council passed Resolution No. 2023-22, attached hereto and identified as “**Exhibit B**,” establishing that the Event serves a public purpose and authorizing the local government to enter into this agreement with the State; and

**WHEREAS**, 43 TAC, Section 22.12 establishes the rules and procedures for the temporary closure of a segment of the State highway system; and

**WHEREAS**, this agreement has been developed in accordance with the rules and procedures of 43 TAC, Section 22.12;

**NOW, THEREFORE**, in consideration of the premises and of the mutual covenants and agreements of the parties hereto, to be by them respectively kept and performed as hereinafter set forth, it is agreed as follows:

**A G R E E M E N T**

**Article 1. CONTRACT PERIOD**

This agreement becomes effective upon final execution by the State and the maximum

duration of this agreement shall not exceed five years unless terminated or modified as hereinafter provided.

**Article 2. EVENT DESCRIPTION**

*{Give a physical description of the annual event and when it will be held, the limits of the Event, including county names and highway numbers, the number of lanes the highway has and the number of lanes to be used, the proposed schedule of start and stop times and dates at each location, a brief description of the proposed activities involved, approximate number of people attending the Event, number and type of animals and equipment, planned physical modifications of any man-made or natural features in or adjacent to the right of way involved shall be attached hereto along with a **location map** and identified as “**Exhibit C.**”}*

**Article 3. OPERATIONS OF THE EVENT**

- A.** The local government shall assume all costs for the operations associated with the Event, to include but not limited to, plan development, materials, labor, public notification, providing protective barriers and barricades, protection of highway traffic and highway facilities, and all traffic control and temporary signing.
  - B.** The local government shall submit to the State for review and approval the construction plans, if construction or modifications to the State’s right of way is required, the traffic control and signing plans, traffic enforcement plans, and all other plans deemed necessary by the State. The State may require that any traffic control plans of sufficient complexity be signed, sealed and dated by a registered professional engineer. The traffic control plan shall be in accordance with the latest edition of the Texas Manual on Uniform Traffic Control Devices. All temporary traffic control devices used on state highway right of way must be included in the State’s Compliant Work Zone Traffic Control Devices List. The State reserves the right to inspect the implementation of the traffic control plan and if it is found to be inadequate, the local government will bring the traffic control into compliance with the originally submitted plan, upon written notice from the State noting the required changes, prior to the event. The State may request changes to the traffic control plan in order to ensure public safety due to changing or unforeseen circumstances regarding the closure.
  - C.** The local government will ensure that the appropriate law enforcement agency has reviewed the traffic control for the closures and that the agency has deemed them to be adequate. If the law enforcement agency is unsure as to the adequacy of the traffic control, it will contact the State for consultation no less than 10 workdays prior to the closure.
  - D.** The local government will complete all revisions to the traffic control plan as requested by the State within the required timeframe or that the agreement will be terminated upon written notice from the State to the local government. The local government hereby agrees that any failure to cooperate with the State may constitute reckless endangerment of the public and that the Texas Department of Public Safety may be notified of the situation as soon as possible for the appropriate action, and failing to follow the traffic control plan or State instructions may result in a denial of future use of the right of way for three years.
  - E.** The local government will not initiate closure prior to 24 hours before the scheduled Event and all barriers and barricades will be removed and the highway reopened to traffic within 24 hours after the completion of the Event.
  - F.** The local government will provide adequate enforcement personnel to prevent vehicles from stopping and parking along the main lanes of highway right of way and otherwise prevent interference with the main lane traffic by both vehicles and pedestrians. The local
- Traffic Closure Incorporated (TEA30B)                      Page 2 of 8                      Rev. 02/22/20

government will prepare a traffic enforcement plan, to be approved by the State in writing at least 48 hours prior to the scheduled Event. Additionally, the local government shall provide to the State a letter of certification from the law enforcement agency that will be providing traffic control for the Event, certifying that they agree with the enforcement plan and will be able to meet its requirements.

**G.** The local government hereby assures the State that there will be appropriate passage allowance for emergency vehicle travel and adequate access for abutting property owners during construction and closure of the highway facility. These allowances and accesses will be included in the local government's traffic control plan.

**H.** The local government will avoid or minimize damage, and will, at its own expense, restore or repair damage occurring outside the State's right of way and restore or repair the State's right of way, including, but not limited to, roadway and drainage structures, signs, overhead signs, pavement markings, traffic signals, power poles and pavement, etc. to a condition equal to that existing before the closure, and, to the extent practicable, restore the natural and cultural environment in accordance with federal and state law, including landscape and historical features.

#### **Article 4. OWNERSHIP OF DOCUMENTS**

Upon completion or termination of this agreement, all documents prepared by the local government will remain the property of the local government. All data prepared under this agreement shall be made available to the State without restriction or limitation on their further use. At the request of the State, the Local Government shall submit any information required by the State in the format directed by the State.

#### **Article 5. TERMINATION**

**A.** This agreement may be terminated by any of the following conditions:

- (1) By mutual written agreement and consent of both parties.
- (2) By the State upon determination that use of the State's right of way is not feasible or is not in the best interest of the State and the traveling public.
- (3) By either party, upon the failure of the other party to fulfill the obligations as set forth herein.
- (4) By satisfactory completion of all services and obligations as set forth herein.

**B.** The termination of this agreement shall extinguish all rights, duties, obligations, and liabilities of the State and local government under this agreement. If the potential termination of this agreement is due to the failure of the local government to fulfill its contractual obligations as set forth herein, the State will notify the local government that possible breach of contract has occurred. The local government must remedy the breach as outlined by the State within ten (10) days from receipt of the State's notification. In the event the local government does not remedy the breach to the satisfaction of the State, the local government shall be liable to the State for the costs of remedying the breach and any additional costs occasioned by the State.

#### **Article 6. DISPUTES**

Should disputes arise as to the parties' responsibilities or additional work under this agreement, the State's decision shall be final and binding.

#### **Article 7. RESPONSIBILITIES OF THE PARTIES**

Agreement No. \_\_\_\_\_  
 District # \_\_\_\_\_  
 Code Chart 64 # \_\_\_\_\_  
 Project: \_\_\_\_\_

The State and the Local Government agree that neither party is an agent, servant, or employee of the other party and each party agrees it is responsible for its individual acts and deeds as well as the acts and deeds of its contractors, employees, representatives, and agents.

**Article 8. INSURANCE**

**A.** Prior to beginning any work upon the State’s right of way, the local government and/or its contractors shall furnish to the State a completed “Certificate of Insurance” (TxDOT Form 1560, latest edition) and shall maintain the insurance in full force and effect during the period that the local government and/or its contractors are encroaching upon the State right of way.  
**B.** In the event the local government is a self-insured entity, the local government shall provide the State proof of its self-insurance. The local government agrees to pay any and all claims and damages that may occur during the period of this closing of the highway in accordance with the terms of this agreement.

**Article 9. AMENDMENTS**

Any changes in the time frame, character, agreement provisions or obligations of the parties hereto shall be enacted by written amendment executed by both the local government and the State.

**Article 10. COMPLIANCE WITH LAWS**

The local government shall comply with all applicable federal, state and local environmental laws, regulations, ordinances and any conditions or restrictions required by the State to protect the natural environment and cultural resources of the State’s right of way.

**Article 11. LEGAL CONSTRUCTION**

In case one or more of the provisions contained in this agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions hereof and this agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

**Article 12. NOTICES**

All notices to either party by the other required under this agreement shall be delivered personally or sent by certified U.S. mail, postage prepaid, addressed to such party at the following respective addresses:

<b>Local Government:</b>	<b>State:</b>
City of Tomball  David Esquivel, City Manager  401 Market  Tomball, TX 77375	Texas Department of Transportation  <u>Eliza Paul, P.E.</u>  <u>DISTRICT ENGINEER</u>  <u>HOUSTON DISTRICT</u>

Agreement No. \_\_\_\_\_  
District # \_\_\_\_\_  
Code Chart 64 # \_\_\_\_\_  
Project: \_\_\_\_\_

All notices shall be deemed given on the date so delivered or so deposited in the mail, unless otherwise provided herein. Either party hereto may change the above address by sending written notice of such change to the other in the manner provided herein.

**Article 13. SOLE AGREEMENT**

This agreement constitutes the sole and only agreement between the parties hereto and supersedes any prior understandings or written or oral agreements respecting the within subject matter.

Each party is signing this agreement on the date stated beside that party's signature.

**THE CITY OF TOMBALL**

Executed on behalf of the local government by:

By David Esquivel Date April 17, 2023  
City Official

Typed or Printed Name and Title David Esquivel  
City Manager

**THE STATE OF TEXAS**

Executed for the Executive Director and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs heretofore approved and authorized by the Texas Transportation Commission.

By \_\_\_\_\_ Date \_\_\_\_\_  
District Engineer



Agreement No. \_\_\_\_\_  
District # \_\_\_\_\_  
Code Chart 64 # \_\_\_\_\_  
Project: \_\_\_\_\_

**Exhibit A  
“Event”**

**The City of Tomball has, for the past 50 years, sponsored an annual July 4<sup>th</sup> fireworks display. Over the past eight years, the City has expanded its scope of the event to include a street party with live music, children’s activities and other events. In doing so, the City respectfully requests permission to close a lightly traveled portion of Business State Highway 249 from approximately Keefer Rd. to Hicks Road.**

Agreement No. \_\_\_\_\_  
District # \_\_\_\_\_  
Code Chart 64 # \_\_\_\_\_  
Project: \_\_\_\_\_

**Exhibit B**  
**Resolution / Ordinance**

**See Attached City of Tomball Resolution 2023-22.**

Agreement No. \_\_\_\_\_  
District # \_\_\_\_\_  
Code Chart 64 # \_\_\_\_\_  
Project: \_\_\_\_\_

**Exhibit C**

**LOCATION MAP**

**See Attached Traffic Control Map.**

**RESOLUTION NO. 2023-22**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS, SPONSORING THE CITY’S ANNUAL *JULY 4<sup>TH</sup> CELEBRATION*, TO BE HELD IN TOMBALL ON JULY 4<sup>TH</sup> OF EACH YEAR CLOSING STATE HIGHWAY BUSINESS 249 FROM HICKS STREET TO THE NORTH ENTRANCE TO THE KROGER PARKING LOT FROM 12:00 P.M. UNTIL 11:00 P.M., AND AUTHORIZING THE CITY MANAGER TO ISSUE A LETTER TO TxDOT REQUESTING THE CLOSURE OF THE DESIGNATED PORTION OF STATE HIGHWAY BUSINESS 249**

\* \* \* \* \*

**WHEREAS** the City of Tomball annually provides a *July 4<sup>th</sup> Celebration* for the enjoyment of its citizens and the surrounding community, with a fireworks display under the direction of the Tomball Fire Department; and

**WHEREAS** the *July 4<sup>th</sup> Celebration* provides a unique opportunity to showcase Tomball’s many attractions and encourage citizens to enjoy the festivities and sales offered by local merchants in Tomball on July 4<sup>th</sup>; and

**WHEREAS** the *July 4<sup>th</sup> Celebration* has become one of the most popular fireworks displays, drawing people from surrounding areas including Magnolia, Spring, Houston and The Woodlands; and

**WHEREAS** the *July 4<sup>th</sup> Celebration* plans include many activities sponsored during the day by the Tomball Fire Department and the Tomball Police Department, including a block party; and

**WHEREAS** the City of Tomball desires and requests the closure of the following portion of State Highway 249 on July 4<sup>th</sup> of Each Year, from 12:00 p.m. to 11:00 p.m.;

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

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

**Section 2.** The City of Tomball and its governing body endorses and supports the *July 4<sup>th</sup> Celebration* as a safe July 4<sup>th</sup> holiday for its citizens and the surrounding community.

**Section 3.** The City Manager is hereby authorized to send a letter to the Texas Department of Transportation requesting the closure of State Highway Business 249 from Hicks Street to the north entrance of the Kroger parking lot between the hours of 12:00 p.m. and 11:00 p.m. on July 4<sup>th</sup> each year.

**PASSED, APPROVED AND RESOLVED AT THE MEETING OF THE CITY COUNCIL HELD ON THE 17TH DAY OF APRIL 2023.**

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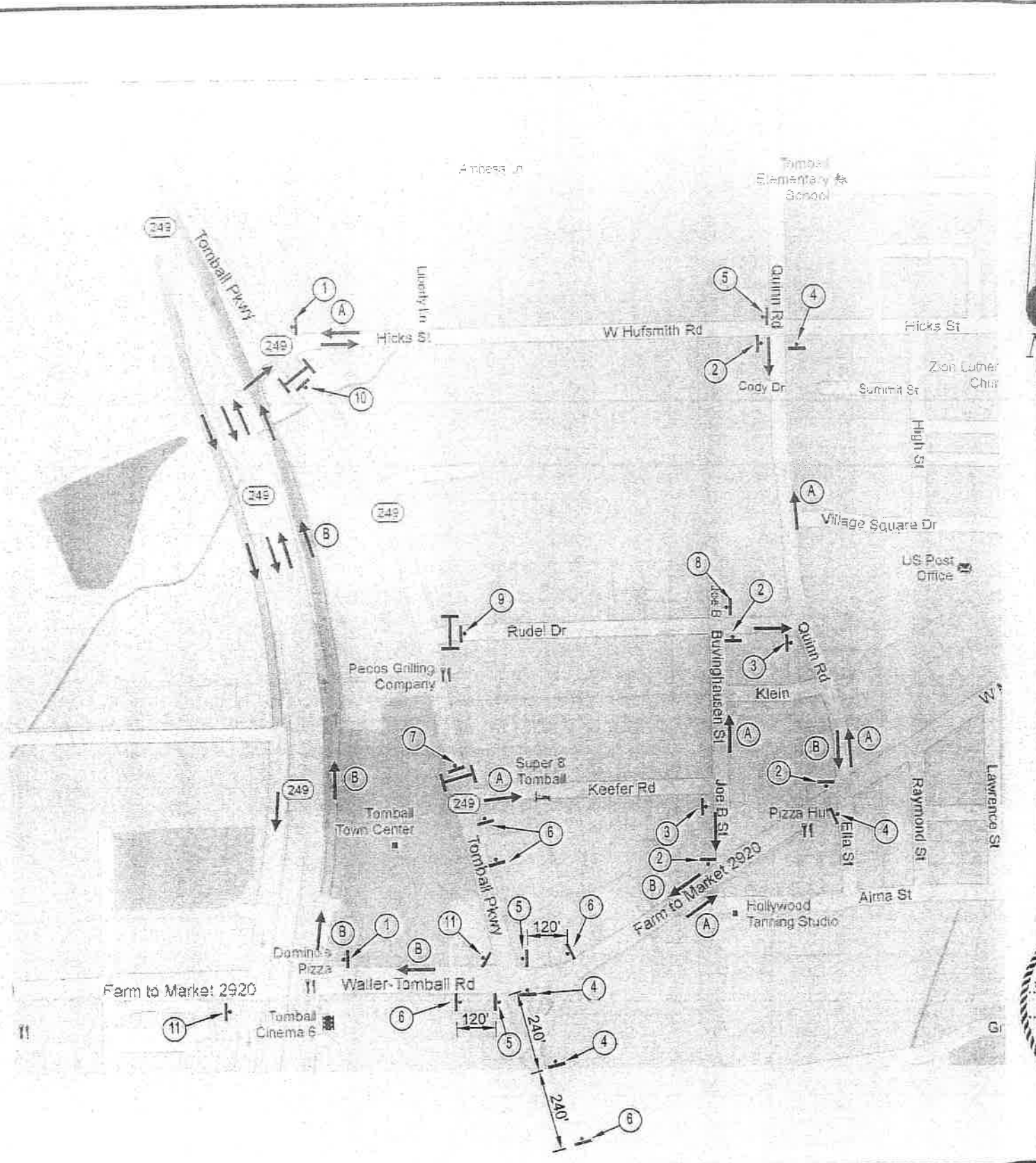
LORI KLEIN-QUINN, Mayor

ATTEST:

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TRACYLYNN GARCIA, City Secretary

CLR DWG. INFO: F:\WORK\FRED\TOMBALL FIRE STATION 94-040-02\DWG\4TH OF JULY DETOUR PLAN.DWG LAYOUT 6/6/2012 10:09:54 AM FRED LACEY



**LEGEND**

- ← DETOUR ROUTE
- ⇄ TEMPORARY GROUND MOUNTED SIGN
- ⊥ TYPE III BARRICADE
- (A) FM 2920 EASTBOUND TO SH 249 BUSINESS NORTHBOUND
- (B) FM 2920 WESTBOUND TO SH 249 BUSINESS NORTHBOUND
- 1 SH 249 BUSINESS (NORTH) DETOUR →
- 2 SH 249 BUSINESS DETOUR →
- 3 SH 249 BUSINESS DETOUR ↔
- 4 SH 249 BUSINESS (NORTH) DETOUR ←
- 5 SH 249 BUSINESS (NORTH) DETOUR ↑
- 6 DETOUR AHEAD
- 7 ROAD CLOSED →
- 8 ROAD CLOSED AHEAD ←
- 9 ROAD CLOSED ↔
- 10 ROAD CLOSED →
- 11 BUSINESS SH 249 CLOSED AT KEEFER RD JULY 4TH CHANGEABLE MESSAGE SIGN



**CLR, Inc.** TX Firm Reg. No. 275

Engineers • Surveyors • GIS  
 19530 F.M. 362, Waller, Texas 77484  
 Phone: (713) 462-0993 Fax: (713) 462-2732



*Kyle A. Bertrand*  
 06-06-12

TRAFFIC CONTROL PLAN		
SCALE NTS	SH 249 BUSINESS	DWG. NO.
DATE 6-6-12		
PERFORMED FOR		
CITY OF TOMBALL		

# City Council Meeting Agenda Item Data Sheet

Meeting Date: April 17, 2023

**Topic:**

Approve for the purchase of network switches from Waypoint Business Solutions through the Choice Partners Cooperative for a not-to-exceed amount of \$43,399.80, approve the expenditure of funds therefor, and authorize the City Manager to execute any and all documents related to the purchase. The purchases are included in the FY 2022-2023 Budget.

**Background:**

The IT department has a need to replace our aging network switches. The network switches provide the connectivity from the workstations to the servers and from building to building. Multiple network switch technologies were evaluated and it was decided by staff to purchase Fortinet switches through Waypoint Business Solutions utilizing the Choice Partners purchasing coop. The purchase price of \$43,399.80 purchase will put us over the \$50,000 limit requiring Council approval.

**Origination:** IT Director

**Recommendation:**

Staff recommends approving the purchase of Network Switches from Waypoint Business Solutions as appropriated in the Fiscal Year 2022-2023 Budget.

**Party(ies) responsible for placing this item on agenda:** Doug Tippey 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: # 100-117-6402

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

Signed Doug Tippey 4.10.2022 Approved by \_\_\_\_\_  
Staff Member Date City Manager Date



118 Vintage Park Blvd, W414, Houston, TX 77070  
Phone: 832-479-8540

# QUOTE

**Number** AAAQ16012

**Date** Mar 13, 2023

### Bill To

City of Tomball  
Doug Tippey  
401 Market Street  
Tomball, TX 77375

Phone 281-351-5484  
Email dtippey@tomballtx.gov

### Ship To

City of Tomball  
Doug Tippey  
401 Market Street  
Tomball, TX 77375

Phone 281-351-5484  
Email dtippey@tomballtx.gov

### Account Manager



Paul Sides  
281-841-2126  
psides@waypointsolutions.com

### Contract

Choice Partners/HCDE  
#22/041KN-02

### Notes:

Line	Qty	Description	Unit Price	Ext. Price
1	5	FS-448E-FPOE - Layer 2/3 FortiGate switch controller compatible PoE+ switch with 48 x GE RJ45 ports, 4 x 10 GE SFP+, with automatic Max 772W POE output limit	\$4,740.94	\$23,704.70
2	5	FortiSwitch-448E-FPOE 1 Year FortiCare Premium Support	\$510.56	\$2,552.80
3	7	FS-424E-FPOE - Layer 2/3 FortiGate switch controller compatible PoE+ switch with 24 x GE RJ45 ports, 4 x 10 GE SFP+, with automatic Max 421W POE output limit	\$2,210.81	\$15,475.67
4	7	FortiSwitch-424E-FPOE 1 Year FortiCare Premium Support	\$238.09	\$1,666.63
			<b>SubTotal</b>	\$43,399.80
			<b>Tax</b>	\$0.00
			<b>Shipping</b>	\$0.00
			<b>Total</b>	<b>\$43,399.80</b>

Shipping charges will be determined at time of purchase.

PRICES SUBJECT TO CHANGE - PRICES BASED UPON TOTAL PURCHASE - WE SPECIFICALLY DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OR WITH REGARD TO ANY LICENSED PRODUCTS. WE SHALL NOT BE LIABLE FOR ANY LOSS OF PROFITS, BUSINESS, GOODWILL, DATA, INTERRUPTION OF BUSINESS, NOR FOR INCIDENTAL OR CONSEQUENTIAL MERCHANTABILITY OR FITNESS OF PURPOSE, DAMAGES RELATED TO THIS AGREEMENT. MINIMUM 15% RESTOCKING FEE WITH ORIGINAL PACKAGING.



# City Council Meeting

## Agenda Item

### Data Sheet

Meeting Date: April 17, 2023

**Topic:**

Approve a Professional Services Agreement with Willdan Financial Services, Administrative Contract Number 0000-10089, Utility Rate Study, for a not-to-exceed amount of \$45,000 (RFP 2023-096), authorize the expenditure of funds therefor, and authorize the City Manager to execute the agreement. This amount is included in the FY 2022-2023 budget.

**Background:**

The proposed professional services agreement with Willdan Financial Services includes a scope of work to conduct a water, wastewater, and gas rate study with a long-term financial plan.

To complete the study, the Consultant will prepare a comprehensive demographic analysis of rate payers to include the number of households, median household income, average consumption for all utilities, and comparison of monthly rates and fees charged by neighboring utilities. Our current rate information will be examined in order to determine the revenue generated currently that can be utilized for maintenance and operation of our existing infrastructure, and comparatively design a rate and financial plan based on the revenue requirements for maintenance and operation, debt service, and capital expenditures.

Willdan Financial Services was selected through the Request for Proposal process (RFP 2023-09). Three firms submitted proposals, with staff scoring Willdan Financial Services as the most highly qualified respondent. The selection and discussions were held in accordance with the City's adopted Procurement Policy and Manual and state procurement law.

Funds for completing the proposed project were allocated in the Fiscal Year 2022-2023 budget.

**Origination:** Project Management

**Recommendation:**

Staff recommends awarding a Professional Services Agreement to Willdan Financial Services for the completion of a Utility Rate Study, for a total amount not to exceed \$45,000.

**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: # 600-611-6361

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

Signed Meagan Mageo Approved by \_\_\_\_\_



**PROFESSIONAL SERVICES AGREEMENT  
FOR  
CONSULTANT SERVICES  
RELATED TO  
ADMIN CONTRACT NO. 0000-10089  
CITY OF TOMBALL  
UTILITY RATE STUDY**

**THE STATE OF TEXAS           §  
                                          §  
COUNTY OF HARRIS         §**

THIS AGREEMENT is made, entered into, and executed by and between the CITY OF TOMBALL, TEXAS (the "City"), a municipal corporation of the State of Texas, and Willdan Financial Services ("Consultant").

**WITNESSETH:**

WHEREAS, Consultant represents that it is capable of providing and qualified to provide professional services to the City and desires to perform the same;

NOW, THEREFORE, the City and Consultant in consideration of the mutual covenants and agreements herein contained, do mutually agree as follows:

**SECTION I.  
SCOPE OF AGREEMENT**

Consultant agrees to perform certain professional services as outlined and defined in the Proposal attached hereto as Exhibit A, and made a part hereof for all purposes, hereinafter sometimes referred to as "Scope of Work," and for having rendered such services, the City agrees to pay Consultant compensation as stated in the sections to follow.

**SECTION II.  
CHARACTER AND EXTENT OF SERVICES**

Consultant shall do all things necessary to render the services and perform the Scope of Work in a manner consistent with the professional skill and care ordinarily provided by competent consultants practicing in the same or similar locality and under the same or similar circumstances and professional license. It is expressly understood and agreed that Consultant is an Independent Contractor in the performance of the services agreed to herein. It is further understood and agreed that Consultant shall not have the authority to obligate or bind the City, or make representations or commitments on behalf of the City or its officers or employees without the express prior approval of the City. The City shall be under no obligation to pay for services rendered not identified in Exhibit "A" without prior written authorization from the City.

**SECTION III.  
OWNERSHIP OF WORK PRODUCT**

Consultant agrees that the City shall have the right to use all exhibits, maps, reports, analyses and other documents prepared or compiled by Consultant pursuant to this Agreement. The City shall be the absolute and unqualified owner of all studies, exhibits, maps, reports, analyses, determinations, recommendations, computer files, and other documents prepared or acquired pursuant to this Agreement with the same force and effect as if the City had prepared or acquired the same. It is further understood and agreed that ownership and usage rights associated with the above referenced documents and analyses, hereinafter referred to as instruments, are contingent upon Consultant's completion of the services which will result in the production of such instruments and Consultant's receipt of payment, in full, for said services. Additionally, City understands and agrees that the rights described and provided hereunder shall not preclude or prevent Consultant from continuing to use those processes, analyses and data.

**SECTION IV.  
TIME FOR PERFORMANCE**

The time for performance is as estimated in Exhibit A attached hereto. Upon written request of Consultant, the City may grant time extensions to the extent of any delays caused by the City or other agencies with which the work must be coordinated and over which Consultant has no control.

**SECTION V.  
COMPLIANCE AND STANDARDS**

Consultant agrees to perform the work hereunder in accordance with generally accepted standards applicable thereto and shall use that degree of care and skill commensurate with the applicable profession to comply with all applicable state, federal, and local laws, ordinances, rules, and regulations relating to the work to be performed hereunder and Consultant's performance.

**SECTION VI.  
INDEMNIFICATION**

To the fullest extent permitted by Texas Local Government Code Section 271.904, Consultant shall and does hereby agree to indemnify, hold harmless and defend the City, its officers, agents, and employees against liability for damage caused by or resulting from an act of negligence, intentional tort, intellectual property infringement, or failure to pay a subcontractor or supplier committed by the Consultant, the Consultant's agent, consultant under contract, or another entity over which the Consultant exercises control.

**SECTION VII.  
CONSULTANT'S COMPENSATION**

For and in consideration of the services rendered by Consultant pursuant to this Agreement, the City shall pay Consultant only for the actual work performed under the Scope of Work, on the basis set forth in Exhibit "A," up to an amount not to exceed \$45,000.00, including reimbursable expenses.

**SECTION VIII.  
INSURANCE**

Consultant shall procure and maintain insurance in accordance with the terms and conditions set forth for protection from workers' compensation claims, claims for damages because of bodily injury, including personal injury, sickness, disease, or death, claims or damages because of injury to or destruction of property, including loss of use resulting therefrom, and claims of errors and omissions.

**SECTION IX.  
TERMINATION**

The City may terminate this Agreement at any time by giving seven (7) days prior written notice to Consultant. Upon receipt of such notice, Consultant shall discontinue all services in connection with the performance of this Agreement and shall proceed to promptly cancel all existing orders and contracts insofar as such orders or contracts are chargeable to the Agreement. As soon as practicable after receipt of notice of termination, Consultant shall submit a statement, showing in detail the services performed under this Agreement to the date of termination. The City shall then pay Consultant that proportion of the prescribed charges which the services actually performed under this Agreement bear to the total services called for under this Agreement, less such payments on account of the charges as have been previously made. Copies of all completed or partially completed maps, studies, reports, documents and other work product prepared under this Agreement shall be delivered to the City when and if this Agreement is terminated.

**SECTION X.  
ADDRESSES, NOTICES AND COMMUNICATIONS**

All notices and communications under this Agreement shall be mailed by certified mail, return receipt requested, to Consultant at the following address:

Willdan Financial Services  
Attn: Dan Jackson  
5500 Democracy Drive, Suite 130  
Plano, Texas 75024

All notices and communications under this Agreement shall be mailed by certified mail, return receipt requested, to the City at the following address:

City of Tomball  
Attn: Project Manager  
501 James Street  
Tomball, Texas 77375

**SECTION XI.  
LIMIT OF APPROPRIATION**

Prior to the execution of this Agreement, Consultant has been advised by the City and Consultant clearly understands and agrees, such understanding and agreement being of the absolute essence to this Agreement, that the City shall have available only those sums as expressly provided for under this Agreement to discharge any and all liabilities which may be incurred by the City and that the total compensation that Consultant may become entitled to hereunder and the total sum that the City shall become liable to pay to Consultant hereunder shall not under any conditions, circumstances, or interpretations hereof exceed the amounts as provided for in this Agreement.

**SECTION XII.  
SUCCESSORS AND ASSIGNS**

The City and Consultant bind themselves and their successors, executors, administrators, and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Neither the City nor Consultant shall assign, sublet, or transfer its interest in this Agreement without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public body which may be a party hereto.

**SECTION XIII.  
DISCLOSURE OF INFORMATION**

Consultant shall under no circumstances release any material or information developed in the performance of its services hereunder without the express written permission of the City.

**SECTION XIV.  
MODIFICATIONS**

This instrument, including Exhibits A and B, contains the entire Agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any oral or written representations or modifications concerning this instrument shall be of no force and effect excepting a subsequent modification in writing signed by both parties hereto.

**SECTION XV.  
ADDITIONAL SERVICES OF CONSULTANT**

If authorized in writing by the City, Consultant shall furnish, or obtain from others, Additional Services that may be required because of significant changes in the scope, extent or character of the Scope of Work, as defined in Exhibit "A." These Additional Services, plus reimbursable expenses, will be paid for by the Owner on the basis set forth in Exhibit "A," up to the amount authorized in writing by the City.

**SECTION XVI.  
CONFLICTS OF INTEREST**

Pursuant to the requirements of the Chapter 176 of the Texas Local Government Code, Consultant shall fully complete and file with the City Secretary a Conflict of Interest Questionnaire.

**SECTION XVII.  
PAYMENT TO CONSULTANT FOR SERVICES AND  
REIMBURSABLE EXPENSES**

Invoices for Basic and Additional Services and reimbursable expenses will be prepared in accordance with Consultant's standard invoicing practices and will be submitted to the Project Manager at least monthly. Invoices are due and payable thirty (30) days after receipt by the City.

**SECTION XVIII.  
PAYMENT FOR SERVICES AND REIMBURSABLE EXPENSES**

Invoices for Basic and Additional Services and reimbursable expenses will be prepared in accordance with Consultant's standard invoicing practices and will be submitted to the City by Consultant at least monthly. Invoices are due and payable thirty (30) days after receipt by the City.

**SECTION XIX.  
MISCELLANEOUS PROVISIONS**

A. Venue for any legal actions arising out of this Agreement shall lie exclusively in the federal and state courts of Harris County, Texas.

B. This Agreement is for sole benefit of the City and Consultant, and no provision of this Agreement shall be interpreted to grant or convey to any other person any benefits or rights.

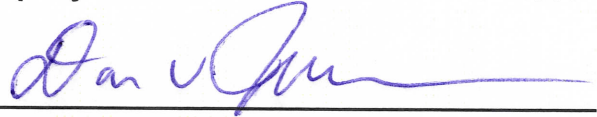
C. Consultant further covenants and agrees that it does not and will not knowingly employ an undocumented worker. An "undocumented worker" shall mean an individual who, at the time of employment, is not (a) lawfully admitted for permanent residence to the United States, or (b) authorized by law to be employed in that manner in the United States.

D. In accordance with Chapter 2270, Texas Government Code, a government entity may not enter into a contract with a company for goods or services unless the Consultant covenants and agrees that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. Furthermore, the Consultant is prohibited from engaging in business with Iran, Sudan or Foreign Terrorist Organizations.

IN WITNESS WHEREOF, the City of Tomball, Texas, has lawfully caused this Agreement to be executed by its Mayor; and Consultant, acting by its duly authorized officer/representative does now sign, execute and deliver this instrument.

EXECUTED on this \_\_\_ day of \_\_\_\_\_, 2023.

**Company Name: Willdan Financial Services**



Name: Dan V. Jackson  
Title: Vice President

**CITY OF TOMBALL, TEXAS**

\_\_\_\_\_  
David Esquivel, City Manager

ATTEST:

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



## Cover Letter

March 23, 2023

City of Tomball  
 Ms. Megan Mageo  
 Project Manager  
 501 James Street  
 Tomball, TX 77375

**Re: Proposal to Prepare a Water, Wastewater and Gas Rate Study for the City of Tomball**

Dear Ms. Mageo:

Thank you for the opportunity to present this proposal for a Water and Wastewater Rate Study and Long-Term Financial Plan for the City of Tomball ("the City"). **Willdan Financial Services** ("Willdan") is one of the largest public sector financial consulting firms in the United States. Our company has helped over 800 public agencies successfully address a broad range of financial challenges, such as financing the costs of growth and generating revenues to fund desired services.

We have a proven track record of completing projects on time and staying within the quoted budget. Our client references will confirm that we do not miss deadlines or exceed our budget in our engagements. We encourage you to contact the references provided for feedback on our performance, commitment to our clients and adherence to project milestones.

Willdan's interactive approach will result in a customized financial model developed in Microsoft Excel that is easy to use, and a focused and tailored analysis of the City's current rates, revenues, capital project and operational expenditures, debt commitments, reserve funding, and other financial data. The culmination of our analyses will be a comprehensive financial management plan that develops projected system operating results and allows for alternative rate plans for a ten-year time horizon. We will employ our proven interactive approach and will adapt our internationally recognized Excel-based financial model for the specific use of the City. This will prove invaluable in helping us guide the City through operating and financial scenarios, evaluate the impact of policy assumptions, and perform sensitivity analysis on utility rate and financial strategies.

Our ability to focus on the financial aspects of operating publicly owned utility systems is coupled with recognized leadership in strategic planning and operations. This combination enables us to bring unmatched value to our clients. Our team brings a set of nationally recognized qualifications and experts that sets us apart. These qualifications include:

***Live and Work in Texas*** — We will conduct the analysis for this study both at the City and in our Plano, Texas office. We present a team of professionals with decades of experience providing economic and financial consulting services to the utility industry. Our team includes professionals with nation-wide reputations and experience in the industry, and impeccable academic credentials. Plus, we have an in-depth knowledge of the Houston-area market, given our residence here in Texas and our experience with approximately 105 Texas cities and utilities, including several in the Harris County region.

***Familiarity with the City of Tomball*** — We completed the City's last rate study in 2018, which resulted in the successful implementation of a new long term financial plan for the water and wastewater utility. We also completed a comprehensive evaluation of and assistance with the City's new natural gas contract in 2019. This means that all the models necessary to complete a new study have already been developed, tested, reviewed and approved by staff and Council. The Council has shown confidence in us, having adopted and implemented our prior rate plan. Therefore, in this engagement we will update our previously-developed Microsoft Excel spreadsheet-based utility rate and financial planning models for the gas and water/wastewater utilities for the purposes of this engagement. We already have significant familiarity with the City, its accounting and budgeting, and its current and forecast growth. Additionally, we assisted the City in negotiating and interpreting its current Gas contract with its supplier. Whereas other firms would have to build such models from scratch and would have to become familiar with the City's operations and finances, we already possess the background knowledge we require to produce results most effectively and efficiently.

***Extensive Expertise in Financial and Wholesale/Retail Rate Modeling*** — The Project Team's efforts will result in a focused and tailored analysis of the City's current utility rates and revenues, development of a comprehensive financial management plan, wholesale and retail cost of service analysis based on guiding industry practices, and innovative rate design solutions. Our internationally recognized model will have the capability to carefully test and evaluate financial scenarios and rate design and policy assumptions. Our team has decades of experience in utility wholesale/retail rate modeling, and the final dashboard-driven model tailored specifically for the City will be both technically proficient and remarkably easy to understand and update. The

Willdan rate model is considered to be one of the premier ratemaking tools in the industry and has been adapted for the use of setting rates for hundreds of cities across the USA and five sovereign nations.

**Significant Resources to Devote to Serving the City's Needs** — Willdan combines the approach and attention of a boutique, North-Texas based consulting firm with the resources of a nation-wide consulting organization. While our proposed team is based entirely in our Plano office, if necessary, we can draw from the vast resources and industry expertise of fellow Willdan employees in other regions of the USA. This gives us a significant advantage over sole proprietors or single-office consulting firms, who often have limited availability, resources and expertise that can hamper their ability to serve their client.

**Effectively Communicate Study Results** — Sound technical analysis is only one element of this process. It will be equally important to effectively and transparently communicate results and implications of the proposed revenue requirement and rates to City staff, Council members, key stakeholders and, ultimately, to those that will be subject to new rates.

In other words, the objective of this study is not simply to write a report, deliver it to the client, and leave. **We consider rate studies to be part of an overall process, the ultimate goal of which is to adopt a formal, and final 5 to 10-year revenue requirement analysis and rate plan.** This involves far more than the completion of a report – the public involvement process is critical, and we will work tirelessly with staff to ensure that our recommended alternatives are successfully implemented. Most of our projects incorporate significant community and/or stakeholder involvement and education efforts, and our experienced consultants are able to communicate complicated technical analysis in a manner that is easy to follow and understand. I have given over 300 public presentations before cities on the necessity of setting new rate plans over my 35 year career as a water utility consultant. We take pride in the frequent compliments we receive from clients about the ease and understandability of our presentations, and the fact that they present critical information required to make decisions in a straightforward and easy to follow manner.

**Appreciate the Sensitivity of Rate Proposals** – Our team understands the fact that the political, social and economic impact of rate alternatives on ratepayers is of critical importance to those who responsible for deciding whether to implement these plans. We recognize that it is never easy to ask ratepayers to pay more for utility service. Therefore, we will work with City staff to design rate alternatives that will recover the revenue the utility requires, while to the best extent possible minimizing the impact of any increases on ratepayers and their families. Given the fact that our team members work and reside in Texas, we believe that we have a very solid understanding of the demographics and preferences of the City's ratepayers. We will work collaboratively with City staff to carefully assess and understand the City's unique utility system and community concerns and issues and will develop a tailored approach that will best serve your needs.

**Offer a Highly Innovative Approach** — Our approach to the development of utility rates has been carefully honed over the years. **We will work collaboratively with City staff to carefully assess and understand the City's unique water and wastewater system concerns and issues and develop a tailored approach that will best serve your needs.** We do not use a "cookie-cutter" approach, but rather bring a combination of planning and financial expertise providing a thorough understanding of all aspects of utility operations and management. This allows us to work collaboratively to provide comprehensive business solutions. Our objective is to educate and inform throughout the process, not just at the completion of the project.

**Services Based on a Fixed Fee** — Willdan is uniquely cost competitive and guarantees the project costs presented in this proposal. We utilize a fixed fee approach based on a defined scope of service(s), and we do not request change orders or budget amendments unless additional services are requested by the client.

In summary, we are very excited about the opportunity to provide such a valuable service to the City. For that reason, we will devote our firm's resources to ensure that each of the City's objectives are achieved with the highest level of satisfaction.

Please feel free to contact me, **Dan V. Jackson**, if you have any questions or require any further clarification. I will personally serve as **Principal in Charge** for this engagement, and I am authorized to sign the City's contract with Willdan. I can be reached directly at **5500 Democracy Dr., Plano, TX 75024**, by phone at **(972) 378-6588, extension 1**, or via email at [djackson@willdan.com](mailto:djackson@willdan.com). Thank you once again for this opportunity. We look forward to hearing from you.

Respectfully Submitted,

**WILLDAN FINANCIAL SERVICES**



Dan V. Jackson, Vice President

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## Firm Profile

### Firm History

Willdan Financial Services is an operating division within Willdan Group, Inc. (WGI), which was founded in 1964 as an engineering firm working with local governments. Today, WGI is a publicly traded company (WLDN). WGI, through its divisions, provides professional technical and consulting services that ensure the quality, value and security of our nation’s infrastructure, systems, facilities, and environment. The firm has pursued two primary service objectives since its inception—ensuring the success of its clients and enhancing its surrounding communities.

A financially stable company, Willdan has approximately 1,400 employees working in more than a dozen states across the U.S. Our employees include a number of nationally recognized Subject Matter Experts for all areas related to the broadest definition of connected communities—three of whom are committed to contribute their expertise throughout the duration of the City’s engagement.

Willdan has solved economic, engineering and energy challenges for local communities and delivered industry-leading solutions that have transformed government and commerce. Today, we are leading our clients into a future accelerated by change in resources, infrastructure, technology, regulations, and industry trends.

### Willdan Financial Services

Established on June 24, 1988, Willdan Financial Services, is one of the largest public sector economic and financial analysis consulting firms in the United States. We have helped over 800 public agencies successfully address a broad range of infrastructure challenges. Willdan assists local public agencies by providing the following services:

#### Willdan Financial Services Primary Services

- |                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                         |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>▪ Utility rate and cost of service studies;</li> <li>▪ User fee studies;</li> <li>▪ Cost allocation studies;</li> <li>▪ Real estate economic analysis;</li> <li>▪ Tax increment finance district formation and amendment;</li> <li>▪ Property tax audits;</li> <li>▪ Housing development and implementation strategies;</li> <li>▪ Municipal advisory services;</li> </ul> | <ul style="list-style-type: none"> <li>▪ Development impact fee establishment and analysis;</li> <li>▪ Economic development strategic plans;</li> <li>▪ District administration services;</li> <li>▪ Feasibility studies;</li> <li>▪ Arbitrage rebate and continuing disclosure services;</li> <li>▪ Debt issuance support; and</li> <li>▪ Long-term financial plans and cash flow modeling.</li> </ul> |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Our staff of nearly 80 full-time employees supports our clients by conducting year-round workshops and on-site training to assist them in keeping current with the latest developments in our areas of expertise.

On April 6, 2015, the Plano, Texas office of Economists.com joined Willdan. Economists.com provided economic analysis and innovative financial solutions since 1997 to a wide range of municipal and public sector utilities and other critical infrastructure organizations.

## Office Locations

WFS' Plano Texas office will spearhead this project and will be responsible for all meetings, work product and deliverables. All project team members are located in our Plano office.

### Tomball Engagement Office

Dan V. Jackson, Vice President  
 5500 Democracy Drive Ste. 130  
 Plano Texas 75024  
 Tel #: (972) 378-6588  
 djackson@willdan.com

## Utility Rate Experience

Willdan’s professional staff has provided professional consulting services, including financial planning; rate and cost-of-service studies; alternative and feasibility analyses; and operational and management studies for water, reclaimed water, wastewater, solid waste, and stormwater utility clients across the United States for three decades. Additionally, *Willdan staff are involved with the development of the rate-setting methodologies set forth in the American Water Works Association (AWWA) M-1 manual “Principles of Water Rates, Fees and Charges,” and the AWWA M-29 manual, “Water Utility Capital Financing.” Willdan is nationally recognized for its expertise with staff frequently being called upon to speak or instruct on utility financial matters, as subject matter experts, including the AWWA Utility Management conference.*



Willdan staff is experienced in a broad range of utility planning services; and therefore, understand the importance of an approach that integrates elements of utility planning, engineering, and finance. Willdan Team members possess considerable experience in utility rate and cost-of-service studies and have performed these services for hundreds of utilities throughout the country. Our team includes staff with public sector experience spanning 30 years, and staff on the forefront of utility ratemaking and rate-modeling. In addition, team members have held positions as finance directors, deputy city managers, and auditors, and therefore understand the financial, operational, and political realities faced by governmental staff and management; we craft solutions, which are sensitive to this. Our expertise spans across the following utility financial planning services:

### Willdan Financial Services

#### Experience and Expertise

- **Retail and wholesale rate studies;**
- Revenue sufficiency analyses;
- Utility management and policy assistance;
- **Connection fee / impact fee studies;**
- Miscellaneous fee and charge studies;
- Renewal and replacement sufficiency analyses;
- Comprehensive alternatives analyses;
- Capital project funding studies;
- Interactive rate model development with dashboards showing key performance indicators;
- CIP financial scenario planning;
- Rate ordinance drafting;
- Billing system validation/rate testing;
- Bond feasibility reports;
- Valuation/divestiture studies; and
- Life cycle costs analyses

Willdan will work with the City to identify, and prioritize operational and fiscal objectives, and match these to specific rate attributes; and use this information throughout the engagement to develop a comprehensive financial plan and design utility rates that effectively meet these goals.

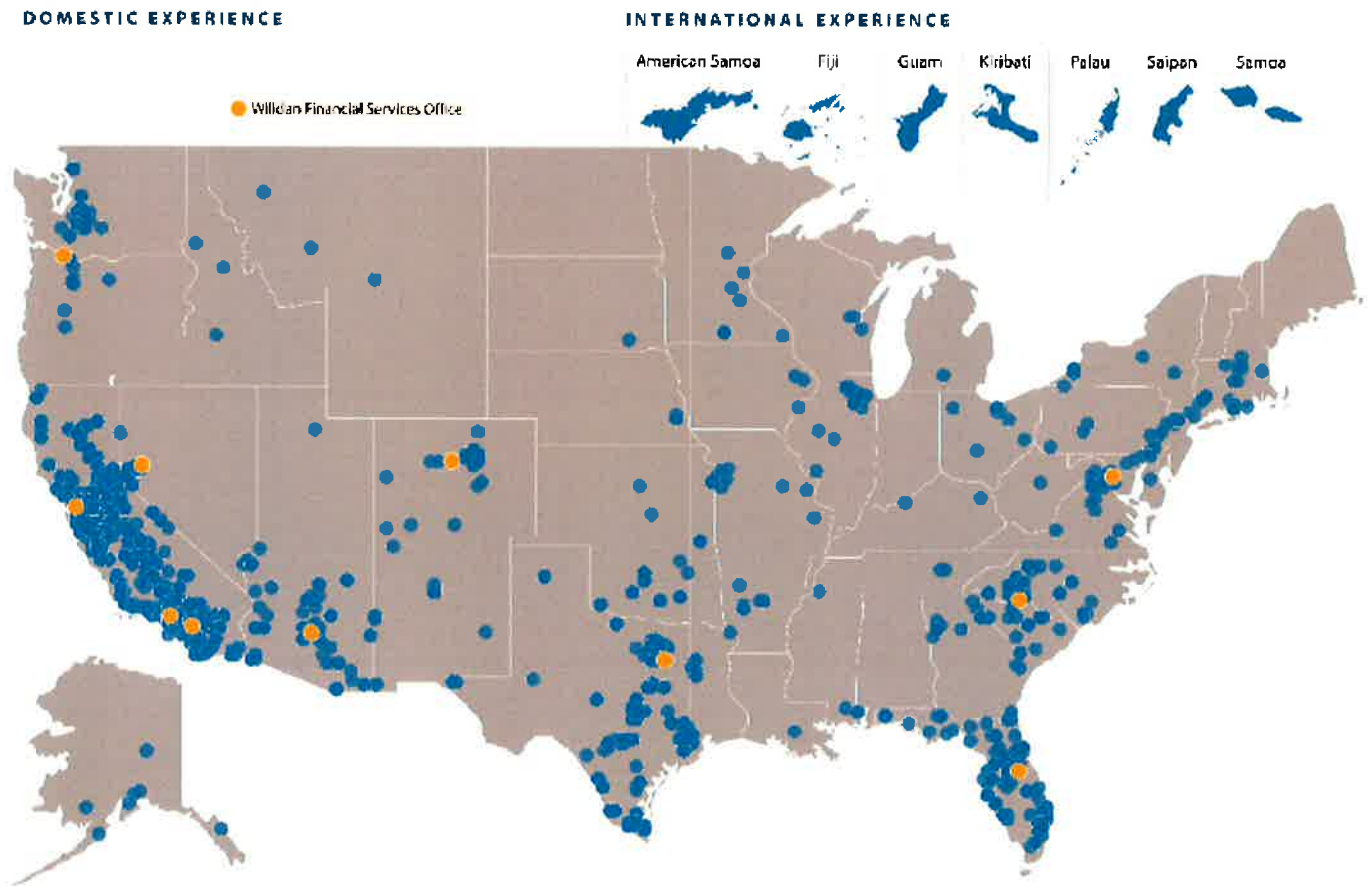
The culmination of our analyses will be rate policies that guide the rate setting process, and a financial management plan that develops projected system operating results for the utility for the forecasted period.

Willdan will employ its proven interactive approach, coupled with advanced financial modeling techniques to design rates and a financial plan that meet established goals and performance criteria. These modeling techniques serve as a powerful decision-making tool and provide the City with genuine business solutions and recommendations as to the strategic direction of its utilities.

During rate and financial planning projects we employ tools and techniques, which focus on consensus building among stakeholders to ensure the team understands the future financial implications of current management decisions. Our extensive project expertise is bolstered by our unique interactive financial planning process and model.

### National and International Presence

For over 30 years, Willdan’s professional staff has provided utility rate, financial, economic, management and capital planning consulting services to utilities and governmental entities across the country. A representation of Willdan’s geographical client presence is depicted in the **graphic below**. Our client base extends from the south shores of Florida to the inside passage of Alaska, and for five sovereign nations.



### Willdan Plano Clients

Willdan’s Plano office is the focal point of the company’s southwest operation. In addition to preparing the City of Tomball’s last rate study, the Plano office has prepared rate studies similar to that requested by the City for over 100 cities in the state of Texas alone.

The table below presents a comprehensive listing of the Plano office's clients. As the table shows, in addition to over 100 cities in Texas alone, the Plano office has worked for over 75 cities across the USA, the sovereign nations of Fiji, Palau, Samoa and Kiribati, and the US Commonwealth/Territories of Saipan CNMI, Guam and American Samoa. **Designated project team members listed in this proposal worked on every one of these engagements.**

This list does not include the hundreds of additional clients served by other Willdan offices. We do not "pack" our proposals with representative engagements in which designated team members did not participate, as it is our belief that a company's general experience not shared by proposed team members is not useful to, nor relevant to, the City's needs and requirements.

More information on engagements in the last five years and specific references are contained on the following pages of this proposal. We encourage all prospective clients to contact our references to assess the degree of satisfaction our past clients have with our work product and consulting services.

Willdan Financial Services					
Client List - Plano Office					
Texas		Arizona		United States	
1	Alamo Heights	54	Leander	1	Arizona Dept. of Environmental Quality
2	Allen	55	League City	2	Avondale
3	Alvarado	56	Liberty Hill	3	Bisbee
4	Amarillo	57	Little Elm	4	Buckeye
5	Aqua Water Supply Corporation	58	Llano	5	Bullhead City
6	Aubrey	59	Los Fresnos	6	Camp Verde
7	Arlington	60	Marble Falls	7	Carefree
8	Baich Springs	61	McKinney	8	Casa Grande
9	Bellmead	62	Mercedes	9	Chino Valley
10	Beeville	63	Mesquite	10	Clarkdale
11	Brady	64	Midlothian	11	Clifton
12	Brazos River Authority	65	New Braunfels	12	Cottonwood
13	Brownsville Public Utility Board	66	New Summerfield	13	Chloride Domestic Water Imp. District
14	Castroville	67	North Fort Bend Water Authority	14	Douglas
15	Cedar Hill	68	Oak Point	15	Eagar
16	Celina	69	Pantego	16	Eloy
17	Cinco Southwest MUD 1, 2, 3	70	Parker	17	Flowing Wells Irrigation District
18	Cibolo Creek Municipal Authority	71	Plano	18	Florence
19	Cibolo Valley Local Govt Corp	72	Port Arthur	19	Gila Bend
20	Combes	73	Primera	20	Globe
21	Coppell	74	Princeton	21	Goodyear
22	Crandall	75	Prosper	22	Holbrook
23	Crystal Clear SUD	76	Raymondville	23	Jerome
24	Del Rio	77	Richardson	24	Marana
25	Denton	78	Robstown	25	Miami
26	Denton County FWSD #1A	79	Rockwall	26	Nogales
27	Denton County FWSD #8C	80	Rowlett	27	Oro Valley
28	Denton County Transportation	81	Royse City	28	Patagonia
29	DeSoto	82	San Benito	29	Payson
30	Donna	83	San Juan	30	Picacho Peak
31	Duncanville	84	San Marcos	31	Pine Strawberry Water Improvement District
32	Eagle Pass	85	Schertz	32	Pomerene Domestic Water Improvement District
33	East Medina County SUD	86	Schertz Seguin LGC	33	Prescott
34	El Paso County WCID #4	87	Seguin	34	Quartzsite
35	Ferris	88	Selma	35	Queen Creek
36	Frisco	89	Sherman	36	Safford
37	Grand Prairie	90	Sonora	37	Show Low
38	Galveston	91	Southmost Regional Water Auth	38	San Luis
39	Garland	92	Taylor	39	Somerton
40	Groesbeck	93	Tomball	40	Springerville
41	Hackberry	94	Tornillo Water Improvement Dist	41	Tombstone
42	Harker Heights	95	Troup	42	Water Infrastructure Finance Authority of Arizona
43	Harlingen	96	Van Alstyne	43	Wellton
44	Heath	97	Venus	44	Willcox
45	Hempstead	98	Waco	45	Winslow
46	Hewitt	99	Waller	46	Yuma
47	Hutchins	100	Waxahachie		
48	Jonah Water SUD	101	Webb County		
49	Kempner WSC	102	West Harris County RWA		
50	La Villa	103	Whitehouse		
51	Laguna Madre Water District	104	Winona		
52	Laredo	105	Woodway		
53	Lavon	106	Yancey Water Supply Corporation		

Pacific Region	
1	Water Authority of Fiji
2	Palau Public Utilities Corporation
3	Kiribati PUB
4	American Samoa Power Authority
5	Electric Power Corporation – Samoa
6	Commonwealth Utilities Corporation – Saipan
7	Guam Power Authority
8	World Bank
9	Asian Development Bank
10	Pacific Region Infrastructure Authority

As outlined above in – Firm Profile, Willdan’s Plano office, the office that will be serving the City of Tomball, has prepared water, wastewater, and gas rate studies with objectives similar to that requested by the City for over 100 cities in the state

of Texas, approximately 175 cities across the USA and five sovereign nations. No other firm has the range of clients that our Plano office can offer the City.

The charts contained in Section A represent a comprehensive listing of all the Plano Office’s clients. However, in keeping with the requirements of the RFP, we have also provided a chart which presents a listing of all of our rate studies prepared in the last five years. As the chart reveals, we have prepared more than one such study for several of these clients. Not all studies resulted in written reports; in some cases, usually either for updates or for studies for clients with limited budgets, were summarized into PowerPoint presentations.

The chart shows that the Plano office alone has prepared over 175 rate studies with objectives similar to those requested by the City in the last five years alone, for over 60 cities in Texas and 110 utilities across the USA and the Pacific.

Because it would be voluminous to attempt to provide the names of references for every one of these studies, we include in this section the actual projects, the name of the client city, and the timeframes for completion. We will gladly provide names and addresses of specific contacts upon request.

### Five Year Experience

#### Willdan Financial Services Plano Texas Office

#### Water & Wastewater Rate Studies 2016 - 2022

	2016	2017	2018	2019	2020	2021	2022
<b>Texas Clients</b>							
Alamo Heights			◆				
Allen	◆						
Alvarado						◆	
Amarillo		◆					
Balch Springs		◆				◆	
Beeville	◆						◆
Brownsville PUB					◆	◆	◆
Castroville	◆		◆				
CCMA	◆			◆			◆
Cedar Hill	◆		◆				
Celina			◆			◆	
Combes						◆	
Coppell		◆				◆	
Crystal Clear SUD						◆	◆
Del Rio						◆	
Denison							◆
Denton County FWSD 1A		◆					
Denton County FWSD 8C			◆				
DeSoto	◆	◆	◆	◆	◆	◆	◆
Donna	◆	◆	◆	◆	◆		
Duncanville	◆		◆				◆
El Paso County WCID #4				◆			
Fairfield							◆
Fairview					◆		
Ferris					◆		
Frisco		◆					



Willdan Financial Services  
Plano Texas Office

Water & Wastewater Rate Studies 2016 - 2022

	2016	2017	2018	2019	2020	2021	2022
Galveston					◆	◆	◆
Galveston County							◆
Grand Prairie				◆	◆	◆	◆
Heath					◆		
Hempstead	◆						◆
Hewitt						◆	
Hondo				◆			
Hutchins		◆		◆			
Josephine							◆
Laguna Madre Water District			◆		◆		
Laredo			◆	◆	◆	◆	
League City				◆		◆	◆
Leander		◆	◆		◆	◆	◆
Liberty Hill			◆	◆			
Little Elm	◆						
Los Fresnos		◆					
Marble Falls					◆		◆
McKinney	◆			◆		◆	◆
McLendon-Chisholm	◆			◆			
Mesquite			◆				
Midlothian	◆					◆	
North Fort Bend Water Authority	◆				◆		
Parker	◆					◆	◆
Plano		◆			◆	◆	◆
Port Arthur					◆		
Primera						◆	
Prosper	◆						
Richardson	◆						
Rockwall			◆				
Rowlett		◆		◆		◆	◆
Royse City			◆			◆	◆
San Juan				◆			
Schertz	◆	◆	◆	◆			
Schertz-Seguin Local Govt Corporation	◆	◆	◆		◆	◆	◆
Seguin	◆	◆	◆	◆	◆	◆	◆
Selma			◆				
Sherman						◆	◆
Tomball			◆				
Waller							◆
Webb County						◆	◆
West Harris County Regional Water Auth	◆					◆	

**Willdan Financial Services  
Plano Texas Office**

**Water & Wastewater Rate Studies 2016 - 2022**

	2016	2017	2018	2019	2020	2021	2022
West University Place							◆
<b>Arizona</b>							
Bisbee			◆				
Buckeye	◆						
Bullhead City							◆
Carefree			◆			◆	
Chino Valley	◆	◆	◆				
Clifton			◆				
Eloy						◆	◆
Florence	◆			◆		◆	◆
Goodyear				◆	◆		
Jerome				◆		◆	
Marana	◆						
Nogales	◆		◆				
Oro Valley						◆	◆
Payson				◆		◆	◆
Prescott Valley							◆
Quartzsite			◆			◆	◆
Queen Creek	◆						
San Luis		◆	◆			◆	
Somerton			◆		◆		
Tonto Village DWID			◆				
Winslow	◆		◆			◆	
Yuma			◆				
<b>Arkansas</b>							
Bryant						◆	
Conway						◆	◆
Hot Springs				◆	◆	◆	◆
North Little Rock Wastewater Utility	◆					◆	
Russellville		◆			◆		◆
Hot Springs Village				◆			
<b>Oklahoma</b>							
Ada			◆				
Altus					◆	◆	◆
Chickasha	◆						
Edmond		◆	◆				◆
Miami		◆					◆
Pryor	◆				◆		
<b>International Regulated Utilities</b>							

**Willdan Financial Services  
Plano Texas Office**

**Water & Wastewater Rate Studies 2016 - 2022**

	2016	2017	2018	2019	2020	2021	2022
Water Authority of Fiji	◆			◆			
Palau Public Utilities Corporation		◆					
Kiribati Public Utilities Board				◆	◆		
Commonwealth Utilities Corporation Saipan			◆			◆	
American Samoa Power Authority	◆						

## Description of Study Understanding

### Project Understanding

Willdan understands that the City of Tomball (“the City”) seeks a *comprehensive* water, wastewater and gas rate study with *rates adequate for at least two years and a rate schedule and long-term financial plan that maintains its integrity for at least five years*. The overall objective is to establish user rates and charges that are sufficient to meet future system revenue requirements including *capital improvement needs, debt service coverage, operating costs (including cost of water and gas delivered and wastewater treated)* and non-operating costs, and minimum operating reserves (60 - 90 days). The project team will also work with the City to establish rates around a broader set of goals and objectives, including but not limited to *financial/rate stability, conservation, consumption characteristics of the utility’s customer classes*, and minimizing customer impacts and maintaining competitive rates with neighboring communities.

To accomplish these overall goals and objectives, our team’s approach will utilize the “generally accepted” cash basis rate setting methodology as delineated in AWWA’s Manual M1 for the water utility and WEF MOP No. 27 for the wastewater utility.

The project team will collect from staff such standard inputs as *account growth projections*, historic and forecast adjusted water, wastewater and gas consumption (billing units), outstanding debt service schedules, the current Gas contract (which Willdan assisted the City in negotiating and analyzing), the current CIP, account/usage/revenue data from the City’s billing system, and current budget information to develop the forecast of future costs. The information developed during the course of this rate study will allow the City to choose a financial and capital plan that will minimize the impact on all classes of ratepayers, while still allowing it to meet the increasing expense demands of operations and environmental standards and regulations.

Upon finalization of the inputs outlined above, the project team will update its previously-developed comprehensive 5-year forecast (with the option to increase up to a 10-year forecast period) model that will present alternative long-term water, wastewater and gas rate plans *sufficient to fund operating expenditures, the forecast CIP and debt service*.

**Willdan proposes to update our previously-developed Microsoft Excel spreadsheet-based utility rate and financial planning models for the gas and water/wastewater utilities for the purposes of this engagement. For us, this engagement is more of an update of prior successfully-completed work than the development of a new or unique product. We already have significant familiarity with the City, its accounting and budgeting, and its current and forecast growth. Additionally, we assisted the City in negotiating its current gas contract. Whereas other firms would have to build such models from scratch and would have to become familiar with the City’s operations and finances, we already possess the background knowledge we require to produce results most effectively and efficiently.**

**Our deliverables will include a written report that is understandable to those who are not ratemaking or financial professionals.**

Our model will allow the City to test a variety of “what-if” alternatives. This is especially useful in *testing the affordability of the capital improvement program*, allowing the user to turn new projects “on or off” in the model, change the costing with updated information, delay their funding, or look at cash vs. debt vs. fee-funding alternatives and their impact on affordability.

The report will have an executive summary that succinctly documents the rate study’s findings and recommendations. We will also prepare and deliver *presentations to City Staff and City Council* and work with the City on the public involvement process, and we will work tirelessly with staff to ensure that our recommended alternatives are successfully implemented.

## Work Plan

The below summarizes the standard approach commonly employed by Willdan to develop utility rates. Each step of the three-step approach is typically performed in tandem.



## Scope of Work

The remainder of this section presents our approach to performing the major tasks required to successfully conduct a water, wastewater and gas rate study and long-term financial plan engagement, in accordance with the City's RFP. Assuming timely responses to information/data requests by the City, ***we will complete the rate study work plan in 14 weeks.*** The period required to accomplish each work plan task is listed in the task header. Many of these tasks will be performed in tandem so the sum of each task's level of effort will not necessarily match the 14-week completion commitment. **Our hours and cost estimates presented in the next section will show which project team member will be responsible for each task.**

### Task I: Project Kick-off, Data Acquisition and Assessment

4 Weeks

The project team will meet with City staff at the outset of this project. The purpose of this meeting will be to discuss study goals and objectives, review requirements for completing each task, establish responsibilities and lines of communication, and refine the work plan and schedule.

Prior to this meeting we will provide a preliminary data request list to initiate data collection and organization. The initial data that will be required by the project team will include, but not be limited to, the following: current fiscal year utility budget; most recent audited financial statements; water, wastewater and gas *billing data/reports identified by customer class by month from the previous four years to present, cost and volumes delivered and treated* by month and day for all months from the previous four years; debt schedules for all outstanding water/ww/gas related debt; copy of the most recent *Capital Improvement Plans* approved by the City; wholesale contracts; and current rate schedules.

**NOTE: Gathering this data and attending the kick-off meeting and work sessions with the project team represents the bulk of the time required by City staff.**

### Task II: Demographic Analysis

3 Weeks

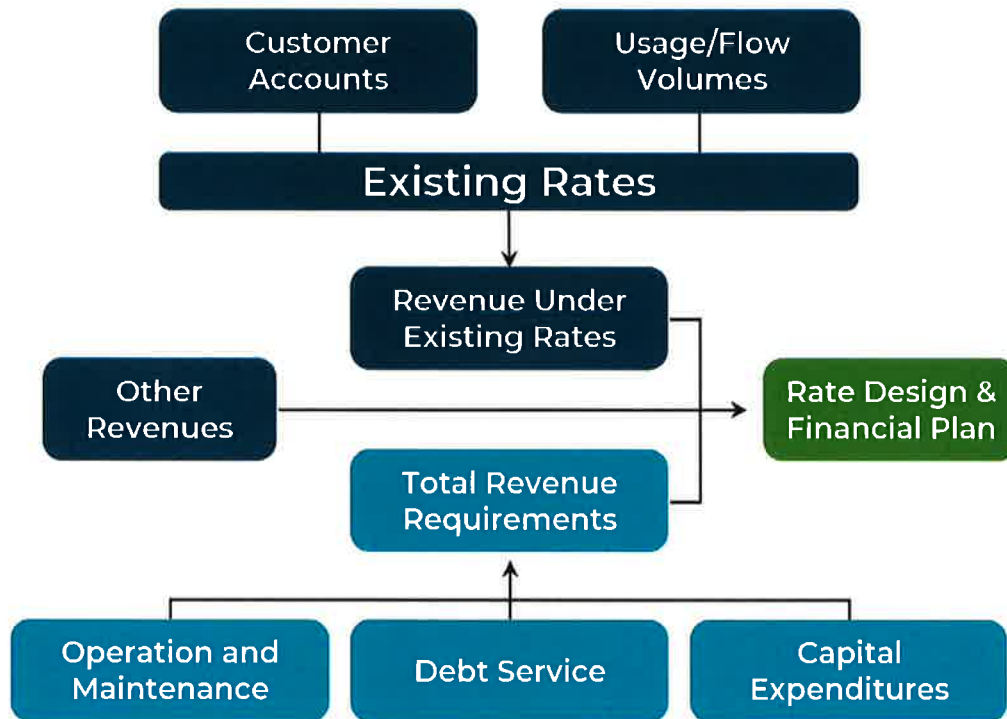
The project team will prepare a comprehensive demographic analysis of ratepayers as a pretext to the development of the water, wastewater and gas rate plans. The project team will develop current data on: number of households; median household income; average water, wastewater and gas monthly bills, both in total and as a percentage of household income; and monthly rates and fees charged by other utilities in neighboring and similar communities for a comparison survey.

### Task III: Determine Revenue Requirements

6 Weeks

In this task, the project team will analyze the City's existing water, wastewater, and gas fund financial condition and the planned infrastructure improvements. Based on this analysis the project team will determine overall revenue requirements for the current year and for a five-year forecast period. The revenue requirements consist of the total cost to provide this service, including operation and maintenance (O&M) costs (*including cost of water delivered, wastewater treated and gas delivered via the purchase contract*), transfers to the General Fund, debt service payment and coverage requirements on existing and any proposed new debt, direct capital outlays financed by rates, and other financial needs. We will consider the levels of cash reserve funding required (typically 60 – 90 days) for the utility systems operation in our determination of the revenue requirements.

The development of a reasonable set of assumptions concerning future operating and non-operating costs and capital spending for repairs and replacements and system expansion is one of the most critical elements of the revenue requirement.



The project team will discuss *and analyze* all components of these categories with City staff, including: *the expected amount of CIP, the impact of peak demands on the cost of providing service*, inflation estimates, anticipated changes to operating costs, various funding alternatives, expected reserve requirements, and debt coverage requirements. The underlying assumptions used to project the water, wastewater and gas financials will be clearly stated in all rate study presentations and the rate study report.

Finally, the revenue requirements will be calculated based on the Cash Basis for the City’s retail customers.

**Task IV: Determine User Characteristics and Customer Classes** **6 Weeks**

**A fundamental principle of cost-of-service ratemaking for water, wastewater, and gas utilities is for costs to be allocated to user groups based on the peak demands each group places on the system.** In the case of water service, demands typically are measured in terms of base and *peak demands* that are critical to the sizing and operation of system facilities. For sewer service, demands usually are measured in terms of customer flows and sewage strength characteristics that determine sewer treatment plant influent loadings. These demands are collectively referred to as “user characteristics.”

This analysis is less important for determining the cost of service for the gas utility.

This task involves determining the appropriate groupings of customers so that customers with similar user characteristics populate the same customer class. *For cost-allocation purposes, customers are grouped into different classes based on differences in their user characteristics.* The development of information for grouping customers and allocating costs to specific customer groups is an essential step in the ratemaking process, to ensure that costs will be recovered from these groups in direct proportion to their use of the system.

As with all our studies, AWWA Manual M-1 will provide the framework for our allocation methodology.

The determination of customer user characteristics as noted above will include a careful review of the City’s sales volume histories and forecasts. The volume data must be considered as a whole and separately for each defined customer class. *Methodologies for projecting water and sewer revenues will be assessed to confirm appropriate accounting for expected*

*growth, water losses, inflow and infiltration, and normal weather conditions. The project team will analyze historical demand and consumption characteristics.*

Historical water sales data used for forecasting purposes will be reconciled against water supply/production records; historical sewer flow and loadings data will be used to determine flows and loadings for the system and individual customer classes.

The utility system accounts and respective usage will be forecast for a 5 to 10-year planning period. Such *projections will be developed by considering historical growth trends, peak demands, climatological patterns, local economic conditions, the potential for adding/losing major utility customers, changes in customer class usage patterns over time, and experienced judgment.* The forecast usage projections will be based on the projected number of utility accounts and a usage per account analysis to differentiate the historical effects of account growth and increased (decreased) average usage by customer class. The project team will finalize 5 to 10-year projections of sales volumes that will then be used to calculate projected revenues under current rates for the 5 to 10-year rate forecast period.

### Task V: Cost Functionalization, Classification and Allocation

3 Weeks

In this task the project team will calculate the cost of water transmission/distribution, water supply and treatment, wastewater collection and treatment, and gas supply and distribution based on the information gathered in previous tasks. As discussed in Task III, these costs include such categories as O&M (personnel, chemicals, contractual obligations, engineering, administrative, equipment maintenance, vehicles, customer service, materials, etc.), reserves, debt service, and capital outlays funded by rates (assuming that the Cash Basis is utilized). These costs will then be assigned to individual customer classes through a three-step apportionment process designed to *prevent deviation from cost of service principles and enhance fairness and equity.*

These steps are referred to as “functionalization,” “classification,” and “allocation.” **Functionalization** involves the categorization of utility costs according to the utility functions these costs are incurred to perform. Typical water utility functions include treatment, pumping, storage, distribution, and customer billing; wastewater functions include treatment, collection, disposal, and customer billing. Gas includes supply, distribution, administration and customer. **Classification** is the apportionment of functionalized utility costs according to the types (or classes) of demands served by the utility, and is primarily applicable to the water utility. For water utilities, AWWA M-1 ratemaking methodologies prescribe classification of costs according to base, maximum-day, maximum-hour, and customer demands.

Water Environment Federation (WEF) and U.S. Environmental Protection Agency (EPA) methods classify sewer costs according to flow, biochemical oxygen demand (BOD) loadings, and total suspended solids (TSS) loadings. **Allocation** is the assignment of classified utility costs to individual customer classes. *Costs are allocated proportionately to customer classes based on their contributions to total utility system demands.*

Under typical circumstances, standard industry ratemaking principles and practices as outlined in AWWA and WEF ratemaking manuals and guidelines serve as the foundation for cost allocations to customer classes. These industry manuals and guidelines are not prescriptive and recognize the need to afford utility decision makers the flexibility to reflect local circumstances.

### Task VI: Alternative Rate Designs for Current Year and Five-year Forecast

5 Weeks

After allocating costs to customer classes, a plan will be developed for evaluating rate design options that will recover allocated costs, including O&M, debt service, and reserve requirements. Because several rate alternatives will be examined in this report, the project team proposes that for ease of evaluation the rate design process be segregated into a two-step process.

In this task, the current year and 5-to-10-year forecast rate design alternatives will be presented separately. This will enable City staff to evaluate both its immediate short-term needs and its longer-term needs under each alternative.

The rate model spreadsheet will be developed in a dynamic manner such that Willdan and City staff will be able to analyze various “What If” scenarios detailing the financial impacts under each scenario. The rate structure alternatives will be developed to recover the projected revenues needed to fund utility operations, recognizing equitable cost recovery by customer class, establishing reasonable

**Importantly, we will ensure that any proposed rate design can be easily incorporated into the City's billing system.**

recovery of costs from existing and new utility customers, and complying with applicable regulations and policies.

We intend to consult closely with City officials to develop a consensus on the most appropriate alternative rate designs for each of the alternatives. In this task we also intend to accomplish the following objectives:

- Determine whether any rate classes are subsidizing the others, and the degree to which any subsidy is equitable;
- Estimate the impact of the proposed rate structures on conservation efforts;
- Provide a detailed delineation of the advantages and disadvantages of each alternative;
- Calculate the impact of any proposed “transition period” into the new rates;
- Compare the recommended rates to the City’s 5-to-10-year historical rate structure; and
- Prepare the cost of water, wastewater and gas utility service per household based on the new rate design (also known as a “bill impact analysis” which is commonly performed in our rate studies). If so desired we will moderate an internal review/discussion with management regarding such topics as operational objectives, long term objectives, rate impacts on users, alternative rate designs, rate elasticity and use of rate studies in implementing rate changes

*Specific attention will be given to the sensitivity of system revenues to possible changes in customer usage prompted by a more aggressive conservation rate structure. Rate designs will be subjected to revenue generation tests and reviewed for administrative efficiency and ease of explanation to the customers and other lay persons.*

In instances where cost-of-service-based changes in revenue responsibility will result in significant rate increases for any one customer class, the merits of implementing rate changes over a multiyear period will be discussed with City staff. If appropriate, multiyear rate transition plans will be developed that meet, to the extent possible, expressed criteria for rate change acceptance. The project team will meet with City officials prior to unveiling any recommendations to the City Council or the public to go over the initial alternatives and to make any revisions as deemed appropriate by City staff.

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#### **Task VII: Prepare and Present Draft and Final Reports, Conduct Training for City Staff** **4 Weeks**

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The project team will prepare concise draft and final rate study reports/memoranda. The report will provide detailed information on the determination of revenue requirements, document allocations of revenue requirements to functional parameters and customer classes, and alternative rate recommendations for the water, wastewater, and gas utilities. Information on the impact of recommended rate changes to customers’ typical monthly bills will be provided. The steps in the rate calculations will be described clearly so that there is a full understanding of the technical steps and assumptions contained in the determination of the rates.

The draft and final reports will include an executive summary that succinctly documents the rate study’s findings and recommendations. Bound copies the study and with final recommendations will be presented to the City.

The final deliverable will include an *electronic copy of both the water, wastewater, and gas rate model and the gas rate model in Microsoft Excel and training of City personnel to update the model.* The model will be designed to *integrate the revenue produced by rates with the water, wastewater and gas fund financial plan.* This model will have specific input areas for City staff to update: *consumption patterns and meter classifications, O&M, debt service and capital (CIP) costs* and other financial data needed to develop an updated rate and financial plan forecast. Most importantly, the City’s rate model will include an interactive executive dashboard. This will be a comprehensive financial tool to allow planning and evaluation of variable inputs and assumptions. This dashboard includes *pre-defined graphical presentation of consumption, revenue and expense data* as well as other vital financial indicators to determine the *utility’s ability to maintain financial integrity* as input assumption change.

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#### **Task VIII: City Council and Public Meetings** **3 Weeks**

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With the approval of staff, we will be prepared to conduct the following formal meetings with the City: an initial staff meeting to review project goals and data requirements (with additional meetings with staff as necessary during the analysis segment of this project), *a formal meeting with senior management to present and review preliminary findings* and recommendations and to make adjustments as necessary based on staff input, *a workshop with the City Council to present and review initial findings and recommendations*, and a final meeting and public hearing with City Council to approve the chosen rate plan.



**Task IX: Project Management and Quality Control**

**14 Weeks**

At Willdan, we utilize a Project Management Process/Approach that ensures projects are completed on time, within budget and most importantly yield results that match our clients’ expectations. We will document discussions leading to important policy decisions and/or the choice of critical assumptions used in constructing the analysis and model. Following key stakeholder discussions, we will schedule a call to summarize findings and direction with Utility staff, to make certain that we are in agreement with stated objectives, and that feedback is incorporated as appropriate.

**Project Management Approach**

**Project Management**



**Define the project**



**Plan the project**



**Manage the project**



**Review the project**



**Communicate the project**

<ul style="list-style-type: none"> <li>▪ Identify the project scope, set objectives, list potential constraints, document assumptions.</li> <li>▪ Define a course of action and develop an effective communication plan.</li> <li>▪ Provide a forum for applying the team’s collective expertise to solving difficult analytical issues that arise in complex projects.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Collaborate with the project team and client staff and agree upon timeline to meet the estimated project timeline.</li> <li>▪ Assign workload functions to appropriately qualified staff to ensure milestones are met, on time.</li> <li>▪ Pre-schedule quality control meetings with project team to maintain the progressive motion of the project.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Manage the execution of the project.</li> <li>▪ Direct existing and upcoming project tasks.</li> <li>▪ Control and monitor work in progress.</li> <li>▪ Provide feedback to client and project team.</li> <li>▪ Identify and resolve deviances from project timeline.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Review all work product and deliverables.</li> <li>▪ Utilize structured quality assurance process involving up to three levels of review at the peer level, project manager level.</li> <li>▪ Procure executive officer level review.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Communicate with the client regarding work status and progress.</li> <li>▪ Ensure client is in receipt of regular status updates.</li> <li>▪ Schedule regular conference calls to touch base.</li> <li>▪ Inform client of roadblocks, work outside of projected scope.</li> </ul>
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## Quality Assurance / Quality Control Process

Our quality control program is incorporated as a required element of Willdan’s day-to-day activities. There are three levels of reviews incorporated for our deliverables:

- 1) Peer review;
- 2) Project Manager review; and
- 3) Final quality assurance manager review.

Peer reviews involve one analyst reviewing the work of another, while project manager reviews are conducted prior to delivery to the quality assurance manager. The quality assurance manager then performs a final review. This assures that our final product has been thoroughly evaluated for potential errors; thus, providing quality client deliverables, and high levels of integrity and outcomes.



The primary mission of our quality control plan is to provide staff with the technical and managerial expertise to plan, organize, implement, and control the overall quality effort, thereby ensuring the completion of a quality project within the time and budget established.

Quality Assurance Goals	
Goal	Task
Quality Assurance / Control Process	<ul style="list-style-type: none"> <li>▪ Establish a set of planned and systematic actions for maintaining a high level of quality in the professional services performed; Emphasize quality in every phase of work;</li> <li>▪ Ensure efficient use of resources;</li> <li>▪ Establish a consistent and uniform approach to the services performed; and</li> <li>▪ Implement appropriate quality control measures for each work task of the project.</li> </ul>
Quality Control Plan	<ul style="list-style-type: none"> <li>▪ Contract deliverables;</li> <li>▪ Specific quality control procedures;</li> <li>▪ Special quality control emphasis;</li> <li>▪ Budget and manpower requirements;</li> <li>▪ Overall project schedule and budget; and</li> <li>▪ Project documentation requirements;</li> </ul>

## Conflict of Interest

Willdan Financial Services certifies that it has no conflict-of-interest, legal actions taken, or pending, against the firm during the past three years. Furthermore, no disciplinary action has been taken, or is pending, against Willdan during the past three year by any regulatory bodies and/or profession organizations.

## Engagement Team Members

### Project Team Profile

**Mr. Dan Jackson** is the **principal-in-charge** and will serve as **project manager** for this engagement. In this role, he will participate in the kick-off meeting, provide direction and supervision throughout the project, and present preliminary and final recommendations to City staff and the City Council. Mr. Jackson serves as a Willdan Financial Services Vice President. He has 36 years of experience in financial consulting for water, wastewater, stormwater, solid waste and electric utilities throughout Texas, the southwest, the United States and Pacific Region. Mr. Jackson is a frequent speaker at utilities conferences and trade associations. He received a Bachelor of Arts in Social Science and a master's in business administration in Finance and Accounting from the University of Chicago in 1984. Mr. Jackson is also a published author; his novel **The Forgotten Men** is available at Amazon.com and other media outlets

With more than 35 years of professional utility accounting/ratemaking, finance and energy procurement consulting experience, **Mr. Daniel Lanning** will serve as the project's **senior analyst**. Mr. Lanning has prepared over 150 national and international utility related studies, evaluations and professional testimony. Furthermore, Mr. Lanning will share knowledge gained through his involvement with AWWA/WEF, developing industry professional standards. He is a contributing author to the WEF Manual of Practice No. 27 – Financing and Charges for Wastewater Systems and **was involved in the most recent update to the AWWA M1 manual – Principles of Water Rates, Fees, and Charges**. He also has been a presenter at numerous utility association conferences and seminars. Working closely with Mr. Jackson he will develop the analyses under the City's scope of services.

**Mr. Dennis Goral** will serve as the **project analyst**. Mr. Goral is a senior analyst with three years of municipal utility analysis experience and five years financial and economic analysis experience. His consulting experience includes a variety of projects associated with public water, wastewater, reclaimed water, sanitation, natural gas, and electric utility systems throughout the United States and the Pacific region.

We are confident that our team possesses the depth of experience that will successfully fulfill the desired work performance. We also note that our project team members have over 70 years' combined experience preparing water, wastewater, and gas rate studies and long-term financial plans. Unlike many other consulting firms, our senior personnel do not just perform periphery roles while assigning most of the responsibility to less experienced personnel. Our senior level team members will be responsible for every aspect of this engagement.

### Resumes

A resume for each team member is provided below for your review and consideration.

## Dan V. Jackson, MBA

### Vice President and Principal in Charge

Mr. Jackson has 38 years of experience as an international financial expert, having completed more than 400 water, wastewater, electric, gas, solid waste and stormwater rate/cost of service studies and long-term financial plans for clients in the USA and the Pacific region. He also has served as an expert witness in state court, federal court and before several public utility commissions. Mr. Jackson’s prior experience includes positions with Deloitte and Touche, Reed-Stowe & Company and Arthur Andersen. In 1997, Mr. Jackson co-founded Economists.com LLC, an international consulting firm with offices in Dallas and Portland, Oregon. Willdan acquired Economists.com in 2015, and Mr. Jackson now serves as Vice President and Managing Principal. Mr. Jackson has given dozens of lectures and presentations before professional associations. He is also an accomplished author; his award-winning novel **Rainbow Bridge** is now available in selected bookstores and on Amazon.com and bn.com.

His experience is summarized below.

### Water/Wastewater – Rate Studies and Long-Term Financial Plans for which Mr. Jackson served as Project Manager

#### Texas – Dallas/Fort Worth

▪ Allen	2007, 2009, 2012,2016
▪ Balch Springs	2017,2021
▪ Burleson	2023
▪ Cedar Hill	2016, 2018
▪ Celina	2014, 2018, 2019,2020,2021
▪ Coppell	2017,2020,2021
▪ Denison	2022
▪ Denton County FWSD 1A	2017
▪ Denton County FWSD 8C	2018
▪ DeSoto	2005 -- 2022
▪ Duncanville	2002,2003,2007,2013,2018, 2022
▪ Fairview	2016, 2018
▪ Ferris	2020
▪ Frisco	2017
▪ Garland	2009 –2012
▪ Grand Prairie	2019,2020-2023
▪ Hackberry	2006
▪ Heath	2020
▪ Hutchins	2017,2019
▪ Josephine	2022
▪ Kaufman	1994
▪ Little Elm	2001, 2004,2008-2016
▪ McKinney	2010, 2016, 2019,2022
▪ Mesquite	2018,2023
▪ Midlothian	2000, 2003, 2006, 2010 2016,2021
▪ Oak Point	2006, 2011
▪ Parker	2016,2022
▪ Plano	2017,2020,2022
▪ Princeton	2012
▪ Prosper	2005, 2016, 2018
▪ Richardson	2016
▪ Rowlett	2009, 2017-2022
▪ Royse City	2007, 2011,2018,2022

#### **Education**

*Master of Business Administration, University of Chicago, 1984; Specialization in Finance/Accounting*

*Bachelor of Arts, University of Chicago, 1982; Major in Social Sciences Dean’s Honor List*

#### **Areas of Expertise**

- Rate Design
- Cost of Service
- Financial Forecasting
- Valuation Analysis
- Acquisition Analysis
- Privatization Analysis
- Economic Impact Analysis
- Expert Witness Testimony

#### **Affiliations**

*Member, American Water Works Association*

*National Association for Business Economics*

#### **Other**

*The Forgotten Men (fiction) – Mediaguruz*

*Rainbow Bridge – Fiction – Mirador Publishing*

#### **36 Years’ Experience**

**D. Jackson**  
Resume Continued

▪	Rockwall	2018
▪	Sachse	2014
▪	Sherman	2021-2023
▪	Venus	2005, 2012
▪	Waxahachie	2012
	<b><u>Texas -- Statewide</u></b>	
▪	Alamo Heights	2018
▪	Alvarado	2022
▪	Amarillo	2017,2023
▪	Aqua Water Supply Corporation	2003
▪	Beeville	2017, 2022
▪	Brownsville PUB	2020-2022
▪	Brady	2016
▪	Castroville	2016,2018
▪	Cibolo Creek Municipal Authority	2012, 2015,2019,2023
▪	Combes	2021
▪	Crystal Clear SUD	2021
▪	Del Rio	2020,2021
▪	Donna	2007, 2011, 2012, 2013,2015-2020
▪	El Paso County WCID #4	2005, 2007, 2010, 2011, 2015,2019
▪	El Paso County Tornillo WCID	2006, 2010
▪	Fairfield	2023
▪	Galveston	2020,2023
▪	Galveston County WCID	2022
▪	Groesbeck	2001, 2004
▪	Harker Heights	2006
▪	Hempstead	2016, 2023
▪	Hewitt	2009 – 2015, 2021
▪	Hondo	2019
▪	Jonah Special Utility District	2006
▪	Kempner WSC	2014-2015
▪	Laredo	2018,2019
▪	Laguna Madre Water District	1991-1999, 2005, 2014, 2018,2020
▪	La Villa	2007
▪	Leander	2017,2018, 2020-2022
▪	League City	2019,2021
▪	Liberty Hill	2018,2019
▪	Los Fresnos	2007,2017
▪	Marble Falls	2020,2022
▪	Marfa	2022
▪	McLendon-Chisholm	2019
▪	Mercedes	2001, 2003
▪	New Braunfels	2019
▪	North Fort Bend Water Authority	2011, 2016,2020
▪	Paris	1995
▪	Port Arthur	2020
▪	Port of Houston Authority	2001
▪	Primera	2021
▪	Raymondville	2001
▪	Robinson	2012, 2014, 2015
▪	Robstown	2014, 2015
▪	San Juan	2019
▪	Schertz	2012 – 2019

**D. Jackson**  
*Resume Continued*

▪	Seguin	2015 -- 2022
▪	Selma	2018
▪	Schertz-Seguin Local Govt Corporation	2009 – 2023
▪	Sonora	2012
▪	Southmost Regional Water Authority	2001
▪	Tomball	2018
▪	Troup	2006
▪	Venus	2005, 2012
▪	Waller	2023
▪	West Harris County Regional Water Auth	2003, 2006, 2010, 2011,2016
▪	West University Place	2022
▪	Webb County	2011,2022
▪	Whitehouse	2008
▪	Winona	2009
▪	Yancey Water Supply Corporation	2005
	<b><u>Arizona</u></b>	
▪	Bisbee	2000 – 2005, 2018
▪	Buckeye	2013, 2015, 2016
▪	Camp Verde Sanitary District	2006, 2008
▪	Carefree	2018,2021
▪	Casa Grande	2009
▪	Chino Valley	2010-2018,2023
▪	Chloride Domestic Water Imp District	2003
▪	Clarkdale	2005
▪	Clifton	2018
▪	Cottonwood	2004, 2007, 2009
▪	Douglas	2009, 2011
▪	Eagar	2006, 2011, 2012
▪	Eloy	2007, 2011-2013
▪	Florence	2008, 2012,2017,2023
▪	Flowing Wells Improvement District	2008
▪	Goodyear	2014, 2015,2019-2020
▪	Holbrook	2004
▪	Jerome	2019
▪	Marana	2008 – 2013, 2016
▪	Miami	2010 – 2012, 2015
▪	Nogales	2011, 2015-2016, 2018
▪	Oro Valley	2022
▪	Patagonia	1999, 2002
▪	Payson	2006, 2010, 2012-2014,2019-2022
▪	Prescott	2008
▪	Prescott Valley	2022-2023
▪	Quartzsite	2004, 2009, 2011, 2012, 2018,2022
▪	Queen Creek	2004, 2007, 2015, 2016
▪	Safford	2006
▪	San Luis	2002, 2012, 2013, 2017, 2018,2022,2023
▪	Show Low	2011, 2014
▪	Somerton	1999, 2002, 2005-2010,2018,2021
▪	Tombstone	2001

**D. Jackson**  
Resume Continued

- Tonto Village DWID 2018
- Wellton 2003
- Willcox 2002
- Winslow 2016, 2018
- Yuma 2007, 2014, 2015, 2018, 2023

**Arkansas**

- Bryant 2021
- Conway 2022
- Hot Springs 2005, 2009-2022
- North Little Rock Wastewater Utility 1999, 2003, 2006, 2011-2015, 2021
- Russellville 2013, 2014, 2015, 2019, 2022
- Hot Springs Village 2015, 2019, 2023

**Oklahoma**

- Ada 2014, 2015, 2018
- Altus 2020
- Chickasha 2016
- Edmond 2010, 2015, 2017, 2018, 2022
- Miami 2009, 2014, 2017, 2023
- Pryor 2016

**USA**

- North Chicago, IL 2001, 2005
- Sarpy County, NE 2018
- South Adams County WSD, CO 2013

**International Regulated Utilities – Pacific and Caribbean**

- Water Authority of Fiji 2016, 2019
- Palau Public Utilities Corporation 2018
- Kiribati Public Utilities Board 2019, 2020
- EPC, Independent State of Samoa 2013
- Commonwealth Utilities Corp Saipan 2005-2022
- American Samoa Power Authority 2009, 2014, 2016
- Guam Power Authority 2011
- Virgin Islands Telephone Company 1990-1991

**Solid Waste and Stormwater – Rate Studies & Long-Term Financial Plans**

**Stormwater**

- Hot Springs, AR 2011, 2012, 2013, 2016
- Hewitt, TX 2018
- Bryant, AR 2021
- Balch Springs, TX 2021
- Coppell, TX 2020
- San Marcos, TX 2018
- Prescott Valley, AZ 2023

**Solid Waste**

- Duncanville, TX 2007
- Frisco, TX 2017
- Hewitt, TX 2010
- Mercedes, TX 1999
- San Luis, AZ 2003, 2013

**D. Jackson**  
*Resume Continued*

- Somerton, AZ 2006
- Goodyear, AZ 2020
- Altus, OK 2021
- Miami, OK 2009

**Water/Wastewater –CCN/ System Valuations and Acquisitions**

- PUC Texas – 25 CCN Valuations 2022-2023
- Avondale, AZ 2006
- Bolivar WSC 2022
- Bullhead City, AZ 2020
- Buckeye, AZ 2013-2015
- Casa Grande, AZ (private) 2015
- Chino Valley, AZ 2006, 2016,2018
- Cottonwood, AZ 2009, 2012
- Clarksdale, AZ 2009
- Denton, TX 2022
- Florence, AZ 2007, 2014,2022
- Marilee SUD – 2 parcels 2022
- Marana, AZ 2009, 2010
- Pine Strawberry Water Imp District, AZ 2009
- Prescott, AZ 2006
- Prescott Valley, AZ 1998
- Queen Creek, AZ 2008, 2011
- Show Low, AZ 2010, 2011
- Aubrey, TX 2015
- Huffines Development 2022
- Arlington, TX 1999, 2001
- Celina, TX 2006, 2015
- Forney Lake WSC, TX 2016
- Gunter, TX 2006
- Kempner WSC, TX 2016
- FCS Lancaster, TX 2021
- Taylor, TX 1999
- Whitehouse, TX 2006
- Van Alstyne, TX 2019,2022
- Rockwall, TX 2005
- Trinity Water Reserve, TX 2000
- North Chicago, IL 2001
- North Little Rock WWU, AR 2015

**Water/Wastewater – Impact Fee Studies**

- East Medina County Special Utility Dist, TX 2000
- Cibolo Creek Municipal Authority, TX 2015
- Crystal Clear SUD, TX 2021
- Harlingen, TX 2005
- Laguna Madre Water District, TX 1993, 1996, 2000, 2003
- Liberty Hill, TX 2019
- Los Fresnos, TX 2006
- Marble Falls, TX 2022
- Mesquite, TX 1996
- Seguin, TX 2015,2020
- San Luis, AZ 2002
- Marana, AZ 2011- 2014
- Wellton, AZ 2003



*D. Jackson*  
Resume Continued

- Prescott, AZ 2007
- Yuma, AZ 2004, 2007, 2016
- Hot Springs, AR 2005, 2009, 2016

### Electric Utilities – Financing Plans, Rate/Tariff Studies

**Commonwealth Utilities Corporation** – 11 separate cost of services studies and analyses, representation before Public Utilities Commission, Financial Feasibility report on new power plant, contract analysis for existing suppliers – 2006 – 2022.

**Palau Public Utilities Board** – Tariff analysis and long-term financial plan, 2018.

**Tonga, Tuvalu, Kiribati** – comprehensive financial feasibility analysis of proposed Floating PV generation facilities, funded by World Bank and Asian Development Bank – 2021 – 2022.

**Kiribati Public Utilities Board** – tariff study and long-term financial plan, 2019, 2020.

**EPC, Independent State of Samoa** – tariff study and long term financial plan, including the financial impact of alternative generation sources – 2013.

**American Samoa Power Authority** – electric cost of service study and tariff review, 2009, 2014, 2016.

**Guam Power Authority** – Comprehensive Load study -- 2008.

**City of Miami, OK** – Electric, water and wastewater and electric rate study, 2022, 2006.

**Potawatomi Nation, OK** – Electric rate and financial feasibility analysis, 2021-2022.

**Altus OK** – Electric Rate Study, 2020.

**Pryor Creek, OK** – Electric Rate Study, 2016, 2020.

**Bonneville Power Administration** ---Participation in Average System Cost (ASC) program, including proposed changes in ASC methodology, 1988-1990.

**Houston Lighting & Power** -- Feasibility/Prudence analysis of South Texas Nuclear Project vs. alternate forms of energy. Analysis formed the basis of partner's expert testimony before the Public Utility Commission of Texas, 1988.

**Kansas Power & Light** – Analysis of proposed merger with two separate companies, 1988.

**Greenville Electric Utility System**- Development of short-term cash investment policy in accordance with state law, 1989.

**Horizon Communications**– Business plan development, 2000.

**City of Mercedes, TX** – Economic Impact of New City Projects, 2000.

### Expert Witness Testimony

**City of Arlington, TX** – Seven separate cost of service analyses and testimony in wholesale contract rate proceedings before TNRCC. Largest ongoing wastewater rate dispute in Texas history, 1990-1994.

**Cameron County Fresh Water Supply District No. 1 vs. Town of South Padre Island** (TNRCC Docket 30346-W) – Expert testimony on reasonableness of rate structure, 1992.

**Cameron County Fresh Water Supply District No. 1 vs. Sheraton Hotel/Outdoor Resorts** (TNRCC Docket 95-0432-UCR) – Expert testimony on reasonableness of rate structure, 1993.

**Laguna Madre Water District** (PUC Docket 49154) – Expert testimony on the reasonableness of the District's raw water rate -- 2019.

**City of Celina, TX** (SOAH Docket 2003-0762-DIS) – Expert testimony on the proposed creation of a Municipal Utility District, 2004.

**City of Celina, TX** (PUC Docket No. 49225) – Expert testimony on the reasonableness of outside city limit rates – 2020.

**East Medina County Special Utility District** (SOAH Docket 582-02-1255) – Expert testimony on CCN

**D. Jackson**  
Resume Continued

application, 2003.

**East Medina County Special Utility District** (SOAH Docket 582-04-1012) – Expert testimony on CCN application, 2004.

**City of Karnes City, TX** – Expert testimony on valuation of CCN before the Texas Commission on Environmental Quality, 2009.

**City of Princeton, TX** (SOAH Docket 582-06-1641 and TCEQ Docket 2006-0044-UCR) – Expert testimony on ability to serve proposed service territory, 2007.

**Town of Little Elm, TX** (SOAH Docket 582-01-1618) – Expert testimony on reasonableness of rate structure, 2001.

**Schertz Seguin Local Government Corporation** – Expert testimony addressing application of San Antonio Water System for groundwater permits for Gonzalez County UWCD, 2009.

**City of Ruidoso, NM** – Expert testimony on reasonableness of Wastewater Rates, 2010.

**City of Hot Springs, AR** – Expert witness testimony on Reasonableness of Stormwater Rates, 2010.

**Dallas County Water Control and Improvement District No. 6** (TNRCC Docket 95-0295-MWD) – Hearing on the merits for proposed wastewater treatment plant permit, 1995.

**Commonwealth Utilities Corporation Saipan** -- Expert testimony before Commonwealth Public Utilities Commission on reasonableness of rate structure, 2010-2015.

**City of Mesquite, Texas vs. Southwestern Bell Telephone Company (No. 3-89-0115-T, U.S. Federal Court Northern Texas)** -- 18 year estimate of revenues excluded from municipal franchise fees by SWB. Expert testimony on SWB accounting and franchise policies and Discovery disputes, 1991-1995.

**City of Port Arthur, et. al., vs. Southwestern Bell Telephone Company (No. D-142,176, 136th Judicial District Court of Beaumont, Texas)** -- 20 year estimate of revenues excluded from municipal franchise fees by SWB. Expert testimony on SWB accounting and franchise policies. 1993-1995.

**Southwestern Bell Telephone Company vs. City of Arlington, Texas (No. 3:98-CV-0844-X, U.S. Federal Court Northern Texas)** -- 15 year estimate of access revenues excluded from municipal franchise fees by SWB. Expert testimony on SWB accounting and franchise policies, 1996.

**Metro-Link Telecom vs. Southwestern Bell Telephone Company (No. 89-CV-0240, 56th Judicial District Court Galveston County Texas)** -- 20 year pro forma model calculating lost revenue from the cancellation of a trunk line leasing contract.

**Complaint of the City of Denton against GTE Southwest, Inc. (PUC Docket 14152)**, 1994.

**GTE vs. City of Denton (No. 95-50259-367, 367th Judicial District Court of Denton County, Texas)** -- 10 year estimate of revenues excluded from municipal franchise fees by GTE, 1994-1996.

**MAS vs. City of Denton, Texas (No. 99-50263-367, Judicial District Court of Denton County, Texas)** – Testimony on reasonableness of franchise fee payment calculations.

### **Water/Wastewater – Other Studies**

**City of Paris, TX** – Campbell’s Soup Co. wholesale contract review/negotiations.

**City of Conroe, TX** – Evaluation of proposed long-term wholesale contract.

**Cities of Bellmead, Woodway and Hewitt, TX** – Least cost alternative analysis and assistance with wholesale contract negotiations with City of Waco.

**City of Lubbock, TX** – Analysis of reasonableness of rates for Franklin Water System, January 2002.

**Town of Payson, AZ** – Financial feasibility and economic impact study of C.C. Cragin Reservoir, 2011. Tribal Wholesale Water Contract Analysis, 2022.

**City of Whitehouse, TX** – Economic analysis of potential acquisition of a water supply corporation, 2006.

*D. Jackson*  
Resume Continued

**City of Midlothian, TX** – Drought management plans, 2001.

**City of Midlothian, TX** – Assistance with wholesale contract negotiations, 2000-2001.

**City of Arlington, TX** – Lease vs. purchase analysis of city fixed assets, 1998.

**City of Donna, TX** – Water and wastewater affordability analysis, 2005.

**Southmost Regional Water Authority** – Economic and financial impact of proposed desalination treatment plant, 2001.

**Texas Water Development Board Region M** – Financial feasibility analysis of water resource alternatives, 2006.

**Schertz Seguin Local Government Corporation** – Assistance in contract negotiations with SAWS, 2010.

**Forsyth County, GA** – Business plan with extensive recommendations for managing unprecedented growth in volume and customer connections. Ten-year projection of operating income, 1998.

**City of Lakeland, FL** – Valuation of wastewater reuse alternatives over 20-year timeframe.

**Water Infrastructure Finance Authority of Arizona** – Evaluation of 40-year wastewater construction financing plan for Lake Havasu City, 2002.

**Water Infrastructure Finance Authority of Arizona** – Comprehensive residential water and wastewater rate survey for the state of Arizona, 2004-2008.

**City of Plano, TX** – evaluation and assistance in development of new member city long-term contract with North Texas Municipal Water District, 2015-2020.

### Telecommunications

**City of Dallas, TX** – Forecast of economic and financial construction and non-construction damages resulting from franchise's failure to fulfill terms of agreement, 2004

**City of Dallas, TX** ---Financial evaluation and forecast of alternative wireless services contracts, 2005.

**City of Dallas, TX** --Evaluation and advice concerning VOIP contract with SBC, 2003

**Voice Web Corporation**-- Financial forecast and strategic plan for CLEC development, 2001

**United Telephone of Ohio** -- Pro forma forecast model forecasting the impact on financial statements of proposed changes in state telecommunications regulatory structures. Model was used as the basis for privatization bids for Argentine and Puerto Rican Telephone Companies, 1988.

**Bonneville Power Administration** – Evaluation and financial forecast of long-term fiber optic leasing operation, 1999.

**Bonneville Power Administration** – Economics of Fiber Analysis, 1999.

**City of Portland, Oregon** –Municipal Franchise Fee Review, 2000.

**US West, Inc.** – Valuation study and financial forecast of headquarters operation. Used as basis for Partner's allocated cost testimony before the Public Utility Commission in Washington and Utah.

**Star-Tel** -- Estimate of revenues lost due to rival's unfair business practices, 1995.

**Cities of Denton and Carrollton, Texas** -- Review of municipal franchise fee payments by GTE, 1994-1996.

**Winstar Gateway Network** -- forecast of average lifespan per ANI for specific customer classes.

**Advisory Commission on State Emergency Communications** -- Review of E911 Equalization Surcharge Payments by AT&T, ATC Satelco, and Lake Dallas Telephone Company.

**Northern Telecom** -- Projection of potential revenue generated from the long-term lease of DMS-100 switching units to Pacific Bell.

**D. Jackson**  
Resume Continued

### Publications/Presentations/Seminars

- **Rainbow Bridge (fiction)** – Mirador Publishing, 2020. Winner, 2021 Feathered Quill Silver Award for Animal-based literature; 2021 National Indie Excellence Award Finalist
- **The Forgotten Men (fiction)** – Mediaguruz Publishing, 2012.
- **Raising Water and Wastewater Rates – How to Maximize Revenues and Minimize Headaches** – Arizona Small Utilities Association, August 2002; Texas Section AWWA, April 2003
- **Wholesale Providers and the Duty to Serve: A Case Study** – Water Environment Federation, September 1996.
- **Lease vs. Purchase – A Guideline for the Public Sector** – Texas Town and City, March 1998.
- **An Introduction to Lease vs. Purchase** – Texas City Managers Association – May 1998.
- **Technische Universiteit Delft** – Delft Netherlands -- Annual Infrastructure Conference – May 2000, 2001.
- **The US Water Industry – A Study in the Limits of Privatization** -- Technische Universiteit Delft – Delft Netherlands – March 2007.
- **The New Information Economy: Opportunity or Threat to the Rio Grande Valley?** – Rio Grande Valley Economic Summit -- Oct 2000.
- **The Financial Benefits of Regionalization – A Case Study** – Texas Water Development Symposium – September 2010.
- **Developing Conservation Water Rates Without Sacrificing Revenue** – TWCA Conference, San Antonio Texas, October 2012.
- **Water Rates – Challenges for Pacific Utilities** – Pacific Water and Wastes Conference, American Samoa, September 2014.

## Daniel D. Lanning Sr.

### Project Manager and Financial Analyst

#### **Education**

*Bachelor of Science, Accounting, Bentley University, Waltham Massachusetts*

#### **Areas of Expertise**

*Management Consulting*

*Impact Fee Studies*

*Financial Analysis*

*Utility Rate and Cost Studies*

*Feasibility and Financial Analysis and Reporting*

*Expert Witness*

*Utility Regulation*

#### **Affiliations**

*American Water Works Association (AWWA)*

*Texas Section American Water Works Association*

#### **Societies**

*Member: AWWA Rates and Charges Committee;*

*Member Task Force Revising AWWA Manual M-1 –Water Rates and Charges;*

*Member Task Force to prepare AWWA Manual M-54 – Developing Rates for Small Systems;*

*Past Member Task Force to edit/revise AWWA Manual M-29 – Fundamentals of Water Utility Capital Financing*

*Water Environment Federation -- Past Member Financing and Charges for Wastewater Systems Task Force that prepared WEF Manual of Practice No. 27, Financing and Charges for Wastewater Systems.*

#### **35 Years' Experience**

Mr. Lanning is a management consultant with over 35 years of domestic and international experience in utility financial/cost of service studies and energy efficiency and procurement matters. As a consultant, he has served as project manager, task leader, and key staff person on cost of service, impact fee, asset valuation, financial feasibility, and management studies for public and private utilities. He has presented testimony before local and federal courts and state regulatory agencies supporting positions utility cost of service issues. He has served for the past decade on the AWWA Rates and Charges Committee. Prior to his consulting career, Mr. Lanning served as a member of the New Hampshire Public Utilities Commission staff where he held several positions including Assistant Finance Director, Chief Auditor, and a PUC Examiner.

### Water/Wastewater – Cost of Service and Rate Studies

Mr. Lanning has developed and updated over 150 water, wastewater cost of service, rate and long-term financial planning studies for domestic and international government and private (IOU) entities. These studies regularly involve evaluating utility capital improvement plans, capital financing alternatives, operating statistics, and budget reporting. Mr. Lanning also has significant experience designing computer financial models for utilities and other government entities. Example projects include: San Luis, AZ (W/WW and Solid Waste Rates); McKinney, TX (W/WW Rates); Richardson, TX (W/WW Rates); Richwood, TX (Wholesale Rate Design); and USAID (Bosnia and Herzegovina sector wide financial strengthening of water/ wastewater utilities).

### Stormwater and Solid Waste – Rate Studies and Long-term Financial Plans

Mr. Lanning has led and participated in numerous important stormwater and solid waste financial, rate and cost of service studies and projects. These studies included developing fees for retail solid waste, tipping fees for landfills, and developing stormwater and wastewater fees utilizing impervious area data.

### Water/Wastewater - Impact Fees

Mr. Lanning has prepared impact/capacity fee analyses in Texas, Arizona, and Massachusetts. Recent example impact/capacity fee studies include: Yuma, AZ; Marana, AZ; Seguin, TX; and Cibolo Creek Municipal Authority, TX. These studies required strict adherence with state statutes that include preparation of specific reports and participation in public meetings.

### Water/Wastewater – Asset Valuation

Mr. Lanning has prepared numerous asset valuations for water and wastewater utilities. These studies were used as guide for asset sale/purchases or as part of cost-of-service studies that develop rates for wholesale customers.

### Energy – Procurement and Energy Management Project Feasibility

Mr. Lanning has been a key participant in several energy deregulation and comprehensive energy management projects. These projects include evaluating energy cost savings from proposed projects and developing electric procurement strategies/policies. Example studies include Dallas, TX and Houston, TX.

### Professional Experience

Mr. Lanning has led and participated in over 100 important financial, rate and impact fee studies and projects as a consultant. A sample list of water and wastewater rate and solid waste analysis projects have been provided on the following page.

**D. Lanning**  
Resume

- San Luis, AZ (W/WW and Solid Waste Rates)
- Yuma, AZ (W/WW Capacity/Impact Fees, Solid Waste)
- Winslow, AZ (W/WW Rates and Bond Feasibility Study)
- Douglas, AZ (Solid Waste Rates)
- Marana, AZ (W/WW Impact Fees)
- Camp Verde, AZ (W/WW Rates)
- Nogales, AZ (Water Cost Analysis)
- League City, TX (W/WW Rate Study)
- Rowlett, TX (W/WW Rate Study)
- Royse City, TX (W/WW Rate Study)
- San Juan, TX (W/WW Rate Study)
- Grand Prairie, TX (W/WW Rate Revenue Requirement Study)
- McKinney, TX (W/WW Rates)
- Frisco, TX (W/WW Rates)
- Amarillo TX (W/WW Rates)
- Laredo, TX (W/WW Rates)
- Brady, TX (W/WW Rates)
- Celina, TX (W/WW Rate Study)
- Rockwall, TX (W/WW Rates; Asset Valuation)
- Los Fresnos, TX (W/WW Rates)
- Balch Springs, TX (W/WW Rates)
- Hutchins, TX (W/WW Rates)
- University Park, TX (W/WW Rates)
- Highland Park, TX (W/WW Rates)
- Schertz, TX (W/WW Rates)
- Beeville, TX (W/WW Rates)
- West Harris Regional Water Authority, TX (Wholesale Water Rates)
- Plano, Garland, Richardson, Mesquite, TX (Evaluation of Wholesale Water Contract)
- Midlothian, TX (W/WW Rates)
- Fairview, TX (W/WW Rates)
- Richardson, TX (W/WW Rates)
- Schertz Seguin Local Government Corporation (Wholesale W Rates)
- Seguin, TX (W/WW Impact Fee)
- Liberty Hill, TX (W/WW Impact Fees)
- Hot Springs, AR (W/WW Impact Fees and Non-Revenue Water Audit)
- Cibolo Creek Municipal Authority, TX (W/WW Impact Fees and WW Rate Analysis)
- Fort Worth, TX (W/WW Impact Fees)
- North Little Rock Wastewater Utility, AR (WW Rate Study)
- Westminster, CO (W/WW Rates)
- Duluth, MN (WW Rates)
- Lansing, MI (CSO Value Engineering Study)
- Oswego, NY (W/WW Rates)
- New Bedford, MA (CSO Affordability and SRF Funding Application)
- Brewer Water District, ME (W Rates)
- Los Angeles Department of Water and Power (Integrated Resource Plan – Financial Model)
- Fort Worth, TX (Wholesale Rates & Contract Negotiations)
- Falls Church, VA (Utility Asset Valuation)
- USAID (Bosnia and Herzegovina sector wide financial strengthening of water/wastewater utilities)
- Waller Lansden Dortch, & Davis, LLP (Representing Trustee of Jefferson County, AL sewer debt)
- OK Foods Inc., Muldrow, OK (W Rates)
- Corporation (IFC) and Egyptian Ministry of Housing, Utilities & Urban Developments (Purchase Feasibility Study)
- City of Nashua, NH (Negotiation Support - Purchase of Private Water System)

### Additional Relevant Experience

**New Braunfels Utilities, TX – Water Rights Lease Evaluation** (Senior Financial Analyst 2019): New Braunfels Utilities ("NBU") engaged Willdan Financial Services to review and provide input into a proposed methodology for charging for leased water to potential new customers of the utility. Mr. Lanning prepared a financial analysis and forecast of revenue requirements used to determine the lease of GBRA Mid-Basin water supply project water rights owned by NBU. Mr. Lanning also participated in the preparation of Willdan's comfort letter regarding the proposed lease contract.

**D. Lanning**  
*Resume Continued*

**Town of Fairview, TX – Water and Wastewater Rate Study** (Senior Financial Analyst, 2016 and 2018): Mr. Lanning prepared a water and wastewater rate analysis and report for the Town of Fairview. The report included recommended rates and a financial plan for the next 10 years. The study included evaluations of alternative rate structures and an impact analysis of recommended rate increases on customers.

**City of Celina, TX – Water and Wastewater Rate Study** (Senior Financial Analyst, 2018 and 2021): Mr. Lanning prepared a water and wastewater rate analysis and report for the City of Celina. Since the City is growing rapidly, the report included recommended rates for the next 3 years with a recommendation of an annual review to confirm growth estimates continue as planned. The report also included a 10-year financial plan for the water and wastewater utilities. Several alternative rate structures were developed and an impact analysis of these alternative on customers and the City were provided. Finally, the impact of recommended rate increases on customers was prepared.

**City of Plano, TX – Water and Wastewater Rate Study** (Senior Financial Analyst, 2017 and 2020): Mr. Lanning prepared a water and wastewater rate analysis and report for the City of Plano. The report also included a 10-year financial plan for the water and wastewater utilities. Several alternative rate structures were developed and an impact analysis of these alternative on customers and the City were provided. Finally, the impact of recommended rate increases on customers was prepared.

**City of McKinney, TX – Water and Wastewater Rate Study** (Senior Financial Analyst, 2016 and 2019): Mr. Lanning prepared a water and wastewater rate analysis and report for the City of McKinney. Since the City is growing rapidly, the report included recommended rates for the next 3 years with a recommendation of an annual review to confirm growth estimates continue as planned. The report also included a 10-year financial plan for the water and wastewater utilities. Several alternative rate structures were developed and an impact analysis of these alternative on customers and the City were provided. Finally, the impact of recommended rate increases on customers was prepared.

**City of Richardson, TX – Water and Wastewater Rate Study** (Senior Financial Analyst, 2016/2017): Mr. Lanning prepared a water and wastewater rate analysis and report for the City of Richardson. The report also included a 10-year financial plan for the water and wastewater utilities. Several alternative rate structures were developed and an impact analysis of these alternative on customers and the City were provided. Finally, the impact of recommended rate increases on customers was prepared.

**City of University Park, TX – Water and Wastewater Rate Study** (Project Manager, 2013): Mr. Lanning was Project Manager for a team of experts working with Kent Austin (former University Park Finance Director) completing a cost of service and rate design study for University Park that included an evaluation of customer class usage patterns; an allocation of cost of service to customer class based on demand; identification of large users (residential and commercial) and development of alternative rate structures designed to enhance water conservation. Tests were performed to determine impacts of decreased use on utility revenue and a reserve was recommended to offset variations in water use due to weather or significant changes to customer use patterns.

#### **Professional Activities**

- Water Rates in New England – A Decade of State Regulatory Decisions – North Atlantic Water Workers Symposium, 1994.
- SDWA Impact on Rates – Joint New England Water Works Association and New Hampshire Water Works Association Meeting, January 1995.
- Developing Performance Measures – Round Table Moderator; New England Water Works Association - 114th Annual Conference, 1995.

**D. Lanning**  
Resume Continued

- Benchmarking Performance Measures: What Are They? Why Use Them? Round Table Moderator; New England Water Works Association - 115th Annual Conference, 1996.
- Water Utility Rate Making – Seminar Moderator; New England Water Works Association one day seminar, 1996, 1997, 1998.
- The Breakup of Power in New England: Changes in the Rules of the Game – J.S. Kowalczyk and D.D. Lanning. New England Health Care Engineers Conference, 1997.
- The Energy Supermarket – J.S. Kowalczyk and D.D. Lanning, Rhode Island Water Works Association, December 1997.
- Electric Utility Restructuring – Round Table Moderator; New England Water Works Association - 117th Annual Conference, 1998.
- Cost of Service vs. Reality – Presentation, New York Water Works Association, 1998.
- Contributions In Aid of Construction – Past, Present and Future – AWWA Conference, Denver, CO, June 2000.
- Is Deregulation An Alternative Means To Rate Stability? Southwest Section AWWA Annual Conference, Boiser City, LA, September 2000.
- Charting a Course through the Deregulated Energy Environment: The City of Dallas Experience – R. R. Rogers, J. Dillard, D. D. Lanning; AWWA/WEF Joint Management Conference, Portland OR; February 2001.
- Rate 101 Seminar – Fundamentals of Ratemaking – Seminar Moderator – Texas AWWA one day seminar, October 2002.
- User Fees: Cause and Effect – Presenter – 2003 Arkansas Water Works and Water Environment Association Conference Short School "Visionaries for Arkansas", April 2003.
- How Utility Rates and Charges Are Determined – Presenter – Kansas Water Environmental Association, 58th Annual Conference – April 2003.
- Rate 101 Seminar – Fundamentals of Water and Wastewater Rates – Government Financial Officers Association of Texas 2004 Annual Conference – April 2004 – Presenter ("Revenue Requirements") and Lead Moderator.
- Alternative Financing Available for Water/Wastewater Utility Energy Saving Improvements: Two Examples From New York – C. Korzenko and D. Lanning, (co-presenters) American Water Works Association (AWWA) 2005 Annual Conference and Exposition – San Francisco.
- Rate 101 Seminar – Fundamentals of Water and Wastewater Rates – Government Financial Officers Association of Texas 2005 Fall Conference – November 2005 – Presenter ("Revenue Requirements") and Lead Moderator.
- "Planning and Financing Water and Wastewater Utility Infrastructure Replacement" – S. Kuhr, G. Nestel, H. Reynolds and D. Lanning – Underground Infrastructure Management – magazine and web site – five articles published between 2005 and 2008.
- "Now That I Must Do It, How Do I Do It? What You Need to Know About the Fundamentals of Water Utility Capital Finance - An Introduction to AWWA's New and Improved Manual M29," American Water Works Association (AWWA) conference ACE 07 Workshop June 24, 2007 – Workshop Presenter - "Financial Requirements Planning Process."
- "Everything You Ever Wanted to Know About Finance Management but were Afraid to Ask: An Overview of the New AWWA Financial Management for Water Utilities Manual," American Water Works Conference (AWWA) ACE 08 Workshop, June 8, 2008 – Workshop Presenter – "Operational and Capital Planning, Capital Assets, CIP and Planning, Benchmarking, Strategic Financial Planning."
- "Inside/Outside Rates: Refinements in the M1 Manual" Eric Rothstein and Dan Lanning; AWWA 2012 Annual Conference and Exhibits (ACE12) Rate and Charges Committee Session "AWWA's Updated M1 Manual - Perspectives on a Changing World;" June 13, 2012.



**D. Lanning***Resume Continued***Testimony Experience**

- Southern New Hampshire Water Co. NH – Revenue Requirement
- Pennichuck Water Works NH – Revenue Requirement
- Manchester Water Works NH – System Development Charge
- Concord Steam Corp. NH – Revenue Requirement
- Manchester Gas Company NH – Revenue Requirement
- Public Service Company of New Hampshire – Fuel Adjustment Charge
- Gas Service Inc. NH – Revenue Requirement
- The following is a list of testimony experience Mr. Lanning has as a consultant:
- Kent County Water Authority, RI – Fire Protection
- Lakes Region Water Company, NH – Rates
- Tilton Northfield Aqueduct, NH – Rates
- Five Town Water Study Committee, NH – Cost of Service Study, Intervention in Manchester Water Works Rate Filing
- Pittsfield Aqueduct Company NH – Rates and Financing
- Carleton Trust Water Systems NH – Asset Valuation and Rates
- Brewer Water District, ME – Rates
- Garland Power and Light, TX – Petition for Transmission Improvements - Competitive Renewable Energy Zone

## Dennis Goral

### Project Analyst

Mr. Goral is a Senior Analyst with 6 years of municipal utility analysis experience and 2 years in financial and economic analysis experience. His consulting experience includes a variety of projects associated with public water, wastewater, reclaimed water, sanitation, natural gas, and electric utility systems throughout the United States and Pacific Islands.

Mr. Goral has been involved with many different facets of project analysis for water and wastewater utility systems including data gathering, dashboard development, dynamic model development, sensitivity analysis, cost-benefit analysis, alternative analysis, demographic analysis, consumption analysis and rate design. Additionally, he has been involved in model development and analysis for cost allocation and user fee studies.

He has special expertise in dashboard development and dynamic model development. In addition, Mr. Goral has an extensive working knowledge of Microsoft Excel and the ability to perform detailed and complex analyses. He has experience in presenting complex information in a simple and easy to understand way.

### Representative Client Listing

The following is a listing of Mr. Goral’s water and wastewater related project experience accumulated in the past four years:

- City of DeSoto, TX
- City of Balch Springs, TX
- City of Donna, TX
- City of McKinney, TX
- City of Schertz, TX
- City of Fairview, TX
- City of Altus, OK
- City of Winslow, AZ
- City of Cedar Hill, TX
- City of Frisco, TX
- City of Coppell, TX
- Town of Camp Verde, AZ
- City of Allen, TX
- City of Amarillo, TX
- City of Brady, TX
- City of Edmond, OK
- City of Florence, AZ
- City of Laredo, TX
- City of Leander, TX
- City of Los Fresnos, TX
- City of Somerton, AZ
- Town of Prosper, TX
- Town of Carefree, AZ
- City of Castroville, TX
- City of Crandall, TX
- City of Hutchins, TX
- City of Midlothian, TX
- City of Springtown, TX
- City of Royse City, TX
- City of Buckeye, AZ
- Schertz-Seguin Local Government Corporation, TX
- Water Authority of Fiji, Fiji
- City of Plano, TX
- Commonwealth Utilities Corporation, Saipan
- City of San Luis, AZ
- City of Rowlett, TX
- City of Russellville, AR
- Town of Springerville, AZ
- City of Tomball, TX
- City of Tornillo, TX
- City of College Station, TX
- Denton County Fresh Water Supply District 1A, TX
- LAZY 9 MUD 1A, TX
- City of New Summerfield, TX
- City of Princeton, TX
- City of Mesquite, TX

#### Education

Double Bachelor of Science, Finance and Economics, University of Texas

#### Areas of Expertise

Rate Studies

Rate Design

Dynamic Computer Modeling

Dashboard Design

Cost of Service Studies

Alternatives Analysis

Advanced Excel

Cost Allocation Studies

User Fee Studies

#### Clubs and Organizations

GFOAT, Government Finance Officers Association of Texas

SEED, Student Entrepreneurs and Economic Development

SIFE, Student in Free Enterprise

Alpha Beta Gamma, Business Honors Society

Honors and Awards  
Lowe’s Community Improvement Grant for Collin Community College, 2011

8 Years’ Experience

**D. Goral***Continued*

- City of Duncanville, TX
- City of Rockwall, TX
- City of Ada, OK
- City of Eloy, AZ
- City of Goodyear, AZ
- City of Liberty Hill, TX
- City of Port Arthur, TX
- City of Alamo Heights, TX
- Denton County Fresh Water Supply District 8C, TX
- City of Brownsville, TX
- City of Ferris, TX
- City of Grand Prairie, TX
- City of Marble Falls, TX
- City of Seguin, TX

The following is a listing of Mr. Goral's cost allocation and user fee related project experience accumulated in the past four years:

- City of Missouri City, TX
- City of DeSoto, TX
- City of San Luis, AZ
- City of Bedford, TX
- City of Mesquite, TX
- Town of Sunnyvale, TX
- City of Coppell, TX
- City of Port Arthur, TX

A few recent projects that are relevant include:

**City of Coppell, TX – Stormwater, Water and Wastewater Rate Study and Cost Allocation Plan Analysis** (Senior Financial Analyst, 2017, 2019, 2020-2021): Mr. Goral prepared a water and wastewater rate analysis and report for the City of Coppell in 2017. The report included recommended rates and a financial plan for the next 10 years. In 2019, Mr. Goral, prepared a stormwater rate analysis for the City. In 2020, Mr. Goral, prepared a water and wastewater rate update and a cost allocation plan analysis for the City.

**City of Frisco, TX – Solid Waste, Water and Wastewater Rate Study** (Financial Analyst, 2017): Mr. Goral prepared a comprehensive water and wastewater rate study and long-term financial forecast for fiscal year 2017 and beyond. The City was experiencing rapid growth and needed to plan for and fund the significant level of growth it expects to experience in the next decade. Several alternative rate structures were developed and an impact analysis of these alternative on customers and the City were provided. Additionally, Mr. Goral helped develop the solid waste model for the City.

**City of San Luis, AZ – Solid Waste, Water and Wastewater Rate Study and Cost Allocation Plan Analysis** (Senior Financial Analyst, 2019, 2020): Mr. Goral prepared a solid waste, water and wastewater rate analysis and report for the City of San Luis. The report included recommended rates and a financial plan for the next 10 years. The study included evaluations of alternative rate structures and an impact analysis of recommended rate increases on customers. Also, in 2020, Mr. Goral prepared a cost allocation plan analysis for the City.

**City of Leander, TX – Water and Wastewater Rate Study** (Senior Financial Analyst, 2020-2021): Mr. Goral prepared a comprehensive water and wastewater rate study and long-term financial forecast for fiscal year 2021 and beyond. The City was experiencing rapid growth and needed to plan for and fund the significant level of capital improvements expected in the next decade. The City had many unique issues such as unique wholesale contracts and outside city utility basis calculation. Several alternative rate structures were developed and an impact analysis of these alternative on customers and the City were provided.

## Estimated Time for Completion Water and Wastewater Rate Study

Willdan has developed the following preliminary project schedule as shown on the chart below. Assuming the project commences in May 2023, we project that we will provide final deliverables by August 2023. This will enable the City to implement any new rate plan in the autumn months when usage is falling and the financial impact on ratepayers will be minimal. It should be noted that this schedule is dependent on the timely receipt of information from the City. However, it should be noted that any delays in receiving requested data may lead to delays in completion of the project.

This schedule is also flexible. Should the City require deliverables and work product on a more expedited basis, we will work with the City to amend the schedule accordingly.

City of Tomball, Texas				
Water, Wastewater and Gas Rate Study				
Proposed Project Team Hours and Professional Fees				
	D. Jackson Project Manager	D. Goral Project Analyst	D. Lanning Senior Project Analyst	Total Hours
	\$240	\$165	\$190	
<b>Scope of Services</b>				
Task I: Project Kick-off, Data Acquisition & Assessment	8.0	8.0	8.0	24.0
Task II: Demographic Analysis	4.0	8.0	8.0	20.0
Task III: Determine Revenue Requirements	8.0	16.0	8.0	32.0
Task IV: Determine User Characteristics & Customer Classes	8.0	16.0	8.0	32.0
Task V: Cost Functionalization, Classification & Allocation	8.0	16.0	8.0	32.0
Task VI: Alternative Rate Designs	8.0	16.0	8.0	32.0
Task VII: Prepare & Present Draft & Final Reports	8.0	16.0	16.0	40.0
Task VIII: City Council Meetings	8.0	8.0	8.0	24.0
Task IX: Project Management & Quality Control	16.0	-	-	16.0
<b>Subtotal Hours</b>	<b>76.0</b>	<b>104.0</b>	<b>72.0</b>	<b>252.0</b>
Task I: Project Kick-off, Data Acquisition & Assessment	1,920	1,320	1,520	4,760
Task II: Demographic Analysis	960	1,320	1,520	3,800
Task III: Determine Revenue Requirements	1,920	2,640	1,520	6,080
Task IV: Determine User Characteristics & Customer Classes	1,920	2,640	1,520	6,080
Task V: Cost Functionalization, Classification & Allocation	1,920	2,640	1,520	6,080
Task VI: Alternative Rate Designs	1,920	2,640	1,520	6,080
Task VII: Prepare & Present Draft & Final Reports	1,920	2,640	3,040	7,600
Task VIII: City Council Meetings	1,920	1,320	1,520	4,760
Task IX: Project Management & Quality Control	3,840	-	-	3,840
<b>Subtotal Professional Fees</b>	<b>18,240</b>	<b>17,160</b>	<b>13,680</b>	<b>\$ 49,080</b>
Travel and Production Expenses				\$ 2,500
<b>Total Cost</b>				<b>\$ 51,580</b>
Professional Fee Discount		12.8%		(6,580)
<b>Official Bid – Not to Exceed</b>				<b>\$ 45,000</b>

## References

### Similar Projects

#### City of Tomball | Water and Wastewater Rate Study; 2018

Willdan was selected to manage and complete a comprehensive review of the City of Tomball's water, wastewater, and gas utility rates. The City is undergoing a significant amount of growth and expansion, and its capital investment needs are forecast to be substantial in the coming years. Like many other Houston-area utilities, the City must also absorb expected significant cost increases from North Harris County Regional Water Authority.

The Willdan project team developed a comprehensive forecast model that projected revenues and expenses over a ten-year period. Additionally, the project team met with City staff and Council on numerous occasions to review alternative rate plans, including one that replaced the City's complex minimum charge methodology with one that was more straightforward. Mr. Dan V. Jackson, Willdan Vice President, managed this project and directed all staff on behalf of the Willdan. The project team presented its recommendations to the City Council in December 2018. The Council adopted the project team's recommendations.

**Client Contact:** Mr. David Esquivel, City Manager  
401 Market St. Tomball, TX 77375  
Tel #: (281)290-1411 | Email: [desquivel@tomballtx.gov](mailto:desquivel@tomballtx.gov)

#### City of League City, TX | Water and Wastewater Multi-Year Financial Plan and Rate Design Study; 2019-2020

The City of League City engaged Willdan in late 2019 to prepare a comprehensive water and wastewater rate study and long-term financial plan. The City had been experiencing a significant amount of population and account growth and was interested in developing a long-term plan that funded growth without disproportionately impacting existing ratepayers. The City was also experiencing significant increases from its wholesale water supplier Gulf Coast Water Authority and wanted to ensure that these costs were passed through to the ratepayers in a manner that minimized their financial and economic burden. Finally, the City sought to implement a rate plan for its non-residential ratepayers that did not disproportionately burden high volume commercial customers.

The project team worked extensively with City staff to develop a series of several rate plan alternatives, which were presented to the City Council. The City Council carefully reviewed all alternatives and in early 2020 adopted the chosen alternative, a multi-year plan with annual adjustments, by a unanimous vote.

**Client Contact:** Mr. John Baumgartner, City Manager  
300 West Walker, League City, Texas 77573  
Tel: 281-554-1414 | Email: [john.baumgartner@leaguecitytx.gov](mailto:john.baumgartner@leaguecitytx.gov)

#### City of Galveston, TX | Utility Rate Study; 2020-2021; 2023

The City of Galveston engaged Willdan in 2020 to conduct a comprehensive water, wastewater and solid waste rate study and long-term financial plan. The City had been struggling with the need to fund significant capital improvements, many associated with the repair of assets from prior year hurricane damage. The City also sought to minimize the impact of rate adjustments on families and businesses that were struggling to recover from the afore-mentioned hurricanes as well as the effects of COVID-19. Finally, the City sought to analyze the impact of alternative rate designs, particularly scenarios with less emphasis on putative conservation blocks and more designed to facilitate business and economic recovery. The project team has completed its initial analysis and draft report, and the Council is expected to adopt recommended rate plans in the near future. The study results were delayed due to the COVID pandemic and the shut-down of City facilities.

The City re-engaged Willdan to update its rate study and financial forecast for 2023 and beyond. That project is currently underway, with final results expected in summer 2023.

**Client Contact:** Mr. Michael Loftin, Assistant City Manager  
823 Rosenberg Street, Galveston, Texas 77550  
Tel #: (713) 823-0419 | Email: [Mloftin@galvestontx.gov](mailto:Mloftin@galvestontx.gov)

### Brownsville PUB, TX | Water and Wastewater Rate Study; 2020-2021

Brownsville PUB engaged Willdan to conduct a comprehensive water and wastewater study and long-term financial plan. The city is experiencing rapid growth and water supplies in the Rio Grande Valley have become increasingly strained. Further, the PUB has identified over \$100 million in capital improvement needs in the coming decades. The PUB is seeking to have a new long-term rate plan developed that will insure that each utility is covering their cost of service and none is being subsidized. A number of different rate plans involving the funding of both the water wastewater operation and the surrounding Resaca maintenance has been evaluated by the project team, PUB staff and the Board of Directors.

The study's completion and rate plan implementation has been repeatedly delayed due to the lingering effects of COVID-19, which has significantly affected the Rio Grande Valley. The PUB Board and the City Commission adopted the proposed rate plan in 2022. It represented the first set of water and wastewater rate increases in several years.

**Client Contact:** Ms. Monica Garza Cavazos, Financial Manager  
1425 Robinhood Drive, Brownsville, TX 78521  
Tel #: (956) 983-6172 | Email: [mcavazos@brownsville-pub.com](mailto:mcavazos@brownsville-pub.com)

### City of Plano, TX | Water and Wastewater Cost of Service Rate Study; 2017, 2020, 2021, 2022

Willdan was engaged in April 2017 by the City of Plano, Texas to prepare a comprehensive water and wastewater rate study and long-term financial forecast for fiscal year 2017 and beyond. The City is approaching buildout and transitioning its water and wastewater utility to a mature, low-growth state. Additionally, the City must absorb significant expected increases from North Texas Municipal Water District. Finally, the City was weighing the prospect of diverting from a pay-as-you-go structure for funding capital improvements to a debt-funding alternative. Willdan's rate model provided potential impacts on financial indicators if the alternative was adopted and assisted management with its evaluation. The overall objective was to develop a long-term rate plan that will enable the City to fund these expenses while minimizing the impact on ratepayers. The City engaged Willdan again in 2020, 2021 and 2022 to prepare a new water and wastewater rate study, as a further sign of the high level of confidence the City continues to place in us. Each study resulted in a rate plan that was unanimously adopted by the City Council.

**Client Contact:** Mr. Mark Israelson, City Manager  
1520 K Avenue, Plano, Texas 75074  
Tel #: (972) 941-5112 | Email: [marki@plano.gov](mailto:marki@plano.gov)

### City of McKinney, TX | Water and Wastewater Cost of Service Rate Study; 2016, 2019, 2021

Willdan was engaged in 2016 and again in 2019 and 2021 to conduct a comprehensive review of the water and wastewater rates and complete a full cost of service rate study for the City of McKinney. The City has been experiencing significant growth in recent years, which has added to the challenge of maintaining a superior quality water system. Further, the City has had to absorb significant cost increases from its regional provider, North Texas Municipal Water District (NTMWD). Changes to the NTMWD contract and the City's CIP from the unprecedented growth required the City to review its rate studies every two years.

Each of the studies recommended a new comprehensive rate plan that will enable the City to fund its capital improvements and rate increases from NTMWD. The plans were very similar to each other but the needs of the CIP in particular required nominal changes to each rate plan. The City Council unanimously adopted the recommendations of each study.

**Client Contact:** Mr. Paul Grimes, City Manager  
222 N. Tennessee, McKinney, TX 75070  
Tel #: (972) 547-7510 | Email: [citymgr@mckinneytexas.org](mailto:citymgr@mckinneytexas.org)

### City of Port Arthur, TX | Water and Wastewater Rate Study; 2021

The City of Port Arthur engaged Willdan to conduct a comprehensive water and wastewater rate study and long-term financial plan. The City has undertaken a significant level of capital improvements, including the expansion of its primary water treatment plant. Further, its utility fund has been struggling in recent years and rate adjustments are required to eliminate support and subsidies from the general fund. The project team conducted a thorough analysis and has recommended a series of rate adjustments to fund both the capital improvements and restore financial health. Due to COVID-19 restrictions, the anticipated adoption of the proposed multi-year rate plan was deferred to early 2021, but was ultimately adopted by the City Council.

**Client Contact:** Mr. Donald Stanton, Director of Utilities  
444 4<sup>th</sup> St, Port Arthur Texas 77642  
Tel #: (409) 983-8226 | Email: [donald.stanton@portarthurtx.gov](mailto:donald.stanton@portarthurtx.gov)

# Financial Stability and Professional Liability Insurance

## Financial Stability

To establish our financial stability, we are providing the following information. Willdan Group, Inc. (WGI) has sustained a healthy financial performance record due to the outstanding performance of our operating divisions and a strong, dependable reputation in municipal consulting.

A snapshot of WGI's financial statistics have been provided to the right demonstrating our financial position and stability. As a publicly traded company (WLDN), must provide public financial information as required by the SEC.

**Additional detailed financial statements and annual reports are included on our webpage (<http://ir.willdangroup.com/>).**

Willdan Financial Services is not involved in an ongoing bankruptcy as a debtor, or in a reorganization, liquidation, or dissolution proceeding, current or pending litigation, planned office closures, impending merger, which could impede our ability to complete this engagement.

### Financial Stability

- In business for 57 years
- 1,400 employees, throughout the US
- Market capitalization of \$503M (as of end of 4<sup>th</sup> Quarter, 2020)
- 4<sup>th</sup> Quarter 2020 revenue \$50.8M
- Fiscal Year 2020 revenue of \$391M
- \$50 million Line of Credit with the ability to increase up to \$60 million (as of end of 1<sup>st</sup> Quarter, 2021)
- \$28.4M in cash and cash equivalents (as of end of 2020)

## Insurability

Provided below is a sample of a current certificate of insurance. With a rating of A+XV, Willdan maintains insurance from top-rated companies. Upon award of contract, a certificate of insurance and endorsements specific to the Water and Wastewater Rate Study engagement will be provided to the City.

ACORD		CERTIFICATE OF LIABILITY INSURANCE		DATE AND TIME OF ISSUE																																				
<p>THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S) AUTHORIZED REPRESENTATIVE OR PRODUCER AND THE CERTIFICATE HOLDER.</p> <p><b>IMPORTANT:</b> If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed if SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in favor of such endorsement(s).</p>				POLICY NUMBER: 57009032895 REVISION NUMBER:																																				
PROVIDER ADR 8184 Insurance Services West, Inc. 100 Wilshire Boulevard Suite 2800 Los Angeles, CA 90017-0460 USA		POLICY NO. (SIC) 281-7127 CLASSIFICATION: 8840-88-8025 MARKET:		INSURER(S) NUMBER A: Travelers Property Cas Co of America 21674 NUMBER B: The Travelers Indemnity Co of CT 21682 NUMBER C: Lexington Insurance Company 15937 NUMBER D: NUMBER E:																																				
INSURED Willdan Financial Services 27368 Via Industria Suite 200 Tomball, CA 92190 USA		REQUIRED BY CONTRACT OR STATUTE																																						
<p>COVERAGES</p> <table border="1"> <thead> <tr> <th>NO.</th> <th>TYPE OF COVERAGE</th> <th>CLASS CODE</th> <th>POLICY NUMBER</th> <th>ISSUANCE DATE</th> <th>EXPIRATION DATE</th> <th>AMOUNT</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>COMMERCIAL GENERAL LIABILITY</td> <td>9000</td> <td>PNL07119618112112</td> <td>11/09/2021</td> <td>11/09/2022</td> <td>\$1,000,000</td> </tr> <tr> <td>2</td> <td>PRODUCT LIABILITY</td> <td>9000</td> <td>818-78675514-21-81-G</td> <td>11/09/2021</td> <td>11/09/2022</td> <td>\$1,000,000</td> </tr> <tr> <td>3</td> <td>COMPLETED OPERATIONS</td> <td>9000</td> <td>USL161678214112</td> <td>11/09/2021</td> <td>11/09/2022</td> <td>\$1,000,000</td> </tr> <tr> <td>4</td> <td>ARCHITECTURAL</td> <td>9000</td> <td>028174912</td> <td>11/09/2021</td> <td>11/09/2022</td> <td>\$2,000,000</td> </tr> </tbody> </table>						NO.	TYPE OF COVERAGE	CLASS CODE	POLICY NUMBER	ISSUANCE DATE	EXPIRATION DATE	AMOUNT	1	COMMERCIAL GENERAL LIABILITY	9000	PNL07119618112112	11/09/2021	11/09/2022	\$1,000,000	2	PRODUCT LIABILITY	9000	818-78675514-21-81-G	11/09/2021	11/09/2022	\$1,000,000	3	COMPLETED OPERATIONS	9000	USL161678214112	11/09/2021	11/09/2022	\$1,000,000	4	ARCHITECTURAL	9000	028174912	11/09/2021	11/09/2022	\$2,000,000
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4	ARCHITECTURAL	9000	028174912	11/09/2021	11/09/2022	\$2,000,000																																		
CERTIFICATE HOLDER: Willdan Financial Services, 27368 Via Industria, Suite 200, Tomball, CA 92190 USA CANCELLATION: 30 DAYS ADV OF THE ABOVE DELIBERED POLICIES BE CANCELLED BASED ON THE COMPANY'S BEST INTERESTS. NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE: <i>Ann Reed Insurance Services West Inc.</i>																																								

# Exhibit C - Completed Cost Proposal Sheet

## Water, Wastewater, and Gas Rate Study

Every project is unique in terms of the scope, level of effort, travel, on-site time, challenges, and deliverables. We believe that we have properly considered all aspects of this engagement and have developed a fair and reasonable proposed price that reflects the total effort and ensures the production of a top-quality product. Provided below are our proposed project hours, professional fees, and expenses for this engagement. As the table shows, based on the scope of work described in this proposal, we are proposing professional fees and expenses for the scope of services contained in this proposal to be a **fixed fee of \$45,000**. The price is fully inclusive of all expenses and professional fees.

**This fee is significantly lower than the fee we assessed for our original rate study completed in 2018.** This is because the project team is familiar with the City, its operations and data, and our financial models have already been built and are operational. This means that we can work more effectively and efficiently than any of our competitors, because our service represents an update more than an original study.

The price is firm for a period of 90 days from the proposal closing date of March 23, 2023.

City of West University Place, Texas				
Water and Wastewater Rate Study				
Proposed Project Team Hours and Professional Fees				
	D. Jackson Project Manager	J. Gray Principal Consultant	D. Lanning Senior Project Analyst	Total Hours
	\$220	\$200	\$190	
<b>Scope of Services</b>				
Task I: Project Kick-off, Data Acquisition & Assessment	4.0	4.0	4.0	<b>12.0</b>
Task II: Demographic Analysis	4.0	6.0	6.0	<b>16.0</b>
Task III: Determine Revenue Requirements	4.0	8.0	12.0	<b>24.0</b>
Task IV: Determine User Characteristics & Customer Classes	4.0	8.0	12.0	<b>24.0</b>
Task V: Cost Functionalization, Classification & Allocation	4.0	8.0	12.0	<b>24.0</b>
Task VI: Alternative Rate Designs	4.0	8.0	8.0	<b>20.0</b>
Task VII: Prepare & Present Draft & Final Reports	4.0	8.0	8.0	<b>20.0</b>
Task VIII: Town Council Meetings	4.0	4.0	-	<b>8.0</b>
Task IX: Project Management & Quality Control	4.0	4.0	-	<b>8.0</b>
<b>Subtotal Hours</b>	<b>36.0</b>	<b>58.0</b>	<b>62.0</b>	<b>156.0</b>
Task I: Project Kick-off, Data Acquisition & Assessment	880	800	760	<b>2,440</b>
Task II: Demographic Analysis	880	1,200	1,140	<b>3,220</b>
Task III: Determine Revenue Requirements	880	1,600	2,280	<b>4,760</b>
Task IV: Determine User Characteristics & Customer Classes	880	1,600	2,280	<b>4,760</b>
Task V: Cost Functionalization, Classification & Allocation	880	1,600	2,280	<b>4,760</b>
Task VI: Alternative Rate Designs	880	1,600	1,520	<b>4,000</b>
Task VII: Prepare & Present Draft & Final Reports	880	1,600	1,520	<b>4,000</b>
Task VIII: Town Council Meetings	880	800	-	<b>1,680</b>
Task IX: Project Management & Quality Control	880	800	-	<b>1,680</b>
<b>Subtotal Professional Fees</b>	<b>7,920</b>	<b>11,600</b>	<b>11,780</b>	<b>\$ 31,300</b>
Travel and Production Expenses				<b>\$ 2,500</b>
<b>Total Cost</b>				<b>\$ 33,800</b>
Professional Fee Discount		14.2%		(4,800)
<b>Official Bid – Not to Exceed</b>				<b>\$ 29,000</b>



## Rates for Additional Services

### Hourly Rates

The table below outlines Willdan Financial Services' current hourly rates.

City of Tomball, TX Additional Services Fees	
Proposed Team Member	Hourly Rate
Dan V. Jackson	\$ 210
Jason Gray	\$ 200
Dan Lanning	\$ 175

## **Exhibit D – Additional Documents**

### **Conflict of Interest Form**

See Following Page:

**CONFLICT OF INTEREST QUESTIONNAIRE**  
**For vendor doing business with local governmental entity**

**FORM CIQ**

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.  
 This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).  
 By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.  
 A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

OFFICE USE ONLY
Date Received

**1** Name of vendor who has a business relationship with local governmental entity.

Willdan Financial Services

**2**  Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

**3** Name of local government officer about whom the information is being disclosed.

N/A

\_\_\_\_\_  
 Name of Officer

**4** Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

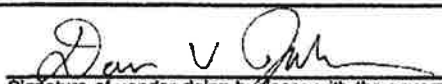
Yes  No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

Yes  No

**5** Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.

**6**  Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

**7**   
 Signature of vendor doing business with the governmental entity

03/15/2023

\_\_\_\_\_  
 Date

# Certificate of Interested Parties

See Following Page:

# CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.  
 Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

## OFFICE USE ONLY CERTIFICATION OF FILING

**1 Name of business entity filing form, and the city, state and country of the business entity's place of business.**  
 Willdan Financial Services  
 Plano, TX United States

**Certificate Number:**  
 2023-994842

**Date Filed:**  
 03/15/2023

**2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.**  
 City of Tomball

**Date Acknowledged:**

**3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.**  
 RFP 2023-09  
 Rate Study

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary

**5 Check only if there is NO interested Party.**



**6 UNSWORN DECLARATION**

My name is Dan Jackson, and my date of birth is 09/21/1960.

My address is 5500 Democracy Dr., Ste 130, Plano, TX, 75024, USA.  
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Collin County, State of Texas, on the 21 day of March, 2023.  
(month) (year)

  
 \_\_\_\_\_  
 Signature of authorized agent of contracting business entity  
(Declarant)

## Qualifications Highlight

### Willdan's Unique Approach

Willdan proposes to develop a *Microsoft Excel-based utility rate and financial planning model* that will allow the City to test a variety of “what-if” futures, whereby the City can change and *update assumptions related to growth, consumption patterns by customer and meter classifications, the capital improvement program, operational programs*, and a variety of other planning, engineering, and financial variables and predict the financial outcome of that scenario and its effect on utility rates. This is especially useful in testing the affordability of the capital improvement program, allowing the user to turn new projects “on or off” in the model, change the costing with updated information, delay their funding, or look at cash vs. debt vs. fee-funding alternatives and their impact on affordability.

Working with the professionals on our team and City staff, we will use advanced modeling techniques to test the City’s capital improvement program for prioritization, timing, and affordability of projects. In doing so, the City will be able to identify the resources available for implementing programs identified in the capital planning process. In the end, the process will allow the City to determine the optimum rate path for balancing the financial health of the system against political and other considerations, *such as conservation*.

We cannot emphasize strongly enough the need for, and benefit of, a properly constructed public involvement process to introduce the recommended rate plan to the public. The general public and elected officials are naturally going to be inclined to oppose rate plans that involve higher rates and fees; after all, no one wants to pay more for anything at any time for any reason. Therefore, the burden is on the City and its consulting team to present any proposed rate plan to the public in a manner that is both easily understandable and emphasizes the benefits of implementation (i.e., a better quality of service). **Consulting teams and rate plans that do not recognize both the need to present information in an understandable manner and take into account the sensitivity of ratepayers and elected bodies to cost increases are doomed to fail.**

With this in mind, we would note the following about our services and the deliverables we will prepare for the City:

- We take pride in the quality of our written reports. The intent is to make our reports readable and easily understandable to those who are not ratemaking or financial professionals. We are frequently complimented by clients who tell us that they understood both the major points of our analysis and the benefits of our proposed rate plans. We pledge to produce both a final report and presentations to the City that will result in a similar reaction.
- Many regard the process of rate studies as simply writing a report, dropping it off to the client, and leaving. Rate studies should be considered overall processes, the goal of which is to ultimately adopt a formal rate and financial plan. This involves far more than the completion of a report – the public involvement process is critical, and we will work tirelessly with staff to ensure that our recommended alternatives are successfully implemented.
- We also believe that our public presentations are of a superior quality, both in terms of overall presentation and understandability. Mr. Jackson has provided over 300 public presentations in his career, to such diverse clients as large cities and suburbs, border communities, and Pacific sovereign nations. He understands how to *make presentations to audiences that include utility customers and other lay persons*.

We take pride in the frequent compliments received from clients about the ease and understandability of our presentations, and the fact that they present critical information required to make decisions in a straightforward and easy to follow manner.

In conclusion, our project team offers the benefits of not only a first-rate analysis and model development, and a well written and easily understandable report, but also a public involvement process that is designed to successfully implement the results of the analysis.

## Rate and Financial Planning

During this project, we will be utilizing our Microsoft Excel-based model, with its interactive dashboard, as a comprehensive financial tool to allow planning and evaluation of variable inputs and assumptions, thereby *creating a thorough analysis of revenue requirements to address the City's goal of ensuring predictable and stable revenue*. These analyses are then seamlessly integrated with the rate development component of the model to demonstrate and project various rate design alternatives, and the effects they would have on the City's financial outlook.

The model is used in meetings, in order to efficiently cycle through rate scenarios and establish the most viable rate plans for the City. During these interactive meetings we invite City staff to participate in scenario planning/"what-if" sessions, where we use the dashboard to demonstrate and evaluate the financial/rate impact of alternative data (CIP, operating costs, etc.) and assumptions (interest rates, customer growth, cost escalation, etc.) in real-time to focus on the most critical drivers of the analysis. This ensures the resulting rate plan alternatives are viable from a financial, operational, managerial and political perspective. The rate plan alternatives will then be incorporated into the water and wastewater rate study report, which will provide the City every assumption, data item, and calculation used in the development of each rate plan alternative.

**The Financial Planning component of the model provides transparency such that users can develop a viable financial plan and understand the reasons for needed revenue adjustments.**

## Willdan Models Guide You to Your Optimal Solutions

### Real-Time Financial Modeling

The goal of financial forecasting is to provide clear vision regarding the potential financial outcomes of current management decisions. Our goal is to help you mold the existing knowledge base of the City into a viable financial management and rate plan. At Willdan, the development and use of real-time financial models in an interactive, collaborative process is an integral part of the model development.

### Model Development as Part of the Consulting Process

Each model is designed with the following elements:

- Graphical dashboard to clearly show the results of various scenarios to the user;
  - Assumptions;
  - Data tables; and
- Calculation engine.

Each model is "baselined" after an initial meeting with staff to ensure that we have the correct data and a basic understanding of the financial dynamics of your system. We will then conduct interactive financial planning sessions with City staff. After validating our data, calculation approach, and baseline assumptions, we will explore alternative scenarios, varying a number of assumptions and financial planning techniques:

- Rate increase magnitude and timing;
- Alternative timing of capital projects;
- Alternative financing options (alternative combinations of pay-as-you-go, revenue bond debt and State Revolving Fund (SRF) debt, for example);
- Alternative growth/demand forecasts and other "what-if" analyses, such as the impact of a loss of one or more service areas or addition of wholesale customers; and
- Effect of increases in other sources of funds, such as impact fees.

The model is self-solving through the use of controlled feedback loops, and therefore does not require significant manipulation by the user to solve correctly. Given any combination of cost requirements (both operating and capital), non-rate sources of funds, and forecast assumptions, rate increases are generated that:

- Meet specified reserve targets;

- Fully fund capital expenditures using specified financing techniques; and
- Meet legal and contractual requirements that are financially measurable, such as debt service coverage on revenue bonds.

Alternatively, the user can specify rate increases and then examine the results to determine if the desired/required parameters are met.

Subsequent to careful development and validation of the baseline forecast, a series of alternative forecasts will be prepared illustrating various results in the following general categories.

- **What if things turn out differently?** These alternatives will demonstrate the sensitivity of the forecast to the significant assumptions used. This results in a sound understanding of areas where a conservative forecast approach is warranted.
- **What happens when we try this?** This series of alternatives focuses on different financial management approaches.
- **What can we do to make it better?** This approach to forecasting identifies the factors that may be causing significant rate increases in a given year and explores alternatives. For example, if a large capital project in a single year is the culprit, we would work with staff and the consulting engineers to determine whether this project could be phased or delayed.

In like manner, the rate design model can be used to explore the impact of various rate structures on bills for each customer class over the relevant consumption range.







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972.378.6588

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# City Council Meeting Agenda Item Data Sheet

Meeting Date: April 17, 2023

**Topic:**

Approve Resolution Number 2023-23, a Resolution of the City Council of the City of Tomball, Texas approving the Amended and Restated Reimbursement Agreement for the Seven Oaks Public Improvement District Number 14.

**Background:**

Resolution Number 2023-23 approves an Amended and Restated Reimbursement Agreement for Seven Oaks, Public Improvement District 14 (PID 14). This amended and restated agreement reflects the total amount of reimbursement owed to the Developer pursuant to the final adoption of the Service and Assessment Plan, with a not-to-exceed amount of \$9,000,000.00 for PID eligible expenses.

The development of the PID complies with the requirements of the approved Development Agreement as approved by City Council on August 15, 2022, including the equivalent tax rate of \$0.72 per \$100 of assessed value.

PID Eligible Required Improvements	Non-PID Eligible Required Improvements
Paving	Paving (above the eligible reimbursement)
Water Distribution	Drainage (above the eligible reimbursement)
Sanitary Sewer	Softscapes (grading, drainage, irrigation & foliage)
Drainage	Hardscapes (concrete walks, playground, outdoor fitness stations & fencing)
Clearing & grubbing	Soft Cost (above the eligible reimbursement)
Detention & Grading	
Soft Cost (includes studies, review fees & permits)	

**Origination:** Project Management

**Recommendation:**

Staff recommends approving Resolution Number 2023-23 and authorizing the execution of the Amended and Restated Reimbursement Agreement for Seven Oaks, Public Improvement District Number 14.

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

**FUNDING (IF APPLICABLE)**

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

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

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

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

**RESOLUTION NO. 2023-23**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
TOMBALL, TEXAS APPROVING AN AMENDED AND  
RESTATED REIMBURSEMENT AGREEMENT RELATING TO  
THE SEVEN OAKS PUBLIC IMPROVEMENT DISTRICT.**

\* \* \* \* \*

**WHEREAS**, on August 15, 2022 the City Council passed and approved a resolution creating the Seven Oaks Public Improvement District (the “District”) covering approximately 19.34 acres of land described by metes and bounds in said Resolution (the “District Property”); and

**WHEREAS**, the purpose of the District is to finance public improvements (the “Authorized Improvements”) as provided by Chapter 372, Texas Local Government Code, as amended (the “PID Act”) that promote the interests of the City and confer a special benefit on the Assessed Property within the District; and

**WHEREAS**, the District Property is being developed in accordance with that certain “Seven Oaks Development Agreement,” executed by and between the Developer, and the City effective August 15, 2022 (the “Development Agreement”); and

**WHEREAS**, the District Property is being developed and special assessments will be levied against the Assessed Property (as to be defined in the SAP) within the District Property to pay the costs of certain authorized public improvements that confer a special benefit on the Assessed Property within the District Property; and

**WHEREAS**, HMH Tomball Townhomes, LLC a Texas limited (the “Developer”) is the developer of the District Property; and

**WHEREAS**, the City Council intends to pass and approve an Ordinance (the “Assessment Ordinance”) which, among other things, will approve a service and assessment plans (the “SAP”) that will levy Assessments on assessable property in the District, and establish the dates upon which interest on such Assessments will begin to accrue and collection of such assessments will begin; and

**WHEREAS**, from revenues received from the Assessments levied on property within each improvement area or phase of the District Property and pursuant to the SAP, the City intends to reimburse the Developer for all of a portion of the costs of certain public improvements (the “Authorized Improvements”) within the District pursuant to and in the manner set forth in a Reimbursement Agreement by and between the Developer and the City (the “Reimbursement Agreement”); and

**WHEREAS**, the City and the Developer previously entered into the Reimbursement Agreement on October 17, 2022 to evidence the City’s intention to reimburse the Developer for all or a portion of the costs of the Authorized Improvements from Assessments levied on assessable property within the District; and

**WHEREAS**, the City and Developer wish to amend and restated the Reimbursement Agreement to reflect the final amount of reimbursement due pursuant to such Agreement as set forth in the SAP approved by the Assessment Ordinance; **NOW, THEREFORE**

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

SECTION 1. The capitalized terms defined in the recitals to this Resolution are hereby approved and adopted as a part of this Resolution. Capitalized terms not herein defined are defined in the Reimbursement Agreement or in the SAP.

SECTION 2. The City Council hereby approves the Reimbursement Agreement in substantially the form attached hereto as **Exhibit A**, with such changes as may be approved by the City Manager, and authorizes the Mayor to execute and the City Secretary to attest such Agreement.

SECTION 3. This resolution shall take effect immediately from and after its passage by the City Council of the City.

**PASSED, APPROVED, AND RESOLVED** this \_\_\_ day of April 2023.

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Lori Klein Quinn  
Mayor

ATTEST:

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Tracylynn Garcia  
City Secretary

**AMENDED AND RESTATED SEVEN OAKS PUBLIC IMPROVEMENT DISTRICT  
REIMBURSEMENT AGREEMENT**

This Amended and Restated Seven Oaks Public Improvement District Reimbursement Agreement (this “Reimbursement Agreement”) is executed by and between the City of Tomball, Texas (the “City”) and HMH Tomball Townhomes, LLC, a Texas limited liability company, (the “Developer”) (individually referred to as a “Party” and collectively as the “Parties”) to be effective as of \_\_\_\_\_, 2023 (the “Effective Date”).

**RECITALS**

**WHEREAS**, capitalized terms used in this Reimbursement Agreement shall have the meanings given to them in this Reimbursement Agreement or in the *Seven Oaks Public Improvement District Service and Assessment Plan*, dated as of the date of its approval, as to be adopted by the City Council of the City, as the same may be amended, supplemented, and updated from time to time (the “SAP); and

**WHEREAS**, on August 15, 2022 the City Council passed and approved a resolution creating the Seven Oaks Public Improvement District (the “District”) covering approximately 19.34 acres of land described by metes and bounds in said Resolution (the “District Property”); and

**WHEREAS**, the purpose of the District is to finance public improvements (the “Authorized Improvements”) as provided by Chapter 372, Texas Local Government Code, as amended (the “PID Act”) that promote the interests of the City and confer a special benefit on the Assessed Property within the District; and

**WHEREAS**, the District Property is being developed in accordance with that certain “Seven Oaks Development Agreement,” executed by and between the Developer, and the City effective August 15, 2022 (the “Development Agreement”); and

**WHEREAS**, the City and the Developer previously entered into a Reimbursement Agreement dated October 17, 2022 (the “Original Reimbursement Agreement” ) and now wishes to amend and restate the Original Reimbursement Agreement through the approval of this Reimbursement ended Agreement to reflect the City’s approval of the SAP and the total amount of reimbursement owed to the Developer pursuant to the SAP; and

**WHEREAS**, the District Property is being developed and special assessments will be levied against the Assessed Property (as to be defined in the SAP) within the District Property to pay the costs of certain authorized public improvements that confer a special benefit on the Assessed Property within the District Property; and

**WHEREAS**, certain public improvements as to be identified in a SAP are to be constructed within the District Property (the “Public Improvements” to serve the District Property; and

**WHEREAS**, the City Council, on the effective date hereof, has passed and approved an ordinance (the “Assessment Ordinance”) which, among other things, has approved the final SAP,

(including the “Assessment Roll”), and levied assessments on property within the District (the “Assessments”) and has established the dates upon which interest on assessments will begin to accrue and collection of such assessments will begin; and

**WHEREAS**, the SAP identifies the Actual Costs of the Public Improvements (plus financing costs as set forth in the SAP) (the “Public Improvement Costs”) that are assessed against the Assessed Property in the District (the “Assessed Property); and

**WHEREAS**, the SAP allocates the Public Improvements Costs to the Assessed Property; and

**WHEREAS**, the Assessments are reflected on an Assessment Roll and, as approved by the City Council; and

**WHEREAS**, all revenue received and collected by the City from the collection of the Assessments (the “Assessment Revenue”) shall be deposited first for the payment of debt service on assessment revenue bonds issued with a pledge of such Assessment Revenue (“Future Bonds”) in accordance with a trust indenture relating to such Future Bonds (the “Bond Indenture”) and to and second, into a separate account, that is separate from all other funds of the City (the “Reimbursement Account”) and shall be used to reimburse Developer and its assigns for the Public Improvements Costs advanced in a principal amount as set forth in the Service and Assessment Plan but not to exceed \$3,483,000; and

**WHEREAS**, the obligations of the City to use the Assessment Revenue hereunder is authorized by the PID Act; and

**WHEREAS**, this Reimbursement Agreement is a “reimbursement agreement” authorized by Section 372.023(d)(1) of the PID Act; and

**WHEREAS**, at the discretion of the City and in accordance with the Development Agreement, as amended, the Developer and City may amend this Agreement and the Development Agreement as determined necessary by City’s bond counsel for issuance of any Future Bonds, for compliance with applicable law and for compliance with the obligations of the Parties under this Agreement.

**NOW, THEREFORE, FOR AND IN CONSIDERATION OF THE MUTUAL COVENANTS OF THE PARTIES SET FORTH IN THIS REIMBURSEMENT AGREEMENT AND FOR VALUABLE CONSIDERATION THE RECEIPT AND ADEQUACY OF WHICH ARE ACKNOWLEDGED, THE PARTIES AGREE AS FOLLOWS:**

1. The recitals in the “WHEREAS” clauses of this Reimbursement Agreement are true and correct, create obligations of the Parties, and are incorporated as part of this Reimbursement Agreement for all purposes.



2. Strictly subject to the terms, conditions, and requirements and solely from the revenues as herein provided and in accordance with the Development Agreement, the City agrees to pay the Developer and its assigns, and the Developer and its assigns shall be entitled to receive from the City, the amount equal to that portion of the Public Improvement Costs paid by the Developer as set forth in the Service and Assessment Plan that were within budgeted costs, plus interest on the unpaid balance as set forth in Section 2(a) below, in accordance with the terms of this Reimbursement Agreement for the term set forth herein, in principal amounts as set forth in the Service and Assessment Plan, such amount not to exceed \$3,483,000 (the “Reimbursement Amount), plus interest accrued as provided herein and in the Service and Assessment Plan. The City hereby covenants to create, concurrently with the execution of this Reimbursement Agreement, a separate account to be designated the “Reimbursement Account.” The Reimbursement Amount is payable from Assessment Revenue to be deposited in the Reimbursement Account as described below and in accordance with this Reimbursement Agreement and the Development Agreement.
  - a. The Reimbursement Amount is payable solely from: (i) Assessment Revenue received and collected by the City and deposited into the Reimbursement Account; (ii) the net proceeds (after funding reserve funds, and the payment of costs of issuance, including the costs paid or incurred by the City and City Administrative Expenses) of one or more series of bonds (the “Future Bonds”) issued by the City in accordance with the terms of the Development Agreement and secured by the Assessment Revenue; or (iii) a combination of items (i) and (ii) immediately above.
  - b. The Assessment Revenue shall be received, collected and deposited into the Reimbursement Account subject to the following limitations:
    - i. Calculation of the Assessments and the first Annual Installment for a Lot or Parcel shall begin as provided for in the SAP.
    - ii. The Assessments shall accrue interest at the rates set forth in this (iv) immediately below. Interest shall continue on the unpaid principal amount of the Assessments for a Lot until the earlier of (i) 30 years or the time period set forth in the SAP, or (ii) the issuance of any Future Improvement Bonds, or (iii) in the event the Future Bonds are not issued, until the Reimbursement Amount is paid in full pursuant to this Reimbursement Agreement.
    - iii. The Developer shall be reimbursed in a Reimbursement Amount as set forth in the Service and Assessment Plan, such amount not to exceed the principal amount of \$3,483,000 plus interest at the rate of 6.25% as set forth in the SAP, for the time period as set forth in the SAP, from the Reimbursement Account and as allowed under this Section. The

Reimbursement Amount as set forth in the Service and Assessment Plan shall control over any amount set forth in this Agreement.

- iv. The unpaid Reimbursement Amount shall bear simple interest per annum beginning on the date and at 6.25% as set forth in the SAP, as amended and updated, to reflect the Assessments which rate complies with Subsections 372.023(e)(1) and (e)(2) of the PID Act. Upon the issuance of Future Bonds for the payment of the Public Improvement Costs, the Assessments shall bear interest at the rate of the Bonds plus additional interest as set forth in the SAP, and interest on the Assessments pursuant to this section shall cease.
3. The Reimbursement Amount, plus the interest as described in Section 2(a)(iv) above, are collectively, the “Unpaid Balance.” The Unpaid Balance is secured by and payable solely from the Assessment Revenue received and collected by the City and deposited into the Reimbursement Account subject to Section 4 herein. No other City funds, revenue, taxes, or income of any kind shall be used to pay the Unpaid Balance, even if the Unpaid Balance is not paid in full by the Maturity Date. This Reimbursement Agreement shall not, under any circumstances, give rise to or create a charge against the general credit or taxing power of the City or a debt or other obligation of the City payable from any source other than Assessment Revenue received, collected and deposited into Reimbursement Account. The City covenants that it will comply with the provisions of this Reimbursement Agreement, the Development Agreement, and the PID Act, including provisions relating to the administration of the PID and the enforcement and collection of taxes and Assessments, and all other covenants provided therein. The City will take and pursue all actions permissible under the PID Act and all other laws or statutes, rules, or regulations of the State of Texas or the United States as the same may be amended, collectively the “Applicable Laws”) to cause the Assessments to be collected and the liens related to such Assessments to be enforced continuously, in the manner and to the maximum extent permitted by the Applicable Laws, and, to the extent permitted by Applicable Laws, to cause no reduction, abatement or exemption in the Assessments for so long as an Unpaid Balance remains outstanding under this Reimbursement Agreement. Notwithstanding its collection efforts, if the City fails to receive all or any part of the Assessment Revenue and, as a result, is unable to make transfers from the Reimbursement Account for payments to the Developer as required under this Reimbursement Agreement, such failure and inability shall not constitute a Failure or Default by the City under this Reimbursement Agreement.
  4. If Future Bonds are issued to reimburse the costs of the Public Improvements, the net proceeds of such Future Bonds shall be used, from time to time, first to pay the Unpaid Balance due to the Developer under this Reimbursement Agreement for the costs of Public Improvements and then to pay all or any portion of any Public Improvement Costs, as set forth in the SAP such that no Future Bonds issued to reimburse the costs of the Public

Improvements are issued unless the funds necessary to complete the Public Improvements are deposited with the net proceeds of the Future Bonds issued to reimburse the costs of the Public Improvements on the closing date of the Future Bonds.

5. Notwithstanding the foregoing, the Developer shall only be entitled to repayment of the Public Improvement Costs as set forth in the SAP. If the Public Improvement Costs are less than the amounts set forth in SAP, the Developer shall not be entitled to such excess amounts. The Parties acknowledge that upon the issuance of Future Bonds, the payment of bond proceeds to the Developer for reimbursement of the costs of the Public Improvements, and for any costs incurred in the administration and operation of the PID, shall be as set forth in and subject to the terms and provisions of the applicable Indenture relating to the Future Bonds, including the form of a certification for payment (a “Certification for Payment”) as provided in the applicable Indenture.
6. The Developer represents and warrants that it will not request payment with respect to any Public Improvement Costs that are not part of the Public Improvements identified in the SAP and it will follow all procedures set forth herein or in the applicable Indenture with respect to Certification for Payments (as defined in the applicable Indenture).
7. Payment of amounts due pursuant to this Reimbursement Agreement shall be after the City’s acceptance of the Public Improvements and completion of the Amenities (as defined in the Development Agreement) and submittal of sufficient documentation as reasonably determined by the City’s PID Administrator that reflect the Public Improvement Costs paid by Developer (a “Reimbursement Request”) in substantially the form attached hereto as Exhibit A as may be modified by the City’s PID administrator. Upon the issuance of Future Bonds, payment of the Public Improvement Costs shall be made pursuant to a Certificate for Payment as set forth in the applicable Indenture. Upon the issuance of Future Bonds, payment of the Public Improvement Costs shall be made pursuant to a Certificate for Payment as set forth in the applicable Indenture
8. The Developer has the right to convey, transfer, assign, mortgage, pledge, or otherwise encumber, in whole or in part without the consent of (but with written notice to) the City, the Developer’s right, title, or interest in the revenue streams identified in this Reimbursement Agreement including, but not limited to, any right, title, or interest of the Developer in and to payment of the Unpaid Balance (any of the foregoing, a “Transfer,” and the person or entity to whom the Transfer is made, a “Transferee”). Notwithstanding the foregoing, however, no Transfer shall be effective until five (5) days after Developer’s written notice of the Transfer is received by the City,. The City may rely on any notice of a Transfer received from the Developer without obligation to investigate or confirm the validity or occurrence of such Transfer. No conveyance, transfer, assignment, mortgage, pledge or other encumbrance shall be made by the Developer or any successor or assignee of the Developer that results in the City being an “obligated person” within the meaning of

Rule 15c2-12 of the United States Securities and Exchange Commission. The Developer waives all rights or claims against the City for any such funds provided to a third party as a result of a Transfer for which the City has received notice. The City shall not be required to make payments pursuant to this Reimbursement Agreement to more than two (2) parties. The City shall not make any representations or execute any consent to any assignment of this Reimbursement Agreement or any Assessment Revenues received hereunder.

9. The Developer represents that it is in compliance with all of its obligations required by the Development Agreement, and the City's ordinances and regulations.
10. The Developer represents that it has submitted and will obtain approval of the applicable construction plans for the Public Improvements from the appropriate departments of the City and from any other public entity or public utility from which such approval must be obtained. Nothing in this Reimbursement Agreement shall be construed as a grant of any development permit approval. The Developer further agrees that, subject to the terms hereof and of the Development Agreement, the Public Improvements constructed by the Developer have been or will be constructed in full compliance with approved construction plans and are or will be consistent with the Development Agreement and that the Developer shall supply the City with complete as-built plans upon final completion (meaning when the Public Improvements have been completed in accordance with the applicable City regulations and City approved plans and are ready for dedication to the City) of each Public Improvement constructed by the Developer.
11. The Developer shall not be relieved of its obligation to construct or cause to be constructed each Public Improvement and, upon completion, inspection and acceptance, convey each such Public Improvement to the City in accordance with the terms of this Reimbursement Agreement and the Development Agreement, even if there are insufficient funds in the Project Fund of the applicable Indenture or in the Reimbursement Account to pay the costs thereof. In any event, this Reimbursement Agreement shall not affect any obligation of the Developer under any other agreement to which the Developer is a party or any governmental approval which the Developer or land within the District is subject, with respect to the Public Improvements required in connection with the development of the land in the PID.
12. Within twenty (20) business days of receipt of any Reimbursement Request, the City's PID administrator shall either (i) approve and execute the Reimbursement Request and forward the same to the City for payment (from those funds available in the Reimbursement Account, as applicable), or (ii) in the event the City's PID administrator disapproves the Reimbursement Request, give written notification to the Developer of such disapproval, in whole or in part, of such Reimbursement Request, specifying the reasons for such disapproval and the additional requirements to be satisfied for approval of such Reimbursement Request. If a Reimbursement Request seeking reimbursement is approved

only in part, the City shall specify the extent to which the Reimbursement Request is approved and shall deliver such partially approved Reimbursement Request for payment.

13. The obligations of the City under this Reimbursement Agreement are non-recourse and payable only from the Reimbursement Account and such obligations do not create a debt or other obligation payable from any other City revenues, taxes, income, or property. None of the City or any of its elected or appointed officials or any of its officers or employees shall incur any liability hereunder to the Developer or any other party in their individual capacities by reason of this Reimbursement Agreement or their acts or omissions under this Reimbursement Agreement.
14. Nothing in this Reimbursement Agreement is intended to constitute a waiver by the City of any remedy the City may otherwise have outside this Reimbursement Agreement against the Developer, any Transferee, or any other person or entity involved in the design, construction or installation of the Public Improvements. The obligations of Developer hereunder shall be those as a Party hereto and not solely as an owner of property in the PID. Nothing herein shall be constructed, nor is intended, to affect the City's or Developer's rights and duties to perform their respective obligations under other agreements, regulations and ordinances.
15. This Reimbursement Agreement is being executed and delivered and is intended to be performed in the State of Texas. Except to the extent that the laws of the United States may apply to the terms hereof, the substantive laws of the State of Texas shall govern the validity, construction, enforcement, and interpretation of this Reimbursement Agreement. In the event of a dispute involving this Reimbursement Agreement, exclusive venue for such dispute shall lie in any court of competent jurisdiction in Harris County, Texas.
16. Any notice required or contemplated by this Reimbursement Agreement shall be signed by or on behalf of the Party giving the Notice, and shall be deemed effective as follows: (i) when delivered by a national company such as FedEx or UPS with evidence of delivery signed by any person at the delivery address regardless of whether such person was the named addressee; or (ii) 72 hours after the notice was deposited with the United States Postal Service, Certified Mail, Return Receipt Requested. Any Party may change its address by delivering written notice of such change in accordance with this section. All Notices given pursuant to this Section shall be addressed as follows:

To the City: City Manager  
401 Market Street  
Tomball, TX 77375

With a copy to: Attn: City Attorney  
Olson & Olson, LLP  
2727 Allen Parkway, Suite 600  
Houston, TX 77019

To the Developer: Attn: Chet Wignall  
History Maker Homes  
7906 N. Sam Houston Parkway West, Suite 102  
Houston, Texas 77064

With a copy to: Attn: Timothy Green  
c/o Coats Rose, P.C.  
9 Greenway Plaza, Suite 1000  
Houston, Texas 77046

17. Notwithstanding anything herein to the contrary, nothing herein shall otherwise authorize or permit the use by the City of the Assessments contrary to the provisions of the PID Act.

18. Remedies:

- a. If either Party fails to perform an obligation imposed on such Party by this Reimbursement Agreement (a "Failure") and such Failure is not cured after written notice and the expiration of the cure periods provided in this section, then such Failure shall constitute a "Default." Upon the occurrence of a Failure by a non-performing Party, the other Party shall notify the non-performing Party and all Transferees of the non-performing Party in writing specifying in reasonable detail the nature of the Failure. The non-performing Party to whom notice of a Failure is given shall have at least thirty (30) days from receipt of the notice within which to cure the Failure; however, if the Failure cannot reasonably be cured within thirty (30) days and the non-performing Party has diligently pursued a cure within such thirty (30) day period and has provided written notice to the other Party that additional time is needed, then the cure period shall be extended for an additional period of not to exceed thirty (30) days so long as the non-performing Party is diligently pursuing a cure. Any Transferee shall have the same rights as the Developer to enforce the obligations of the City under this Reimbursement Agreement and shall also have the right, but not the obligation, to cure any alleged Failure by the Developer within the same time periods that are provided to the

Developer. The election by a Transferee to cure a Failure by the Developer shall constitute a cure by the Developer but shall not obligate the Transferee to be bound by this Reimbursement Agreement with respect to Developer obligations under this Reimbursement Agreement unless the Transferee agrees to be bound.

b. Notwithstanding the foregoing, the following are Events of Default under this Reimbursement Agreement:

- i. The Developer shall fail to pay to the City any monetary sum hereby required of it pursuant to this Reimbursement Agreement or the Development Agreement as and when the same shall become due and payable and shall not cure such default within thirty (30) days after the later of the date on which written notice thereof is given by the City to the Developer, as provided in this Reimbursement Agreement. The Developer shall fail in any material respect to maintain any of the insurance or bonds required by this Reimbursement Agreement or the Development Agreement.
- ii. The Developer shall fail to comply in any material respect with any term, provision or covenant of this Reimbursement Agreement (other than the payment of money to the City), and shall not cure such failure within sixty (60) days after written notice thereof is given by the City to the Developer;
- iii. The filing by Developer of a voluntary proceeding under present or future bankruptcy, insolvency, or other laws respecting debtors, rights;
- iv. The consent by Developer to an involuntary proceeding under present or future bankruptcy, insolvency, or other laws respecting debtor's rights;
- v. The entering of an order for relief against Developer or the appointment of a receiver, trustee, or custodian for all or a substantial part of the property or assets of Developer in any involuntary proceeding, and the continuation of such order, judgment or degree unstayed for any period of ninety (90) consecutive days; OR
- vi. The failure by Developer or any Affiliate to pay Impositions, and Assessments on property owned by the Developer and/or any Affiliates within the PID (as defined in the Development Agreement), if such failure is not cured within thirty (30) days.
- vii. The Developer is in default under the Development Agreement after the expiration of any applicable cure period following written notice, if such written notice is required under the terms of the Development Agreement.
- viii. The Developer shall breach any material covenant or default in the performance of any material obligation hereunder.

- c. If the City is in Default, the Developer's sole and exclusive remedies shall be to: (1) seek a writ of mandamus to compel performance by the City; or (2) seek specific enforcement of this Reimbursement Agreement.
  - d. If the Developer is in Default, the City may pursue any legal or equitable remedy or remedies, including, without limitation, actual damages, and termination of this Reimbursement Agreement. The City shall not terminate this Reimbursement Agreement unless it delivers to the Developer a second notice expressly providing that the City will terminate within thirty (30) additional days. Termination or non-termination of this Reimbursement Agreement upon a Developer Event of Default shall not prevent the City from suing the Developer for specific performance, actual damages, excluding punitive, special and consequential damages, injunctive relief or other available remedies with respect to obligations that expressly survive termination. In the event the Developer fails to pay any of the expenses or amounts or perform any obligation specified in this Reimbursement Agreement or the Development Agreement, then to the extent such failure constitutes an Event of Default hereunder, the City may, but shall not be obligated to do so, pay any such amount or perform any such obligations and the amount so paid and the reasonable out of pocket costs incurred by the City in said performance shall be due and payable by the Developer to the City within thirty (30) days after the Developer's receipt of an itemized list of such costs.
  - e. No remedy herein conferred or reserved is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder now or hereafter existing at law or in equity.
  - f. The exercise of any remedy herein conferred or reserved shall not be deemed a waiver of any other available remedy.
19. **THE DEVELOPER SHALL ASSUME THE DEFENSE OF, AND INDEMNIFY AND HOLD HARMLESS THE CITY'S INSPECTOR, THE CITY EMPLOYEES, OFFICIALS, OFFICERS, REPRESENTATIVE AND AGENTS OF THE CITY AND EACH OF THEM (EACH AN "INDEMNIFIED PARTY") FROM AND AGAINST, ALL ACTIONS, DAMAGES, CLAIMS, LOSSES OR EXPENSE OF EVERY TYPE AND DESCRIPTION TO WHICH THEY MAY BE SUBJECT OR PUT, BY REASON OF, OR RESULTING FROM THE BREACH OF ANY PROVISIONS OF THIS REIMBURSEMENT AGREEMENT BY THE DEVELOPER, THE DEVELOPER'S NONPAYMENT UNDER CONTRACTS BETWEEN THE DEVELOPER AND ITS CONSULTANTS, ENGINEERS, ADVISORS, CONTRACTORS, SUBCONTRACTORS AND SUPPLIERS IN THE PROVISION OF THE PUBLIC IMPROVEMENTS CONSTRUCTED BY**



**DEVELOPER, OR ANY CLAIMS BY PERSONS EMPLOYED BY THE DEVELOPER RELATING TO THE CONSTRUCTION OF SUCH PROJECTS. NOTWITHSTANDING THE FOREGOING, NO INDEMNIFICATION IS GIVEN HEREUNDER FOR ANY ACTION, DAMAGE, CLAIM, LOSS OR EXPENSE DIRECTLY ATTRIBUTABLE TO THE WILLFUL MISCONDUCT OR GROSS NEGLIGENCE OF ANY INDEMNIFIED PARTY. THE CITY DOES NOT WAIVE ITS DEFENSES AND IMMUNITIES, WHETHER GOVERNMENTAL, SOVEREIGN, OFFICIAL OR OTHERWISE AND NOTHING IN THIS REIMBURSEMENT AGREEMENT IS INTENDED TO OR SHALL CONFER ANY RIGHT OR INTEREST IN ANY PERSON NOT A PARTY HERETO.**

20. To the extent there is a conflict between this Reimbursement Agreement and an Indenture securing the Future Bonds issued to reimburse the costs of the Public Improvements, the Indenture securing such Future Bonds shall control as the provisions relate to the Assessments. To the extent there is a conflict between this Reimbursement Agreement and the Development Agreement, this Reimbursement Agreement shall control.
21. The failure by a Party to insist upon the strict performance of any provision of this Reimbursement Agreement by the other Party, or the failure by a Party to exercise its rights upon a Default by the other Party shall not constitute a waiver of such Party's right to insist and demand strict compliance by such other Party with the provisions of this Reimbursement Agreement.
22. The City does not waive or surrender any of its governmental powers, immunities, or rights except to the extent permitted by law and necessary to allow the Developer to enforce its remedies under this Reimbursement Agreement.
23. Nothing in this Reimbursement Agreement, express or implied, is intended to or shall be construed to confer upon or to give to any person or entity other than the City and the Developer and its assigns any rights, remedies, or claims under or by reason of this Reimbursement Agreement, and all covenants, conditions, promises, and agreements in this Reimbursement Agreement shall be for the sole and exclusive benefit of the City and the Developer.
24. In this Reimbursement Agreement, time is of the essence and compliance with the times for performance herein is required.
25. The City represents and warrants that this Reimbursement Agreement has been approved by official action by the City Council of the City in accordance with all applicable public notice requirements (including, but not limited to, notices required by the Texas Open Meetings Act) and that the individual executing this Reimbursement Agreement on behalf of the City has been duly authorized to do so. The Developer represents and warrants that this Reimbursement Agreement has been approved by appropriate action of the Developer,

and that the individual executing this Reimbursement Agreement on behalf of the Developer has been duly authorized to do so. Each Party respectively acknowledges and agrees that this Reimbursement Agreement is binding upon such Party and is enforceable against such Party, in accordance with its terms and conditions and to the extent provided by law.

26. This Reimbursement Agreement represents the entire agreement of the Parties and no other agreement, statement or promise made by any Party or any employee, officer or agent of any Party with respect to any matters covered hereby that is not in writing and signed by all the Parties to this Agreement shall be binding. This Reimbursement Agreement shall not be modified or amended except in writing signed by the Parties. If any provision of this Reimbursement Agreement is determined by a court of competent jurisdiction to be unenforceable for any reason, then: (a) such unenforceable provision shall be deleted from this Reimbursement Agreement; and (b) the remainder of this Reimbursement Agreement shall remain in full force and effect and shall be interpreted to give effect to the intent of the Parties.
27. This Reimbursement Agreement may be executed in any number of counterparts, each of which shall be deemed an original.
28. The term of this Reimbursement Agreement is the earlier of (i) one year following the last Annual Installment of an Assessment is collected, (ii) the payment or redemption of the Reimbursement Amount, or (iii) termination pursuant to an Event of Default, whichever occurs first. If the Developer defaults under the Development Agreement or this Reimbursement Agreement, the Development Agreement nor this Reimbursement Agreement shall not terminate with respect to the costs of the Public Improvements that have been approved by the City pursuant to an approved Certification for Payment or Reimbursement Request prior to the date of default. Upon the expiration of the term of this Reimbursement Agreement pursuant to this Section, this Reimbursement Agreement shall terminate.
29. Any amounts or remedies due pursuant to this Reimbursement Agreement are not subject to acceleration.
30. The Developer hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and, to the extent this Reimbursement Agreement is a contract for goods or services, will not boycott Israel during the term of this Reimbursement Agreement. The foregoing verification is made solely to comply with Section 2271.002, Texas Government Code, and to the extent such Section does not contravene applicable Federal law. As used in the foregoing verification, 'boycott Israel' means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in

Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. The Developer understands "affiliate" to mean an entity that controls, is controlled by, or is under common control with the Developer and exists to make a profit.

31. The Developer hereby represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer's internet website: <https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf>, <https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>, or <https://comptroller.texas.gov/purchasing/docs/fto-list.pdf>. The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal law and excludes the Developer and each of its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Developer understands "affiliate" to mean any entity that controls, is controlled by, or is under common control with the Developer and exists to make a profit.
32. Firearms. To the extent this Reimbursement Agreement constitutes a contract for goods or services for which a written verification is required under Section 2274.002 (as added by Senate Bill 19 in the 87th Texas Legislature, Regular Session), Texas Government Code, as amended, the Developer hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate during the term of this Reimbursement Agreement against a firearm entity or firearm trade association. The foregoing verification is made solely to enable the Issuer to comply with such Section and to the extent such Section does not contravene applicable Texas or federal law. As used in the foregoing verification, 'discriminate against a firearm entity or firearm trade association' (A) means, with respect to the firearm entity or firearm trade association, to (i) refuse to engage in the trade of any goods or services with the firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association, (ii) refrain from continuing an existing business relationship with the firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association, or (iii) terminate an existing business relationship with the firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association and (B) does not include (i) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories and (ii) a company's refusal to engage in the trade of any goods or services, decision to refrain from continuing

an existing business relationship, or decision to terminate an existing business relationship (aa) to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency or (bb) for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity's or association's status as a firearm entity or firearm trade association. As used in the foregoing verification, (b) 'firearm entity' means a manufacturer, distributor, wholesaler, supplier, or retailer of firearms (i.e., weapons that expel projectiles by the action of explosive or expanding gases), firearm accessories (i.e., devices specifically designed or adapted to enable an individual to wear, carry, store, or mount a firearm on the individual or on a conveyance and items used in conjunction with or mounted on a firearm that are not essential to the basic function of the firearm, including detachable firearm magazines), or ammunition (i.e., a loaded cartridge case, primer, bullet, or propellant powder with or without a projectile) or a sport shooting range (as defined by Section 250.001, Texas Local Government Code), and (c) 'firearm trade association' means a person, corporation, unincorporated association, federation, business league, or business organization that (i) is not organized or operated for profit (and none of the net earnings of which inures to the benefit of any private shareholder or individual), (ii) has two or more firearm entities as members, and (iii) is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c) of that code. The Developer understands "affiliate" to mean an entity that controls, is controlled by, or is under common control with the Developer within the meaning of SEC Rule 133(f), 17 C.F.R. §230.133(f), and exists to make a profit

33. Petroleum. To the extent this Reimbursement Agreement constitutes a contract for goods or services for which a written verification is required under Section 2274.002 (as added by Senate Bill 13 in the 87th Texas Legislature, Regular Session), Texas Government Code, as amended, the Developer hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott energy companies and will not boycott energy companies during the term of this Reimbursement Agreement. The foregoing verification is made solely to enable the Issuer to comply with such Section and to the extent such Section does not contravene applicable Texas or federal law. As used in the foregoing verification, "boycott energy companies" shall mean, without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company (A) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and to meet environmental standards beyond applicable federal and state law; or (B) does business with a company described by (A) above. The Developer understands "affiliate" to mean an entity that controls, is controlled by, or is under common control with the Developer within the meaning of SEC Rule 133(f), 17 C.F.R. §230.133(f), and exists to make a profit

34. Affiliate. As used in Sections 30 through 33, the Developer understands 'affiliate' to mean an entity that controls, is controlled by, or is under common control with the Developer within the meaning of SEC Rule 405, 17 C.F.R. § 230.405, and exists to make a profit.
35. Submitted herewith is a completed Form 1295 generated by the Texas Ethics Commission's (the "TEC") electronic filing application in accordance with the provisions of Section 2252.908 of the Texas Government Code and the rules promulgated by the TEC (the "Form 1295"). The City hereby confirms receipt of the Form 1295 from the Developer and the City agrees to acknowledge such form with the TEC through its electronic filing application system not later than the 30<sup>th</sup> day after receipt of such form. The Parties understand and agree that, with the exception of information identifying the City and the contract identification number, neither the City nor its consultants are responsible for the information contained in the Form 1295; that the information contained in the Form 1295 has been provided solely by Developer; and, neither the City nor its consultants have verified such information.

[SIGNATURE PAGES TO FOLLOW]

Executed by Developer and City to be effective on the Effective Date.

ATTEST:

**CITY OF TOMBALL**

\_\_\_\_\_  
City Secretary

\_\_\_\_\_  
Mayor

**DEVELOPER**

HMH TOMBALL TOWNHOMES, LLC.

By: \_\_\_\_\_

Name: Michael J Pizzitola

Title: Vice President

## EXHIBIT A

### REIMBURSEMENT REQUEST

(To be used if no Future Bonds are outstanding and as may be modified by the City's PID administrator)

Reference is made to that certain PID Reimbursement Agreement by and between the City and HMH Tomball Townhomes, LLC a Texas limited liability company (the "Developer") and requests payment to the Developer (or to the person designated by the Developer) from Phase \_\_ Assessment Revenues in the amount of \_\_\_\_\_ (\$\_\_\_\_\_) for labor, materials, fees, and/or other general costs related to the creation, acquisition, or construction of certain Public Improvements within the Seven Oaks Public Improvement District.

In connection with the above referenced payment, the Developer represents and warrants to the City as follows:

1. The undersigned is a duly authorized officer of the Developer, is qualified to execute this Reimbursement Request on behalf of the Developer, and is knowledgeable as to the matters set forth herein.
2. The itemized payment requested for the attached Public Improvements to be paid from Assessment Revenues has not been the subject of any prior payment request submitted for the same work to the City or, if previously requested, no disbursement was made with respect thereto.
3. The itemized amounts listed for the Public Improvements in the attached spreadsheet and accurate representation of the Public Improvements associated with the creation, acquisition, or construction of said Public Improvements and such costs (i) are in compliance with the Development Agreement and the PID Reimbursement Agreement and (ii) are consistent with and within the cost identified for such Public Improvements as set forth in the Service and Assessment Plan.
4. The Developer is in compliance with the terms and provisions of the Development Agreement, the PID Reimbursement Agreement, and the Service and Assessment Plan.
5. The Developer has timely paid all ad valorem taxes and Annual Installments of Assessments it owes or an entity the Developer controls owes, located in the Seven Oaks Public Improvement District and has no outstanding delinquencies.
6. All conditions set forth in the Reimbursement Agreement and the Development Agreement for the payment hereby requested have been satisfied.
7. The work with respect to Public Improvements included herein has been completed, and the City has inspected such Public Improvements.



8. The Developer agrees to cooperate with the City in conducting its review of the requested payment, and agrees to provide additional information and documentation as is reasonably necessary for the City to complete said review.

9. No more than ninety percent (90%) of the budgeted or contracted costs for the Public Improvements identified may be paid until the work with respect to such Public Improvements (or segment) has been completed and the City has accepted such Public Improvements (or segment).

Attached hereto are receipts, purchase orders, change orders, and similar instruments which support and validate the above requested payments. Also attached hereto are **“bills paid” affidavits and supporting documentation** in the standard form for City construction projects.

Pursuant to the Development Agreement, after receiving this payment request, the City has inspected the Public Improvements and confirmed that said work has been completed in accordance with approved plans and all applicable governmental laws, rules, and regulations.

**[ATTACH SPREADSHEET IN FORM APPROVED BY CITY’S PID ADMINISTRATOR]**

**APPROVAL OF REQUEST**

The City is in receipt of the attached Reimbursement Request, acknowledges the Reimbursement Request, and finds the Reimbursement Request to be in order. After reviewing the Reimbursement Request, the City approves the Reimbursement Request and authorizes and directs payment of the amounts set forth below from the appropriate account. The City’s approval of the Reimbursement Request shall not have the effect of estopping or preventing the City from asserting claims under the Development Agreement, the PID Reimbursement Agreement, the Service and Assessment Plan, or any other agreement between the parties or that there is a defect in Public Improvements.

**CITY OF TOMBALL, TEXAS**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



**x**

Exhibit B





# City Council Meeting

## Agenda Item

### Data Sheet

Meeting Date: April 17, 2023

**Topic:**

Approve a contract with Landmark Structures I, LP for the construction of the Grand Parkway Elevated Storage Tank for E&P Project 2021-10053 (Bid 2023-03) for a not-to-exceed amount of \$5,178,000, authorize the expenditure of funds therefor, and authorize the City Manager to execute contract. The amount is included in the Fiscal Year 2022-2023 budget.

**Background:**

Staff contracted with Freese & Nichols to complete the design of the Grand Parkway elevated storage tank. Based on the design contractors were pre-qualified to submit bids based on their experience and ability. To obtain the most favorable pricing, sealed bids were solicited from the pre-qualified contractors for the completion of the construction with bid information available online through CivCast or in person at the Freese & Nichols office. A total of two (2) bids were received, with the lowest responsible bidder identified as Landmark Structures I, LP for a total bid of \$5,178,000, for all the work identified in the bid specifications.

As agreed, in the Development Agreement for Lovett Industrial, the City will construct a 1.0MG Elevated Storage Tank (EST) and approximately 500LF of 16-inch water line to connect the existing 12-inch line near the site location, with Lovett Industrial funding 50% of the cost of the engineering and construction. The City will fund the remaining 50% of the project.

Funds for completing the proposed project were allocated in the Fiscal Year 2022-2023 budget.

**Origination:** Public Works Department

**Recommendation:**

Staff recommends approving the City Manager to execute a contract with Landmark Structures I, LP for the construction of the Grand Parkway Elevated Storage Tank, for a not-to-exceed amount of \$5,178,000.

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

**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: #730-731-6409

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

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





3/20/2023

David Esquivel  
 City Manager  
 City of Tomball  
 501 James St.  
 Tomball, TX 77375

**Grand Parkway Elevated Storage Tank**

Dear Mr. Esquivel:

Listed below is the summary of bids for the Grand Parkway Elevated Storage Tank (EST) Project. A total of two bid proposals were received on February 16, 2023.

Summary of Bids:

	<b>Landmark Structures</b>	<b>Phoenix Fabricators and Erectors, LLC</b>	<b>Engineer's Estimate</b>
Base Bid	\$5,008,100.00	\$5,672,400.00	\$7,199,500.00
Allowances	\$115,000.00	\$115,000.00	\$115,000.00
Extra Work	\$54,900.00	\$37,600.00	\$32,500.00
<b>Base Bid Total</b>	<b>\$5,178,000.00</b>	<b>\$5,825,000.00</b>	<b>\$7,347,000.00</b>
1.25 MG Alternate Bid	\$469,000.00	\$489,000.00	\$800,000
<b>Alternate Bid Total</b>	<b>\$5,674,000.00</b>	<b>\$6,314,000.00</b>	<b>\$8,227,000.00</b>

A copy of the bid tabulation is attached for your use and information.

Landmark Structures is a pre-approved tank manufacturer and is listed in the project specifications. Freese and Nichols has worked with Landmark on many elevated tank projects in the last five years and believe they have the capability to construct this project. We recommend awarding the construction contract for the Grand Parkway Elevated Storage Tank Project to Landmark Structures in the amount of \$5,178,000.00 for the Base Bid based on the City's evaluation of the latest projections of the water model for the City's system.

Please call me at (832) 456-4745 if you have any questions.

Sincerely,

Freese and Nichols, Inc.



Jared Barber, P.E.  
 Project Manager

Attachments – Certified Bid Tabulation

City of Tomball - Grand Parkway Elevated Storage Tank  
 ID: TMB22208

Item	Description	Unit	Quantity	Landmark Structures	Total	Phoenix Fabricators & Erectors, Inc	Total
<b>Base Bid</b>							
<b>BASE BID</b>							
1	MOBILIZATION (MAX 3%)	LS	1.00	\$30,000.00	\$30,000.00	\$150,000.00	\$150,000.00
2	STORM WATER POLLUTION PREVENTION PLAN	LS	1.00	\$10,000.00	\$10,000.00	\$14,000.00	\$14,000.00
3	GRADING	LS	1.00	\$67,000.00	\$67,000.00	\$32,400.00	\$32,400.00
4	STORM DRAINAGE	LS	1.00	\$80,000.00	\$80,000.00	\$48,000.00	\$48,000.00
5	6" CONCRETE PAVEMENT	SY	195.00	\$150.00	\$29,250.00	\$250.00	\$48,750.00
6	CHAIN LINK FENCING	LF	562.00	\$40.00	\$22,480.00	\$80.00	\$44,960.00
7	DOUBLE SWING GATE	EA	1.00	\$2,000.00	\$2,000.00	\$6,300.00	\$6,300.00
8	CANTILIEVER SLIDE GATE	EA	1.00	\$4,000.00	\$4,000.00	\$31,700.00	\$31,700.00
9	TEMPORARY CONSTRUCTION ROAD (FLEXBASE)	SY	465.00	\$85.00	\$39,525.00	\$45.00	\$20,925.00
10	HYDROMULCH SEEDING	AC	1.00	\$2,000.00	\$2,000.00	\$4,400.00	\$4,400.00
11	1.00 MG COMPOSITE ELEVATED STORAGE TANK	LS	1.00	\$4,128,000.00	\$4,128,000.00	\$4,520,415.00	\$4,520,415.00
12	ACTIVE MIXING SYSTEM	LS	1.00	\$20,000.00	\$20,000.00	\$30,000.00	\$30,000.00
13	YARD PIPING AND APPURTENANCES	LS	1.00	\$160,000.00	\$160,000.00	\$123,000.00	\$123,000.00
14	TRENCH SAFETY	LF	450.00	\$2.00	\$900.00	\$5.00	\$2,250.00
15	CONNECTION TO EXISTING 16" WL	LS	1.00	\$3,000.00	\$3,000.00	\$42,000.00	\$42,000.00
16	FIRE HYDRANT ASSEMBLY	EA	1.00	\$9,945.00	\$9,945.00	\$13,300.00	\$13,300.00
17	ELECTRICAL	LS	1.00	\$250,000.00	\$250,000.00	\$350,000.00	\$350,000.00
18	INSTRUMENTATION & CONTROL	LS	1.00	\$150,000.00	\$150,000.00	\$190,000.00	\$190,000.00
Sub Totals					\$5,008,100.00		\$5,672,400.00
<b>ALLOWANCES</b>							
19	OWNER DIRECTED ITEMS	LS	1.00	\$100,000.00	\$100,000.00	\$100,000.00	\$100,000.00
20	TANK LOGO	LS	1.00	\$15,000.00	\$15,000.00	\$15,000.00	\$15,000.00
Sub Totals					\$115,000.00		\$115,000.00
<b>EXTRA UNIT ITEMS</b>							
21	EXTENSION OF 16" YARD PIPING AND CONNECTION TO 12" WL	LS	1.00	\$40,000.00	\$40,000.00	\$25,000.00	\$25,000.00
22	EXCAVATION AROUND OBSTRUCTIONS	CY	100.00	\$25.00	\$2,500.00	\$33.00	\$3,300.00
23	EXTRA HAND EXCAVATION	CY	100.00	\$25.00	\$2,500.00	\$33.00	\$3,300.00
24	EXTRA MACHINE EXCAVATION	CY	100.00	\$15.00	\$1,500.00	\$21.00	\$2,100.00
25	EXTRA PLACEMENT OF BACKFILL MATERIAL	CY	100.00	\$24.00	\$2,400.00	\$14.00	\$1,400.00
26	EXTRA PLACEMENT OF GRANULAR BACKFILL	CY	100.00	\$60.00	\$6,000.00	\$25.00	\$2,500.00
Sub Totals					\$54,900.00		\$37,600.00
<b>ALTERNATE BID</b>							
27	ADDITIONAL COST FOR 1.25 MG COMPOSITE ELEVATED STORAGE TANK	LS	1.00	\$496,000.00	\$496,000.00	\$489,000.00	\$489,000.00
Sub Totals					\$496,000.00		\$489,000.00
Grand Total					\$5,674,000.00		\$6,314,000.00

Document 00520

**AGREEMENT**

**Project:** Grand Parkway Elevated Storage Tank

**Project Location:** 14632 Boudreaux Rd Tomball, TX

**Project Bid No:** 2023-03

**E&P Project No:** 2021-10053

**The City:** The City of Tomball, County of Harris, Texas

and

**Contractor:** Landmark Structures I, LP

(Address for Written Notice) 1665 Harmon Road, Fort Worth, Texas 76177

**Fax Number:** 817-230-2070

**Public Works Director is:** Drew Huffman

501 James Street, Tomball, TX 77375

**Fax Number:** 281-351-4735

**THE CITY AND CONTRACTOR AGREE AS FOLLOWS:**

**ARTICLE 1**

**THE WORK OF THE CONTRACT**

1.1 Contractor shall perform the Work in accordance with the Contract.

**ARTICLE 2**

**CONTRACT TIME**

2.1 Contractor shall achieve Date of Substantial Completion within **540** days after Date of Commencement of the Work, subject to adjustments of Contract Time as provided in the Contract.

2.2 The Parties recognize that time is of the essence for this Agreement and that the City will suffer financial loss if the Work is not completed within the Contract Time. Parties also recognize delays, expense, and difficulties involved in proving in a legal or arbitration proceeding actual loss suffered by the City if the Work is not completed on time. Accordingly, instead of requiring any such proof, the Parties

00520-1  
03-30-2020

**AGREEMENT**

agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay the City the amount stipulated in Document 00800 – Supplementary Conditions, for each day beyond Contract Time.

**ARTICLE 3  
CONTRACT PRICE**

3.1 Subject to terms of the Contract, the City will pay Contractor in current funds for Contractor's performance of the Contract, Contract Price of \$[ 5,178,000.00 ], which includes Alternates, if any, accepted below.

3.2 The City accepts Alternates as follows:  
The City does not accept any alternates.

**ARTICLE 4  
PAYMENTS**

4.1 The City will make progress payments to Contractor as provided below and in the General Conditions.

4.2 The Period covered by each progress payment is one calendar month ending on the [ ] 10th, [ ] 20th, or [X] last day of the month.

4.3 The Schedule of Values established as provided in paragraph 2.07.A of the General Conditions will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments on account of Unit Price Work will be based on the number of units completed. The City will make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment as provided below in paragraphs 4.3.1 and 4.3.2.

4.3.1 Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Engineer may determine or City may withhold, in accordance with paragraph 14.02 of the General Conditions:

- a. For contracts under \$400,000.00, 90% of Work completed (with the balance being retainage).  
For contracts over \$400,000.00, 95% of Work completed (with the balance being retainage.)
- b. For contracts under \$400,000.00, 90% (with the balance being retainage) and for contracts over \$400,000.00, 95% (with the balance being retainage) of materials and equipment not incorporated in the Work (but delivered, suitably stored and accompanied by documentation satisfactory to the City as provided in paragraph 14.02 of the General Conditions).

00520-2  
02-24-2020

4.3.2 Upon Substantial Completion, the City shall pay an amount sufficient to increase total payments to Contractor to 95% of the Work completed, less such amounts as Engineer shall determine in accordance with paragraph 14.02.B.5 of the General Conditions and less 100% of Engineer's estimate of the value of Work to be completed or corrected as shown on the tentative list of items to be completed or corrected attached to the Certificate of Substantial Completion.

4.4 Final payment, constituting entire unpaid balance of Contract Price, will be made by the City to Contractor as provided in the General Conditions.

**ARTICLE 5  
CONTRACTOR REPRESENTATIONS**

5.1 Contractor represents:

5.1.1 Contractor has examined and carefully studied Contract documents and other related data identified in Bid Documents.

5.1.2 Contractor has visited the site and become familiar with and is satisfied as to general, local, and site conditions that may affect cost, progress, and performance of the Work.

5.1.3 Contractor is familiar with and is satisfied as to all federal, state, and local laws and regulations that may affect cost, progress, and performance of the Work.

5.1.4 Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the site (except Underground Facilities) which have been identified in Contract documents and (2) reports and drawings of a hazardous environmental condition, if any, at the site which has been identified in Contract documents.

5.1.5 Contractor has obtained and carefully studied (or assumes responsibility for having done so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, including applying specific means, methods, techniques, sequences, and procedures of construction, if any, expressly required by the Contract to be employed by Contractor, and safety precautions and programs incident thereto

5.1.6 Contractor does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for performance of the Work at Contract Price, within Contract Time, and in accordance with the Contract.

00520-3  
03-30-2020

**AGREEMENT**

- 5.1.7 Contractor is aware of general nature of work to be performed by the City and others at the site that relates to the Work as indicated in Contract documents.
- 5.1.8 Contractor has correlated information known to Contractor, information and observations obtained from visits to the site, reports and drawings identified in the Contract, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract.
- 5.1.9 Contractor has given City Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract, and written resolution thereof by City Engineer is acceptable to Contractor.
- 5.1.10 Contract documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

**ARTICLE 6**

**MISCELLANEOUS PROVISIONS**

- 6.1 The Contract may be terminated by either Party as provided in Conditions of the Contract.
- 6.2 The Work may be suspended by the City as provided in Conditions of the Contract.

**ARTICLE 7**

**ENUMERATION OF CONTRACT DOCUMENTS**

- 7.1 The following documents are incorporated into this Agreement:
  - 7.1.1 Document 00700 - General Conditions
  - 7.1.2 Document 00800 - Supplementary Conditions
  - 7.1.3 General Requirements.
  - 7.1.4 Divisions 02 through 16 of Specifications attached hereto or incorporated by reference in Document 00010 - Table of Contents.
  - 7.1.5 Drawings listed in Document 00015 - List of Drawings and bound separately.
  - 7.1.6 Addenda which apply to the Contract, are as follows:
    - Addendum No. 1, dated [ February 7, 2023 ]
    - Addendum No. 2, dated [ February 14, 2023 ]
  - 7.1.7 Other documents:

<u>Document No.</u>	<u>Title</u>
[ X ] 00410B	Bid Form – Part B
[ X ] 00500	Form of Business
[ X ] 00501	Resolution of Corporation (if a corporation)
[ X ] 00610	Performance Bond

00520-4  
02-24-2020

- |                                     |       |                                                                     |
|-------------------------------------|-------|---------------------------------------------------------------------|
| <input checked="" type="checkbox"/> | 00611 | Statutory Payment Bond                                              |
| <input checked="" type="checkbox"/> | 00612 | One-year Maintenance Bond                                           |
| <input checked="" type="checkbox"/> | 00620 | Affidavit of Insurance (with the Certificate of Insurance attached) |
| <input checked="" type="checkbox"/> | 00800 | Exhibit A, Wage Rates                                               |
| <input type="checkbox"/>            | 00821 | Wage Rate for Building Construction                                 |
| <input type="checkbox"/>            | 00830 | Trench Safety Geotechnical Information                              |

**ARTICLE 8**

**SIGNATURES**

8.1 This Agreement is executed in two originals and is effective on \_\_\_\_\_.

00520-5  
03-30-2020

**AGREEMENT**

**CONTRACTOR:** Landmark Structures I, LP

(If Joint Venture) **N/A - Landmark is a Limited Partnership**

By:   
Name: Christopher Lamon  
Title: CEO  
Date: \_\_\_\_\_  
Tax Identification Number: 98-0226458

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_  
Tax Identification Number: \_\_\_\_\_

ATTEST/SEAL:

[SEAL]

Attest:   
**Linda E. Santiago - Pre-Construction Coordinator**

Date: \_\_\_\_\_

**CITY OF TOMBALL, TEXAS:**

By: \_\_\_\_\_  
City Manager

Date: \_\_\_\_\_

ATTEST/SEAL:

[SEAL]

Attest: \_\_\_\_\_  
City Secretary

Date: \_\_\_\_\_

END OF DOCUMENT



# City Council Meeting Agenda Item Data Sheet

Meeting Date: April 17, 2023

**Topic:**

Discussion, direction, and possible action regarding Legislative Items at the 2023 Texas Legislative Session.

**Background:**

The 88<sup>th</sup> Session of the Texas Legislature began on Jan. 10, 2023, with early bill filing beginning in Nov. 2022. Since the Session began, 6,754 House bills have been filed and 3,142 Senate bills have been filed, for a total of 9,896 filed pieces of legislation.

Thousands of filed bills impact Texas cities in a variety of ways, including limiting local authority on key issues such as community development and land use, public safety, transparency, finance and revenue, and more.

This item is to provide Council an update on legislative activity since the last Council meeting and receive direction on any actions needed.

**Origination:** City Manager’s Office

**Recommendation:**

N/A

**Party(ies) responsible for placing this item on agenda:** Jessica Rogers, Assistant City Manager

**FUNDING (IF APPLICABLE)**

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

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

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

**Signed:** Jessica Rogers 4/12/2023 **Approved by:** \_\_\_\_\_  
Staff Member Date City Manager Date

# City Council Meeting

## Agenda Item

### Data Sheet

Meeting Date: \_\_\_\_\_

**Topic:**

Approve request from Tomball Rotary Club for City Support and In-Kind Services for the Tomball Rotary Annual Big Show at the Depot in downtown Tomball, on Saturday, October 14, 2023

**Background:**

Fundraising to support various events to benefit the Tomball community in several areas.

- Scholarships to local high school students as part of our Student of the Month program
- Various charities, such as: Families Feeding Families, Montgomery County Women’s Shelter, Tomball VFW, Elijah Rising & TEAM
- Endowment to sustain scholarship programs and support future community projects

**Event Information:**

- To use the Depot as the location of the event.
- Provide barricades for Elm, Walnut, Market and Fannin Streets
- Trash replaceable and trash pick up
- Use of electric outlets
- Waive the Depot rental fee
- Estimated number of attendees: 400-500
- Event times: 3-9 PM
- Set up: 8:00 AM
- Breakdown: 10:00 PM

**Origination:** Tomball Rotary Club

**Recommendation:**

n/a

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

Chrislord Templonuevo, Marketing & Tourism 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 \_\_\_\_\_ Approved by \_\_\_\_\_





# SPECIAL EVENT APPLICATION

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

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

Date: 3/7/23 Is this event Co-City sponsored? Yes  No

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

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

1. Event title: BIG SNOW AT THE DEPOT

2. Sponsoring entity: TOMBALL ROTARY CLUB

3. Is this organization based in Tomball: Yes  No

4. Is this organization non-profit  or for-profit  \*Attach 501 (c) (3) tax exemption if applicable

5. Contact: RUSSEL BLUE Phone: 281 755 9978

6. Contact address: 1100 W MAIN ST, SUITE 223 TOMBALL TX 77375

7. Contact email: RBLUE@JRBADVISORGROUP.COM

8. Event date: OCT 14, 2023

9. Event times: Start 3P Finish 9P Set-up 8A Breakdown 10P

10. Is this event for charity? Yes  No

11. If yes, what charity? TOMBALL ROTARY CLUB Tax ID

12. If yes, what percentage of net proceeds will be donated to the charity? 100

13. On-site contact: RUSSEL BLUE Mobile #: 2817559978

14. Estimated number of attendees: 400-500

15. Detailed site map in attached: Yes  No

16. Is this event open to the public: Yes  No

17. Admission fee: \$ 50/PERSON Free

18. Time at which event staff will begin to arrive: 7am

19. The applicant will defend and hold harmless the City of Tomball from all claims, demands, actions or causes of action, of whatsoever nature or character, arising out of or by reason of the conduct of the activity authorized by such application including attorney fees and expenses. Initial RB

20. The applicant will provide proof of general liability insurance for the event naming the City of Tomball as additional insured. Initial

21. Name of insurance carrier:

Signature: R Blue

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



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
03/15/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Arthur J. Gallagher Risk Management Services, Inc. 2850 Golf Road Rolling Meadows IL 60008	<b>CONTACT NAME:</b> Ali Sulita <b>PHONE (A/C. No., Ext):</b> 1-833-3ROTARY <b>E-MAIL ADDRESS:</b> rotary@ajg.com	<b>FAX (A/C. No.):</b> 630-285-4062
	<b>INSURER(S) AFFORDING COVERAGE</b>	
<b>INSURED</b> All Active US Rotary Clubs & Districts Rotary Club of Tomball ATTN: Risk Management Dept. 1560 Sherman Ave. Evanston, IL 60201-3698	<b>INSURER A:</b> Westchester Surplus Lines Insurance Company	
	<b>INSURER B:</b>	
	<b>INSURER C:</b>	
	<b>INSURER D:</b>	
	<b>INSURER E:</b>	
	<b>INSURER F:</b>	

**COVERAGES**                      **CERTIFICATE NUMBER:** 899307648                      **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Liquor Liability Included GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:		Y	G73578917 001	7/1/2022	7/1/2023	EACH OCCURRENCE \$2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$500,000 MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$2,000,000 GENERAL AGGREGATE \$4,000,000 PRODUCTS - COMP/OP AGG \$4,000,000 \$
A	<input type="checkbox"/> <b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			G73578917 001	7/1/2022	7/1/2023	COMBINED SINGLE LIMIT (Ea accident) \$2,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<input type="checkbox"/> <b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR <input type="checkbox"/> <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED    RETENTION \$			NOT APPLICABLE			EACH OCCURRENCE \$ AGGREGATE \$ \$
	<input type="checkbox"/> <b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		Y / N N / A	NOT APPLICABLE			PER STATUTE    OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES** (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
The Certificate Holder is included as an additional insured where required by written contract or permit subject to the terms and conditions of the general liability policy, but only to the extent bodily injury or property damage is caused in whole or in part by the acts or omissions of the insured.

<b>CERTIFICATE HOLDER</b> City of Tomball	<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE 
----------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

March 16, 2023

To: Tomball City Council

Re: Tomball Rotary Annual Big Show at the Depot

Dear City Council Members:

We are planning for our annual Big Show at the Depot to be held on Saturday, October 14, 2023, from 3:00pm to 9:30pm. Proceeds from the event will be used to benefit the Tomball community in several areas including:

- Scholarships to local high school students as part of our Student of the Month program
- Various charities, such as: Families Feeding Families, Montgomery County Women's Shelter, Tomball VFW, Elijah Rising & TEAM
- Endowment to sustain scholarship programs and support future community projects.

We are requesting the following support from the city of Tomball:

1. To use The Depot as our location for the event
2. Waive The Depot Rental fee.
3. Trash receptacles and trash pick-up
4. Use of Electrical Outlets
5. Provide barricades for Elm, Walnut, Market & Fannin Streets
6. Public works Personal determined by City

We will rent 4 tents for the event, establish a sanitizing area for the cookers, obtain appropriate food service license, and pay for two Tomball Police Officers for security. Of course, any other needs as necessary will be addressed by us.

We appreciate the opportunity to use The Depot for the 2023 Big Show at the Depot. Your support allows us to continue giving back to the needs of our community. We hope to continue our fundraising event at this fantastic venue.

Thank you for all your support!

Sincerely,

Craig Bogner, President Elect 2023-2024  
Rotary Club of Tomball

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

DEPARTMENT OF THE TREASURY

Date: **AUG 09 2012**

TOMBALL ROTARY FOUNDATION  
C/O DEBORAH PETTY  
450 GEARS STE 800  
HOUSTON, TX 77067

Employer Identification Number:  
27-4719115  
DLN:  
17053177311022  
Contact Person:  
ROGER W VANCE ID# 31173  
Contact Telephone Number:  
(877) 829-5500  
Accounting Period Ending:  
June 31  
Public Charity Status:  
509(a)(2)  
Form 990 Required:  
Yes  
Effective Date of Exemption:  
January 13, 2011  
Contribution Deductibility:  
Yes  
Addendum Applies:  
No

Dear Applicant:

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

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

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

Letter 947 (DO/CG)

TOMBALL ROTARY FOUNDATION

We have sent a copy of this letter to your representative as indicated in your power of attorney.

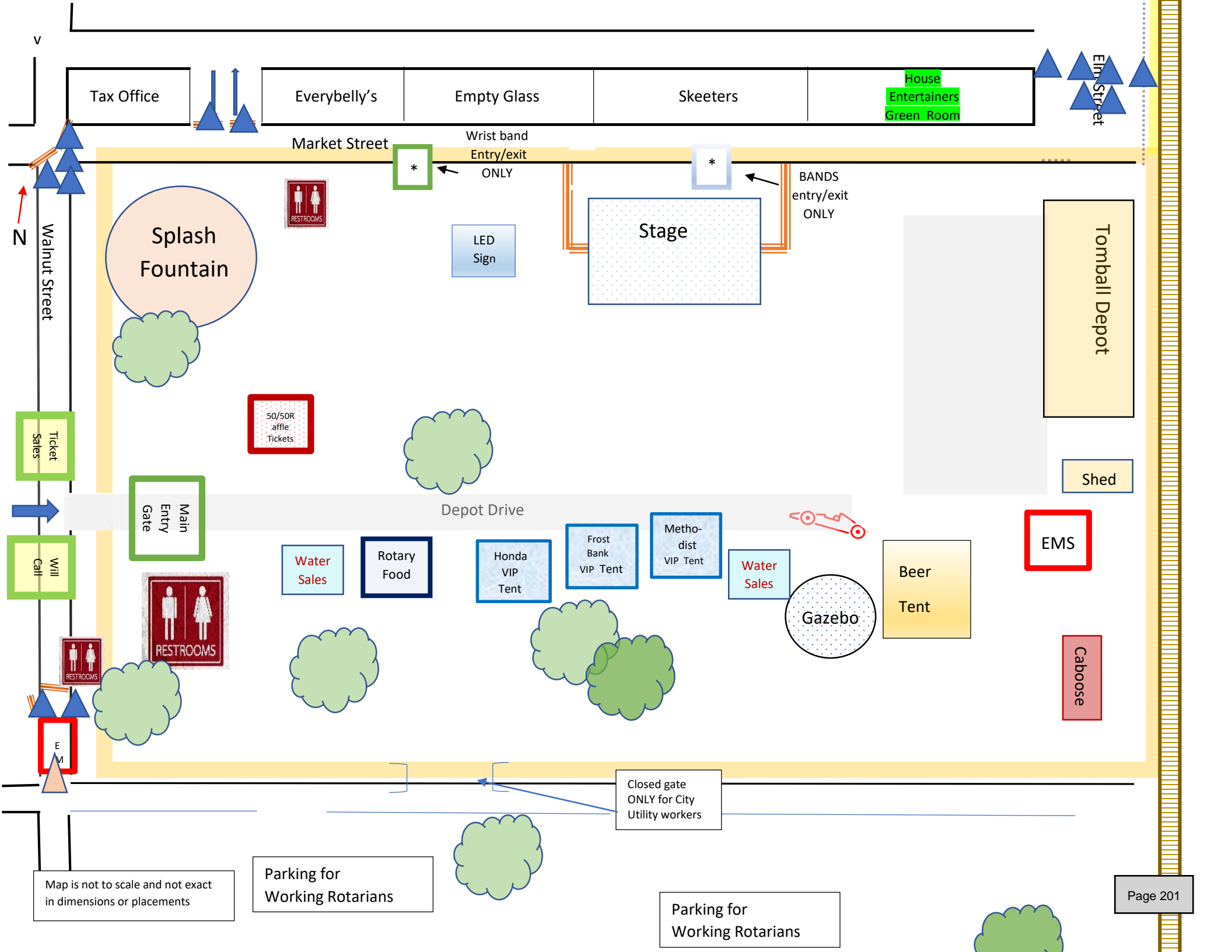
Sincerely,

A handwritten signature in black ink that reads "Holly O. Paz". The signature is written in a cursive style with a large, prominent "H" and "P".

Holly O. Paz  
Director, Exempt Organizations  
Rulings and Agreements

Enclosure: Publication 4221-PC





Map is not to scale and not exact in dimensions or placements

Parking for Working Rotarians

Parking for Working Rotarians

# City Council Meeting Agenda Item Data Sheet

Meeting Date: April 17, 2023

**Topic:**

Authorize the donation of obsolete firefighting nozzles, adapters, various equipment and uniforms to the East Texas Mutual Aid Association.

**Background:**

During a recent inventory of fire department equipment, the attached list was identified as obsolete equipment and uniforms that is no longer used by our department. The East Texas Mutual Aid Association was identified as a conveyor of the equipment to departments that receive little to no funding for their operations. This equipment will be utilized in rural areas of East Texas where no government funding is available to equip their fire departments.

**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 04/11/2023 Approved by \_\_\_\_\_  
Staff Member Date City Manager Date

Item	Qty
"Lighthawk" Bright Star orange box light	10
SCOTT Air Packs 4.5-30, 45 or 60 min rated duration	10
Akron 1.5" threaded connection 100 psi Fog nozzle	3
Akron "Turbojet" style 1767 fog tip w/ 1.5" threaded connection	3
4.5" threaded to 5" Storz NPSH "Kochek USA"	3
Misc. Box of radiological/gas detector equipment	3
"Lighthawk" Charging Base	2
2.5" Female to 2.5" Male threaded connection adaptor Elbow	2
5" Threaded End Cap "Pierce"	2
Box of Misc. electronics	2
Akron "Turbojet" 100 psi style 1723 Fog tip w/ 1.5" threaded connection	1
5" threaded end cap "Kochek USA"	1
Elkhart Brass MFG. CO. "Stream" (1849) elevated master stream with Fog tip (200psi/1250gpm)	1
Jaffrey 3-way Water Thief Manifold 5" storz input connection with three 2.5" threaded discharges	1
Akron Water Monitor Base with two 2.5" threaded female connections style 3421/3423	1
TNT Rescue Systems CC-20 10,500 psi Combi Tool	1
Pelican Light 9435 RALS (orange)	1
5" Storz to 6" Storz adaptor "Kochek USA"	1
3.5" NH threaded cap "Casco Industries, Inc."	1
Lifepak AED/Defribillator "Medtronic"	1
"Warn" winch assembly (not assembled-pieces only)	1
4" threaded cap "Pierce"	1
5" Storz to 4" threaded female connection "Red Head"	1

# City Council Meeting Agenda Item Data Sheet

Meeting Date: April 17, 2023

**Topic:**

Approve Resolution No. 2023-25 a Resolution of the City of Tomball, Texas, amending sections of the Master Fee Schedule for Fiscal Year 2022-2023.

**Background:**

Resolution No. 2023-25 amends the Business Related Permits & Fees in relation to Tow Truck Rotation Company Fees. The changes to the Tow Truck Rotation Company Fees align with current fees of neighboring governmental entities. Upon approval of the fees presented, a revised copy of the Master Fee Schedule will be posted on the City's website.

**Origination:** Police Department

**Recommendation:**

Staff recommends approving Resolution No. 2023-25

**Party(ies) responsible for placing this item on agenda:** Jeff Bert, Police Chief

**FUNDING (IF APPLICABLE)**

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

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

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

Signed Jeff Bert, Police Chief 4/12/2023 Approved by \_\_\_\_\_  
Staff Member Date City Manager Date

**RESOLUTION NO. 2023-25**

**A RESOLUTION OF THE CITY OF TOMBALL, TEXAS,  
AMENDING TOW TRUCK ROTATION COMPANY FEES IN THE  
MASTER FEE SCHEDULE FOR FISCAL YEAR 2022-2023.**

\* \* \* \* \*

**WHEREAS**, on September 19, 2022, the Tomball City Council adopted a Master Fee Schedule for Fiscal Year 2022-2023 to provide easier access for Tomball residents and commercial interests; and

**WHEREAS**, the Tomball City Council finds it advisable and necessary to amend the City of Tomball Tow Truck Rotation Company fees as originally approved in Resolution No. 2022-41; **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.** Page 7, Business Related Permits & Fees, of the Master Fee Schedule for the City of Tomball, Texas for Fiscal Year 2022-2023 is hereby amended to reflect updated Tow Truck Company Rotation fees, a copy of which is attached hereto and incorporated into the Master Fee Schedule for Fiscal Year 2022-2023.

**Section 3.** In the event any section, paragraph, subdivision, 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 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.

**PASSED, APPROVED, AND RESOLVED** this \_\_\_\_ day of \_\_\_\_\_ 2023.

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

ATTEST:

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

**Business Related Permits & Fees**

<b>Ambulance Transfer Services Permit (Sec. 16-162 – 172, Code of Ordinances)</b>	
Annual Company Permit Fee	\$500.00
Vehicle Inspection Fee	\$100.00
Vehicle Re-Inspection Fee	\$100.00
<b>Commercial Filming Permit</b>	
*Fee may be waived by City Manager for nonprofit organizations	
Commercial filming permit application processing fee	\$25.00*
Fee for use of City property and City equipment	Determined by request
<b>Correctional Facility Permit Application Fee</b>	
Original application fee	\$350.00
Renewal application fee	\$100.00
Transfer application fee upon change or ownership/operator	\$100.00
<b>Donation Container Permit Fee (Sec. 22-194, Code of Ordinances)</b>	
Annual donation container permit fee	\$25.00 per year
Impounded donation container fee	\$200.00
Daily storage fee	\$25.00
<b>Sexually Oriented Business Fees (Sec. 6-26, Code of Ordinances)</b>	
Annual fee for Sexually Oriented Business License	\$750.00
Annual fee for employee of sexually oriented business	\$50.00
<b>Tow Truck Rotation Company Fees</b>	
Initial application fee	\$100.00
Additional application fee	\$75.00
Annual fee (licenses expire Sept. 30 each year)	\$100.00 per vehicle
Supplemental fee for vehicles added during the year	\$75.00 per vehicle
Duplicate license for towing company vehicle	\$25.00
<b>Fees for Towing</b>	
Fees listed below are for non-consent tows for towing a vehicle from one location within the city to another within the city or the city's ETJ	
Light duty tow trucks – incident management	<del>\$120.00</del> <b>200.00</b>
Light duty tow trucks – drop fee	<del>\$55.00</del> <b>75.00</b>
<b>Additional service fees to be charged.</b> In the event that a tow service provider must perform services that are clearly beyond the norm in order to affect a tow, the tow service provider may request that an on-scene supervisor authorize an <b>additional fee not to exceed \$75.00</b> <del>100.00</del> to compensate for the additional time and services rendered. To be valid, supervisory authorization must be notated on the Tow Slip of record.	
<b>COVERAGE FOR NON-CONSENT/INCIDENT MANAGEMENT WRECKERS ON THE CITY OF TOMBALL WRECKER ROTATION LIST:</b>	
Liability Coverage	\$500,000
On-Hook Cargo	\$50,000

# City Council Meeting

## Agenda Item

### Data Sheet

Meeting Date: 04/17/2023

**Topic:**

Appoint members to position 1, 3 and alternate position 2 and 4 to the Board of Adjustment (BOA) for a two-year term expiring March 2, 2025.

**Background:**

The Board of Adjustments consists of five regular members and four alternate members with staggered two-year terms.

Regular Board Members:

Jarmon Wolf (Position 1)  
Christine Roquemoire (Position 2)  
Billy Hemby (Position 3)  
April Gray (Position 4)  
Cindy Phillips (Position 5)

Alternate Members:

Colleen Pye (Alternate 1)  
Rocky Pilgrim (Alternate 2)  
Ellen Warren (Alternate 3)  
Matthew Williams (Alternate 4)

All Board members whose terms were expiring were contacted and are eligible and agreed to be re-appointed.

We have included the application for Rocky Pilgrim since she did not have an updated bio at the last appointment meeting.

**Origination:** Nathan Dietrich (Director of Community Development)

**Recommendation:**

N/A

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

**FUNDING (IF APPLICABLE)**

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

Yes: \_\_\_\_\_ No: \_\_\_\_\_

If yes, specify Account Number: # \_\_\_\_\_

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

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



# City Council Meeting Agenda Item Data Sheet

Meeting Date: April 17, 2023

**Topic:**

Appointment of Member to the Capital Improvement Advisory Committee (CIPAC).

**Background:**

The Extra-Territorial Jurisdiction (ETJ) has been vacant following the resignation of Caitlin McNeilly. To satisfy requirements under Texas Local Government Code (TLGC) Chapter 395, CIPAC must have at least one member to represent the ETJ, and the individual must represent real estate, development, or the building industry when impact fees are included in the ETJ.

Our current Impact Fee Study includes the ETJ area for imposing fees and is also included in the current update. Staff has worked with the Economic Development Corporation and Chamber of Commerce to locate a qualified individual based on the requirements as outlined TLGC.

The City has received a completed application from Tiffany Fuller who has expressed an interest in serving on CIPAC.

**Origination:** Project Management

**Recommendation:**

Staff recommends appointing Tiffany Fuller to the Capital Improvement Advisory Committee.

**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: X 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

# City Council Meeting Agenda Item Data Sheet

Meeting Date: 04/17/2023

**Topic:**

Discussion and possible direction regarding any changes to Chapter 18 Environment - Article IV Noise Ordinance.

**Background:**

The City Council had requested an item on the agenda to discuss the Noise Ordinance. This item will provide an opportunity to review an ordinance adopted back in 2009 and review its current requirements. This discussion will give them a chance for the Council to provide direction on any changes or amendments they would like to see in the city, if any.

**Origination:** Nathan Dietrich

**Recommendation:**

N/A

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

**FUNDING (IF APPLICABLE)**

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

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

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

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

## ***ARTICLE IV. NOISE<sup>1</sup>***

### **Sec. 18-186. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Daytime hours* means the hours from 7:00 a.m. on one day and 10:00 p.m. the same day.

*dB(A)* means the intensity of a sound expressed in decibels.

*Emergency* means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage or loss that demands immediate action.

*Emergency work* means any work performed for the purpose of:

- (1) Preventing or alleviating the physical trauma or property damage threatened or caused by an emergency;
- (2) Restoring property to a safe condition following a fire, accident, or natural disaster;
- (3) Protecting persons or property from exposure to danger; or
- (4) Restoring public utilities.

*Nighttime hours* means the hours between 10:01 p.m. on one day and 6:59 a.m. the following day.

*Nonresidential property* means any real property that is not included in the definition of residential property as defined in this section. Without limitation, the term "nonresidential property" includes properties that have been developed other than as residential properties, properties that are undeveloped, and properties that are devoted to public purposes, such as public streets and parks.

*Property line* means, with respect to single occupancy properties, the line along the ground surface and its vertical extension that separates the real property owned, leased, or occupied by one person from that owned, leased, or occupied by another person. With respect to shared occupancy properties, the term "property line" means the imaginary line that represents the legal limits of occupancy of any person who owns, leases, or otherwise occupies an apartment, condominium, hotel or motel room, office, or any other type of occupancy from that of other occupants.

*Residential property* means any real property developed and used for human habitation that contains living facilities, including provisions for sleeping, eating, cooking, and sanitation, unless such premises are actually occupied and used primarily for purposes other than human habitation.

*Sound amplifying equipment* means any machine or device for the amplification of the human voice, music or other sound. The term "sound amplifying equipment" as used in this article shall not be construed as including standard automobile radios when used and heard only by occupants of the vehicle in which installed or warning devices on authorized emergency vehicles or horns or other warning devices on other vehicles used only for traffic or human safety purposes.

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<sup>1</sup>State law reference(s)—Presumption of unlawful noise, V.T.C.A., Penal Code § 42.01(c).

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*Sound nuisance* means any sound that either exceeds the maximum permitted sound levels specified in section 18-191, or for purposes of sections 18-188, 18-189, and 18-190, otherwise unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others.

*Sound truck* means any vehicle, whether motor-driven, horse-driven or otherwise powered, having mounted thereon, or attached thereto, any sound amplifying equipment.

(Ord. No. 2009-01, § 2(30-181), 1-19-2009)

### **Sec. 18-187. General prohibition.**

- (a) A person commits an offense if the person makes, continues, or causes to be made or continued any loud, unnecessary or unusual noise that annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others. In determining whether a noise is loud, unnecessary or unusual, the following factors shall be considered: time of day; proximity to residential structures; whether the noise is recurrent or constant; the volume and intensity of the noise; whether the noise has been enhanced in volume or range by any type of electronic or mechanical means; and whether the noise is subject to being controlled without unreasonable effort or expense to the creator thereof.
- (b) A person commits an offense if he makes, assists in making, permits, continues, causes to be made or continued, or permits the continuance of any sound that either exceeds the maximum permitted sound levels specified in section 18-191 or, for purposes of sections 18-188, 18-189 and 18-190, otherwise unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others.
- (c) The acts enumerated in the following sections of this article, among others, are declared to be loud, disturbing and unnecessary noises in violation of this article, but such enumeration shall not be deemed to be exclusive.

(Ord. No. 2009-01, § 2(30-182), 1-19-2009)

### **Sec. 18-188. Noisy vehicles generally.**

The use of any motor vehicle so out of repair, so loaded, or so noisy that it creates loud and unreasonable grating, grinding, rattling or any other loud and unreasonable sound is hereby prohibited and declared to be unlawful.

(Ord. No. 2009-01, § 2(30-183), 1-19-2009)

### **Sec. 18-189. Amplified sound.**

- (a) A person commits an offense if the person makes, assists in making, permits, continues, causes to be made or continued, or permits the continuance of any sound using any sound amplifier that is part of or connected to any speaker system, radio, stereo receiver, compact disc player, cassette tape player, microphone, or any other sound source, when operated:
  - (1) In such a manner as to disturb the peace, quiet, and comfort of the neighboring inhabitants; or
  - (2) At any time with louder volume than is necessary for convenient hearing for persons who are in the vehicle or within the property or premises in which such sound amplifier is operated and who are voluntary listeners thereto.

The operation of any such sound amplifier in such a manner as to be plainly audible at a distance of 50 feet from a vehicle shall be presumed to be violative of this section. The operation of any such sound amplifier in such a

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manner that bass sounds are plainly audible at a distance of 50 feet from the property line of a property or premises in which the amplification is located shall be presumed to be violative of this section.

- (b) It is an affirmative defense to prosecution under this section that the sound source is a motor vehicle and that:
  - (1) The motor vehicle is a mobile sound stage or studio that is being used on a stationary basis at a location not situated upon any street for the purpose of providing sound, during daytime hours, for an event or function; and
  - (2) The use is in compliance with all other provisions of this article, including but not limited to section 18-194.

(Ord. No. 2009-01, § 2(30-184), 1-19-2009)

### **Sec. 18-190. Noisy animals and birds.**

- (a) A person commits an offense if the person keeps an animal or bird that causes or makes frequent or long and continued sound that unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of ordinary, reasonable persons of normal sensibilities and ordinary tastes, habits, and modes of living who reside in the vicinity thereof.
- (b) The keeping of a noisy animal or bird is hereby prohibited and declared to be a sound nuisance in violation of this article, regardless of whether the sound so created by the animal or bird is within the permissible levels specified in section 18-191.

(Ord. No. 2009-01, § 2(30-185), 1-19-2009)

### **Sec. 18-191. Maximum permissible sound levels.**

- (a) In addition to the violations established by the preceding sections of this article, no person shall conduct, permit, or allow any activity or sound source to produce a sound discernible at any location beyond the property lines of the property on which the sound is being generated that when measured as provided in section 18-192 exceeds the applicable dB(A) level listed below for the property on which the sound is received:
  - (1) *Residential property.*
    - a. 65 dB(A) during daytime hours.
    - b. 58 dB(A) during nighttime hours.
  - (2) *Nonresidential property.* 68 dB(A) at all times.

Any sound that exceeds the dB(A) levels set forth in this section under the conditions and measurement criteria set forth in this article is a violation of this article. Evidence that an activity or sound source produces a sound that exceeds the dB(A) levels specified in this section shall be prima facie evidence of a sound nuisance that unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others in violation of this article.

- (b) Regardless of the measurable dB(A) level established in subsections (a)(1) and (2) of this section and measured as provided in section 18-192, the generator of any sound of such a nature as to cause persons occupying or using any property other than the property upon which the sound is being generated to be aware of sympathetic vibrations or resonance caused by the sound shall also be prima facie evidence of a

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sound that unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others in violation of this article.

(Ord. No. 2009-01, § 2(30-186), 1-19-2009)

**Sec. 18-192. Maximum sound levels.**

- (a) All industrial or commercial businesses within the city limits shall conform to the maximum sound levels as set out in this section. Sound levels shall be measured with a sound level meter and an associated octave band analyzer, both manufactured in accordance with the specifications prescribed by the American Standards Association. Noise emission from any commercial or industrial operation shall not cause sound pressure levels greater than those listed in the table below, measured at any point at the commercial or industrial operation's boundary, either at ground level or at a habitable elevation, whichever is more restrictive.

Octave Band Center Frequency (HZ)	Sound Pressure Level (dB)*
31.5	85
63	71
125	61
250	52
500	47
1000	44
2000	39
4000	37
8000	35

\*re: 0.0002 microbar

- (b) The sound level produced by any industry shall not exceed the limits established in this section.

(Code 1978, § 5-8; Code 1993, § 14-8; Ord. No. 2009-01, § 1, 1-19-2009)

**Sec. 18-193. Method of sound measurement.**

Whenever portions of this article prohibit sound over a certain decibel limit, measurement shall be made with a Type 1 or Type 2 calibrated sound level meter utilizing the A-weighting scale and the slow meter response as specified by the American National Standards Institute (ANSI S1.4-1984/85A). Measurements recorded shall be taken so as to provide a proper representation of the sound being measured. The microphone of the meter shall be positioned so as not to create any unnatural enhancement or diminution of the measured sound. A windscreen for the microphone shall be used. Measurements of sound generated shall be taken from the property line of the nonresidential property or residential property where the sound is received to the source of the sound.

(Ord. No. 2009-01, § 2(30-187), 1-19-2009)

**Sec. 18-194. Permit required for use of outdoor sound amplification equipment.**

- (a) No person shall use or cause to be used any loudspeaker, loudspeaker system, sound amplifier, or any other machine or device that produces, reproduces, or amplifies sound outside of buildings or other enclosed structures in a manner that exceeds the levels specified in section 18-191, when measured from the property

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where the sound is being received, without first obtaining a permit to do so. The permit shall be granted only for the amplification of music or human speech, or both. The permit:

- (1) May be obtained by making application to the director of the city department so designated by the city manager.
  - (2) Requires payment of a fee as currently established or as hereafter adopted by resolution of the city council from time to time for the administrative costs of issuing the permit or a sworn statement of inability to pay the fee.
  - (3) Is valid for one 14-hour period between the hours of 8:00 a.m. and 10:00 p.m.
  - (4) Shall not be issued to the same or any other person for the same location more than twice during any 30-day period. In the case of a sound truck, location shall relate to the area traversed by the truck in one day.
  - (5) Shall not authorize, allow, or otherwise permit the production, reproduction, or amplification of sound that exceeds 75 dB(A) when measured from the property line of the nearest receiving property.
- (b) The permit application required to be filed pursuant to this section shall contain the following information:
- (1) The date of the application and the date and hours for which the permit is requested.
  - (2) The name and address of the applicant.
  - (3) The name and address of the person who will have charge of the sound amplifying equipment.
  - (4) The purpose for which the sound equipment will be used.
  - (5) The address and a description of the location where the sound equipment will be used.
  - (6) A description of the type of sound amplifying equipment to be used.

(Ord. No. 2009-01, § 2(30-188), 1-19-2009)

### **Sec. 18-195. Defenses.**

The following defenses shall apply to any offense established in this article:

- (1) The emission of any sound was for the purpose of alerting persons to the existence of an emergency, danger, or attempted crime.
- (2) The sound was produced by an authorized emergency vehicle.
- (3) The sound was produced by emergency work.
- (4) The sound was generated:
  - a. At a lawfully scheduled stadium event;
  - b. By a parade and spectators and participants on the parade route during a lawful parade;
  - c. By spectators and participants at lawfully scheduled amphitheater event;
  - d. By patrons and participants using cannons and gunfire during historical battle re-enactments for which a pyrotechnic permit was obtained and the explosives were inspected by the fire marshal;
  - e. By a pyrotechnic display that was inspected and approved by the fire marshal; or
  - f. By spectators and participants of an event, fun run, race, festival, fiesta, or concert that was sponsored or cosponsored by the city.

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- (5) The sound was produced by the erection, excavation, construction, or demolition of any building or structure, including the use of any necessary tools or equipment, conducted between the hours of 7:00 a.m. and 8:00 p.m., which activity did not produce a sound exceeding 85 dB(A) when measured from the property line of the residential property where the sound was being received.
  - (6) The sound was produced by aircraft in flight or in operation at an airport, or railroad equipment in operation on railroad rights-of-way.
  - (7) The sound was produced by operating or permitting the operation of any mechanically powered saw, drill, sander, router, grinder, lawn or garden tool, lawnmower, or any other similar device used between the hours of 7:00 a.m. and 8:00 p.m., provided the device did not produce a sound exceeding 85 dB(A) when measured from the property line of the nearest residential property where the sound was being received and was used for the maintenance or upkeep of the property on which it was operated.
  - (8) The sound was generated as authorized under the terms of a permit issued under section 18-194.
  - (9) The sound was produced by the operation of any air conditioning unit that did not produce a sound exceeding 65 dB(A) on residential property or 75 dB(A) on nonresidential property, when measured at or near 15 feet from the air conditioning unit producing the sound being measured.
  - (10) The sound was produced by church bells or church chimes when used as part of a religious observance or service during daytime hours, provided the sound did not cumulatively exceed five minutes, duration in any one-hour period.
  - (11) The sound was produced during daytime hours by activities conducted on public parks, public playgrounds, and public or private school grounds, including, but not limited to, school athletic and school entertainment events.

(Ord. No. 2009-01, § 2(30-189), 1-19-2009)

### **Sec. 18-196. Penalty.**

Any person who intentionally, knowingly, recklessly, or with criminal negligence violates any provision of this article is guilty of an offense. Each hour or portion thereof in which any violation shall occur shall constitute a separate offense.

(Ord. No. 2009-01, § 2(30-190), 1-19-2009)

### **Secs. 18-197—18-215. Reserved.**



# City Council Meeting Agenda Item Data Sheet

Meeting Date: April 17, 2023

**Topic:**

Executive Session: The City Council will meet in Executive Session as Authorized by Title 5, Chapter 551, Government Code, the Texas Open Meetings Act, for the Following Purpose(s):

- Sec. 551.071 – Consultation with the City Attorney regarding a mater which the Attorney’s duty requires to be discussed in closes session.
- Sec. 551.072 – Deliberations regarding Real Property
- Sec. 551.076 – Deliberations regarding Security Devices

**Background:**

**Origination:** David Esquivel, City Manager

**Recommendation:**

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