

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



**Monday, May 15, 2023
6:00 PM**

Notice is hereby given of a Regular meeting of the Tomball City Council, to be held on Monday, May 15, 2023 at 6:00 PM, City Hall, 401 Market Street, Tomball, Texas 77375, for the purpose of considering the following agenda items. All agenda items are subject to action. The Tomball City Council reserves the right to meet in a closed session for consultation with attorney on any agenda item should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS, WILL CONDUCT THE MEETING SCHEDULED FOR May 15, 2023, 6:00 PM, AT 401 MARKET STREET, TOMBALL, TEXAS, 77375. THIS MEETING AGENDA AND THE AGENDA PACKET ARE POSTED ONLINE.

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

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: 848 9851 9899 Passcode: 635150. The public will be permitted to offer public comments telephonically, as provided by the agenda and as permitted by the presiding officer during the meeting.

- A. Call to Order
- B. Invocation - Led by Pastor Tim Niekerk - Salem Lutheran Church
- C. Pledges to U.S. and Texas Flags
- D. Public Comments and Receipt of Petitions; *[At this time, anyone will be allowed to speak on any matter other than personnel matters or matters under litigation, for length of time not to exceed three minutes. No Council/Board discussion or action may take place on a matter until such matter has been placed on an agenda and posted in accordance with law - GC, 551.042.]*

E. Canvas of Election
Escrutinio de la Elección
Kiểm Phiếu của Cuộc Bầu Cử
拉票選舉

1. Canvass of Election *Escrutinio de la Elección* Kiểm Phiếu của Cuộc Bầu Cử
拉票選舉

Resolution No. 2023-14, a Resolution of the City of Tomball, Texas, Canceling the Regular City Officer's Election Scheduled to be Held on the 6th Day of May 2023, in Accordance with Section 2.053(A) of the Texas Election Code; Directing the Giving of Notice of Such Cancellation of Election; and Providing Details Relating to the Cancellation of Such Election

Resolución Nro. 2023-14 Cancelando la Elección Regular de Funcionarios Municipales programada para celebrarse el día 6 de mayo de 2023 de acuerdo con la Sección 2.053(a) del Código Electoral de Texas; instruyendo que se de aviso de tal cancelación de elección; y proveyendo detalles relativos a la cancelación de tal elección.

Nghị Quyết số 2023-14, Hủy Bỏ Cuộc Bầu Cử Viên Chức Thành Phố Thường Kỳ Dự Kiến sẽ được tổ chức vào ngày 6 tháng Năm, 2023, Chiếu theo Mục 2.053(a) của Bộ Luật Tuyển Cử Texas; Chỉ thị việc đưa ra Thông Báo về Hủy Bỏ Cuộc Bầu Cử đó; và Cung Cấp Thông Tin Chi Tiết Liên quan đến việc Hủy Bỏ Cuộc Bầu Cử đó.

案2023-

14, 取消一般市府官員應於2023年5月6日的選舉計畫，其是根據德克薩斯州選舉法2.053(a)節；茲此通知該選舉取消；以及提供關於取消該選舉的詳情。

2. Administer Oath of Office to Elected Officials
Administrar el juramento al cargo de los funcionarios electos
Làm lễ Tuyên Thệ Nhậm Chức cho các Viên Chức Được Bầu Chọn
管管理選舉官員宣誓就職

3. Consideration to Elect Mayor Pro-Tem, in Accordance with Section 6.08 of the City of Tomball Home Rule Charter
Considerar elegir un Alcalde Interino, de acuerdo con la Sección 6.08 de la Carta Orgánica de Gobierno Local de al Ciudad de Tomball
Xem xét Bầu Chọn Thị Trưởng Tạm Thời, chiếu theo Mục 6.08 của Hiến Chương Điều Lệ Địa Phương Thành Phố Tomball
考慮選出暫替市長，根據Tomball市自治憲章6.08節

F. Reports and Announcements

1. Announcements

Kids Club Dates:

June 9: Soccer Clinic with HTX Soccer (formerly Dynamo/Dash Youth Soccer) at Broussard Park (1414 E. Huffsmith Rd) from 9-11 a.m. This event is open to kids aged 7-12 years of age only.

July 14: Reptile show-n-tell and Reading games (Texas Snakes & More and LSC-Tomball Community Library) at Juergens Park (1331 Ulrich Rd) from 10 a.m. to 12 p.m. This event is open to kids ages 5-12.

August 11: Learn about emergency vehicles and Splash Day at Tomball Depot Plaza (201 S. Elm St). from 10 a.m. to 12 p.m. This event is open to kids ages 5-12.

2023 Swim Season (Jerry Matheson Park Pool):

Monday-Closed

Tuesday thru Friday - 10am - 6pm

Saturday & Sunday – 12pm - 8pm

PRESEASON HOURS 2023

May 27th (Saturday) Noon - 8pm

May 28th (Sunday) Noon – 8pm

May 29th (Monday) 10am – 6pm

REGULAR SEASON HOURS 2023

May 30th (Tuesday) 10am – 6PM Start Date

August 13th (Sunday) Noon – 8pm End Date

END OF SEASON HOURS 2023

August 19th (Saturday) Noon – 8pm

August 20th (Sunday) Noon – 8pm

August 26th (Saturday) Noon – 8pm

August 27th (Sunday) Noon – 8pm

September 2nd (Saturday) Noon – 8pm

September 3rd (Sunday) Noon – 8pm

September 4th (Monday) 10am – 6p

The pool will be open to the public on Memorial Day Weekend.

The pool will be open to the public on Memorial Day.

The Pool will be open to the public on weekends until Labor Day.

Depot Splash Pad:
Opens May 26, 2023

- G. New Business Consent Agenda: *[All matters listed under Consent Agenda are considered to be routine and will be enacted by one motion. There will be no separate discussion of these items. If discussion is desired, the item in question will be removed from the Consent Agenda and will be considered separately. Information concerning Consent Agenda items is available for public review.]*
1. Approve the Minutes of the May 1, 2023, Special Joint City Council Meeting and Capital Improvements Plan Advisory Committee and the Regular City Council Meeting.
 2. Approve a contract with Hassell Construction Group, LLC for the construction of the Alley Improvement Project for E&P Project 2017-10033 (RFP 2023-07) for a not-to-exceed amount of \$1,586,683.22, 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.
 3. Consider approval of Resolution No. 2023-27, a Resolution of the City of Tomball, Texas, determining the Construction Manager at Risk (CMAR) delivery method for the expansion of the South Wastewater Treatment Plant (SWWTP) provides the best value to the City and stating the award of the CMAR Contract will be based on best value; and providing an effective date.
 4. Approve a Professional Services Agreement with Civil System Engineering, Inc., for Project Number 2023-10008, Drainage Master Plan and Impact Fee Update for a not-to-exceed amount of \$844,000, 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. Consideration to approve Supplemental Number Two to Oller Engineering, Inc. for Project Number 2021-10037, S. Persimmon Water Line Replacement for an amount of \$46,706.84 (total not-to-exceed contract amount of \$139,256.84), approve the expenditure of funds therefor, and authorize the City Manager to execute the agreement. This project was included in the FY 2022-2023 budget.
 6. Approve a contract with ISJ Underground Utilities, LLC. for the construction of the S. Persimmon Water Line Replacement for E&P Project 2021-10037 (Bid 2023-10) for a not-to-exceed amount of \$305,970, 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.

7. Approve a contract with Heartland Park & Recreation, LLC for the purchase and construction of a splashpad and necessary components at Jerry Matheson Park through a BuyBoard Contract (Contract No. 592-19) for a not-to-exceed amount of \$514,570.24, approve the expenditure of funds therefor, and authorize the City Manager to execute any and all documents related to the purchase. This expenditure is included in the FY 2022-2023 Budget.
8. Consider action to approve Resolution No. 2023-29, a Resolution of the City of Tomball, Texas, authorizing the use of the BuyBoard Purchasing Cooperative for the purchase of equipment and components for Jerry Matheson Park as required as a recipient of the Texas Parks and Wildlife Non-Urban Outdoor Recreation Grant; and providing an effective date.

H. New Business

1. Consideration to approve **Case CUP23-03**: Request by Chris & Tiona Campbell, for a Conditional Use Permit to allow “Residential Use” within General Retail (GR) zoning. Affecting approximately 4.94 acres of land legally described as being a portion of Lot 48 in Tomball Townsite. The property is generally located within the 11100-11200 blocks (east side) of Rudolph Road, within the City of Tomball, Harris County, Texas.

Conduct Public Hearing on **Case CUP23-03**

Adopt, on First Reading, Ordinance No. 2023-13, an Ordinance of the City of Tomball, Texas, amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by issuing a Conditional Use Permit to allow “Residential Use” within General Retail (GR) zoning. Affecting approximately 4.94 acres of land legally described as being a portion of Lot 48 in Tomball Townsite. The property is generally located within the 11100-11200 blocks (east side) of Rudolph Road, 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.

2. Consideration to approve **Case CUP23-04**: Request by Michael Kirtley, represented by Sam Jackson of Black Mountain Energy Storage II LLC., for a Conditional Use Permit to allow an “Electric Storage System” within Light

Industrial (LI) zoning. Affecting land legally described as being all of Lot 265 in Tomball Townsite. The property is generally located within the 900-1000 blocks (west side) of S. Pitchford Road, within the City of Tomball, Harris County, Texas.

Conduct Public Hearing on **Case CUP23-04**

Adopt, on First Reading, Ordinance No. 2023-14, an Ordinance of the City of Tomball, Texas, amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by issuing a Conditional Use Permit to allow an “Electric Storage System” within Light Industrial (LI) zoning. Affecting land legally described as being all of Lot 265 in Tomball Townsite. The property is generally located within the 900-1000 blocks (west side) of S. Pitchford Road, 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.

- [3.](#) Consideration to Approve **Zoning Case Z23-03**: Request by Chris & Tiona Campbell, to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 4.94 acres of land legally described as being a portion of Lot 48 in Tomball Townsite from Single Family Residential Estate – 20 (SF-20-E) to General Retail (GR) zoning. The property is generally located within the 11100-11200 blocks (east side) of Rudolph Road, within the City of Tomball, Harris County, Texas.

Conduct Public Hearing on **Zoning Case Z23-03**

Adopt, on First Reading, Ordinance No. 2023-09, an Ordinance of the City of Tomball, Texas, amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by rezoning approximately 4.94 acres of land legally described as being a portion of Lot 48 in Tomball Townsite from Single Family Residential Estate – 20 (SF-20-E) to General Retail (GR) zoning. The property is generally located within the 11100-11200 blocks (east side) of Rudolph Road, within the City of Tomball, Harris County, Texas; providing for severability; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters.

- [4.](#) Consideration to approve **Zoning Case Z23-04**: Request by Rosehill Estates, LLC represented by George Jarkesy to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 5.11 acres of land legally described as being Lot 2, Block 1 of Swinghammer/Hauck Subdivision from Single Family

Residential Estate – 20 (SF-20-E) to Commercial (C). The property is located at 1820 S. Cherry Street, within the City of Tomball, Harris County, Texas.

Conduct Public Hearing on **Zoning Case Z23-04**

Adopt, on First Reading, Ordinance No. 2023-10, an Ordinance of the City of Tomball, Texas, amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by rezoning approximately 5.11 acres of land legally described as being Lot 2, Block 1 of Swinghammer/Hauck Subdivision from Single Family Residential Estate – 20 (SF-20-E) to Commercial (C). The property is located at 1820 S. Cherry Street, within the City of Tomball, Harris County, Texas; providing for severability; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters.

5. Conduct a Public Hearing and Consideration to Approve **Zoning Case Z23-05:** Request by Michael Kirtley represented by Sam Jackson of Black Mountain Energy Storage II LLC., to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 5 acre of land legally described as being all of Lot 265 in Tomball Townsite from Agricultural (AG) to Light Industrial (LI) zoning. The property is generally located within the 900-1000 blocks (west side) of S. Pitchford Road, within the City of Tomball, Harris County, Texas.

Conduct Public Hearing on **Zoning Case Z23-05**

Adopt, on First Reading, Ordinance No. 2023-11, an Ordinance of the City of Tomball, Texas, amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by rezoning approximately 5 acre of land legally described as being all of Lot 265 in Tomball Townsite from Agricultural (AG) to Light Industrial (LI) zoning. The property is generally located within the 900-1000 blocks (west side) of S. Pitchford Road, within the City of Tomball, Harris County, Texas; providing for severability; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters.

6. Consideration to approve **Zoning Case Z23-06:** Request by Red Grip LLC., represented by Mike Matheson to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 1.04 acres of land legally described as being Lot 72, Block 1 of Acquest Tomball Replat No.1 from Commercial (C) to

Office (O) zoning. The property is generally located within the 1200-1300 blocks (south side) of Rudel Drive, within the City of Tomball, Harris County, Texas.

Conduct Public Hearing on **Zoning Case Z23-06**

Adopt, on First Reading, Ordinance No. 2023-12, an Ordinance of the City of Tomball, Texas, amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by rezoning approximately 1.04 acres of land legally described as being Lot 72, Block 1 of Acquest Tomball Replat No.1 from Commercial (C) to Office (O) zoning. The property is generally located within the 1200-1300 blocks (south side) of Rudel Drive, within the City of Tomball, Harris County, Texas; providing for severability; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters.

- [7.](#) Approve Resolution No. 2023-28, a Resolution of the City of Tomball (COT), Texas regarding Compliance with the Major Thoroughfare extension of Telge Road (North) regarding approximately 18.739-Acre Tract of Land located at 16000 FM 2920 being released from the Extraterritorial Jurisdiction of the City of Houston (Tomball Golf Driving Range) into the COT ETJ.
- [8.](#) Approve request from MAD for Vets for City Support and In-Kind Services for the MAD for Vets 3rd Annual Freedom 5k Ruck March at the Depot and around downtown Tomball, on Saturday, September 16, 2023
- [9.](#) Approve a Professional Services Agreement with Freese and Nichols Inc., for project number 2023-10017, to update current City guiding documents which includes the Comprehensive Plan (Comp Plan), the Major Thoroughfare Plan (MTFP), and the creation of a Unified Development Code (UDC). The contract is for an amount not-to-exceed \$450,000, authorizes the expenditure of funds, and authorizes the City Manager to execute the agreement. This amount is included in the FY 2022-2023 budget.
- [10.](#) Authorize the City Manager and the Fire Chief to execute a First Responder Organization Agreement with Harris County Emergency Services District 8 to provide first responder medical services within the jurisdiction of the Tomball Fire Department.
- [11.](#) Authorize expenditure of greater than \$50,000 with RSM US related to the procurement of information technology consulting services, software, and hardware for Fiscal Year 2022-2023.
- [12.](#) Approve the purchase of one (1) Chevrolet Silverado 1500 2WD Crew Cab truck through the TIPS USA (Contract No. 210907) for a not-to-exceed amount of

\$44,579.25, approve the expenditure of funds therefore, and authorize the City Manager to execute any and all documents related to the purchase. This purchase is included in the FY 2022-2023 Budget. This vehicle is in place of one (1) Ford F-150 Crew Cab Truck authorized November 7, 2022, because the dealership cancelled the purchase due to lack of inventory. The difference in price for the two vehicles is \$3,226.25.

13. Discussion, direction, and possible action regarding Legislative Items at the 2023 Texas Legislative Session.
14. Discussion regarding Private Detention Ponds.
15. 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. 551.074 – Personnel Matters; Deliberation of the Appointment, Employment, and Duties of a Public Officer or Employee-City Manager
 - Sec. 551.087 – Deliberations regarding Economic Development

I. 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 11th

day of May 2023 by 6:00 PM, and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

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) 290-1002 or FAX (281) 351-6256 for further information.

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

City Council Meeting Agenda Item Data Sheet

Meeting Date: May 15, 2023

Topic:

Canvass of Election
Escrutinio de la Elección
Kiểm Phiếu của Cuộc Bầu Cử
拉票選舉

Resolution No. 2023-14, a Resolution of the City of Tomball, Texas, Canceling the Regular City Officer’s Election Scheduled to be Held on the 6th Day of May 2023, in Accordance with Section 2.053(A) of the Texas Election Code; Directing the Giving of Notice of Such Cancellation of Election; and Providing Details Relating to the Cancellation of Such Election

Resolución Nro. 2023-14 Cancelando la Elección Regular de Funcionarios Municipales programada para celebrarse el día 6 de mayo de 2023 de acuerdo con la Sección 2.053(a) del Código Electoral de Texas; instruyendo que se de aviso de tal cancelación de elección; y provyendo detalles relativos a la cancelación de tal elección.

Nghị Quyết số 2023-14, Hủy Bỏ Cuộc Bầu Cử Viên Chức Thành Phố Thường Kỳ Dự Kiến sẽ được tổ chức vào ngày 6 tháng Năm, 2023, Chiếu theo Mục 2.053(a) của Bộ Luật Tuyển Cử Texas; Chỉ thị việc đưa ra Thông Báo về Hủy Bỏ Cuộc Bầu Cử đó; và Cung Cấp Thông Tin Chi Tiết Liên quan đến việc Hủy Bỏ Cuộc Bầu Cử đó.

案2023-14，取消一般市府官員應於2023年5月6日的選舉計畫，其是根據德克薩斯州選舉法2.053(a)節；茲此通知該選舉取消；以及提供關於取消該選舉的詳情。

Background:

Resolution No. 2023-14, canceling the election scheduled to be held on May 6, 2023, was approved by the Council on March 1, 2023, following the deadline for candidates to file for the open positions of Council Positions 2 and 4, and declaring John Ford and Randy Parr duly elected.

Tonight’s activities complete the election and canvass process, finalizing the May 6, 2023, Election.

Origination: City Secretary

Recommendation:

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 Tracylynn Garcia 5-2-2023 Approved by _____
Staff Member Date City Manager Date

UNOFFICIAL CANVASS

REGULAR CITY OFFICER'S ELECTION ON MAY 6, 2023

The Regular Election, scheduled to be held in the City of Tomball on the 6th day of May 2023, at which election the following officers were to be elected by the qualified voters of the City, was canceled in accordance with Section 2.053(a) of the Texas Election Code.

ELECTION RESULTS:

The following candidates were certified as unopposed and were hereby elected as follows:

<u>Candidate</u>	<u>Office Sought</u>
John F. Ford	Council Position 1
Randy Parr	Council Position 5

RESOLUTION NO. 2023-14

A RESOLUTION OF THE CITY OF TOMBALL, TEXAS, CANCELING THE REGULAR CITY OFFICER'S ELECTION SCHEDULED TO BE HELD ON THE 6th DAY OF MAY 2023, IN ACCORDANCE WITH SECTION 2.053(a) OF THE TEXAS ELECTION CODE; DIRECTING THE GIVING OF NOTICE OF SUCH CANCELLATION OF ELECTION; AND PROVIDING DETAILS RELATING TO THE CANCELLATION OF SUCH ELECTION

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

Section 1: It is hereby ordered that the Regular Election, scheduled to be held in the City of Tomball on the 6th day of May 2023, at which election the following officers were to be elected by the qualified voters of the City, is canceled in accordance with Section 2.053(a) of the Texas Election Code.

POSITION:	COUNCIL POSITION 1 COUNCIL POSITION 5
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Section 2: The following candidates have been certified as unopposed and are hereby elected as follows:

<u>Candidate</u>	<u>Office Sought</u>
John F. Ford	Council Position 1
Randy Parr	Council Position 5

Section 3: A copy of the Order of Cancellation, attached herein and made part of Resolution No. 2023-14, will be posted on Election Day at the following polling place, which would have been used in the election:

POLLING PLACE
Tomball City Hall
401 Market Street
Tomball, Texas 77375

PASSED, APPROVED and RESOLVED this 20 day of March, 2023.

Lori Klein Quinn
Lori Klein Quinn, Mayor
City of Tomball

ATTEST:

Tracylynn Garcia
Tracylynn Garcia, City Secretary
City of Tomball

第 2023-14 號決議案

TEXAS州TOMBALL市的決議案，內容是依照TEXAS州選舉法第2.053(a)節取消定於2023年5月6日舉行的常規市官員選舉；指示發布關於取消上述選舉的通知；以及提供有關取消上述選舉的詳細資訊

TEXAS州TOMBALL市市議會決議如下：

第1節： 茲此命令，依照Texas州選舉法第2.053(a)節之規定，定於2023年5月6日在Tomball市舉行的常規選舉現已取消。原定於在該選舉中由本市合資格選民投票選出以下官員。

席位： 議會第1號席位
議會第5號席位

第2節： 下列候選人已被認證為無競爭對手候選人，特此當選如下：

<u>候選人</u>	<u>競選職務</u>
John F. Ford	議會第1號席位
Randy Parr	議會第5號席位

第3節： 取消令已隨附於本文書並構成第2023-14號決議案的組成部份。該命令的副本將在選舉日張貼於原定舉行選舉的以下投票所：

投票所
Tomball City Hall
401 Market Street
Tomball, Texas 77375

本決議案已於2023年 3 月 3 日獲得通過、獲准及決議。

Lorin Klein Quinn
Lori Klein Quinn, 市長
Tomball市

見證：

Tracylynn Garcia
Tracylynn Garcia, 市秘書長
Tomball市

NGHỊ QUYẾT SỐ 2023-14

MỘT NGHỊ QUYẾT CỦA THÀNH PHỐ TOMBALL, TEXAS, HỦY BỎ CUỘC BẦU CỬ VIÊN CHỨC THÀNH PHỐ THƯỜNG LỆ DỰ KIẾN ĐƯỢC TỔ CHỨC NGÀY 6 THÁNG NĂM, 2023, THEO QUY ĐỊNH CỦA MỤC 2.053(A), BỘ LUẬT BẦU CỬ TEXAS; CHỈ THỊ THÔNG BÁO VỀ LỆNH HỦY BỎ CUỘC BẦU CỬ NÓI TRÊN; VÀ CUNG CẤP CÁC THÔNG TIN CHI TIẾT LIÊN QUAN ĐẾN VIỆC HỦY BỎ CUỘC BẦU CỬ NÓI TRÊN

VÌ VẬY BÂY GIỜ, HỘI ĐỒNG THÀNH PHỐ CỦA THÀNH PHỐ TOMBALL, TEXAS RA LỆNH:

Mục 1: Theo đây, ra lệnh rằng Cuộc Bầu Cử Thường Lệ, dự kiến được tổ chức tại Thành phố Tomball vào ngày 6 tháng Năm, 2023, và trong cuộc bầu cử đó, các viên chức sau đây sẽ được bỏ phiếu bầu chọn bởi các cử tri đủ điều kiện của Thành phố, bị hủy bỏ theo Mục 2.053(a) của Bộ Luật Bầu Cử Texas.

VỊ TRÍ:	HỘI ĐỒNG THÀNH PHỐ VỊ TRÍ 1 HỘI ĐỒNG THÀNH PHỐ VỊ TRÍ 5
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Mục 2: Các ứng cử viên sau đây được chứng nhận là không có đối thủ tranh cử nên theo đây trúng cử như sau:

<u>Ứng Cử Viên</u> John F. Ford Randy Parr	<u>Chức Vụ Tranh Cử</u> Hội Đồng Thành Phố Vị Trí 1 Hội Đồng Vị Trí 5
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Mục 3: Một bản sao của Lệnh Hủy bỏ, được đính kèm ở đây và là một phần của Nghị quyết Số 2023-14, sẽ được niêm yết vào Ngày Bầu cử tại địa điểm bỏ phiếu sau, nơi sẽ được sử dụng trong cuộc bầu cử:

ĐỊA ĐIỂM PHÒNG PHIẾU
Tomball City Hall
401 Market Street
Tomball, Texas 77375

ĐÃ THÔNG QUA, PHÊ DUYỆT và QUYẾT ĐỊNH vào ngày 3 tháng Ba, năm 2023.

Lori Klein Quinn
Lori Klein Quinn, Thị Trưởng
Thành Phố Tomball

CHỨNG THỰC:

Tracylynn Garcia
Tracylynn Garcia, Thư Ký
Thành Phố Tomball

ORDER OF CANCELLATION

The City of Tomball, Texas hereby cancels the election scheduled to be held on May 6, 2023 in accordance with Section 2.053(a) of the Texas Election Code. The following candidates have been certified as unopposed and are hereby elected as follows:

Candidate

John F. Ford

Council Position 1

Randy Parr

Council Position 5

A copy of this order will be posted on Election Day at each polling place that would have been used in the election.

Lori Klein Quinn

Mayor

Tracylynn Garcia

Secretary

March 20, 2023

Date of Adoption

ORDEN DE CANCELACIÓN

Por la presente, la Ciudad de Tomball, Texas, cancela la elección programada para el 6 de mayo de 2023 en conformidad con la Sección 2.053(a) del Código Electoral de Texas. Los siguientes candidatos han sido certificados como candidatos sin oponentes y por la presente, son declarados electos, de la siguiente forma:

Candidato

John F. Ford

Consejo, Posición 1

Randy Parr

Consejo, Posición 5

El día de la elección se colocará una copia de esta orden en cada lugar de votación que se hubiera utilizado en la elección.

Lori Klein Quinn

Alcalde

Tracylynn Garcia

Secretario

20 de marzo de 2023

Fecha de adopción

選舉取消命令

Texas州Tomball市現根據Texas州選舉法第2.053(a)節規定，取消原定於2023年5月6日舉行的選舉。下列候選人已被認證為無競爭對手候選人，特此當選如下：

候選人

John F. Ford

議會第1號席位

Randy Parr

議會第5號席位

本命令的副本將在選舉日張貼於原定舉行選舉的各個投票所。

Lori Klein Quinn

市長

Tracylynn Garcia

秘書長

2023年3月20日

採納日期

LỆNH HỦY BỎ

Thành Phố Tomball, Texas theo đây hủy bỏ cuộc bầu cử dự kiến diễn ra ngày 6 tháng Năm, 2023 chiếu theo quy định của Mục 2.053(a), Bộ Luật Tuyển Cử Texas. Các ứng cử viên sau đây được chứng nhận là không có đối thủ tranh cử nên theo đây trúng cử như sau:

Ứng Cử Viên

John F. Ford

Hội Đồng Thành Phố Vị Trí 1

Randy Parr

Hội Đồng Thành Phố Vị Trí 5

Một bản sao của Lệnh này sẽ được niêm yết vào Ngày Bầu Cử tại mỗi điểm bỏ phiếu lẽ ra sẽ sử dụng trong cuộc bầu cử.

Lori Klein Quinn

Thị Trưởng

Tracylynn Garcia

Thư Ký

Ngày 20 tháng 3 năm 2023

Ngày thông qua

City Council Meeting Agenda Item Data Sheet

Meeting Date: May 15, 2023

Topic:

Administer Oath of Office to Elected Officials

Administrar el juramento al cargo de los funcionarios electos

Làm lễ Tuyên Thệ Nhậm Chức cho các Viên Chức Được Bầu Chọn

管管理選舉官員宣誓就職

Background:

Origination: City Secretary

Recommendation:

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 Doris Speer 5-3-2021 Approved by _____
Staff Member Date City Manager Date

City Council Meeting Agenda Item Data Sheet

Meeting Date: May 15, 2023

Topic:

Consideration to Elect Mayor Pro-Tem, in Accordance with Section 6.08 of the City of Tomball Home Rule Charter

Considerar elegir un Alcalde Interino, de acuerdo con la Sección 6.08 de la Carta Orgánica de Gobierno Local de al Ciudad de Tomball

Xem xét Bầu Chọn Thị Trưởng Tạm Thời, chiếu theo Mục 6.08 của Hiến Chương Điều Lệ Địa Phương Thành Phố Tomball

考慮選出暫替市長，根據 Tomball 市自治憲章 6.08 節

Background:

Origination: City Secretary

Recommendation:

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: May 15, 2023

Topic:

- **Kids Club Dates:**

June 9: Soccer Clinic with HTX Soccer (formerly Dynamo/Dash Youth Soccer) at Broussard Park (1414 E. Huffsmith Rd) from 9-11 a.m. This event is open to kids aged 7-12 years of age only.

July 14: Reptile show-n-tell and Reading games (Texas Snakes & More and LSC-Tomball Community Library) at Juergens Park (1331 Ulrich Rd) from 10 a.m. to 12 p.m. This event is open to kids ages 5-12.

August 11: Learn about emergency vehicles and Splash Day at Tomball Depot Plaza (201 S. Elm St). from 10 a.m. to 12 p.m. This event is open to kids ages 5-12.

- **2023 Swim Season (Jerry Matheson Park Pool):**

Monday-Closed

Tuesday thru Friday - 10am - 6pm

Saturday & Sunday – 12pm - 8pm

PRESEASON HOURS 2023

May 27th (Saturday) Noon - 8pm

May 28th (Sunday) Noon – 8pm

May 29th (Monday) 10am – 6pm

REGULAR SEASON HOURS 2023

May 30th (Tuesday) 10am – 6PM Start Date

August 13th (Sunday) Noon – 8pm End Date

END OF SEASON HOURS 2023

August 19th (Saturday) Noon – 8pm

August 20th (Sunday) Noon – 8pm

August 26th (Saturday) Noon – 8pm

August 27th (Sunday) Noon – 8pm

September 2nd (Saturday) Noon – 8pm

September 3rd (Sunday) Noon – 8pm

September 4th (Monday) 10am – 6p

The pool will be open to the public on Memorial Day Weekend.

The pool will be open to the public on Memorial Day.

The Pool will be open to the public on weekends until Labor Day

- **Depot Splash Pad:**
Opens May 26, 2023

Background:

Origination:

Recommendation:

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 Tracylynn Garcia Approved by _____
Staff Member Date City Manager Date

City Council Meeting Agenda Item Data Sheet

Meeting Date: May 15, 2023

Topic:

Approve the Minutes of the May 1, 2023, Special Joint City Council Meeting and Capital Improvements Plan Advisory Committee and the Regular City Council Meeting.

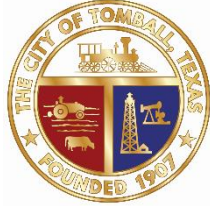
Background:

Origination: City Secretary

Recommendation:

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

**MINUTES OF SPECIAL JOINT MEETING TOMBALL CITY COUNCIL
AND TOMBALL CAPITAL IMPROVEMENT PLAN ADVISORY
COMMITTEE
CITY OF TOMBALL, TEXAS**



**Monday, May 01, 2023
5:00 PM**

- A. The Special Joint Meeting of the Tomball City Council and the Capital Improvement Plan Advisory Committee was called to order at by Mayor Lori Klein Quinn. Other members present:

Tomball City Council:

Council 1 John Ford

Council 2 Mark Stoll

Council 3 Dane Dunagin

Council 4 Derek Townsend, Sr.

Council 5 Randy Parr

Capital Improvement Plan Advisory Committee:

Commissioner Tiffany Fuller

Commissioner Scott Moore

Commissioner Richard Anderson

Others present:

City Manager – David Esquivel

Assistant City Manager – Jessica Rogers

City Attorney – Loren Smith

City Secretary – Tracylynn Garcia

Assistant City Secretary- Sasha Luna

Director of Public Works – Drew Huffman

Police Chief – Jeff Bert

Director of Community Development – Nathan Dietrich

Project Coordinator – Meagan Mageo

Records Specialist – Johnita Robinson

- B. Public Comments and Receipt of Petitions

No public comments were received.

C. New Business

1. The Tomball City Council and the Tomball Capital Improvement Advisory Committee will enter a Joint Workshop Sessions regarding Impact Fees and the use of an alternative delivery method, Construction Manager at Risk.

Presentation was received from Richard Weatherly P.E.-Fresse & Nichols, followed by a 2nd presentation from Chuck Wolf -Freese Nichols.

D. Adjournment

Motion made by Council 4 Townsend, Sr..

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

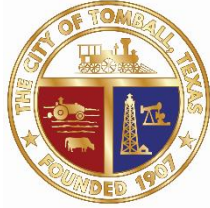
Motion carried unanimously.

PASSED AND APPROVED this 15th day of May 2023.

Tracylynn Garcia
City Secretary, TRMC, CMC, CPM

Lori Klein Quinn
Mayor

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



**Monday, May 01, 2023
6:00 PM**

The City Council of the City of Tomball, Texas, conducted the meeting scheduled for May 01, 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 6:02 p.m.

PRESENT

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

OTHERS PRESENT:

City Manager – David Esquivel
Assistant City Manager – Jessica Rogers
City Secretary – Tracylynn Garcia
City Attorney – Loren Smith
Assistant City Secretary- Sasha Luna
Director of Public Works – Drew Huffman
Police Chief – Jeff Bert
Fire Chief - Joe Sykora
Marketing Manager - Chrislord Templonuevo
Community Center Manager – Rosalie Dillon
Project Coordinator – Meagan Mageo
Records Specialist – Johnita Robinson

- B. Invocation - Led by Pastor Abraham Jasso Iglesia La Hermosa church.
C. Pledges to U.S. and Texas Flags Councilman Randy Parr.

- 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.]*

No public comments received.

- E. Presentations

1.

Proclamation - **“Justin Rudel Day” May 1, 2023**

Proclamation - **“54th Annual Professional Municipal Clerks Week” April 30-May 6, 2023**

Proclamation - **“National Hurricane Preparedness Week” April 30-May 6, 2023**

Proclamation - **“National Nurses Week” May 6-12, 2023**

Proclamation - **“National Economic Development Week” May 8-15, 2023**

- F. Reports and Announcements

1. Announcements

I. May 4, 2023 – **National Day of Prayer** – Tomball Community Center 6-7 pm

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

I. Katherine Tapscott presented the Quarterly Investment Report for Period Ending March 31, 2023.

- G. Approval of Minutes

1. Approve the Minutes of the April 17, 2023, Regular City Council Meeting.

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

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

Motion carried unanimously.

H. New Business

1. Jessica presented updates of the 2023 Texas Legislative Session.
2. Approve and authorize City Manager to execute a Gas Service Agreement to serve Macy's Distribution and Logistics Center at 19201 Hamish Road.

Motion made by Council 5 Parr, 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.

3. Approve Resolution No. 2023-26, a Resolution of the City Council of the City of Tomball, Texas, authorizing the Mayor to execute settlement release documents with Allergan, CVS, Walgreens, and Walmart as additional settling parties within the national opioid settlement participation previously authorized by the city.

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.

4. Approve a contract with B&C Constructors, LP for the replacement of HVAC systems at the Community Center and City Hall through a 1GPA Contract (Contract No. 19-03DP) for a not-to-exceed amount of \$76,065.12, approve the expenditure of funds therefor, and authorize the City Manager to execute any and all documents related to the purchase. This expenditure is included in the FY 2022-2023 Budget.

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

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

Motion carried unanimously.

5. Approve the purchase of four (4) Chevrolet Silverado 1500s from Lake Country Chevrolet, Vendor-5426, through the TIPS USA Automobiles Contract (Contract No. 210907) for a not-to-exceed amount of \$187,237.00, approve the expenditure of funds therefor, and authorize the City Manager to execute any and all documents related to the purchase. These purchases are included in the FY 2022-2023 Budget.

Motion made by Council 3 Dunagin, 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.

I. 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 15th day of May 2023.

Tracylynn Garcia
City Secretary, TRMC, CMC, CPM

Lori Klein Quinn
Mayor

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: May 15, 2023

Topic:

Approve a contract with Hassell Construction Group, LLC for the construction of the Alley Improvement Project for E&P Project 2017-10033 (RFP 2023-07) for a not-to-exceed amount of \$1,586,683.22, 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 Gunda Coporation to complete the design of the Alley Improvement Project for the 100 blocks north and south, 200 block north and pocket park with a prefabricated public restroom. The project was identified based on the recommendation of the Comprehensive Plan, FM 2920 Access Management Study, and Livable Centers Downtown Plan and has been a joint project between the City and the Tomball Economic Development Corporation.

To obtain the most favorable pricing and in accordance with the City’s Procurement Policy, sealed proposals were solicited for the completion of the construction, with information available online through CivCast or in person at the Gunda Corporation office. A total of two (2) proposals were received, and the City enter into negotiations with both proposers and based on the scope a Best and Final Offer was submitted by each Proposer. Following the Best and Final Offer, the lowest responsible proposer was identified as Hassell Construction Group, LLC. for a total of \$1,586,683.22, for all the base proposal and all alternatives.

Base Proposal: 100 Blocks North and South (Walnut to Elm Street)	\$1,013,103.40
Alternate One: Brick Edging	\$52,743.15
Alternate Two: 200 Block North	\$343,836.67
Alternate Three: Pocket Park & Restroom	\$177,000.00
Total Proposal:	\$1,586,683.22

Funds for completing the proposed project were allocated in the Fiscal Year 2022-2023 budget, additional funds required for construction will be reallocated through CIP process from unobligated funds from the Medical Complex project. Current funding amount is \$1,561,885.00, reallocated funding amount will be \$24,798.22.

Origination: Project Management

Recommendation:

Staff recommends approving the City Manager to execute a contract with Hassell Construction Group, LLC for the construction of the Alley Improvement Project, for a not-to-exceed amount of \$1,586,683.22.

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

FUNDING (IF APPLICABLE)

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

Yes: X No: _____ If yes, specify Account Number: #400-154-6409

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

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

Document 00520

AGREEMENT

Project: Alley Improvement Project from Cherry Street to Elm Street

Project Location: Northern alleys located between Commerce Street, Main Street, Cherry Street and Elm Street and Southern Alley located between Market Street, Main Street, Walnut Street and Elm Street

Project Proposal No: 2023-07

E&P Project No: 2017-10033

The City: The City of Tomball, County of Harris, Texas (the "City")

and

Contractor: Hassell Construction Group, LLC

(Address for Written Notice) 12522 Cutten Rd., Suite A, Houston, TX 77066

Fax Number: 281-580-9170

City Engineer is: _____

(Address for Written Notice) _____

Fax Number: _____

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 180 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 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 \$ 1,590,683.22 which includes Alternates, if any, accepted below.
- 3.2 The City accepts Alternates as follows:
Alternate No. 1,2,3 & All Add 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).
- 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.

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 [4/4/23]
 - Addendum No. 2, dated [4/4/23]
 - Addendum No. 3, dated [4/10/23]

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
[X] 00611	Statutory Payment Bond
[] 00612	One-year Maintenance Bond
[X] 00620	Affidavit of Insurance (with the Certificate of Insurance attached)
[X] 00800	Exhibit A, Wage Rates
[] 00821	Wage Rate for Building Construction
[] 00830	Trench Safety Geotechnical Information

ARTICLE 8
SIGNATURES

8.1 This Agreement is executed in two originals and is effective on _____.

CONTRACTOR
By: *[Signature]*
Name: Michael L. Hassell
Title: Secretary
Date: 5/8/23
Tax Identification Number: 83-0727193

(If Joint Venture)
By: _____
Name: _____
Title: _____
Date: _____
Tax Identification Number: _____

ATTEST/SEAL: *[Signature]*



[SEAL]
Attest: *Amanda Spooner*

Date: 5/8/23

CITY OF TOMBALL, TEXAS:

By: _____
City Manager

Date: _____

ATTEST/SEAL:

[SEAL]

Attest: _____
City Secretary

Date: _____

END OF DOCUMENT



GUNDA CORPORATION

Engineers, Planners & Managers

April 28, 2023

City of Tomball
501 James Street
Tomball, Texas 77375

Attn: Drew Huffman, Director of Public Works

Re: City of Tomball
E&P No. 2017-10033 – Alley Improvement Project from Cherry Street to Elm Street
Project Proposal No. 2023-07
GUNDA Project No. 19001-01

Tabulation of Proposals Received and Engineer’s Recommendation

Dear Mr. Huffman:

On March 7, 2023, a total of two (2) proposals were received via Civcast and opened for the Alley Improvements Project from Cherry Street to Elm Street project in accordance with the Notice of Competitive Sealed Proposal. On March 29, 2023, interviews were held with the two contractors that submitted proposals. Based on both interviews, clarifications for various proposal items were discussed, and add alternate proposal items were selected as part of a best and final offer to be submitted by both contractors. On April 14, 2023, the best and final offers were received via email to both the City of Tomball and the Engineer of Record. The best and final offers have been reviewed and tabulated, see enclosure.

Hassell Construction Group, LLC (HCG) is the recommended contractor. The total price for the original proposal was \$2,004,434.55. Hassel Construction Group submitted a best and final offer with the prices for original base items and add alternative item totals in the amounts of \$1,731,168.85 and \$1,586,683.22, respectively. The proposal and alternate proposal items for each scenario are as follows:

Original Proposal Totals:

Base Proposal	\$1,309,505.70
Alternate E1	\$52,743.15
Alternate E2	\$426,185.70
Alternate E3	\$216,000.00

Best and Final Offer Base Item Totals:

Base Proposal	\$1,100,063.90
Alternate E1	\$52,743.15
Alternate E2	\$362,361.80
Alternate E3	\$216,000.00

Best and Final Offer Add Alternative Item Totals:

Base Proposal	\$1,013,103.40
Alternate E1	\$52,743.15
Alternate E2	\$343,836.67
Alternate E3	\$177,000.00

Mr. Drew Huffman
 April 26, 2023
 Page 2 of 2

The best and final offer prices submitted by Hassell Construction Group, LLC show no signs of imbalance. Therefore, we pose no objection to the recommendation of awarding the construction contract for City of Tomball Alley Improvement Project from Cherry Street to Elm Street to Hassell Construction Group, LLC.

Below is a summary of our full review of the proposals received for the project.

The Base Price was utilized to establish the order of the proposal items and identification of apparent low proposal price.

Contractors and their Total Proposal Prices were:

Original Proposal Totals:

Contractor	Base	Alternate E1	Alternate E2	Alternate E3
Hassell Construction Group, LLC	\$1,309,505.70	\$52,743.15	\$426,185.70	\$216,000.00
Corestone Construction	\$1,221,857.35	\$34,612.24	\$364,660.47	\$181,250.00

Best and Final Offer Original Base Item Totals:

Contractor	BAFO Base	Alternate E1	Alternate E2	Alternate E3
Hassell Construction Group, LLC	\$1,100,063.90	\$52,743.15	\$362,361.80	\$216,000.00
Corestone Construction	\$1,090,898.49	\$34,612.24	\$327,330.44	\$181,250.00

Best and Final Offer Add Alternative Item Totals:

Contractor	BAFO Base	Alternate E1	Alternate E2	Alternate E3
Hassell Construction Group, LLC	\$1,013,103.40	\$52,743.15	\$343,836.67	\$177,000.00
Corestone Construction	\$1,106,700.33	\$34,612.24	\$342,894.24	\$120,172.00

If you have any questions, please do not hesitate to call.

Sincerely,

Patrick Rummel, P.E.
 Engineer of Record

Enclosure: 2017-10033_BAFO_Proposal Tabulation

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: May 15, 2023

Topic:

Consider approval of Resolution No. 2023-27, a Resolution of the City of Tomball, Texas, determining the Construction Manager at Risk (CMAR) delivery method for the expansion of the South Wastewater Treatment Plant (SWWTP) provides the best value to the City and stating the award of the CMAR Contract will be based on best value; and providing an effective date.

Background:

The South wastewater treatment plan is in need of an expansion from the current permitted annual average daily flow capacity of 1.5 million gallons per day (MGD) to 3.0 MGD to accommodate the City's projected growth. In order to facilitate the best value and end result, staff have worked with Freese and Nichols, our design engineer, to pursue the construction manager-at-risk delivery method. Freese and Nichols presented information related to the CMAR process to the City Council in a workshop on May 1, 2023 and Council directed staff to move forward.

CMAR is a delivery method which necessitates a commitment by the Construction Manager (CM) to serve as the general contractor and deliver the project within a Guaranteed Maximum Price (GMP) which is based on the construction documents and specifications at the time of the GMP plus, any reasonably inferred items or tasks. By bringing the CMAR on early in the design process, they can provide valuable input to the design and construction planning for the project (e.g., cost estimating, scheduling, solicitation of subcontractor bids, value engineering, construction phase operational coordination planning, etc.).

This delivery method has several unique benefits to the City for a project such as the South WWTP Expansion Project, including:

1. A higher level of cost control from design through construction. During the design development, the CMAR provides cost updates at contractually established points and monitors the cost impacts of design decisions as the design develops. If these cost estimates remain in line with the established budget, the Engineer then moves on to the next phase of design. If not, the CMAR, Owner and Engineer assess the cost estimate and make design changes to bring the design back into budget alignment. This process allows for the Engineer to "design to budget" and improves overall project budgetary performance.
2. The CMAR is an advocate for the Owner City and manages the project with the City's best interest in mind.
3. The CMAR takes burden off of the City in managing and coordinating the project.
4. The City's risk is managed by the CMAR and the Engineer through the collaborative delivery process so that the construction documents are complete and proper allowances and contingencies are built into the GMP.
5. Constructability and value to the Owner are afforded by the value engineering and cost/risk management expertise brought to the process by the CMAR.
6. The CMAR process allows the City to select a general contractor based on their qualifications and demonstrated performance in construction/expansion work for treatment plant infrastructure

similar to the South WWTP. This affords the City the opportunity to perform deeper due diligence on the primary construction partner than would be allowed under competitive fixed-price bidding or competitive sealed proposal bidding.

7. Generally, the thorough prequalification process used by a CMAR minimizes the number of low bidders disqualified and generally leads to lower long term costs, higher quality, and fewer claims because only pre-qualified contractors are performing work.
8. CMAR services are professional services like architectural, engineering, surveying, etc. The CMAR's main purpose is not only to construct the project, but to manage the cost, schedule and overall quality of the project.

The Texas Government Code requires a governmental entity, when using a method other than competitive bidding for construction services, to determine prior to advertising and issuing the Request For Proposal (RFP) that the alternate method provides the best value to the City (TX Gov't Code § 2269.056). After the resolution is passed, a contract and RFQ/RFP will be issued for the procurement of CMAR for the South WWTP expansion.

Origination: Project Management

Recommendation:

Staff recommends approving Resolution No. 2023-27, resolving that CMAR provides the best value to the City and that the award of the CMAR Contract will be based on the best value; and providing an effective date.

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. 2023-27

A RESOLUTION OF THE CITY OF TOMBALL, TEXAS, STATING THAT THE CITY COUNCIL HAS DETERMINED THE CONSTRUCTION MANAGER AT RISK DELIVERY METHOD PROVIDES THE BEST VALUE TO THE CITY AND THAT THE AWARD OF THE CONSTRUCTION MANAGER AT RISK CONTRACT WILL BE AWARDED BASED ON BEST VALUE TO THE CITY; AND PROVIDING AN EFFECTIVE DATE.

* * * * *

WHEREAS, The Texas Government Code requires a governmental entity when using a method other than competitive bidding for construction services to determine prior to advertising and issuing the Request For Proposal that the alternate method provides the best value to the City (TX Gov't Code § 2269.056); and

WHEREAS, The City of Tomball, Texas, City Council understands the Construction Manager at Risk (CMAR) method of delivery generally brings overall value to delivery of complex construction projects; and

WHEREAS, The CMAR is an Owner advocate and manages the project with the Owner's best interest in mind at all times; and

WHEREAS, Constructability and value to the Owner are improved by the construction expertise brought to the project delivery process by the CMAR; and

WHEREAS, CMAR services are professional services like architectural, engineering, surveying etc. and the CMAR's purpose is not only to construct the project, but to manage the coordination and construction of the project in a manner that adds value to the project; and

WHEREAS, The South Wastewater Treatment Plant expansion is a complex project with significant schedule, budget, and operational coordination constraints that will benefit from these management services.

NOW, THEREFORE

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

Section 1. The City of Tomball City Council has determined the Construction Manager at Risk delivery method to provide the best value to the City of Tomball for the South Wastewater Treatment Plant Expansion Project and will award the Construction Manager at Risk contract based on best value provided to the City after review of proposals from prospective firms.

Section 2. The City of Tomball City Council hereby delegates authority to the City Manager for the purposes of solicitation and selection of a firm or team to provide Construction Manager at Risk Services.

Section 3. That this Resolution shall take effect immediately upon its passage, and it is so resolved.

PASSED, APPROVED, AND RESOLVED this ____ day of _____ 2023.

Lori Klein Quinn, Mayor

ATTEST:

Tracylynn Garcia, City Secretary

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: May 15, 2023

Topic:

Approve a Professional Services Agreement with Civil System Engineering, Inc., for Project Number 2023-10008, Drainage Master Plan and Impact Fee Update for a not-to-exceed amount of \$844,000, 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 Civil System Engineering, Inc. includes a scope of work for creating a drainage master plan for the City of Tomball and update our current drainage impact fees. The scope will include data collection, site investigation, GIS mapping, development of hydrologic and hydraulic modeling, development of a Capital Improvement plan with benefit-cost analysis, stakeholder and agency coordination, and the creation of an updated master plan.

As part of the master plan, the consultant will work with the City to update our drainage impact fees and evaluate additional options available to the City to fund capital improvement projects and operations and maintenance projects. Additional services in the agreement include the assistance with up to four grant applications to be submitted for implementation of recommended drainage improvements throughout our system.

Civil Systems Engineering, Inc. was selected through the Request for Qualifications process (RFQ 2023-08). Seven firms submitted statements of qualifications, with Civil Systems Engineering, Inc. being selected as the most highly qualified respondent. After such selection, staff engaged in discussions with the firm to determine fair and reasonable rates for professional services. 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 Civil Systems Engineering, Inc. for the creation of a Drainage Master Plan and Impact Fee Update for a total amount not to exceed \$844,000.

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: X No: _____

If yes, specify Account Number: # 100-154-6302

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

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

**PROFESSIONAL SERVICES AGREEMENT
FOR
ENGINEERING SERVICES
RELATED TO
ENGINEERING & PLANNING PROJECT NO. 2023-10008
CITY OF TOMBALL
DRAINAGE MASTER PLAN**

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

THIS AGREEMENT made on the _____ day of _____, 2023 entered into, and executed by and between the City of Tomball, Texas (the “City”), a municipal corporation of the State of Texas, and Civil Systems Engineering, Inc. (“Engineer”).

WITNESSETH:

WHEREAS, the City desires to develop / update the City of Tomball Drainage Master Plan, (the “Project”); and

WHEREAS, the services of a professional engineering firm are necessary to provide project planning, project design, and preparation of construction documents, and

WHEREAS, the Engineer represents that it is fully capable and qualified to provide professional services to the City related to professional engineering;

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

**SECTION I
SCOPE OF AGREEMENT**

Engineer agrees to perform certain professional engineering services as defined in Attachment “A” attached hereto 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 Engineer compensation as stated in Section VII.

**SECTION II
CHARACTER AND EXTENT OF SERVICES**

Engineer shall do all things necessary to render the engineering services and perform the Scope of Work in a professional and workmanlike manner. It is expressly understood and agreed that Engineer is an Independent Contractor in the performance of the services agreed to herein. It is further understood and agreed that Engineer 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 Attachment "A" without prior written authorization from the City.

SECTION III OWNERSHIP OF WORK PRODUCT

Engineer agrees that the City shall have the right to use all exhibits, maps, reports, analyses and other documents prepared or compiled by Engineer 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.

SECTION IV TIME FOR PERFORMANCE

The time for performance of the Scope of Work is an estimated 550 calendar day duration beginning from the execution date of this Agreement, (Detailed Estimated Timeline include in Attachment A). Upon written request of Engineer, 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 Engineer has no control.

SECTION V COMPLIANCE AND STANDARDS

Engineer 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 Engineer's performance.

SECTION VI INDEMNIFICATION

To the fullest extent permitted by Texas Local Government Code Section 271.904, Engineer 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 Engineer, the Engineer's agent, consultant under contract, or another entity over which the Engineer exercises control.

SECTION VII ENGINEER'S COMPENSATION

For and in consideration of the services rendered by Engineer pursuant to this Agreement, the City shall pay Engineer only for the actual work performed under the

Scope of Work, on the basis set forth in Attachment "A," up to an amount not to exceed \$844,000 including reimbursable expenses as identified in Attachment "A."

SECTION VIII TERMINATION

The City may terminate this Agreement at any time by giving written notice to Engineer. Upon receipt of such notice, Engineer 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, Engineer shall submit a sworn statement, showing in detail the services performed under this Agreement to the date of termination. The City shall then pay Engineer for such services performed under this Agreement as those services 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 designs, maps, studies, documents and other work product prepared under this Agreement shall be delivered to the City when and if this Agreement is terminated.

SECTION IX ADDRESSES, NOTICES AND COMMUNICATIONS

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

Civil Systems Engineering, Inc.
1202 Lake Pointe Parkway
Sugar Land, TX 77478
Attn: Kurt Killian, P.E., CFM

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
501 W. Market Street
Tomball, Texas 77375
Attn: Drew Huffman, Public Works Director

SECTION X LIMIT OF APPROPRIATION

Prior to the execution of this Agreement, Engineer has been advised by the City and Engineer 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 Engineer may

become entitled to hereunder and the total sum that the City shall become liable to pay to Engineer hereunder shall not under any conditions, circumstances, or interpretations hereof exceed the amounts as provided for in this Agreement.

SECTION XI SUCCESSORS AND ASSIGNS

The City and Engineer bind themselves and their successors and assigns to the other party of this Agreement and to the successors and assigns of such other party, in respect to all covenants of this Agreement. Engineer shall not assign, sublet, or transfer its interest in this Agreement without the written consent of the City. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the City or any public body which may be a party hereto.

SECTION XII MODIFICATIONS

This instrument, including Attachment "A," contains the entire Agreement between the parties relating to the rights herein granted and the obligations herein assumed. To the extent there is a conflict between the provisions of this Agreement and the provisions of Attachment "A," this Agreement shall control. 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 XIII ADDITIONAL SERVICES OF ENGINEER

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

SECTION XIV CONFLICTS OF INTEREST

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

SECTION XV PAYMENT TO ENGINEER FOR SERVICES AND REIMBURSABLE EXPENSES

Invoices for Basic and Additional Services and reimbursable expenses will be prepared in accordance with Engineer's standard invoicing practices and will be

submitted to the City by Engineer at least monthly. Invoices are due and payable thirty (30) days after receipt by the City.

SECTION XVI INSURANCE

Engineer shall procure and maintain insurance in accordance with the terms and conditions set forth in Attachment "B," for protection from workers' compensation claims, claims for damages because of bodily injury, including personal injury, sickness or 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 XVII MISCELLANEOUS PROVISIONS

A. This Agreement is subject to the provisions of the Texas Prompt Payment Act, Chapter 2250 of the Texas Government Code. The approval or payment of any invoice shall not be considered to be evidence of performance by Engineer or of the receipt of or acceptance by the City of the work covered by such invoice.

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

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

D. Contractor 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.

E. In accordance with Chapter 2270 and 2252, Texas Government Code, a government entity may not enter into a contract with a company for goods or services unless the Engineer covenants and agrees that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. Furthermore, the Engineer is prohibited from engaging in business with Iran, Sudan, or Foreign Terrorist Organization.


F. In accordance with Chapter 2274, Texas Government Code, a government entity may not enter into a contract with a company for goods or services unless the Engineer covenants and agrees that it: (1) does not Boycott Energy Companies; (2) will not Boycott Energy Companies during the term of the contract; (3) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (4) will not discriminate during the term of the contract against a firearm entity or firearm trade association.

IN WITNESS WHEREOF, the City of Tomball has lawfully caused this Agreement to be executed by the City Manager of said City and attested by the City Secretary and Civil Systems Engineering, Inc. acting by and through its duly authorized officer/representative, does now sign, execute, and deliver this instrument.

EXECUTED on this _____ day of _____, 2023.

ENGINEER:

Civil Systems Engineering, Inc. _____

By:  _____
Name: Kurt Killian, PE, CFM
Title: Vice President

CITY OF TOMBALL, TEXAS

David Esquivel, PE, City Manager

ATTEST:

Tracy Garcia, City Secretary

ATTACHMENT “A”

PART A – SCOPE OF SERVICES AND DELIVERABLE DOCUMENTS

ENGINEERING & PLANNING PROJECT NO. 2023-10008

CITY OF TOMBALL DRAINAGE MASTER PLAN

1.0 GENERAL

The Engineer shall provide professional engineering services as described in the Contract and as further defined by this Attachment A, Scope of Services.

DESCRIPTION OF PROJECT

The Project generally is described as, providing engineering and planning services required for developing / updating the City of Tomball’s Drainage Master Plan. This effort shall be in conformance with Local Government Code, Title 12, Planning and Development, Chapter 395, Financing Capital Improvements Required by New Development in Municipalities, Counties, and Certain Other Local Governments.

2.0 SCOPE OF SERVICES

Overview

The City of Tomball (City) is a fast-growing municipality in northwest Harris County, about 40 miles north of Houston, accessible via State Highway 249 and FM 2920. The City is comprised of approximately 12 square miles of land within the city limits with additional developable land in its extra-territorial jurisdiction, as shown in Figure 1.

Tomball has a population of about 12,500 people and daily visitor traffic of about 30,000. The City has and is experiencing significant growth. Recent developments include new residential and commercial centers and the expansion of major roadways. The City is expected to continue to grow, both in population and economic vitality, resulting in the need for additional drainage infrastructure improvements. The previous City of Tomball drainage master plan was published in 2014 and does not reflect current conditions, development growth needs, and latest drainage methodologies, criteria, and analysis technology. The combination of the age of the previous master drainage study, anticipated City growth, latest methodologies and technologies, and drainage improvements since the previous master plan requires that a new drainage master plan be developed.

The objective of this study is to develop a comprehensive Drainage Master Plan (DMP) and make recommendations of needed capital projects to address existing and future drainage issues, drainage infrastructure needs, and flood relief. In addition, this study will investigate and update the current drainage impact fee structure. The resulting drainage master plan and the recommended drainage impact fee and stormwater utility fee structure will provide sufficient information for the City to plan, fund, and implement future drainage / flood control. This effort shall be in conformance with Local Government Code, Title 12, Planning and Development, Chapter 395, Financing Capital Improvements Required by New Development in Municipalities, Counties, and Certain Other Local Governments.

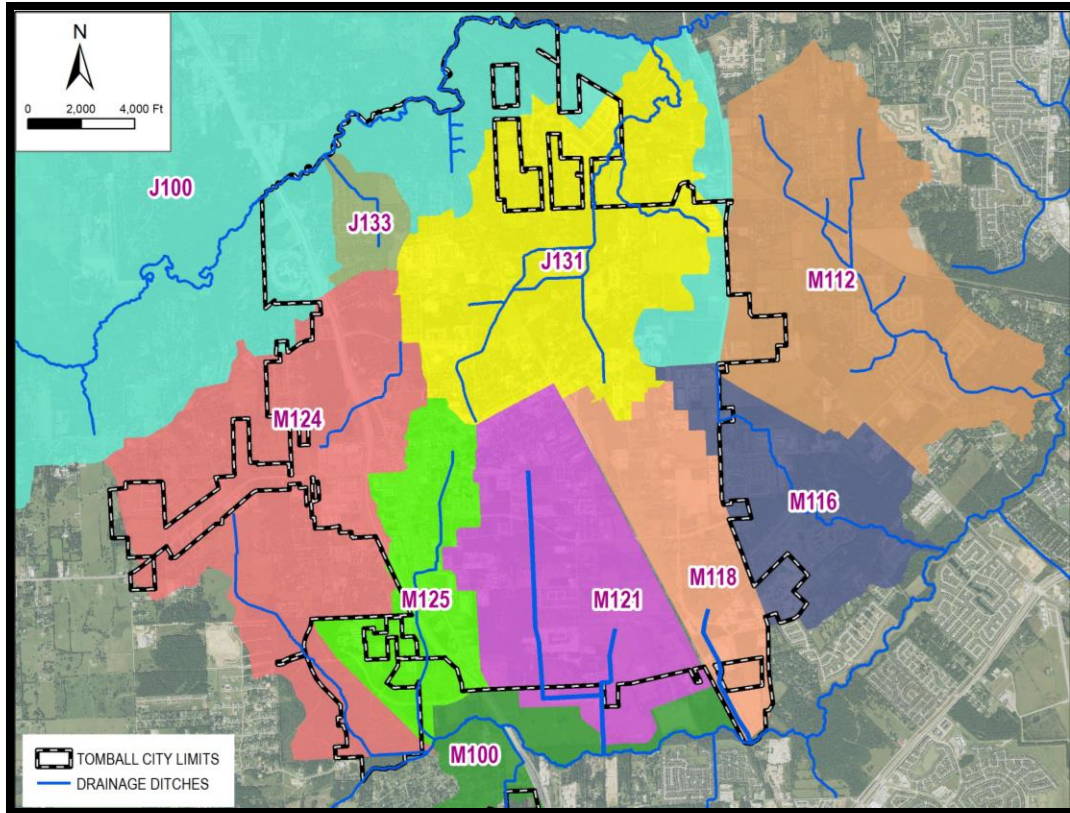


Figure 1: City of Tomball Drainage Master Plan Study Area

Scope of Work

Major tasks to be performed to achieve the DMP study objectives include:

1. Project Management
2. Stakeholder Outreach and Agency Coordination
3. Data Collection and Review
4. Site Investigation and Field Survey
5. GIS Base Mapping/ Geodatabase Development
6. Development of Hydrologic and Hydraulic Models
7. Existing Conditions Modeling Analysis
8. Future Conditions Modeling Analysis
9. Alternative Analysis
10. Preliminary Environmental Assessment
11. Benefit-Cost Analysis
12. Drainage Impact Fee / Stormwater Utility Fee
13. Capital Improvement Plan (CIP)
14. Review and Update Drainage Criteria and Standards
15. Final DMP Report
16. Grant Applications

Task 1: Project Management

1. Civil Systems Engineering, Inc. (CSE) will attend a kick-off meeting with City of Tomball (City), other stakeholders, and key team members to discuss the project needs, objectives, expectations, scope, budget and schedule, reporting, invoicing / billing, critical issues, deliverables, responsibility assignments, and communication methods, to ensure a clear understanding of the project expectation and concerns.
2. Conduct bi-weekly progress meetings (24 max) with the City PM and staff. Meetings shall be virtually conducted via MS Teams. CSE will prepare meeting agendas and document meeting minutes. Upon City request, virtual meetings may be conducted in-person, as needed.
3. Prepare monthly progress reports and invoicing for submission to the City.
4. CSE will aid the City in the preparation of grant funding applications for potential CIP and flood relief projects within the study area as proposed within this DMP.
5. QA/QC review will be performed for all submittals.

Task 2: Stakeholder Outreach & Agency Coordination

CSE will assist the City with conducting steering committee, stakeholder, CPAC, and outside agency coordination meetings during the course of the project. CSE will collaborate with on-going outside agency (eg. City, TxDOT, HCFCD, or Harris County) studies, planning, and projects related to the City's drainage infrastructure planning and attend coordination meetings as needed. Additionally, CSE will assist the City for the final presentation of the project to City Council. All meetings will be documented and included within the technical report.

Task 3: Data Collection and Review

CSE will collect most current LiDAR topographic data, soil and land use data, drainage studies, plan sets, Flood Insurance Study (FIS), floodplain and inundation maps, repetitive loss structures, land use and future development, and other available pertinent data associated with the study (City of Tomball, TWDB, TNRIS, USGS, NRCS, HCFCD, Harris County, HGAC, & TxDOT). CSE will review the collected data and leverage the information for model updates and plan formulation / evaluation, and identification of potential stream gages. Utility information and other City infrastructure will be taken from City's GIS system. CSE will identify known flooding / drainage problem areas (existing drainage/ flood control systems, flooded structures/ critical infrastructures, roadway segments, erosions, existing drainage criteria, etc). CSE will provide the City with a comprehensive digital compilation of all materials collected.

Task 4: Site Investigations & Field Survey

CSE will conduct site visits & field investigations to observe and assess existing hydrologic and hydraulic conditions, including internal drainage systems and hydraulic structures for clarity of modeling conditions and constraints. Field observations will be documented and a photo log generated.

CSE will perform limited field surveys to collect topographic data for channel cross-sections, cross-drainage structures, and storm sewer trunklines to supplement existing available data. The survey topography will be utilized in conjunction with the latest LiDAR topography, previous survey, and as-builts to generate a project level DEM and provide structure details sufficient to develop hydrologic and hydraulic models to analyze the existing stream, drainage, and storm systems as well as to propose and analyze improvement alternatives.

Field survey will be conducted under the supervision of a Registered Professional Land Surveyor currently registered with the Texas Board of Professional Engineers and Land Surveyors. All survey related services shall be in accordance with the Rules and Acts of the Texas Board of

Professional Engineering and Land Surveying. All survey coordinate geometry must be based on and tied to NAD-83 State Plane Coordinate System (horizontal) and NAVD88 (vertical) datum coordinate systems; a surface adjustment factor for project study area will be provided.

Surveying of existing closed conduit storm sewer systems will be performed, as needed, to supplement current available truck line system data. Storm sewer surveyed elevations will be compared against as-builts and other study information to validate information. Final determination of storm sewer survey data collection needs, including channel cross-sections, manhole dips and outlet structures, will be identified during the project development.

A survey inventory exhibit will be provided within the report to illustrate locations of surveyed cross-sections, structures, and bridges. Survey inventory photo log will be provided within the report appendices.

Task 5: GIS Base Mapping and Geodatabase Development

CSE will build upon the City's GIS and perform GIS base mapping for the project overlay the collected geospatial datasets including aerial photographs, vector street maps, political boundaries, land use, benchmarks, stream and drainage ditch centerlines, storm sewer systems, water bodies, highwater marks, FEMA floodplain, and inundation mapping. Current LiDAR DEM datasets will also be overlaid along with other geospatial data layers. CSE will develop a hydrologically correct project DEM dataset from the current TNRS LiDAR data by examining LiDAR data at stream crossings (bridge/ culverts) based on Google Map and site visits.

As part of the project, a set of GIS layers will be updated / developed as part of an overall project geodatabase to document the project's data collection, proposed plans, and analysis results. The project geodatabase will be provided to the City for incorporation into the City's GIS system.

Task 6: Development of Hydrologic and Hydraulic Models

Hydrologic Modeling & Analysis

CSE will first review the available hydrologic models (eg. HEC-HMS) from FEMA, HCFCD, and Harris County related to study area. Additional study models will be reviewed and incorporated (eg. M118 and M121). Where necessary, updates to drainage areas and watershed parameters will be performed based on the current high precision LiDAR dataset and field data. Where no previous study exists, new subbasin delineations and hydrologic parameters will be developed using ArchHydro, GeoHMS, and/or latest version HEC-HMS.

- CSE will perform watershed processing, including basin processing, basin characteristics estimation, and analysis / model setup. Basin processing will be performed to delineate and edit subbasins based on preliminary watershed and stream delineations from terrain processing with project specifications. GIS tools, GeoHMS or latest HEC-HMS will be used to compute hydrologic parameters with tables of physical characteristics of the streams and watersheds. Stream physical characteristics, such as length, upstream and downstream elevations, and slope, will be extracted from the terrain data. Similarly, the subbasin physical characteristics, such as longest flow lengths, centroidal flow lengths, and slopes. These physical characteristics will then be exported and used externally to estimate hydrologic parameters for each hydrological unit based on current HCFCD criteria and methodology.
- CSE will utilize HCFCD Region 1 latest Atlas 14 rainfall, 24-hour storm duration for hydrologic modeling analyses.
- CSE will utilize the Green-Ampt Infiltration Method, based on HCFCD criteria, for hydrologic modeling and analyses.
- CSE will develop land use and land cover data for the study area for base and future projection

year conditions. CSE will download gridded landcover data from USGS website (NLCD 2016) as base land use coverage data. CSE will also obtain or generate more accurate land use data based on existing parcel maps and aerial photos (main channels, buildings, roads, etc.). Percent impervious and overland use Manning's 'N' values will be estimated and assigned to each land classification.

- Time of concentration (Tc) will be calculated using HCFCD methodology. For localized drainage analysis, the NRCS TR-55 equations will be used to compute overland sheet flow, shallow concentrated flow, and channel/storm drain travel times. The Tc values developed for previous studies will be reviewed, refined, updated, and added to as necessary based on best available data.
- HCFCD's methodology for Clark's unit hydrograph method will be utilized for runoff transformation within HEC-HMS model.
- Stream routing within HEC-HMS will utilize modified Puls which will be developed from storage relationships extracted from the HEC-RAS hydraulic models.
- CSE will develop HEC-HMS models using input data of the drainage area delineations and estimated hydrologic parameters, precipitation data, and stream routing. Adjacent study hydrologic modeling analysis will be reviewed for consistency and errors and incorporated as appropriate for HEC-HMS modeling.
- CSE will validate hydrologic modeling using historic flooding events (discharges, hydrographs, and recorded HWMs). Additionally, rain-on-grid 2D HEC-RAS modeling will be performed to verify drainage area delineations, subbasin parameters, and HEC-HMS flow computations.
- Storm sewer hydrologic computations will be performed for urbanized areas with storm sewer networks. Drainage areas will be delineated to trunkline manhole nodal locations. Flows will be computed using the Rational Method, and runoff hydrographs will be computed and generated within HEC-HMS, EPA-SWMM, and/or XP-SWMM.

Hydrology analysis products will include hydrologic models, drainage area delineations, hydrologic parameters, and runoff flows and hydrographs for multiple frequencies (2-, 5-, 10-, 25-, and 100-year), and will be provided in tables, exhibits, and GIS geodatabase layers. The exhibits will include Overall Watershed Map, Subbasin Drainage Area Maps, Parameter Map (Landuse, Tc, Imp), Soil Map, and Storm Sewer Basin Maps.

Hydraulic Modeling & Analysis

Hydraulic models will be created and calibrated for open channels and storm sewer trunklines to analyze the conveyance capacity of the existing systems and establish multiple frequency water surface elevations and flood inundation floodplains and identify system constraints. A citywide 1D/2D unsteady HEC-RAS hydraulic model will be developed for the entire study area. The watershed-based model better simulates the hydrologic and hydraulic interconnections of the hydrologic and hydraulic features within the study area as one system. The backwater effect, flood wave timing, shallow and wide floodplain within the watershed will be more accurately defined and modeled within a 2D environment. Geometric data and input parameters for the modeled streams will be generated within RAS Mapper and ArcGIS using the project DEM dataset, surveyed channel cross sections and structure data, as-builts, aeriels, and field observations.

Specifically, CSE will develop detailed terrain model for hydraulic modeling using GIS or RAS Mapper by merging / mosaicking of the channel terrain model (based on survey cross data) with the surface terrain model (LiDAR); determine modeling standards, methodologies, criteria, assumptions, and calibration standards for the project; develop and/or update open-channel HEC-RAS 1D steady modeling by constructing existing bank to bank channel 1D model, inputting

bridge and culvert structure geometries, defining bridge / culvert modeling approach and loss coefficients, estimating modeling parameters, such as Manning's roughness coefficients, expansion/contraction coefficients, ineffective flow areas, storage area connections, tailwater boundary conditions. Manning's roughness coefficients ("n") will be estimated based on field reconnaissance, aerial photos, other and standard engineering reference tables, or publications.

For RAS 2D modeling, CSE will develop 2D modeling GIS layers (eg. land cover, Manning's, impervious, soils, structures), generate 2D mesh for overbank areas, including breaklines, mesh connections, etc), develop hydraulic property tables (HTAB) with 2D geometric preprocessing, develop 1D hydraulic elements and 2D element connections (stream reach with lateral structure, stream to 2D area, 2D area to storage area), identify locations for in-mesh structures and weirs within the 2D mesh overbank areas, determine boundary conditions for 2D flow areas (flow hydrograph, stage hydrograph, normal depth, and rating curve, and/or precipitation). CSE will evaluate the hydraulic methods for 2D hydraulic modeling analysis - Shallow Water Equation or Diffusion Wave Equation. CSE will evaluate / optimize mesh cell sizes for specific 2D areas and computation time step. CSE will examine velocity vector and floodplain depth in RAS Mapper. CSE will calibrate 1D/2D HEC-RAS models against highwater marks and historical flood events. Verify model reliability by running calibrated model for additional historic flood events.

For urbanized areas, CSE will develop storm sewer system hydraulic models to determine capacity insufficiencies for the existing storm sewer systems, identify flood prone urban areas, overflows, ponding areas, and identify locations for potential system improvements. Storm sewer analyses will be performed at a trunkline level for all the study area. The analyzed systems will include those within City and other jurisdiction within the study area. Storm sewer systems will be analyzed using GeoPAK Drainage, EPA-SWMM, and/or XP-SWMM.

Hydraulic analysis products will include HEC-RAS models and any additional storm sewer analysis models, and multiple-frequency water surface elevations, inundation areas/ floodplains, and flood profiles. The hydraulic outputs will be provided in tables, exhibits, and GIS database layers. Exhibits will include: Overall Stream Layout Map, Stream Layout Maps with HEC-RAS modeling parameters (alignments, cross-sections, structures, 2D areas and elements), and Storm Sewer Layout Map. CSE will provide draft data to the City for review and comment prior to finalization. CSE will provide the City digital compilation of hydraulic analysis products.

Task 7: Existing Conditions Modeling Analysis

CSE will perform hydrologic/hydraulic modeling analysis and floodplain/inundation mapping for existing conditions to identify flood risk areas and improvement opportunities. CSE will identify and compile existing flood hazards in the study area including riverine flooding and urban flood inundation. Floodplain/ inundation mapping will be performed for multiple frequency events for existing conditions to establish a baseline condition. Potential structure flooding, including residential, vulnerable, and critical infrastructure, will be identified as well as documented historic flooded structures and claims. The mapping will utilize the results from the stream modeling as well as the storm sewer modeling.

Existing flood risk floodplain mapping products will include multiple-frequency floodplain/inundation exhibits and water surface elevation profiles. Historic flooding data including FEMA repetitive loss structures will be mapped and overlaid as references. The exhibits will include: Overall and Subbasin Floodplain and Inundation Area Maps (inclusive of Q's and WSE's at pertinent nodes and identified potential flooded structures), and Water Surface Elevation Profiles exhibits.

Task 8: Future Condition "No-Build" Modeling Analysis

CSE will perform hydrologic/hydraulic modeling analysis for future "No-Build" condition to predict

flood prone areas under future development conditions. CSE will develop future condition modeling based on a 30-year projected development condition. CSE will identify and compile future condition flood hazards including riverine flooding and urban inundation. Specific tasks include:

- Coordinate with the City to determine future year for analysis as well as anticipated future planning, development, land use, and major thoroughfare plans.
- Determine future storm drainage requirements of the community (design frequency, detention, etc.).
- Determine and delineate future land use (residential, Commercial, industrial, etc.).
- Adjust hydrologic model parameters for all subbasins to be affected by future land use changes (such as decreased Tc and decreased storage, loss-rate reflecting increased imperviousness and soil characteristics changes, and decreased watershed travel time).
- Compute future without-project “no-build” conditions peak discharges and hydrographs for various frequencies.
- Generate “no-build” condition hydraulic model results and floodplain area.
- Determine potential structural flooding and damages for “no-build” condition.

Future “no-build” condition flood risk floodplain mapping will include multiple-frequency floodplain/inundation exhibits and water surface elevation profiles. FEMA repetitive loss structure data will be mapped and overlaid as reference. The exhibits will include computed flows and water surface elevations at pertinent nodes and identified potential flooded structures.

Task 9: Alternative Analysis

Based on existing and future “no-build” condition modeling results and each system’s identified flooding problems and future drainage infrastructure needs, improvement measures will be proposed. The improvement measures, including structural and non-structural elements, will be evaluated separately to determine individual effectiveness and impacts. These improvements will then be combined into different alternative plans, which will be evaluated, analyzed, and compared. All improvement measures and alternative plans will be evaluated based on level of protection for existing and future conditions, effectiveness, benefit, constructability, cost, ROW needs, potential upstream/downstream impacts, environmental impacts, multi-purpose/enhancement capabilities, and public/agency acceptance.

The alternative formulation shall consider improvements to reduce the potential flooding impacts and mitigate multiple flood events. Recommendations will be made based on comparison of alternatives that provide measurable reductions in flooding impacts in support of the project’s overall flood mitigation objectives and floodplain management goals. The recommended alternative shall not adversely impact or affect neighboring areas located within or outside of the project area.

Additionally, the alternative formulation will consider drainage infrastructure needs to accommodate future roadway and development. The improvements may include drainage ditch improvements to provide storm sewer depth as well as proposed drainage lateral systems (ditch and/or storm sewer) to provide conveyance to main drainage ditches or systems.

Each flood mitigation/drainage improvement alternative, cost and benefits will be identified and compared based on an Alternative Ranking Matrix. The components considered for the matrix include, but not limited to: damage reduction for structures (residential, commercial, public facilities, and critical facilities), damage reduction for roadway and crossings, reduction in economic loss (business interruptions and temporary job lost), cost, constructability, maintenance (O&E) cost, structure resilience, environmental impacts, socio-economics, environmental

enhancement / green infrastructure, multiple purpose utilization, and ROW impacts. Specifically, quantification of cost will include engineering, permitting, easement and/or property acquisition, capital cost, operation and maintenance, and other costs as applicable.

The alternative analysis results will be documented in the Study Report including HEC-RAS models, storm sewer analysis models, multiple-frequency water surface elevations, inundation areas/ floodplains, flood profiles, detailed plan component descriptions, cost estimates, and comparison rankings. The outputs will be presented in tables, exhibits, and GIS database layers. The exhibits will include subbasin Preliminary Improvement Layout (showing investigated improvement measures), Overall Proposed Recommended Alternative Layout Map, Individual Subbasin Recommended Alternative Layouts (showing proposed improvements, proposed floodplain and inundation depths, structures removed with damage reduction, and project cost). CSE will provide draft data to the City for review and comment prior to finalization. CSE will provide the City digital compilation of alternative analysis products.

Task 10: Preliminary Environmental Assessment

CSE will review and assess existing environmental constraints within the study area. This task will be focused on a desktop level GIS exercise of known environmental constraints relative to proposed structural flood reduction alternatives that are identified as part of this overall study. Information will be gathered such as biological resources (e.g. threatened and endangered species, species habitat, and protected areas), wetlands, national wetland inventory, hazardous materials (e.g. industrial hazardous waste locations, leaking petroleum storage tanks), water wells, gas/oil wells, pipelines, cultural resources, and socio-economic data. The information will be collected from previous and adjacent area reports and Texas Parks & Wildlife, US Fish & Wildlife Services, Texas General Land Office, Texas Historic Commission, Texas Commission of Environmental Quality, and Texas Railroad Commission. The intent of the environmental constraint investigation is to identify known environmental constraints and/or issues that may impact proposed alternatives or will be impacted by the proposed improvements. In addition, physical constraints such as highways and railroads will be included within the constraint inventory. This information will generally be used as a starting point for future Texas Water Development Board (TWDB) Flood Infrastructure Fund (FIF) Category 2 funding and will need to follow TWDB Category 2 Environmental Analysis standards. An Environmental Constraint Map will be developed for the study area and provided as an exhibit.

Task 11: Benefit-Cost Analysis (BCA)

A benefit-cost analysis (BCA) will be performed for the proposed alternative plans and benefit-cost ratio (BCR) must be quantified and reported. A BCR greater than 1.0 is frequently a requirement for state and federal financial assistance. The benefits may include a variety of items including, but not limited to property losses avoided, risk of injuries or fatalities prevented, and economic disruption or environmental losses avoided. The acceptable and available BCA methods include FEMA BCA Toolkit and the TWDB BCR Input Interface and Analysis Tool.

CSE will use the appropriate BCA toolkit based on key assumptions and parameters (e.g. project useful life, project cost, annual maintenance cost, lowest floor elevation, BFE, building information, occupancy, before-mitigation damages, after-mitigation damages, social benefits). CSE will develop estimated annual damages for with and without project conditions for the desirable level of protection design storm. As part of the analysis, structural inventory will be developed within ArcGIS as well as depth-damage curves for base and proposed conditions. The structure inventory will be based on available land use, parcel, and building data/GIS layers. Finish floor elevations shall be estimated based on a windshield survey of the structures within the project inundation areas in conjunction with the LiDAR topography. The BCA results will be documented within the technical report based on structures removed and damage reduced.

Task 12: Drainage Impact Fee Study / Stormwater Utility Fee

CSE will review the City's existing drainage impact fee structure and update based on the resulting CIP improvement plan for the DMP. The maximum impact fees will be calculated for those improvements eligible for assessment of fees in accordance with state statutes. CSE will research other jurisdictions and municipalities that have implemented stormwater utility fees and develop a recommendation that fits the City.

Task 13: Capital Improvement Plan (CIP)

A Capital Improvement Plan (CIP) will be developed. The purpose of the CIP is to give the City of Tomball a tool to plan future capital improvement expenditures for drainage systems. The CIP will identify the characteristics of proposed drainage modifications or improvements required for the drainage systems that are currently considered to be inadequate relative to the City's drainage criteria, detailed hydraulic analysis, and historical flooding complaints. The recommended CIP projects include drainage ditches improvements, stream crossing structures (bridges and culverts) replacements, storm sewer systems enlargements, and detention basins. The CIP projects will be prioritized according to the prioritization criteria system to be developed for the study.

Task 14: Review and Update Drainage Criteria and Standards

CSE will review existing City drainage criteria based on latest methodologies and adjacent municipality criteria. Additionally, consideration of the DMP analysis results and proposed CIP will be integrated into the criteria requirements, design frequencies, and methodologies to maintain the future integrity of the DMP and future drainage needs. City drainage standards will be reviewed and proposed updates provided as well based on adjacent municipality standards, constructability, and maintenance issues and needs.

Task 15: Final Report

CSE will prepare a Drainage Master Plan Report including narrative, assumptions, tables, figures, data, procedures, approach, analysis, modeling results, exhibits, photo logs, and estimates. The report will be prepared to present and summarize the various project development elements including existing flood control / drainage systems, drainage improvement projects underway or approved, existing flooding/drainage issues, 30-year future land protection and future conditions flood risks, identified critical and at risk infrastructures, topographic data development, H&H analysis including assumptions, parameters, calibration, and methodology, existing and proposed conditions H&H modeling analysis results, alternative (structural and non-structural) plan formulation / evaluation and recommendation, environmental assessment, easement requirement, benefit-cost analysis, floodplain and inundation mapping, phasing and implementation plan, funding alternatives, recommended drainage impact fee and stormwater utility fee structure, and drainage Capital Improvement Plan.

Task 16: Grant Applications

CSE will assist the City of Tomball to prepare grant application documents required for various Federal and State grants for the proposed drainage improvements identified within the DMP. The grant agencies may include Texas Water Development Board (TWDB), Texas General Land Office (GLO) and Texas Division of Emergency Management (TDEM) as part of various grant programs. It is anticipated that a maximum of four (4) grant applications will be prepared as part of this study.

EXCLUSIONS

- Professional Engineering design services for preparation of bidding and construction documents.
- Professional Land Surveying services for boundary and/or topographic surveying for final design, expected as noted in Task 4 to support analysis.
- Environmental Studies including wetland investigations, expect as noted in Task 10.
- Geotechnical Investigations.
- Subsurface Utility Investigations (SUE) and/or utility coordination, public or private with the exception of City available GIS data.

SCHEDULE

City of Tomball Drainage Master Plan Study Timeline

	2023												2024								
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP
0 CONTRACT MANAGEMENT																					
COUNCIL AWARD																					
CONTRACT EXECUTION AND NTP																					
1 PROJECT MANAGEMENT																					
KICK-MEETING																					
PROJECT TEAM COORDINATION																					
AGENCY COORDINATION																					
BI-WEEKLY PROGRESS MEETING																					
MONTHLY PROGRESS REPORT																					
2 PUBLIC OUTREACH																					
STEERING COMMITTEE/ STAKEHOLDER MEETING																					
CPAC MEETING																					
PUBLIC HEARING/ PRESENTATION TO COUNCIL																					
3 DATA COLLECTION AND REVIEW																					
DATA COLLECTION AND ASSIMILATION																					
4 FIELD SURVEY																					
FIELD SURVEY																					
5 GIS BASE MAPPING & GEODATABASE DEVELOPMENT																					
GIS BASE MAPPING																					
GEODATABASE DEVELOPMENT																					
6 DEVELOPMENT OF HYDROLOGIC AND HYDRAULIC MODELS																					
HYDROLOGIC MODELING																					
HYDRAULIC MODELING																					
7 EXISTING CONDITIONS MODELING ANALYSIS																					
EX FLOOD RISK ANALYSIS/ MAPPING																					
8 FUTURE WITHOUT-PROJECT "NO-BUILD" CONDITIONS ANALYSIS																					
EX FLOOD RISK ANALYSIS/ MAPPING																					
9 ALTERNATIVE ANALYSIS																					
ALTERNATIVE ANALYSIS																					
10 PRELIMINARY ENVIRONMENTAL ASSESSMENT																					
ENV ASSESSMENT OF ALTERNATIVES																					
11 BENEFIT-COST ANALYSIS																					
BENEFIT-COST ANALYSIS																					
12 DRAINAGE IMPACT FEE & STORMWATER UTILITY FEE ANALYSIS																					
FUNDING/ FEE ANALYSIS																					
13 CAPITAL IMPROVEMENT PLAN (CIP)																					
CIP DEVELOPMENT & PRIOTIZATION																					
14 REVIEW AND UPDATE DRAINAGE CRITERIA & STANDARDS																					
DRAINAGE CRITERIA UPDATES																					
DRAINAGE STANDARD UPDATES																					
15 DRAINAGE MASTER PLAN REPORT																					
DRAFT DMP REPORT																					
FINAL DMP REPORT																					
16 GRANT APPLICATIONS																					
PREPARE & SUBMIT APPLICATIONS																					

PART B – BASIS OF COMPENSATION AND REIMBURSABLE EXPENSES

ENGINEERING & PLANNING PROJECT NO. 2023-10008

**CITY OF TOMBALL
DRAINAGE MASTER PLAN**

The following represents the estimated maximum compensation for the scope of services documented in Attachment A, Part A of this agreement. If services beyond those specifically identified are determined necessary during the project, Engineer shall not proceed with those services until such time written approval of the scope and any additional fees are approved by the City of Tomball.

The recommended budget for this scope of services is:

PROJECT TASK ID	TASK DESCRIPTION	AMOUNT	
1	PROJECT MANAGEMENT	\$38,000.00	
2	STAKEHOLDER OUTREACH AND AGENCY COORDINATION	\$24,000.00	
3	DATA COLLECTION AND REVIEW	\$24,000.00	
4	SITE INVESTIGATION AND FIELD SURVEY	\$38,000.00	
5	GIS BASE MAPPING & GEODATABASE DEVELOPMENT	\$48,000.00	
6	DEVELOPMENT OF HYDROLOGIC AND HYDRAULIC MODELS	\$172,000.00	
7	EXISTING CONDITIONS MODELING ANALYSIS	\$32,000.00	
8	FUTURE WITHOUT-PROJECT "NO-BUILD" CONDITIONS ANALYSIS	\$18,000.00	
9	ALTERNATIVE ANALYSIS	\$196,000.00	
10	PRELIMINARY ENVIRONMENTAL ASSESSMENT	\$12,000.00	
11	BENEFIT-COST ANALYSIS	\$28,000.00	
12	DRAINAGE IMPACT FEE & STORMWATER UTILITY FEE ANALYSIS	\$26,000.00	
13	CAPITAL IMPROVEMENT PLAN (CIP)	\$36,000.00	
14	REVIEW AND UPDATE DRAINAGE CRITERIA & STANDARDS	\$44,000.00	
15	FINAL DMP REPORT	\$60,000.00	
SUBTOTAL		\$796,000.00	LUMP SUM
16	GRANT APPLICATIONS (4 max) <i>Specified Rate Reimbursement</i>	\$48,000.00	T&M
TOTAL		\$844,000.00	

The recommended budget for this scope of services is \$844,000 (Not to Exceed).

Notes: 1. Reimbursable Expenses shall be invoiced and paid based on cost of service provided plus 10% markup. These services include travel, deliveries, postage, graphical reproduction, etc.

ATTACHMENT "B"

INSURANCE

**SUPPLEMENTAL 2
PROFESSIONAL SERVICES AGREEMENT
FOR
CONSULTANT SERVICES
RELATED TO
PROJECT NO. 2021-10037
CITY OF TOMBALL
S. PERSIMMON WATER LINE REPLACEMENT**

**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 Oller Engineering, Inc. ("Engineer").

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 an estimated 365 calendar day duration beginning from execution date of this Agreement. 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, Engineer 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 Engineer, the Engineer's agent, consultant under contract, or another entity over which the Engineer exercises control.

**SECTION VII.
ENGINEER'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 \$46,706.84, including reimbursable expenses as identified in Exhibit "A", for a total contract amount not to exceed \$139,256.84.

**SECTION VIII.
INSURANCE**

Consultant shall procure and maintain insurance in accordance with the terms and conditions set forth in Exhibit "B," 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:

Oller Engineering, Inc.
Attn: Rich Oller
2811 Loop 289, Suite 17
Lubbock, Texas 79423

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 ENGINEER**

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 ENGINEER FOR SERVICES AND
REIMBURSABLE EXPENSES**

Invoices for Basic and Additional Services and reimbursable expenses will be prepared in accordance with Engineer's standard invoicing practices and will be submitted to the City by Engineer 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.

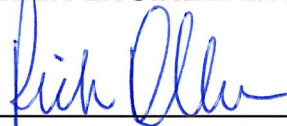
C. Consultant further covenants and agrees that it does not and will not knowingly employ an undocumented worker. An "undocumented worker" shall mean an individual who, at the time of employment, is not (a) lawfully admitted for permanent residence to the United States, or (b) authorized by law to be 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 Engineer covenants and agrees that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. Furthermore, the Engineer 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 9 day of May, 2023.

OLLER ENGINEERING, INC:



Name: Rich Oller

Title: Owner/ Project Manager

CITY OF TOMBALL, TEXAS

David Esquivel, City Manager

ATTEST:

Tracylynn Garcia, City Secretary

WORK CHANGE DIRECTIVE

Project Number OEI Proj. # 1030.21.01

Project Title S. Persimmon Water Line Extension

No.: City Proj. # 2023-10

Date of Issuance: 5/4/23

TO:
(CONTRACTOR/OWNER) City of Tomball, TX

- Change in location to accommodate new storm sewer & roadway improvements.
- Change in alignment to accommodate CenterPoint Electrical tower located within the water line easement.
- Bid Phases services.
- Amendment to original contract to include Construction Management & Inspection services.

Description:

Realignment to miss the existing CenterPoint overhead tower on S. Persimmon and stay within the dedicated Right-of-Way of the roadway. Line was realignment to be partially in the drainage ditch on east side of S. Persimmon and transition out of the ditch to the high side avoiding placement in the roadway and conflicts with the existing storm sewer.

Bid Phase Services

Amendment to contract for Construction Management/Inspection

Purpose of Work Change Directive: Realignment to avoid CenterPoint overhead tower.

Bid Phase Services.

Amendment to include Construction Management and Inspection of water line placement.

Attachments: (See sheet C003 of Plan Set)

If the above work results in a change in the Contract Price or Contract Times, any request for a Change Order based thereon will involve one or more of the following methods of determining the effect of the change(s).

Method of determining change in
Contract Price:

Method of determining change in
Contract Times:

Unit Prices

Additional Fees

Lump Sum

As Stipulated in General Conditions

Other _____

CONTRACTOR's Records

Owner's Records

DESIGN PROFESSIONAL's Records

City's Records

Other _____

Estimated increase (decrease) in Contract Price:

\$ 46,351.84

If the change involves an increase, the estimated Amount is not to be exceeded without further authorization.

Estimated increase (decrease) in Contract Times:

Substantial Completion **N/A** days;

Final Completion: _____ days.

If the change involves an increase, the estimated times are not to be exceeded without further authorization.

Recommended:Recommended:

Recommended:

Rich Oller, P.E.

DESIGN PROFESSIONAL	Construction Manager	City/Owner
By (Authorized Signature)	By (Authorized Signature)	By (Authorized Signature)

Distribution: City/Owner Design Professional
 Contractor Consultant
 Construction Manager Other

Original Contract Additional Services:

Negotiations with CenterPoint for placement of waterline near one leg of their existing overhead tower. 3-reviews by CenterPoint prior to obtaining final acceptance with realignment of the originally proposed water line.

Additional Services to acquire approval & realignment from CenterPoint for placement of water line:

\$ 5,181.84

Contract Amendment for Construction Management S. Persimmon Water Line Extension:

Bid Phase Services	\$ 2,300.00
Construction Management /On-site Inspection	<u>\$39,225.00</u>
Total Contract Amendment & Additional Services	\$46,706.84



CITY OF TOMBALL, TEXAS

Proposal For

CONSTRUCTION MANAGEMENT-INSPECTION

SOUTH PERSIMMON WATER LINE EXTENSION

Purpose:

The City has received bids for the construction of approximately 2700 feet of 12-inch C900 PVC water line to extend along the east side of S. Persimmon completing a looped water line. This proposal shall provide Construction Management and inspection oversight of the actual construction process. These services shall document the methodology used by the contractor, locate the pipe and all fittings and valves using ARC-GIS technology.

Scope of Services:

OEI shall provide on-site observation of the construction process. OEI is proposing that 3 days per week are scheduled for on-site observation and documentation. OEI shall use Golden Arrow Esri technology to precisely locate the line and all fittings & valves along with tie-in points for archiving into the City's GIS system. Proper bedding shall be confirmed and monitored to document placement along the length of the placed water line. Conflicts encountered shall be documented and collected using GIS technology and provided to City. OEI shall work with the City and the Contractor to resolve interpretation of plans and specifications for the proper installation of the water line. All contractor questions shall be handled by OEI and communicated to the City. All air testing of the installed water line shall be observed and documented by OEI including the proper disinfection of the newly constructed line. All submittal reviews shall be completed by OEI with copies of all materials used in the construction provided to the City and uploaded into GIS. All Pay Requests shall be reviewed by OEI and approved for payment and provided to the City for processing. As Constructed drawings shall be prepared at the end of the project and provided to the City along with all material submittal data. OEI shall coordinate

service interruptions with the City prior to any isolation of service related to this project.

Services Not Included:

- Daily inspection is not included herein only periodic, 3-days per week maximum.
- OEI shall not act as the project superintendent. The Contractor shall direct and schedule all activities required for the construction of the project.
- OEI is providing on-site observation and documentation according to the plans and specifications, there is no warranty provided by OEI to the constructed improvements.

Fees for On-Site Inspection & Construction Management:

The Professional Fee for providing this service is \$39,225.00

This is based on a 120-day construction time using 3-days per week on-site and Construction Management of reviews of submittals, processing Pay Requests and providing RFI's as required from the Contractor. All collected data shall be collected using ARC-GIS and all data shall be provided to City for uploading into the City's GIS system.

Invoicing:

Invoices shall be prepared monthly and submitted to the City for payment. This is a lump sum project and shall be billed as follows:

Pre-Construction Meeting w/Contractor & City	\$ 3,000.00
First Month construction	\$ 9,806.25
2nd Month Construction	\$9,806.25
3 rd month of Construction	\$9,806.25
Final Month of Construction & Submittal of All data and GIS files	<u>\$6,806.25</u>
Total Construction Management & Inspection	\$39,225.00

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: May 15, 2023

Topic:

Approve a contract with ISJ Underground Utilities, LLC. for the construction of the S. Persimmon Water Line Replacement for E&P Project 2021-10037 (Bid 2023-10) for a not-to-exceed amount of \$305,970, 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 Oller Engineering, Inc. to complete the design of the S. Persimmon water line replacement from north of Sutton Lane to Lizzie Lane. The project will replace and upsize the deteriorating existing 6” water line servicing businesses and residents to a 12” water line as identified in the Water Master Plan to ensure adequate pressure and service delivery.

To obtain the most favorable pricing and in accordance with the City’s Procurement Policy, sealed bids were solicited for the completion of the construction, with bid information available online through CivCast or in person at the Oller Engineering, Inc. office. A total of 19 bids were received, with the lowest responsible bidder identified as ISJ Underground Utilities, LLC. for a total bid of \$305,970, for all the work identified in the bid specifications.

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

Origination: Project Management

Recommendation:

Staff recommends approving the City Manager to execute a contract with ISJ Underground Utilities, LLC for the construction of the S. Persimmon Water Line Replacement, for a not-to-exceed amount of \$305,970.

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

FUNDING (IF APPLICABLE)

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

Yes: X No: _____ If yes, specify Account Number: #700-731-6409

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

Signed Meagan Mageo
Staff Member _____ Date _____

Approved by _____
City Manager _____ Date _____

Document 00520

AGREEMENT

Project: S. Persimmon Water Line Extension
 Project Location: S. Persimmon Road
 Project Bid No: 2023-10
 E&P Project No: 2021-10037

The City: The City of Tomball, County of Harris, Texas (the "City")
 and

Contractor: ISJ Underground Utilities, LLC.
 (Address for Written Notice) 526 South Pine Street, Arcola, Texas 77583
 Phone Number: 832-288-7600

Public Works Director: Drew Huffman
 (Address for Written Notice) 501 James Street, Tomball, Texas 77375
 Phone Number: 281-290-1411

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 180 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

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06-16-2011

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 \$305,970.00 which includes Alternates, if any, accepted below.

3.2 The City accepts Alternates as follows:

Alternate No. 1 Not Applicable

**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).

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

00520-2
06-16-2011

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.

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.

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06-16-2011

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.

6.3 Contractor 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.

6.4 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 company covenants and agrees that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. Furthermore, the contractor is prohibited from engaging in business with Iran, Sudan or Foreign Terrorist Organizations.

6.5 When conducting activities for the City of Tomball, contractor will adhere to the City's Storm Water Management Plan and permit issued by the Texas Commission on Environmental Quality.

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 [4/10/23]

Addendum No. 2, dated [4/11/23]

Addendum No. 3, dated []

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06-16-2011

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
[X] 00611	Statutory Payment Bond
[X] 00612	One-year Maintenance Bond
[X] 00620	Affidavit of Insurance (with the Certificate of Insurance attached)
[] 00800	Exhibit A, Wage Rates
[] 00821	Wage Rate for Building Construction
[] 00830	Trench Safety Geotechnical Information

ARTICLE 8

SIGNATURES

8.1 This Agreement is executed in two originals and is effective on 5/9/23.

00520-5
06-16-2011

CONTRACTOR:

(If Joint Venture)

By: *Didna Vega*

By: _____

Name: Didna Vega

Name: _____

Title: President

Title: _____

Date: _____

Date: _____

Tax Identification Number: 82-1433864

Tax Identification Number: _____

ATTEST/SEAL:

[SEAL]

Attest: *James V...*

Date: _____

CITY OF TOMBALL, TEXAS:

By: _____
City Manager

Date: _____

ATTEST/SEAL:

[SEAL]

Attest: _____
City Secretary

Date: _____

END OF DOCUMENT

Bid Tabulation for (City of Tomball)

Bid Date April 13, 2023, 2:00 PM



2811 S. Loop 289, Suite 17
Lubbock, TX 79423
806.993.6226

PROJECT: City of Tomball - S. Persimmons WL Extension
OEI PROJECT NO.: 1030.21.01 / Tomball Project No. 2023-10

DATE: 4/17/2023
INITIALS: AV

Item No.	Description	Quantity	Unit	ISJ Underground Utilities, LLC		CYM Contractor LLC		Sequeira Civil Construction		Bull G Construction		Macer Xpress LLC		Waterworks		On Par Civil Services, LLC		Reddico Construction Co. Inc.		Faith Utilities, LLC		G&A Boring Direccional, LLC	
				Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total
Base Bid																							
1	12-inch PVC DR-18 C900 Bell & Spig. Installed	2,700	LF	\$71.50	\$193,050.00	\$72.00	\$194,400.00	\$82.55	\$222,885.00	\$80.00	\$216,000.00	\$80.00	\$216,000.00	\$83.00	\$224,100.00	\$85.00	\$229,500.00	\$85.00	\$229,500.00	\$80.00	\$216,000.00	\$95.00	\$256,500.00
2	12-inch MJ Gate Valve & Boxes	6	EA	\$3,874.00	\$23,244.00	\$3,649.00	\$21,894.00	\$4,240.00	\$25,440.00	\$3,300.00	\$19,800.00	\$4,000.00	\$24,000.00	\$4,298.00	\$25,788.00	\$4,300.00	\$25,800.00	\$4,300.00	\$25,800.00	\$3,500.00	\$21,000.00	\$3,600.00	\$21,600.00
3	Tie-In to Existing Line (at Lizzy Ln. and Sutton Ln., (1) 12-inch x 6 inch reducer required.)	1	JOB	\$2,000.00	\$2,000.00	\$1,620.00	\$1,620.00	\$2,170.00	\$2,170.00	\$2,100.00	\$2,100.00	\$5,000.00	\$5,000.00	\$2,720.00	\$2,720.00	\$3,700.00	\$3,700.00	\$3,700.00	\$3,700.00	\$2,500.00	\$2,500.00	\$3,000.00	\$3,000.00
4	12-inch x 6-inch MJ Tee	9	EA	\$1,756.00	\$15,804.00	\$782.00	\$7,038.00	\$941.00	\$8,469.00	\$1,600.00	\$14,400.00	\$2,000.00	\$18,000.00	\$1,024.00	\$9,216.00	\$1,200.00	\$10,800.00	\$1,200.00	\$10,800.00	\$2,000.00	\$18,000.00	\$1,600.00	\$14,400.00
5	6-inch PVC DR-18 C900 Bell & Spig. Installed	70	LF	\$18.00	\$1,260.00	\$31.00	\$2,170.00	\$38.00	\$2,660.00	\$20.00	\$1,400.00	\$35.00	\$2,450.00	\$24.50	\$1,715.00	\$45.00	\$3,150.00	\$45.00	\$3,150.00	\$25.00	\$1,750.00	\$45.00	\$3,150.00
6	Fire Hydrant Assembly (6-inch MJ Gate Valves and Boxes)	9	EA	\$6,182.00	\$55,638.00	\$5,675.00	\$51,075.00	\$6,354.00	\$57,186.00	\$7,500.00	\$67,500.00	\$6,000.00	\$54,000.00	\$6,172.00	\$55,548.00	\$7,000.00	\$63,000.00	\$7,000.00	\$63,000.00	\$6,000.00	\$54,000.00	\$5,600.00	\$50,400.00
7	18-inch Steel Casing under Exxon gas pipeline	40	LF	\$192.50	\$7,700.00	\$299.00	\$11,960.00	\$156.00	\$6,240.00	\$183.00	\$7,320.00	\$110.00	\$4,400.00	\$371.00	\$14,840.00	\$250.00	\$10,000.00	\$250.00	\$10,000.00	\$250.00	\$10,000.00	\$350.00	\$14,000.00
8	Tracer Wire	2,770	LF	\$0.10	\$277.00	\$0.25	\$692.50	\$0.25	\$692.50	\$1.00	\$2,770.00	\$0.75	\$2,077.50	\$0.17	\$470.90	\$2.00	\$5,540.00	\$2.00	\$5,540.00	\$1.00	\$2,770.00	\$1.00	\$2,770.00
9	Trench Safety	2,770	LF	\$0.10	\$277.00	\$1.00	\$2,770.00	\$0.50	\$1,385.00	\$1.00	\$2,770.00	\$1.00	\$2,770.00	\$0.92	\$2,548.40	\$0.10	\$277.00	\$0.10	\$277.00	\$1.00	\$2,770.00	\$0.50	\$1,385.00
10	Traffic Control	1	JOB	\$1,000.00	\$1,000.00	\$2,400.00	\$2,400.00	\$3,045.00	\$3,045.00	\$1,000.00	\$1,000.00	\$8,000.00	\$8,000.00	\$2,552.00	\$2,552.00	\$5,000.00	\$5,000.00	\$5,000.00	\$5,000.00	\$1,500.00	\$1,500.00	\$2,000.00	\$2,000.00
11	SDR9 Service Reconnects	9	EA	\$580.00	\$5,220.00	\$1,930.00	\$17,370.00	\$937.00	\$8,433.00	\$500.00	\$4,500.00	\$500.00	\$4,500.00	\$1,162.00	\$10,458.00	\$1,300.00	\$11,700.00	\$1,300.00	\$11,700.00	\$2,000.00	\$18,000.00	\$550.00	\$4,950.00
				\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$18,700.00	\$18,700.00	\$0.00	\$0.00
	Cash Allowance Table			\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
1	Construction Contingencies	1	JOB	\$ 500.00	\$500.00	\$ 25,000.00	\$25,000.00	\$ 25,000.00	\$25,000.00	\$ 25,000.00	\$25,000.00	\$ 25,000.00	\$25,000.00	\$ 25,000.00	\$25,000.00	\$ 25,000.00	\$25,000.00	\$ 25,000.00	\$25,000.00	\$ 25,000.00	\$25,000.00	\$ 25,000.00	\$25,000.00
				\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
					Base Bid Total \$305,970.00		\$338,389.50		\$363,605.50		\$364,560.00		\$366,197.50		\$374,956.30		\$393,467.00		\$393,467.00		\$391,990.00		\$399,155.00

Some Bid Documents Missing Financial Statement Qualifications Statement	Non-Responsive Addendums 1 & 2 Bid Bonds Affidavit of Ownership Residency Statement Financial Statement Qualifications Statement	Some Bid Documents Missing Addendums 1 & 2 Financial Statement Qualifications Statement	Some Bid Documents Missing Addendums 1 & 2 Affidavit of Ownership Residency Statement Financial Statement Qualifications Statement	Some Bid Documents Missing Affidavit of Ownership Residency Statement Financial Statement Qualifications Statement	Some Bid Documents Missing Financial Statement Qualifications Statement	Some Bid Documents Missing Affidavit of Ownership Residency Statement	Added \$18,700 for mobilization
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Bid Tabulation for (City of Tomball)

Bid Date April 13th, 2023



2811 S. Loop 289, Suite 17
Lubbock, TX 79423
806.993.6226

PROJECT: City of Tomball - S. Persimmons WL Extension
OEI PROJECT NO.: 1030.21.01 / Tomball Project No. 2023-10

DATE: 4/17/2023
INITIALS: AV

Item No.	Description	Quantity	Unit	LGG Construction		Reliance Const. Services, LP		TexasChile		Scohll Const. Services		AR TurnKee Const. Co. Inc.		T Construction, LLC		Tracker Utility Services		TCH Directional Drilling		Aranda Industries, LLC	
				Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total
Base Bid																					
1	12-inch PVC DR-18 C900 Bell & Spig. Installed	2,700	LF	\$75.00	\$202,500.00	\$101.30	\$273,510.00	\$98.00	\$264,600.00	\$119.00	\$321,300.00	\$121.00	\$326,700.00	\$115.00	\$310,500.00	\$150.00	\$405,000.00	\$137.81	\$372,087.00	\$200.00	\$540,000.00
2	12-inch MJ Gate Valve & Boxes	6	EA	\$3,500.00	\$21,000.00	\$3,635.00	\$21,810.00	\$6,800.00	\$40,800.00	\$3,880.00	\$23,280.00	\$4,000.00	\$24,000.00	\$5,600.00	\$33,600.00	\$4,300.00	\$25,800.00	\$5,481.00	\$32,886.00	\$6,000.00	\$36,000.00
3	Tie-In to Existing Line (at Lizzy Ln. and Sutton Ln., (1) 12-inch x 6 inch reducer required.)	1	JOB	\$6,200.00	\$6,200.00	\$8,644.00	\$8,644.00	\$6,000.00	\$6,000.00	\$3,250.00	\$3,250.00	\$5,600.00	\$5,600.00	\$6,250.00	\$6,250.00	\$5,500.00	\$5,500.00	\$4,869.00	\$4,869.00	\$9,500.00	\$9,500.00
4	12-inch x 6-inch MJ Tee	9	EA	\$2,800.00	\$25,200.00	\$1,518.00	\$13,662.00	\$2,200.00	\$19,800.00	\$1,550.00	\$13,950.00	\$1,200.00	\$10,800.00	\$1,260.00	\$11,340.00	\$900.00	\$8,100.00	\$1,903.00	\$17,127.00	\$750.00	\$6,750.00
5	6-inch PVC DR-18 C900 Bell & Spig. Installed	70	LF	\$105.00	\$7,350.00	\$6.00	\$420.00	\$50.00	\$3,500.00	\$68.00	\$4,760.00	\$77.00	\$5,390.00	\$45.00	\$3,150.00	\$85.00	\$5,950.00	\$47.00	\$3,290.00	\$85.00	\$5,950.00
6	Fire Hydrant Assembly (6-inch MJ Gate Valves and Boxes)	9	EA	\$6,500.00	\$58,500.00	\$5,435.00	\$48,915.00	\$6,500.00	\$58,500.00	\$6,650.00	\$59,850.00	\$6,000.00	\$54,000.00	\$6,500.00	\$58,500.00	\$5,500.00	\$49,500.00	\$7,219.00	\$64,971.00	\$8,500.00	\$76,500.00
7	18-inch Steel Casing under Exxon gas pipeline	40	LF	\$225.00	\$9,000.00	\$200.00	\$8,000.00	\$300.00	\$12,000.00	\$185.00	\$7,400.00	\$285.00	\$11,400.00	\$1,200.00	\$48,000.00	\$130.00	\$5,200.00	\$575.00	\$23,000.00	\$450.00	\$18,000.00
8	Tracer Wire	2,770	LF	\$1.00	\$2,770.00	\$0.10	\$277.00	\$1.00	\$2,770.00	\$1.00	\$2,770.00	\$2.00	\$5,540.00	\$0.75	\$2,077.50	\$0.50	\$1,385.00	\$0.25	\$692.50	\$1.00	\$2,770.00
9	Trench Safety	2,770	LF	\$2.75	\$7,617.50	\$0.01	\$27.70	\$1.00	\$2,770.00	\$1.00	\$2,770.00	\$2.00	\$5,540.00	\$0.25	\$692.50	\$2.00	\$5,540.00	\$1.00	\$2,770.00	\$1.00	\$2,770.00
10	Traffic Control	1	JOB	\$15,650.00	\$15,650.00	\$400.00	\$400.00	\$6,600.00	\$6,600.00	\$1,500.00	\$1,500.00	\$33,000.00	\$33,000.00	\$9,000.00	\$9,000.00	\$3,700.00	\$3,700.00	\$5,000.00	\$5,000.00	\$15,000.00	\$15,000.00
11	SDR9 Service Reconnects	9	EA	\$3,200.00	\$28,800.00	\$2,485.00	\$22,365.00	\$3,500.00	\$31,500.00	\$1,500.00	\$13,500.00	\$1,100.00	\$9,900.00	\$1,365.00	\$12,285.00	\$3,312.00	\$29,808.00	\$2,646.00	\$23,814.00	\$4,500.00	\$40,500.00
					\$0.00		\$0.00		\$0.00		\$0.00		\$0.00		\$0.00		\$0.00		\$0.00		\$0.00
	Cash Allowance Table				\$0.00		\$0.00		\$0.00		\$0.00		\$0.00		\$0.00		\$0.00		\$0.00		\$0.00
1	Construction Contingencies	1	JOB	\$ 25,000.00	\$25,000.00	\$ 25,000.00	\$25,000.00	\$ 25,000.00	\$25,000.00	\$ 25,000.00	\$25,000.00	\$ 25,000.00	\$25,000.00	\$ 25,000.00	\$25,000.00	\$ 25,000.00	\$25,000.00	\$ 25,000.00	\$25,000.00	\$ 25,000.00	\$25,000.00
2					\$0.00		\$0.00		\$0.00		\$0.00		\$0.00		\$0.00		\$0.00		\$0.00		\$0.00
				Base Bid Total	\$409,587.50		\$423,030.70		\$473,840.00		\$479,330.00		\$516,870.00		\$520,395.00		\$570,483.00		\$575,506.50		\$778,740.00
				Some Bid Documents Missing		Some Bid Documents Missing		Some Bid Documents Missing		Some Bid Documents Missing		Some Bid Documents Missing		Some Bid Documents Missing		Some Bid Documents Missing		Some Bid Documents Missing		Some Bid Documents Missing	
				Addendum 1		Financial Statement		Financial Statement		Financial Statement		Addendums 1 & 2		Financial Statement		Addendums 1 & 2		Financial Statement		Financial Statement	
				Affidavit of Ownership		Qualification Statement		Qualification Statement		Qualification Statement		Affidavit of Ownership		Qualification Statement		Affidavit of Ownership		Qualification Statement		Qualification Statement	
				Residency Statement								Residency Statement				Residency Statement					
				Financial Statement																	
				Qualifications Statement																	

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: May 15, 2023

Topic:

Approve a contract with Heartland Park & Recreation, LLC for the purchase and construction of a splashpad and necessary components at Jerry Matheson Park through a BuyBoard Contract (Contract No. 592-19) for a not-to-exceed amount of \$514,570.24, approve the expenditure of funds therefor, and authorize the City Manager to execute any and all documents related to the purchase. This expenditure is included in the FY 2022-2023 Budget.

Background:

Staff initiated the Jerry Matheson Park Rebuild project in September 2020, to complete needed improvements and enhancements, based on survey input received from the community. Staff submitted a Texas Parks and Wildlife Non-Urban Outdoor Recreation Grant that was awarded as 50% match, not-to-exceed \$750,000. In addition to budgeted funds by the City, and grant funding from Texas Parks and Wildlife, the City has received financial support from community partners for the completion of the project.

Funding Source	Funding Amount	Element (Cost Estimated)
Texas Parks & Wildlife Department Grant	\$750,000	Splash Pad: \$515,000 Baseball Field Improvements: \$100,000 Pickleball Courts: \$135,000
City of Tomball	\$600,000	Engineering: \$147,630 Construction: \$125,000 Misc. Expenses: \$6,000 Lighting: \$30,000 Shade Structures: \$50,000
Tomball Regional Health Foundation	\$490,000	Playground Equipment: \$490,000
Tomball Economic Development Corporation	\$500,000	Playground Equipment: \$171,760 Pickleball Courts: \$15,000 Pool Renovations: \$70,000 Walking Trail: \$100,000 Fencing Upgrades: \$80,000

Staff has worked with Waterplay Solutions (Heartland Park & Recreation, LLC) to design a nature themed splashpad that would include spray and splash features complete with bright, fun colors. This item authorizes the purchase and construction of the splashpad and components with Heartland Park & Recreation, LLC under a BuyBoard Contract (Contract No. 592-19) for a total amount not-to-exceed \$514,570.24, as permitted by Texas Parks & Wildlife grant funding.

Origination: Project Management

Recommendation:

Staff recommends approving the purchase and construction of the splashpad and components with Heartland Park & Recreation, LLC under a BuyBoard Contract (Contract No. 592-19) for a total amount not-to-exceed \$514,570.24,

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

FUNDING (IF APPLICABLE)

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

Yes: X No: _____ If yes, specify Account Number: # 400-153-6409

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

Signed Drew Huffman Approved by _____
Staff Member _____ Date _____ City Manager _____ Date _____

HEARTLAND

Park & Recreation, LLC



Date: April 24, 2023

ESTIMATE FOR:

City of Tomball - Jerry Matheson Park Project

401 Market Street, Tomball, TX 77375

Meagan Mageo - Project Manager - 281-290-1411

SHIP TO ADDRESS:

JOBSITE ADDRESS: 1240 Ulrich Rd. Tomball, 77375

Kimberli Brackett
 325-668-2530
Kimberli@heartlandplay.com
www.heartlandplay.com

HEARTLAND Park & Recreation Corporate Office
 P.O. Box 505 White Oak, Texas 75693-0505
 1.866.388.1365
Info@heartlandplay.com

Customer: Meagan Mageo Phone: 281-290-1411 Email: mmageo@tomballtx.gov
 Billing: _____ Phone: _____ Email: _____

Qty.	Item #	Description/Colors/Mounting/Etc...	Unit Price	Freight	Extended Amount
					\$ -
1		Splash Pad and Shades Project*	\$514,570.24		\$ 514,570.24
					\$ -
		*Please see attached spreadsheet			\$ -
		for complete itemized details,			\$ -
		price breakdown and BB discount.			\$ -
					\$ -
					\$ -
					\$ -
					\$ -
					\$ -
					\$ -
					\$ -
40% deposit due (if applicable):			\$205,828.09		
Purchase Order Number:					
Subtotal					\$ 514,570.24
Install					\$ -
Tax					\$ -
Total					\$ 514,570.24

Order Approved By (signature): _____
 Date: _____

Bid/Quote subject to Site Inspection. Bid does not include moving utilities, water lines, cable or any other like obstruction either known or unknown. Bid does not include any fees or permits if required. Quote is valid for 30 days on all equipment and install. Quote is valid for 10 days on all freight. The customer is responsible for locating all underground phone & utility lines 72 hours prior to the installation date by calling Dig Test at (800) 245-4545. By initialing, customer acknowledges that any damage done as a result of not locating these lines will be the customers liability. (Initial) _____. All utilities (water, electric and drain) priced at 5' off of amenities. Customer is responsible for service and bringing to 5'. Contractor is responsible for connection and amenity work. If during installation, large rocks or concrete are found additional costs for removal will occur. Additional expenses must be approved by both parties. Heartland Payment Terms: 40% deosit followed by progress billing payment.

City of Tomball

Matheson Park Splash Pad/Shades
 Kimberli Brackett - Sales and Design Consultant
 kimberli@heartlandplay.com - 325-668-2530



Buyboard #
 #592-19

	Number	Unit Cost	Total	Total Project
Site Prep/Dirt Work	1	\$ 13,779.00	\$ 13,779.00	\$ 13,779.00
Splash Pad Features				
Custom Mini Series G100	1	\$ 79,800.00	\$ 79,800.00	
Mini Series 100 Graphics	1	\$ 2,655.00	\$ 2,655.00	
FS Splash Blaster	2	\$ 3,445.00	\$ 6,890.00	
FS Fun-Brella	1	\$ 1,240.00	\$ 1,240.00	
FS Fun Guy 1	1	\$ 4,880.00	\$ 4,880.00	
FS Papillion	1	\$ 5,590.00	\$ 5,590.00	
FS Hopper 1	1	\$ 4,880.00	\$ 4,880.00	
FS Charlotte - Black Spider only	1	\$ 7,825.00	\$ 7,825.00	
GS Ants 3	1	\$ 5,295.00	\$ 5,295.00	
FS Dew Drop	1	\$ 9,865.00	\$ 9,865.00	
GS Solo Spurt	2	\$ 745.00	\$ 1,490.00	
GS Doughnut - GS Solo Spurt	1	\$ 4,015.00	\$ 4,015.00	
GS Gecko	1	\$ 3,050.00	\$ 3,050.00	
GS Puddle 1	1	\$ 3,970.00	\$ 3,970.00	
GS Tulip	2	\$ 745.00	\$ 1,490.00	
GS Misty Mountain	2	\$ 745.00	\$ 1,490.00	
GS Buttercup	2	\$ 745.00	\$ 1,490.00	
GS Puddle 2	1	\$ 3,970.00	\$ 3,970.00	
GS Tower Spray	3	\$ 745.00	\$ 2,235.00	
playPHASE Base	11	\$ 580.00	\$ 6,380.00	
GS Frog	1	\$ 2,780.00	\$ 2,780.00	
Activator Power Post	1	\$ 2,055.00	\$ 2,055.00	
Jig Emb Install 12.75 CC	2	\$ 75.00	\$ 150.00	
16 Output Expansion Add On	1	\$ 1,440.00	\$ 1,440.00	
Controller WTS by Others	1	\$ 7,215.00	\$ 7,215.00	
Manifold 18V 4 Header 6 Port	1	\$ 11,725.00	\$ 11,725.00	
Drain 12in square 6in Outlet	3	\$ 355.00	\$ 1,065.00	
Total Splash Pad Equipment			\$ 184,930.00	
Freight	1	\$ 11,900.00	\$ 11,900.00	
Total Splash Pad Features			\$ 196,830.00	\$ 196,830.00
Splash Pad Construction				
Footers		\$ 5,500.00	\$ 5,500.00	
Pipe and Fittings (Schedule 80)		\$ 14,800.00	\$ 14,800.00	
Electrical (site)		\$ 2,500.00	\$ 2,500.00	
Concrete Work/Rebar	3062 Sf	\$ 15.00	\$ 45,930.00	
Compacted Stone Subbase 5"	3062	\$ 4.50	\$ 13,779.00	
Total Splash Pad Construction			\$ 82,509.00	\$ 82,509.00
Water Treatment System				
Vak Pak	1	\$ 121,852.90	\$ 121,852.90	
Vak Pak Install	1	\$ 21,000.00	\$ 21,000.00	
Freight	1	\$ 4,500.00	\$ 4,500.00	
Total Water Treatment System			\$ 147,352.90	\$ 147,352.90
Shade Structures				
Shade Structure 10x10 Cantilever	3	\$ 5,074.29	\$ 16,022.87	
Shade Structure 20x20 Post Hip	1	\$ 6,275.71	\$ 7,075.71	
Concrete/Rebar	916 Sf	\$ 12.60	\$ 11,541.60	
Total Shade Equipment/Concrete	1		\$ 34,640.18	
Shade Install	1	\$ 24,248.13	\$ 24,248.13	
Freight	1	\$ 1,460.00	\$ 1,460.00	
Total Shade Structures			\$ 60,348.31	\$ 60,348.31
Misc Install				
Mobilization		\$ 5,000.00	\$ 5,000.00	
Final Grade		\$ 2,500.00	\$ 2,500.00	
Expansion Joint Sealant		\$ 2,250.00	\$ 2,250.00	
Concrete Sidewalk to Splash Pad	300 Sf	\$ 12.60	\$ 3,780.00	
Drain Work		\$ 1,300.00	\$ 1,300.00	
Total Misc Install			\$ 14,830.00	\$ 14,830.00

Project Superintendent/Oversite			\$ 14,260.00	\$ 14,260.00
Project Sub Total				\$ 529,909.21
Buy Board Discount (5% Product & Install)				\$ (24,889.46)
Heartland/WPE Discount				\$ (3,000.00)
Project Total				\$ 502,019.75
Performance and Payment Bond				\$ 12,550.49
TOTAL PROJECT COST				\$ 514,570.24

Notes for Bid/Quote:

Bid/Quote subject to Site Inspection

Bid does not include moving of utilities, water lines, cable or any other like obstruction either known or unknown

Bid does not include any fees or permits if required

Quote is valid for 30 days on all equipment and install. Quote is valid for 10 days on all freight.

The customer is responsible for locating all underground phone & utility lines 72 hours prior to the installation date by calling Dig Test at (800) 245-4545. By initialing, customer acknowledges that any damage done as a result of not locating these lines will be the customers liability. (Initial) _____

All utilities (water, electric and drain) priced at 5' off of amenities. Customer is responsible for service and bringing to 5'. Contractor is responsible for connection and amenity work.

If during installation, large rocks or concrete are found additional costs for removal will occur.

Additional expenses must be approved by both parties. All customers are required to pay local and state taxes.

If a customer has tax exempt status, Heartland Playgrounds must retain a copy of 501(C)(3) or other proof of tax exempt status.

Heartland Payment Terms: 40% deposit followed by progress billing invoicing.

Order Approved by: (signature) _____

Date: _____

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: May 15, 2023

Topic:

Consider action to approve Resolution No. 2023-29, a Resolution of the City of Tomball, Texas, authorizing the use of the BuyBoard Purchasing Cooperative for the purchase of equipment and components for Jerry Matheson Park as required as a recipient of the Texas Parks and Wildlife Non-Urban Outdoor Recreation Grant; and providing an effective date.

Background:

Staff initiated the Jerry Matheson Park Rebuild project in September 2020, to complete needed improvements and enhancements, based on survey input received from the community. Staff submitted a Texas Parks and Wildlife Department (TPWD) Non-Urban Outdoor Recreation Grant that was awarded as 50% match, not-to-exceed \$750,000.

BuyBoard is an approved purchasing cooperative through our adopted procurement policy, however TPWD requires a resolution be adopted approving the use of BuyBoard for grant funded elements. At this time, staff is requesting to use Buyboard for the purchase and construction of the splashpad and components and Resolution Number 2023-29 authorizes the use of BuyBoard

Origination: Project Management

Recommendation:

Staff recommends approving Resolution No. 2023-29, authorizing the use of the BuyBoard Purchasing Cooperative for the purchase of equipment and components for Jerry Matheson Park as a recipient of the Texas Parks and Wildlife Non-Urban Outdoor Recreation Grant.

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. 2023-29

**A RESOLUTION OF THE CITY OF TOMBALL, TEXAS,
AUTHORIZING THE USE OF THE BUYBOARD PURCHASING
COOPERATIVE FOR THE PURCHASE OF EQUIPMENT AND
COMPONENTS FOR JERRY MATHESON PARK AS REQUIRED
AS A RECIPIENT OF THE TEXAS PARKS AND WILDLIFE NON-
URBAN OUTDOOR RECREATION GRANT; AND PROVIDING
AN EFFECTIVE DATE.**

* * * * *

WHEREAS, Texas Local Government Code Chapter 271 allows for local governments to participate in a Cooperative Purchasing Agreement with another local government of this state or another state or with a local cooperative organization of this state or another state in order to increase the efficiency and effectiveness of local government by authorizing them to contract, to the greatest possible extent, with one another and with agencies of the State.

WHEREAS, Cooperative Purchasing Agreements allow local government to purchase goods and services from otherer local, state, and national cooperative purchasing alliances that were competitively bid under the same circumstances required by federal and state law by the purchasing entity; and

WHEREAS, BuyBoard is a purchasing cooperative that meets Federal procurement standards for Uniform Guidance as described in 2 CFR 200 for federal award recipients making purchases with federal award funds; and

WHEREAS, the City of Tomball was awarded the Non-Urban Outdoor Recreation Grant as a matching grant to cover fifty-percent (50%) of the construction costs, not to exceed \$750,000 under the Texas Parks and Wildlife Department Recreation Grant Program for improvements at Jerry Matheson Park;

WHEREAS, the City of Tomball intends to use the BuyBoard purchasing cooperative to procure equipment and components for the Jerry Matheson Park project;

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

Section 1. The City Council authorizes the use of the BuyBoard purchasing cooperative for the purchase of equipment and components at Jerry Matheson Park utilizing grant funding received from Texas Parks and Wildlife Department.

Section 2. A municipality, county, utility district, or other local government of the state may participate in a Cooperative Purchasing Agreement by adopting a resolution accepting the terms of the master agreement. If a participant in a joint or multi-party agreement is required to advertise and receive bids, then it will be deemed sufficient for those purposes that the purchasing entity or the entity that procured the bid complied with Local and Federal Government Code for purchasing requirements. The participant shall acquire and maintain documentation that the purchasing entity or entities that procured the bid complied with purchasing requirements.

Section 3. The City Council authorizes the City Manager or his designee to execute any and all documents necessary to use the BuyBoard purchasing cooperative for improvements at Jerry Matheson P

Section 4. This Resolution is effective immediately upon its passage.

PASSED, APPROVED, AND RESOLVED this _____ day of _____ 2023.

Lori Klein Quinn, Mayor

ATTEST:

Tracylynn Garcia, City Secretary

City Council Agenda Item Data Sheet

Meeting Date: 05/15/2023

Topic:

Consideration to approve **Case CUP23-03**: Request by Chris & Tiona Campbell, for a Conditional Use Permit to allow “Residential Use” within General Retail (GR) zoning. Affecting approximately 4.94 acres of land legally described as being a portion of Lot 48 in Tomball Townsite. The property is generally located within the 11100-11200 blocks (east side) of Rudolph Road, within the City of Tomball, Harris County, Texas.

Conduct Public Hearing on **Case CUP23-03**

Adopt, on First Reading, Ordinance No. 2023-13, an Ordinance of the City of Tomball, Texas, amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by issuing a Conditional Use Permit to allow “Residential Use” within General Retail (GR) zoning. Affecting approximately 4.94 acres of land legally described as being a portion of Lot 48 in Tomball Townsite. The property is generally located within the 11100-11200 blocks (east side) of Rudolph Road, within the City of Tomball, Harris County, Texas; providing for the amendment of the Official Zoning Map of the City; providing for severability; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters.

Background:

The subject property has been within the City Limits of Tomball since at least 1907. The property has remained vacant since this time. The applicants are requesting a Conditional Use Permit (CUP) in conjunction with a separate request to rezone the property to General Retail (GR). The requested CUP is to allow residential use in the requested General Retail zoning district. According to information provided by the applicant the intent is to rezone the subject property to allow an Exterminator Service/Company on the subject property, in addition to having this exterminator services business on the parcel the applicants would also like to utilize the property to build their primary residence.

Origination:

Recommendation:

City staff recommends Denial of Case CUP23-03. Planning and Zoning Commission recommends Denial (1 Vote Aye, 4 Votes Nay).

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

FUNDING (IF APPLICABLE)

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

Yes: _____ No: _____

If yes, specify Account Number: # _____

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

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

ORDINANCE NO. 2023-13

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING CHAPTER 50 (ZONING) OF THE TOMBALL CODE OF ORDINANCES BY GRANTING A CONDITIONAL USE PERMIT (CUP) TO ALLOW “RESIDENTIAL USE” WITHIN THE GENERAL RETAIL (GR) ZONING DISTRICT; SAID PROPERTY BEING APPROXIMATELY 4.94 ACRES OF LAND LEGALLY DESCRIBED AS BEING A PORTION OF LOT 48 IN TOMBALL TOWNSITE (EXHIBIT “B”). THE PROPERTY IS GENERALLY LOCATED WITHIN THE 11100-11200 BLOCKS (EAST SIDE) OF RUDOLPH ROAD, WITHIN THE CITY OF TOMBALL, HARRIS COUNTY, TEXAS; PROVIDING FOR PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF, MAKING FINDINGS OF FACT; AND PROVIDING FOR OTHER RELATED MATTERS.

Whereas, Chris & Tiona Campbell has requested that approximately 4.94 acres of land legally described as being a portion of Lot 48 in Tomball Townsite, located in the 11100-11200 blocks (east side) of Rudolph Road, within the City of Tomball, Harris County, Texas (the “Property”), receive a CUP; and

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

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

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

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

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

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

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

Section 2. A CUP to allow a “Residential Use” at the property and subject to the terms and conditions set forth below is hereby granted.

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

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

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

Section 6. The CUP is subject to the following additional limitations, restrictions and conditions:

- 1) The site shall be developed and operated in substantial compliance with Exhibit “B”

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

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

FIRST READING:

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

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

SECOND READING:

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

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

LORI KLEIN QUINN, Mayor

ATTEST:

Tracylynn Garcia, City Secretary

Exhibit "B"

C & C Surveying, Inc.

Firm Number 10009400
33300 Egypt Lane, Suite F200
Magnolia, Texas 77354
Office: 281-356-5172

Metes and Bounds

4.940 Acres
Tomball Townsite
Ralph Hubbard Survey, Abstract Number 383,
Harris County, Texas

Being a 9.940 acre tract of land situated in the Ralph Hubbard Survey, Abstract Number 383, of Harris County, Texas, and being the remainder of Lot 48 of Tomball Townsite, as recorded in Volume 2, Page 65 of the Map Records of Harris County, Texas, said remainder of Lot 48 being a called 4.896 acre tract, as recorded in Clerk's File Number 2022-215079 of the Real Property Records of Harris County; said 4.940 acres being more particularly described as follows with all bearings based on the North line of said called 4.896 acre deed;

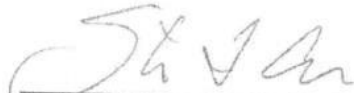
BEGINNING, at an iron rod with survey cap, found for the Southwest corner of the herein describe tract, common with Southeast corner of a 15 foot wide road dedication to the City of Tomball for Rudolph Road, as recorded in Clerk's File Number 2019-119104 of the Real Property Records of Harris County, and being on the North line of Lot 52 of said Tomball Townsite;

THENCE, North 02 degrees 32 minutes 40 seconds West, along the West line of the herein described tract, common with the East line of said Rudolph Road, a distance of 256.63 feet (call 252.16 feet), to an iron rod, found for the Northwest corner of the herein described tract, common with the Northeast corner of said Rudolph Road dedication, and being on the South line of Lot 43 of said Tomball Townsite;

THENCE, North 87 degrees 32 minutes 15 seconds East, along the North line of the herein described tract, common with the North line of said Lot 48, being the South line of said Lot 43, departing said Rudolph Road, a distance of 847.72 feet, to a 5/8 inch iron rod (bent), found for the Northeast corner of the herein described tract, being the Northeast corner of said Lot 48, the Southeast corner of Lot 43, the Southwest corner of Lot 44, and the Northwest corner of Lot 49;

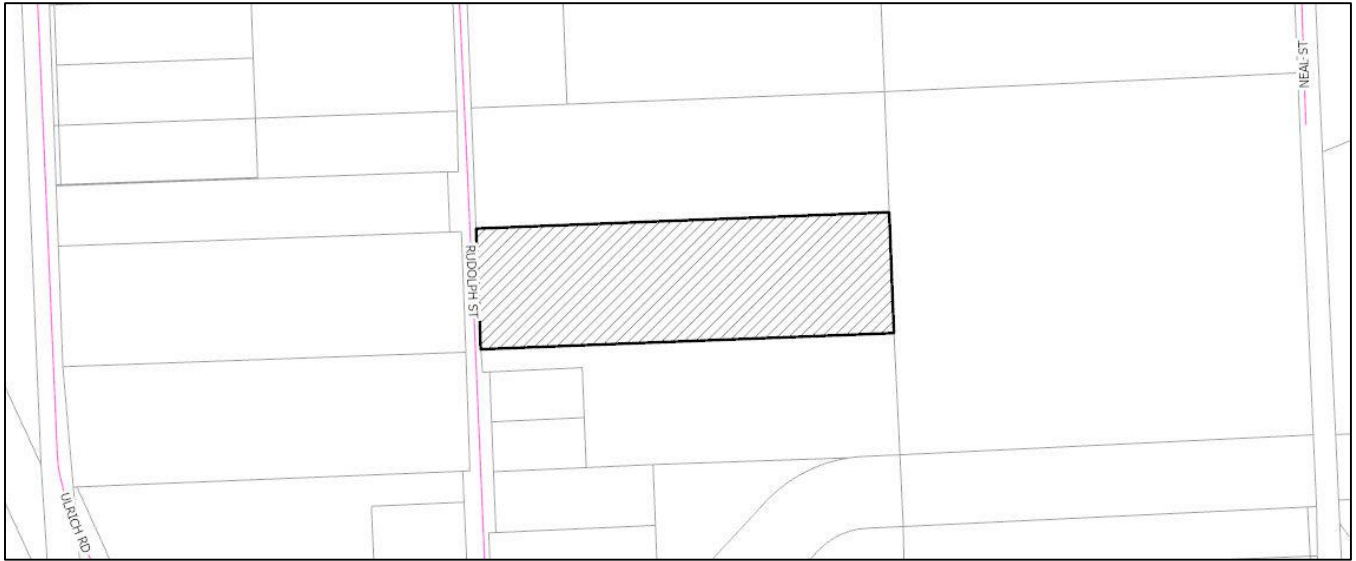
THENCE, South 02 degrees 31 minutes 45 seconds East, along the East line of the herein described tract, common with the East line of Lot 48, with the West line of Lot 49, a distance of 251.05 feet, to a point for the Southeast corner of the herein described tract, being the Southeast corner of Lot 48, the Southwest corner of Lot 49, the Northwest corner of Lot 53, and the Northeast corner of the aforementioned Lot 52;

THENCE, South 87 degrees 09 minutes 38 seconds West, along the South line of the herein described tract, common with the South line of said Lot 48, being the North line of Lot 52, a distance of 847.66 feet, back to the **POINT OF BEGINNING** and containing 4.940 acres of land as computed based on the survey and plat prepared by C & C Surveying, Inc., dated July 29, 2022.



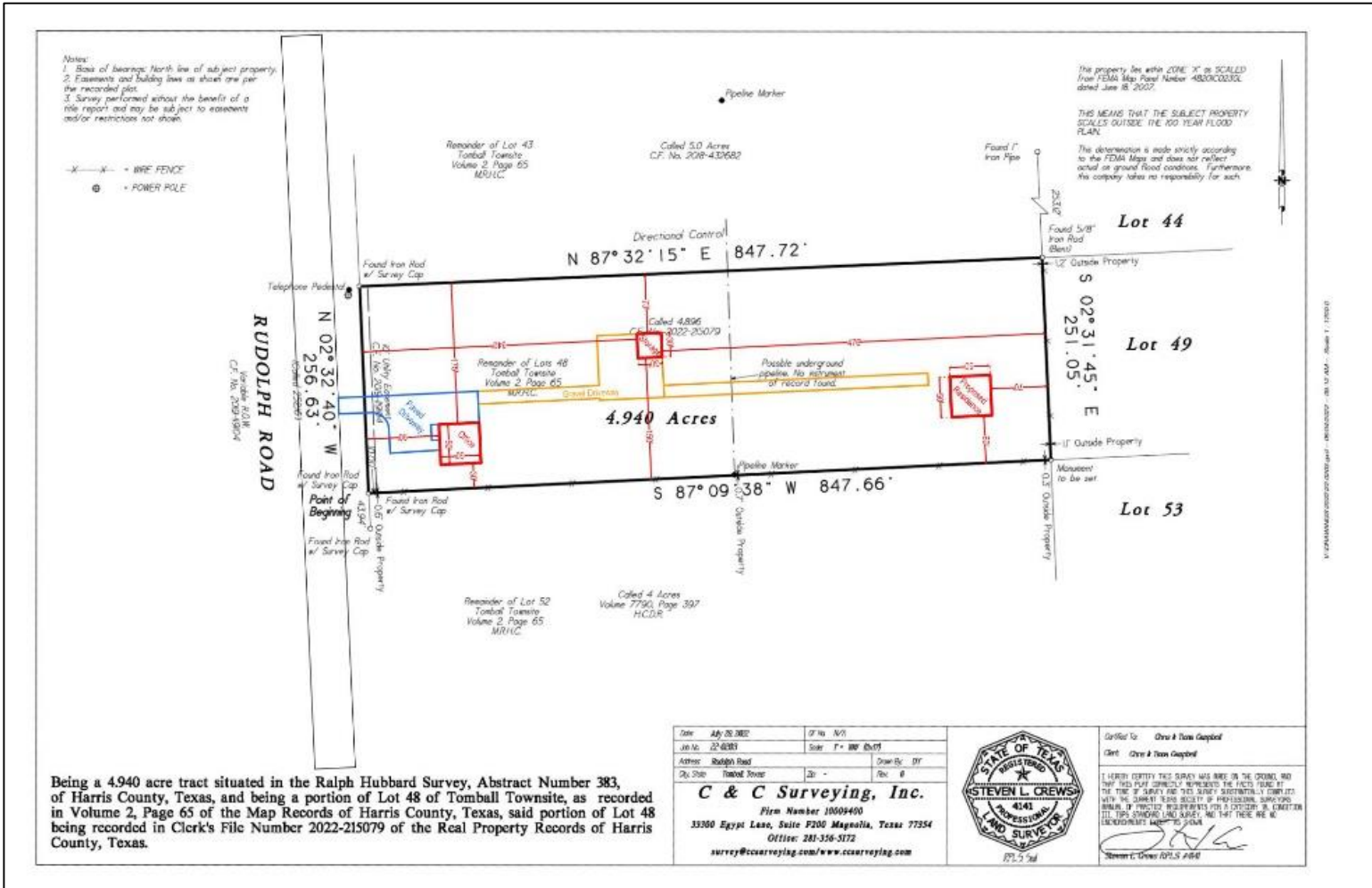
Steven L. Crews, Registered Professional Land Surveyor,
22-0206
07/29/22





Location: 11100-11200 blocks (east side) of Rudolph Rad, City of Tomball, Harris County, Texas

Exhibit "B"



Being a 4.94 acre tract situated in the Ralph Hubbard Survey, Abstract Number 383, of Harris County, Texas, and being a portion of Lot 48 of Tomball Townsite, as recorded in Volume 2, Page 65 of the Map Records of Harris County, Texas, said portion of Lot 48 being recorded in Clerk's File Number 2022-215079 of the Real Property Records of Harris County, Texas.

Date: July 25, 2022	of No. N/A
Job No: 22-02883	Size: 1" x 11" (8x11)
Address: Rudolph Road	Drawn By: BT
City/State: Tomball, Texas	Rev: #

C & C Surveying, Inc.
 Firm Number 10009400
 33300 Egypt Lane, Suite F200 Magnolia, Texas 77354
 Office: 281-316-3172
 survey@ccsurveying.com/www.ccsurveying.com



Ordered by: Chris & Dawn Gagliardi
 Client: Chris & Dawn Gagliardi

I HEREBY CERTIFY THAT SURVEY WAS MADE IN THE FIELD, AND THAT THIS PLAT ACCURATELY REPRESENTS THE FACTS FOUND BY ME. THE TIME OF SURVEY AND THIS SURVEY SUBSTANTIALLY COMPLY WITH THE OATH AND RULES OF PROFESSIONAL SURVEYING. I HAVE BEEN PROVIDED NECESSARY ACCESS TO ALL NECESSARY RECORDS AND ENCUMBRANCES, AND THAT THESE ARE AS SHOWN ON THIS PLAT.

Steven L. Crews
 Steven L. Crews RPLS #684

**NOTICE OF PUBLIC HEARING
CITY OF TOMBALL
PLANNING & ZONING COMMISSION (P&Z)
MAY 8, 2023
&
CITY COUNCIL
MAY 15, 2023**



Notice is Hereby Given that a Public Hearing will be held by the P&Z of the City of Tomball on **Monday, May 8, 2023 at 6:00 P.M.** and by the City Council of the City of Tomball on **Monday, May 15, 2023 at 6:00 P.M.** at City Hall, 401 Market Street, Tomball Texas. On such dates, the P&Z and City Council will consider the following:

Zoning Case Z23-03: Request by Chris & Tiona Campbell, to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 4.94 acres of land legally described as being a portion of Lot 48 in Tomball Townsite from Single Family Residential Estate – 20 (SF-20-E) to General Retail (GR) zoning. The property is generally located within the 11100-11200 blocks (east side) of Rudolph Road, within the City of Tomball, Harris County, Texas.

Zoning Case Z23-04: Request by Rosehill Estates, LLC represented by George Jarkey to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 5.11 acres of land legally described as being Lot 2, Block 1 of Swinghammer/Hauck Subdivision from Single Family Residential Estate – 20 (SF-20-E) to Commercial (C). The property is located at 1820 S. Cherry Street, within the City of Tomball, Harris County, Texas.

Zoning Case Z23-05: Request by Michael Kirtley represented by Sam Jackson of Black Mountain Energy Storage II LLC., to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 5 acre of land legally described as being all of Lot 265 in Tomball Townsite from Agricultural (AG) to Light Industrial (LI) zoning. The property is generally located within the 900-1000 blocks (west side) of S. Pitchford Road, within the City of Tomball, Harris County, Texas.

Zoning Case Z23-06: Request by Red Grip LLC., represented by Mike Matheson to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 1.04 acres of land legally described as being Lot 72, Block 1 of Acquest Tomball Replat No.1 from Commercial (C) to Office (O) zoning. The property is generally located within the 1200-1300 blocks (south side) of Rudel Drive, within the City of Tomball, Harris County, Texas.

Case CUP23-03: Request by Chris & Tiona Campbell, for a Conditional Use Permit to allow “Residential Use” within General Retail (GR) zoning. Affecting approximately 4.94 acres of land legally described as being a portion of Lot 48 in Tomball Townsite. The property is generally located within the 11100-11200 blocks (east side) of Rudolph Road, within the City of Tomball, Harris County, Texas.

Case CUP23-04: Request by Michael Kirtley, represented by Sam Jackson of Black Mountain Energy Storage II LLC., for a Conditional Use Permit to allow an “Electric Storage System” within Light Industrial (LI) zoning. Affecting land legally described as being all of Lot 265 in Tomball Townsite. The property is generally located within the 900-1000 blocks (west side) of S. Pitchford Road, within the City of Tomball, Harris County, Texas.

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

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

Jared Smith
Jared Smith
City Planner

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

For the PLANNING & ZONING COMMISSION
Please call (281) 290-1491 if you have any questions about this notice.

CASE #: CUP23-03

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

NANCY TRUSTEE

Parcel I.D.: 0352820000080
Address: 1230 ULRICH RD

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

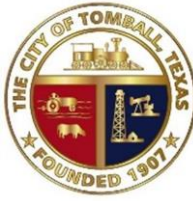
Email: jasmith@tomballtx.gov

I am in favor
Additional Comments: *[Handwritten mark]*

I am opposed

Signature: *Nancy Gomez*

501 James Street • TOMBALL, TEXAS 77375



City of Tomball
Community Development Department

«mailto»
«mail_addr_»
«mail_addr1»
«mail_city»,«mail_state» «mail_zip»

NOTICE OF PUBLIC HEARING

RE: Conditional Use Permit Case Number CUP23-03

04/14/2023

The Planning & Zoning Commission will hold a public hearing on May 8, 2023 at 6:00 PM, in City Council Chambers at City Hall, 401 Market Street, Tomball, Texas to recommend approval or denial to City Council on a request by Chris & Tiona Campbell, for a Conditional Use Permit to allow “Residential Use” within General Retail (GR) zoning. Affecting approximately 4.94 acres of land legally described as being a portion of Lot 48 in Tomball Townsite. The property is generally located within the 11100-11200 blocks (east side) of Rudolph Road, within the City of Tomball, Harris County, Texas.

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

The attached map shows the area of this request. Only that area which is bounded by the cross-hatched line on the map is being considered for **conditional use permit**. The solid boundary line around the subject area is only a notification area. All owners of property within 300-feet of the subject property are required to be notified. Whether approved or denied by the Planning & Zoning Commission, this case will be heard by City Council for First Reading with public hearing on **May 15, 2023 at 6:00 PM** in City Council Chambers at City Hall, 401 Market Street, Tomball, Texas.

If you have any questions, please contact Jared Smith, City Planner at telephone 281-290-1491 or by email address jasmith@tomballtx.gov

For the PLANNING & ZONING COMMISSION
Please call (281) 290-1491 if you have any questions about this notice.

CASE #: CUP23-03

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

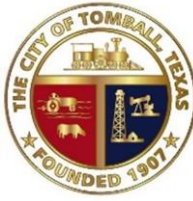
Name: «mailto»
Parcel I.D.: «HCAD_NUM»
Address: «LocAddr»

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

Email: jasmith@tomballtx.gov

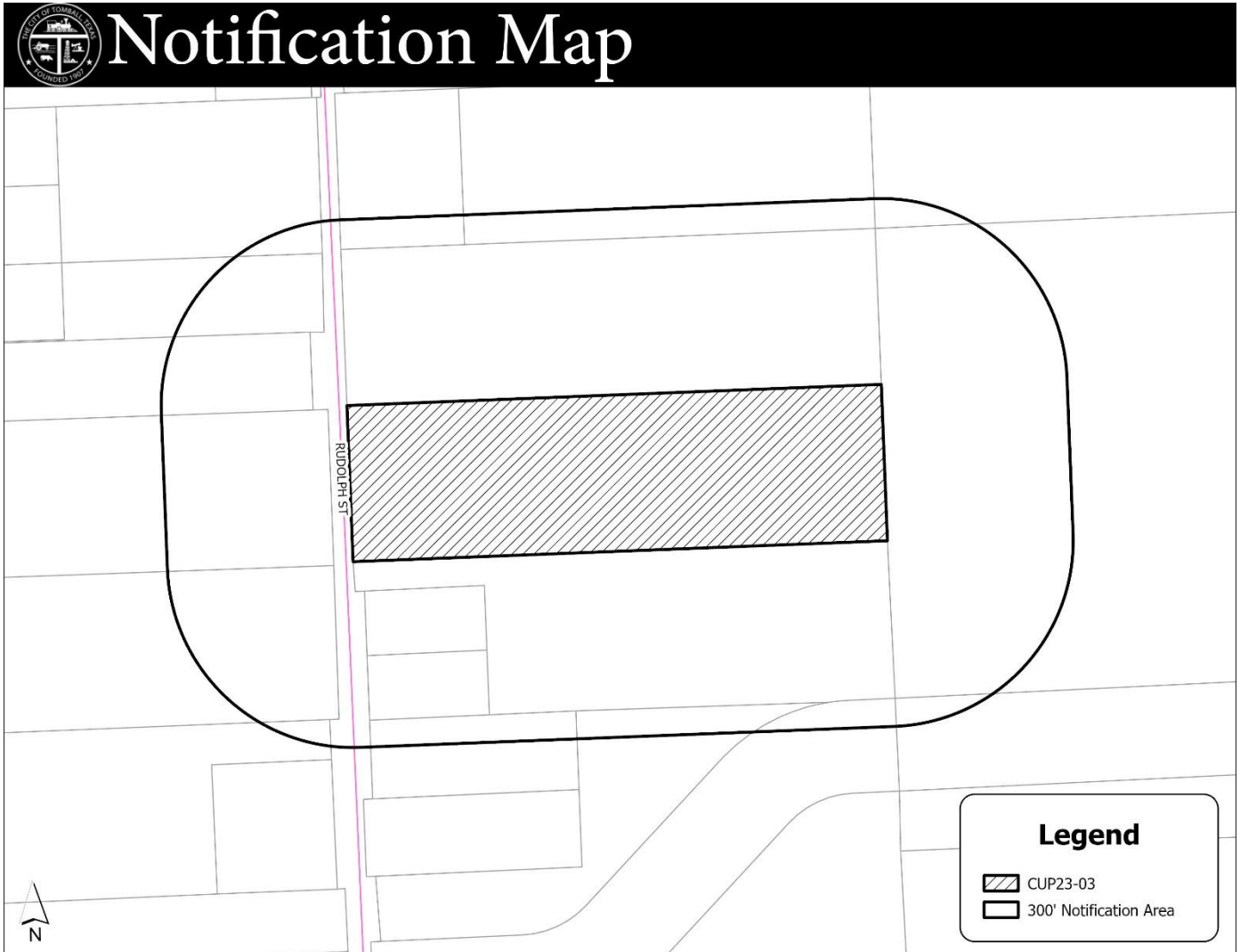
I am in favor I am opposed
Additional Comments:

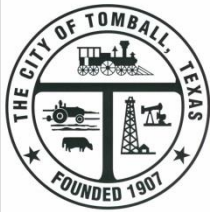
Signature: _____



City of Tomball
Community Development Department

CUP23-03





Conditional Use Permit (CUP) Staff Report

Planning & Zoning Commission Public Hearing Date: May 8, 2023
City Council Public Hearing Date: May 15, 2023

Rezoning Case: CUP23-03
Property Owner(s): Chris & Tiona Campbell
Legal Description: Portion of Lot 48 in Tomball Townsite
Location: 11100-11200 blocks (east side) of Rudolph Road (Exhibit "A")
Area: 4.940 acres
Comp Plan Designation: Ranch Rural & Estate (Exhibit "B")
Present Zoning and Use: Single-Family Residential – 20 (SF-20) / Vacant (Exhibit "D")
Request: Conditional Use Permit (CUP) to permit Residential Use in General Retail (GR) zoning

Adjacent Zoning & Land Uses:

North: Single-Family Residential -20 (SF-20)/ Vacant

South: Single-Family Residential – 20 (SF-20)/ Vacant

West: Single-Family Residential – 20 (SF-20) / Jerry Matheson Park

East: Single-Family Residential – 20 (SF-20) / Vacant and Water Treatment Plan

BACKGROUND

The subject property has been within the City Limits of Tomball since at least 1907. The property has remained vacant since this time. The applicants are requesting a Conditional Use Permit (CUP) in conjunction with a separate request to rezone the property to General Retail (GR). The requested CUP is to allow residential use in the requested General Retail zoning district. According to information provided by the applicant the intent is to rezone the subject property to allow an Exterminator Service/Company on the subject property, in addition to having this exterminator services business on the parcel the applicants would also like to utilize the property to build their primary residence.

ANALYSIS

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

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

The property is designated as Ranch Rural & Estate by the Comprehensive Plan Future Land Use Map. This category is intended to promote large lot single family residential uses. The intention of building a residence on the subject property is wholly compatible with the goals and objectives of the Comprehensive Plan by promoting residential use in the area. However, the requested rezoning to General Retail which is requiring the Conditional Use Permit for residential use is not consistent with the goals and objective of promoting large residential lots in the area.

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

The proposed residential use of this property is consistent with the Comprehensive Plans objective for the surrounding area. However, the General Retail zoning which is requiring a Conditional Use Permit for residential use is not compatible with the surrounding land uses nor is it consistent with the Comprehensive Plans objectives for the area.

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

Yes, if approved the use will be required to meet all supplemental standards outlined in Chapter 50 of the Code of Ordinance. Further, prior to operation, an official site plan shall be submitted to the City of Tomball Community Development Office to ensure that all relevant supplemental standards are being met (sidewalks etc.).

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

The proposed residential use is compatible with and preserves the character and integrity of adjacent developments and neighborhoods.

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

The proposed residential use of this property is not materially detrimental to the public health, safety, convenience, and welfare of the public. Nor does this requested residential use of the property appear to result in material damage or prejudice to other property in the vicinity.

PUBLIC COMMENTS

A Notice of Public Hearing was published in the paper and property owners within 300 feet of the project site were mailed notification of this proposal. These notice letters were sent on April 18, 2023. Any public comment forms will be provided in the Planning & Zoning Commission and City Council packets or during the public hearing.

RECOMMENDATION

Although the residential use of the property is consistent with the goals & objectives of the City of Tomball Comprehensive Plan. This land use is permitted by right within the current Single Family Residential – 20 zoning that the property falls within. The requested General Retail zoning district (which is requiring the Conditional Use Permit for residential use) is not consistent with

the goals and objectives of the Comprehensive Plan. For these reasons, Staff is recommending denial of CUP23-03.

EXHIBITS

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

Exhibit "A"
Aerial Location Map



Location Map

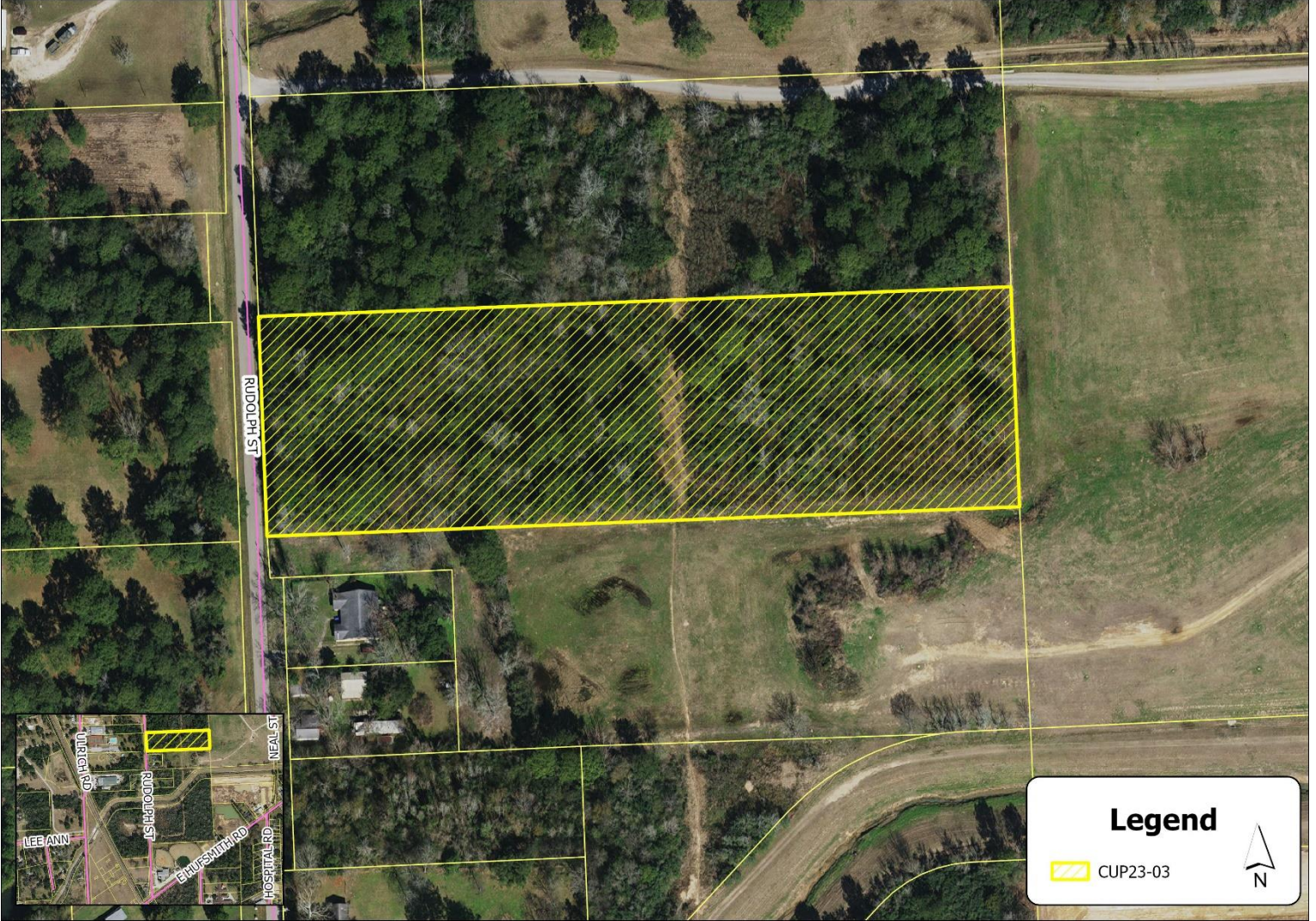
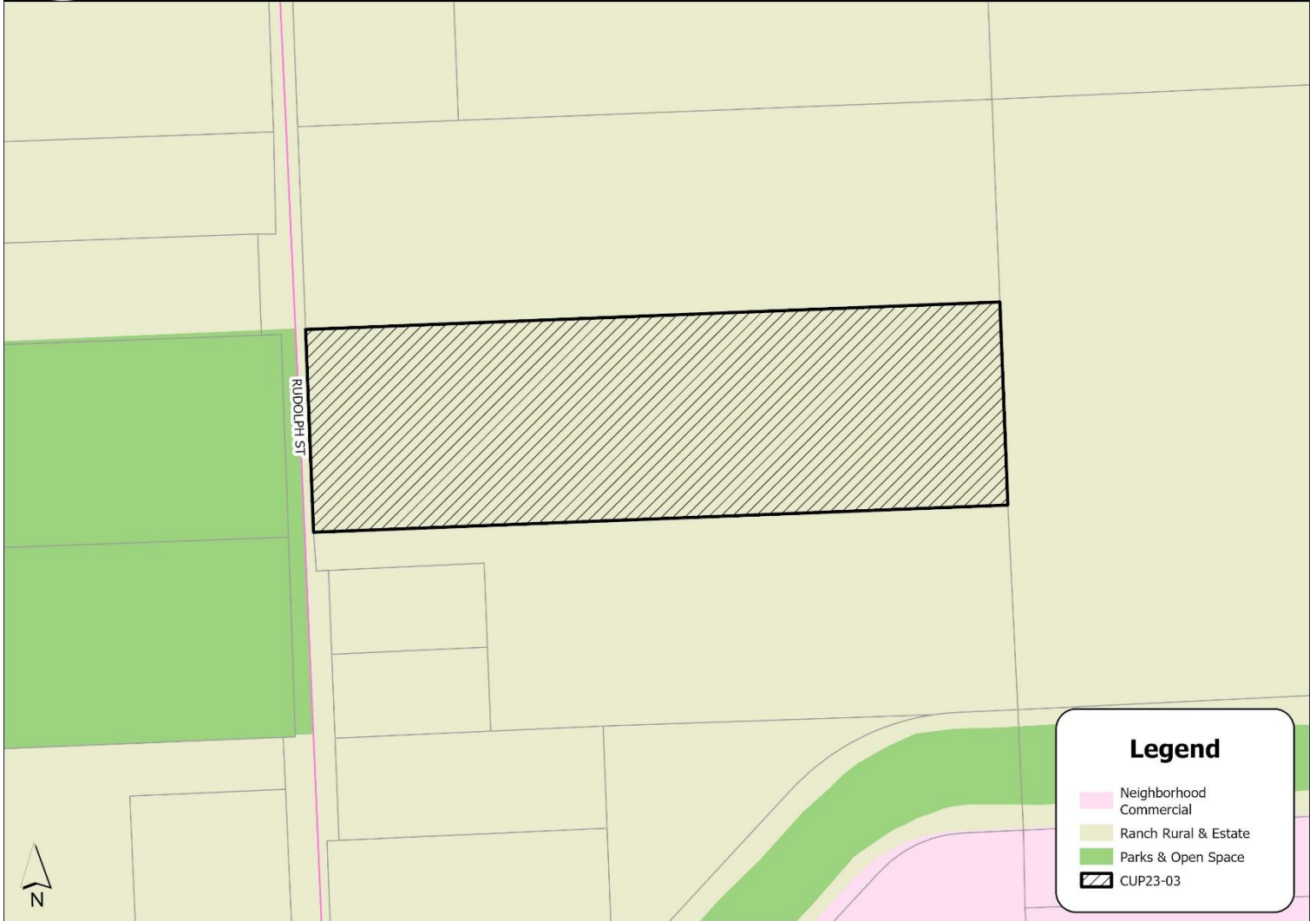


Exhibit "B"
Future Land Use Plan



Future Land Use Map



Legend

- Neighborhood Commercial
- Ranch Rural & Estate
- Parks & Open Space
- CUP23-03

Exhibit "C"
Zoning Map

 **Zoning Map**

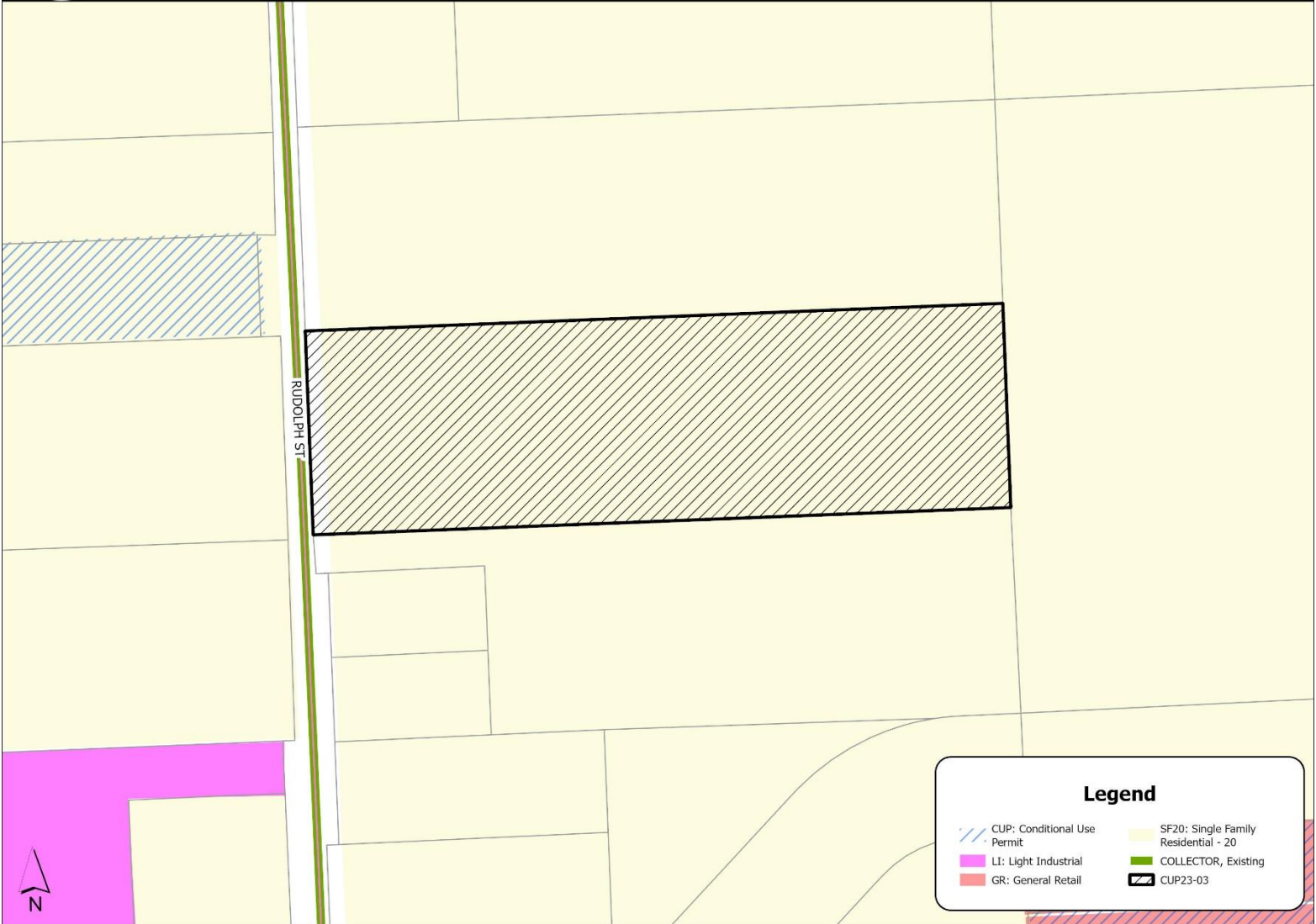


Exhibit "D"
Site Photo(s)

Subject Site



Neighbor (North)



Neighbor (South)



Neighbor (West)



Exhibit "E"
Rezoning Application

Revised: 10/1/2022



APPLICATION FOR
CONDITIONAL USE PERMIT
Planning Division

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

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

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

DIGITAL PLAN SUBMITTALS:

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

WEBSITE: tomballtx.gov/securesend
USERNAME: tombalccd
PASSWORD: Tomball1

Applicant

Name: Chris + Tiona Campbell Title: _____
Mailing Address: 19611 Glenfinch Lane City: Spring State: Tx
Zip: 77379 Contact: Chris Campbell
Phone: (832) 928 6044 Email: Chris@Belladomani.com

Owner

Name: Chris + Tiona Campbell Title: _____
Mailing Address: 19611 Glenfinch Lane City: Spring State: Tx
Zip: 77379 Contact: Chris Campbell
Phone: (832) 928 6044 Email: Chris@Belladomani.com

Engineer/Surveyor (if applicable)

Name: C&C Surveying + AL Title: _____
Mailing Address: 33306 Egypt Lane City: Magnolia State: Tx
Zip: 77354 Contact: Steven L Crews
Phone: (281) 356-5172 Fax: () ~~5172~~ Email: Survey@CCSurveying.com

Description of Proposed Project: residential Home

Physical Location of Property: 1120 Rudolph Rd Tomball TX 77375
[General Location – approximate distance to nearest existing street corner]

Legal Description of Property: Lot 48 Clerk's File # 2022-215079
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]

HCAD Identification Number: 0352820000083 Acreage: 4.940

Current Use of Property: undeveloped

Proposed Use of Property: residential Home

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

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

X [Signature] 3-24-23
Signature of Applicant Date

X [Signature] 3-24-23
Signature of Owner Date

Submittal Requirements

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

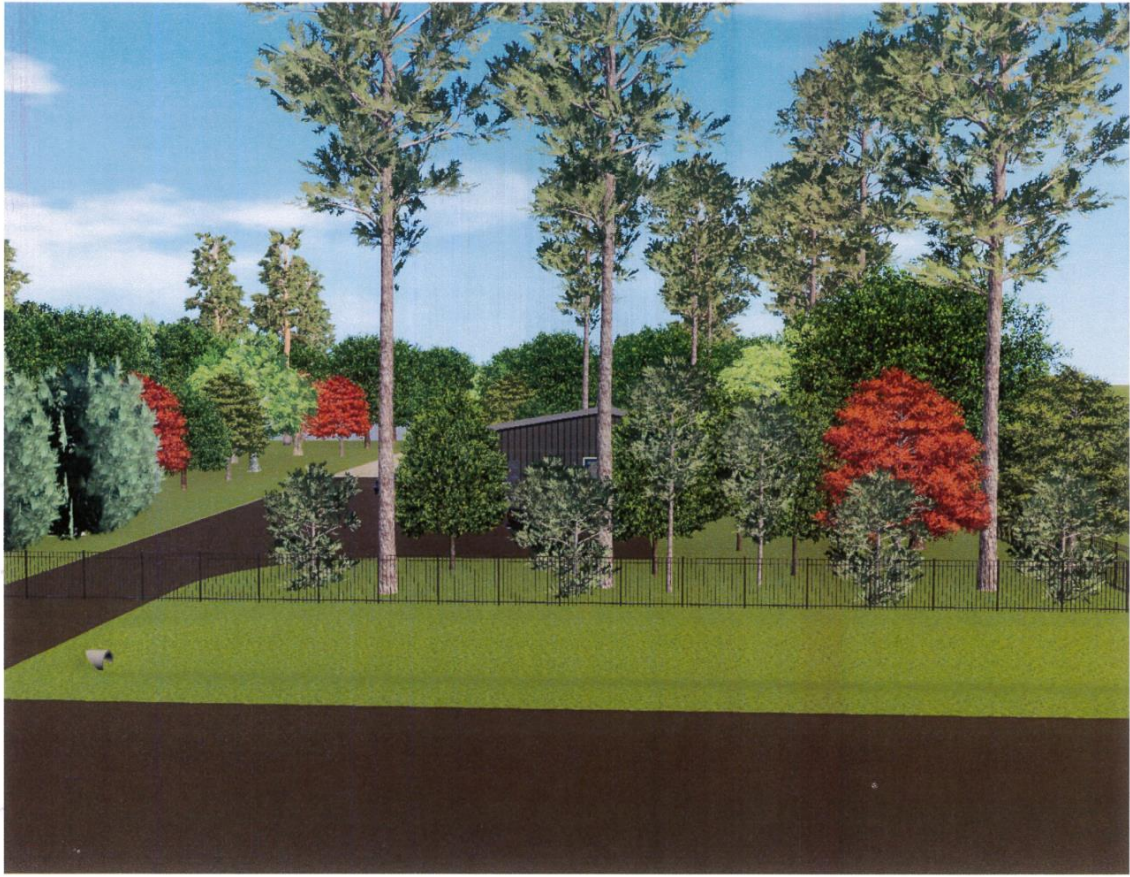
Applications must be delivered to the City at least 40 calendar days prior to the City Planning and Zoning Commission hearing date.

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

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

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

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





C & C Surveying, Inc.

Firm Number 10009400
33300 Egypt Lane, Suite F200
Magnolia, Texas 77354
Office: 281-356-5172

Metes and Bounds

4.940 Acres

Tomball Townsite

**Ralph Hubbard Survey, Abstract Number 383,
Harris County, Texas**

Being a 9.940 acre tract of land situated in the Ralph Hubbard Survey, Abstract Number 383, of Harris County, Texas, and being the remainder of Lot 48 of Tomball Townsite, as recorded in Volume 2, Page 65 of the Map Records of Harris County, Texas, said remainder of Lot 48 being a called 4.896 acre tract, as recorded in Clerk's File Number 2022-215079 of the Real Property Records of Harris County; said 4.940 acres being more particularly described as follows with all bearings based on the North line of said called 4.896 acre deed;

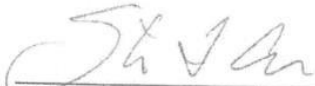
BEGINNING, at an iron rod with survey cap, found for the Southwest corner of the herein describe tract, common with Southeast corner of a 15 foot wide road dedication to the City of Tomball for Rudolph Road, as recorded in Clerk's File Number 2019-119104 of the Real Property Records of Harris County, and being on the North line of Lot 52 of said Tomball Townsite;

THENCE, North 02 degrees 32 minutes 40 seconds West, along the West line of the herein described tract, common with the East line of said Rudolph Road, a distance of 256.63 feet (call 252.16 feet), to an iron rod, found for the Northwest corner of the herein described tract, common with the Northeast corner of said Rudolph Road dedication, and being on the South line of Lot 43 of said Tomball Townsite;

THENCE, North 87 degrees 32 minutes 15 seconds East, along the North line of the herein described tract, common with the North line of said Lot 48, being the South line of said Lot 43, departing said Rudolph Road, a distance of 847.72 feet, to a 5/8 inch iron rod (bent), found for the Northeast corner of the herein described tract, being the Northeast corner of said Lot 48, the Southeast corner of Lot 43, the Southwest corner of Lot 44, and the Northwest corner of Lot 49;

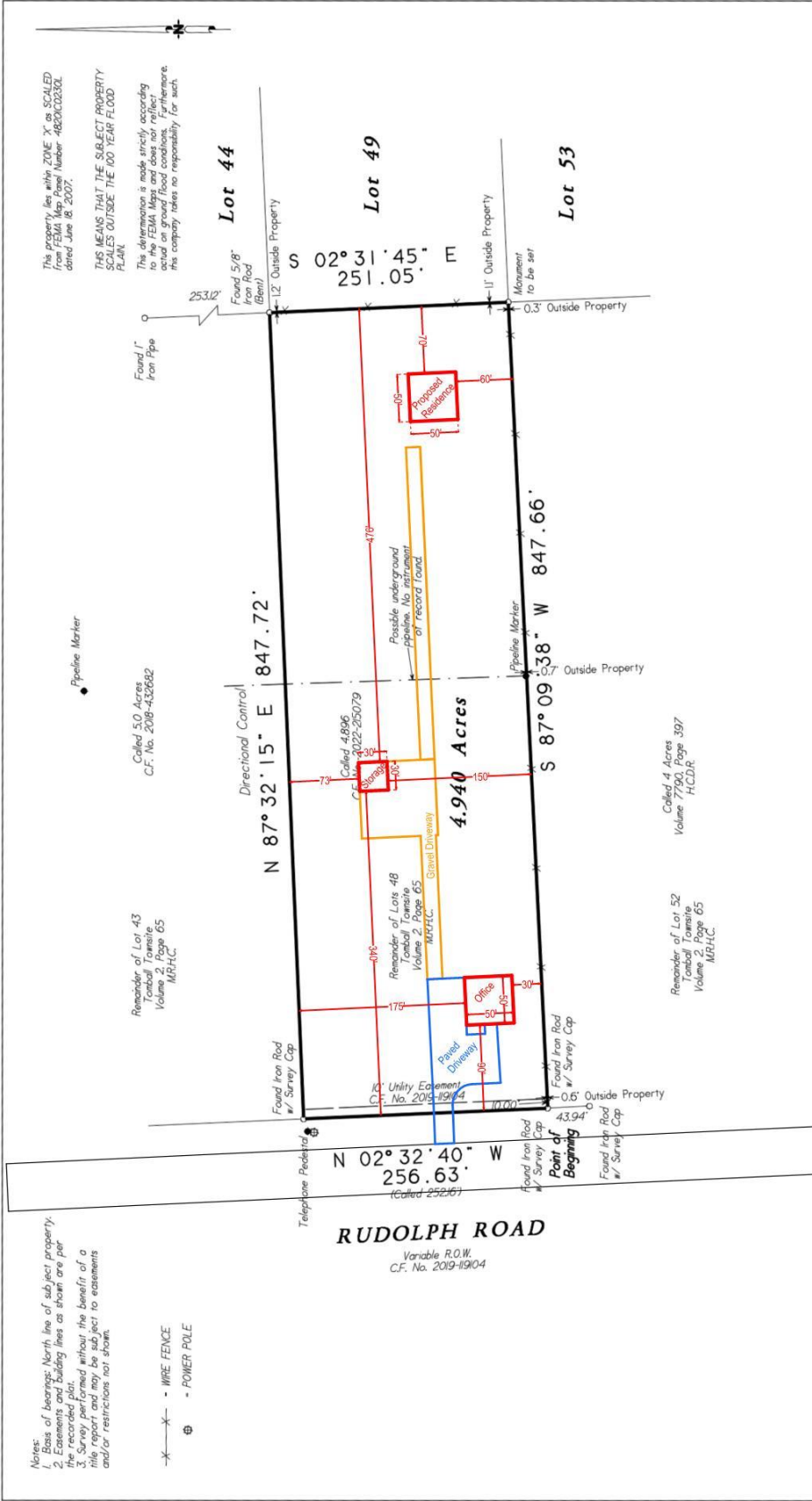
THENCE, South 02 degrees 31 minutes 45 seconds East, along the East line of the herein described tract, common with the East line of Lot 48, with the West line of Lot 49, a distance of 251.05 feet, to a point for the Southeast corner of the herein described tract, being the Southeast corner of Lot 48, the Southwest corner of Lot 49, the Northwest corner of Lot 53, and the Northeast corner of the aforementioned Lot 52;

THENCE, South 87 degrees 09 minutes 38 seconds West, along the South line of the herein described tract, common with the South line of said Lot 48, being the North line of Lot 52, a distance of 847.66 feet, back to the **POINT OF BEGINNING** and containing 4.940 acres of land as computed based on the survey and plat prepared by C & C Surveying, Inc., dated July 29, 2022.



Steven L. Crews, Registered Professional Land Surveyor,
22-0206
07/29/22





This property lies within ZONE X as SCALED from FEMA Map Panel Number 4820C0230Z dated June 18, 2007.

THIS MEANS THAT THE SUBJECT PROPERTY SCALES OUTSIDE THE 100 YEAR FLOOD PLAIN.

This determination is made strictly according to the FEMA Map and does not reflect any warranty or responsibility for such.

Notes:
 1. Basis of bearings: North line of subject property.
 2. Easements and building lines as shown are per the recorded plat.
 3. Survey performed without the benefit of a title search and may be subject to easements and/or restrictions not shown.

—X—X— WIRE FENCE
 ⊕ POWER POLE

Date:	July 28, 2022	Sheet No.:	1 of 1
Job No.:	22-0383	Scale:	1" = 100' (AS SHOWN)
Address:	Ralph Road	Drawn By:	DJ
City, State:	Tomball, Texas	Rev.:	0

C & C Surveying, Inc.
 Firm Number 10009400
 33300 Egypt Lane, Suite F200 Magnolia, Texas 77354
 Office: 281-356-5172
www.ccsurveying.com

STEVEN L. CREWS
 PROFESSIONAL SURVEYOR
 STATE OF TEXAS
 LICENSE NO. 4141
 COMMISSION EXPIRES 12/31/2024

Steven L. Crews, PLS #4141

Being a 4.940 acre tract situated in the Ralph Hubbard Survey Abstract Number 383, of Harris County, Texas, and being a portion of Lot 48 of Tomball Township, as recorded in Volume 2, Page 65 of the Map Records of Harris County, Texas, said portion of Lot 48 being recorded in Clerk's File Number 2022-215079 of the Real Property Records of Harris County, Texas.

City Council Agenda Item Data Sheet

Meeting Date: 05/15/2023

Topic:

Consideration to approve Case CUP23-04: Request by Michael Kirtley, represented by Sam Jackson of Black Mountain Energy Storage II LLC., for a Conditional Use Permit to allow an “Electric Storage System” within Light Industrial (LI) zoning. Affecting land legally described as being all of Lot 265 in Tomball Townsite. The property is generally located within the 900-1000 blocks (west side) of S. Pitchford Road, within the City of Tomball, Harris County, Texas.

Conduct Public Hearing on Case CUP23-04

Adopt, on First Reading, Ordinance No. 2023-14, an Ordinance of the City of Tomball, Texas, amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by issuing a Conditional Use Permit to allow an “Electric Storage System” within Light Industrial (LI) zoning. Affecting land legally described as being all of Lot 265 in Tomball Townsite. The property is generally located within the 900-1000 blocks (west side) of S. Pitchford Road, within the City of Tomball, Harris County, Texas; providing for the amendment of the Official Zoning Map of the City; providing for severability; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters.

Background:

The subject property has been within the City Limits of Tomball since at least 1907. The property has remained vacant since that time. The applicants are requesting a Conditional Use Permit (CUP) in conjunction with a separate request to rezone the property to Light Industrial (LI). The requested CUP is to allow an “Electric Storage System” land use. There has been a lot of interest in the development of an “Electric Storage System” within the City of Tomball, particularly the development of such a facility near the existing CenterPoint Energy substation located in the 900 block of S. Pitchford Road. This interest has led to the City Council adopting amendments to the City of Tomball Code of Ordinance earlier this year (Ordinance No. 2023-03). This ordinance created the “Electric Storage System” land use, which also provided a definition to the land use and specified that such uses shall only be permitted within the Light Industrial zoning district with the approval of a Conditional Use Permit. Electric storage systems are defined as “one or more devices assembled together capable of storing energy that allows power system operators and utilities to collect and store energy from the grid and discharge it at a future time to provide electricity when needed, such as to ensure adequate peaking generation capacity and grid resiliency.” City staff met with the applicants on several occasions over the past several months to discuss the potential for their development. During these meetings staff expressed the concerns discussed by the City Council which were brought up during separate meetings with a different company interested in a similar development located in the same general vicinity. Specifically, staff shared City Councils concerns regarding the safety of locating such facilities in proximity to Old Town Tomball and the nearby existing residences.

Origination:

Recommendation:

City staff recommends denial of CUP23-04. Planning and Zoning Commission recommends Denial Unanimously (5 Votes Nay).

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

FUNDING (IF APPLICABLE)

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

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

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

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

ORDINANCE NO. 2023-14

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING CHAPTER 50 (ZONING) OF THE TOMBALL CODE OF ORDINANCES BY GRANTING A CONDITIONAL USE PERMIT (CUP #35) TO ALLOW “ELECTRIC STORAGE SYSTEM” WITHIN THE LIGHT INDUSTRIAL (LI) ZONING DISTRICT; SAID PROPERTY BEING 5.00 ACRES OF LAND LEGALLY DESCRIBED AS BEING LOT 265 IN TOMBALL TOWNSITE. LOCATED IN THE 900-1000 BLOCKS (WEST SIDE) OF S. PITCHFORD ROAD, WITHIN THE CITY OF TOMBALL, HARRIS COUNTY, TEXAS; PROVIDING FOR PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF, MAKING FINDINGS OF FACT; AND PROVIDING FOR OTHER RELATED MATTERS.

Whereas, Michael Kirtley, represented by Sam Jackson of Black Mountain Energy Storage II LLC., has requested that 5.00 acres of land legally described as being Lot 265 in Tomball Townsite, located within the 900-1000 blocks (west side) of S. Pitchford Road, within the City of Tomball, Harris County, Texas (the “Property”), receive a CUP; and

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

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

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

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

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

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

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

Section 2. A CUP to allow an “Electric Storage System” at the property and subject to the terms and conditions set forth below is hereby granted.

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

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

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

Section 6. The CUP is subject to the following additional limitations, restrictions and conditions:

- 1) The site shall be developed and operated in general compliance with Exhibit “A”,
- 2) An opaque fence/wall with a minimum height of 6-feet must be provided along the entire extent of the eastern property boundary.

- 3) A 20-foot-wide undisturbed mature vegetative buffer must be preserved/protected during and after construction.
 - a. EXCEPTION: Mature vegetation may be removed to accommodate required fencing, driveway approaches, required sidewalks, and necessary utilities.
- 4) Adequate water main and fire hydrant(s) must be installed prior to the approval of site plan(s) and subsequent development of the site.

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

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

FIRST READING:

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

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

SECOND READING:

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

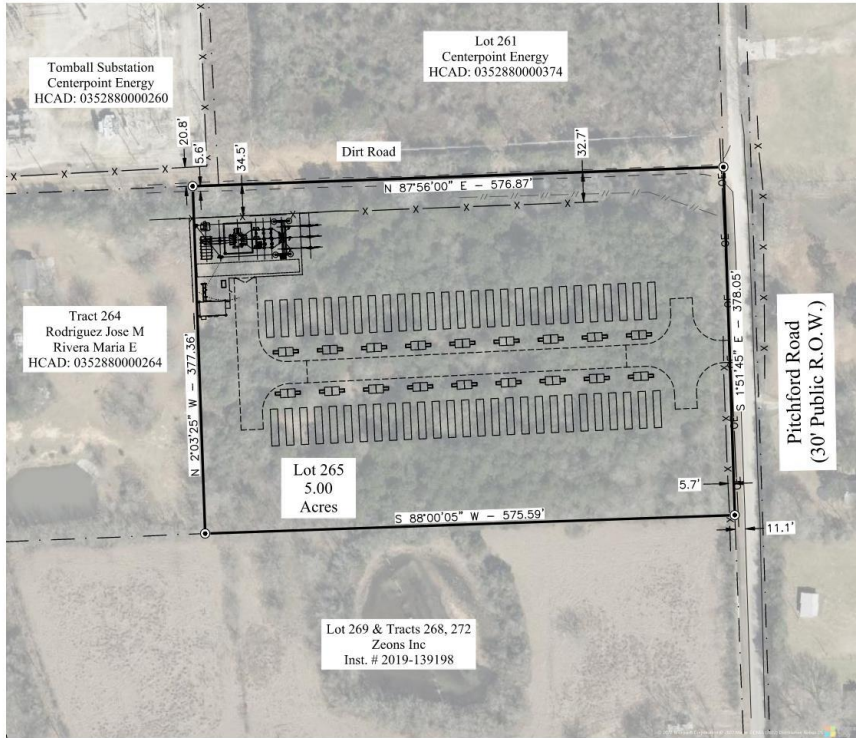
COUNCILMAN FORD _____
 COUNCILMAN STOLL _____
 COUNCILMAN DUNAGIN _____
 COUNCILMAN TOWNSEND _____
 COUNCILMAN PARR _____

 LORI KLEIN QUINN, Mayor

ATTEST:

 Tracylynn Garcia, City Secretary

Exhibit "A"



HARRIS COUNTY, TEXAS

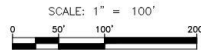
All of Lot Two Hundred Sixty-Five (265) of Tomball Township, a subdivision in Harris County, Texas, according to the Map or Plat thereof recorded in Volume 2, Page 265, Deed Records of Harris County, Texas.

VICINITY MAP



LEGEND

- - Found 1/2" Iron Rod
- — — — — Property Line
- - - - - Lot Line
- x-x-x-x-x- Fence Line
- // -// - Pipeline

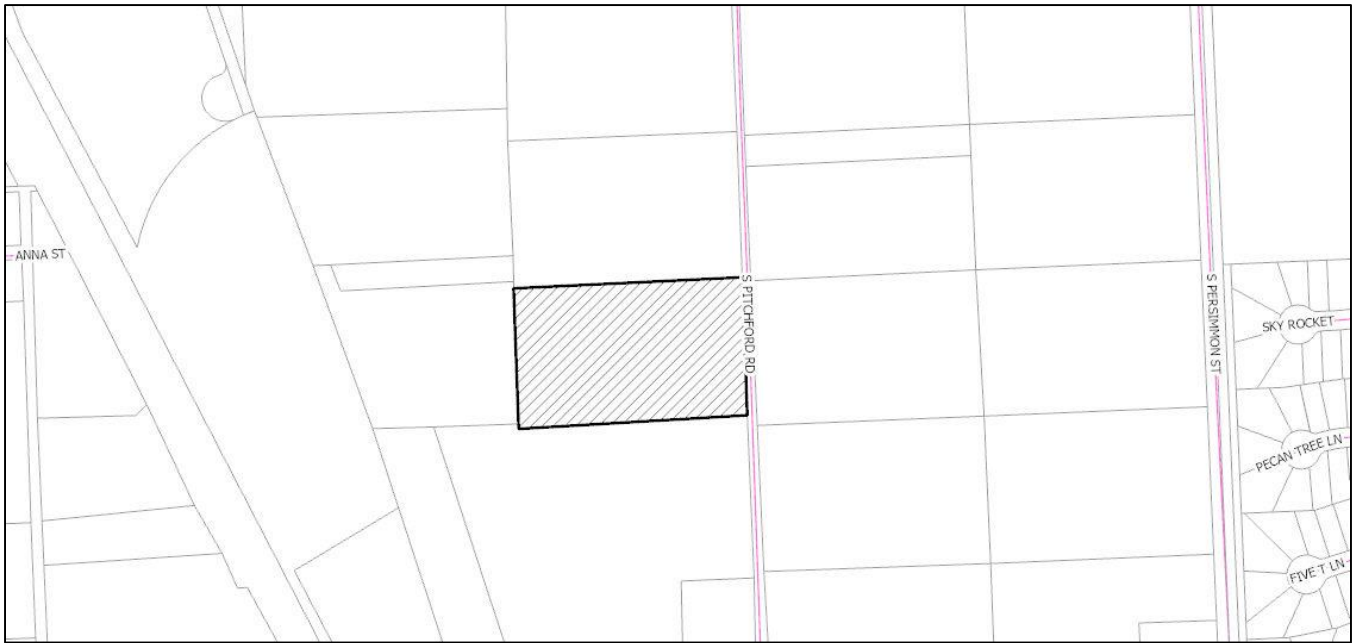


Bearings Based on GPS Observations; Texas State Plane Coordinate System, South Central Zone, NAD 83 Datum

SITE LAYOUT

Merchant Site
 GF# 181873TTX
 Lot 265
 Tomball, Harris County, Texas

CENTERLINE ENGINEERING & CONSULTING, L.L.C.
 6312 Upland Avenue, Lubbock, Texas 79424
 (806) 470-8686
 TSP# Reg. No. P-16713, TSP#S Reg. No. 10194378
 OKLAHOMA CA NO. 8846



Location: 900-1000 blocks (west side) of S. Pitchford Rd. Being Lot 265 in Tomball Townsite, City of Tomball, Harris County, Texas

**NOTICE OF PUBLIC HEARING
CITY OF TOMBALL
PLANNING & ZONING COMMISSION (P&Z)
MAY 8, 2023
&
CITY COUNCIL
MAY 15, 2023**



Notice is Hereby Given that a Public Hearing will be held by the P&Z of the City of Tomball on **Monday, May 8, 2023 at 6:00 P.M.** and by the City Council of the City of Tomball on **Monday, May 15, 2023 at 6:00 P.M.** at City Hall, 401 Market Street, Tomball Texas. On such dates, the P&Z and City Council will consider the following:

Zoning Case Z23-03: Request by Chris & Tiona Campbell, to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 4.94 acres of land legally described as being a portion of Lot 48 in Tomball Townsite from Single Family Residential Estate – 20 (SF-20-E) to General Retail (GR) zoning. The property is generally located within the 11100-11200 blocks (east side) of Rudolph Road, within the City of Tomball, Harris County, Texas.

Zoning Case Z23-04: Request by Rosehill Estates, LLC represented by George Jarkey to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 5.11 acres of land legally described as being Lot 2, Block 1 of Swinghammer/Hauck Subdivision from Single Family Residential Estate – 20 (SF-20-E) to Commercial (C). The property is located at 1820 S. Cherry Street, within the City of Tomball, Harris County, Texas.

Zoning Case Z23-05: Request by Michael Kirtley represented by Sam Jackson of Black Mountain Energy Storage II LLC., to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 5 acre of land legally described as being all of Lot 265 in Tomball Townsite from Agricultural (AG) to Light Industrial (LI) zoning. The property is generally located within the 900-1000 blocks (west side) of S. Pitchford Road, within the City of Tomball, Harris County, Texas.

Zoning Case Z23-06: Request by Red Grip LLC., represented by Mike Matheson to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 1.04 acres of land legally described as being Lot 72, Block 1 of Acquest Tomball Replat No.1 from Commercial (C) to Office (O) zoning. The property is generally located within the 1200-1300 blocks (south side) of Rudel Drive, within the City of Tomball, Harris County, Texas.

Case CUP23-03: Request by Chris & Tiona Campbell, for a Conditional Use Permit to allow “Residential Use” within General Retail (GR) zoning. Affecting approximately 4.94 acres of land legally described as being a portion of Lot 48 in Tomball Townsite. The property is generally located within the 11100-11200 blocks (east side) of Rudolph Road, within the City of Tomball, Harris County, Texas.

Case CUP23-04: Request by Michael Kirtley, represented by Sam Jackson of Black Mountain Energy Storage II LLC., for a Conditional Use Permit to allow an “Electric Storage System” within Light Industrial (LI) zoning. Affecting land legally described as being all of Lot 265 in Tomball Townsite. The property is generally located within the 900-1000 blocks (west side) of S. Pitchford Road, within the City of Tomball, Harris County, Texas.

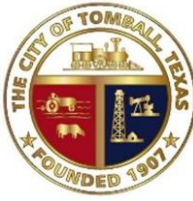
At the public hearings, parties of interest and citizens will have the opportunity to be heard. All citizens of the City of Tomball, and any other interested parties, are invited to attend. Applications are available for public inspection Monday through Friday, except holidays, and the Public Works Buildings,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

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

Jared Smith
Jared Smith
City Planner

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



City of Tomball
Community Development Department

HLJ SPEARS INVESTMENTS LLC
23722 WILLOW SWITCH RD

SPRING, TX 77389-3473

NOTICE OF PUBLIC HEARING

RE: Conditional Use Permit Case Number CUP23-04

04/14/2023

The Planning & Zoning Commission will hold a public hearing on **May 8, 2023 at 6:00 PM**, in City Council Chambers at City Hall, 401 Market Street, Tomball, Texas to recommend approval or denial to City Council on a request by Michael Kirtley, represented by Sam Jackson of Black Mountain Energy Storage II LLC., for a Conditional Use Permit to allow an "Electric Storage System" within Light Industrial (LI) zoning. Affecting land legally described as being all of Lot 265 in Tomball Townsite. The property is generally located within the 900-1000 blocks (west side) of S. Pitchford Road, within the City of Tomball, Harris County, Texas.

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

The attached map shows the area of this request. Only that area which is bounded by the cross-hatched line on the map is being considered for **conditional use permit**. The solid boundary line around the subject area is only a notification area. All owners of property within 300-feet of the subject property are required to be notified. Whether approved or denied by the Planning & Zoning Commission, this case will be heard by City Council for First Reading with public hearing on **May 15, 2023 at 6:00 PM** in City Council Chambers at City Hall, 401 Market Street, Tomball, Texas.

If you have any questions, please contact Jared Smith, City Planner at telephone 281-290-1491 or by email address jasmith@tomballtx.gov

For the PLANNING & ZONING COMMISSION
Please call (281) 290-1491 if you have any questions about this notice.

CASE #: CUP23-04

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

Name: HLJ SPEARS INVESTMENTS LLC
Parcel I.D.: 1187930010002
Address: 211 S PERSIMMON ST

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

Email: jasmith@tomballtx.gov

I am in favor
Additional Comments:

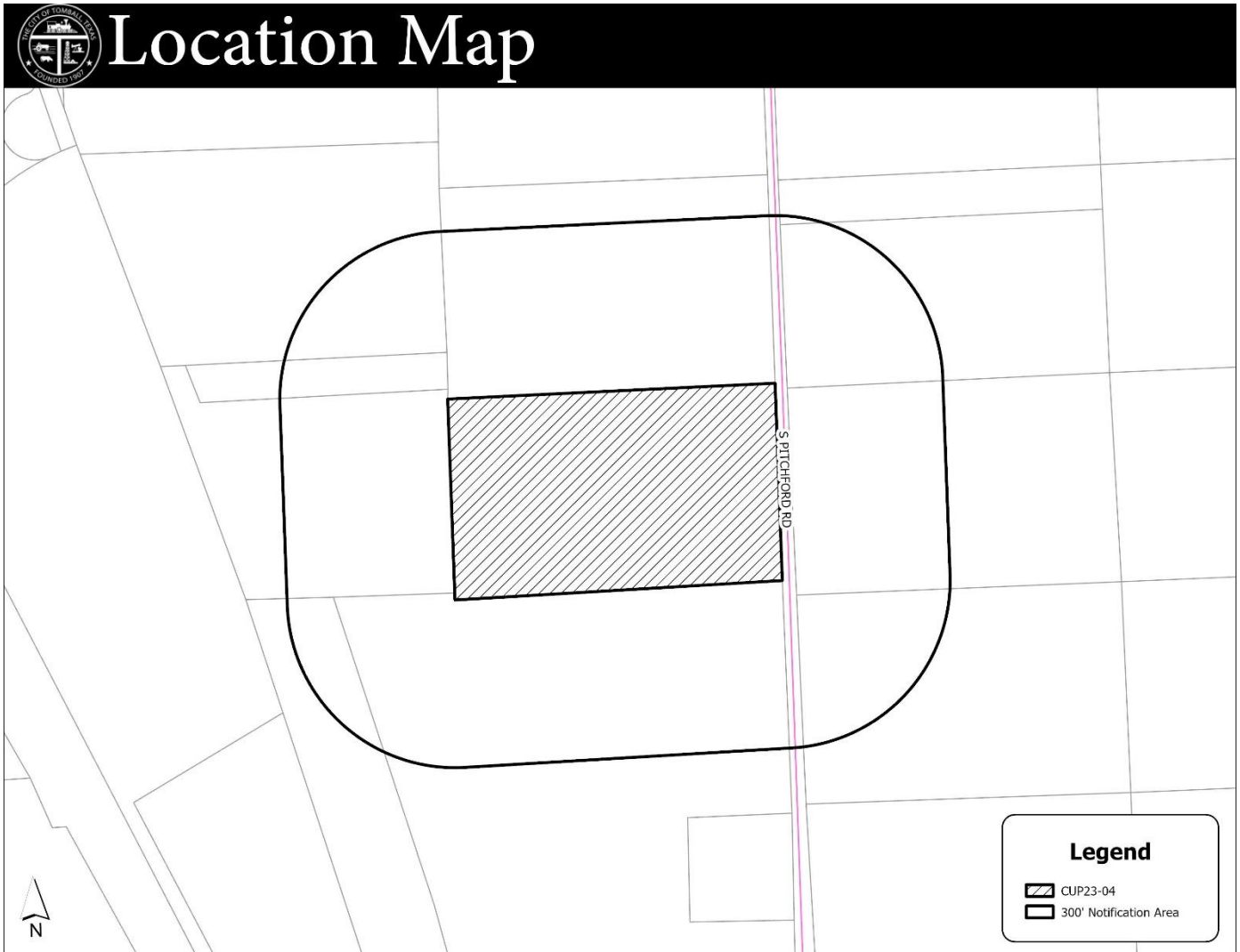
I am opposed

Signature: _____



City of Tomball
Community Development Department

CUP23-04



For the PLANNING & ZONING COMMISSION
Please call (281) 290-1491 if you have any questions about this notice.

CASE #: CUP23-04 (Courtesy Notice)

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

Name: WILKERSON THOMAS J & NELDA
Parcel I.D.: 0352880000427
Address: 1216 PITCHFORD RD

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

Email: jasmith@tomballtx.gov

I am in favor

I am opposed

Additional Comments:

Signature:



501 James Street • TOMBALL, TEXAS 77375

For the PLANNING & ZONING COMMISSION
Please call (281) 290-1491 if you have any questions about this notice.

CASE #: CUP23-04 (Courtesy Notice)

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Name: KLEIMANN CARL H
Parcel I.D.: 1174630010004
Address: 918 LIZZIE LN

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

Email: jasmith@tomballtx.gov

I am in favor
Additional Comments:

I am opposed

Signature:  _____

501 James Street • TOMBALL, TEXAS 77375

For the PLANNING & ZONING COMMISSION
Please call (281) 290-1491 if you have any questions about this notice.

CASE #: CUP23-04 (Courtesy Notice)

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Name: THOMAS JACKIE & THERESA
Parcel I.D.: 1174630010007
Address: 830 LIZZIE LN

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

Email: jasmith@tomballtx.gov

I am in favor
Additional Comments:

I am opposed

Signature: _____

Jackie Thomas
Theresa Thomas

501 James Street • TOMBALL, TEXAS 77375



*City of Tomball
Community Development Department*

CARRINGTON JERRY
810 LIZZIE LN
TOMBALL, TX 77375-6703

NOTICE OF PUBLIC HEARING

RE: Conditional Use Permit Case Number CUP23-04 (Courtesy Notice)

04/17/2023

The Planning & Zoning Commission will hold a public hearing on **May 8, 2023 at 6:00 PM**, in City Council Chambers at City Hall, 401 Market Street, Tomball, Texas to recommend approval or denial to City Council on a request by Michael Kirtley, represented by Sam Jackson of Black Mountain Energy Storage II LLC., for a Conditional Use Permit to allow an "Electric Storage System" within Light Industrial (LI) zoning. Affecting land legally described as being all of Lot 265 in Tomball Townsite. The property is generally located within the 900-1000 blocks (west side) of S. Pitchford Road, within the City of Tomball, Harris County, Texas.

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If you have any questions, please contact Jared Smith, City Planner at telephone 281-290-1491 or by email address jasmith@tomballtx.gov

For the PLANNING & ZONING COMMISSION
Please call (281) 290-1491 if you have any questions about this notice.

CASE #: CUP23-04 (Courtesy Notice)

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

Name: CARRINGTON JERRY
Parcel I.D.: 1174630010009
Address: 810 LIZZIE LN

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

Email: jasmith@tomballtx.gov

I am in favor
Additional Comments:

I am opposed

Signature: _____



**City of Tomball
Community Development Department**

SHANNON IRENE ESTATE OF % CATHERINE CARRINGTON
810 LIZZIE LN
TOMBALL, TX 77375-6703

NOTICE OF PUBLIC HEARING

RE: Conditional Use Permit Case Number CUP23-04 (Courtesy Notice)

04/17/2023

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For the PLANNING & ZONING COMMISSION
Please call (281) 290-1491 if you have any questions about this notice.

CASE #: CUP23-04 (Courtesy Notice)

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CARRINGTON

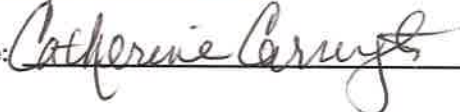
Parcel I.D.: 1324730010001
Address: 831 LIZZIE LN

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

Email: jasmith@tomballtx.gov

I am in favor
Additional Comments:

I am opposed

Signature: 

For the PLANNING & ZONING COMMISSION
Please call (281) 290-1491 if you have any questions about this notice.

CASE #: CUP23-04 (Courtesy Notice)

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

Name: SHANNON SAMUEL & LATRELL
Parcel I.D.: 1324730010002
Address: 823 LIZZIE LN

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

Email: jasmith@tomballtx.gov

I am in favor
Additional Comments:

I am opposed

Signature:

Samuel Shannon
Latrell Shannon

(1) SAFETY AND HEALTH HAZARD CONCERNS

(2) TOO CLOSE TO RESIDENCES
501 James Street • TOMBALL, TEXAS 77375

For the PLANNING & ZONING COMMISSION
Please call (281) 290-1491 if you have any questions about this notice.

CASE #: CUP23-04 (Courtesy Notice)

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Name: SHANNON SAMUEL
Parcel I.D.: 1174630020008 → D10 (3 LOTS)
Address: 823 LIZZIE LN

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

Email: jasmith@tomballtx.gov

I am in favor
Additional Comments:

I am opposed

Signature: Samuel Shannon

(1) SAFETY AND HEALTH HAZARD CONCERNS
(2) TOO CLOSE TO RESIDENCES.

501 James Street • TOMBALL, TEXAS 77375

For the PLANNING & ZONING COMMISSION
Please call (281) 290-1491 if you have any questions about this notice.

CASE #: CUP23-04 (Courtesy Notice)

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Name: SHANNON SAMUEL
Parcel I.D.: 1174630020008 → 010 (3 LOTS)
Address: 823 LIZZIE LN

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

Email: jasmith@tomballtx.gov

I am in favor
Additional Comments:

I am opposed

Signature: Samuel Shannon

(1) SAFETY AND HEALTH HAZARD CONCERNS
(2) TOO CLOSE TO RESIDENCES.

501 James Street • TOMBALL, TEXAS 77375



City of Tomball
Community Development Department

NCA ENTERPRISES LLC
1430 ULRICH RD
TOMBALL, TX 77375-4320

NOTICE OF PUBLIC HEARING

RE: Conditional Use Permit Case Number CUP23-04 (Courtesy Notice)

04/17/2023

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

Name: NCA ENTERPRISES LLC
Parcel I.D.: 0352880000310
Address: 1100 S PERSIMMON ST

Email: jasmith@tomballtx.gov

I am in favor
Additional Comments:

I am opposed

Signature: _____

For the PLANNING & ZONING COMMISSION
Please call (281) 290-1491 if you have any questions about this notice.

CASE #: CUP23-04 (Courtesy Notice)

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Name: WILKERSON THOMAS J & NELDA
Parcel I.D.: 0352880000418
Address: 1216 S PITCHFORD ST

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

Email: jasmith@tomballtx.gov

I am in favor

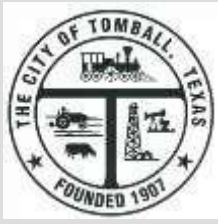
I am opposed

Additional Comments:

Signature:



501 James Street • TOMBALL, TEXAS 77375



Conditional Use Permit (CUP) Staff Report

Planning & Zoning Commission Public Hearing Date: May 8, 2023
City Council Public Hearing Date: May 15, 2023

Rezoning Case: CUP23-04
Property Owner(s): Michael Kirtley
Applicant(s): Black Mountain Energy Storage II LLC.
Legal Description: Lot 265 of Tomball Townsite
Location: 900-1000 blocks (west side) of S. Pitchford Road (Exhibit "A")
Area: 5.00 acres
Comp Plan Designation: Business Park and Industrial (Exhibit "B")
Present Zoning and Use: Agricultural (AG) (Exhibit "C") / Vacant (Exhibit "D")
Proposed Use(s): *Electric Storage System*
Request: Conditional Use Permit (CUP) to permit Electric Storage System in Light Industrial (LI) zoning

Adjacent Zoning & Land Uses:

North: Agricultural (AG)/ Vacant/Electric Utility Infrastructure

South: Agricultural (AG)/ Single Family residence

West: Agricultural (AG) / Single-family residence

East: Agricultural (AG) / Agricultural Accessory Structures

BACKGROUND

The subject property has been within the City Limits of Tomball since at least 1907. The property has remained vacant since that time. The applicants are requesting a Conditional Use Permit (CUP) in conjunction with a separate request to rezone the property to Light Industrial (LI). The requested CUP is to allow an "Electric Storage System" land use. There has been a lot of interest in the development of an "Electric Storage System" within the City of Tomball, particularly the development of such a facility near the existing CenterPoint Energy substation located in the 900 block of S. Pitchford Road. This interest has led to the City Council adopting amendments to the City of Tomball Code of Ordinance earlier this year (Ordinance No. 2023-03). This ordinance created the "Electric Storage System" land use, which also provided a definition to the land use and specified that such uses shall only be permitted within the Light Industrial zoning district with the approval of a Conditional Use Permit. Electric storage systems are defined as "one or more devices assembled together capable of storing energy that allows power system operators and utilities to collect and store energy from the grid and discharge it at a future time to provide electricity when needed, such as to ensure adequate peaking generation capacity and grid resiliency." City staff met with the applicants on several

occasions over the past several months to discuss the potential for their development. During these meetings staff expressed the concerns discussed by the City Council which were brought up during separate meetings with a different company interested in a similar development located in the same general vicinity. Specifically, staff shared City Councils concerns regarding the safety of locating such facilities in proximity to Old Town Tomball and the nearby existing residences.

ANALYSIS

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

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

The property is designated as Business Park & Industrial by the Comprehensive Plan Future Land Use Map. This category is intended to create opportunities for employment and according to the Comprehensive Plan the uses promoted within this land use category should benefit from convenient access to major thoroughfares for vehicles to include freight. These areas may require intensive screening and buffering from surrounding developments. Based on the concept plan provided by the applicant, the proposed use does not appear to provide screening/buffering from existing nearby residences.

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

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

The intended use of this property is consistent with the purpose and intent of the applicable zoning district, only if the concurrent zone change request is to be approved to rezone the property to Light Industrial (LI) zoning. This light industrial zoning designation is intended to allow the most intensive land use permitted within the City of Tomball.

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

Yes, the proposed use will be required to meet all supplemental standards outlined in Chapter 50 of the Code of Ordinance. Further, prior to operation, an official site plan shall be submitted to the City of Tomball Community Development Office identifying the planned arrangement of the electric storage system to ensure all standards required by the code of ordinance are met.

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

The proposed use appears compatible with the existing nearby substation; however, it does not preserve the character and integrity of the adjacent residential land uses. Ultimately, the Future Land Use plan calls for Business Park & Industrial for this location so the requested use and similar types of uses are to be expected and the preservation of existing nearby residential uses will become challenging. The concept plan provided does not currently identify any planned means of land use buffering between the project site and existing neighboring residential uses. The code of ordinance will require (at the time of site plan submission) a minimum 6-foot-tall opaque fence and 10-foot-wide landscape buffer yard along the southern and western property boundaries as prescribed in Section 50-115 – *Screening, buffering and fencing requirements*. By code, no such screening is required along the street side (east) property boundary between the project site and existing residential land use east of S. Pitchford Rd, however city staff believe this to be a reasonable condition to be added if the CUP is to be approved. In addition to this minimum screening & buffering standard, city staff is also recommending additional preservation of mature vegetative growth along the west, south, and east property boundaries to further address the need to screen the planned use from adjacent residential properties. Lastly, the subject property does not presently have direct access to a water main, nor convenient access to a fire hydrant. Given the nature of this proposed land use and the potential fire hazard it presents, city staff is recommending an additional condition for approval for a suitable water main to be extended “to-and-through” the frontage of this subject property and a fire hydrant must be supplied to provide opportunity for fire protection.

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

There are concerns regarding the potential hazards that this proposed land use presents to the public health and safety of other properties and their respective owners in the vicinity. Energy Storage Systems, specifically Battery Energy Storage Systems (BESS) utilizing lithium-ion batteries provide a great opportunity for creating energy resiliency, however these systems present significant safety hazards. Battery Energy Storage Systems and the use of lithium-ion batteries risk the phenomenon referred to as thermal runaway, this occurs when heat builds up in a battery faster than it can be dissipated, such buildup of heat may result from a battery being overcharged, overheated, or damaged. Thermal runaway is a process in which the battery cell enters an uncontrollable, self-heating state. Thermal runaway of the system often causes fire and the release of toxic materials and gases. In extreme circumstances thermal runaway may result in an explosion. According to an article published by the National Fire Sprinkler Association (NFSA) in 2023, these fires are extremely difficult to extinguish and fires resulting from thermal runaway can burn for hours or even days.

PUBLIC COMMENT

A Notice of Public Hearing was published in the paper and property owners within 300 feet of the project site were mailed a notification of this proposal. As a courtesy, and at the request of City

Council, City staff sent additional notice letters to owners of properties within 2,000 feet of the subject site. These notice letters were sent on April 18, 2023. Any public comment forms will be provided in the Planning & Zoning Commission and City Council packets or during the public hearing.

RECOMMENDATION

Based on the findings outlined in the analysis section of this staff report, City staff recommends denial of CUP23-04:

If the CUP is approved city staff recommends the following conditions:

- An opaque fence/wall with a minimum height of 6-feet must be provided along the entire extent of the eastern property boundary.
- To provide additional screening from nearby residential uses a 20-foot-wide buffer yard with mature vegetation must remain undisturbed along the west, south, and eastern property boundaries. This mature vegetation must be sufficiently preserved/protected during and after construction. EXCEPTION: Mature vegetation may be removed to accommodate required fencing, driveway approaches, required sidewalks, and necessary utilities.
- To provide opportunity for fire prevention/protection adequate water main and fire hydrant(s) must be installed prior to the approval of site plan(s) and subsequent development

EXHIBITS

- A. Location Map
- B. Current Zoning Map
- C. Future Land Use Plan Map
- D. Notification Maps
- E. Site Photo(s)
- F. CUP Application
- G. Concept Plan

Exhibit "A"
Location Map

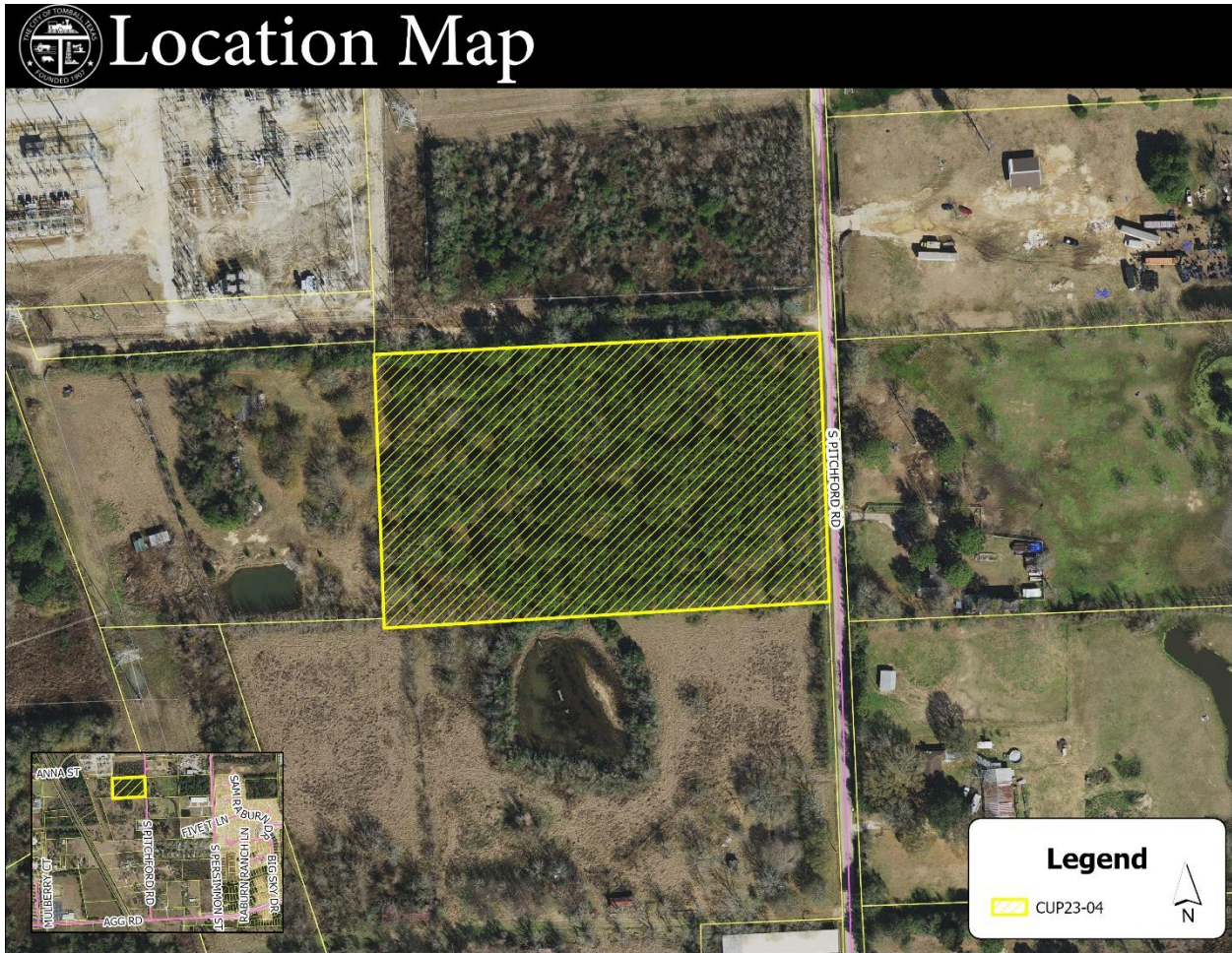


Exhibit "B"
Zoning Map

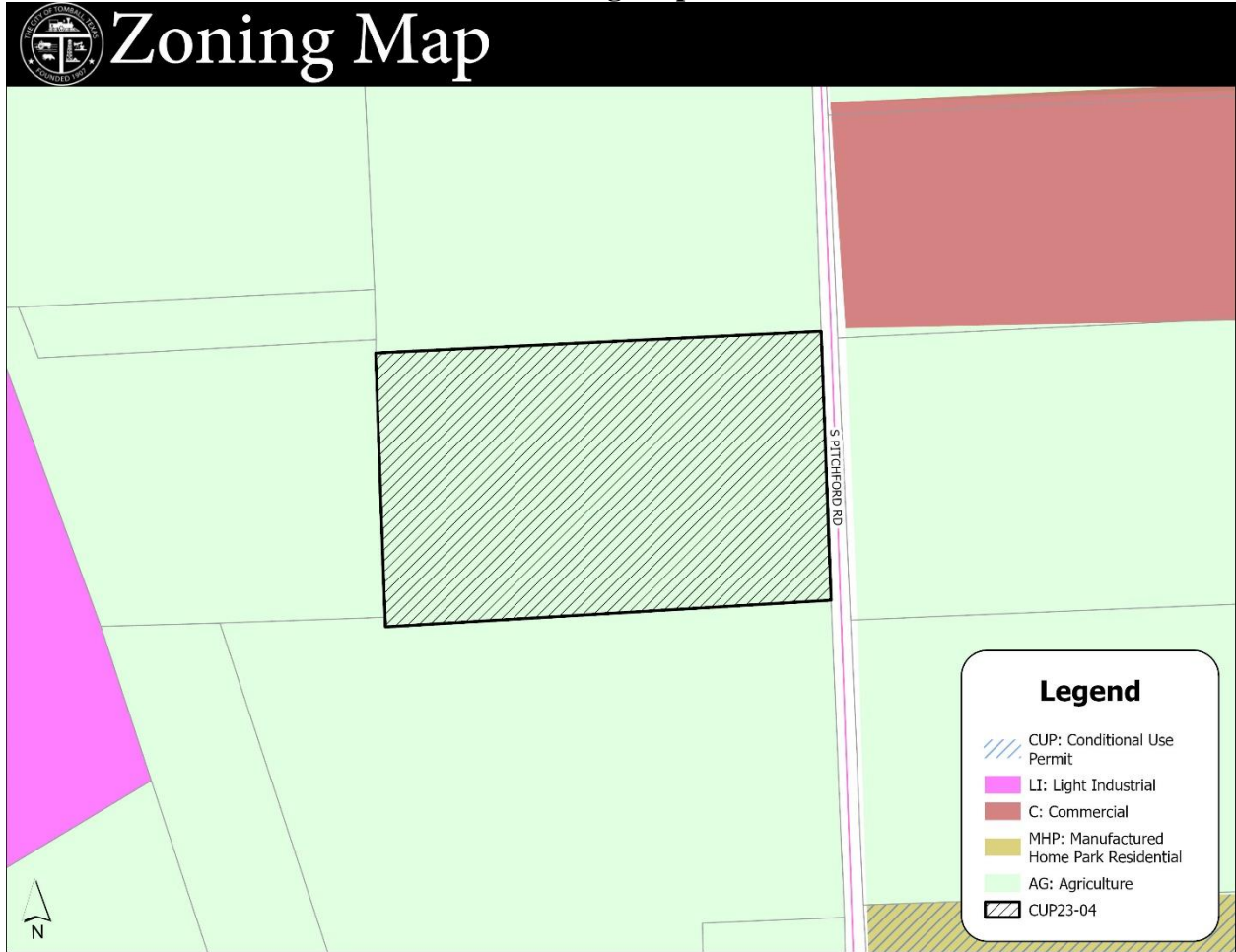


Exhibit "C"
Future Land Use Map

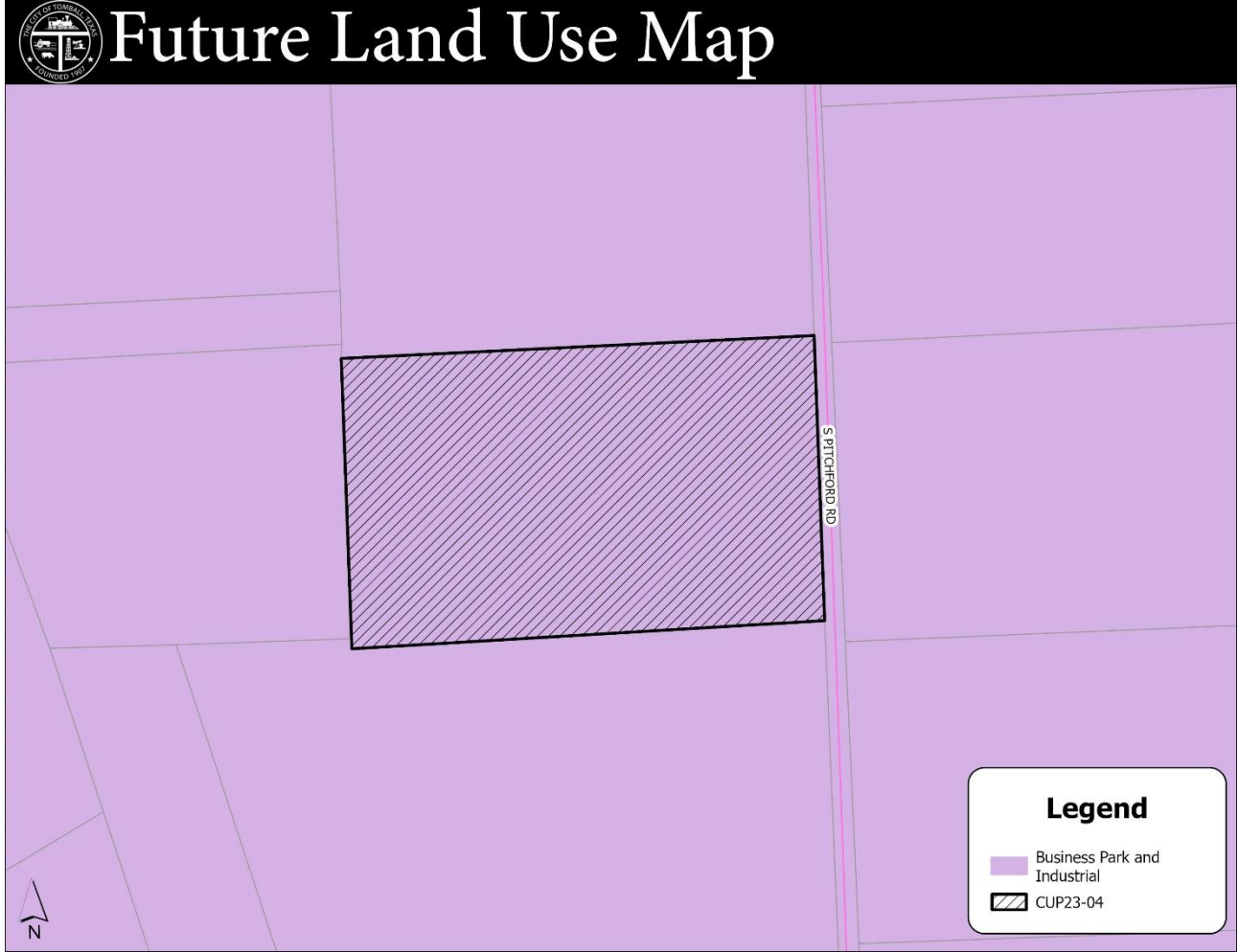


Exhibit "D" Notification Map(s)

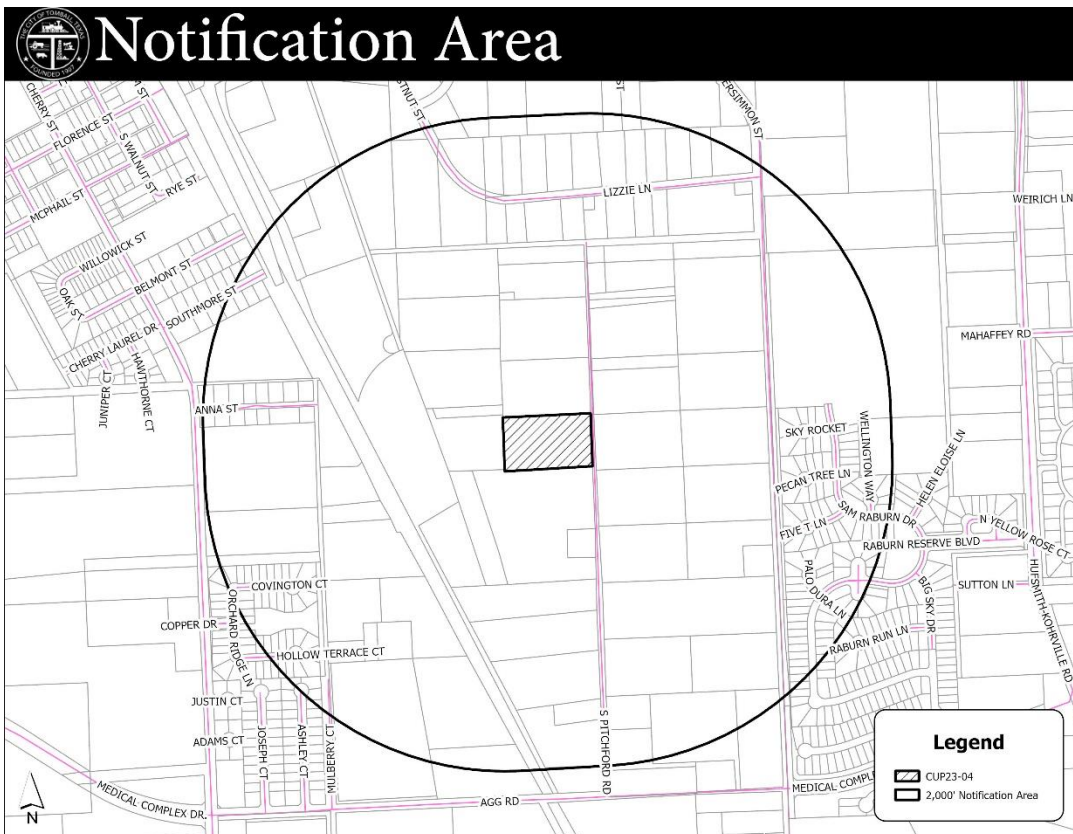
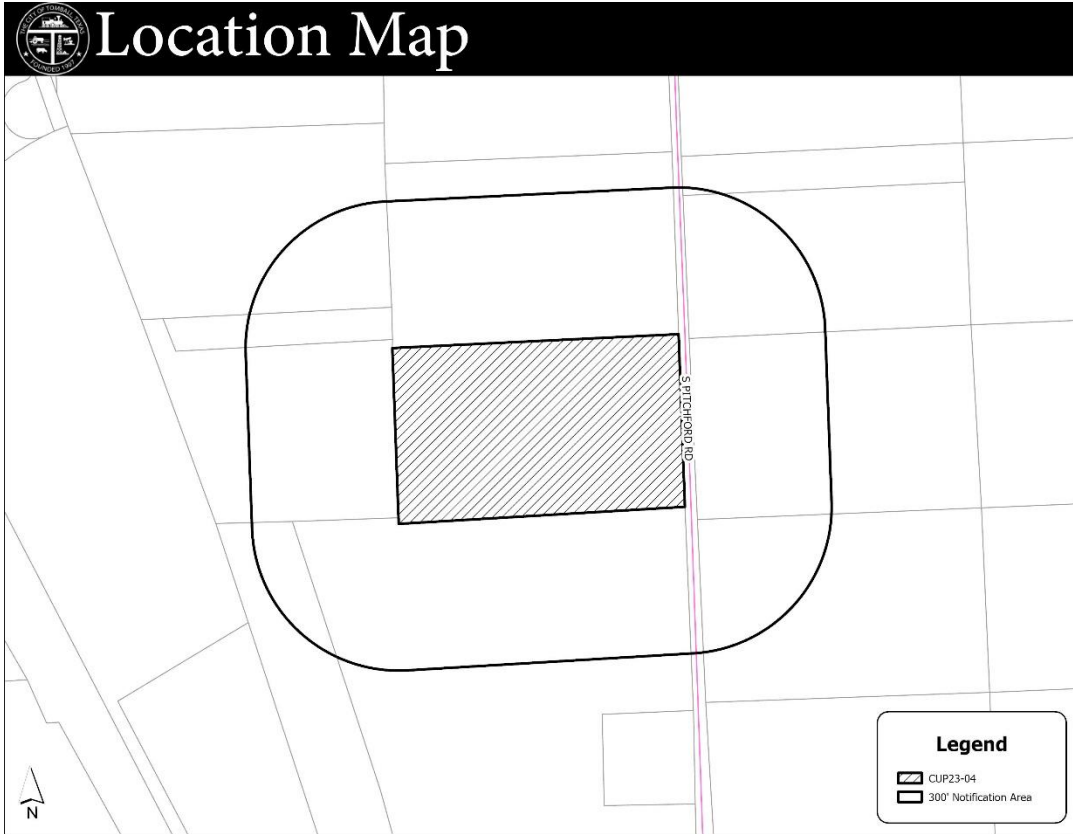


Exhibit "E"
Site Photo

Subject Site



Neighbor (East)



Neighbor (South)

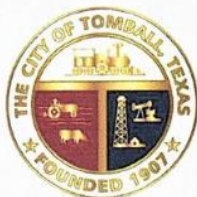


Neighbor (North)



Exhibit "F" CUP Application

Revised: 10/1/2022



APPLICATION FOR CONDITIONAL USE PERMIT Planning Division

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

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

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

DIGITAL PLAN SUBMITTALS:

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

WEBSITE: tomballtx.gov/secure/send
USERNAME: **tomballdd**
PASSWORD: **Tomball**

Applicant

Name: Sam Jackson Title: Director of Development
Mailing Address: 425 Houston Street, Suite 400 City: Fort Worth State: Texas
Zip: 76012 Contact: _____
Phone: (215) 622-0210 Email: sam.jackson@blackmtn.com

Owner

Name: Michael W. Kirtley Title: Landowner
Mailing Address: 15714 Oxenford Dr. City: Tomball State: Texas
Zip: 77377 Contact: _____
Phone: (281) 932-4904 Email: mknthouston@yahoo.com

Engineer/Surveyor (if applicable)

Name: Justin W. Cantwell, RPLS Title: Survey Division Manager
Mailing Address: 8312 Upland Avenue City: Lubbock State: Texas
Zip: 79424 Contact: _____
Phone: (806) 570-9899 Fax: () Email: jcantwell@centerlineengineering.net

Description of Proposed Project: Utility-scale battery energy storage system (BESS) facility

Physical Location of Property: Property on the southwest corner of S. Live Oak St. and Pitchford Rd.
[General Location – approximate distance to nearest existing street corner]

Legal Description of Property: All of lot 265 of Tomball Townsite - Volume 2, Page 265, Deed Records of Harris County
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]

HCAD Identification Number: 0352880000265 Acreage: 4.8

Current Use of Property: Unoccupied vegetation. Zoned Agriculture

Proposed Use of Property: Battery Energy Storage System (BESS). Zoned Light Industrial

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

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

X Samuel Jackson 3/15/2023
Signature of Applicant Date

X Michael Hatley 3/31/2023
Signature of Owner Date

BC Global LP

Alberto P. Cardenas, Jr. beto@bcglobal.law
Office +1.713.731.1050 Mobile +1.713.818.2497

March 16, 2023

Mr. Jared Smith, City Planner
City of Tomball
401 Market Street
Tomball, Texas 77375

Dear Mr. Smith:

Please accept this letter together with the attached, completed applications for Re-Zoning and a Conditional Use Permit on behalf of our client GridStor, and the applicant company Black Mountain Energy Storage II, LLC (BMES), for consideration by the City of Tomball, Texas.

BMES and its development partner GridStor are proposing to develop and construct a 200 MW Battery Energy Storage System (BESS) within the City. The proposed project, with a targeted commercial operations date of June 2025, is being considered on a single, contiguous, five-acre parcel located at the corner of Pitchford Road and South Live Oak Street (Harris County Appraisal District Account No. 0352880000265). This land, secured by BMES via a Lease Agreement, had been previously used for energy related purposes and is currently zoned by the City for agricultural use. Should the project proceed, it would be adjacent to CenterPoint Energy's substation and provide connectivity to the Electric Reliability Council of Texas (ERCOT) transmission grid via the City's substation, providing ERCOT more flexibility to respond to extreme events and thereby helping reduce energy power prices for consumers.

We understand that the City recently amended its Code of Ordinances to define and allow "Energy Storage Systems" within Light Industrial Zones. Accordingly, our client is therefore requesting Re-Zoning of the property from Agricultural to Light Industrial. Further, we recognize that a Conditional Use Permit would be required and have therefore paired and provided both applications for the City's consideration.

Included with this letter is additional information we believe will be helpful to the City as they review these applications. We look forward to working with you in the coming weeks to continue the discussions for this proposed project and its economic development opportunities.

Respectfully Submitted,



Alberto P. Cardenas, Jr.

BC Global LP
Law Offices of Alberto P. Cardenas, Jr., PLLC
Texas New York Washington

The Niels Esperson Building
808 Travis Street, Suite 1424
Houston, TX 77002
www.bcglobal.law

Proposed Project Background and Value Proposition

BMES filed an Interconnection Application with CenterPoint and ERCOT on March 22, 2022, to initiate the electrical study process required to support the interconnection of the proposed project to the existing CenterPoint Tomball substation. BMES and its employees have over 6 years of experience working with CenterPoint in scoping and interconnecting Battery Energy Storage Systems within Texas.

The project company has commissioned the following environmental studies to further de-risk the project site and ensure all environmental concerns are addressed: Phase 1 Environmental Site Assessment, Critical Issues Analysis, Wetland Delineation & Determination Report, Threatened & Endangered Species Report, and a Cultural & Historical Resources Report. All environmental studies have come back favorable, with no adverse environmental impacts anticipated as a result of development.

BESS provide significant benefits to Texans and the electric grid they depend upon, including:

Firm, dispatchable power to enhance grid reliability and balance the system. BESS delivers instantaneous power at times of peak energy demand, improving grid reliability and helping keep the lights on for homes, business owners, commercial and governmental facilities, and industrial users alike.

Energy to support Texas' economic development. Houston is forecasted to see a 10-15% increase in regional energy demand in the next 10 years, with a decline in firm power as older and uneconomic coal and gas plants retire and go offline. BESS will play a key role in replacing aging plants and supporting Texas' continued growth and economic development.

Energy bill savings by storing energy when power prices are low and discharging during high demand events, providing more power supply when needed the most.

Battery energy storage provides significant local investment opportunities in Texas communities, supports local landowners via land leases or acquisitions, and broadens local tax bases. This project is expected to provide tens of millions of dollars of property tax benefit to the City of Tomball and Harris County over two decades.

Technical Summary: Battery Energy Storage Systems

Battery Energy Storage Systems are the leading technology for the storage of electricity to provide resiliency to the electric grid. The main battery technology is lithium-ion and within that the two main chemistries are Nickel Magnesium Cobalt (NMC) and lithium iron phosphate (LFP). For this project, LFP is the intended chemistry to be used due to its safer properties.

The most basic block of a battery is the battery cell. Each cell is combined with other cells into a battery module which provides a more usable form factor for energy systems. These modules are

installed in racks inside a metal enclosure. These metal enclosures typically are 20 to 40 ft in length, 6-8 ft wide and 8 ft tall. An enclosure typically provides around 3-5 Megawatt Hours of energy.

A proposed project consists of many number of enclosures to create the required energy capacity. Since the batteries provide direct current (DC) power, an inverter is needed to convert the DC power into alternating current (AC) power. Inverters typically range from 1 to 5MW in size and may have one or several enclosures connected to each. Given the project is tied to the utility grid, the AC power is stepped up from ~600-690VAC from the inverter to 34.5kV or higher to tie into the grid. This step up is performed by the power transformers and may go through two sets (medium voltage transformer and a main power transformer). The main power transformer is located in a substation on site which provides high voltage control and protection.

The proposed project will have a site controller that will safely operate the batteries and all associated equipment. Market signals are sent to the site controller for the project to follow. Additionally, there will be a robust fire safety system for the site.

Fire Safety Considerations

National Safety Standards: One of the top considerations for battery energy storage systems is safety. The National Fire Protection Association and Underwriters Laboratory have established robust safety standards specific to lithium-ion battery energy storage systems. The most relevant standards are overviewed below:

Standard	Description (Project Context)	Scope
UL 9540	Safety standard for energy storage systems and equipment. Aggregation of 1973, 1741, and fire safety at a system level, not just stand-alone equipment.	System
UL 9540A	Standard for Test Method for Evaluating Thermal Runaway Fire Propagation in Battery Energy Storage Systems, prescribes procedure to perform cells –large scale fire testing.	DC Block
UL 1973	Safety standard for batteries used in stationary applications. Includes mechanical, electrical, and fire tests at cell level.	Inverter
UL 1741	Complement to IEEE 1547 –Interconnection of DR, functional, performance, and safety requirements for inverters.	Cells, Modules
NFPA 855	Standard for the installation of energy storage systems and references UL9540A test method	System/Facility

The Proposed Project will meet or exceed all applicable national safety standards.

Fire Safety Features: The industry has developed a multi-layered approach for monitoring and mitigating any fire safety event. As part of our approach to the project design, the safety features will be designed into an integrated system that is specific to the project needs.

Additional highlights and monitoring and mitigation features that may be deployed include:

- Battery Management System – continuously monitors health and safety of battery and provides controlled shutdown in abnormal conditions to provide early-fault detection and mitigation
- Smoke and heat detectors – may be designed either internally or externally to enclosure, providing detection and annunciation of an abnormal event.
- Gas detectors – monitors and detects off-gassing that may indicate early-stage abnormal event and provides controlled shutdown and ventilation to mitigate an explosive condition.
- Layout Separation Distance – UL 9540a is a large-scale fire test standard that determines the minimum separation distance between enclosures to prevent fire propagation. This separation distance is then utilized in the site spacing between battery enclosures.
- Module and Enclosure – batteries are encased in metal shells and enclosures to reduce propagation.
- Gas Ventilation/Deflagration Panels – prohibits the buildup of gases reaching unsafe conditions within an enclosure or allows controlled release of gases.
- Water suppression – water may be utilized to control fire propagation.
- Electrical safety design – devices such as fuses, circuit breakers, surge protection device, insulation monitoring device and others protect the electrical system from a fault condition.

Emergency Response Plan: An emergency response plan is a project specific document that details the procedure operators, first responders, and other stakeholders must follow during a safety event. For the project, there are 3 phases for the ERP including:

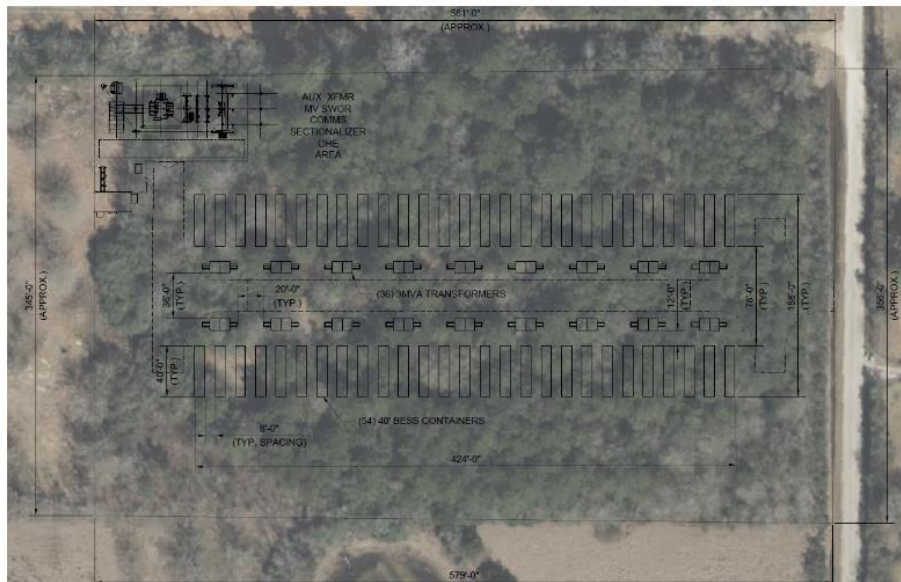
During Construction – City, Fire Department, Developer, equipment manufacturers, and fire safety consultants work together to establish the plan requirements based on land-use and resource protection limitations. This may include proximity to populated area(s), sensitive natural resources, and critical infrastructure. Once the requirements are established, the stakeholders will prepare a site-specific emergency response plan. The Plan will define the roles and responsibilities and covers potential emergency scenarios including fire. It is common to establish an agreed upon fire command center location onsite for first responders. The fire command center will typically include access for first responders to view the operating data of the site including cell temperatures, battery operating status, alarm status, and many other data points to help assess the situation.

Commissioning – During this phase, there will be onsite safety training of fire personnel and onsite project staff and covers all components of the emergency response plan.

Operations – During this phase, the emergency response plan is implemented. There will be ongoing drills, training, and refreshing of the plan as needed.

Hazard Mitigation: A hazard analysis report will be conducted to evaluate the site-specific impacts of a battery installation. The hazard analysis report will account for the expected lithium-ion battery technology and its data including temperature and quantity and types of gases generated during a thermal runaway event. This Report will be used to analyze impact to key receptors that have been identified. The goal of the hazard analysis is to provide quantitative analysis to the potential impacts of the project as well as provide for recommended mitigation strategies to minimize those impacts.

Site Configuration (Preliminary Design):



Site Configuration (Digital Renderings):



Note: Renderings are not specific to proposed site and are representative of BESS facilities.



CENTERLINE ENGINEERING & CONSULTING, LLC.
8312 Upland Avenue, Lubbock, Texas 79424
(806) 470-8686
TBPE Reg. No. F-16713
TBPLS Reg. No. 10194378

Metes and Bounds

BEING all of Lot Two Hundred Sixty-five (265) of Tomball Townsite Addition to Harris County, Texas, as recorded in Volume 2, Page 265, Deed Records of Harris County, Texas, ad being further described by metes and bounds as follows:

BEGINNING at a 1/2 Inch Iron Rod Found for the Northeast Corner in the West Right-of-Way line Pitchford Road, same being the Southeast Corner of Lot 261 of said Tomball Townsite;

THENCE South 1°51'45" East - 378.05 feet along the West Right-of-Way line of said Pitchford Road to a 1/2 Inch Iron Rod Found for the Southeast Corner, same being the Northernmost Northeast Corner of Lot 269 of said Tomball Townsite;

THENCE South 88°00'05" West - 575.59 feet along the North line of said Lot 269 to a 1/2 Inch Iron Rod Found for the Southwest Corner, same being the Southeast Corner of Lot 264 of said Tomball Townsite;

THENCE North 2°03'25" West - 377.36 feet along the East line of said Lot 264 to a 1/21 Inch Iron Rod Found for the Northwest Corner, same being the Northeast Corner of said Lot 264;

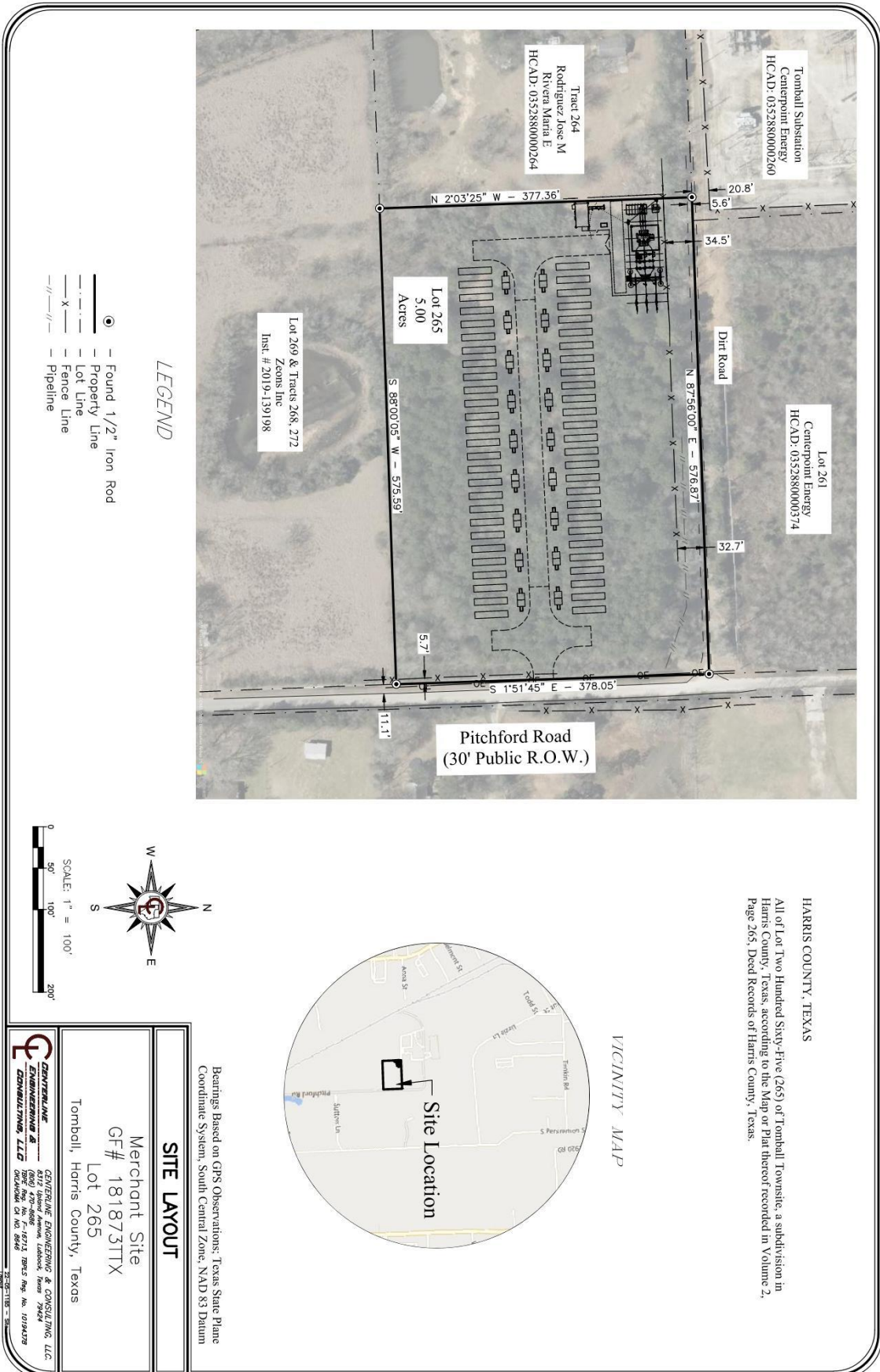
THENCE North 87°56'00" East - 576.87 feet along the South line of said Lot 261 to the POINT OF BEGINNING and containing within these calls a calculated area of 5.00 Acres more or less.


Justin Cantwell, RPLS 6331

Date: March 15, 2023



Figure "G"
Concept Plan





DATE: 11/15/2016 10:57:17 AM. C:\PROJECTS\2016\09\15\BESS\BESS.dwg
 USER: JACOB.MONTGOMERY
 PLOT: 11/15/2016 10:57:17 AM. PLOTTER: HP DesignJet T1200
 PLOT SCALE: 1"=100'-0"

CONSULTANT



SUNGRID SOLUTIONS INC.
 2300 BOWMAN BLVD
 CAROLINA, ON NIS 2086
 MISSISSAUGA, ON L4X 1L3
 www.sungrid.com

CLIENT



BLACK MOUNTAIN
 ENERGY SOLUTIONS
 www.blackmountainenergy.com
 Fort Worth, TX 76102

REGISTRATION

ISSUEREVISION

REV.	DESCRIPTION	ISS.	DATE
A	PROJECT DESCRIPTION	SC	10/27/2016

PROJECT NUMBER

0912

PROJECT

MERCHANT BESS
 2300 BOWMAN BLVD
 MISSISSAUGA, ON NIS 2086

SHEET TITLE

GENERAL SITE PLAN

SCALE

1"=100'

SHEET NUMBER **REV/A**
 0512/MERCHANT-EL-PLAN-001



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CONSULTANT

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 1-888-407-4743
 www.sungridusa.com

CLIENT

BLACK MOUNTAIN
 BLACK MOUNTAIN
 www.blackmountain.com
 1500 Mountain View Blvd
 Asheville, NC 28806

REGISTRATION

ISSUE/REVISION

REV.	DESCRIPTION	DATE
A	FINAL DESIGN	05/20/2022

PROJECT NUMBER

09173

PROJECT

MERCHANT BESS

700 DOWNTOWN DOWNS BESS

ASHEVILLE, NC 28806

SHEET TITLE

GENERAL SITE PLAN

SCALE

1"=60'

SHEET NUMBER

REV-A

PROJECT NUMBER

09173

PROJECT

MERCHANT BESS

700 DOWNTOWN DOWNS BESS

ASHEVILLE, NC 28806

SHEET TITLE

GENERAL SITE PLAN

SCALE

1"=60'

SHEET NUMBER

REV-A

City Council Agenda Item Data Sheet

Meeting Date: 05/15/2023

Topic:

Consideration to Approve **Zoning Case Z23-03**: Request by Chris & Tiona Campbell, to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 4.94 acres of land legally described as being a portion of Lot 48 in Tomball Townsite from Single Family Residential Estate – 20 (SF-20-E) to General Retail (GR) zoning. The property is generally located within the 11100-11200 blocks (east side) of Rudolph Road, within the City of Tomball, Harris County, Texas.

Conduct Public Hearing on **Zoning Case Z23-03**

Adopt, on First Reading, Ordinance No. 2023-09, an Ordinance of the City of Tomball, Texas, amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by rezoning approximately 4.94 acres of land legally described as being a portion of Lot 48 in Tomball Townsite from Single Family Residential Estate – 20 (SF-20-E) to General Retail (GR) zoning. The property is generally located within the 11100-11200 blocks (east side) of Rudolph Road, within the City of Tomball, Harris County, Texas; providing for severability; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters.

Background:

The subject property has been within the City Limits of Tomball since at least 1907. The property has remained vacant since this time. The applicants are requesting to rezone the subject property to General Retail to locate their Exterminator Service/Company on the subject property. Exterminator services is a land use that is not permitted within the current Single Family Estate Residential zoning district that the property falls within. In addition to this exterminator service, the applicants are also seeking a separate Conditional Use Permit to allow “Residential Use” within this desired General Retail district to construct their single-family residence on the subject property if the General Retail zoning is to be adopted.

Origination:

Recommendation:

City staff recommends denial of Zoning Case Z23-03. Planning and Zoning Commission recommends Denial (1 Vote Aye, 4 Votes Nay).

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

FUNDING (IF APPLICABLE)

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

Yes: _____ No: _____

If yes, specify Account Number: # _____

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

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

ORDINANCE NO. 2023-09

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING CHAPTER 50 (ZONING) OF THE TOMBALL CODE OF ORDINANCES BY CHANGING THE ZONING DISTRICT CLASSIFICATION OF APPROXIMATELY 4.94 ACRES OF LAND LEGALLY DESCRIBED AS BEING A PORTION OF LOT 48 IN TOMBALL TOWNSITE (EXHIBIT “A”) FROM SINGLE FAMILY RESIDENTIAL ESTATES – 20 (SF-20-E) ZONING DISTRICT TO GENERAL RETAIL (GR), BEING LOCATED IN WITHIN THE 11100-11200 BLOCKS (EAST SIDE) OF RUDOLPH ROAD; PROVIDING FOR SEVERABILITY; PROVIDING FOR A PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF, MAKING FINDINGS OF FACT; AND PROVIDING FOR OTHER RELATED MATTERS.

Whereas, Chris & Tiona Campbell, have requested that approximately 4.94 acres of land legally described as being a portion of Lot 48 in Tomball Townsite, generally located in the 11100-11200 blocks (east side) of Rudolph Road, within the City of Tomball, Harris County, Texas (the “Property”), be rezoned; and

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

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

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

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

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

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

Section 2. The rezoning classification of the Property is hereby changed and is subject to the regulations, restrictions, and conditions hereafter set forth.

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

Section 4. This Ordinance shall in no manner amend, change, supplement or revise any provision of any ordinance of the City of Tomball, save and except the change in zoning classification for the Property described above.

Section 5. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

Section 6. Any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction, shall be fined in an amount not to exceed \$2,000. Each day of violation shall constitute a separate offense.

FIRST READING:

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

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

SECOND READING:

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

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

LORI KLEIN QUINN, Mayor

ATTEST:

Tracylynn Garcia, City Secretary

C & C Surveying, Inc.

Firm Number 10009400
33300 Egypt Lane, Suite F200
Magnolia, Texas 77354
Office: 281-356-5172

Metes and Bounds

4.940 Acres

Tomball Townsite

**Ralph Hubbard Survey, Abstract Number 383,
Harris County, Texas**

Being a 9.940 acre tract of land situated in the Ralph Hubbard Survey, Abstract Number 383, of Harris County, Texas, and being the remainder of Lot 48 of Tomball Townsite, as recorded in Volume 2, Page 65 of the Map Records of Harris County, Texas, said remainder of Lot 48 being a called 4.896 acre tract, as recorded in Clerk's File Number 2022-215079 of the Real Property Records of Harris County; said 4.940 acres being more particularly described as follows with all bearings based on the North line of said called 4.896 acre deed;

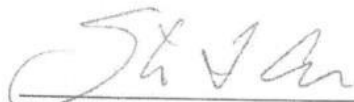
BEGINNING, at an iron rod with survey cap, found for the Southwest corner of the herein describe tract, common with Southeast corner of a 15 foot wide road dedication to the City of Tomball for Rudolph Road, as recorded in Clerk's File Number 2019-119104 of the Real Property Records of Harris County, and being on the North line of Lot 52 of said Tomball Townsite;

THENCE, North 02 degrees 32 minutes 40 seconds West, along the West line of the herein described tract, common with the East line of said Rudolph Road, a distance of 256.63 feet (call 252.16 feet), to an iron rod, found for the Northwest corner of the herein described tract, common with the Northeast corner of said Rudolph Road dedication, and being on the South line of Lot 43 of said Tomball Townsite;

THENCE, North 87 degrees 32 minutes 15 seconds East, along the North line of the herein described tract, common with the North line of said Lot 48, being the South line of said Lot 43, departing said Rudolph Road, a distance of 847.72 feet, to a 5/8 inch iron rod (bent), found for the Northeast corner of the herein described tract, being the Northeast corner of said Lot 48, the Southeast corner of Lot 43, the Southwest corner of Lot 44, and the Northwest corner of Lot 49;

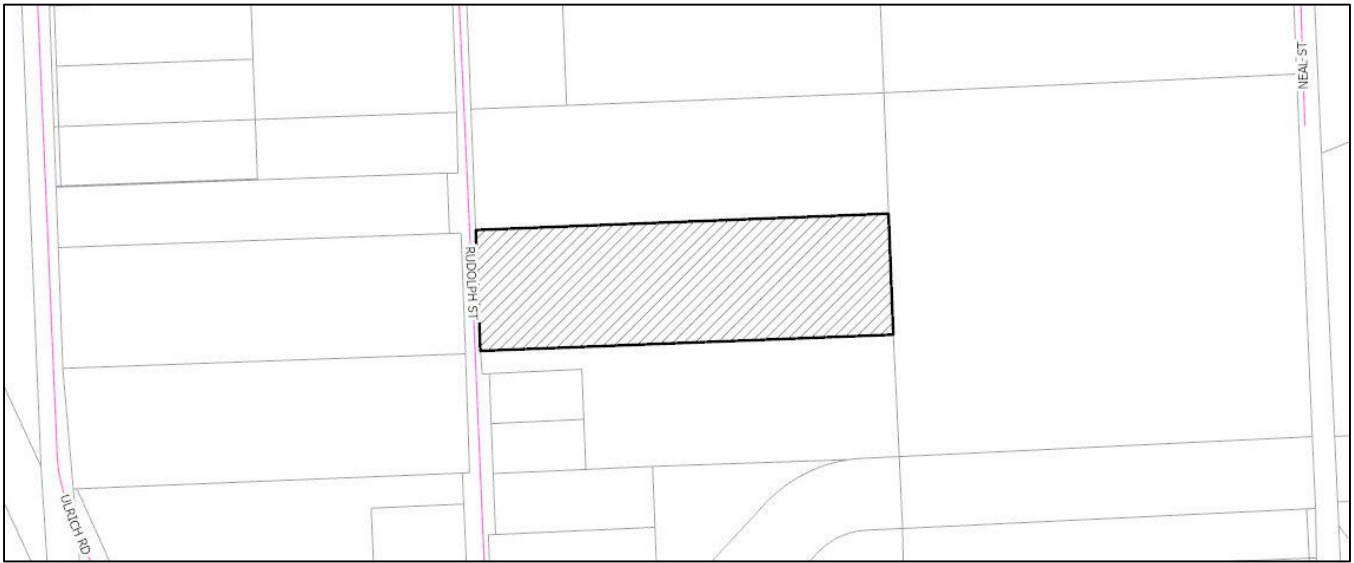
THENCE, South 02 degrees 31 minutes 45 seconds East, along the East line of the herein described tract, common with the East line of Lot 48, with the West line of Lot 49, a distance of 251.05 feet, to a point for the Southeast corner of the herein described tract, being the Southeast corner of Lot 48, the Southwest corner of Lot 49, the Northwest corner of Lot 53, and the Northeast corner of the aforementioned Lot 52;

THENCE, South 87 degrees 09 minutes 38 seconds West, along the South line of the herein described tract, common with the South line of said Lot 48, being the North line of Lot 52, a distance of 847.66 feet, back to the **POINT OF BEGINNING** and containing 4.940 acres of land as computed based on the survey and plat prepared by C & C Surveying, Inc., dated July 29, 2022.



Steven L. Crews, Registered Professional Land Surveyor,
22-0206
07/29/22





Location: 11100-11200 blocks (east side) of Rudolph Road. Being portions of Lot 48 in Tomball Townsite, City of Tomball, Harris County, Texas

**NOTICE OF PUBLIC HEARING
CITY OF TOMBALL
PLANNING & ZONING COMMISSION (P&Z)
MAY 8, 2023
&
CITY COUNCIL
MAY 15, 2023**



Notice is Hereby Given that a Public Hearing will be held by the P&Z of the City of Tomball on **Monday, May 8, 2023 at 6:00 P.M.** and by the City Council of the City of Tomball on **Monday, May 15, 2023 at 6:00 P.M.** at City Hall, 401 Market Street, Tomball Texas. On such dates, the P&Z and City Council will consider the following:

Zoning Case Z23-03: Request by Chris & Tiona Campbell, to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 4.94 acres of land legally described as being a portion of Lot 48 in Tomball Townsite from Single Family Residential Estate – 20 (SF-20-E) to General Retail (GR) zoning. The property is generally located within the 11100-11200 blocks (east side) of Rudolph Road, within the City of Tomball, Harris County, Texas.

Zoning Case Z23-04: Request by Rosehill Estates, LLC represented by George Jarkesy to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 5.11 acres of land legally described as being Lot 2, Block 1 of Swinghammer/Hauck Subdivision from Single Family Residential Estate – 20 (SF-20-E) to Commercial (C). The property is located at 1820 S. Cherry Street, within the City of Tomball, Harris County, Texas.

Zoning Case Z23-05: Request by Michael Kirtley represented by Sam Jackson of Black Mountain Energy Storage II LLC., to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 5 acre of land legally described as being all of Lot 265 in Tomball Townsite from Agricultural (AG) to Light Industrial (LI) zoning. The property is generally located within the 900-1000 blocks (west side) of S. Pitchford Road, within the City of Tomball, Harris County, Texas.

Zoning Case Z23-06: Request by Red Grip LLC., represented by Mike Matheson to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 1.04 acres of land legally described as being Lot 72, Block 1 of Acquest Tomball Replat No.1 from Commercial (C) to Office (O) zoning. The property is generally located within the 1200-1300 blocks (south side) of Rudel Drive, within the City of Tomball, Harris County, Texas.

Case CUP23-03: Request by Chris & Tiona Campbell, for a Conditional Use Permit to allow “Residential Use” within General Retail (GR) zoning. Affecting approximately 4.94 acres of land legally described as being a portion of Lot 48 in Tomball Townsite. The property is generally located within the 11100-11200 blocks (east side) of Rudolph Road, within the City of Tomball, Harris County, Texas.

Case CUP23-04: Request by Michael Kirtley, represented by Sam Jackson of Black Mountain Energy Storage II LLC., for a Conditional Use Permit to allow an “Electric Storage System” within Light Industrial (LI) zoning. Affecting land legally described as being all of Lot 265 in Tomball Townsite. The property is generally located within the 900-1000 blocks (west side) of S. Pitchford Road, within the City of Tomball, Harris County, Texas.

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

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

Jared Smith
Jared Smith
City Planner

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



City of Tomball
Community Development Department

AMERICO ENERGY REAL ESTATE HOLDINGS LTD
7575 SAN FELIPE STE 200
HOUSTON, TX 77063-1778

NOTICE OF PUBLIC HEARING

RE: Zone Change Case Number Z23-03

04/17/2023

The Planning & Zoning Commission will hold a public hearing on **May 8, 2023 at 6:00 PM**, in City Council Chambers at City Hall, 401 Market Street, Tomball, Texas to recommend approval or denial to City Council on a request by Chris & Tiona Campbell, to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 4.94 acres of land legally described as being a portion of Lot 48 in Tomball Townsite from Single Family Residential Estate – 20 (SF-20-E) to General Retail (GR) zoning. The property is generally located within the 11100-11200 blocks (east side) of Rudolph Road, within the City of Tomball, Harris County, Texas.

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

The attached map shows the area of this request. Only that area which is bounded by the cross-hatched line on the map is being considered for **rezoning**. The solid boundary line around the subject area is only a notification area. All owners of property within 300-feet of the subject property are required to be notified. Whether approved or denied by the Planning & Zoning Commission, this case will be heard by City Council for First Reading with public hearing on **May 15, 2023 at 6:00 PM** in City Council Chambers at City Hall, 401 Market Street, Tomball, Texas.

If you have any questions, please contact Jared Smith, City Planner at telephone 281-290-1491 or by email address jasmith@tomballtx.gov

For the PLANNING & ZONING COMMISSION
Please call (281) 290-1491 if you have any questions about this notice.

CASE #: Z23-03

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

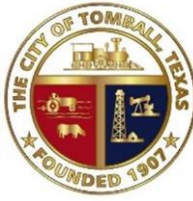
Name: AMERICO ENERGY REAL ESTATE HOLDINGS LTD
Parcel I.D.: 0352820000135
Address: 0 RUDOLPH RD

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

Email: jasmith@tomballtx.gov

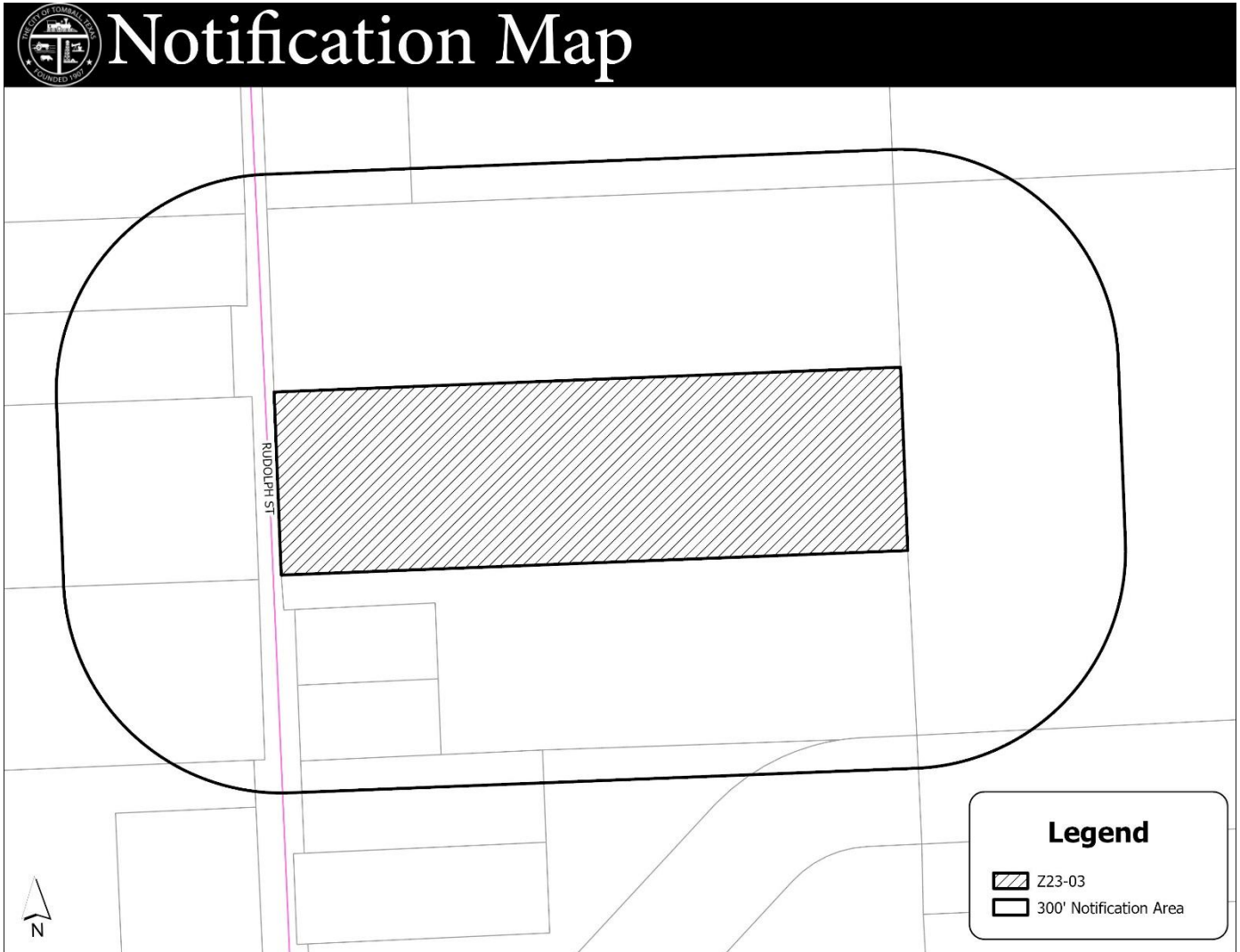
I am in favor I am opposed
Additional Comments:

Signature: _____



City of Tomball
Community Development Department

Z23-03



For the PLANNING & ZONING COMMISSION
Please call (281) 290-1491 if you have any questions about this notice.

CASE #: Z23-03

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

NANCY TRUSTEE

Parcel I.D.: 0352820000080
Address: 1230 ULRICH RD

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

Email: jasmith@tomballtx.gov

I am in favor
Additional Comments:

I am opposed

Signature: Nancy Gomez

501 James Street • TOMBALL, TEXAS 77375



**Rezoning
Staff Report**

Planning & Zoning Commission Public Hearing Date: May 8, 2023
City Council Public Hearing Date: May 15, 2023

Rezoning Case: Z23-03
Property Owner(s): Chris & Tiona Campbell
Applicant(s): Chris & Tiona Campbell
Legal Description: Portion of Lot 48 in Tomball Townsite
Location: 11100-11200 blocks (east side) of Rudolph Road (Exhibit “A”)
Area: 4.940 acres
Comp Plan Designation: Ranch Rural & Estate (Exhibit “B”)
Present Zoning: Single-Family Residential -20 Estate District (Exhibit “C”)
Request: General Retail (GR) district
Adjacent Zoning & Land Uses:
North: Single-Family Residential -20 (SF-20)/ Vacant
South: Single-Family Residential – 20 (SF-20)/ Vacant
West: Single-Family Residential – 20 (SF-20) / Jerry Matheson Park
East: Single-Family Residential – 20 (SF-20) / Vacant and Water Treatment Plan

BACKGROUND

The subject property has been within the City Limits of Tomball since at least 1907. The property has remained vacant since this time. The applicants are requesting to rezone the subject property to General Retail to locate their Exterminator Service/Company on the subject property. Exterminator services is a land use that is not permitted within the current Single Family Estate Residential zoning district that the property falls within. In addition to this exterminator service, the applicants are also seeking a separate Conditional Use Permit to allow “Residential Use” within this desired General Retail district to construct their single-family residence on the subject property if the General Retail zoning is to be adopted.

ANALYSIS

Description: The subject property comprises about 4.94 acres, located in the 11100-11200 block on the east side of Rudolph Road. Currently the subject property is located within Single Family Residential – 20 zoning and has been within this zoning classification since the City of Tomball adopted zoning in 2008. All properties within the immediate vicinity are also located within this

Single Family Residential – 20 zoning designation. Properties to the north, south, and east are currently vacant. The property located on the west side of Rudolph Road is Jerry Matheson Park.

Comprehensive Plan Recommendation: The property is designated as “Ranch Rural & Estates” by the Comprehensive Plans Future Land Use Map. This Ranch Rural & Estates category is intended to create areas of bucolic character. The land use category is defined by an abundance of natural landscape and may include agricultural enterprises.

According to the Comprehensive Plan, appropriate land uses should consist of large lot residential, conservation subdivisions, and agricultural enterprises. The built environment should be complimented by large amounts of green space such as mature woodlands or pasture. Secondary uses include bed & breakfast lodging, home professions, cottage industries, and accessory dwelling units.

The Comprehensive Plan recommends the zoning districts of – Agricultural (AG), Single Family Estate Residential – 20 (SF-20-E), or Planned Developments (PD).

Staff Review Comments:

The request to rezone the subject property to General Retail (GR) would create spot zoning of general retail on property which is generally surrounded by residential zoning & land uses. Spot zoning refers to when a particular property receives a zoning designation which is drastically different from the zoning which is applicable to the surrounding properties within the immediate vicinity. The requested general retail zoning is also in direct conflict with the goals and objectives of the Comprehensive Plans established with the City of Tomball’s Future Land Use map which identifies the Single-Family Estate Residential land use as the desired character for the subject property and surrounding properties. This land use category is intended to continue the promotion of large lot residential and agricultural land uses.

PUBLIC COMMENT

A Notice of Public Hearing was published in the paper and property owners within 300 feet of the project site were mailed notification of this proposal on April 18, 2023. Any public comment forms will be provided in the Planning & Zoning Commission and City Council packets or during the public hearing.

RECOMMENDATION

Based on the findings outlined in the analysis section of this staff report, City staff recommends denial of Zoning Case Z23-03.

EXHIBITS

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

Exhibit "A"
Aerial Location Map



Location Map

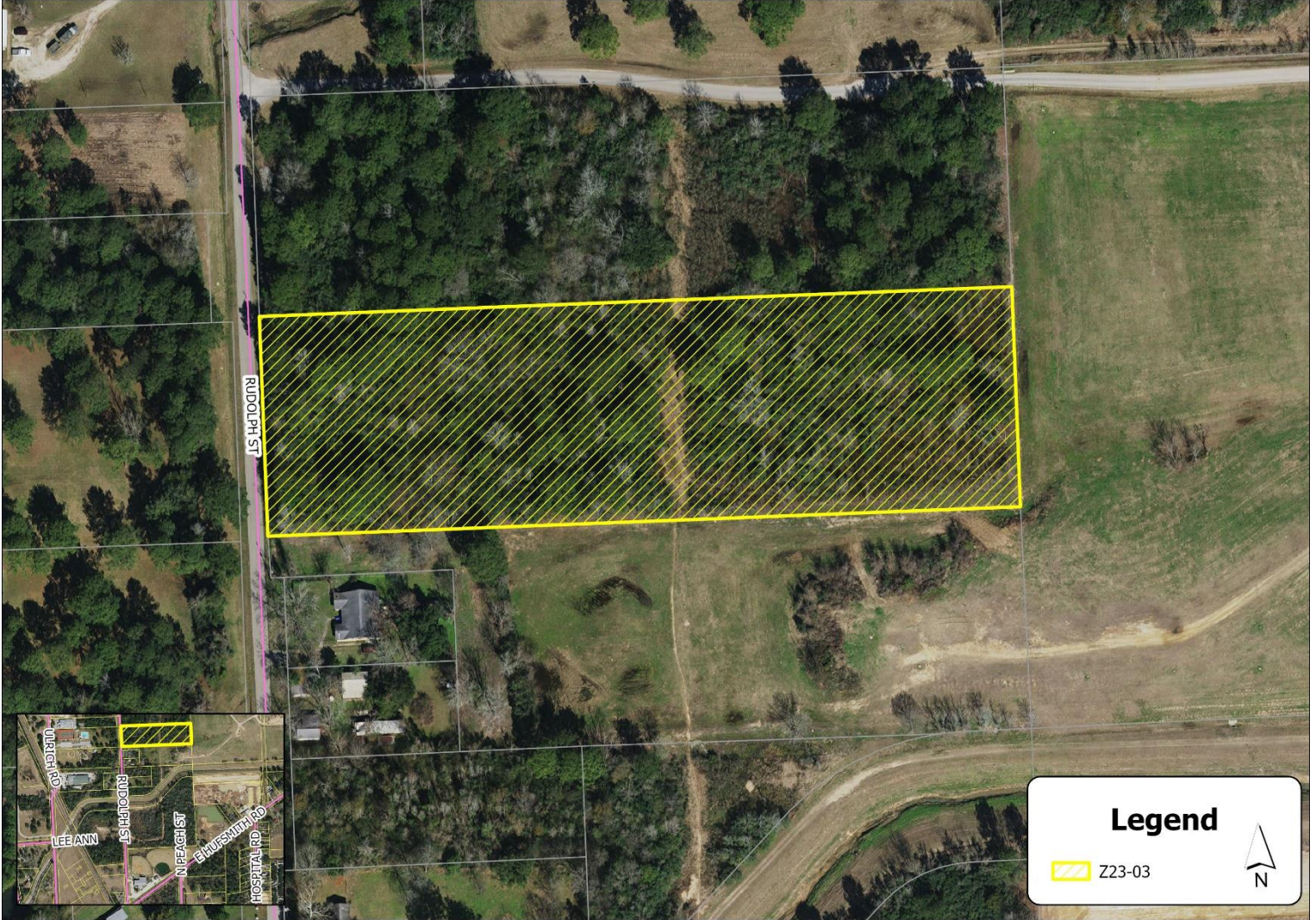


Exhibit "B"
Future Land Use Plan



Future Land Use Map

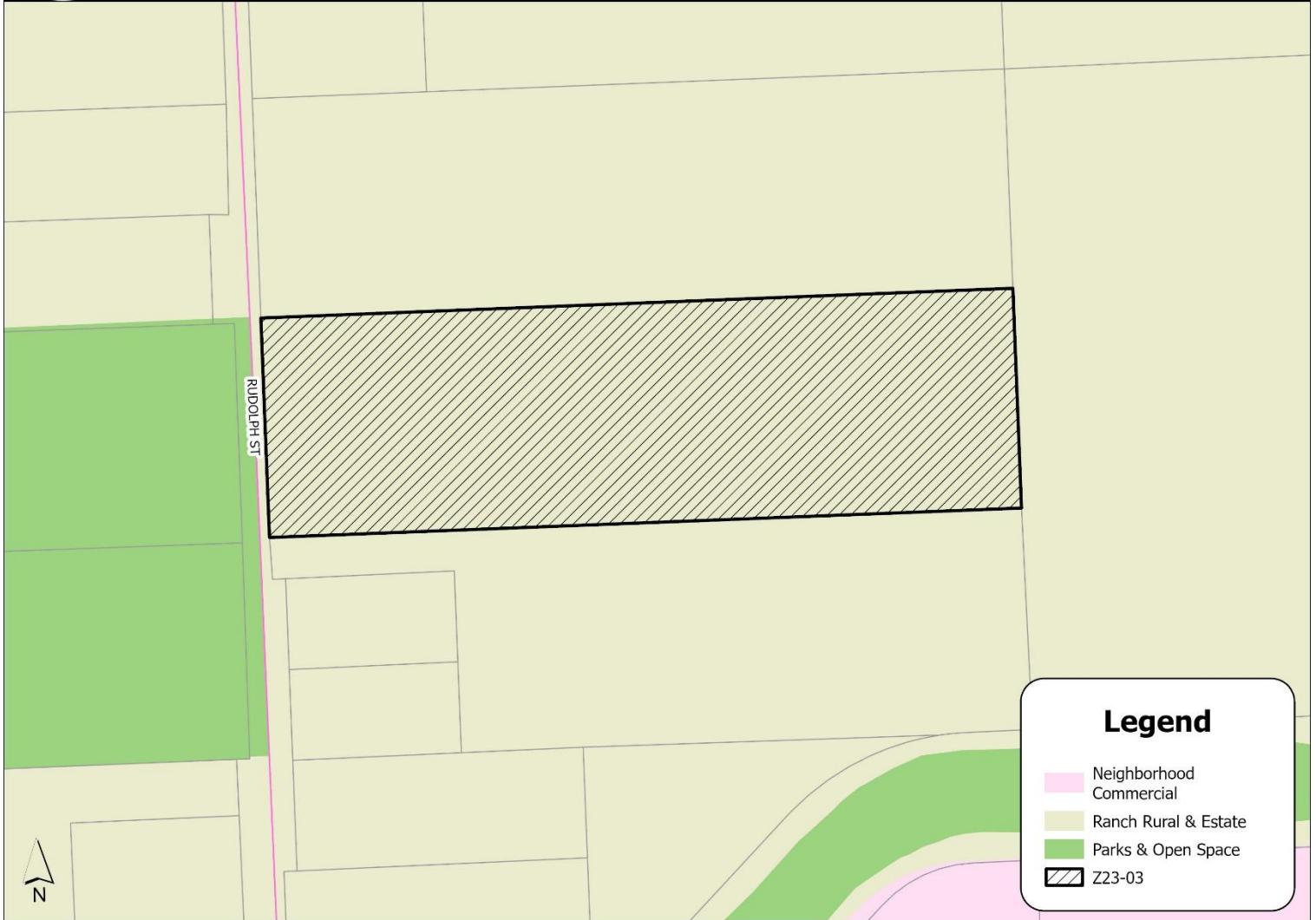


Exhibit "C"
Zoning Map

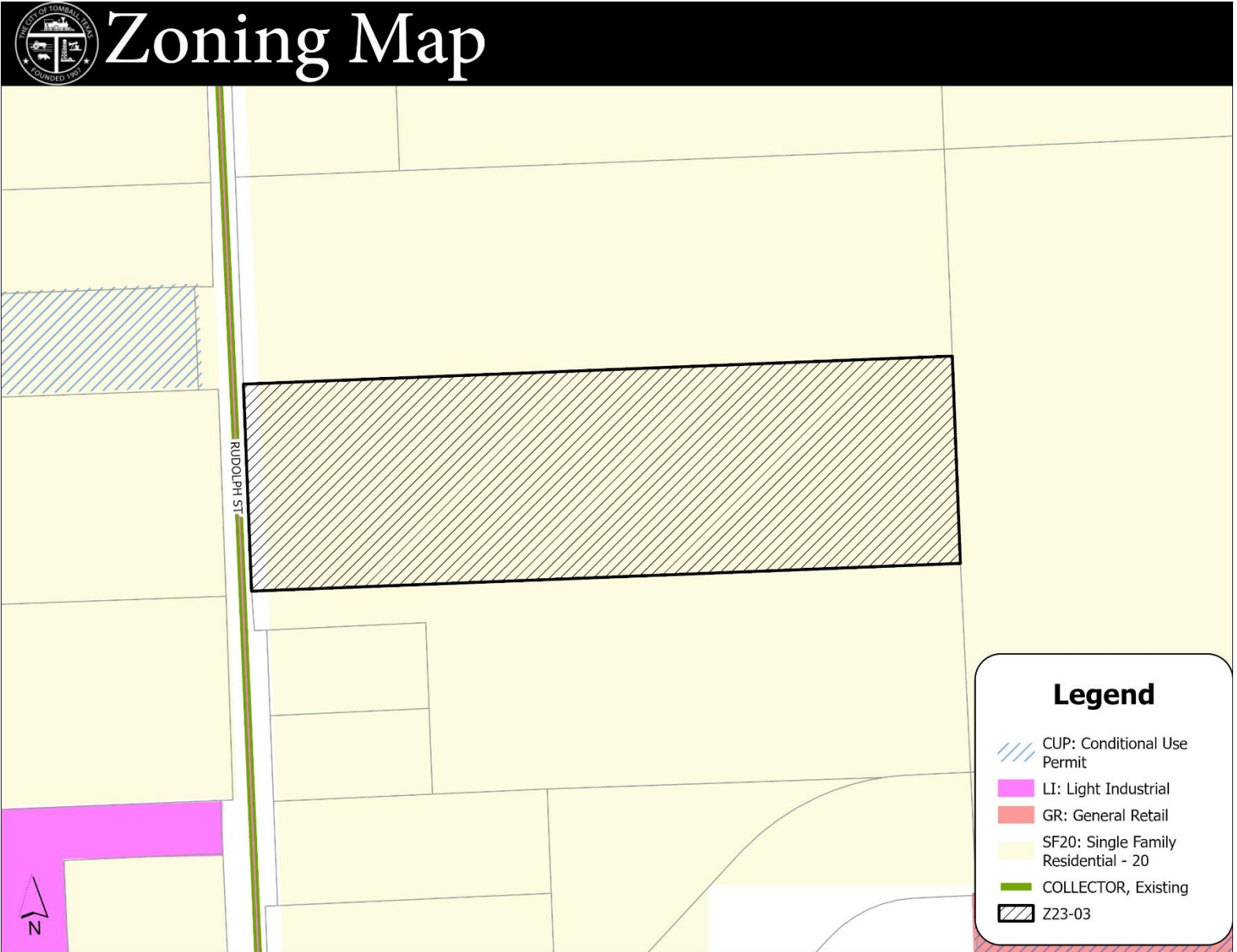


Exhibit "D"
Site Photo(s)

Subject Site



Neighbor (South)



Neighbor (North)



Neighbor (West)



Exhibit "E"
Rezoning Application

Revised: 10/1/2022



APPLICATION FOR RE-ZONING

Community Development Department
Planning Division

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

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

DIGITAL PLAN SUBMITTALS:

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

WEBSITE: tomballtx.gov/secure/send
USERNAME: tombalcedd
PASSWORD: Tomball

Applicant

Name: Chris & Tiona Campbell Title: Owner's
Mailing Address: 26402 I-45 City: Spring State: TX
Zip: 77386 Contact: Chris Campbell
Phone: (832) 928-6044 Email: Chris@Bellodomain.com

Owner

Name: Chris & Tiona Campbell Title: Owner's
Mailing Address: 26402 I-45 City: Spring State: TX
Zip: 77386 Contact: Chris Campbell
Phone: (832) 928-6044 Email: Chris@Bellodomain.com

Engineer/Surveyor (if applicable)

Name: C+C Surveying Inc Title: _____
Mailing Address: 33300 Egypt Lane City: Magnolia State: TX
Zip: 77354 Contact: Steven L Crews
Phone: (281) 356-5172 Fax: () _____ Email: Survey@C+Csurveying.com

Description of Proposed Project: Re-Zoning of Property to be used as a office

Physical Location of Property: 1120 Rudolph Rd, Tomball TX 77375
[General Location – approximate distance to nearest existing street corner]

Legal Description of Property: Lot 48 Clerk's File # 2022-215079
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]

Current Zoning District: SF-20-E

Current Use of Property: undeveloped

Proposed Zoning District: General Retail (GR) Zoning

Proposed Use of Property: office + storage

HCAD Identification Number: 035282000083 Acreage: 4.940

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

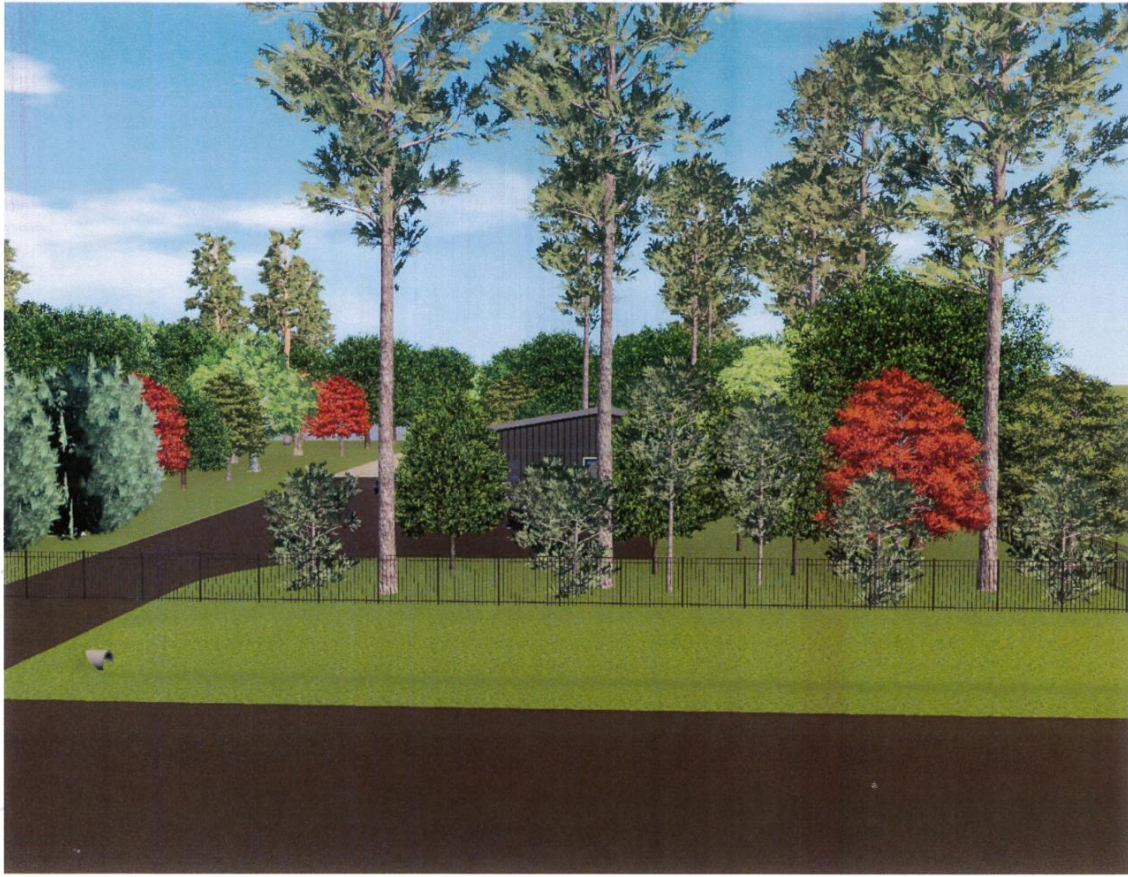
This is to certify that the information on this form is COMPLETE, TRUE, and CORRECT and the under signed is authorized to make this application. I understand that submitting this application does not constitute approval, and incomplete applications will result in delays and possible denial.

Chris Lytle / Juna Campbell 3-13-23
Signature of Applicant Date

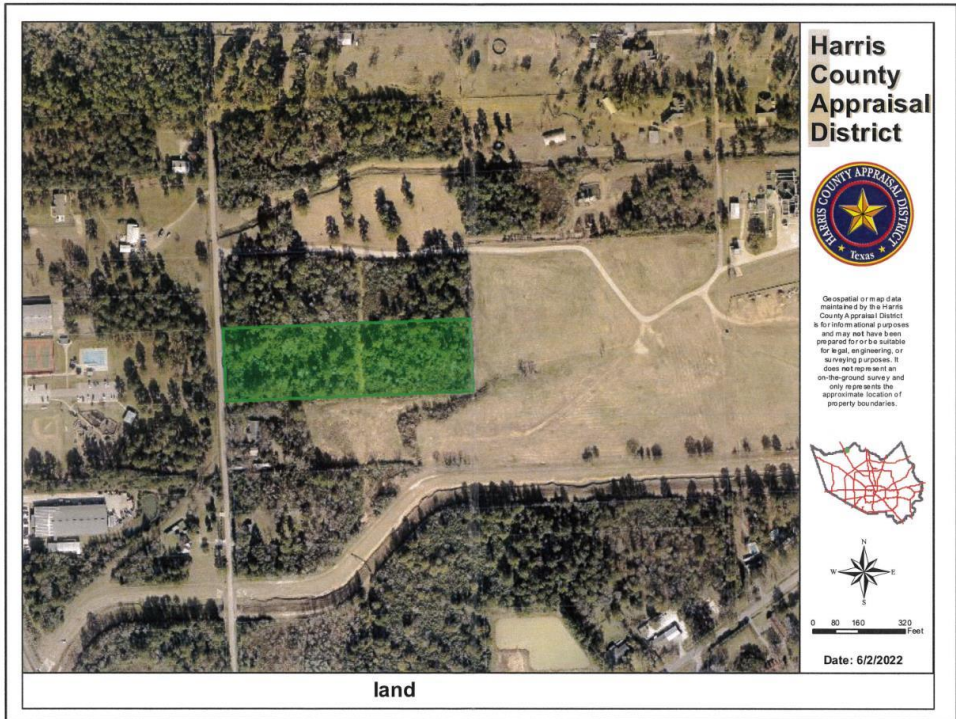
Chris Lytle / Juna Campbell 3-13-23
Signature of Owner Date

Dear, Whom it may concern

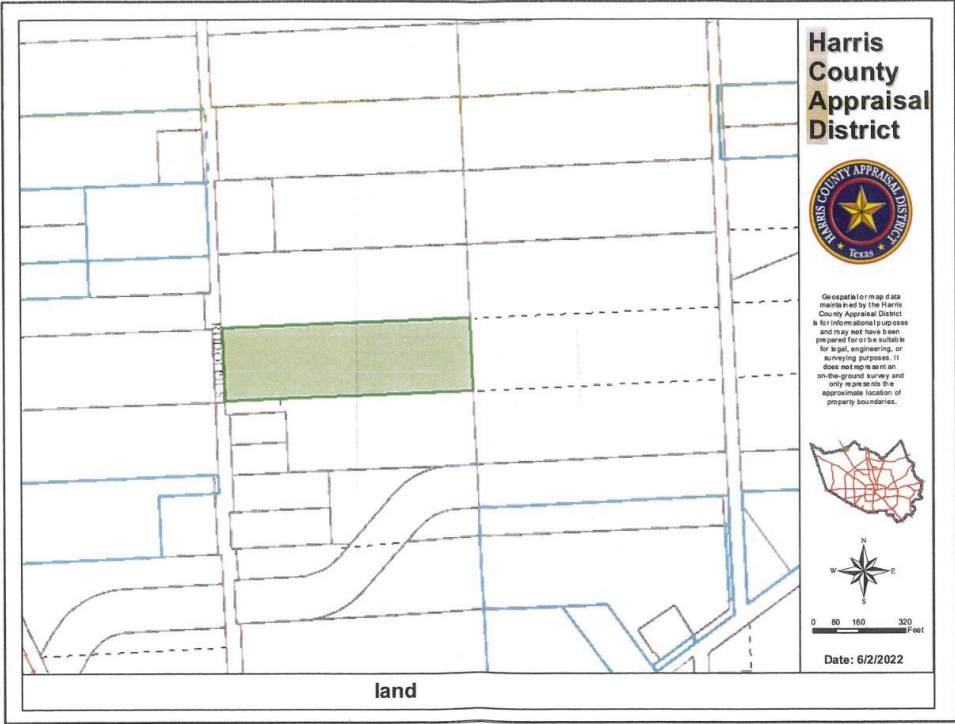
My family and I would be honored to be a part of the Tomball community with our business and our home. Our plan would be to move our business and Family where we can grow for many years and generations to come. Our hope is to build an office that has a 1950's-1960's style to match our classic trucks which we use for service. We would love to become more involved with the community throughout the years. Our location would not affect the flow of traffic since there will not be any retail customers or regular deliveries. We want to preserve as many trees as possible and plant more landscaping after the build out is completed. We believe our business would be a benefit to the Tomball area as we would bring in more business to the local community with the additional gas for the work trucks, Resturants where our family and employees would support daily. we would do additional shopping at the local grocery and hardware stores, also all taxes that comes with us moving to the area. We have been in business since 1998 and want to move to Tomball and be a staple for the community with our antique trucks and welcoming service.







Rezoning				
Map Revised	Ord. No.	Ord. Date	Case No.	Description
6/6/2008	2008-05	5/5/2008	P08-006	SF-6 to C
6/6/2008	2008-08	6/2/2008	P08-005	SF-6 to C
6/6/2008	2008-10	6/2/2008	P08-012	D to C
8/21/2008	2008-09	7/21/2008	P08-008	Ag to O (**Single Story-30' Max)
8/21/2008	2008-17	8/4/2008	P08-025	AG & GR to C
8/21/2008	2008-18	8/4/2008	P08-029	SF-20-E to LI
8/21/2008	2008-20	8/4/2008	P08-036	AG & SF-20-E to SF-6 & C
11/3/2008	2008-28	10/6/2008	P08-056	SF-6 to C
11/3/2008	2008-29	10/6/2008	P08-060	SF-6 to D
4/14/2009	2009-09	4/6/2009	P08-074	AG to SF-20-E
4/14/2009	2009-10	4/6/2009	P09-099	AG to C
6/9/2009	2009-14	6/1/2009	P09-115	AG to C
10/5/2009	2009-22	9/8/2009	P09-128	D to C
10/5/2009	2009-23	9/8/2009	P09-129	D to C
10/5/2009	2009-25	9/8/2009	P09-146	SF-20-E to SF-9
10/5/2009	2009-29	10/5/2009	P09-158	SF-9 to C
11/2/2009	2009-32	11/2/2009	P09-161	SF-6 to OT&MU
1/26/2010	2009-34	1/4/2010	P09-180	SF-6 to D
11/2/2010	2010-08	5/3/2010	P10-208	SF-6 to OT&MU
11/2/2010	2010-10	6/7/2010	P10-226	AG to C
11/2/2010	2010-11	6/7/2010	P10-225	AG to C
11/2/2010	2010-23	11/1/2010	P10-273	O to SF-20-E
5/22/2012	2011-02	4/4/2011	P11-302	AG to C
5/22/2012	2011-11	7/26/2011	P11-333	SF-20-E to LI
5/22/2012	2011-21	10/3/2011	P11-347	AG to C
5/22/2012	2011-22	10/3/2011	P11-348	SF-6/C to LI
5/22/2012	2011-25	11/24/2011	P11-354	SF-20-E to Ag
5/22/2012	2011-27	12/5/2011	P11-360	C/OT&MU to C
5/22/2012	2011-28	12/5/2011	P11-362	C to OT&MU
5/22/2012	2011-32	1/3/2011	P11-375	AG to LI
5/22/2012	2012-05	5/7/2012	P12-421	AG to LI
7/24/2012	2012-09	6/4/2012	P12-427	D to C
7/24/2012	2012-10	6/4/2012	P12-428	D to C
7/24/2012	2012-11	6/4/2012	P12-429	D to C
10/9/2012	2012-26	9/4/2012	P12-457	D to O
10/9/2012	2012-33	10/1/2012	P12-459	SF-20-E to AG
10/9/2012	2012-34	10/1/2012	P12-468	AG to LI
10/9/2012	2012-35	10/1/2012	P12-469	AG, SF-20-E, and LI to LI
1/8/2013	2012-54	1/7/2013	P12-514	AG to LI
4/22/2013	2013-03	4/1/2013	P13-066	SF-6 to OT&MU
12/16/2013	2013-22	12/2/2013	P13-158	PD-1 to O
2/18/2014	2013-26	1/6/2014	P13-182	AG to LI
8/18/2014	2014-18	8/4/2014	P14-109	C & OT&MU to C
9/3/2014	2014-21	8/18/2014	P14-102	AG to SF-9
10/20/2014	2014-34	10/6/2014	P14-154	D to C
12/16/2014	2014-40	12/1/2014	P14-217	AG to SF-9
12/16/2014	2014-41	12/1/2014	P14-218	PD-1 to SF-20-E
1/21/2015	2014-44	1/5/2015	P14-232	MF to C
3/16/2015	2015-03	3/2/2015	P14-262	SF-6 to C
4/20/2015	2015-05	4/4/2015	P14-254	AG to LI
4/20/2015	2015-06	4/4/2015	P15-009	GR to C
11/30/2015	2015-21	11/16/2015	P15-107	AG to LI
11/30/2015	2015-22	11/16/2015	P15-108	AG to C
8/2/2016	2016-05	5/2/2016	P16-0020	AG to C
8/2/2016	2016-06	6/6/2016	P16-0048	AG to O
8/19/2016	2016-13	8/15/2016	P16-0083	SF-6 to OT&MU
8/19/2016	2016-15	8/1/2016	P16-0080	AG to C
11/21/2016	2016-27	11/7/2016	P16-0140	AG to C
1/9/2017	2016-30	12/19/2016	P16-0156	SF-20-E to C
1/26/2017	2016-31	1/3/2017	P16-0162	AG to C
4/17/2017	2017-06	4/3/2017	P17-0007	SF-6 to O
8/21/2017	2017-22	8/7/2017	P17-0069	SF9 to SF-6
8/21/2017	2017-21	8/7/2017	P17-0070	SF-20-E to SF-6
9/22/2017	2017-28	9/5/2017	P17-0083	AG to C
8/20/2017	2017-36	8/6/2018	P17-0115	AG to SF-20-E
11/21/2017	2017-38	11/6/2017	P17-0117	AG to C
1/17/2018	2018-02	1/2/2018	P17-0131	AG to C
2/19/2018	2018-03R	2/5/2018	P17-0137	AG to GR
3/19/2018	2018-09	3/5/2018	P18-004	SF-6 to OT&MU
3/19/2018	2018-10	3/5/2018	P18-008	SF-6 to OT&MU
6/7/2018	2018-18	5/21/2018	P18-035	Outside City Limits to C
7/5/2018	2018-19	6/4/2018	P18-055	SF-6 to OT&MU
8/22/2018	2018-22	8/6/2018	P18-079	AG to C
9/4/2018	2018-20	8/20/2018	P18-072	AG to SF-6
9/18/2018	2018-22	9/4/2018	P18-089	AG & GR to SF-6
9/18/2018	2018-23	9/4/2018	P18-120	SF-9 to PD-11
10/17/2018	2018-24	9/4/2018	P18-122	Outside City Limits to C
12/19/2018	2018-37	12/3/2018	P18-161	AG to LI
12/19/2018	2018-38	12/3/2018	P18-166	PD-2 to O
1/31/2019	2018-43	1/7/2019	P18-168	SF-6 to OT&MU
6/3/2019	2019-10	5/20/2019	P19-039	AG to C
6/17/2019	2019-11	6/3/2019	P19-053	AG to C
9/23/2019	2019-16	9/3/2019	P19-090	SF-9 to SF-6
11/27/2019	2019-27	11/4/2019	P19-120	LI to C
1/22/2020	2019-36	1/6/2020	P19-157	SF-6 to OT&MU
1/22/2020	2019-34	1/6/2020	P19-155	SF-20-E and AG to GR
8/20/2020	2020-09	8/3/2020	P20-069	SF-6 to O
8/20/2020	2020-20	8/3/2020	P20-099	SF-20-E to C
1/19/2021	2020-35	1/4/2021	P20-321	SF-20-E to LI
1/19/2021	2020-36	1/4/2021	P20-332	AG to SF-6
5/3/2021	2021-02	2/1/2021	P20-419	Outside City Limits to GR
5/3/2021	2021-10	4/5/2021	P20-420	AG to C
5/3/2021	2021-04	4/5/2021	P20-436	Outside City Limits to C
5/3/2021	2021-09	4/5/2021	P20-442	SF-20-E to C
8/25/2021	2021-24	8/2/2021	P21-252	SF-20-E to LI
8/25/2021	2021-26	8/2/2021	P21-266	AG to GR



- Notes:
 1. Basis of bearings: North line of subject property.
 2. Easements and building lines as shown are per the recorded plat.
 3. Survey performed without the benefit of a title report and may be subject to easements and/or restrictions not shown.

—X—X— WIRE FENCE
 ⊕ POWER POLE



This property lies within ZONE X as SCALED from FEMA Map Panel Number 48201C0230L dated June 18, 2007.

THIS MEANS THAT THE SUBJECT PROPERTY SCALES OUTSIDE THE 100 YEAR FLOOD PLAIN.

This determination is made strictly according to the FEMA Maps and does not reflect actual on ground flood conditions. Furthermore, this company takes no responsibility for such.

Being a 4.940 acre tract situated in the Ralph Hubbard Survey, Abstract Number 383, of Harris County, Texas, and being a portion of Lot 48 of Tomball Townsite, as recorded in Volume 2, Page 65 of the Map Records of Harris County, Texas, said portion of Lot 48 being recorded in Clerk's File Number 2022-215079 of the Real Property Records of Harris County, Texas.

Date	July 29, 2022	City/No.	N/A
Job No.	22-42303	Scale	1" = 100' (As Shown)
Address	Rudolph Road	Drawn By	DY
City, State	Tomball, Texas	Rec'd	0

C & C Surveying, Inc.
 Firm Number 10009400
 33300 Egypt Lane, Suite F200 Magnolia, Texas 77354
 Office: 281-356-5172
survey@ccsurveying.com / www.ccsurveying.com



Certified To: Chris & Tiana Campbell
 Client: Chris & Tiana Campbell

I HEREBY CERTIFY THIS SURVEY WAS MADE ON THE GROUND, AND THAT THIS PLAT CORRECTLY REPRESENTS THE FACTS FOUND AT THE TIME OF SURVEY AND THIS SURVEY SUBSTANTIALLY COMPLIES WITH THE CURRENT TEXAS SOCIETY OF PROFESSIONAL SURVEYORS MANUAL OF PRACTICE REQUIREMENTS FOR A CITY/STATE IN CONFORMANCE WITH STANDARD LAND SURVEY, AND THAT THERE ARE NO ENCUMBRANCES EXCEPT AS SHOWN.

Steven L. Crews
 Steven L. Crews RPLS #4141

City Council Agenda Item Data Sheet

Meeting Date: 05/15/2023

Topic:

Consideration to approve **Zoning Case Z23-04**: Request by Rosehill Estates, LLC represented by George Jarkey to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 5.11 acres of land legally described as being Lot 2, Block 1 of Swinghammer/Hauck Subdivision from Single Family Residential Estate – 20 (SF-20-E) to Commercial (C). The property is located at 1820 S. Cherry Street, within the City of Tomball, Harris County, Texas.

Conduct Public Hearing on **Zoning Case Z23-04**

Adopt, on First Reading, Ordinance No. 2023-10, an Ordinance of the City of Tomball, Texas, amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by rezoning approximately 5.11 acres of land legally described as being Lot 2, Block 1 of Swinghammer/Hauck Subdivision from Single Family Residential Estate – 20 (SF-20-E) to Commercial (C). The property is located at 1820 S. Cherry Street, within the City of Tomball, Harris County, Texas; providing for severability; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters.

Background:

The subject property has been within the City Limits of Tomball since at least 1907. According to Harris County Appraisal District records a single-family residential dwelling has been located on the subject property since at least 1990. In September of 2022 it was brought to city staff's attention that the property is being utilized for commercial purposes and subsequent notices of zoning violation for unlawful land use within Single Family Residential -20 zoning were sent to the owner of the property. Following conversations with the applicant it has been confirmed that the property is presently being utilized for office purposes. To bring the property into legal land use conformance the applicant is seeking a change of zoning to the Commercial (C) zoning district to continue to allow the use of the property for commercial purposes. If the zoning is to be approved, the site will need to obtain all necessary building permits and plan approvals from the City of Tomball to bring the building and site up to commercial building standards.

Origination:

Recommendation:

City staff recommends approval of Zoning Case Z23-04. Planning and Zoning Commission recommends Approval Unanimously (5 Votes Aye).

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

FUNDING (IF APPLICABLE)

ORDINANCE NO. 2023-10

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING CHAPTER 50 (ZONING) OF THE TOMBALL CODE OF ORDINANCES BY CHANGING THE ZONING DISTRICT CLASSIFICATION OF APPROXIMATELY 5.11 ACRES OF LAND LEGALLY DESCRIBED AS BEING LOT 2, BLOCK 1 OF SWINGHAMMER/HAUCK SUBDIVISION FROM SINGLE FAMILY RESIDENTIAL ESTATES – 20 (SF-20-E) ZONING DISTRICT TO COMMERCIAL (C), BEING LOCATED AT 1820 S. CHERRY STREET; PROVIDING FOR SEVERABILITY; PROVIDING FOR A PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF, MAKING FINDINGS OF FACT; AND PROVIDING FOR OTHER RELATED MATTERS.

Whereas, Rosehill Estates LLC., represented by George Jarkesy has requested that approximately 5.11 acres of land legally described as being Lot 2, Block 1 of Swinghammer/Hauck Subdivision, located at 1820 S. Cherry Street, within the City of Tomball, Harris County, Texas (the “Property”), be rezoned; and

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

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

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

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

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

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

Section 2. The rezoning classification of the Property is hereby changed and is subject to the regulations, restrictions, and conditions hereafter set forth.

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

Section 4. This Ordinance shall in no manner amend, change, supplement or revise any provision of any ordinance of the City of Tomball, save and except the change in zoning classification for the Property as described above.

Section 5. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

Section 6. Any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction, shall be fined in an amount not to exceed \$2,000. Each day of violation shall constitute a separate offense.

FIRST READING:

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

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

SECOND READING:

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

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

LORI KLEIN QUINN, Mayor

ATTEST:

Tracylynn Garcia, City Secretary

Exhibit "A"



Location: 1820 S. Cherry Street. Being Lot 2, Block 1 of Swinghammer/Hauck Subdivision, City of Tomball, Harris County, Texas

**NOTICE OF PUBLIC HEARING
CITY OF TOMBALL
PLANNING & ZONING COMMISSION (P&Z)
MAY 8, 2023
&
CITY COUNCIL
MAY 15, 2023**



Notice is Hereby Given that a Public Hearing will be held by the P&Z of the City of Tomball on **Monday, May 8, 2023 at 6:00 P.M.** and by the City Council of the City of Tomball on **Monday, May 15, 2023 at 6:00 P.M.** at City Hall, 401 Market Street, Tomball Texas. On such dates, the P&Z and City Council will consider the following:

Zoning Case Z23-03: Request by Chris & Tiona Campbell, to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 4.94 acres of land legally described as being a portion of Lot 48 in Tomball Townsite from Single Family Residential Estate – 20 (SF-20-E) to General Retail (GR) zoning. The property is generally located within the 11100-11200 blocks (east side) of Rudolph Road, within the City of Tomball, Harris County, Texas.

Zoning Case Z23-04: Request by Rosehill Estates, LLC represented by George Jarkey to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 5.11 acres of land legally described as being Lot 2, Block 1 of Swinghammer/Hauck Subdivision from Single Family Residential Estate – 20 (SF-20-E) to Commercial (C). The property is located at 1820 S. Cherry Street, within the City of Tomball, Harris County, Texas.

Zoning Case Z23-05: Request by Michael Kirtley represented by Sam Jackson of Black Mountain Energy Storage II LLC., to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 5 acre of land legally described as being all of Lot 265 in Tomball Townsite from Agricultural (AG) to Light Industrial (LI) zoning. The property is generally located within the 900-1000 blocks (west side) of S. Pitchford Road, within the City of Tomball, Harris County, Texas.

Zoning Case Z23-06: Request by Red Grip LLC., represented by Mike Matheson to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 1.04 acres of land legally described as being Lot 72, Block 1 of Acquest Tomball Replat No.1 from Commercial (C) to Office (O) zoning. The property is generally located within the 1200-1300 blocks (south side) of Rudel Drive, within the City of Tomball, Harris County, Texas.

Case CUP23-03: Request by Chris & Tiona Campbell, for a Conditional Use Permit to allow “Residential Use” within General Retail (GR) zoning. Affecting approximately 4.94 acres of land legally described as being a portion of Lot 48 in Tomball Townsite. The property is generally located within the 11100-11200 blocks (east side) of Rudolph Road, within the City of Tomball, Harris County, Texas.

Case CUP23-04: Request by Michael Kirtley, represented by Sam Jackson of Black Mountain Energy Storage II LLC., for a Conditional Use Permit to allow an “Electric Storage System” within Light Industrial (LI) zoning. Affecting land legally described as being all of Lot 265 in Tomball Townsite. The property is generally located within the 900-1000 blocks (west side) of S. Pitchford Road, within the City of Tomball, Harris County, Texas.

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

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

Jared Smith
Jared Smith
City Planner

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



City of Tomball
Community Development Department

HLJ SPEARS INVESTMENTS LLC
23722 WILLOW SWITCH RD

SPRING, TX 77389-3473

NOTICE OF PUBLIC HEARING

RE: Zone Change Case Number Z23-04

04/14/2023

The Planning & Zoning Commission will hold a public hearing on **May 8, 2023 at 6:00 PM**, in City Council Chambers at City Hall, 401 Market Street, Tomball, Texas to recommend approval or denial to City Council on a request by Rosehill Estates, LLC represented by George Jarkesy to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 5.11 acres of land legally described as being Lot 2, Block 1 of Swinghammer/Hauck Subdivision from Single Family Residential Estate – 20 (SF-20-E) to Commercial (C) . The property is located at 1820 S. Cherry Street, within the City of Tomball, Harris County, Texas.

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

The attached map shows the area of this request. Only that area which is bounded by the cross-hatched line on the map is being considered for **rezoning**. The solid boundary line around the subject area is only a notification area. All owners of property within 300-feet of the subject property are required to be notified. Whether approved or denied by the Planning & Zoning Commission, this case will be heard by City Council for First Reading with public hearing on **May 15, 2023 at 6:00 PM** in City Council Chambers at City Hall, 401 Market Street, Tomball, Texas.

If you have any questions, please contact Jared Smith, City Planner at telephone 281-290-1491 or by email address jasmith@tomballtx.gov

For the PLANNING & ZONING COMMISSION
Please call (281) 290-1491 if you have any questions about this notice.

CASE #: Z23-04

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

Name: HLJ SPEARS INVESTMENTS LLC
Parcel I.D.: 1187930010002
Address: 211 S PERSIMMON ST

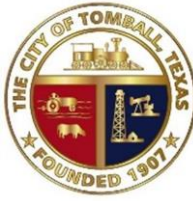
Mailing To: Community Development Department
501 James St., Tomball TX 77375

Email: jasmith@tomballtx.gov

I am in favor
Additional Comments:

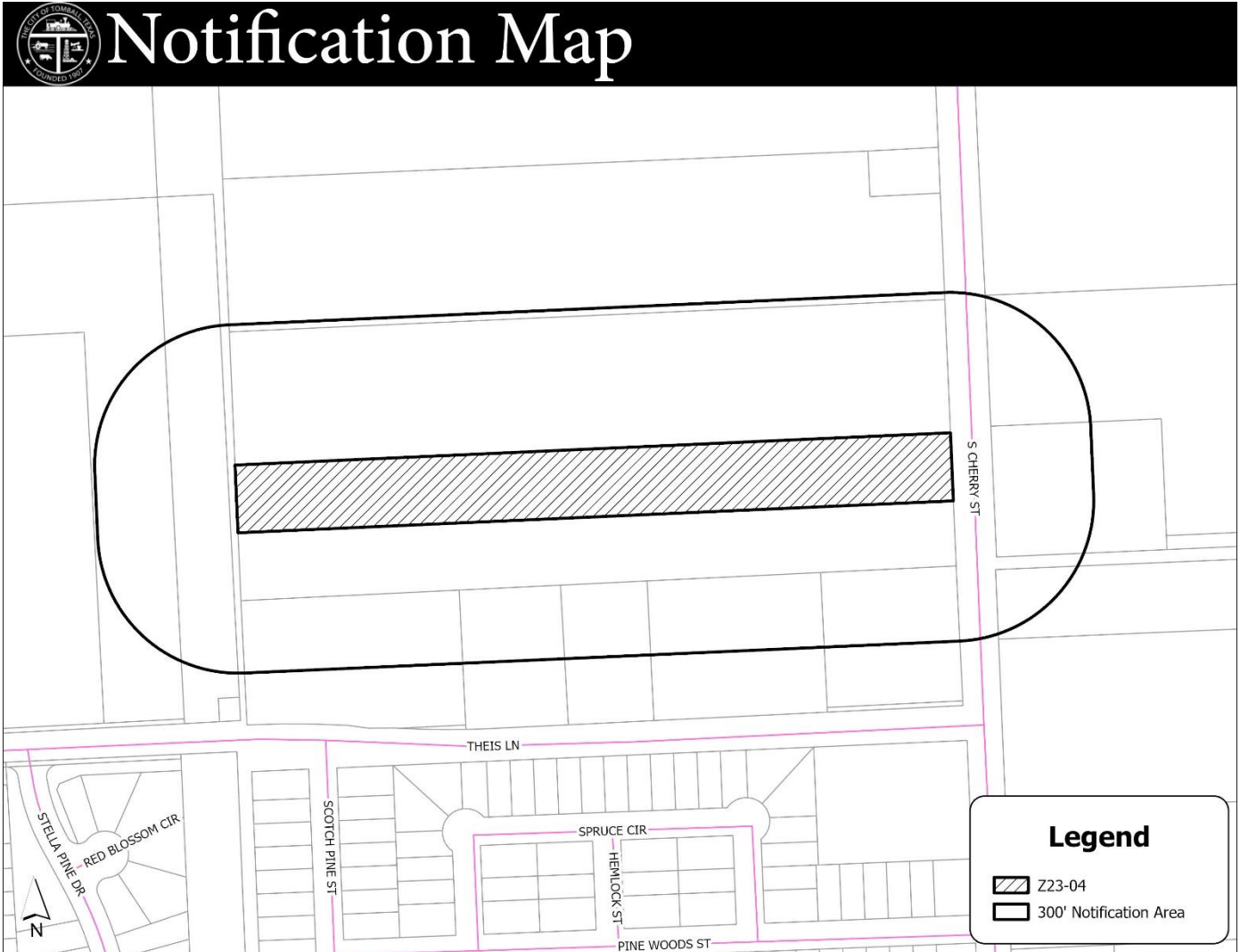
I am opposed

Signature: _____



City of Tomball
Community Development Department

Z23-04



Jared Smith

From: Wilson Lori - Houston <Lori.Wilson4@hcahealthcare.com>
Sent: Friday, April 21, 2023 12:07 PM
To: Jared Smith
Subject: 1820 s. Cherry Zone Change Case #Z23-04

Caution: This is an external email and may be malicious. Please take care when clicking links or opening attachments.

I am perfectly fine with the zoning change. Lori

For the PLANNING & ZONING COMMISSION
Please call (281) 290-1491 if you have any questions about this notice.

CASE #: Z23-04

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

Name: WALLACE LORI A
Parcel I.D.: 0352880000193
Address: 1821 S CHERRY ST

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

Email: jasmith@tomballtx.gov

I am in favor I am opposed
Additional Comments:

Signature: 

501 James Street • TOMBALL, TEXAS 77375

Lori Wilson

Director, Physician and Provider Relations

HCA Houston Healthcare Tomball

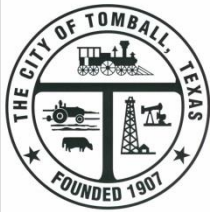
P 281-401-7215 | M 832-549-4079

605 Holderrieth Blvd, Tomball, TX, 77375

Lori.Wilson4@hcahealthcare.com | [HCAHoustonHealthcare.com](https://www.HCAHoustonHealthcare.com)

HCA Mission: Above all else, we are committed to the care and improvement of human life.

CONFIDENTIAL – Contains proprietary information. Not intended for external distribution.



**Rezoning
Staff Report**

Planning & Zoning Commission Public Hearing Date: May 8, 2023
City Council Public Hearing Date: May 15, 2023

Rezoning Case: Z23-04
Property Owner(s): Rosehill Estates, LLC
Applicant(s): Rosehill Estates, LLC
Legal Description: Lot 2, Block 1 of Swinghammer/Hauck Subdivision
Location: 1820 S. Cherry St. (Exhibit “A”)
Area: 5.11 acres
Comp Plan Designation: Business Park & Industrial (Exhibit “B”)
Present Zoning: Single-Family Residential -20 Estate District (Exhibit “C”)
Request: Commercial (C) zoning
Adjacent Zoning & Land Uses:
North: Commercial (C)/ Office/warehouse and Electronic Assembly
South: Single-Family Residential – 20 (SF-20)/ Single-Family Residence
West: Agricultural (AG) / City of Tomball Drainage Channel
East: Single-Family Residential – 20 (SF-20) / Single-Family Residence

BACKGROUND

The subject property has been within the City Limits of Tomball since at least 1907. According to Harris County Appraisal District records a single-family residential dwelling has been located on the subject property since at least 1990. In September of 2022 it was brought to city staff’s attention that the property is being utilized for commercial purposes and subsequent notices of zoning violation for unlawful land use within Single Family Residential -20 zoning were sent to the owner of the property. Following conversations with the applicant it has been confirmed that the property is presently being utilized for office purposes. To bring the property into legal land use conformance the applicant is seeking a change of zoning to the Commercial (C) zoning district to continue to allow the use of the property for commercial purposes. If the zoning is to be approved, the site will need to obtain all necessary building permits and plan approvals from the City of Tomball to bring the building and site up to commercial building standards.

ANALYSIS

Description: The subject property comprises about 5.11 acres, located 1820 S. Cherry Street. Currently the property is located within the Single Family Residential – 20 (SF-20) zoning district and has been within this zoning classification since the City of Tomball adopted zoning in 2008. Properties east and south of the subject property are also located within the Single Family Residential – 20 district and occupied by single family residences. North of the subject property is existing Commercial (C) zoning which was adopted in 2009 by City Council (P09-099) this Commercial zoning is presently occupied by an office/warehouse and electronic assembly land use. West of the subject property is Agricultural (AG) zoning and is a City of Tomball drainage channel.

Comprehensive Plan Recommendation: The property is designated as “Business Park & Industrial” by the Comprehensive Plans Future Land Use Map. This Business Park & Industrial category is intended to create opportunities for employment. This area is intended to be located near adequate thoroughfares which provide convenient access for vehicular traffic including freight. These areas may require intensive screening and buffering from surrounding development.

According to the Comprehensive Plan, appropriate land uses include office, warehouse, light manufacturing (with indoor operations), breweries/distilleries, equipment sales, contractor services, and corporate campuses.

The Comprehensive Plan recommends the zoning districts of – Light Industrial (LI), Commercial (C), Office (O), or Planned Developments (PD).

Staff Review Comments:

The request to rezone the subject property to Commercial (C) is in direct alignment with the Comprehensive Plans goal and objective of establishing the Business Park & Industrial land use category. Further, the subject property and the neighboring property to the south are remnant Single Family Residential zoning districts wedged between Commercial zoning to the north (adopted in 2009) and south (adopted in 2015). This current arrangement of large lot single family residential zoning districts wedged between two commercial zoning districts is creating a residential spot zoning instance which could be considered an undesirable arrangement. The request to rezone to commercial zoning will help to improve this arrangement. Lastly, the subject property fronts on S. Cherry Street and is approximately 400-linear feet north of the intersection of S. Cherry Street and Theis Lane, two minor arterial streets. Thoroughfares such as this are customarily considered appropriate for commercial zoning districts and activities as they provide convenient vehicular access as well as exposure to large volumes of traffic which is often considered necessary for commercial success.

PUBLIC COMMENT

A Notice of Public Hearing was published in the paper and property owners within 300 feet of the project site were mailed notification of this proposal on April 18, 2023. Any public comment forms will be provided in the Planning & Zoning Commission and City Council packets or during the public hearing.

RECOMMENDATION

Based on the findings outlined in the analysis section of this staff report, City staff recommends approval of Zoning Case Z23-04.

EXHIBITS

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

Exhibit "A"
Aerial Location Map



Location Map

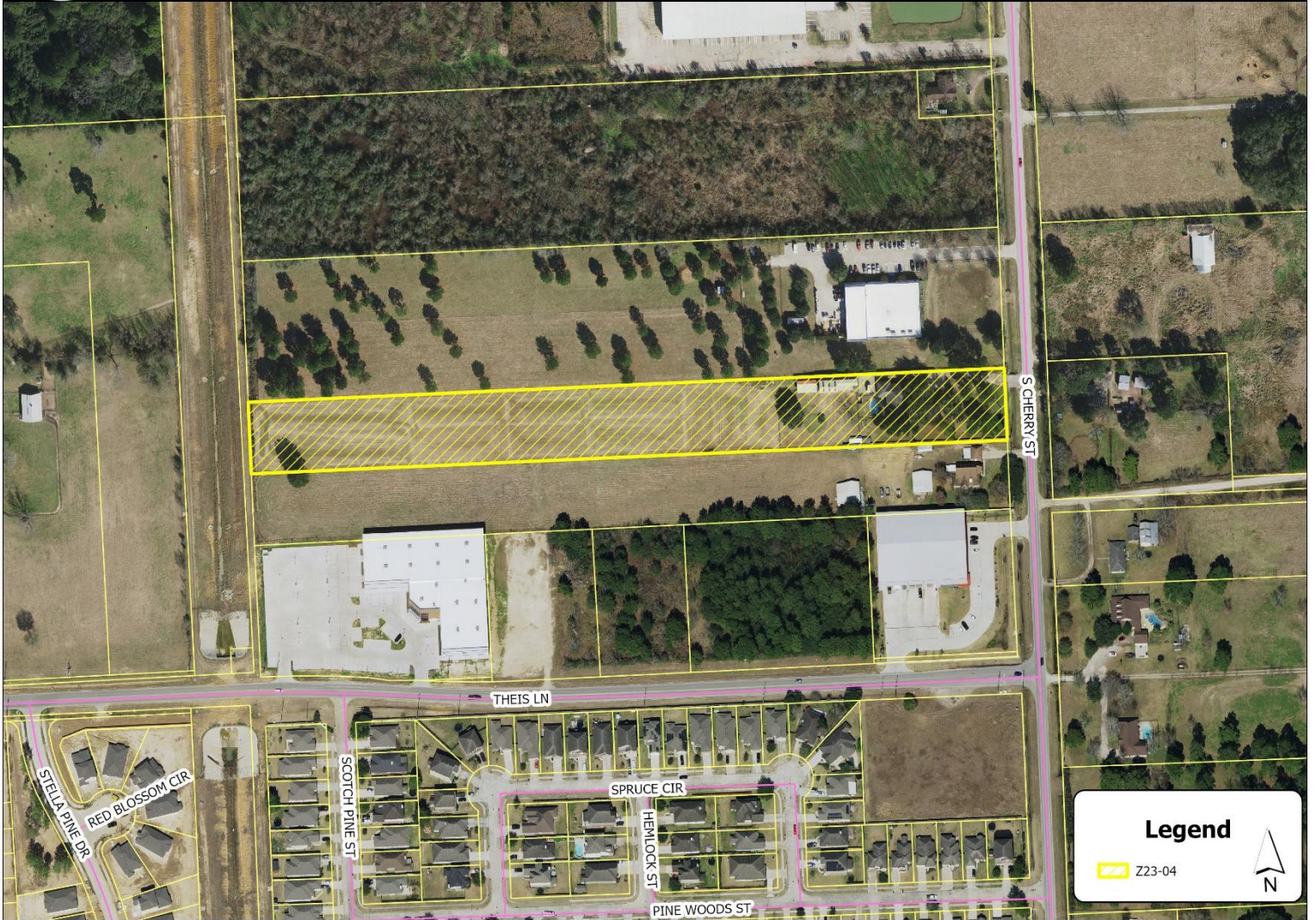
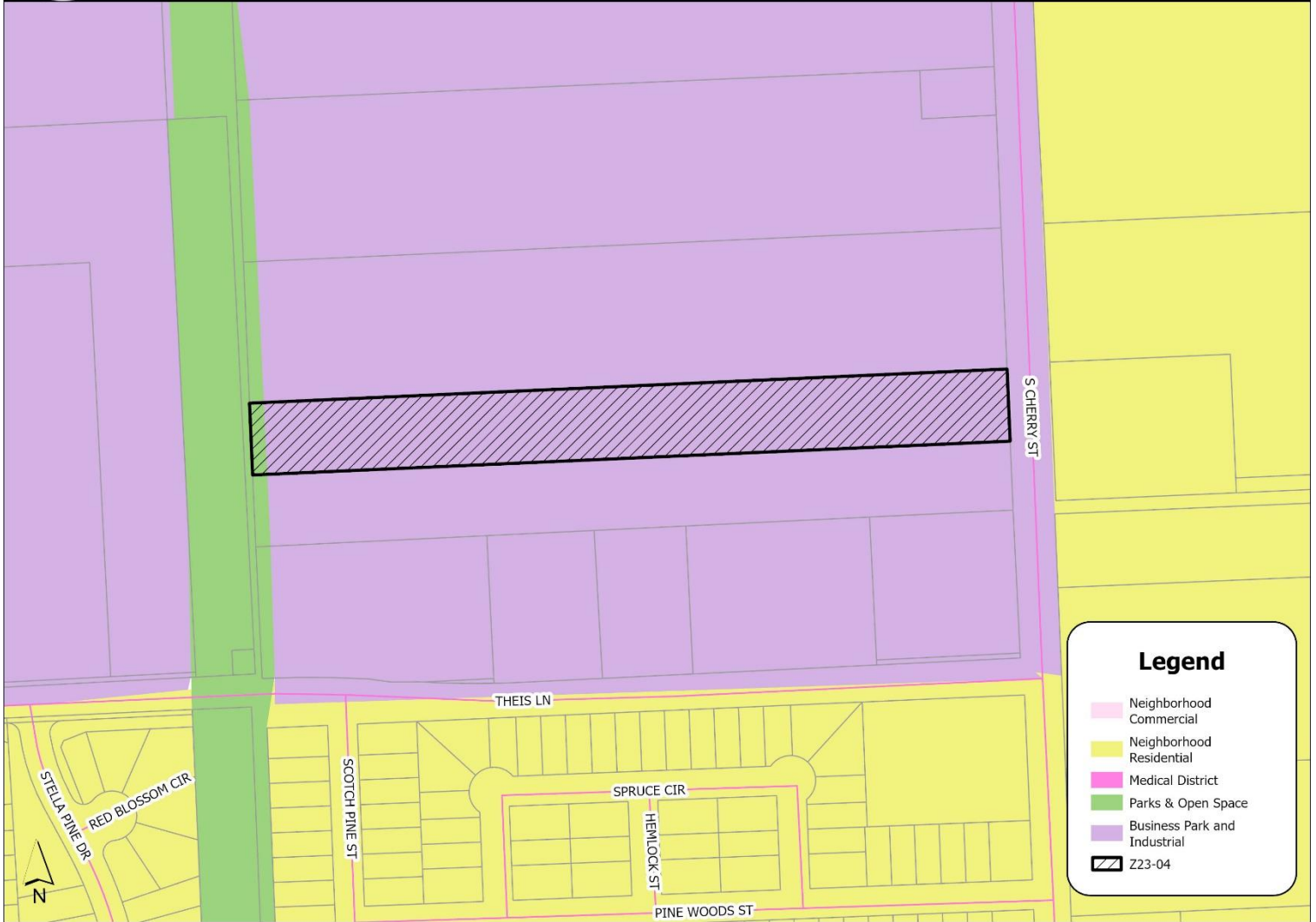


Exhibit "B"
Future Land Use Plan



Future Land Use Map



Legend

- Neighborhood Commercial
- Neighborhood Residential
- Medical District
- Parks & Open Space
- Business Park and Industrial
- Z23-04

Exhibit "C"
Zoning Map

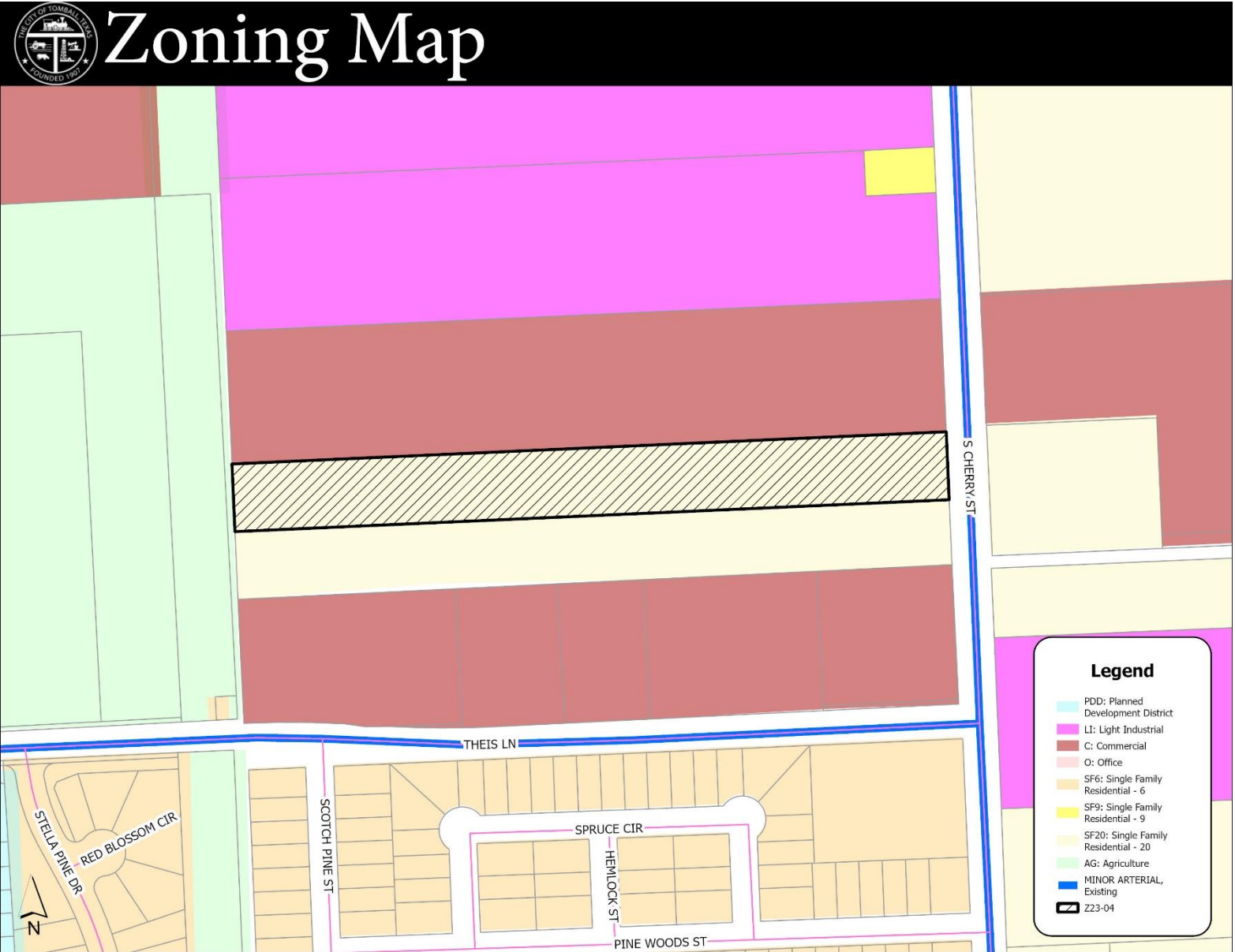


Exhibit "D"
Site Photo(s)

Subject Site



Neighbor (South)



Neighbor (North)

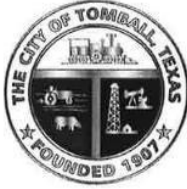


Neighbor (East)



Exhibit "E" Rezoning Application

Revised: 10/1/2022



APPLICATION FOR RE-ZONING

Community Development Department
Planning Division

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

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

DIGITAL PLAN SUBMITTALS:

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

WEBSITE: tomballtx.gov/securesend
USERNAME: **tombalcedd**
PASSWORD: **Tomball1**

Applicant

Name: Rosehill Estates, L.L.C., by George Jarquesy Title: Manager
Mailing Address: 1820 S. Cherry St. City: Tomball State: Texas
Zip: 77375 Contact: George Jarquesy
Phone: (281) 290 - 6655 Email: george@jarquesy.com

Owner

Name: Rosehill Estates, L.L.C., by George Jarquesy Title: Manager
Mailing Address: 1820 S. Cherry St. City: Tomball State: Texas
Zip: 77375 Contact: George Jarquesy
Phone: (281) 290- 6655 Email: george@jarquesy.com

Engineer/Surveyor (if applicable)

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

Description of Proposed Project: Use residence as office space, and for future commercial development.

Physical Location of Property: 1820 S. Cherry St Tomball, Tx 77375

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

Legal Description of Property: Lot Two, in Block One (1), of SWINGHAMMER/HAUCK SUBDIVISION

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

Current Zoning District: SF-20

City of Tomball, Texas 501 James Street, Tomball, Texas 77375 Phone: 281-290-1405 www.tomballtx.gov

Current Use of Property: Home Office

Proposed Zoning District: Commercial - C

Proposed Use of Property: Office

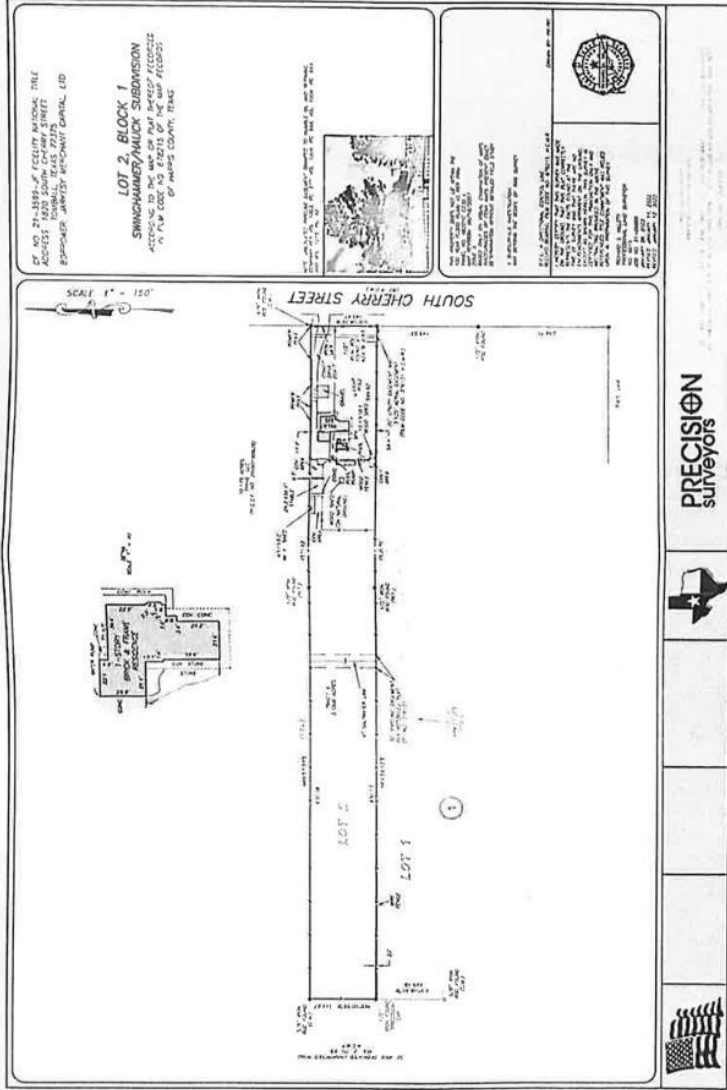
HCAD Identification Number: 13798600010002 Acreage: 5.1 Acre

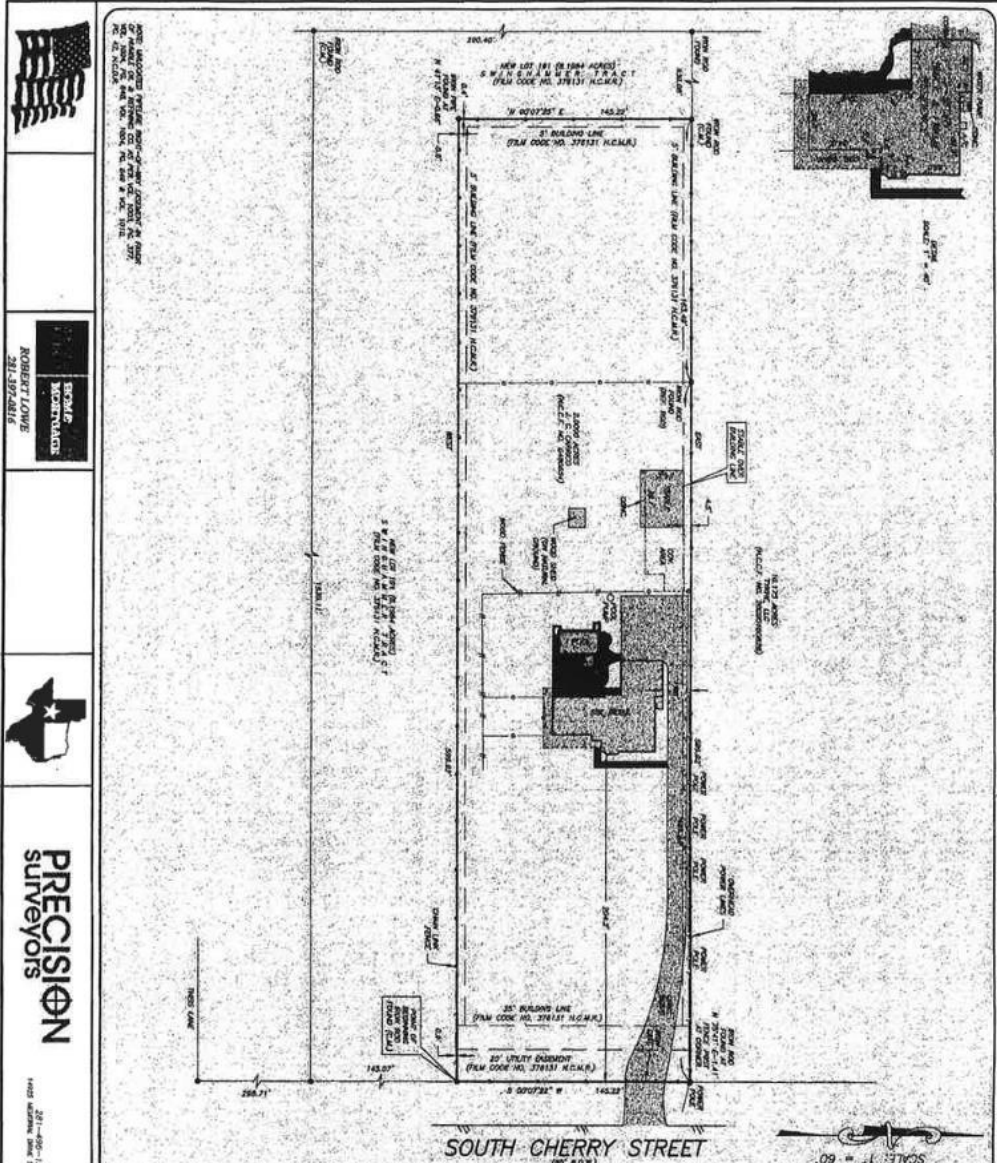
Please note: A courtesy notification sign will be placed on the subject property during the public hearing process and will be removed when the case has been processed.

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

X  _____ 3-14-2023
Signature of Applicant Date

X  _____ 3-14-2023
Signature of Owner Date





**SURFACE ONLY:
2.0000 ACRES
BEING OUT OF AND PART OF LOT 192
TOWNSHIP 10 NORTH
RANGE 10 WEST**

ACCORDING TO THE MAP OF PLAT THEREIN REFERRED TO IN THESE OFFICIAL RECORDS, THE SURFACE OF THE LAND SHOWN THEREON IS BEING OFFERED FOR SALE TO THE PUBLIC BY THE STATE OF TEXAS (SEE ATTACHED DEEDS AND BOUNDS)

OF NO. 102911-4000 STORAGE TITLE
ADDRESS: 10291 SOUTH LINDSAY STREET
BROOKHOLM, TARRANT COUNTY, TEXAS 76116

1-800-1-LANDSUNNY
www.precisionland.com
214-429-1500 FAX 214-429-1501
4402 W. LINDSAY STREET, SUITE 100, FORT WORTH, TEXAS 76116
214-429-1500 FAX 214-429-1501
1731 W. LINDSAY STREET, SUITE 100, FORT WORTH, TEXAS 76116

STATE OF TEXAS
COUNTY OF TARRANT
15364
LAND SURVEYING

THE PRESENT AND FUTURE OWNERS OF THE SURFACE OF THE LAND SHOWN ON THIS MAP, BEING THE SURFACE OF THE LAND SHOWN ON THIS MAP, HAVE AGREED TO SELL THE SURFACE OF THE LAND SHOWN ON THIS MAP TO THE PUBLIC BY THE STATE OF TEXAS (SEE ATTACHED DEEDS AND BOUNDS)

PRECISION SURVEYING, P.L.L.C.
1731 W. LINDSAY STREET, SUITE 100, FORT WORTH, TEXAS 76116
214-429-1500 FAX 214-429-1501

ROBERT L. LARSON
214-391-4517

PRECISION
surveyors



Rosehill Estates LLC, 1820 S. Cherry St. Tomball, Tx 77375

To the City of Tomball,

We are submitting this request asking to Re-zone our residential property to a commercial property.

We would like to use this residential property as our home office for our 5 Employees. We are willing to take necessary action to bring this space up to code standards. This Office space will not be open to the public and has no plans of ever doing so.

City Council Agenda Item Data Sheet

Meeting Date: 05/15/2023

Topic:

Conduct a Public Hearing and Consideration to Approve **Zoning Case Z23-05**: Request by Michael Kirtley represented by Sam Jackson of Black Mountain Energy Storage II LLC., to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 5 acre of land legally described as being all of Lot 265 in Tomball Townsite from Agricultural (AG) to Light Industrial (LI) zoning. The property is generally located within the 900-1000 blocks (west side) of S. Pitchford Road, within the City of Tomball, Harris County, Texas.

Conduct Public Hearing on **Zoning Case Z23-05**

Adopt, on First Reading, Ordinance No. 2023-11, an Ordinance of the City of Tomball, Texas, amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by rezoning approximately 5 acre of land legally described as being all of Lot 265 in Tomball Townsite from Agricultural (AG) to Light Industrial (LI) zoning. The property is generally located within the 900-1000 blocks (west side) of S. Pitchford Road, within the City of Tomball, Harris County, Texas; providing for severability; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters.

Background:

The subject property has been within the City Limits of Tomball since at least 1907. The property has remained vacant since that time. The applicants are requesting to rezone the subject property to Light Industrial in conjunction with a separate request for a Conditional Use Permit to allow an “Electric Storage System” land use. There has been a lot of interest in the development of an “Electric Storage System” within the City of Tomball, particularly the development of such a facility near the existing CenterPoint Energy substation located in the 900 block of S. Pitchford Road. This interest has led to the City Council adopting amendments to the City of Tomball Code of Ordinance earlier this year (Ordinance No. 2023-03). This ordinance created the “Electric Storage System” land use, which also provided a definition to the land use and specified that such uses shall only be permitted within the Light Industrial zoning district with the approval of a Conditional Use Permit. City staff met with the applicants on a few occasions over the past several months to discuss the potential for their development. During these meetings staff expressed the concerns discussed by the City Council which were brought up during separate meetings with a different company interested in a similar development located in the same general vicinity. Specifically, staff shared City Councils concerns regarding the safety of locating such facilities in such close proximity to Old Town Tomball and the nearby existing residences.

Origination:

Recommendation:

City staff recommends approval of Zoning Case Z23-05. Planning and Zoning Commission recommends Denial (2 Votes Aye, 3 Votes Nay).

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

FUNDING (IF APPLICABLE)

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

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

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

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

ORDINANCE NO. 2023-11

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING CHAPTER 50 (ZONING) OF THE TOMBALL CODE OF ORDINANCES BY CHANGING THE ZONING DISTRICT CLASSIFICATION OF APPROXIMATELY 5.00 ACRES OF LAND LEGALLY DESCRIBED AS BEING LOT 256 IN TOMBALL TOWNSITE FROM AGRICULTURAL (AG) ZONING DISTRICT TO LIGHT INDUSTRIAL (LI), BEING LOCATED WITHIN THE 900-1000 BLOCKS (WEST SIDE) OF S. PITCHFORD ROAD; PROVIDING FOR SEVERABILITY; PROVIDING FOR A PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF, MAKING FINDINGS OF FACT; AND PROVIDING FOR OTHER RELATED MATTERS.

Whereas, Michael Kirtley, represented by Sam Jackson of Black Mountain Energy Storage II LLC., has requested that approximately 5.00 acres of land legally described as being Lot 265 Tomball Townsite, generally located in the 900-1000 blocks (west side) of S. Pitchford Road, within the City of Tomball, Harris County, Texas (the “Property”), be rezoned; and

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

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

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

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

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

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

Section 2. The rezoning classification of the Property is hereby changed and is subject to the regulations, restrictions, and conditions hereafter set forth.

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

Section 4. This Ordinance shall in no manner amend, change, supplement or revise any provision of any ordinance of the City of Tomball, save and except the change in zoning classification for the Property as described above.

Section 5. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

Section 6. Any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction, shall be fined in an amount not to exceed \$2,000. Each day of violation shall constitute a separate offense.

FIRST READING:

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

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

SECOND READING:

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

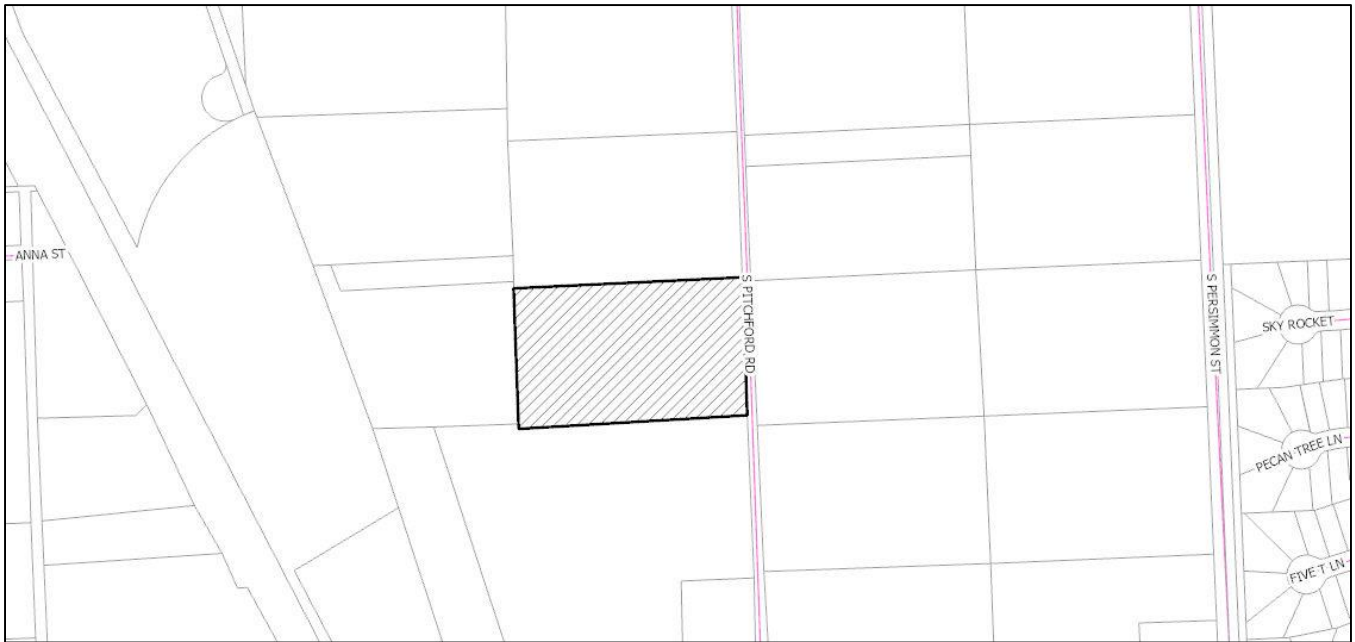
COUNCILMAN FORD	_____
COUNCILMAN STOLL	_____
COUNCILMAN DUNAGIN	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN PARR	_____

LORI KLEIN QUINN, Mayor

ATTEST:

Tracylynn Garcia, City Secretary

Exhibit "A"



Location: 900-1000 blocks (west side) of S. Pitchford Road. Being Lot of Tomball Townsite, City of Tomball, Harris County, Texas

**NOTICE OF PUBLIC HEARING
CITY OF TOMBALL
PLANNING & ZONING COMMISSION (P&Z)
MAY 8, 2023
&
CITY COUNCIL
MAY 15, 2023**



Notice is Hereby Given that a Public Hearing will be held by the P&Z of the City of Tomball on **Monday, May 8, 2023 at 6:00 P.M.** and by the City Council of the City of Tomball on **Monday, May 15, 2023 at 6:00 P.M.** at City Hall, 401 Market Street, Tomball Texas. On such dates, the P&Z and City Council will consider the following:

Zoning Case Z23-03: Request by Chris & Tiona Campbell, to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 4.94 acres of land legally described as being a portion of Lot 48 in Tomball Townsite from Single Family Residential Estate – 20 (SF-20-E) to General Retail (GR) zoning. The property is generally located within the 11100-11200 blocks (east side) of Rudolph Road, within the City of Tomball, Harris County, Texas.

Zoning Case Z23-04: Request by Rosehill Estates, LLC represented by George Jarkey to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 5.11 acres of land legally described as being Lot 2, Block 1 of Swinghammer/Hauck Subdivision from Single Family Residential Estate – 20 (SF-20-E) to Commercial (C). The property is located at 1820 S. Cherry Street, within the City of Tomball, Harris County, Texas.

Zoning Case Z23-05: Request by Michael Kirtley represented by Sam Jackson of Black Mountain Energy Storage II LLC., to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 5 acre of land legally described as being all of Lot 265 in Tomball Townsite from Agricultural (AG) to Light Industrial (LI) zoning. The property is generally located within the 900-1000 blocks (west side) of S. Pitchford Road, within the City of Tomball, Harris County, Texas.

Zoning Case Z23-06: Request by Red Grip LLC., represented by Mike Matheson to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 1.04 acres of land legally described as being Lot 72, Block 1 of Acquest Tomball Replat No.1 from Commercial (C) to Office (O) zoning. The property is generally located within the 1200-1300 blocks (south side) of Rudel Drive, within the City of Tomball, Harris County, Texas.

Case CUP23-03: Request by Chris & Tiona Campbell, for a Conditional Use Permit to allow “Residential Use” within General Retail (GR) zoning. Affecting approximately 4.94 acres of land legally described as being a portion of Lot 48 in Tomball Townsite. The property is generally located within the 11100-11200 blocks (east side) of Rudolph Road, within the City of Tomball, Harris County, Texas.

Case CUP23-04: Request by Michael Kirtley, represented by Sam Jackson of Black Mountain Energy Storage II LLC., for a Conditional Use Permit to allow an “Electric Storage System” within Light Industrial (LI) zoning. Affecting land legally described as being all of Lot 265 in Tomball Townsite. The property is generally located within the 900-1000 blocks (west side) of S. Pitchford Road, within the City of Tomball, Harris County, Texas.

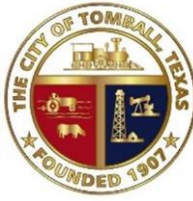
At the public hearings, parties of interest and citizens will have the opportunity to be heard. All citizens of the City of Tomball, and any other interested parties, are invited to attend. Applications are available for public inspection Monday through Friday, except holidays, and the Public Works Buildings,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

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

Jared Smith
Jared Smith
City Planner

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



City of Tomball
Community Development Department

«mailto»
«mail_addr_»
«mail_addr1»
«mail_city», «mail_state» «mail_zip»

NOTICE OF PUBLIC HEARING

RE: Zone Change Case Number Z23-05

04/17/2023

The Planning & Zoning Commission will hold a public hearing on **May 8, 2023 at 6:00 PM**, in City Council Chambers at City Hall, 401 Market Street, Tomball, Texas to recommend approval or denial to City Council on a request by Michael Kirtley represented by Sam Jackson of Black Mountain Energy Storage II LLC., to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 5 acre of land legally described as being all of Lot 265 in Tomball Townsite from Agricultural (AG) to Light Industrial (LI) zoning. The property is generally located within the 900-1000 blocks (west side) of S. Pitchford Road, within the City of Tomball, Harris County, Texas.

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

The attached map shows the area of this request. Only that area which is bounded by the cross-hatched line on the map is being considered for **rezoning**. The solid boundary line around the subject area is only a notification area. All owners of property within 300-feet of the subject property are required to be notified. Whether approved or denied by the Planning & Zoning Commission, this case will be heard by City Council for First Reading with public hearing on **May 15, 2023 at 6:00 PM** in City Council Chambers at City Hall, 401 Market Street, Tomball, Texas.

If you have any questions, please contact Jared Smith, City Planner at telephone 281-290-1491 or by email address jasmith@tomballtx.gov

For the PLANNING & ZONING COMMISSION
Please call (281) 290-1491 if you have any questions about this notice.

CASE #: Z23-05

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

Name: «mailto»
Parcel I.D.: «HCAD_NUM»
Address: «LocAddr»

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

Email: jasmith@tomballtx.gov

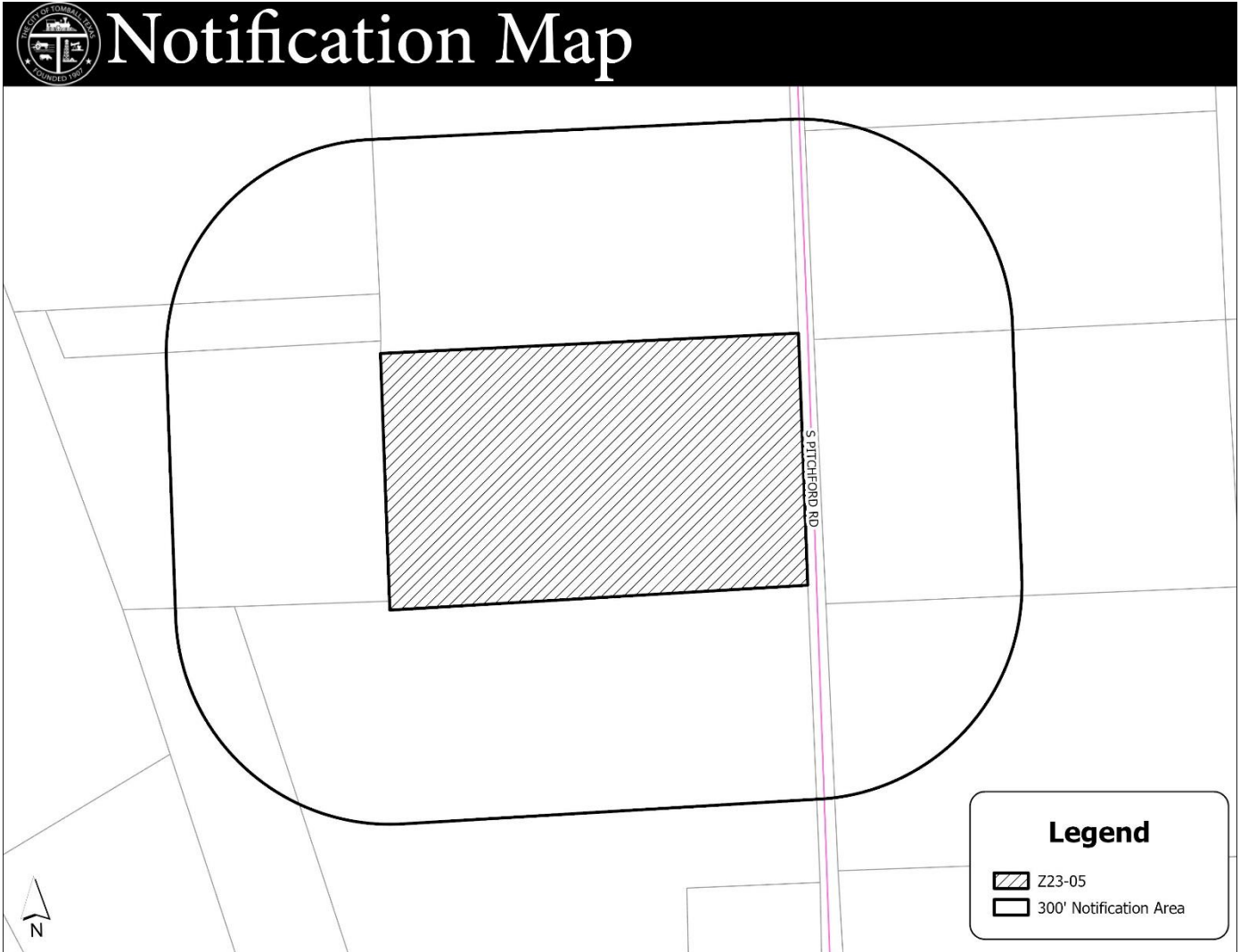
I am in favor I am opposed
Additional Comments:

Signature: _____



City of Tomball
Community Development Department

Z23-05





**Rezoning
Staff Report**

Planning & Zoning Commission Public Hearing Date: May 8, 2023
City Council Public Hearing Date: May 15, 2023

Rezoning Case: Z23-05
Property Owner(s): Michael Kirtley
Applicant(s): Black Mountain Energy Storage II LLC.
Legal Description: Lot 265 of Tomball Townsite
Location: 900-1000 blocks (west side) of S. Pitchford Road
Area: 5.00 acres
Comp Plan Designation: Business Park and Industrial (Exhibit “B”)
Present Zoning: Agricultural (AG) (Exhibit “C”)
Request: Rezone from Agricultural (AG) to the Light Industrial (LI) district
Adjacent Zoning & Land Uses:
North: Agricultural (AG)/ Vacant/Electric Utility Infrastructure
South: Agricultural (AG)/ Single Family residence
West: Agricultural (AG) / Single-family residence
East: Agricultural (AG) / Agricultural Accessory Structures

BACKGROUND

The subject property has been within the City Limits of Tomball since at least 1907. The property has remained vacant since that time. The applicants are requesting to rezone the subject property to Light Industrial in conjunction with a separate request for a Conditional Use Permit to allow an “Electric Storage System” land use. There has been a lot of interest in the development of an “Electric Storage System” within the City of Tomball, particularly the development of such a facility near the existing CenterPoint Energy substation located in the 900 block of S. Pitchford Road. This interest has led to the City Council adopting amendments to the City of Tomball Code of Ordinance earlier this year (Ordinance No. 2023-03). This ordinance created the “Electric Storage System” land use, which also provided a definition to the land use and specified that such uses shall only be permitted within the Light Industrial zoning district with the approval of a Conditional Use Permit. City staff met with the applicants on a few occasions over the past several months to discuss the potential for their development. During these meetings staff expressed the concerns discussed by the City Council which were brought up during separate meetings with a different company interested in a similar development located in the same general vicinity. Specifically, staff shared City Councils concerns regarding the safety of locating such facilities in such close proximity to Old Town Tomball and the nearby existing residences.

ANALYSIS

Description: The subject property comprises 5.00 acres, located in the 900-1000 block (west side) of S. Pitchford Road. Currently the subject property is located within the Agricultural zoning district and has been within this zoning classification since the City of Tomball adopted zoning in 2008. All properties within the immediate vicinity are also located within the Agricultural zoning district. The neighboring property to the north is currently vacant property owned by CenterPoint Energy, this property is predominantly vacant aside from the electric utility infrastructure which is extending from the neighboring substation. The neighboring property to the south as well as the property immediately east of the subject property located on the east side of S. Pitchford Road are occupied by single family residences. The neighboring property to the west according to Harris County Appraisal District records is currently occupied by accessory agricultural structures.

Comprehensive Plan Recommendation: The property is designated as “Business Park & Industrial” by the Comprehensive Plans Future Land Use Map. This Business Park & Industrial category is intended to create opportunities for employment. The uses that are to be promoted in this designated land use should be uses that benefit from proximity to major thoroughfares which provide convenient access for vehicle traffic, including freight traffic.

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

The Comprehensive Plan recommends the zoning districts of – Light Industrial (LI), Commercial (C), Office (O), or Planned Developments (PD) for the Business Park & Industrial land use category.

Staff Review Comments:

The request to rezone the subject property to Light Industrial (LI) is in direct alignment with the Future Land Use Plans objective of establishing the Business Park & Industrial land use category on the subject property. However, there are development concerns pertaining to access to an industrial site from S. Pitchford Road. As mentioned in the Comprehensive Plan, additional consideration should be taken toward the location of Business Park & Industrial land uses when evaluating the proximity of industrial sites to major thoroughfares. Such projects benefit most from sites that can provide convenient access to major thoroughfares for vehicle traffic, including freight traffic. Given that S. Pitchford Road currently has a pavement width of approximately 16-feet wide, it is not presently suited for freight traffic. Any potential development within the proposed Light Industrial zoning district which may generate freight traffic would likely require the submission of a traffic impact analysis and would potentially require improvement to S. Pitchford Road prior to the approval of Site/Building plans by the City of Tomball. This concern is ultimately to provide context and should hold no bearing on the decision of whether Light Industrial zoning is appropriate for the parcel. As any such improvement to S. Pitchford will be decided at the time of development.

PUBLIC COMMENT

A Notice of Public Hearing was published in the paper and property owners within 300 feet of the project site were mailed notification of this proposal on April 18, 2023. Any public comment forms will be provided in the Planning & Zoning Commission and City Council packets or during the public hearing.

RECOMMENDATION

Based on the findings outlined in the analysis section of this staff report, City staff recommends approval of Zoning Case Z23-05.

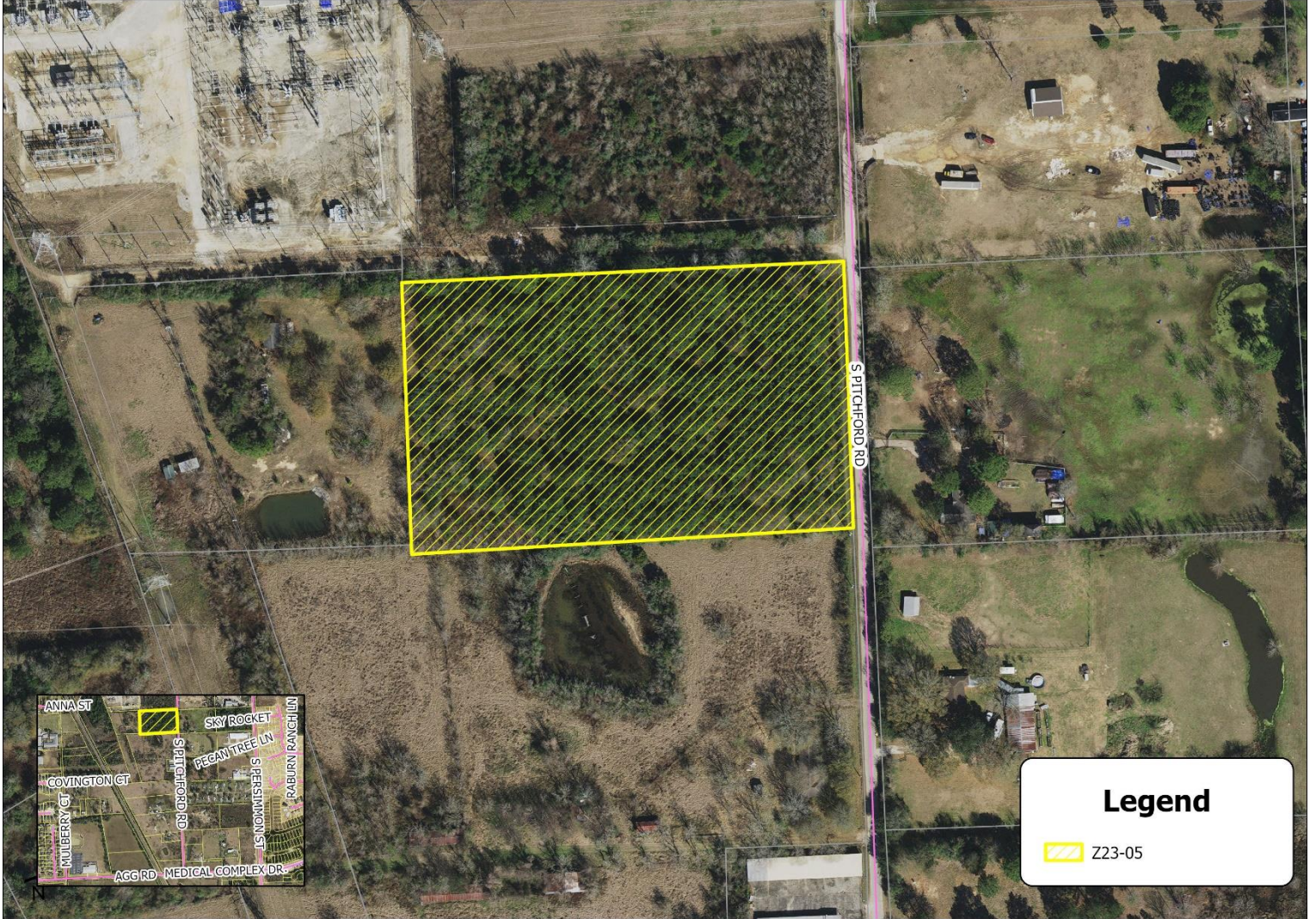
EXHIBITS

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

Exhibit "A"
Aerial Location Map



Location Map



Legend


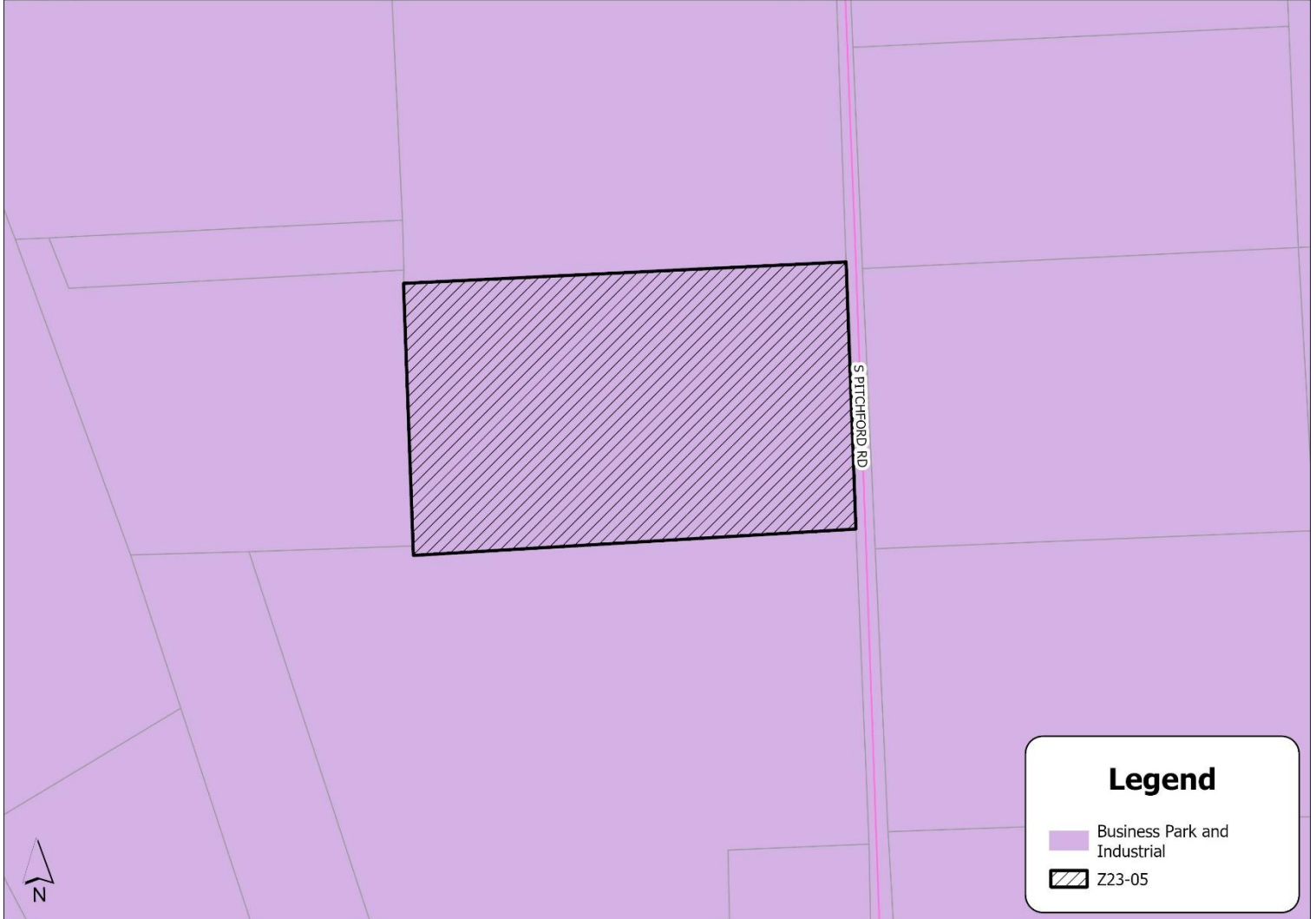
 Z23-05

Exhibit "B"
Future Land Use Plan



Future Land Use Map



Legend

- Business Park and Industrial
- Z23-05

Exhibit "C"
Zoning Map

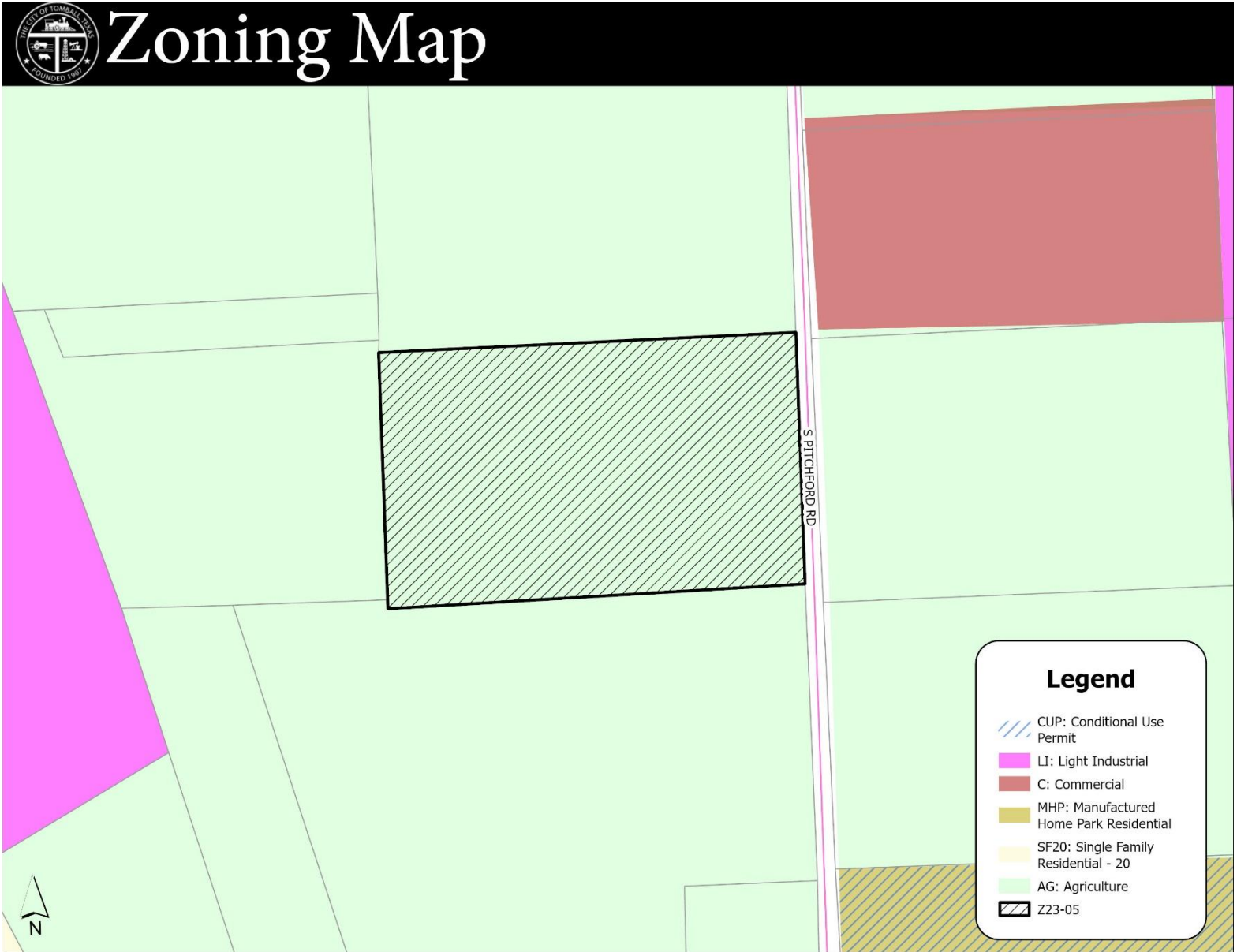


Exhibit "D"
Site Photo(s)

Subject Site



Neighbor (East)



Neighbor (South)



Neighbor (North)

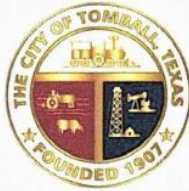


Neighbor (Northwest)



Exhibit "E"
Rezoning Application

Revised: 10/1/2022



APPLICATION FOR RE-ZONING

Community Development Department
Planning Division

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

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

DIGITAL PLAN SUBMITTALS:

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

WEBSITE: tomballtx.gov/securesend
USERNAME: tomballedd
PASSWORD: Tomball

Applicant

Name: Sam Jackson Title: Director of Development
Mailing Address: 425 Houston Street, Suite 400 City: Fort Worth State: Texas
Zip: 76102 Contact: _____
Phone: (215) 022-0210 Email: sam.jackson@blackmtm.com

Owner

Name: Michael W. Kirtley Title: Landowner
Mailing Address: 15714 Oxenford Dr. City: Tomball State: Texas
Zip: 77377 Contact: _____
Phone: (281) 932-4904 Email: mke@houstone@yahoo.com

Engineer/Surveyor (if applicable)

Name: Justin W. Cantwell, RPLS Title: Survey Division Manager
Mailing Address: 8312 Upland Avenue City: Lubbock State: Texas
Zip: 79424 Contact: _____
Phone: (806) 570-9899 Fax: (____) _____ Email: jcantwell@centerlineengineering.net

Description of Proposed Project: Utility-scale battery energy storage system (BESS) facility

Physical Location of Property: Property on the southwest corner of S. Live Oak St. and Pitchford Rd.
[General Location – approximate distance to nearest existing street corner]

Legal Description of Property: All of lot 265 of Tomball Townsite - Volume 2, Page 265, Deed Records of Harris County
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]

Current Zoning District: Agriculture

City of Tomball, Texas 501 James Street, Tomball, Texas 77375 Phone: 281-290-1405 www.tomballtx.gov

Current Use of Property: Unoccupied vegetation

Proposed Zoning District: Light Industrial

Proposed Use of Property: Battery Energy Storage System (BESS)

HCAD Identification Number: 0352880000265 Acreage: 4.8

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

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

Samuel Jackson 3/15/2023
Signature of Applicant Date

Michael Kutley 3/21/2023
Signature of Owner Date

BC Global LP

Alberto P. Cardenas, Jr. beto@bcglobal.law
Office +1.713.731.1050 Mobile +1.713.818.2497

March 16, 2023

Mr. Jared Smith, City Planner
City of Tomball
401 Market Street
Tomball, Texas 77375

Dear Mr. Smith:

Please accept this letter together with the attached, completed applications for Re-Zoning and a Conditional Use Permit on behalf of our client GridStor, and the applicant company Black Mountain Energy Storage II, LLC (BMES), for consideration by the City of Tomball, Texas.

BMES and its development partner GridStor are proposing to develop and construct a 200 MW Battery Energy Storage System (BESS) within the City. The proposed project, with a targeted commercial operations date of June 2025, is being considered on a single, contiguous, five-acre parcel located at the corner of Pitchford Road and South Live Oak Street (Harris County Appraisal District Account No. 0352880000265). This land, secured by BMES via a Lease Agreement, had been previously used for energy related purposes and is currently zoned by the City for agricultural use. Should the project proceed, it would be adjacent to CenterPoint Energy's substation and provide connectivity to the Electric Reliability Council of Texas (ERCOT) transmission grid via the City's substation, providing ERCOT more flexibility to respond to extreme events and thereby helping reduce energy power prices for consumers.

We understand that the City recently amended its Code of Ordinances to define and allow "Energy Storage Systems" within Light Industrial Zones. Accordingly, our client is therefore requesting Re-Zoning of the property from Agricultural to Light Industrial. Further, we recognize that a Conditional Use Permit would be required and have therefore paired and provided both applications for the City's consideration.

Included with this letter is additional information we believe will be helpful to the City as they review these applications. We look forward to working with you in the coming weeks to continue the discussions for this proposed project and its economic development opportunities.

Respectfully Submitted,



Alberto P. Cardenas, Jr.

BC Global LP
Law Offices of Alberto P. Cardenas, Jr., PLLC
Texas New York Washington

The Niels Esperson Building
808 Travis Street, Suite 1424
Houston, TX 77002
www.bcglobal.law

Proposed Project Background and Value Proposition

BMES filed an Interconnection Application with CenterPoint and ERCOT on March 22, 2022, to initiate the electrical study process required to support the interconnection of the proposed project to the existing CenterPoint Tomball substation. BMES and its employees have over 6 years of experience working with CenterPoint in scoping and interconnecting Battery Energy Storage Systems within Texas.

The project company has commissioned the following environmental studies to further de-risk the project site and ensure all environmental concerns are addressed: Phase 1 Environmental Site Assessment, Critical Issues Analysis, Wetland Delineation & Determination Report, Threatened & Endangered Species Report, and a Cultural & Historical Resources Report. All environmental studies have come back favorable, with no adverse environmental impacts anticipated as a result of development.

BESS provide significant benefits to Texans and the electric grid they depend upon, including:

Firm, dispatchable power to enhance grid reliability and balance the system. BESS delivers instantaneous power at times of peak energy demand, improving grid reliability and helping keep the lights on for homes, business owners, commercial and governmental facilities, and industrial users alike.

Energy to support Texas' economic development. Houston is forecasted to see a 10-15% increase in regional energy demand in the next 10 years, with a decline in firm power as older and uneconomic coal and gas plants retire and go offline. BESS will play a key role in replacing aging plants and supporting Texas' continued growth and economic development.

Energy bill savings by storing energy when power prices are low and discharging during high demand events, providing more power supply when needed the most.

Battery energy storage provides significant local investment opportunities in Texas communities, supports local landowners via land leases or acquisitions, and broadens local tax bases. This project is expected to provide tens of millions of dollars of property tax benefit to the City of Tomball and Harris County over two decades.

Technical Summary: Battery Energy Storage Systems

Battery Energy Storage Systems are the leading technology for the storage of electricity to provide resiliency to the electric grid. The main battery technology is lithium-ion and within that the two main chemistries are Nickel Magnesium Cobalt (NMC) and lithium iron phosphate (LFP). For this project, LFP is the intended chemistry to be used due to its safer properties.

The most basic block of a battery is the battery cell. Each cell is combined with other cells into a battery module which provides a more usable form factor for energy systems. These modules are

installed in racks inside a metal enclosure. These metal enclosures typically are 20 to 40 ft in length, 6-8 ft wide and 8 ft tall. An enclosure typically provides around 3-5 Megawatt Hours of energy.

A proposed project consists of many number of enclosures to create the required energy capacity. Since the batteries provide direct current (DC) power, an inverter is needed to convert the DC power into alternating current (AC) power. Inverters typically range from 1 to 5MW in size and may have one or several enclosures connected to each. Given the project is tied to the utility grid, the AC power is stepped up from ~600-690VAC from the inverter to 34.5kV or higher to tie into the grid. This step up is performed by the power transformers and may go through two sets (medium voltage transformer and a main power transformer). The main power transformer is located in a substation on site which provides high voltage control and protection.

The proposed project will have a site controller that will safely operate the batteries and all associated equipment. Market signals are sent to the site controller for the project to follow. Additionally, there will be a robust fire safety system for the site.

Fire Safety Considerations

National Safety Standards: One of the top considerations for battery energy storage systems is safety. The National Fire Protection Association and Underwriters Laboratory have established robust safety standards specific to lithium-ion battery energy storage systems. The most relevant standards are overviewed below:

Standard	Description (Project Context)	Scope
UL 9540	Safety standard for energy storage systems and equipment. Aggregation of 1973, 1741, and fire safety at a system level, not just stand-alone equipment.	System
UL 9540A	Standard for Test Method for Evaluating Thermal Runaway Fire Propagation in Battery Energy Storage Systems, prescribes procedure to perform cells –large scale fire testing.	DC Block
UL 1973	Safety standard for batteries used in stationary applications. Includes mechanical, electrical, and fire tests at cell level.	Inverter
UL 1741	Complement to IEEE 1547 –Interconnection of DR, functional, performance, and safety requirements for inverters.	Cells, Modules
NFPA 855	Standard for the installation of energy storage systems and references UL9540A test method	System/Facility

The Proposed Project will meet or exceed all applicable national safety standards.

Fire Safety Features: The industry has developed a multi-layered approach for monitoring and mitigating any fire safety event. As part of our approach to the project design, the safety features will be designed into an integrated system that is specific to the project needs.

Additional highlights and monitoring and mitigation features that may be deployed include:

- Battery Management System – continuously monitors health and safety of battery and provides controlled shutdown in abnormal conditions to provide early-fault detection and mitigation
- Smoke and heat detectors – may be designed either internally or externally to enclosure, providing detection and annunciation of an abnormal event.
- Gas detectors – monitors and detects off-gassing that may indicate early-stage abnormal event and provides controlled shutdown and ventilation to mitigate an explosive condition.
- Layout Separation Distance – UL 9540a is a large-scale fire test standard that determines the minimum separation distance between enclosures to prevent fire propagation. This separation distance is then utilized in the site spacing between battery enclosures.
- Module and Enclosure – batteries are encased in metal shells and enclosures to reduce propagation.
- Gas Ventilation/Deflagration Panels – prohibits the buildup of gases reaching unsafe conditions within an enclosure or allows controlled release of gases.
- Water suppression – water may be utilized to control fire propagation.
- Electrical safety design – devices such as fuses, circuit breakers, surge protection device, insulation monitoring device and others protect the electrical system from a fault condition.

Emergency Response Plan: An emergency response plan is a project specific document that details the procedure operators, first responders, and other stakeholders must follow during a safety event. For the project, there are 3 phases for the ERP including:

During Construction – City, Fire Department, Developer, equipment manufacturers, and fire safety consultants work together to establish the plan requirements based on land-use and resource protection limitations. This may include proximity to populated area(s), sensitive natural resources, and critical infrastructure. Once the requirements are established, the stakeholders will prepare a site-specific emergency response plan. The Plan will define the roles and responsibilities and covers potential emergency scenarios including fire. It is common to establish an agreed upon fire command center location onsite for first responders. The fire command center will typically include access for first responders to view the operating data of the site including cell temperatures, battery operating status, alarm status, and many other data points to help assess the situation.

Commissioning – During this phase, there will be onsite safety training of fire personnel and onsite project staff and covers all components of the emergency response plan.

Operations – During this phase, the emergency response plan is implemented. There will be ongoing drills, training, and refreshing of the plan as needed.

Hazard Mitigation: A hazard analysis report will be conducted to evaluate the site-specific impacts of a battery installation. The hazard analysis report will account for the expected lithium-ion battery technology and its data including temperature and quantity and types of gases generated during a thermal runaway event. This Report will be used to analyze impact to key receptors that have been identified. The goal of the hazard analysis is to provide quantitative analysis to the potential impacts of the project as well as provide for recommended mitigation strategies to minimize those impacts.

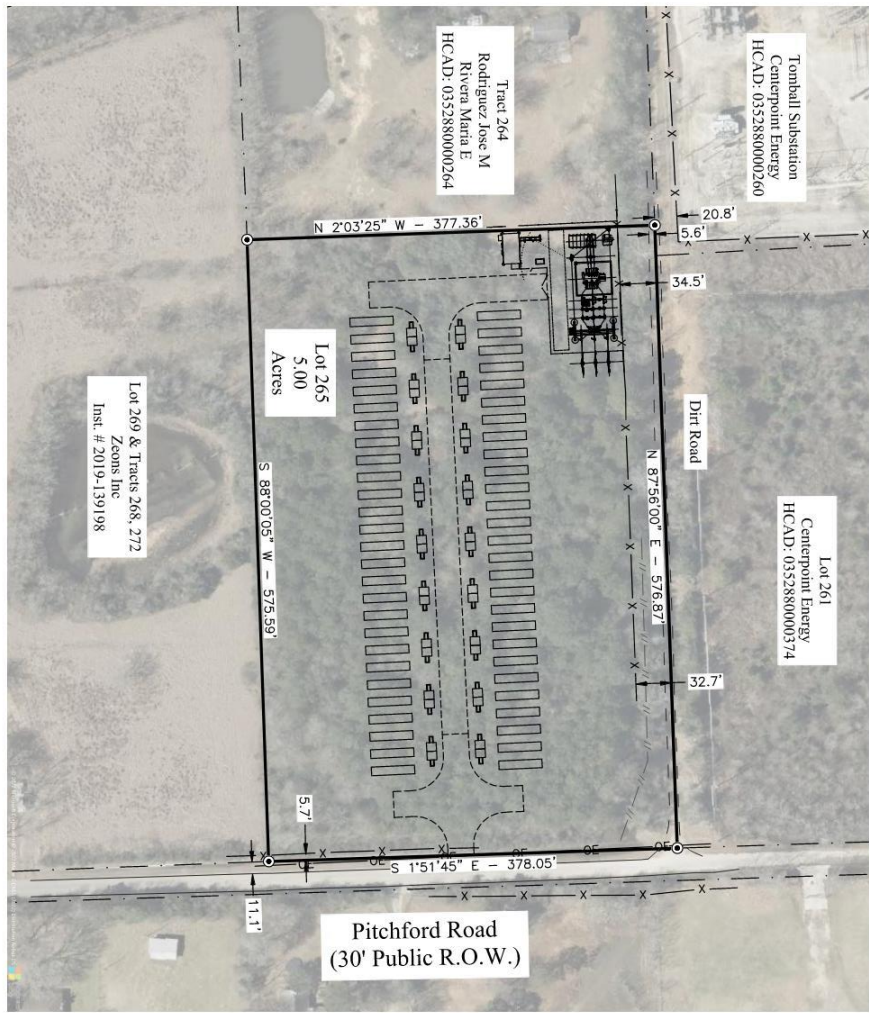
Site Configuration (Preliminary Design):



Site Configuration (Digital Renderings):



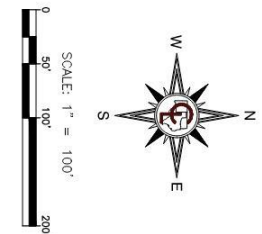
Note: Renderings are not specific to proposed site and are representative of BESS facilities.



- LEGEND**
- Found 1/2" Iron Rod
 - Property Line
 - Lot Line
 - x-x- Fence Line
 - |-|- Pipeline

HARRIS COUNTY, TEXAS

All of Lot Two Hundred Sixty-Five (265) of Tomball Townsite, a subdivision in Harris County, Texas, according to the Map or Plat thereof recorded in Volume 2, Page 265, Deed Records of Harris County, Texas.



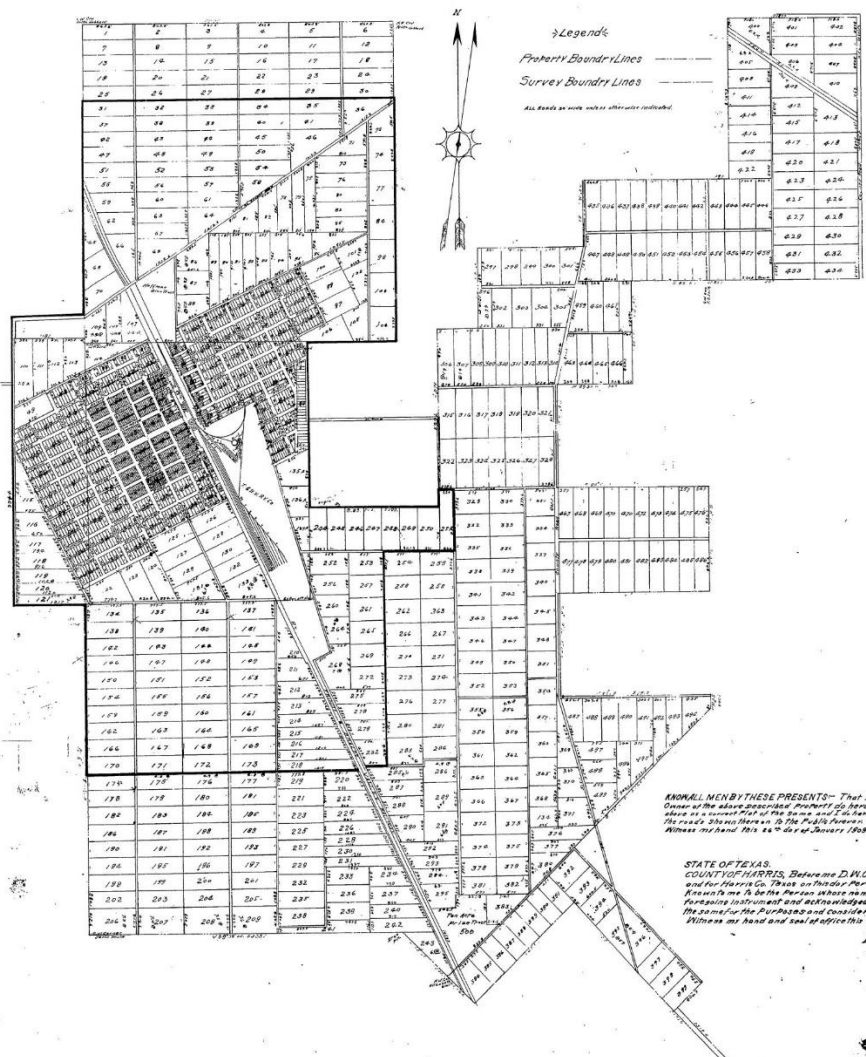
SITE LAYOUT

Merchant Site
 GF# 181873TTX
 Lot 265
 Tomball, Harris County, Texas

Bearings Based on GPS Observations; Texas State Plane Coordinate System, South Central Zone, NAD 83 Datum

ZENTRUM ENGINEERING & CONSULTING, LLC
 ENGINEERING & CONSULTING, LLC
 4100 W. Loop South, Suite 1000
 Houston, Texas 77056
 (713) 476-8888
 FAX: (713) 476-8888
 zentrum@zentrume.com
 zentrum.com

ZENTRUM ENGINEERING & CONSULTING, LLC
 ENGINEERING & CONSULTING, LLC
 4100 W. Loop South, Suite 1000
 Houston, Texas 77056
 (713) 476-8888
 FAX: (713) 476-8888
 zentrum@zentrume.com
 zentrum.com



KNOW ALL MEN BY THESE PRESENTS: That I, *Wm. Malone*, Owner of the above described property do hereby certify that the above is a correct plat of the same and I do hereby certify that the same is the property of the said *Wm. Malone*. Witness my hand and seal of office this 26th day of *January*, 1908.

William Malone

STATE OF TEXAS,
COUNTY OF HARRIS, Before me, *D.W. COOLEY*, a Notary Public,
and for purposes of this instrument, *Wm. Malone*
Knows me to be the Person whose name is subscribed to the
 foregoing instrument and acknowledged to me that he executed
 the same for the purposes and considerations therein expressed.
 Witness my hand and seal of office this 26th day of *January*, 1908.

D.W. COOLEY
Notary Public, Harris Co., Tex.

FIVE ACRE TRACTS TOM BALL TOWNSITE.

Date Nov 15 1907. ORIGINAL Scale 1" = 40' reduced to 1" = 80'
M 48285.
Filed for record May 16, 1908 at 2:25 P.M. Recorded AMAL 910 at 5 P.M.
Geo. Jones, County Clerk, and for Harris County, Texas.
B. H. Mingo, Deputy

65

Metes and Bounds

BEING all of Lot Two Hundred Sixty-five (265) of Tomball Townsite Addition to Harris County, Texas, as recorded in Volume 2, Page 265, Deed Records of Harris County, Texas, ad being further described by metes and bounds as follows:

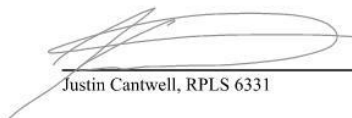
BEGINNING at a 1/2 Inch Iron Rod Found for the Northeast Corner in the West Right-of-Way line Pitchford Road, same being the Southeast Corner of Lot 261 of said Tomball Townsite;

THENCE South 1°51'45" East - 378.05 feet along the West Right-of-Way line of said Pitchford Road to a 1/2 Inch Iron Rod Found for the Southeast Corner, same being the Northernmost Northeast Corner of Lot 269 of said Tomball Townsite;

THENCE South 88°00'05" West - 575.59 feet along the North line of said Lot 269 to a 1/2 Inch Iron Rod Found for the Southwest Corner, same being the Southeast Corner of Lot 264 of said Tomball Townsite;

THENCE North 2°03'25" West - 377.36 feet along the East line of said Lot 264 to a 1/21Inch Iron Rod Found for the Northwest Corner, same being the Northeast Corner of said Lot 264;

THENCE North 87°56'00" East - 576.87 feet along the South line of said Lot 261 to the POINT OF BEGINNING and containing within these calls a calculated area of 5.00 Acres more or less.


Justin Cantwell, RPLS 6331

Date: March 15, 2023





USA

CONSULTANT

SunGrid
SUN GRID ENERGY SERVICES

10000 W. 50th Street, Suite 100
Overland Park, KS 66204
1-800-455-1145
www.sungridenergy.com

CLIENT

BLACK MOUNTAIN
ENERGY SERVICES

BLACK MOUNTAIN
www.blackmountainenergy.com
Fort Worth, TX 76102

REGISTRATION

ISSUE/REVISION

NO.	DATE	BY	CHKD BY	DESCRIPTION
1	2/23/2018	JK	JK	ISSUE FOR PERMIT
2	7/16/2018	JK	JK	REVISED PER PERMIT

PROJECT NUMBER
9912

PROJECT
MERCHANT BESS
200 SHAWNEE DR. SHAWNEE, KS 66201

SHEET TITLE
GENERAL SITE PLAN

SCALE: 1"=6'

SHEET NUMBER: REV. A

9912 MERCHANT-ELE-PLAN-001



USA

CONSULTANT

SunGrid
SUN GRID ENERGY SERVICES

10000 W. 50th Street, Suite 100
Overland Park, KS 66204
1-800-455-1145
www.sungridenergy.com

CLIENT

BLACK MOUNTAIN
ENERGY SERVICES

BLACK MOUNTAIN
www.blackmountainenergy.com
Fort Worth, TX 76102

REGISTRATION

ISSUE/REVISION

NO.	DATE	BY	CHKD BY	DESCRIPTION
1	2/23/2018	JK	JK	ISSUE FOR PERMIT
2	7/16/2018	JK	JK	REVISED PER PERMIT

PROJECT NUMBER
9912

PROJECT
MERCHANT BESS
200 SHAWNEE DR. SHAWNEE, KS 66201

SHEET TITLE
GENERAL SITE PLAN

SCALE: 1"=6'

SHEET NUMBER: REV. A

9912 MERCHANT-ELE-PLAN-002

City Council Agenda Item Data Sheet

Meeting Date: 05/15/2023

Topic:

Consideration to approve **Zoning Case Z23-06**: Request by Red Grip LLC., represented by Mike Matheson to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 1.04 acres of land legally described as being Lot 72, Block 1 of Acquest Tomball Replat No.1 from Commercial (C) to Office (O) zoning. The property is generally located within the 1200-1300 blocks (south side) of Rudel Drive, within the City of Tomball, Harris County, Texas.

Conduct Public Hearing on **Zoning Case Z23-06**

Adopt, on First Reading, Ordinance No. 2023-12, an Ordinance of the City of Tomball, Texas, amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by rezoning approximately 1.04 acres of land legally described as being Lot 72, Block 1 of Acquest Tomball Replat No.1 from Commercial (C) to Office (O) zoning. The property is generally located within the 1200-1300 blocks (south side) of Rudel Drive, within the City of Tomball, Harris County, Texas; providing for severability; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters.

Background:

The subject property is presently vacant. City staff has met on multiple occasions over the course of the past year to discuss the potential development of an office complex on the subject property. According to information provided by the applicant, there are plans to construct two office buildings which will be divided into suites. The intention is to split these buildings by property boundaries so that each respective suite occupant can own their respective office spaces. To achieve this goal and create the desired number of suites for purchase the applicants are requesting to rezone to Office (O) zoning which has a minimum lot area of 6,000 square feet as opposed to the current Commercial (C) zoning minimum lot area of 10,000 square feet.

Origination:

Recommendation:

City staff recommends approval of Zoning Case Z23-06. Planning and Zoning Commission recommends Approval Unanimously (5 Votes Aye).

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

FUNDING (IF APPLICABLE)

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

Yes: _____ No: _____

If yes, specify Account Number: # _____

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

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

ORDINANCE NO. 2023-12

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING CHAPTER 50 (ZONING) OF THE TOMBALL CODE OF ORDINANCES BY CHANGING THE ZONING DISTRICT CLASSIFICATION OF APPROXIMATELY 1.04 ACRES OF LAND LEGALLY DESCRIBED AS BEING LOT 72, BLOCK 1 OF ACQUEST TOMBALL REPLAT NO. 1 FROM COMMERCIAL (C) ZONING DISTRICT TO OFFICE (O), BEING LOCATED WITHIN THE 1200-1300 BLOCKS (SOUTH SIDE) OF RUDEL DRIVE; PROVIDING FOR SEVERABILITY; PROVIDING FOR A PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF, MAKING FINDINGS OF FACT; AND PROVIDING FOR OTHER RELATED MATTERS.

Whereas, Red Grip LLC, represented by Mike Matheson, has requested that approximately 1.04 acres of land legally described as being Lot 72, Block 1 of Acquest Tomball Replat No. 1, generally located in the 1200-1300 blocks (south side) of Rudel Drive, within the City of Tomball, Harris County, Texas (the “Property”), be rezoned; and

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

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

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

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

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

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

Section 2. The rezoning classification of the Property is hereby changed and is subject to the regulations, restrictions, and conditions hereafter set forth.

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

Section 4. This Ordinance shall in no manner amend, change, supplement or revise any provision of any ordinance of the City of Tomball, save and except the change in zoning classification for the Property as described above.

Section 5. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

Section 6. Any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction, shall be fined in an amount not to exceed \$2,000. Each day of violation shall constitute a separate offense.

FIRST READING:

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

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

SECOND READING:

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

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

LORI KLEIN QUINN, Mayor

ATTEST:

Tracylynn Garcia, City Secretary

Exhibit "A"



Location: 1200-1300 block (south side) of Rudel Dr. Being Lot 72, Block 1 of Acquest Tomball Replat No. 1, City of Tomball, Harris County, Texas

**NOTICE OF PUBLIC HEARING
CITY OF TOMBALL
PLANNING & ZONING COMMISSION (P&Z)
MAY 8, 2023
&
CITY COUNCIL
MAY 15, 2023**



Notice is Hereby Given that a Public Hearing will be held by the P&Z of the City of Tomball on **Monday, May 8, 2023 at 6:00 P.M.** and by the City Council of the City of Tomball on **Monday, May 15, 2023 at 6:00 P.M.** at City Hall, 401 Market Street, Tomball Texas. On such dates, the P&Z and City Council will consider the following:

Zoning Case Z23-03: Request by Chris & Tiona Campbell, to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 4.94 acres of land legally described as being a portion of Lot 48 in Tomball Townsite from Single Family Residential Estate – 20 (SF-20-E) to General Retail (GR) zoning. The property is generally located within the 11100-11200 blocks (east side) of Rudolph Road, within the City of Tomball, Harris County, Texas.

Zoning Case Z23-04: Request by Rosehill Estates, LLC represented by George Jarkesy to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 5.11 acres of land legally described as being Lot 2, Block 1 of Swinghammer/Hauck Subdivision from Single Family Residential Estate – 20 (SF-20-E) to Commercial (C). The property is located at 1820 S. Cherry Street, within the City of Tomball, Harris County, Texas.

Zoning Case Z23-05: Request by Michael Kirtley represented by Sam Jackson of Black Mountain Energy Storage II LLC., to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 5 acre of land legally described as being all of Lot 265 in Tomball Townsite from Agricultural (AG) to Light Industrial (LI) zoning. The property is generally located within the 900-1000 blocks (west side) of S. Pitchford Road, within the City of Tomball, Harris County, Texas.

Zoning Case Z23-06: Request by Red Grip LLC., represented by Mike Matheson to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 1.04 acres of land legally described as being Lot 72, Block 1 of Acquest Tomball Replat No.1 from Commercial (C) to Office (O) zoning. The property is generally located within the 1200-1300 blocks (south side) of Rudel Drive, within the City of Tomball, Harris County, Texas.

Case CUP23-03: Request by Chris & Tiona Campbell, for a Conditional Use Permit to allow “Residential Use” within General Retail (GR) zoning. Affecting approximately 4.94 acres of land legally described as being a portion of Lot 48 in Tomball Townsite. The property is generally located within the 11100-11200 blocks (east side) of Rudolph Road, within the City of Tomball, Harris County, Texas.

Case CUP23-04: Request by Michael Kirtley, represented by Sam Jackson of Black Mountain Energy Storage II LLC., for a Conditional Use Permit to allow an “Electric Storage System” within Light Industrial (LI) zoning. Affecting land legally described as being all of Lot 265 in Tomball Townsite. The property is generally located within the 900-1000 blocks (west side) of S. Pitchford Road, within the City of Tomball, Harris County, Texas.

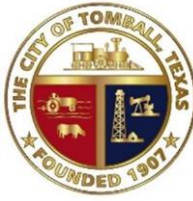
At the public hearings, parties of interest and citizens will have the opportunity to be heard. All citizens of the City of Tomball, and any other interested parties, are invited to attend. Applications are available for public inspection Monday through Friday, except holidays, and the Public Works Buildings,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

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

Jared Smith
Jared Smith
City Planner

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



City of Tomball
Community Development Department

«mailto»
«mail_addr_»
«mail_addr1»
«mail_city», «mail_state» «mail_zip»

NOTICE OF PUBLIC HEARING

RE: Zone Change Case Number Z23-06

04/17/2023

The Planning & Zoning Commission will hold a public hearing on **May 8, 2023 at 6:00 PM**, in City Council Chambers at City Hall, 401 Market Street, Tomball, Texas to recommend approval or denial to City Council on a request by Red Grip LLC., represented by Mike Matheson to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 1.04 acres of land legally described as being Lot 72, Block 1 of Acquest Tomball Replat No.1 from Commercial (C) to Office (O) zoning. The property is generally located within the 1200-1300 blocks (southside) of Rudel Drive, within the City of Tomball, Harris County, Texas.

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

The attached map shows the area of this request. Only that area which is bounded by the cross-hatched line on the map is being considered for **rezoning**. The solid boundary line around the subject area is only a notification area. All owners of property within 300-feet of the subject property are required to be notified. Whether approved or denied by the Planning & Zoning Commission, this case will be heard by City Council for First Reading with public hearing on **May 15, 2023 at 6:00 PM** in City Council Chambers at City Hall, 401 Market Street, Tomball, Texas.

If you have any questions, please contact Jared Smith, City Planner at telephone 281-290-1491 or by email address jasmith@tomballtx.gov

For the PLANNING & ZONING COMMISSION
Please call (281) 290-1491 if you have any questions about this notice.

CASE #: Z23-06

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

Name: «mailto»
Parcel I.D.: «HCAD_NUM»
Address: «LocAddr»

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

Email: jasmith@tomballtx.gov

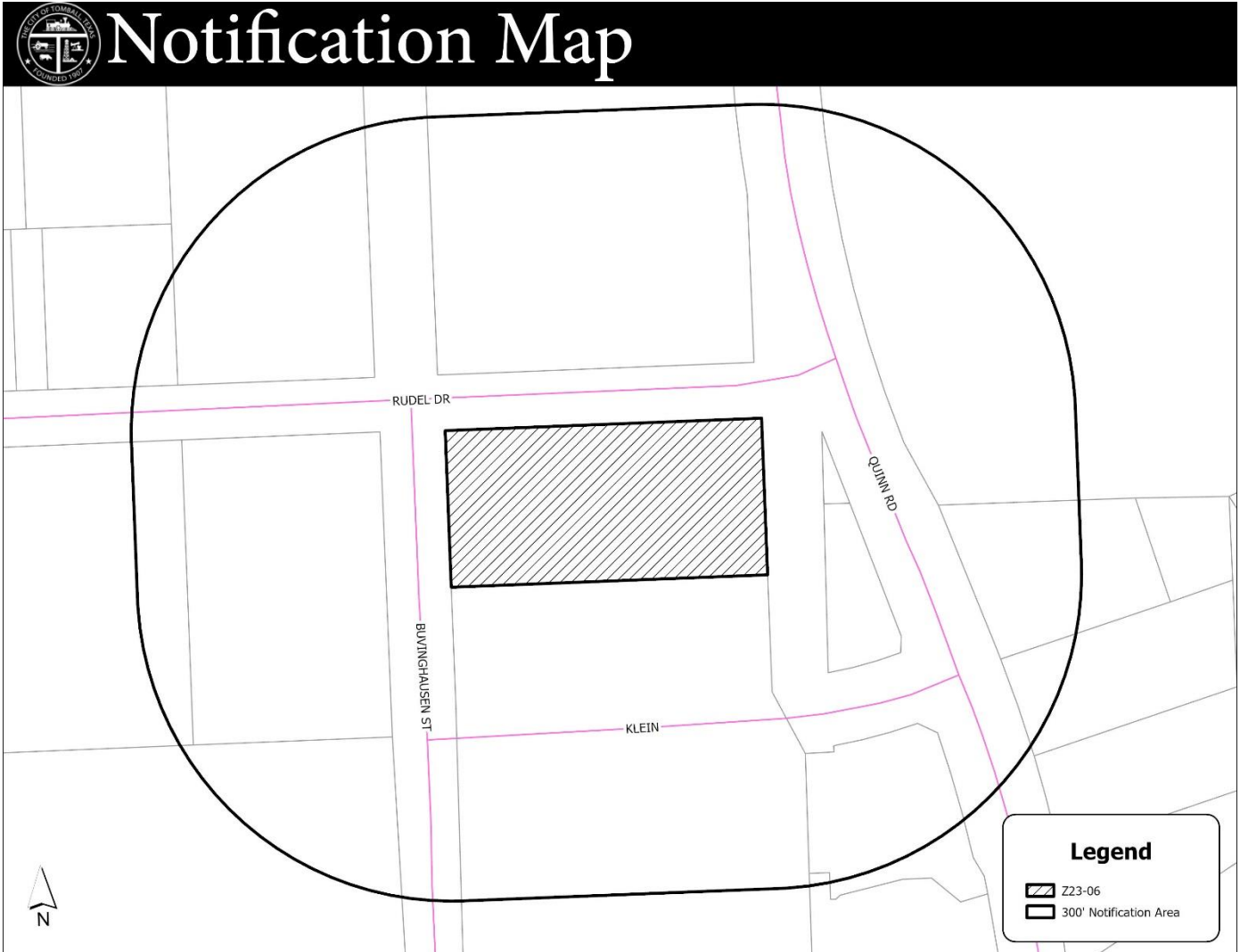
I am in favor I am opposed
Additional Comments:

Signature: _____



City of Tomball
Community Development Department

Z23-06





**Rezoning
Staff Report**

Planning & Zoning Commission Public Hearing Date: May 8, 2023
City Council Public Hearing Date: May 15, 2023

Rezoning Case: Z23-06
Property Owner(s): Mike Matheson
Applicant(s): Red Grip LLC.
Legal Description: Lot 72, Block 1 of Acquest Tomball Replat No.1
Location: 1200-1300 blocks (southside) of Rudel Drive. (Exhibit “A”)
Area: 1.04 acres
Comp Plan Designation: Neighborhood Commercial (Exhibit “B”)
Present Zoning: Commercial District (Exhibit “C”)
Request: Rezone from Commercial (C) to the Office (O) district
Adjacent Zoning & Land Uses:
North: Old Town & Mixed Use (OT&MU)/Fire Station #1
South: Commercial (C)/Office, professional and general business
West: Multi-Family Residential (MF)/Apartments
East: Commercial (C)/Drainage/Detention Pond

BACKGROUND

The subject property is presently vacant. City staff has met on multiple occasions over the course of the past year to discuss the potential development of an office complex on the subject property. According to information provided by the applicant, there are plans to construct two office buildings which will be divided into suites. The intention is to split these buildings by property boundaries so that each respective suite occupant can own their respective office spaces. To achieve this goal and create the desired number of suites for purchase the applicants are requesting to rezone to Office (O) zoning which has a minimum lot area of 6,000 square feet as opposed to the current Commercial (C) zoning minimum lot area of 10,000 square feet.

ANALYSIS

Description: The subject property comprises approximately 1.04 acres, located in the 1200-1300 block (south side) of Rudel Drive. Currently the subject property is located within the Commercial zoning district and has been within this zoning designation since the City of Tomball adopted zoning in 2008. Immediately north of the subject property is Old Town & Mixed Use zoning which is presently occupied by Fire Station #1. West of the subject property is existing Multi-Family zoning within which an apartment complex is presently being constructed. East of the subject site

is existing Commercial zoning which is occupied by detention/drainage facilities. Immediately south of the subject property is existing Commercial zoning presently occupied by a clinical office building.

Comprehensive Plan Recommendation: The property is designated as “Neighborhood Commercial” by the Comprehensive Plans Future Land Use Map. This Neighborhood Commercial category is intended for commercial uses that are developed with the appropriate context, scale and design to complement residential development. These areas are intended to be accessible by both vehicles and pedestrians.

According to the Comprehensive Plan, land uses should consist of restaurants, retail, professional services, clinics, and offices. Appropriate secondary uses may include places of assembly or event venues, local utility services, and government facilities.

The Comprehensive Plan recommends the zoning districts of – Office (O), General Retail (GR) or Planned Developments (PD) for the Business Park & Industrial land use category.

The Comprehensive Plan states that Neighborhood Commercial developments should be located adjacent to an intersection of a collector street or greater functional classification. Additionally, the Comprehensive Plan identifies the need to promote development that creates complimentary relationships between differing land uses. According to the Comprehensive Plan locating community facilities, services, and limited commercial uses within and near existing and proposed neighborhoods has the potential to create mutually beneficial synergies and promote a higher quality of life for Tomball residents. The Comprehensive Plan encourages development that creates complimentary relationships between differing land uses. According to the Comprehensive Plan it is important to transition or buffer land uses by “stepping down” land uses from more intense to less intense uses.

Staff Review Comments:

The request to rezone to Office zoning is in direct alignment with the Future Land Use Plan. The adoption of Office zoning will promote an appropriate transitional land use buffering, “stepping down” the intensity of land use as you move further north from FM 2920 and closer to existing multi-family and single-family residential land uses. According to the Comprehensive Plan locating limited commercial services near residential neighborhoods/communities can encourage a mutually beneficial relationship between these land uses.

PUBLIC COMMENT

A Notice of Public Hearing was published in the paper and property owners within 300 feet of the project site were mailed notification of this proposal on April 18, 2023. Any public comment forms will be provided in the Planning & Zoning Commission and City Council packets or during the public hearing.

RECOMMENDATION

Based on the findings outlined in the analysis section of this staff report, City staff recommends approval of Zoning Case Z23-06.

EXHIBITS

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

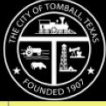
Exhibit "A"
Aerial Location Map



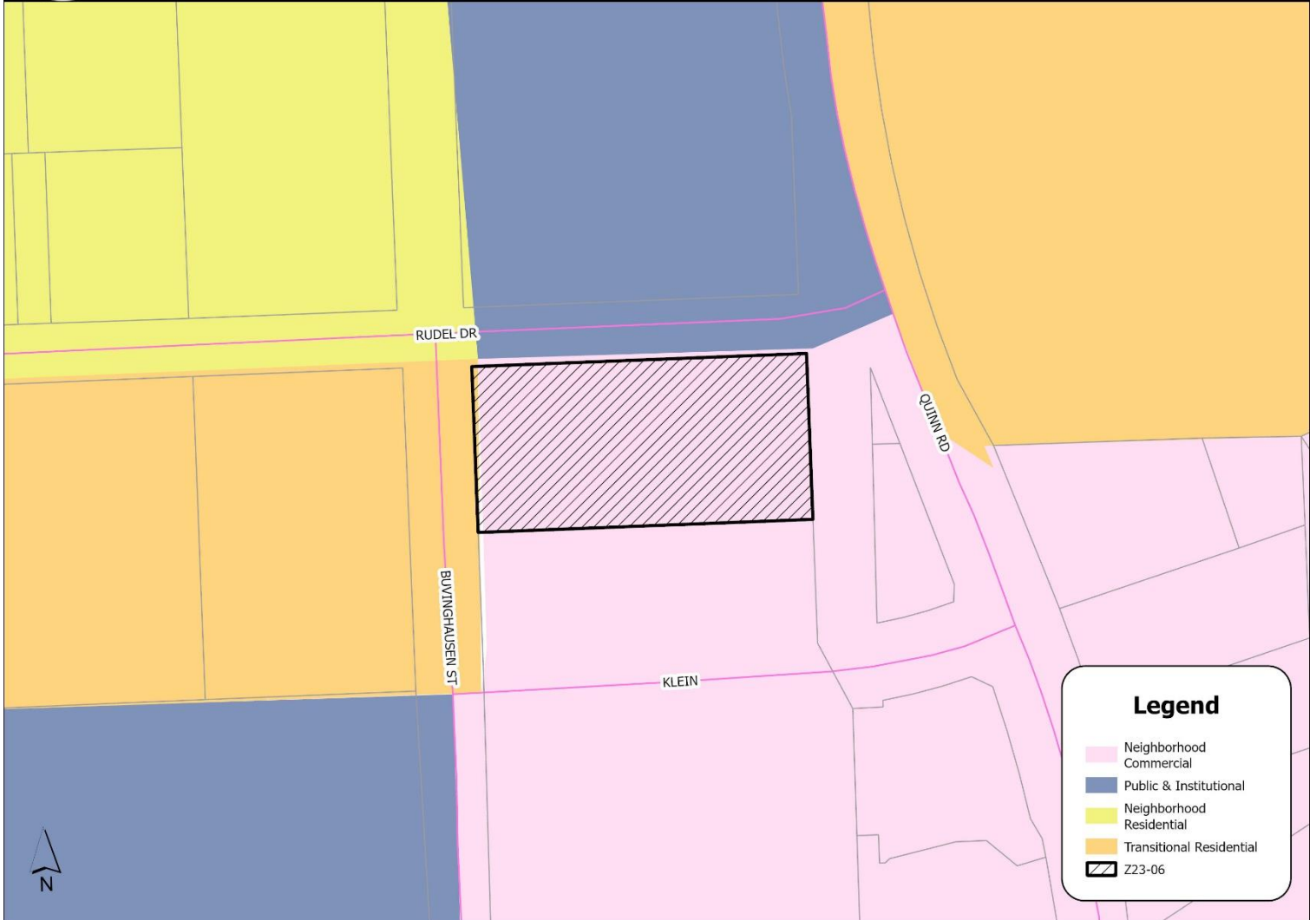
Location Map



Exhibit "B"
Future Land Use Plan



Future Land Use Map



Legend

- Neighborhood Commercial
- Public & Institutional
- Neighborhood Residential
- Transitional Residential
- Z23-06

Exhibit "C"
Zoning Map

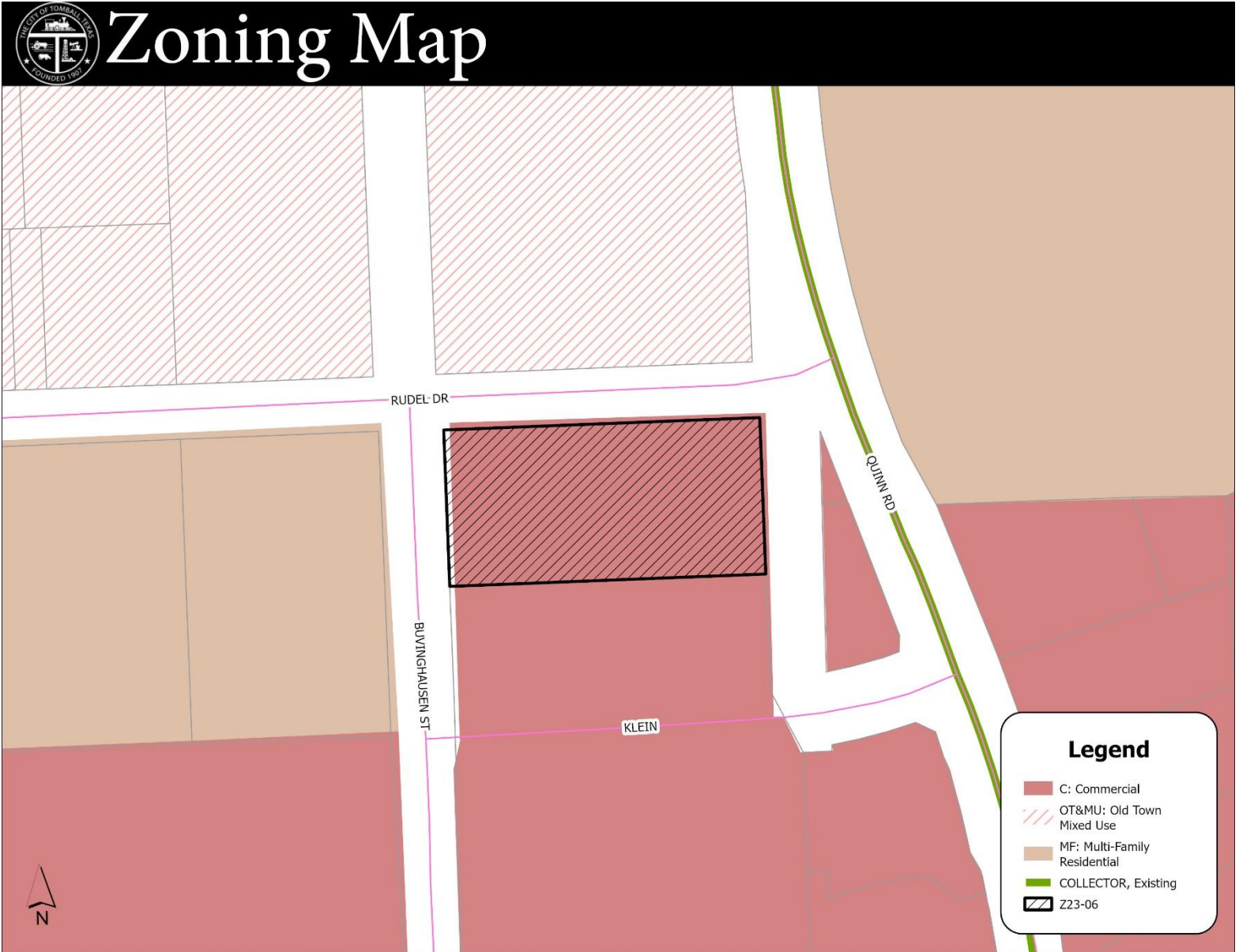


Exhibit "D"
Site Photo(s)

Subject Site



Neighbor (West)



Neighbor (East)



Neighbor (North)

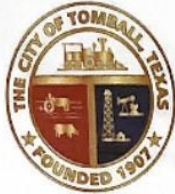


Neighbor (South)



Exhibit "E"
Rezoning Application

Revised: 10/1/2022



APPLICATION FOR RE-ZONING

Community Development Department
Planning Division

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

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

DIGITAL PLAN SUBMITTALS:

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

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

Applicant

Name: Mike Matheson Title: Owner
Mailing Address: 14315 Arlington Place City: Cypress State: TX
Zip: 77429 Contact: 281-658-7526
Phone: (281) 658-7526 Email: info@redgrip llc.com

Owner

Name: Same as above Title: _____
Mailing Address: 11750 Katy Freeway City: Katy State: _____
Zip: _____ Contact: _____
Phone: (____) _____ Email: _____

Engineer/Surveyor (if applicable)

Name: Patrick Rummel Title: Civil Eng.
Mailing Address: 11750 Katy Freeway City: Katy State: TX
Zip: 77079 Contact: _____
Phone: (404) 285-9267 Fax: (____) _____ Email: prummel@ardurra.com

Description of Proposed Project: Office Buildings @ Rudel

Physical Location of Property: 72 Block 1 on Rudel Street, 77375
[General Location - approximate distance to nearest existing street corner]

Legal Description of Property: Tomball Acquestrop LAT NO. 1, HCMR Vol 658 Pg. 107
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]

Current Zoning District: 7214 Commercial (C)

City of Tomball, Texas 501 James Street, Tomball, Texas 77375 Phone: 281-290-1405 www.tomballtx.gov

Current Use of Property: Vacant
Proposed Zoning District: 7214 Office (O)
Proposed Use of Property: Office Buildings
HCAD Identification Number: 133395002001 Acreage: 1.04

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

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

X Michael Matheson 3-28-23
Signature of Applicant Date

X Michael Matheson 3-28-23
Signature of Owner Date

METES AND BOUNDS DESCRIPTION OF 1.0401 ACRE TRACT – RED GRIP, LLC, A TEXAS LIMITED LIABILITY COMPANY

A TRACT OR PARCEL OF LAND CONTAINING 1.0401 ACRE BEING LOT 72, BLOCK 1 OF ACQUEST TOMBALL REPLAT NO. 1, AN ADDITION IN HARRIS COUNTY ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 658, PAGE 107 OF THE HARRIS COUNTY MAP RECORDS IN THE JOSEPH HOUSE SURVEY, ABTRACT 34 IN HARRIS COUNTY, TEXAS, SAID 1.0401 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS TO-WIT:

BEGINNING at a 3/8 inch iron rod set with cap marking the Northwest corner of the herein described tract being at the intersection of the East right-of-way line of Buvinghausen Street (60 ft. right-of-way) and the South right-of-way line of Rudel Drive (60 ft. right-of-way);

THENCE North 87 degrees 27 minutes 09 seconds East with the Southerly right-of-way line of said Rudel Drive a distance of 302.50 ft. to a 5/8 inch iron rod found with cap at the Northeast corner of the herein described tract being in the West right-of-way line of Cody Drive (undeveloped);

THENCE South 02 degrees 30 minutes 51 seconds East with the West right-of-way line of said Cody Drive a distance of 149.78 ft. to a 5/8 inch iron rod found with cap marking the Southeast corner of the herein described tract and the Northeast corner of Lot 73;

THENCE South 87 degrees 27 minutes 09 seconds West with the division line between Lots 72 and 73 a distance of 302.50 ft. to a mag nail found in asphalt marking the Southwest corner of the herein described tract, the Northwest corner of Lot 73 in the East right-of-way line of said Buvinghausen Street;

THENCE North 02 degrees 30 minutes 51 seconds West with the Easterly right-of-way line of said Buvinghausen Street a distance of 149.78 ft. to the PLACE OF BEGINNING and containing 1.0401 acre of land.

RED GRIP LLC

CYPRESS, TEXAS

March 24th, 2023

City Planning and Zoning Commission
TomballTx.gov/securisent

Dear City Planning and Zoning Commission:

We are requesting that the property located at Lot 72 Block 1 on Rudel Street in Tomball, Texas 77375 be rezoned from Commercial to Office. Currently in Google and HCAD # is 1333950020001

The recorded plat for this property is Tomball Acquestrep LAT NO. 1, HCMR VOL 658 PG. 107. The development intends to erect 2 separate buildings and subdivide the one lot into three separate lots based on the city's ordinances, the site plan does not comply with the minimum commercial lot size of 10,000 sq./ft. therefore we are requesting a rezoning to office with a minimum of 6,000 sq./ft.

This was discussed in a pre-development meeting with the City Planner on March 9th with myself Mike Matheson, Juan Lozano, Kyle Bertrand, Jared Smith and Patrick Rummel present.

Reference: 50-77 Tomball Ordinance

We appreciate your consideration in this matter.

Sincerely,

Mike Matheson and Juan Lozano

Owners of Red Grip LLC

City Council Meeting Agenda Item Data Sheet

Meeting Date: May 15, 2023

Topic:

Approve Resolution No. 2023-28, a Resolution of the City of Tomball (COT), Texas regarding Compliance with the Major Thoroughfare extension of Telge Road (North) regarding approximately 18.739-Acre Tract of Land located at 16000 FM 2920 being released from the Extraterritorial Jurisdiction of the City of Houston (Tomball Golf Driving Range) into the COT ETJ.

Background:

The property owners of Tomball Golf Driving Range, approximately 18.739 acres at 16000 FM 2920, previously requested a desire to be within the City of Tomball's extraterritorial jurisdiction (ETJ) and have indicated that they will pursue an annexation into the City of Tomball. In order to do this they requested future annexation with the release of the property from the City of Houston's ETJ which they received back in 2017 under Resolution No. 2017-13 by the COT. Since this approval, The City of Houston has come back to the table and made a further requirement of the landowner that in order to be released from the COH ETJ the owner must also continue the extension of Telge Road as a major thoroughfare to the North. The City of Houston has asked that this requirement be acknowledged by the City of Tomball via resolution and that the City will require the extension of this road as a major arterial in the future.

There are no funds needed to complete the proposed project. Dedication and construction will be built as a part of the development process when development occurs along this corridor.

Origination: Community Development

Recommendation:

Staff recommends approving Resolution 2023-28.

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

Nathan Dietrich, Community
Development Director

FUNDING (IF APPLICABLE)

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

Yes: X 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

RESOLUTION NO. 2023-28

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS, REGARDING THE RELEASE OF AN APPROXIMATELY 18.739-ACRE TRACT OF LAND LOCATED AT 16000 FM 2920 FROM THE EXTRATERRITORIAL JURISDICTION OF THE CITY OF HOUSTON; SERVICE TO TRACT; COMPLIANCE WITH MAJOR THOROUGHFARE PLAN

WHEREAS, a tract of land consisting of approximately 18.739 acres out of the John Edwards Survey, Abstract No. 20, and the Chancey Goodrich Survey, Abstract No. 311, Harris County, Texas, located at 16000 FM 2920 (the “Property”) is situated in the extraterritorial jurisdiction (“ETJ”) of the City of Houston, Texas (“Houston”); and

WHEREAS, International Commercial Development Enterprises, LLC, the Property Owner, has made an application to Houston for release of the Property from Houston’s ETJ and into the City of Tomball’s (“Tomball”) ETJ; and

WHEREAS, by Resolution No. 2017-13, the City Council of Tomball previously agreed that the City Council would accept the Property into Tomball’s ETJ if released by Houston from its ETJ; and

WHEREAS, Houston has requested that Tomball indicate its intent to provide water and sanitary sewer service to the Property once released, and, because the Property has a major thoroughfare adjacent to it, indicate that Tomball will comply with the requirements of Houston’s major thoroughfare plan with respect to the development of the Property; and

WHEREAS, the City Council of Tomball finds it to be in the best interest of Tomball to indicate such intentions.

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

- Section 1. All of the matters and facts set forth in the preamble hereof are true and correct.
- Section 2. Upon Houston’s release of the Property from its ETJ, Tomball will accept the Property into Tomball’s ETJ, and provide water and sanitary sewer services to the Property, as required for its development.
- Section 3. Tomball will comply with, or cause to be complied with, Houston’s major thoroughfare plan, and any subsequent amendments thereto, in connection with the development of the Property, including, as necessary, the addition of the major thoroughfare adjacent to the Property into Tomball’s major thoroughfare plan at such time as the Property is released into Tomball’s ETJ.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF TOMBALL,
TEXAS ON THE ___ DAY OF _____, 2023.**

CITY OF TOMBALL, TEXAS

LORI KLEIN QUINN
MAYOR

ATTEST:

TRACY GARCIA
CITY SECRETARY

INTERNATIONAL COMMERCIAL DEVELOPMENT ENTERPRISE, LLC
25420 KUYKENDHAL ROAD, SUITE D-300
SPRING, TEXAS 77375

March 1, 2023

VIA EMAIL

City of Houston
Planning and Development Department
611 Walker, 6th Floor
Houston, Texas 77002
Attn: Rupesh Koshy

Re: 16515 FM 2920 Request for Release from City of Houston Extraterritorial
Jurisdiction;
Compliance with Major Thoroughfare Plan

Dear Mr. Koshy,

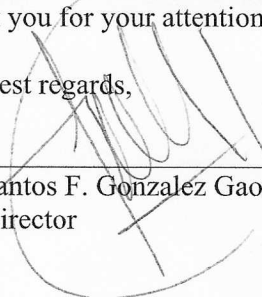
As you are aware, International Commercial Development Enterprise, LLC (“Petitioner”), petitioned the City of Houston (the “City”) for release of a tract of land owned by Petitioner and known as 16515 FM 2920 (the “Tract”) from its extraterritorial jurisdiction (“ETJ”). This release request is necessary to efficiently serve the Tract with water and sewer services for its ultimate development. Once released, the Tract will be annexed and served by the City of Tomball (“Tomball”), which has utilities available adjacent to the Tract.

In connection with this request, the Planning and Development Department of the City requires that Petitioner and Tomball affirm that each will comply with the City’s Major Thoroughfare Plan (“MTP”), as well as any amendments to the MTP, because there is a major thoroughfare adjacent to the proposed ETJ release area.

Please accept this letter as Petitioner’s affirmation that, to the extent applicable and as required by the City, Petitioner’s development of the Tract will comply with the MTP, including amendments thereto, in all circumstances pertinent to the Tract. Petitioner has also requested a resolution from Tomball indicating its compliance with the MTP in connection with the Tract and will provide this resolution to the City as soon as it is available.

Please do not hesitate to contact Petitioner’s counsel, Mr. Michael Willis, at 713-850-9000, or via email at mwillis@sklaw.us, if you have any questions or require any additional information related to this letter or to the ETJ release request. Thank you for your attention to this matter.

Best regards,



Santos F. Gonzalez Gaona
Director

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: May 15, 2023

Topic:

Approve request from MAD for Vets for City Support and In-Kind Services for the MAD for Vets 3rd Annual Freedom 5k Ruck March at the Depot and around downtown Tomball, on Saturday, September 16, 2023

Background:

MAD for Vets is a 501c3 non-profit organization, whose mission is to strengthen the foundation of success for our nation's most valuable asset, our Veterans. One of the ways we do this is by hosting several large events throughout the year to raise funds for the smaller Veterans focused non-profit organizations that are in their start-up phase. The smaller organizations are formed by Veterans who have recently retired from the military entering the civilian world by some sort of physical trade or community group that allows Veterans to still have the camaraderie while also learning new skills or coping mechanisms. These organizations, though, are typically funded solely by the veterans themselves; i.e. they are pulling money from their own pocket to support a vision that it's help them, transition from the military world to the civilian world, and are looking to share that vision and sense of oneness with like-minded. As the founder and CEO of MAD for Vets, I started this organization to ensure that no veteran is left behind when their vision is clear, and their intentions are strong, we have a compliance Director on our board that vets, each organization that applies with us to ensure that funds are beneficiaries receive go directly to helping veterans.

Event Information:

- Start and finish at Depot
- Registration at 7:30 a.m.
- March start at 8 a.m.
- Stops: Fire Station for group photo, stop for abdominal exercise, stop for quad exercise.
- March finish at 9:30 a.m.
- Tents/booths at Depot setup by Veterans to showcase local businesses.
- Post march party will end at 12 p.m.

Origination: MAD for Vets

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 _____
Staff Member Date City Manager Date



March 9th, 2023

City of Tomball City Council
Mayor Lori Quinn
401 Market St
Tomball Tx 77375

Subject: MAD for Vets Freedom 5k Ruck March
Proposed Date: Saturday, September 16th, 2023

To Whom it May Concern:

MAD for Vets is a 501c3 non-profit organization whose mission is to strengthen the foundation of success for our nation's most valuable asset, our Veterans. One of the ways we do this is by hosting several large events throughout the year to raise funds for the smaller, Veteran focused non-profit organizations that are in their start-up phase. I've spent decades volunteering in the Veteran community and have learned that there is a major gap between the large organizations who qualify for government grants and public funding and the smaller organizations that are just getting started. The smaller organizations are formed by Veterans who have recently retired from the military and have found a way to cope with entering the civilian world by some sort of physical trade or community group that allows Veterans to still have the camaraderie with other Veterans while also learning new skills or coping mechanisms. These organizations, though, are typically funded solely by the Veterans themselves; i.e. they are pulling money from their own pockets to support a vision that has helped them transition from the military world to the civilian world and are looking to share that vision and sense of oneness with like-minded individuals. Unfortunately most of these organizations fail simply because they don't have the knowledge or funding to get off the ground. That's where we come in. As the Founder and CEO of MAD for Vets, I started this organization to ensure that no Veteran is left behind when their vision is clear and their intentions are strong. We have a compliance director on our board that vets each organization that applies with us to ensure that the funds our beneficiaries receive go directly to helping Veterans.

Our proposal: This will be our 3rd annual 5k Ruck March that we host in remembrance of 9-11. We would like to host this year's march starting and ending at the Tomball Depot on September 16th, 2023. The march will be a 5k (proposed map attached) with a military market at the finish. Registration will begin at 9:30am with the march starting at 10am. We march together as a unit with a couple stops along the way for engagement. We will stop at the fire station for a group photo, then a stop for "ab appreciation" wherein we do flutter kicks for abdominal exercise and

another stop for "quad appreciation" wherein we'll do squats! Then we finish back at the Depot around 11:30am where the market will be set up much like a farmer's market and with a live band for entertainment. There will be tents/booths set up by local Veteran owned businesses as well as local Tomball businesses to promote their businesses and sell their products. This brings great visibility to local businesses as well as to our Veterans that don't always get to participate in these markets due to cost and availability. The market will last a few hours and end by 2pm. Not only does this showcase local businesses, it will also bring in consumers from all over the Houston area to have lunch at the local restaurants after a hearty march!

We would like to request in-kind services from Tomball Police, Fire, Marketing, Public Works, etc. As we are a non-profit organization and the purpose of this event is to not only highlight Veterans and the city of Tomball, but to raise funds for local Veteran charitable organizations, our spending budget is limited.

I've included a few photos from our past ruck march to show what the city of Tomball could expect from this event. It's a wonderful opportunity to support our local businesses, our Veterans, and the city of Tomball! We're excited for the potential to host this year's event at the Depot and look forward to hearing from you soon!

Thank you in advance for your time and consideration.

Sincerely,



Melanie Dubendorff
Founder and CEO
MAD Foundation dba MAD for Vets
832-657-3805
melanie@madforvets.org



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: 3/9/23 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: 35th Annual Freedom 5K Ruck March

2. Sponsoring entity: MAD for Vets

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: Melanie Dubendorff Phone: 832-657-3805

6. Contact address: 2918 Autumnglow Ct. Katy Tx 77494

7. Contact email: melanie@madforvets.org

8. Event date: Sept 11th, 2023

9. Event times: Start 8:00 AM Finish 9:30 AM Set-up 7:30 AM Breakdown 12 PM

10. Is this event for charity? Yes No

11. If yes, what charity? MAD for Vets Tax ID 37-1981734

12. If yes, what percentage of net proceeds will be donated to the charity? 100%

13. On-site contact: Melanie Dubendorff Mobile #: 832-657-3805

14. Estimated number of attendees: 200

15. Detailed site map in attached: Yes No

16. Is this event open to the public: Yes No

17. Admission fee: \$ 50 Free

18. Time at which event staff will begin to arrive: 8:30 AM

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 MD

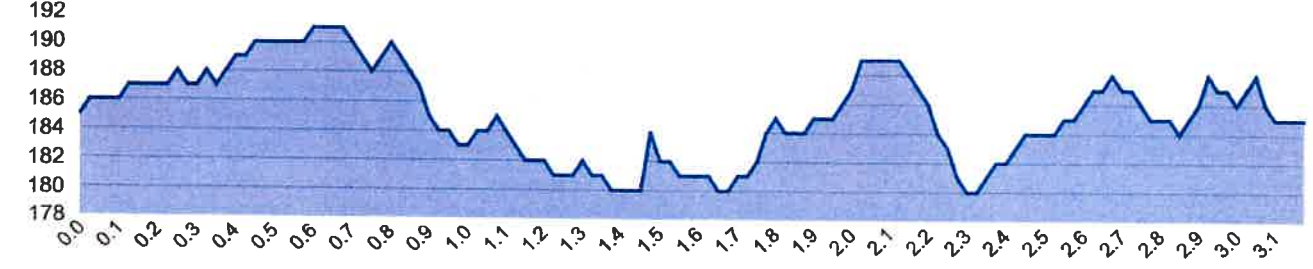
20. The applicant will provide proof of general liability insurance for the event naming the City of Tomball as additional insured. Initial MD

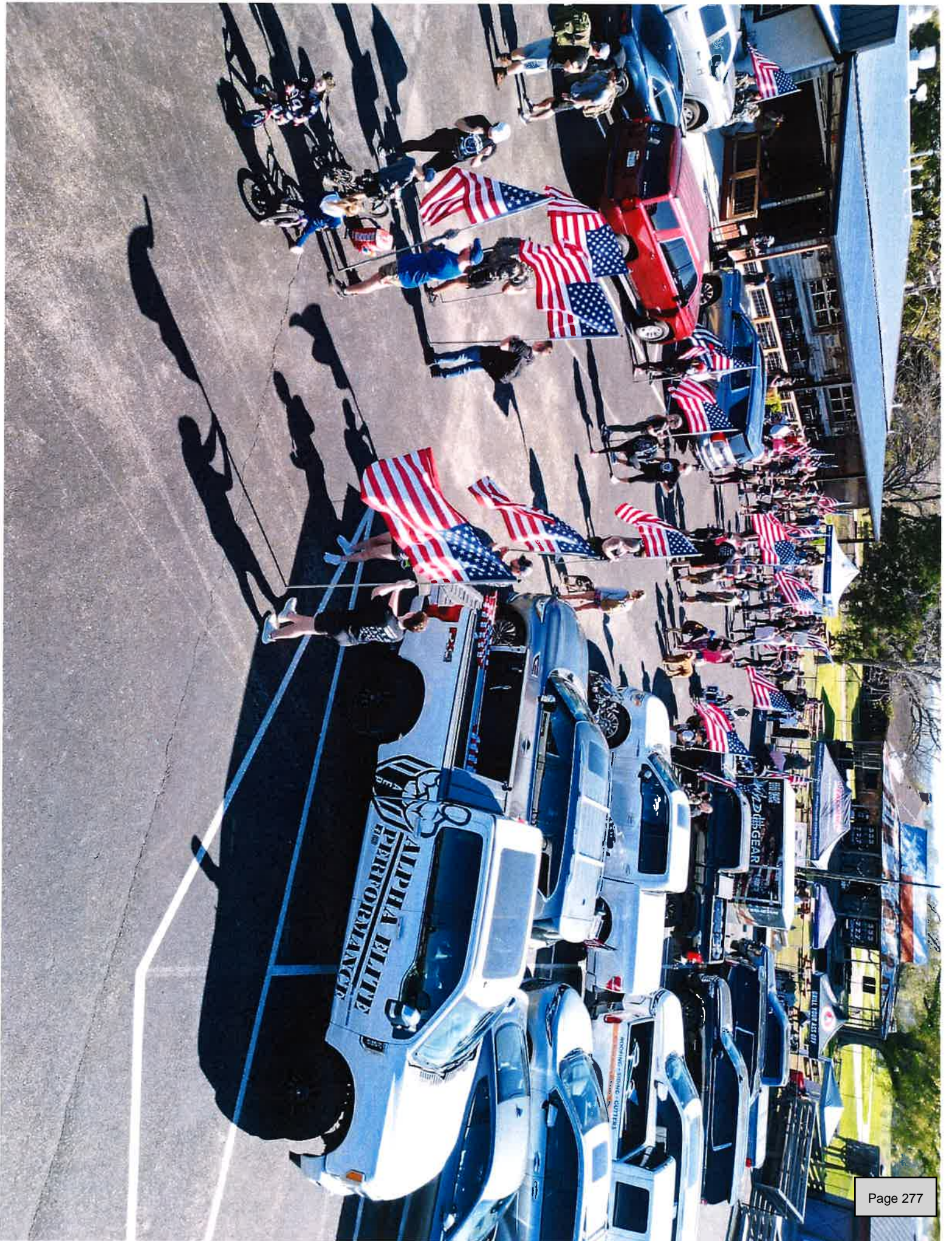
21. Name of insurance carrier: TBD

Signature: [Signature]

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

Freedom 5K Ruck March







Form 503
(Revised 08/19)

Return in duplicate to:
Secretary of State
P.O. Box 13697
Austin, TX 78711-3697
512-463-5555
FAX: 512 463-5709
Filing Fee: \$25



Assumed Name Certificate

This space reserved for office use.

FILED
In the Office of the
Secretary of State of Texas

MAR 22 2022

Corporations Section

Assumed Name

1. The assumed name under which the business or professional service is, or is to be, conducted or rendered is: MAD For Vets

Entity Information

2. The legal name of the entity filing the assumed name is:

MAD Foundation

State the name of the entity as currently shown in the records of the secretary of state or on its organizational documents, if not filed with the secretary of state.

3. The entity filing the assumed name is a: (Select the appropriate entity type below.)

- For-profit Corporation
- Nonprofit Corporation
- Professional Corporation
- Professional Association
- Other
- Limited Liability Company
- Limited Partnership
- Limited Liability Partnership
- Cooperative Association

Specify type of entity. For example, foreign real estate investment trust, state bank, insurance company, etc.

4. The file number, if any, issued to the entity by the secretary of state is: 37-1981734

5. The state, country, or other jurisdiction of formation of the entity is: Texas

6. The entity's principal office address is:

2918 Autumnnglow Ct

Street or Mailing Address

<u>Katy</u>	<u>Tx</u>	<u>USA</u>	<u>77494</u>
<i>City</i>	<i>State</i>	<i>Country</i>	<i>Postal or Zip Code</i>

Period of Duration

7a. The period during which the assumed name will be used is 10 years from the date of filing with the secretary of state.

OR

7b. The period during which the assumed name will be used is _____ years from the date of filing with the secretary of state (not to exceed 10 years).

OR

7c. The assumed name will be used until _____ (not to exceed 10 years).

mm/dd/yyyy

RECEIVED

MAR 22 2022

County or Counties in which Assumed Name Used

8. The county or counties where business or professional services are being or are to be conducted or rendered under the assumed name are:

All counties

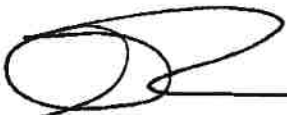
All counties with the exception of the following counties: _____

Only the following counties: _____

Execution

The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument and also certifies that the person is authorized to sign on behalf of the identified entity. If the undersigned is acting in the capacity of an attorney in fact for the entity, the undersigned certifies that the entity has duly authorized the undersigned in writing to execute this document.

Date: 3/8/2022



Melonie Dubendorf

Signature of a person authorized by law to sign on behalf of the identified entity (see instructions)



Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities
P.O. Box 2508
Cincinnati, OH 45201

MAD FOUNDATION
2918 AUTUMNGLOW CT
KATY, TX 77494

Date:
02/11/2022
Employer ID number:
37-1981734
Person to contact:
Name: Customer Service
ID number: 31954
Telephone: 877-829-5500
Accounting period ending:
December 31
Form 990-PF required:
Yes
Effective date of exemption:
May 1, 2020
Addendum applies:
No
DLN:
26053750003801

Dear Applicant:

We're pleased to tell you we determined you're exempt from federal income tax under Internal Revenue Code (IRC) Section 501(c)(3). Donors can deduct contributions they make to you under IRC Section 170. You're also qualified to receive tax deductible bequests, devises, transfers or gifts under Section 2055, 2106, or 2522. This letter could help resolve questions on your exempt status. Please keep it for your records.

Organizations exempt under IRC Section 501(c)(3) are further classified as either public charities or private foundations. We determined you're a private foundation within the meaning of Section 509(a).

You're required to file Form 990-PF, Return of Private Foundation or Section 4947(a)(1) Trust Treated as Private Foundation, annually, whether or not you have income or activity during the year. If you don't file a required return or notice for three consecutive years, your exempt status will be automatically revoked.

If we indicated at the top of this letter that an addendum applies, the enclosed addendum is an integral part of this letter.

For important information about your responsibilities as a tax-exempt organization, go to www.irs.gov/charities. Enter "4221-PF" in the search bar to view Publication 4221-PF, Compliance Guide for 501(c)(3) Private Foundations, which describes your recordkeeping, reporting, and disclosure requirements.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements

Letter 1076 (Rev. 2-2020)
Catalog Number 35161A

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: May 15, 2023

Topic:

Approve a Professional Services Agreement with Freese and Nichols Inc., for project number 2023-10017, to update current City guiding documents which includes the Comprehensive Plan (Comp Plan), the Major Thoroughfare Plan (MTFP), and the creation of a Unified Development Code (UDC). The contract is for an amount not-to-exceed \$450,000, authorizes the expenditure of funds, and authorizes the City Manager to execute the agreement. This amount is included in the FY 2022-2023 budget.

Background:

The proposed professional services agreement with Freese and Nichols, Inc. includes a scope of work to amend the Comprehensive Plan (includes the Future Land Use Plan), the Major Thoroughfare Plan (MTFP), and zoning code, which are our current guiding City documents. The process will incorporate public input, provide a broad understanding of regional growth patterns, and utilize principles that encourage a viable built environment, resilient economy, harmony with nature, healthy community, and responsible regionalism.

Our current Comprehensive Plan, Future Land Use Plan, and Major Thoroughfare Plan were last updated in 2019. However, our current zoning code was originally developed and adopted in 2008. Since 2008, the City has experienced substantial changes in philosophy about where and how land use and development occur inside City Limits and its Extra Territorial Jurisdiction and needs an opportunity to be updated and improved. This creation of a new Unified Development Code will put all development codes like the subdivision, sign, landscaping, flooding, streets and drainage, manufactured homes and zoning codes under one “umbrella” helping citizens and developers alike to better find all things development related.

Freese and Nichols Inc. were selected through a Request for Qualifications process (RFQ 2023-06R). Four firms submitted statements of qualifications, with Freese and Nichols, Inc. being selected as the most highly qualified respondent. After such selection, staff engaged in discussions with the firm to determine fair and reasonable rates for professional services. The selection and discussions were held in accordance with the City’s adopted procurement policy manual and state procurement law.

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

Origination: Community Development

Recommendation:

Staff recommends awarding a Professional Services Agreement to Freese and Nichols. for the updates to the Comprehensive Plan (Comp Plan, and FLUP), the Major Thoroughfare Plan (MTFP), and the creation of a Unified Development Code (UDC). for an amount not to exceed \$450,000.

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

Nathan Dietrich, Community
Development Director

FUNDING (IF APPLICABLE)

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

Yes: No:

If yes, specify Account Number: # 100-156-6302

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

Signed _____
Staff Member Date

Approved by _____
City Manager Date

SCOPE OF SERVICES AND RESPONSIBILITIES OF OWNER

ARTICLE I

BASIC SERVICES: FNI shall render the following professional services in connection with the development of the Project:

PROJECT UNDERSTANDING:

As further described below, the City of Tomball (Client, City) is engaging FNI (Consultant) to develop a comprehensive plan amendment and updated development regulations anticipated in the form of a Unified Development Code (UDC), consistent with standards, procedures and best management practices in Texas. Execution of the contract by all parties shall constitute notice to proceed.

Concurrent with this planning process, the City is conducting water and wastewater master plans, drainage master plans, impact fee updates and a parks, recreation and open space master plan. Information from these respective planning efforts will be coordinated with the Comprehensive Plan and Development Regulations and vice versa.

SCOPE OF SERVICES:

Tasks prepared as part of this planning effort may occur concurrently or sequentially where appropriate or, in some cases, may deviate from the sequence shown in this Scope of Services document.

PHASE 1: PROJECT MANAGEMENT, COORDINATION, MEETINGS AND ENGAGEMENT

Task 1.1: Project Management and Quality Control

Perform general project management and control project quality, progress and budget for the scoped period of completion, including the Consultant's monthly reporting and invoicing requirements, monthly status meetings with the City, and similar efforts.

Deliverables:

- a. Project schedule, updated as needed
- b. Monthly one-page reports and invoices

Task 1.2: Engagement and Meetings

The consultant will prepare an engagement plan for approval by the City, consistent with the following:

1. Staff Check-In Meetings

The Freese and Nichols Team will meet with City staff periodically throughout the project to discuss project progress, key action items and responsibilities, and the project schedule. These meetings will take place through standing conference calls to be determined by the Client and the Freese and Nichols Team. The project's progress and status will also come through monthly status updates will be submitted that summarize progress and document upcoming tasks. The monthly status updates will outline any upcoming key decisions which will require input from or discussion with the City. Outside of scoped project meetings, conference calls with City staff will be scheduled as needed.

2. Project Initiation

A conference call or virtual meeting with key project team staff from the City will take place at the beginning of the project to familiarize all parties with the scope, project schedule, project kick-off, data request needs and timing, invoicing, communication and key staff, and other significant considerations advantageous to understand prior to the kick-off.

3. Kick-off Meeting and Study Area Tour

Attend one (1) kick-off meeting with the City. The purpose of the meeting will be to build upon discussions of the staff initiation conference call. Immediately following the Kick-off Meeting, participate in one (1) site tour of the city to provide spatial context to conversations about the City's challenges and opportunities. If unable to conduct this as an in-person tour, the City will provide a recommended tour route and key information elements. FNI and the City may also mutually agree to other approaches.

4. Comprehensive Plan Advisory Committee (CPAC) Meetings

CPAC members will be identified by the City at the outset of the project. CPAC meetings will allow for the review of key components of the plan in detail, to explore possible scenarios, to debrief public participation efforts, and to receive direction on plan issues and topics. Such sessions will include an agenda, any necessary maps, handouts, or materials, and drafts of key tasks for review and comment. A total of five (5) meetings are included in this scope of work. The first CPAC meeting could take place as part of the trip for the Kickoff Meeting and Study Area Tour.

5. Stakeholder Meetings and/or Community Conversations

A total of one (1) day of stakeholder meetings are planned and will be held virtually unless combined with other scheduled in-person efforts. Over the course of a few days near the beginning of the project, FNI will seek to engage in conversations with community leaders and other stakeholders who can provide specific insights into the Comprehensive Plan process, as identified by the City. These stakeholders can be engaged through a variety of methods, details of which will be determined via the Engagement Plan.

6. Public Engagement Effort

Two (2) community events or other public engagements with similar levels of effort, as established in the Engagement Plan, will be held during the process to identify issues and opportunities and gather feedback on residents' visions for the City. These will be in-person engagements unless otherwise warranted due to identified project needs. "Meetings-in-a-box" will also be created to allow for community organizations or individuals to engage their circles of influence.

7. City Council Briefings and Adoption Meetings

Attend seven (7) City Council or Planning and Zoning Commission meetings during the process, which may be structured as joint meetings of the Planning and Zoning Commission and the City Council.

8. Project Website and Surveys
 - a. The City will establish a project website to host the community survey, engagement materials and final documents.
 - b. Develop one (1) non-scientific online community survey and online ideas wall during the visioning phase.
 - c. The full draft of the plans and development regulations will be available online for public review and comment.

Deliverables:

- a. Meetings, events and engagements, and their associated support materials such as PowerPoint presentations, handouts, maps, and other exhibits to support the topic of discussion.
- b. Summaries of each engagement activity
- c. In-person meetings will be attended by two to four consultant team members depending on the type of meeting being facilitated.

PHASE 2: COMPREHENSIVE PLAN AMENDMENT AND THOROUGHFARE PLAN UPDATE

Task 2.1: Community Snapshot and Existing Conditions Update

FNI may place the following information within the body of the Plan or place it in an appendix and shift the introduction to the Vision chapter to enhance readability.

1. Baseline Analysis
 - a. Update the existing demographics based on new Census data and projections.
2. Context Analysis
 - a. Study a historic timeline of the City, including major events impacting the physical development of the community.
 - b. Review and critique past and ongoing planning efforts conducted by the City.
 - c. Evaluate regional initiatives.
 - d. Conduct a physical features assessment, including topography, floodplains, developed/undeveloped land, natural features, sensitive environmental areas, natural assets and hazards, and other physical implications that impact growth and development.
 - e. Identify strengths, weaknesses, opportunities, and constraints related to the physical/environmental conditions, policy/regulatory conditions, and ownership and land assembly conditions at play in the study areas.

Summary of Task 2.1 Deliverables:

The Community Snapshot Analysis Report will be a draft Plan element, potentially in the form of an appendix, of written information, supported with charts, tables and other graphics depicting the above information, explaining the importance, patterns and meaning of the facts as they relate to the City and the Comprehensive Plan.

Task 2.2: Community Vision and Guiding Principles

1. Community Vision

Based on an assessment of the existing goals and objectives of Tomball, an understanding of existing community constraints, and a summary of public input and feedback, the community's vision will be developed.

2. Guiding Principles

The foundation of the Comprehensive Plan will be defined through the guiding principles and goals. The plan recommendations and implementation result from the Comprehensive Plan's guiding principles and goals, which support the community's vision. FNI will develop guiding principles/goals based on analysis, community input and feedback received at the beginning of the process.

3. Summary of Community Engagement

Summarize feedback from the community in both qualitative and quantitative terms in a way that demonstrates the Plan is driven by the community. This may be separated and placed in an appendix.

Summary of Task 2.2 Deliverables:

A draft Plan element of written information, supported with charts, tables and other graphics depicting the above information. This will include:

- Brief summary of community input and surveys
- Development of guiding principles to assist in recommendations and formation of implementation strategies.

Task 2.3: Future Land Use

1. Future Land Use & Development Types and Projections

A key component of the Future Land Use Plan is the definition and discussion of future land use types, at times called place types, including any new land use types that may be applicable within the City. Discussions of the types of land uses will include associated character guidelines and preferred locations. Land use projections will depict the acreage by land use type as reflected within the Future Land Use Plan Map described below.

2. Growth Scenarios

- a. Forecasting of the City's growth based on recent growth trends and utility master plans.
- b. Identification of areas of stability, incremental change and transformative change.
- c. Generation and assessment of up to three (3) growth scenarios with community members, the CPAC, and elected officials (format to be determined via the Engagement Plan). Discussion of tradeoffs including economic growth, quality of life, community health, environmental and agricultural conservation, net revenue position, transportation, long-term sustainability and community resilience.

3. Future Land Use Plan

The Future Land Use Plan is a policy document which is intended to guide City staff and officials as they make decisions on where, when and how the City should grow and redevelop. The development of a future land use plan will ensure a cohesive and unified vision for the City is presented to developments and property owners as future development and redevelopment occurs within the community. FNI will develop a future land use plan that will consider existing land use information, neighborhood compatibility, anticipated zoning regulations, economic development strategies, past development patterns, infill and redevelopment opportunities, and integrate them into a graphic depiction of the community's future.

4. Population Projections and Capacity Analysis

Incorporate a new projected growth rate and population projections for the City based upon concurrent water and wastewater master planning efforts. The population projections will help inform decisions pertaining to infrastructure, public facilities, parks and other Capital Improvement Program items. FNI will evaluate shifting population patterns and trends to increase understanding of Tomball's stage of growth and development relative to build-out, including a capacity analysis based on the future land use map.

5. Development/Redevelopment Opportunity Areas

As the planning team assesses future land uses, we will identify up to two (2) opportunity areas (other than Downtown) for an assessment that may explore the potential for catalytic change. Opportunity areas are unique places or have the potential to become unique areas through specific strategies, incentives or locations. An example might be the Highway 249 corridor. The existing conditions and factors to consider will be evaluated, and a vision for each area will be identified with general strategies to achieve the vision outlined. Funding an opportunity area study through the Houston-Galveston Area Council might be possible.

6. Future Land Use Plan Map

The Future Land Use Plan Map will depict color-coded land uses within the City's planning area. The map will consider the following:

- a. Location of future residential, non-residential, mixed uses, open space and institutional

land uses along with associated intensities.

- b. Location of environmentally sensitive areas or barriers that should be considered when making future development decisions.
- c. Location of future land uses along major transportation corridors along with associated intensities.
- d. Economic productivity through development and redevelopment strategies, seeking to enhance the net revenue position of the City and balancing tax base.
- e. Compatibility of adjacent uses and contexts to provide thoughtful transitions and buffering.
- f. Anticipated use as a basis to establish zoning.

7. Growth Management

Prepare buildout analyses and timing/phasing linked to infrastructure for fiscal implications and identify any direction regarding future annexation as well as other ETJ management tools and policy regarding special districts.

Summary of Task 2.3 Deliverables:

A draft Plan element of written information, supported with charts, tables and other graphics depicting the above information.

Task 2.4: Transportation and Mobility

1. Current Plans and Agency Coordination

Compile pertinent current planning and capital programming efforts to ensure that connectivity with other current and long-range regional system enhancements is considered. Data will be collected from the City, the Texas Department of Transportation (TXDOT), and the Metropolitan Planning Organizations (MPO).

2. Existing Conditions Assessment

Conduct a general overview of the existing thoroughfare system to serve as a basis for plan development. This assessment will include: existing street functional classification, identification of critical intersections, existing and future major traffic generators, and key regional connections. Efficacy of techniques like prescriptive street grids will be explored for appropriateness. Data of available traffic volumes from the City, TxDOT or MPO will be used to assess general roadway utilization and potential issues resulting from long-term growth, though travel demand modeling and similar modeling is not included. Data compiled from this task of effort will be documented to establish a planning context and include:

- a. Current local and regional travel patterns

- b. Key planning, growth and development influences on arterial corridors
 - c. Supporting identified issues and needs of the arterial transportation network
3. Thoroughfare Plan and Functional Classification

Based on plan input, future land use planning, evaluation of future needs, and growth/connectivity, update the Thoroughfare Plan to address a community need, regional connectivity, and long-term needs for thoroughfare network development. System functional classification will also be addressed to facilitate long-term mobility needs. Key arterial classes of the network will be identified for policy recommendation, the general design and right-of-way preservation.

4. Design Standards

The City's current design standards will be reviewed, and recommendations will be prepared for up to seven (7) street functional classifications with up to 3 variable context environments. These recommended roadway cross-sections will graphically depict land configurations, pedestrian realm and right-of-way dimensions. General design standards for thoroughfare layout (location, intersection spacing, etc.) may also be prepared. Supporting text detailing pedestrian systems will also be included. General recommendations for future trail and pedestrian connection locations may be made graphically on maps.

5. Action Plan

Provide a list of near- and long-term actions for implementing the thoroughfare plan, including general roadway needs, key policy considerations (traffic impact analysis, etc.), and other programmatic items (pavement management program, etc.).

Summary of Task 2.4 Deliverables:

A draft Plan element of written information, supported with charts, tables and other graphics depicting the above information.

Task 2.5: Downtown Assessment

1. Existing Conditions and Planning Context Analysis

FNI will review past or ongoing efforts that may influence the Study Area and summarize key recommendations. FNI will evaluate and document existing conditions in the Study Area. Emphasis will be placed on the most recent plans, and those found most relevant by the City. Other existing conditions to be reviewed may include but are not limited to regional context, transportation plans, campus plans, history, demographics and growth trends, municipal boundaries, regulatory controls, and general planning context for the Study Area.

FNI will inventory and analyze existing land use, transportation, and urban design conditions and plans within the Study Area, documenting the building and design conditions in the Study Area. The Consultant will examine current design guidelines applicable to the Study Area.

This assessment is critical to identifying locations within the Study Area ripe for public investment, private investment or a combination, opening the door for infill opportunities, redevelopment,

activation and creation of engaging urban environments.

a. Physical Framework Affecting Redevelopment

In conjunction with the assessment of existing conditions, the FNI will review the study area's physical framework concerning issues that pose opportunities and constraints to market-based redevelopment and revitalization, such as the following:

- Existing land use patterns (public and private), parking areas and green spaces, and similar characteristics affecting area identity
- Regional and local traffic/transportation framework with an emphasis on issues affecting access and visibility to the private properties within the study area
- Vehicular circulation and the pedestrian experience/accessibility
- Privately held structures, both historic and contemporary
- Vacant and underutilized parcels

b. Policy/Regulatory Framework Affecting Redevelopment

In conjunction with the assessment of existing conditions, the FNI will review the study area's policy and regulatory framework concerning issues that pose opportunities and constraints to market-based redevelopment such as the following:

- Existing regulations and effects on development
- Current municipal and regulatory boundaries including city limits, tax increment reinvestment zones and other special districts

c. Ownership and Land Assembly Framework Affecting Redevelopment

In conjunction with the assessment of existing conditions, the FNI will review the study area's ownership and land assembly framework concerning issues that pose opportunities and constraints to market-based redevelopment such as the following:

- Existing ownership patterns and related encumbering issues
- Existing assessed values and related opportunities/constraints
- Publicly owned lands

2. Implementation and Recommendations

The implementation and recommendations will be structured into a coordinated action program so that City leaders, staff and other decision-makers can easily identify the steps that are necessary to achieve the vision for downtown that is described within the Plan. The implementation plan will outline priorities in a matrix format, primarily by:

- Reviewing the various policies and related recommendations.
- Dividing the policies and related recommendations into applicable implementation techniques/actions, such as regulatory actions (e.g., possible development or subdivision ordinance updates), programs, and intergovernmental partnerships, to create an overall Action Plan. This will include identification of responsible parties, best fit approaches for financing, etc.

- Prioritizing the implementation techniques/actions into appropriate time periods.
- Establishing appropriate metrics from which to gauge the effectiveness of the strategies implemented and progress toward plan implementation.
- Creation of a Capital Improvements Plan related to implementation, including prioritization, estimated design & construction costs and recommendations for financing such improvements.

Summary of Task 2.5 Deliverables:

Documentation of findings from all efforts of Task 2.5 as part of the Future Land Use chapter.

Task 2.6: Economic and Fiscal Resilience

1. Evaluate economic approaches and challenges in the City and Region to develop strategies to build economically resilient and diverse communities.
2. Analyze the broad factors influencing new development, redevelopment and tourism activity in the City, focusing on complete neighborhoods and equitable access to economic opportunity while addressing density needs and variables that influence the vibrancy of commercial corridors and nodes.
3. Examine the high level economic and tax impacts of the major components of the Plan, providing the City with a sense of how much new job activity and incremental revenue will be captured over the next 10 to 20 years. This will include estimation of net revenue position and tax base balancing.
4. Recommendations and findings will take into consideration the City's position within the Region's competitive economic development environment, seeking to identify those attributes that can distinguish the City and bring about the desired quality of life.
5. Identify strategies to balance and bridge the gap between current market demand, long-term desired state or aspiration goals of the community, and financial resources required to accelerate preferred development if the market is not yet aligned.

Summary of Task 2.6 Deliverables:

A draft Plan element of written information, supported with charts, tables and other graphics depicting the above information.

Task 2.7: Housing, Neighborhoods and Sense of Place

1. Neighborhood and Housing Assessment
 - a. Evaluate neighborhoods at a high-level in terms of completeness: where residents have easy, convenient access to many of the places and services they use daily including grocery stores, restaurants, schools and parks, without relying heavily on a car.

- b. Identify a variety of existing and recommended neighborhood and housing programs to address any emerging issues.
 - c. Explore housing typologies to address compatibility with character while allowing for incremental change, such as the use of accessory dwellings, townhomes and a variety of building type formats and other forms of housing responsive to market interest and need.
2. Preservation, Character, and Design
- a. Assess the City’s ongoing efforts in historic preservation, identifying any needs for new or updated historic resources surveys.
 - b. Develop policies that address community gateways, community image, and the preservation of character-giving community elements, such as improvements to the public realm to promote accessibility, character, community, identity through urban design, streetscapes and public art.
 - c. Consider approaches to underutilized existing development types and infill, such as older strip centers, for incremental redevelopment and activation.

Summary of Task 2.7 Deliverables:

A draft Plan element of written information, supported with charts, tables and other graphics depicting the above information.

Task 2.8: Implementation

The implementation plan will be structured into a coordinated action program so that City leaders, staff and other decision-makers can identify the steps that are necessary to achieve the vision for the City that is described within the Plan. Aspects of implementation may be structured within the plan itself or in an action plan appendix for usability.

Task 2.9: Final Documents

1. Draft Report

Individual draft plan elements will be developed throughout the planning process. The City will consolidate comments from staff, steering committee and others and provide one set of consolidated comments per plan element to FNI.

FNI will prepare a draft Comprehensive Plan Report (Draft 1) that will document the planning process and tasks. It will present a clear narrative with accompanying graphics and figures, as necessary, to describe the intentions of the community. The document will be designed with modern graphic design and narrative approaches to be approachable to technical and non-technical audiences. The draft will be provided to the City and other parties the City wishes to include for review and comments. The City will consolidate comments from staff, the steering committee and others on Draft 1 and provide one set of consolidated comments. FNI will request a comment review meeting to clarify any comments.

FNI will prepare a revised draft Comprehensive Plan Report (Draft 2) to address the comments and revisions from Draft 1. This draft will serve as the draft for approval consideration by the Planning and Zoning Commission and City Council.

2. Final Report and Deliverables

FNI will produce an "as adopted" final report to incorporate any changes made during the adoption process by City Council. This document will be created in digital format, including both text and mapping, such that it will be easily reproducible. Electronic files of the final Comprehensive Plan will be provided to the City.

3. Plan Mapping

Project mapping is vital to both dissemination of information at meetings and the Comprehensive Plan document. All mapping created by the Consultant will be prepared using ESRI's ArcGIS software and other necessary rendering software. It is assumed that the City will provide all necessary base mapping data in a compatible electronic format to generate the necessary mapping.

Summary of Task 2.9 Deliverables:

- Plan element drafts as described above and throughout
- Draft report for review (Draft 1 and Draft 2)
- Final report and other plan deliverables
- The results of the Comprehensive Plan documentation will be digital files of the final Comprehensive Plan, including mapping data, photos, presentations, and any other material utilized during the planning process. Electronic files may also be provided through other digital file transfer systems mutually agreed to by the City and FNI.

PHASE 3: DEVELOPMENT REGULATIONS UPDATE

Task 3.1: Project Initiation, Form and Outline

1. Prepare and finalize a project work plan/outline based on updating/rewriting the following, including identification of preferred form (e.g., Unified Development Code):
 - a. Chapter 50 (Zoning)
 - b. Chapter 40 (Subdivision)
 - c. Chapter 38, Article V (Street and Drainage Facilities) and select elements of Article VI (Right-of-Way Management)
 - d. Chapter 34 (Signs)
 - e. Chapter 26 (Manufactured Homes, Mobile Dwelling Structures and Recreational Vehicles)
 - f. Chapter 10, Article VIII (Flood Damage Prevention)
2. With direction from the City, define other critical regulations outside of those listed above from the Code of Ordinances with which to align the project development regulations for consistency and cross-reference as needed, but that will remain unaltered and outside of this project.
3. Preparation of the project development regulations does not include development of or revisions to Engineering Criteria Manuals, Construction Specifications and Standards Manuals, or

Development Manuals, but such manuals will be cross-referenced as appropriate. Such revision services are available as an additional service.

Task 3.2: Diagnostic of Current Regulations

Produce a Code Diagnostic and Analysis Report to lay the foundation for revising the existing regulations. The diagnostic report will be used to guide the creation of the Development Regulations update. It is important that consensus is reached on the recommended changes and approach to streamline the ordinance writing process. The diagnostic report will be in memorandum/report format (approximately 30-40 pages in length), which will summarize the issues and recommended changes to the existing regulations, informed by the direction of the Comprehensive Plan.

This will focus effort in order to streamline the remainder of the process, identifying issues with all Code users and stakeholders, discussing potential resolutions and identifying the selected course of action.

FNI will conduct up to 12 hours of stakeholder interviews over two days, including internal (City Staff, elected/appointed officials) and external (developers, engineers, etc.) stakeholders, as identified and organized by City Staff. In addition to stakeholder input, the report will consider the following:

1. Evaluation of the Comprehensive Plan in Phase 2 for relevant impacts on the regulatory environment.
2. Best practices evaluation, including the changing legislative and case law environments.
3. Establishment of the recommended organizational structure for the development codes.

City Staff is responsible for providing one set of consolidated comments on the draft report within 14 calendar days of receipt. FNI and City Staff will conduct one virtual meeting to review the City's comments. FNI will provide a revised report for discussion and direction at a joint workshop with the Planning & Zoning Commission and City Council. Based on the joint workshop direction, FNI will provide a final electronic deliverable of the report.

Task 3.3: Preparation of the Development Regulations

Consultant shall undertake the preparation of the development regulations based upon the findings of the Comprehensive Plan and the Diagnostic Evaluation to achieve a set of development codes that is implementable, legal, internally consistent and aligned to the vision.

1. Module Drafting Process

The process for creating the development regulations will be divided into several distinct parts (modules) to allow for focused and topical discussion between City Staff and FNI. City Staff is responsible for providing one set of consolidated comments for each part, with conflicting comments either resolved or identified for a facilitated comment resolution conversation.

2. Module Draft Review Process

- a. FNI will prepare one working draft for each module. FNI will provide a brief (approximately one hour) virtual orientation session to introduce each module to City Staff.
- b. One set of consolidated comments from City Staff within 28 calendar days of receipt of the working draft. After written comments have been provided, FNI and City Staff will hold a

virtual call (approximately one to two hours, as needed) to review City Staff's comments and direction.

- c. FNI will complete one revision following receipt of review comments, which will be included in the Full Discussion Draft.
3. Full Discussion Draft
 - a. Based on City Staff comments and revisions to the module draft reviews, FNI will prepare a Discussion Draft.
 - b. FNI will deliver the discussion draft to the City, with City staff providing one review within 28 calendar days of receipt. FNI will edit as necessary, and post on the project website for public review.
 - c. FNI will review all comments with City Staff and address as necessary to prepare a Final Draft for adoption consideration.
 4. Zoning Map – This scope of services does not include amendments to or development of a new zoning map.
 5. Final Draft and Adoption
 - a. FNI will prepare a draft set of development regulations for adoption consideration, and advise as necessary on the adoption process and notifications.
 - b. The Final Draft will be posted on the project website for public transparency.
 - c. FNI will attend in-person and facilitate one joint workshop with the Planning & Zoning Commission and City Council to review the draft development regulations and discuss initial feedback.
 - d. FNI will provide a revised draft of the development regulations for adoption consideration.
 - e. FNI will attend in-person and facilitate one public hearing at a joint meeting with the Planning & Zoning Commission and City Council to consider recommendation and adoption of the development regulations.

Deliverables:

- Project deliverables include all electronic files in Microsoft Word and Adobe PDF formats to edit and reproduce the development regulations. Note that this scope of services does not include development of engineering design/construction details or a zoning map.

ARTICLE II

ADDITIONAL SERVICES: Additional Services to be performed by Consultant, if authorized by City, which are not included in the above described basic services, are described as follows:

- A. Printing and binding of documents in addition to those identified in ARTICLE II will be billed in accordance with the rates outlined in Exhibit SC. Consultant, following a request for assistance from the City, will prepare an estimate for approval by the City prior to initiating work.
- B. Making revisions to drawings or other report documents when such revisions are 1) not consistent with approvals or instructions previously given by City or 2) due to other causes not solely within the control of Consultant.
- C. Meeting or trips in excess of the number of meetings included in Article I for coordination meetings, public meetings or other activities. Additional meetings requested by the City in excess of those included in Article I will be billed hourly in accordance with the rates outlined in Exhibit SC.
- D. Preparation of new impact fees or impact fee updates for water, wastewater, roadway or drainage under Chapter 395.
- E. Preparation or revisions to engineering criteria manuals and development manuals.
- F. Preparation or revisions to the zoning map, such as zoning map amendments.
- G. Preparation of water, wastewater or drainage master plans, or updates to other adopted plans.
- H. Preparing applications and supporting documents for government grants, loans, or planning advances and providing data for detailed applications, including MPO applications.
- I. Preparing data and reports for assistance to City in preparation for hearings before regulatory agencies, courts, arbitration panels or any mediator, giving testimony, personally or by deposition, and preparations therefore before any regulatory agency, court, arbitration panel or mediator.
- J. Revisions, contract modifications, studies or analysis required to comply with local, State, Federal or other regulatory agencies that become effective after the date of this agreement.
- K. Providing basic or additional services on an accelerated time schedule. This includes cost for overtime wages of employees and Consultants, inefficiencies in work sequence and plotting or reproduction costs directly attributable to an accelerated time schedule directed by the City.
- L. Preparing statements for invoicing or other documentation for billing other than for the standard invoice for services attached to this professional services agreement.
- M. Providing document revisions in excess of those outlined in Article I.

ARTICLE III

TIME OF COMPLETION: Consultant is authorized to commence work on the Project upon execution of this Agreement and agrees to complete the basic services within **twenty-one (21) months of the notice to proceed.**

If Consultant’s services are delayed through no fault of FNI, FNI shall be entitled to adjust the contract schedule consistent with the number of days of delay. These delays may include but are not limited to delays in City or regulatory reviews, delays in the flow of information to be provided to FNI, governmental approvals, etc. These delays may result in an adjustment to compensation as outlined on the face of this Agreement and will be based upon rates outlined in Exhibit SC.

ARTICLE IV

COMPENSATION: FNI shall perform professional services as outlined in the “Scope of Services” for a lump sum fee of \$450,000. All project expenses are included.

Project Phases	Fee Breakdown
Basic Services	
PHASE 1: PROJECT MANAGEMENT, COORDINATION, MEETINGS AND ENGAGEMENT (includes Phases 2-3)	\$137,000
PHASE 2: COMPREHENSIVE PLAN AMENDMENT AND THOROUGHFARE PLAN UPDATE	\$120,000
PHASE 3: DEVELOPMENT REGULATIONS UPDATE	\$193,000
TOTAL	\$450,000

ARTICLE V

RESPONSIBILITIES OF OWNER: City shall perform the following in a timely manner so as not to delay the services of Consultant:

- A. Provide meeting space and coordinate equipment needs, room set up, and logistics for meetings outlined in Article I.
- B. Provide information from all previous and current studies and projects (as available) that may affect the outcome of the Project. This information will be provided in digital format when possible and available.
- C. Provide any identified Code deficiencies or issues known to City Staff.
- D. Provide the most recently updated digital base map and aerial imagery of the planning area for use during the comprehensive plan preparation process. These files will be in the form of GIS file types native to ESRI ArcGIS.
- E. Contact meeting invitees for stakeholder and public meeting(s). This includes email, mail, newsletter or other forms of notification.
- F. Examine and provide prompt feedback on all submittals, draft reports, sketches, drawings, and other documents presented by Consultant within a reasonable time so as not to delay the services of Consultant. City comments should be consolidated with clear and concise edits, preferably typed for legibility.
- G. Designate in writing a person to act as City's representative with respect to the services to be rendered under this Agreement. Such person shall have contract authority to transmit instructions, receive information, interpret and define City's policies and decisions with respect to FNI's services for the Project.
- H. Arrange for access to and make all provisions for FNI to enter upon public and private property as required for FNI to perform services under this Agreement.
- I. Bear all costs incident to compliance with the requirements of this Article IV.

ARTICLE V

DESIGNATED REPRESENTATIVES: FNI designates the following representatives:

FNI's Project Representative	Name: Shad Comeaux, AICP E-mail: shad.comeaux@freese.com Phone: 832-456-4766
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FNI's Accounting Representative	Name: Lisa Broussard E-mail: lisa.broussard@freese.com Phone: 972-331-6021
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**PROFESSIONAL SERVICES AGREEMENT
FOR
CONSULTANT SERVICES
RELATED TO
PROJECT NO. 2023-10017
CITY OF TOMBALL
COMPREHENSIVE PLAN, MAJOR THOROUGHFARE PLAN
& UNIFIED BUILDING CODE UPDATE**

**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 Freese & Nichols, Inc. ("Engineer").

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 an estimated 650 calendar day duration beginning from the execution date of this Agreement, as described 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, Engineer 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 Engineer, the Engineer's agent, consultant under contract, or another entity over which the Engineer exercises control.

**SECTION VII.
ENGINEER'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 \$450,000.00, including reimbursable expenses.

**SECTION VIII.
INSURANCE**

Consultant shall procure and maintain insurance in accordance with the terms and conditions set forth in Exhibit "B," 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:

Freese & Nichols, Inc.
Attn: Shad Comeaux
11200 Broadway Street, Suite 2320
Pearland, Texas 77584

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 ENGINEER**

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 ENGINEER FOR SERVICES AND
REIMBURSABLE EXPENSES**

Invoices for Basic and Additional Services and reimbursable expenses will be prepared in accordance with Engineer's standard invoicing practices and will be submitted to the City by Engineer 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 Engineer covenants and agrees that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. Furthermore, the Engineer 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.

Freese & Nichols, Inc.

Name: Shad Comeaux
Title: Vice President/ Principal

CITY OF TOMBALL, TEXAS

David Esquivel, City Manager

ATTEST:

Tracylynn Garcia, City Secretary

EXHIBIT A

SCOPE OF SERVICES AND RESPONSIBILITIES OF OWNER

ARTICLE I

BASIC SERVICES: FNI shall render the following professional services in connection with the development of the Project:

PROJECT UNDERSTANDING:

As further described below, the City of Tomball (Client, City) is engaging FNI (Consultant) to develop a comprehensive plan amendment and updated development regulations anticipated in the form of a Unified Development Code (UDC), consistent with standards, procedures and best management practices in Texas. Execution of the contract by all parties shall constitute notice to proceed.

Concurrent with this planning process, the City is conducting water and wastewater master plans, drainage master plans, impact fee updates and a parks, recreation and open space master plan. Information from these respective planning efforts will be coordinated with the Comprehensive Plan and Development Regulations and vice versa.

SCOPE OF SERVICES:

Tasks prepared as part of this planning effort may occur concurrently or sequentially where appropriate or, in some cases, may deviate from the sequence shown in this Scope of Services document.

PHASE 1: PROJECT MANAGEMENT, COORDINATION, MEETINGS AND ENGAGEMENT

Task 1.1: Project Management and Quality Control

Perform general project management and control project quality, progress and budget for the scoped period of completion, including the Consultant's monthly reporting and invoicing requirements, monthly status meetings with the City, and similar efforts.

Deliverables:

- a. Project schedule, updated as needed
- b. Monthly one-page reports and invoices

Task 1.2: Engagement and Meetings

The consultant will prepare an engagement plan for approval by the City, consistent with the following:

1. Staff Check-In Meetings

The Freese and Nichols Team will meet with City staff periodically throughout the project to discuss project progress, key action items and responsibilities, and the project schedule. These meetings will take place through standing conference calls to be determined by the Client and the Freese and Nichols Team. The project's progress and status will also come through monthly status updates will be submitted that summarize progress and document upcoming tasks. The monthly status updates

will outline any upcoming key decisions which will require input from or discussion with the City. Outside of scoped project meetings, conference calls with City staff will be scheduled as needed.

2. Project Initiation

A conference call or virtual meeting with key project team staff from the City will take place at the beginning of the project to familiarize all parties with the scope, project schedule, project kick-off, data request needs and timing, invoicing, communication and key staff, and other significant considerations advantageous to understand prior to the kick-off.

3. Kick-off Meeting and Study Area Tour

Attend one (1) kick-off meeting with the City. The purpose of the meeting will be to build upon discussions of the staff initiation conference call. Immediately following the Kick-off Meeting, participate in one (1) site tour of the city to provide spatial context to conversations about the City's challenges and opportunities. If unable to conduct this as an in-person tour, the City will provide a recommended tour route and key information elements. FNI and the City may also mutually agree to other approaches.

4. Comprehensive Plan Advisory Committee (CPAC) Meetings

CPAC members will be identified by the City at the outset of the project. CPAC meetings will allow for the review of key components of the plan in detail, to explore possible scenarios, to debrief public participation efforts, and to receive direction on plan issues and topics. Such sessions will include an agenda, any necessary maps, handouts, or materials, and drafts of key tasks for review and comment. A total of five (5) meetings are included in this scope of work. The first CPAC meeting could take place as part of the trip for the Kickoff Meeting and Study Area Tour.

5. Stakeholder Meetings and/or Community Conversations

A total of one (1) day of stakeholder meetings are planned and will be held virtually unless combined with other scheduled in-person efforts. Over the course of a few days near the beginning of the project, FNI will seek to engage in conversations with community leaders and other stakeholders who can provide specific insights into the Comprehensive Plan process, as identified by the City. These stakeholders can be engaged through a variety of methods, details of which will be determined via the Engagement Plan.

6. Public Engagement Effort

Two (2) community events or other public engagements with similar levels of effort, as established in the Engagement Plan, will be held during the process to identify issues and opportunities and gather feedback on residents' visions for the City. These will be in-person engagements unless otherwise warranted due to identified project needs. "Meetings-in-a-box" will also be created to allow for community organizations or individuals to engage their circles of influence.

7. City Council Briefings and Adoption Meetings

Attend seven (7) City Council or Planning and Zoning Commission meetings during the process, which may be structured as joint meetings of the Planning and Zoning Commission and the City Council.

8. Project Website, Surveys and Branding
 - a. The City will establish a project website to host the community survey, engagement materials and final documents.
 - b. Develop one (1) non-scientific online community survey and online ideas wall during the visioning phase.
 - c. The full draft of the plans and development regulations will be available online for public review and comment.

Deliverables:

- a. Meetings, events and engagements, and their associated support materials, as described
- b. Summaries of each engagement activity

PHASE 2: COMPREHENSIVE PLAN AMENDMENT AND THOROUGHFARE PLAN UPDATE

Task 2.1: Community Snapshot and Existing Conditions Update

FNI may place the following information within the body of the Plan or place it in an appendix and shift the introduction to the Vision chapter to enhance readability.

1. Baseline Analysis
 - a. Update the existing demographics based on new Census data and projections.
2. Context Analysis
 - a. Study a historic timeline of the City, including major events impacting the physical development of the community.
 - b. Review and critique past and ongoing planning efforts conducted by the City.
 - c. Evaluate regional initiatives.
 - d. Conduct a physical features assessment, including topography, floodplains, developed/undeveloped land, natural features, sensitive environmental areas, natural assets and hazards, and other physical implications that impact growth and development.
 - e. Identify strengths, weaknesses, opportunities, and constraints related to the physical/environmental conditions, policy/regulatory conditions, and ownership and land assembly conditions at play in the study areas.

Summary of Task 2.1 Deliverables:

The Community Snapshot Analysis Report will be a draft Plan element, potentially in the form of an appendix, of written information, supported with charts, tables and other graphics depicting the above information, explaining the importance, patterns and meaning of the facts as they relate to the City and the

Task 2.2: Community Vision and Guiding Principles

1. Community Vision

Based on an assessment of the existing goals and objectives of Tomball, an understanding of existing community constraints, and a summary of public input and feedback, the community's vision will be developed.

2. Guiding Principles

The foundation of the Comprehensive Plan will be defined through the guiding principles and goals. The plan recommendations and implementation result from the Comprehensive Plan's guiding principles and goals, which support the community's vision. FNI will develop guiding principles/goals based on analysis, community input and feedback received at the beginning of the process.

3. Summary of Community Engagement

Summarize feedback from the community in both qualitative and quantitative terms in a way that demonstrates the Plan is driven by the community. This may be separated and placed in an appendix.

Summary of Task 2.2 Deliverables:

A draft Plan element of written information, supported with charts, tables and other graphics depicting the above information. This will include:

- Brief summary of community input and surveys
- Development of guiding principles to assist in recommendations and formation of implementation strategies.

Task 2.3: Future Land Use

1. Future Land Use & Development Types and Projections

A key component of the Future Land Use Plan is the definition and discussion of future land use types, at times called place types, including any new land use types that may be applicable within the City. Discussions of the types of land uses will include associated character guidelines and preferred locations. Land use projections will depict the acreage by land use type as reflected within the Future Land Use Plan Map described below.

2. Growth Scenarios

- a. Forecasting of the City's growth based on recent growth trends and utility master plans.
- b. Identification of areas of stability, incremental change and transformative change.
- c. Generation and assessment of up to three (3) growth scenarios with community members,

the CPAC, and elected officials (format to be determined via the Engagement Plan). Discussion of tradeoffs including economic growth, quality of life, community health, environmental and agricultural conservation, net revenue position, transportation, long-term sustainability and community resilience.

3. Future Land Use Plan

The Future Land Use Plan is a policy document which is intended to guide City staff and officials as they make decisions on where, when and how the City should grow and redevelop. The development of a future land use plan will ensure a cohesive and unified vision for the City is presented to developments and property owners as future development and redevelopment occurs within the community. FNI will develop a future land use plan that will consider existing land use information, neighborhood compatibility, anticipated zoning regulations, economic development strategies, past development patterns, infill and redevelopment opportunities, and integrate them into a graphic depiction of the community's future.

4. Population Projections and Capacity Analysis

Incorporate a new projected growth rate and population projections for the City based upon concurrent water and wastewater master planning efforts. The population projections will help inform decisions pertaining to infrastructure, public facilities, parks and other Capital Improvement Program items. FNI will evaluate shifting population patterns and trends to increase understanding of Tomball's stage of growth and development relative to build-out, including a capacity analysis based on the future land use map.

5. Development/Redevelopment Opportunity Areas

As the planning team assesses future land uses, we will identify up to two (2) opportunity areas (other than Downtown) for an assessment that may explore the potential for catalytic change. Opportunity areas are unique places or have the potential to become unique areas through specific strategies, incentives or locations. An example might be the Highway 249 corridor. The existing conditions and factors to consider will be evaluated, and a vision for each area will be identified with general strategies to achieve the vision outlined. Funding an opportunity area study through the Houston-Galveston Area Council might be possible.

6. Future Land Use Plan Map

The Future Land Use Plan Map will depict color-coded land uses within the City's planning area. The map will consider the following:

- a. Location of future residential, non-residential, mixed uses, open space and institutional land uses along with associated intensities.
- b. Location of environmentally sensitive areas or barriers that should be considered when making future development decisions.
- c. Location of future land uses along major transportation corridors along with associated intensities.

- d. Economic productivity through development and redevelopment strategies, seeking to enhance the net revenue position of the City and balancing tax base.
- e. Compatibility of adjacent uses and contexts to provide thoughtful transitions and buffering.
- f. Anticipated use as a basis to establish zoning.

7. Growth Management

Prepare buildout analyses and timing/phasing linked to infrastructure for fiscal implications and identify any direction regarding future annexation as well as other ETJ management tools and policy regarding special districts.

Summary of Task 2.3 Deliverables:

A draft Plan element of written information, supported with charts, tables and other graphics depicting the above information.

Task 2.4: Transportation and Mobility

1. Current Plans and Agency Coordination

Compile pertinent current planning and capital programming efforts to ensure that connectivity with other current and long-range regional system enhancements is considered. Data will be collected from the City, the Texas Department of Transportation (TXDOT), and the Metropolitan Planning Organizations (MPO).

2. Existing Conditions Assessment

Conduct a general overview of the existing thoroughfare system to serve as a basis for plan development. This assessment will include: existing street functional classification, identification of critical intersections, existing and future major traffic generators, and key regional connections. Efficacy of techniques like prescriptive street grids will be explored for appropriateness. Data of available traffic volumes from the City, TxDOT or MPO will be used to assess general roadway utilization and potential issues resulting from long-term growth, though travel demand modeling and similar modeling is not included. Data compiled from this task of effort will be documented to establish a planning context and include:

- a. Current local and regional travel patterns
- b. Key planning, growth and development influences on arterial corridors
- c. Supporting identified issues and needs of the arterial transportation network

3. Thoroughfare Plan and Functional Classification

Based on plan input, future land use planning, evaluation of future needs, and growth/connectivity, update the Thoroughfare Plan to address a community need, regional connectivity, and long-term needs for thoroughfare network development. System functional classification will also be addressed to facilitate long-term mobility needs. Key arterial classes of the network will be

identified for policy recommendation, the general design and right-of-way preservation.

4. Design Standards

The City's current design standards will be reviewed, and recommendations will be prepared for up to seven (7) street functional classifications with up to 3 variable context environments. These recommended roadway cross-sections will graphically depict land configurations, pedestrian realm and right-of-way dimensions. General design standards for thoroughfare layout (location, intersection spacing, etc.) may also be prepared. Supporting text detailing pedestrian systems will also be included. General recommendations for future trail and pedestrian connection locations may be made graphically on maps.

5. Action Plan

Provide a list of near- and long-term actions for implementing the thoroughfare plan, including general roadway needs, key policy considerations (traffic impact analysis, etc.), and other programmatic items (pavement management program, etc.).

Summary of Task 2.4 Deliverables:

A draft Plan element of written information, supported with charts, tables and other graphics depicting the above information.

Task 2.5: Downtown Assessment

1. Existing Conditions and Planning Context Analysis

FNI will review past or ongoing efforts that may influence the Study Area and summarize key recommendations. FNI will evaluate and document existing conditions in the Study Area. Emphasis will be placed on the most recent plans, and those found most relevant by the City. Other existing conditions to be reviewed may include but are not limited to regional context, transportation plans, campus plans, history, demographics and growth trends, municipal boundaries, regulatory controls, and general planning context for the Study Area.

FNI will inventory and analyze existing land use, transportation, and urban design conditions and plans within the Study Area, documenting the building and design conditions in the Study Area. The Consultant will examine current design guidelines applicable to the Study Area.

This assessment is critical to identifying locations within the Study Area ripe for public investment, private investment or a combination, opening the door for infill opportunities, redevelopment, activation and creation of engaging urban environments.

a. Physical Framework Affecting Redevelopment

In conjunction with the assessment of existing conditions, the FNI will review the study area's physical framework concerning issues that pose opportunities and constraints to market-based redevelopment and revitalization, such as the following:

- Existing land use patterns (public and private), parking areas and green spaces, and similar characteristics affecting area identity
- Regional and local traffic/transportation framework with an emphasis on issues

- affecting access and visibility to the private properties within the study area
- Vehicular circulation and the pedestrian experience/accessibility
- Privately held structures, both historic and contemporary
- Vacant and underutilized parcels

b. Policy/Regulatory Framework Affecting Redevelopment

In conjunction with the assessment of existing conditions, the FNI will review the study area’s policy and regulatory framework concerning issues that pose opportunities and constraints to market-based redevelopment such as the following:

- Existing regulations and effects on development
- Current municipal and regulatory boundaries including city limits, tax increment reinvestment zones and other special districts

c. Ownership and Land Assembly Framework Affecting Redevelopment

In conjunction with the assessment of existing conditions, the FNI will review the study area’s ownership and land assembly framework concerning issues that pose opportunities and constraints to market-based redevelopment such as the following:

- Existing ownership patterns and related encumbering issues
- Existing assessed values and related opportunities/constraints
- Publicly owned lands

2. Implementation and Recommendations

The implementation and recommendations will be structured into a coordinated action program so that City leaders, staff and other decision-makers can easily identify the steps that are necessary to achieve the vision for downtown that is described within the Plan. The implementation plan will outline priorities in a matrix format, primarily by:

- Reviewing the various policies and related recommendations.
- Dividing the policies and related recommendations into applicable implementation techniques/actions, such as regulatory actions (e.g., possible development or subdivision ordinance updates), programs, and intergovernmental partnerships, to create an overall Action Plan. This will include identification of responsible parties, best fit approaches for financing, etc.
- Prioritizing the implementation techniques/actions into appropriate time periods.
- Establishing appropriate metrics from which to gauge the effectiveness of the strategies implemented and progress toward plan implementation.
- Creation of a Capital Improvements Plan related to implementation, including prioritization, estimated design & construction costs and recommendations for financing such improvements.

Summary of Task 2.5 Deliverables:

Documentation of findings from all efforts of Task 2.5 as part of the Future Land Use chapter.

Task 2.6: Economic and Fiscal Resilience

1. Evaluate economic approaches and challenges in the City and Region to develop strategies to build economically resilient and diverse communities.
2. Analyze the broad factors influencing new development, redevelopment and tourism activity in the City, focusing on complete neighborhoods and equitable access to economic opportunity while addressing density needs and variables that influence the vibrancy of commercial corridors and nodes.
3. Examine the high level economic and tax impacts of the major components of the Plan, providing the City with a sense of how much new job activity and incremental revenue will be captured over the next 10 to 20 years. This will include estimation of net revenue position and tax base balancing.
4. Recommendations and findings will take into consideration the City's position within the Region's competitive economic development environment, seeking to identify those attributes that can distinguish the City and bring about the desired quality of life.
5. Identify strategies to balance and bridge the gap between current market demand, long-term desired state or aspiration goals of the community, and financial resources required to accelerate preferred development if the market is not yet aligned.

Summary of Task 2.6 Deliverables:

A draft Plan element of written information, supported with charts, tables and other graphics depicting the above information.

Task 2.7: Housing, Neighborhoods and Sense of Place

1. Neighborhood and Housing Assessment
 - a. Evaluate neighborhoods at a high-level in terms of completeness: where residents have easy, convenient access to many of the places and services they use daily including grocery stores, restaurants, schools and parks, without relying heavily on a car.
 - b. Identify a variety of existing and recommended neighborhood and housing programs to address any emerging issues.
 - c. Explore housing typologies to address compatibility with character while allowing for incremental change, such as the use of accessory dwellings, townhomes and a variety of building type formats and other forms of housing responsive to market interest and need.
2. Preservation, Character, and Design
 - a. Assess the City's ongoing efforts in historic preservation, identifying any needs for new or updated historic resources surveys.

- b. Develop policies that address community gateways, community image, and the preservation of character-giving community elements, such as improvements to the public realm to promote accessibility, character, community, identity through urban design, streetscapes and public art.
- c. Consider approaches to underutilized existing development types and infill, such as older strip centers, for incremental redevelopment and activation.

Summary of Task 2.7 Deliverables:

A draft Plan element of written information, supported with charts, tables and other graphics depicting the above information.

Task 2.8: Implementation

The implementation plan will be structured into a coordinated action program so that City leaders, staff and other decision-makers can identify the steps that are necessary to achieve the vision for the City that is described within the Plan. Aspects of implementation may be structured within the plan itself or in an action plan appendix for usability.

Task 2.9: Final Documents

1. Draft Report

Individual draft plan elements will be developed throughout the planning process. The City will consolidate comments from staff, steering committee and others and provide one set of consolidated comments per plan element to FNI.

FNI will prepare a draft Comprehensive Plan Report (Draft 1) that will document the planning process and tasks. It will present a clear narrative with accompanying graphics and figures, as necessary, to describe the intentions of the community. The document will be designed with modern graphic design and narrative approaches to be approachable to technical and non-technical audiences. The draft will be provided to the City and other parties the City wishes to include for review and comments. The City will consolidate comments from staff, the steering committee and others on Draft 1 and provide one set of consolidated comments. FNI will request a comment review meeting to clarify any comments.

FNI will prepare a revised draft Comprehensive Plan Report (Draft 2) to address the comments and revisions from Draft 1. This draft will serve as the draft for approval consideration by the Planning and Zoning Commission and City Council.

2. Final Report and Deliverables

FNI will produce an "as adopted" final report to incorporate any changes made during the adoption process by City Council. This document will be created in digital format, including both text and mapping, such that it will be easily reproducible. Electronic files of the final Comprehensive Plan will be provided to the City.

3. Plan Mapping

Project mapping is vital to both dissemination of information at meetings and the Comprehensive Plan document. All mapping created by the Consultant will be prepared using ESRI's ArcGIS software and other necessary rendering software. It is assumed that the City will provide all necessary base mapping data in a compatible electronic format to generate the necessary mapping.

Summary of Task 2.9 Deliverables:

- Plan element drafts as described above and throughout
- Draft report for review (Draft 1 and Draft 2)
- Final report and other plan deliverables
- The results of the Comprehensive Plan documentation will be digital files of the final Comprehensive Plan, including mapping data, photos, presentations, and any other material utilized during the planning process. Electronic files may also be provided through other digital file transfer systems mutually agreed to by the City and FNI.

PHASE 3: DEVELOPMENT REGULATIONS UPDATE

Task 3.1: Project Initiation, Form and Outline

1. Prepare and finalize a project work plan/outline based on updating/rewriting the following, including identification of preferred form (e.g., Unified Development Code):
 - a. Chapter 50 (Zoning)
 - b. Chapter 40 (Subdivision)
 - c. Chapter 38, Article V (Street and Drainage Facilities) and select elements of Article VI (Right-of-Way Management)
 - d. Chapter 34 (Signs)
 - e. Chapter 26 (Manufactured Homes, Mobile Dwelling Structures and Recreational Vehicles)
 - f. Chapter 10, Article VIII (Flood Damage Prevention)
2. With direction from the City, define other critical regulations outside of those listed above from the Code of Ordinances with which to align the project development regulations for consistency and cross-reference as needed, but that will remain unaltered and outside of this project.
3. Preparation of the project development regulations does not include development of or revisions to Engineering Criteria Manuals, Construction Specifications and Standards Manuals, or Development Manuals, but such manuals will be cross-referenced as appropriate. Such revision services are available as an additional service.

Task 3.2: Diagnostic of Current Regulations

Produce a Code Diagnostic and Analysis Report to lay the foundation for revising the existing regulations. The diagnostic report will be used to guide the creation of the Development Regulations update. It is important that consensus is reached on the recommended changes and approach to streamline the ordinance writing process. The diagnostic report will be in memorandum/report format (approximately 30-40 pages in length), which will summarize the issues and recommended changes to the existing regulations, informed by the direction of the Comprehensive Plan.

This will focus effort in order to streamline the remainder of the process, identifying issues with all Code users and stakeholders, discussing potential resolutions and identifying the selected course of action.

FNI will conduct up to 12 hours of stakeholder interviews over two days, including internal (City Staff, elected/appointed officials) and external (developers, engineers, etc.) stakeholders, as identified and organized by City Staff. In addition to stakeholder input, the report will consider the following:

1. Evaluation of Comprehensive Plan in Phase 2 for relevant impacts to the regulatory environment.
2. Best practices evaluation, including the changing legislative and case law environments.
3. Establishment of the recommended organizational structure for the development codes.

City Staff is responsible for providing one set of consolidated comments on the draft report within 14 calendar days of receipt. FNI and City Staff will conduct one virtual meeting to review the City's comments. FNI will provide a revised report for discussion and direction at a joint workshop with the Planning & Zoning Commission and City Council. Based on the joint workshop direction, FNI will provide a final electronic deliverable of the report.

Task 3.3: Preparation of the Development Regulations

Consultant shall undertake preparation of the development regulations based upon the findings of the Comprehensive Plan and the Diagnostic Evaluation to achieve a set of development codes that is implementable, legal, internally consistent and aligned to the vision.

1. Module Drafting Process

The process for creating the development regulations will be divided into several distinct parts (modules) to allow for focused and topical discussion between City Staff and FNI. City Staff is responsible for providing one set of consolidated comments for each part, with conflicting comments either resolved or identified for a facilitated comment resolution conversation.

2. Module Draft Review Process

- a. FNI will prepare one working draft for each of module. FNI will provide a brief (approximately one hour) virtual orientation session to introduce each module to City Staff.
- b. One set of consolidated comments from City Staff within 28 calendar days of receipt of the working draft. After written comments have been provided, FNI and City Staff will hold a virtual call (approximately one to two hours, as needed) to review City Staff's comments and direction.
- c. FNI will complete one revision following receipt of review comments, which will be included in the Full Discussion Draft.

3. Full Discussion Draft

- a. Based on City Staff comments and revisions to the module draft reviews, FNI will prepare a Discussion Draft.
- b. FNI will deliver the discussion draft to the City, with City staff providing one review within 28 calendar days of receipt. FNI will edit as necessary, and post on the project website for public review.

- c. FNI will review all comments with City Staff and address as necessary to prepare a Final Draft for adoption consideration.
4. Zoning Map – This scope of services does not include amendments to or development of a new zoning map.
5. Final Draft and Adoption
 - a. FNI will prepare a draft set of development regulations for adoption consideration, and advise as necessary on the adoption process and notifications.
 - b. The Final Draft will be posted on the project website for public transparency.
 - c. FNI will attend in-person and facilitate one joint workshop with the Planning & Zoning Commission and City Council to review the draft development regulations and discuss initial feedback.
 - d. FNI will provide a revised draft of the development regulations for adoption consideration.
 - e. FNI will attend in-person and facilitate one public hearing at a joint meeting with the Planning & Zoning Commission and City Council to consider recommendation and adoption of the development regulations.

Deliverables:

- Project deliverables include all electronic files in Microsoft Word and Adobe PDF formats to edit and reproduce the development regulations. Note that this scope of services does not include development of engineering design/construction details or a zoning map.

ARTICLE II

ADDITIONAL SERVICES: Additional Services to be performed by Consultant, if authorized by City, which are not included in the above described basic services, are described as follows:

- A. Printing and binding of documents in addition to those identified in ARTICLE II will be billed in accordance with the rates outlined in Exhibit SC. Consultant, following a request for assistance from the City, will prepare an estimate for approval by the City prior to initiating work.
- B. Making revisions to drawings or other report documents when such revisions are 1) not consistent with approvals or instructions previously given by City or 2) due to other causes not solely within the control of Consultant.
- C. Meeting or trips in excess of the number of meetings included in Article I for coordination meetings, public meetings or other activities. Additional meetings requested by the City in excess of those included in Article I will be billed hourly in accordance with the rates outlined in Exhibit SC.
- D. Preparation of new impact fees or impact fee updates for water, wastewater, roadway or drainage under Chapter 395.
- E. Preparation or revisions to engineering criteria manuals and development manuals.
- F. Preparation or revisions to the zoning map, such as zoning map amendments.
- G. Preparation of water, wastewater or drainage master plans, or updates to other adopted plans.
- H. Preparing applications and supporting documents for government grants, loans, or planning advances and providing data for detailed applications, including MPO applications.
- I. Preparing data and reports for assistance to City in preparation for hearings before regulatory agencies, courts, arbitration panels or any mediator, giving testimony, personally or by deposition, and preparations therefore before any regulatory agency, court, arbitration panel or mediator.
- J. Revisions, contract modifications, studies or analysis required to comply with local, State, Federal or other regulatory agencies that become effective after the date of this agreement.
- K. Providing basic or additional services on an accelerated time schedule. This includes cost for overtime wages of employees and Consultants, inefficiencies in work sequence and plotting or reproduction costs directly attributable to an accelerated time schedule directed by the City.
- L. Preparing statements for invoicing or other documentation for billing other than for the standard invoice for services attached to this professional services agreement.
- M. Providing document revisions in excess of those outlined in Article I.

ARTICLE III

TIME OF COMPLETION: Consultant is authorized to commence work on the Project upon execution of this Agreement and agrees to complete the basic services within **twenty-one (21) months of the notice to proceed.**

If Consultant's services are delayed through no fault of FNI, FNI shall be entitled to adjust the contract schedule consistent with the number of days of delay. These delays may include but are not limited to delays in City or regulatory reviews, delays in the flow of information to be provided to FNI, governmental approvals, etc. These delays may result in an adjustment to compensation as outlined on the face of this Agreement and will be based upon rates outlined in Exhibit SC.

ARTICLE IV

COMPENSATION: FNI shall perform professional services as outlined in the "Scope of Services" for a lump sum fee of \$450,000. All project expenses are included.

Project Phases	Fee Breakdown
Basic Services	
PHASE 1: PROJECT MANAGEMENT, COORDINATION, MEETINGS AND ENGAGEMENT (includes Phases 2-3)	\$137,000
PHASE 2: COMPREHENSIVE PLAN AMENDMENT AND THOROUGHFARE PLAN UPDATE	\$120,000
PHASE 3: DEVELOPMENT REGULATIONS UPDATE	\$193,000
TOTAL	\$450,000

ARTICLE V

RESPONSIBILITIES OF OWNER: City shall perform the following in a timely manner so as not to delay the services of Consultant:

- A. Provide meeting space and coordinate equipment needs, room set up, and logistics for meetings outlined in Article I.
- B. Provide information from all previous and current studies and projects (as available) that may affect the outcome of the Project. This information will be provided in digital format when possible and available.
- C. Provide any identified Code deficiencies or issues known to City Staff.
- D. Provide the most recently updated digital base map and aerial imagery of the planning area for use during the comprehensive plan preparation process. These files will be in the form of GIS file types native to ESRI ArcGIS.
- E. Contact meeting invitees for stakeholder and public meeting(s). This includes email, mail, newsletter or other forms of notification.
- F. Examine and provide prompt feedback on all submittals, draft reports, sketches, drawings, and other documents presented by Consultant within a reasonable time so as not to delay the services of Consultant. City comments should be consolidated with clear and concise edits, preferably typed for legibility.
- G. Designate in writing a person to act as City's representative with respect to the services to be rendered under this Agreement. Such person shall have contract authority to transmit instructions, receive information, interpret and define City's policies and decisions with respect to FNI's services for the Project.
- H. Arrange for access to and make all provisions for FNI to enter upon public and private property as required for FNI to perform services under this Agreement.
- I. Bear all costs incident to compliance with the requirements of this Article IV.

ARTICLE V

DESIGNATED REPRESENTATIVES: FNI designates the following representatives:

FNI's Project Representative	Name: Shad Comeaux, AICP
	E-mail: shad.comeaux@freese.com
	Phone: 832-456-4766

FNI's Accounting Representative	Name: Lisa Broussard
	E-mail: lisa.broussard@freese.com
	Phone: 972-331-6021

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: May 15, 2023

Topic:

Authorize the City Manager and the Fire Chief to execute a First Responder Organization Agreement with Harris County Emergency Services District 8 to provide first responder medical services within the jurisdiction of the Tomball Fire Department.

Background:

In 2013, the City of Tomball and then Northwest Rural Emergency Medical Services entered into an agreement for the Tomball Fire Department to provide first responder services within the jurisdiction of the Fire Department. This formalized the Fire Department as a First Responder Organization (FRO) with the Texas Department of State Health Services (TDSHS).

In July of 2022, Northwest Rural Emergency Medical Services dissolved, and Harris County Emergency Services District 8 became the service provider for their district. These actions have caused a need to renew the contract with Harris County Emergency Services District 8 as the First Responder Organization for the portion of their service area that overlaps with the Tomball Fire Department.

Approval of this agreement will authorize the City Manager and the Fire Chief, as the TDSHS Administrator of Record, to enter into a First Responder Organization Agreement with Harris County Emergency Services District 8 for the jurisdiction of the Tomball Fire Department.

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 05/08/2023 Approved by _____
Staff Member Date City Manager Date

FIRST RESPONDER ORGANIZATION AGREEMENT BETWEEN Harris County Emergency Services District 8 AND the City of Tomball Fire Department

This Agreement is executed by and between Harris County Emergency Services District 8, a licensed emergency medical service (EMS) provider, (EMS), and The City of Tomball Fire Department (FRO). In consideration of the premises; and of the covenants and conditions of this agreement, the parties mutually agree as follows:

- 1. FRO Service:** During the term of this agreement, the FRO will :
 - a. routinely respond to emergency situations.
 - b. utilize personnel who are emergency medical services (EMS) certified by the Texas Department of State Health Services,
 - c. provide on-scene patient care, and
 - d. not transport patients.
 - e. provide service on a 24 hour per day, seven day per week basis
- 2. FRO Response:**
 - a. FRO shall be dispatched to respond to a pre-determined list of emergency medical incidents to assist EMS in its response.
 - b. FRO shall familiarize itself with EMS protocols. Such protocols will be approved by the medical director of the EMS.
 - c. FRO shall be held to the same standards of professional ethics, behavior, demeanor, and patient care as the EMS.
 - d. FRO shall terminate a response if requested by the EMS dispatcher or responding EMS personnel to terminate said response.
 - e. FRO shall only provide basic life support ("BLS") care except when requested to and supervised by the in-charge paramedic to perform advanced level skills up to his certification level.
 - f. Cancellation of the EMS response shall be at the discretion of the EMS.
 - g. After EMS has arrived on the scene, FRO personnel shall transfer supervision of patient care to the EMS responders.
 - h. FRO personnel may, upon the request of EMS personnel, accompany the patient to the determined facility in EMS provider's vehicles.

FIRST RESPONDER ORGANIZATION AGREEMENT BETWEEN Harris County Emergency Services District 8 AND the City of Tomball Fire Department

3. FRO Supplies:

- a. FRO shall only use supplies approved by the EMS. FRO shall provide all initial equipment and supplies.
- b. The EMS will attempt to provide replacement supplies to FRO after each response when available. To the extent the EMS supplies replacement supplies to FRO after being used by FRO, the EMS shall bill the patients for the supplies in accordance with the EMS's fee schedule and third-party payer agreements. FRO shall provide such documentation as the EMS requests to enable the EMS to successfully collect charges for said supplies, and the FRO assigns any rights to collect such supplies to the EMS.
- c. FRO shall not carry advanced life support ("ALS") supplies.

4. **FRO Certification-** All persons responding on behalf of the FRO shall be certified to at least the Emergency Medical Technician – Basic level.

5. **Patient Care and Employee Time Reporting Procedures-**The EMS shall approve the FRO patient care report form. The FRO shall ensure patient care report forms are available at every scene, properly filled out for every patient.

6. **Process for Assessment of Care provided by FRO Personnel-** FRO shall follow EMS's assessment protocol. The EMS will provide the FRO with written assessment protocols.

7. **Patient Confidentiality-**FRO personnel shall comply with Texas Health & Safety Code §§ 773.091 - 773.096 with respect to the confidentiality of the identity, treatment, and condition of all patients, and FRO shall release information concerning said identity, treatment or condition of a patient only if such release is authorized by the EMS Compliance Officer or the EMS Attorney.

8. **No Third-Party beneficiaries-**This agreement is not intended to benefit any third party, and no party other than the signatories to this agreement shall have any right to enforce any provision of this agreement.

9. **Notices-**All notices and communications permitted or required to be given under this Agreement are to be mailed by certified mail, return -receipt requested, to the following addresses:

EMS: Harris County Emergency
Services District 8
29530 Quinn Rd
Tomball, Texas 77375

FRO: City of Tomball
401 Market
Tomball, Texas 77375

10. **Assignment-**The FRO may not assign, sublet or transfer any rights under or interest this agreement without the written consent of the EMS.

FIRST RESPONDER ORGANIZATION AGREEMENT BETWEEN Harris County Emergency Services District 8 AND the City of Tomball Fire Department

- 11. Independent Contractor**-In performing services under this Agreement, the relationship between City and FRO is that of independent contractor and, by the execution of this Agreement, does not change the independent contractor status of either party. No term or provision of this Agreement or act of either party in the performance of this Agreement shall be constituted as making either party or an officer, agent or employee of that party the employee or agent of the other party.
- 12. Venue**-This Agreement is governed and constructed according to the laws of the State of Texas. The venue for any action or claim arising out of this Agreement is Harris County, Texas.
- 13. Modifications to Agreement** - This instrument contains the entire Agreement between the parties relating to the rights granted and the obligations assumed. Any modifications concerning this Agreement are of no force and effect unless in writing and executed by both parties.
- 14. Term and Termination**- This Agreement shall be effective upon execution and shall remain in full force and effect unless and until terminated by either party with or without cause upon 90 days written notice in accordance with Section 10 herein.
- 15. Severability**- If any provision of the Agreement shall be held invalid, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to serve the purposes and objectives of both parties.

EXECUTED, this ____ day of __May____ 2023.

EMS: Harris County Emergency Services
District 8

FRO: City of Tomball

Brian Bayani, Director

David Esquivel, City Manager

Scott Wiesenborn, M.D.

Joe Sykora, Fire Chief

City Council Meeting Agenda Item Data Sheet

Meeting Date: May 15, 2023

Topic:

Authorize expenditure of greater than \$50,000 with- RSM US related to the procurement of information technology consulting services, software, and hardware for Fiscal Year 2022-2023.

Background:

RSM US is a consulting services company that specializes in remediation assistance for cyber security attacks. As part of our remediation and recovery process, the City engaged RSM to assist our IT department with restoring and rebuilding City systems, along with making recommendations regarding additional software or hardware needed for both system restoration and hardening our network infrastructure.

Through our IT recovery processes and to address system needs, the City will exceed \$50,000 in annual expenditures with RSM. Per the City's adopted Procurement Policy and Manual, cumulative annual expenditures with a single vendor in excess of \$50,000 must be approved by City Council.

Origination: IT Director

Recommendation:

Staff recommends authorization of the expenditures in excess of \$50,000 with RSM US.

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

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

Signed Doug Tippey 5.9.2023 Approved by _____
Staff Member Date City Manager Date

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: 05/15/2023

Topic:

Approve the purchase of one (1) Chevrolet Silverado 1500 2WD Crew Cab truck through the TIPS USA (Contract No. 210907) for a not-to-exceed amount of \$44,579.25, approve the expenditure of funds therefore, and authorize the City Manager to execute any and all documents related to the purchase. This purchase is included in the FY 2022-2023 Budget. This vehicle is in place of one (1) Ford F-150 Crew Cab Truck authorized November 7, 2022 because the dealership cancelled the purchase due to lack of inventory. The difference in price for the two vehicles is \$3,226.25.

Background:

The purchase is being made through The Interlocal Purchasing System (TIPS) purchasing cooperative contract and will be funded from allocated appropriations as part of the adopted FY 2022-2023 Budget. This purchase is for the replacement of one (1) existing vehicle. Once approved, this vehicle will be purchased from Silsbee Fleet for a total amount of \$44,579.25

Description	Amount	Purchasing Cooperative	Department	Purchase Type
2023 Silverado 2WD Crew Cab	\$44,579.25	TIPS USA 210907	CSI	Replacement
2022 Ford F-150 4x2 Crew Cab	(\$41,353.00)	TIPS USA 210907	CSI	UNAVAILABLE
DIFFERENCE	\$3,226.25			

Origination: Police Department

Recommendation:

Staff recommends approving the purchase of this vehicle in place of the unavailable vehicle that was approved in the Fiscal Year 2022-2023.

Party(ies) responsible for placing this item on agenda: Brandon Patin, Police Captain

FUNDING (IF APPLICABLE)

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

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

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

Signed Brandon Patin 05/11/23 Approved by _____
 Staff Member Date City Manager Date



PRODUCT PRICING SUMMARY

TIPS USA 210907 Automobiles

VENDOR- 5426 LAKE COUNTRY CHEVROLET, 2152 N. WHEELER STREET JASPER, TX 75951

End User: CITY OF TOMBALL

Prepared by: SETH GAMBLIN

Contact: _____

Phone: 512.436.1313

Email: _____

Email: SGAMBLIN.SILSBEEFLEET@GMAIL.COM

Product Description: SILVERADO 1500

Date: May 2, 2023

A. Bid Item: _____

A. Base Price: \$ **35,439.00**

B. Factory Options

Code	Description	Bid Price	Code	Description	Bid Price
CC10543	2023 SILVERADO 2WD CREW CAB LT			CHROME FRONT & REAR BUMPER	
	SHORT BOX			REMOTE START	
L3B	ENGINE 2.7L TURBO				
Z82	TRAILERING PACKAGE	\$ -		Wheels, 17" x 8" Bright Silver painted alum	
				Tires, 255/70R17 all-season, blackwall	
				Tire, spare 255/70R17 all-season, blackwall	
BG9	RUBBER FLOOR, NO CARPET				
Total of B. Published Options:					\$ -

Published Option Discount (5%) \$ -

C. Unpublished Options

\$= 0.0 %

Description	Bid Price	Options	Bid Price
		EXTERIOR - WHITE	
		INTERIOR - JET BLACK CLOTH H1T	
		VINYL REAR	
		VINYL FLOOR**	
		UNIT ON ORDER WITH VIN	
		ETA MAY 2023	
Total of C. Unpublished Options:			\$ -

D. Floor Plan Interest (for in-stock and/or equipped vehicles):

\$ -

E. Lot Insurance (for in-stock and/or equipped vehicles):

\$ 250.00

F. Contract Price Adjustment:

1LT

\$ 8,759.00

G. Additional Delivery Charge:

75 miles

\$ 131.25

H. Subtotal:

\$ 44,579.25

I. Quantity Ordered 1 x H =

\$ 44,579.25

J. Trade in: _____

\$ -

K. _____

L. Total Purchase Price

\$ 44,579.25

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: November 7, 2022

Topic:

Approve the purchase of one (1) Ford F-150 Crew Cab Truck and two (2) Ford Police Interceptors from Silsbee Ford through the TIPS USA (Contract No. 210907) for a not-to-exceed amount of \$130,945.50, approve the expenditure of funds therefor, and authorize the City Manager to execute any and all documents related to the purchase. These purchases are included in the FY 2022-2023 Budget.

Background:

The purchases are being made through The Interlocal Purchasing System (TIPS) purchasing cooperative contract and will be funded from allocated appropriations as part of the adopted Fiscal Year 2022-2023 Budget. These purchases are for the replacement of two (2) existing vehicles along with a purchase of one (1) new vehicle that is needed for new police officers. Once approved, these vehicles will be purchased from Silsbee Ford for a total amount of \$130,945.50.

Description	Amount	Purchasing Cooperative	Department	Purchase Type
2022 F-150 4x2 Crew Cab	\$41,353.00	TIPS USA 210907	CSI	Replacement
2022 Ford Police Interceptor Utility	\$44,796.25	TIPS USA 210907	Patrol	Replacement
2022 Ford Police Interceptor Utility	\$44,796.25	TIPS USA 210907	Patrol	New
TOTAL	\$130,945.50			

Origination: Police Department

Recommendation:

Staff recommends approving the purchase of the vehicles as appropriated in the Fiscal Year 2022-2023.

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

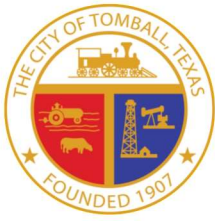
FUNDING (IF APPLICABLE)

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

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

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

Signed Jeff Bert, Police Chief 10/31/2022 Approved by _____
 Staff Member Date City Manager Date



CITY OF TOMBALL
 401 W. Market Street
 Tomball, Texas 77375-4697
 PH: (713) 351-5484

PURCHASE ORDER

PO Number: 23-0082

Date: 11/08/2022

Requisition #: 23-0082

Vendor #: 000007

ISSUED TO: SILSBEE FORD INC
 PO BOX 815
 SILSBEE, TX 77656

SHIP TO: CITY OF TOMBALL POLICE DEPT
 Attn: BRANDON PATIN
 400 FANNIN ST.
 Tomball, TX 77375

ITEM	UNITS DESCRIPTION	GL ACCT #	PROJ ACCT #	PRICE	AMOUNT
1	1 Replacement Ford F150 #23-169 Deliver to PD	650-651-6405		41,353.00	41,353.00
2	1 New Ford Interceptor added to budget 23-178	100-121-6405		44,796.25	44,796.25
3	1 Replacement Ford Interceptor 23-170	650-651-6405		44,796.25	44,796.25

Authorized by: *K. Tapscott*
 Authorized by: *Nancy Fournelle*

SUBTOTAL:	130,945.50
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	130,945.50

Purchases from \$3,000.00 to \$49,999.99 require 3 written quotes
 Purchases of \$50,000.00 and over require advertisement, competitive sealed bidding and council approval



PRODUCT PRICING SUMMARY

TIPS USA 210907 Automobiles

VENDOR- Silsbee Ford, 1211 Hwy 96 N., Silsbee TX 77656

End User: TOMBALL PD

Prepared by: SETH GAMBLIN

Contact: _____

Phone: 512.436.1313

Email: _____

Email: SGAMBLIN.SILSBEEFLEET@GMAIL.COM

Product Description: FORD F150 CREW CAB

Date: September 19, 2022

A. Bid Item: _____

A. Base Price: \$ 26,123.00

B. Factory Options

Code	Description	Bid Price	Code	Description	Bid Price
W1C	2023 FORD F150 CREW CAB 4X2 5.5' 145 W	\$ 13,995.00	101A	XL EQUIPMENT GROUP	\$ 170.00
99B	3.3L V6	\$ -			
44G	10 SPEED TRANS	\$ -		POWER LOCKS AND WINDOWS	
64F	WHEELS 17' PAINTED ALUM	\$ -		CRUISE	
86F	XL CHROME APPEARANCE PACKAGE	\$ 395.00		REVERSE SENSING	
17C	CHROME FRONT BUMPER	\$ -			
595	FOG LAMPS W/ BLACK BEZ	\$ -			

Total of B. Published Options: \$ 14,560.00

Published Option Discount (5%): \$ (28.25)

C. Unpublished Options

\$= 0.0 %

Description	Bid Price	Options	Bid Price
		EXTERIOR COLOR-WHITE	
		INTERIOR: CLOTH	
		**WILL NEED TO CHANGE OPTIONS	
		FROM FORD ONCE PO IS RECEIVED**	

Total of C. Unpublished Options: \$ -

D. Floor Plan Interest (for in-stock and/or equipped vehicles):

\$ -

E. Lot Insurance (for in-stock and/or equipped vehicles):

\$ 350.00

F. Contract Price Adjustment: _____

\$ 0.00

G. Additional Delivery Charge: 199

\$ 348.25

H. Subtotal:

\$ 41,353.00

I. Quantity Ordered 1 **x H =**

\$ 41,353.00

J. Trade in: _____

\$ -

K.

\$ 0.00

L. Total Purchase Price

\$ 41,353.00



PRODUCT PRICING SUMMARY

TIPS USA 210907 AUTOMOBILES

VENDOR- Silsbee Ford, 1211 Hwy 96 N., Silsbee TX 77656

End User: TOMBALL PD

Prepared by: SETH GAMBLIN

Contact: _____

Phone: 512.436.1313

Email: _____

Email: SGAMBLIN.SILSBEEFLEET@GMAIL.COM

Product Description: FORD POLICE INTERCEPTOR UTILITY

Date: October 3, 2022

A. Bid Item: _____

A. Base Price: \$ **33,326.00**

B. Factory Options

Code	Description	Bid Price	Code	Description	Bid Price
K8A	2023 FORD PIU	\$ 9,995.00	76R	REVERSE SENSING SYSTEM	\$ 275.00
99B	3.3L V6 DIRECT-INJECTION ENGINE	\$ -			
86T	TAIL LAMP/POLICE HOUSING	INC			
17A	AUX AIR	\$ 610.00			
55F	KEY FOB	\$ 340.00			
60A	GRILLE LIGHTS, SIREN, SPEAKER WIRING	\$ 50.00			
61B	OBD-II SPLITTER	\$ 55.00	87R	Rear View Camera In Mirror	N/C

Total of B. Published Options: \$ **11,325.00**

Published Option Discount (5%): \$ **(278.00)**

C. Unpublished Options

\$= 0.0 %

Description	Bid Price	Options	Bid Price
		EXTERIOR-BLACK UM	
		INTERIOR- 96	
		UNITS ON ORDER **	

Total of C. Unpublished Options: \$ -

D. Floor Plan Interest (for in-stock and/or equipped vehicles):

\$ -

E. Lot Insurance (for in-stock and/or equipped vehicles):

\$ 250.00

F. Contract Price Adjustment: _____

G. Additional Delivery Charge: 99

\$ 173.25

H. Subtotal:

\$ 44,796.25

I. Quantity Ordered 2 **x H =**

\$ 89,592.50

J. Trade in: _____

\$ -

K.

L. Total Purchase Price

\$ **89,592.50**

**City Council Meeting
Agenda Item
Data Sheet**

Meeting Date: May 15, 2023

Topic:

Discussion regarding Private Detention Ponds

Background:

.

Origination: David Esquivel

Recommendation:

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

City Council Meeting Agenda Item Data Sheet

Meeting Date: May 15, 2023

Topic:

Executive Session: The City Council will meet in Executive Session as Authorized by Title 5, Chapter 551, Government Code, the Texas Open Meetings Act, for the Following Purpose(s):

- Sec. 551.071 – Consultation with the City Attorney regarding a matter which the Attorney’s duty requires to be discussed in closes session.
- Sec. 551.074 – Personnel Matters; Deliberation of the Appointment, Employment, and Duties of a Public Officer or Employee-City Manager
- Sec. 551.087 – Deliberations regarding Economic Development

Background:

Origination: David Esquivel, City Manager

Recommendation:

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