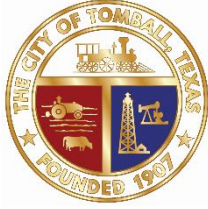


**NOTICE OF SPECIAL JOINT CITY COUNCIL & PLANNING AND
ZONING COMMISSION MEETING
CITY OF TOMBALL, TEXAS**



**Monday, October 09, 2023
5:00 PM**

Notice is hereby given of a Regular meeting of the Tomball City Council, to be held on Monday, October 09, 2023 at 5:00 PM, City Hall, 401 Market Street, Tomball, Texas 77375, for the purpose of considering the following agenda items. All agenda items are subject to action. The Tomball City Council reserves the right to meet in a closed session for consultation with attorney on any agenda item should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

The public toll-free dial-in numbers to participate in the telephonic meeting are any one of the following (dial by your location): +1 312 626 6799 US (Chicago); +1 646 876 9923 US (New York); +1 301 715 8592 US; +1 346 248 7799 US (Houston); +1 408 638 0968 US (San Jose); +1 669 900 6833 US (San Jose); or +1 253 215 8782 US (Tahoma) - Meeting ID: 860 7963 1333 Passcode: 661682. 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. Public Comments and Receipt of Petitions
- C. Presentations
 - 1. Presentation and discussion by Freese and Nichols, Inc. regarding the Tomball Comprehensive Plan update.
 - 2. Presentation and discussion by Burditt Consultants regarding landscaping, tree preservation, and buffering.
- D. New Buisness
 - 1. Approve the expenditure of \$2.4 million dollars for the purchase of 810 W. Main St. and authorize the City Manager to execute any and all documents related to this expenditure.

E. Adjournment

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

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall, City of Tomball, Texas, a place readily accessible to the general public at all times, on the 5th day of October 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 accommodation or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary's office at (281) 290-1019 for further information.

City Council Agenda Item Data Sheet

Meeting Date: October 9, 2023

Topic:

Presentation and discussion by Freese and Nichols, Inc. regarding the Tomball Comprehensive Plan update.

Background:

Origination: Community Development Department

Recommendation:

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

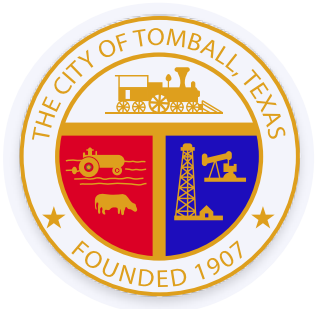
FUNDING (IF APPLICABLE)

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 OF TOMBALL COMPREHENSIVE PLAN UPDATE

**Joint City Council and Planning & Zoning
Commission Meeting**

October 9, 2022

MEETING AGENDA

- | | |
|---|-------------------------------------|
| 1 | OVERVIEW OF THE PLANNING
PROCESS |
| 2 | COMMUNITY SNAPSHOT &
CONTEXT |
| 3 | VISIONING EXERCISE |
| 4 | S.O.A.R. EXERCISE |
| 5 | NEXT STEPS |

PROJECT TEAM

Item 1.



Shad Comeaux, AICP
Project Manager



Alexis Garcia, AICP
Assistant Project Manager



Shubhangi Rathor
Lead Project Planner



Christopher Wesseln
Project Planner



Kaleb Otems
Project Support



Travis James
Economic Development

ABOUT THE PROJECTS

Item 1.

The City is undergoing two related projects:

COMPREHENSIVE PLAN UPDATE

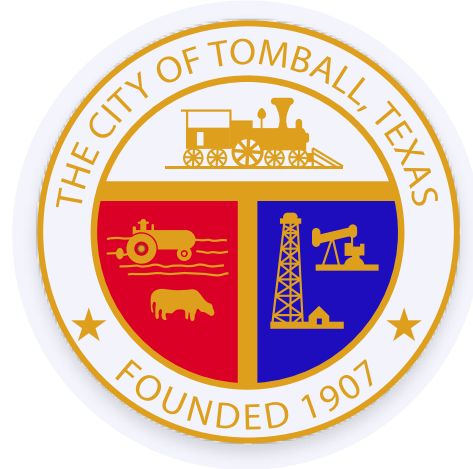
August 2023 - August 2024

UNIFIED DEVELOPMENT CODE (UDC)

December 2023 - December 2024

*The Unified Development Code
will be drafted concurrently
with the Comprehensive Plan*

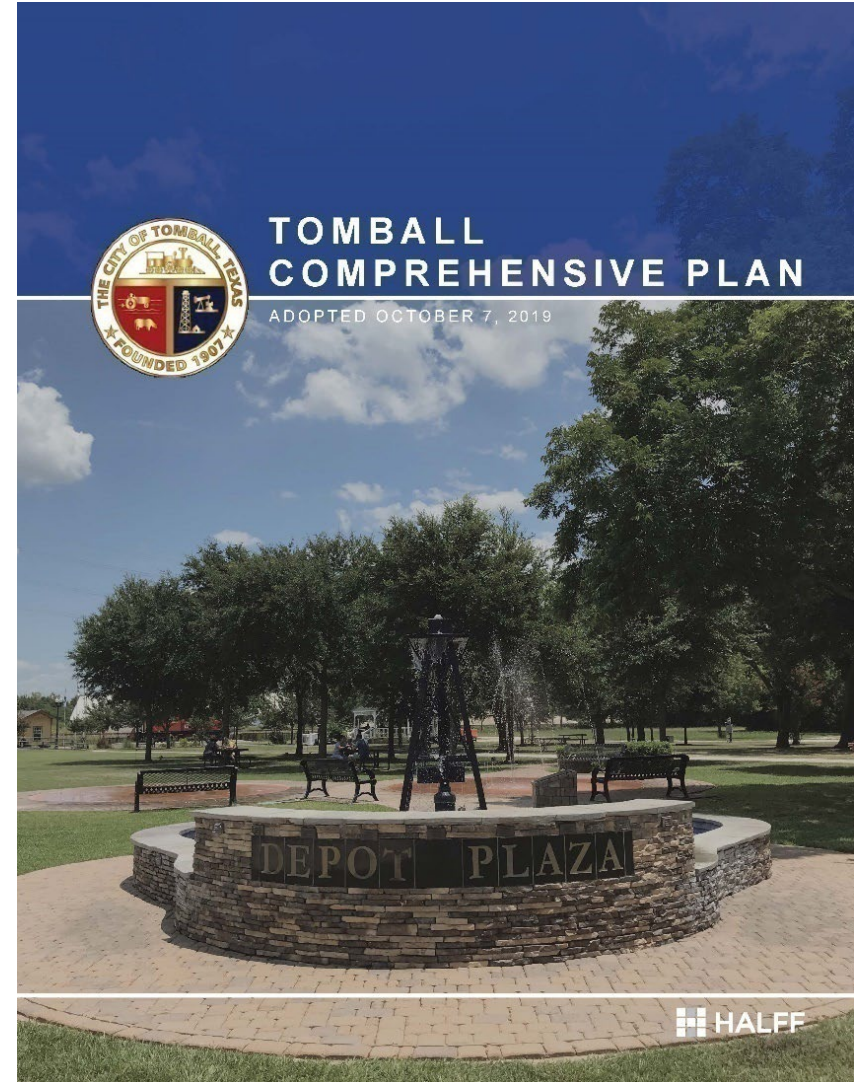
OVERVIEW OF THE PLANNING PROCESS



WHAT IS A COMPREHENSIVE PLAN

Item 1.

- **A Comprehensive Plan is:**
 - Community's Vision
 - Long-term statement that guides policy
 - Basis for subsequent ordinances
 - Tool for decision-making



WHY UPDATE THE COMPREHENSIVE PLAN?

Item 1.

- Comprehensive Plans should be updated every 5-10 years
 - The current Plan was adopted in **2019**
 - Updates to the Plan are needed to reflect the changing environment and the community
- This update process will focus on:



WHAT WILL THE PLAN ACCOMPLISH?

Item 1.

- Establish a Future Land Use Map to **guide development** in the City
- Identify **capital projects** and **policy priorities** based on a thorough analysis of existing infrastructure, economic conditions, and community needs.
- Create **opportunities** for civic and community engagement in public decision-making.



FUTURE LAND USE V/S ZONING

Item 1.

Future Land Use Map	Zoning
Purposes	
<ul style="list-style-type: none"> Outlook for the future use of land and the character of development in the community. Macro-level, general development plan. 	<ul style="list-style-type: none"> Basis for applying unique land use regulations and development standards in different areas of the City. Micro-level, site-specific focus.
Uses	
<ul style="list-style-type: none"> Guidance for City zoning and related decisions (zone change requests, variance applications, etc.). Baseline for monitoring the consistency of actions and decisions with the City's adopted Comprehensive Plan. 	<ul style="list-style-type: none"> Regulating development as it is proposed, or as sites are proposed for the future (by the owner or the City) with appropriate zoning.
Inputs and Considerations	
<ul style="list-style-type: none"> Inventory of existing land uses in the City. Developing better area character and identity as a core planning focus along with basic land uses. The map includes a notation required by Texas Local Government Code Section 213.005: "A comprehensive plan shall not constitute zoning regulations or establish zoning district boundaries". 	<ul style="list-style-type: none"> Future land use map is referred to for general guidance. Other community objectives, such as economic development, redevelopment, flood preservation, etc. Zoning decisions that are not compliant with the FLUM will need to be updated or changed when the Comprehensive Plan is next updated.

ROLES AND RESPONSIBILITIES

Item 1.

Serve as ambassadors for the plan!

CITY COUNCIL

- Lead Plan implementation.
- Establish priorities and policies.
- Determine financial resources for implementation.

PLANNING AND ZONING COMMISSION

- Make recommendations to the City Council based on the recommendations of the Comprehensive Plan.
- Ensure the plan is relevant to the community's vision and goals.

PLAN ELEMENTS

Item 1.

Community Snapshot and Existing Conditions Update

Community Vision and Guiding Principles

Data Gathering and
Visioning Phase

Future Land Use

Transportation and Mobility

Downtown Assessment

Economic and Fiscal Resilience

Housing, Neighborhoods, and Sense of Place

Analysis and
Recommendation
Phase

Implementation

Implementation Phase

SCHEDULE

Item 1.

PUBLIC ENGAGEMENT

Background Analysis

- Community Snapshot
- Visioning & Guiding Principles

August 2023 – October 2023

Plan Development

- Land Use, Development and Growth Management
- Downtown and other focus areas
- Economic Development and Fiscal Sustainability
- Transportation and Mobility
- Housing and Neighborhoods

November 2023 – May 2024

Implementation Plan

- Implementation
- Community Work Program

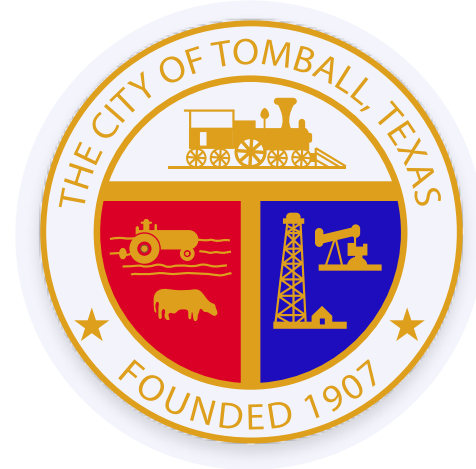
June 2024 – July 2024

Adoption

- Finalize Plan
- Adoption Hearing

August 2024

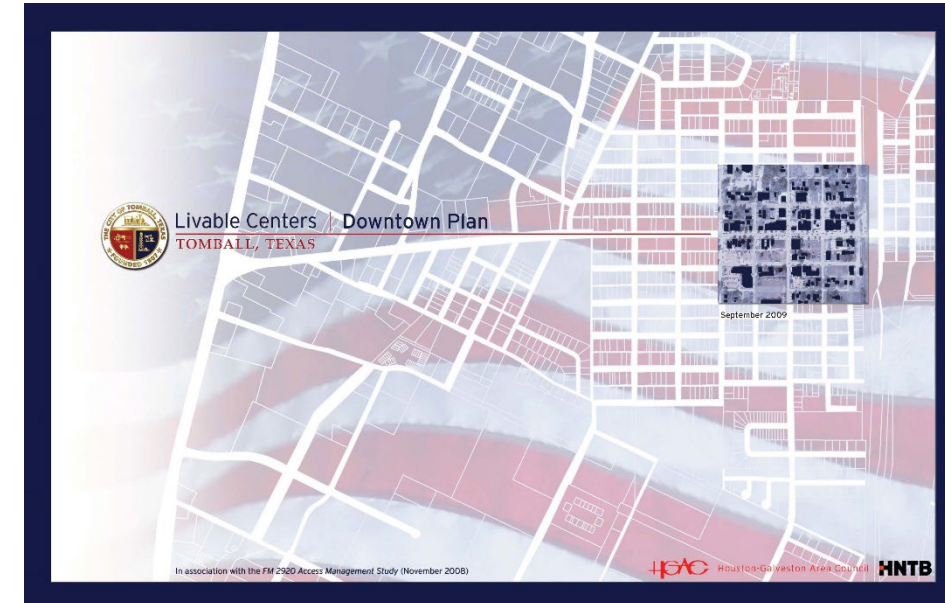
COMMUNITY SNAPSHOT & CONTEXT



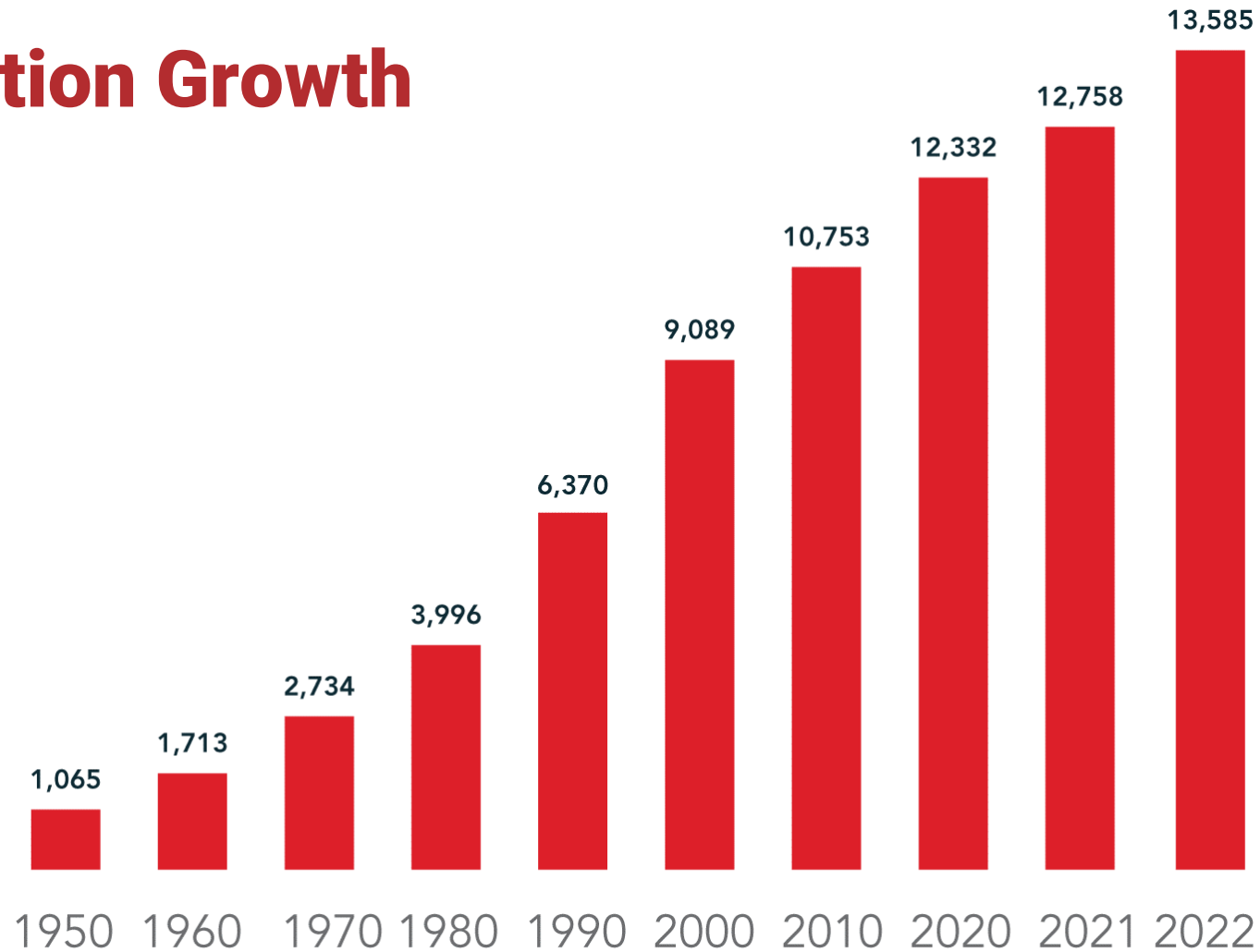
PREVIOUS PLANNING EFFORTS

Item 1.

- Livable Centers Downtown Plan (2009)
- Tomball Strategic Plan(2011-2016)
- Tomball Comprehensive Plan (2019)
- Ongoing Planning Efforts
 - Water and Wastewater Masterplans
 - Parks, Recreation, and Trails System Master Plan (Draft)

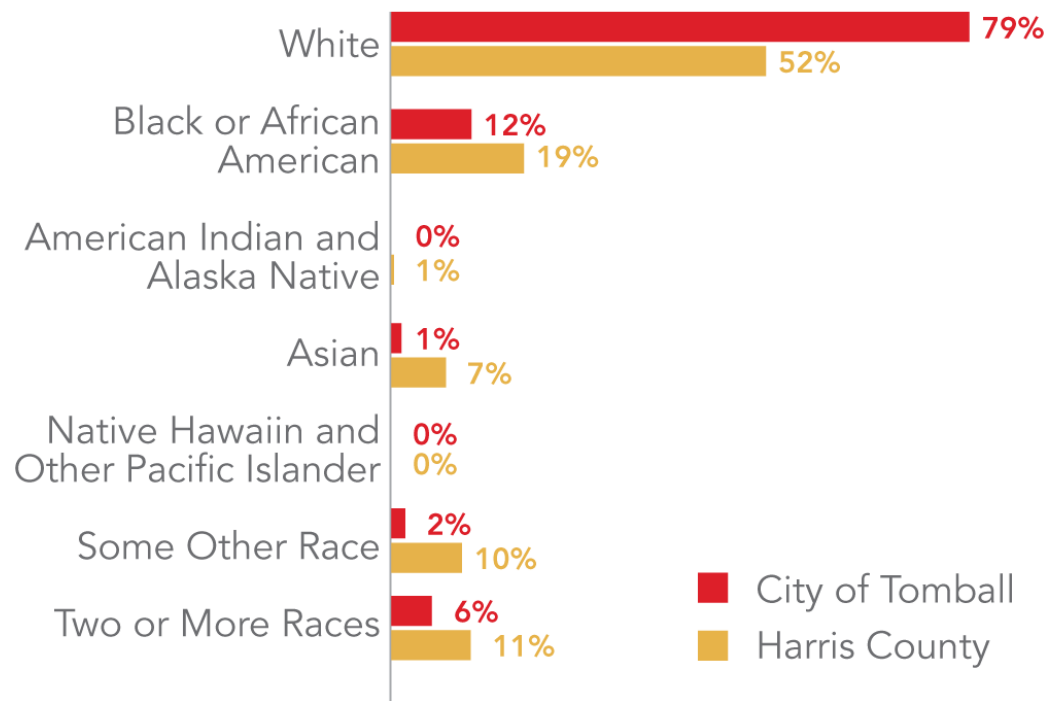


Population Growth

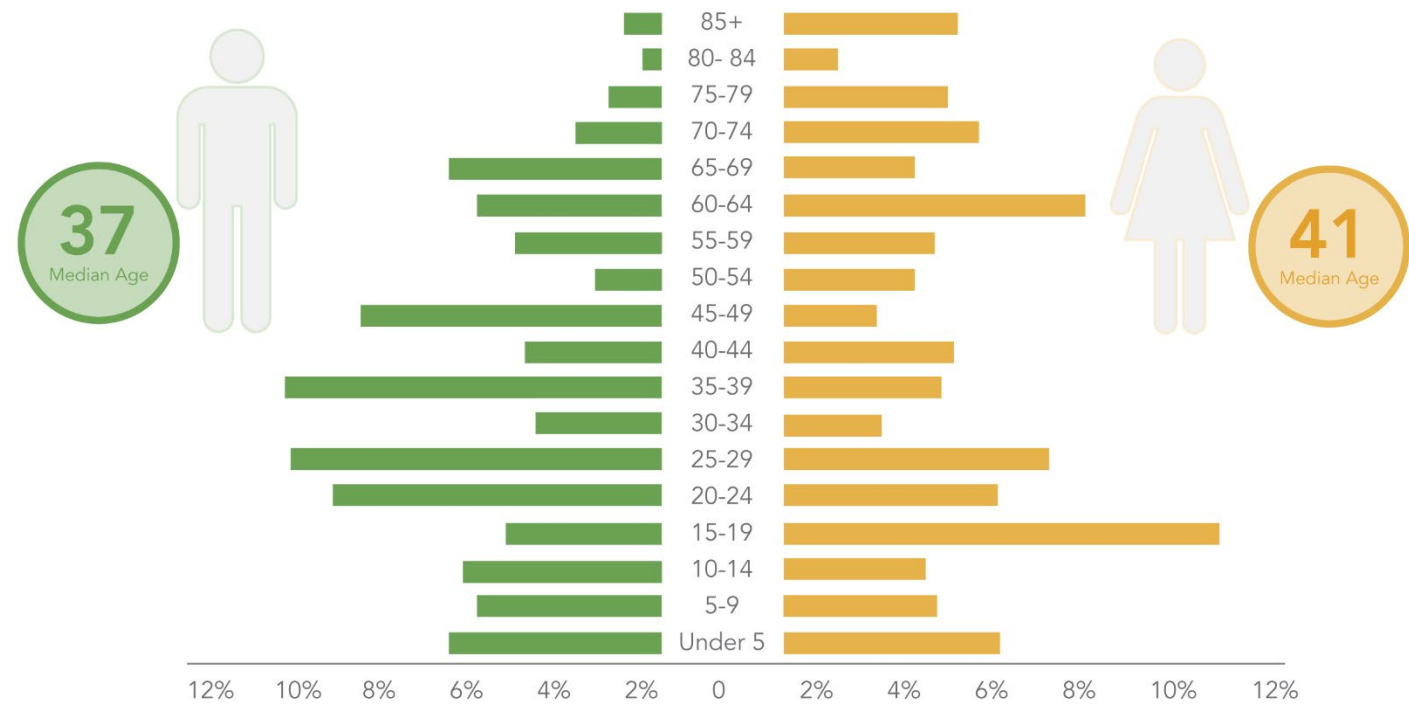


Source: U.S. Census Bureau, 2021 American Community Survey 5-Year Estimates, Decennial Census

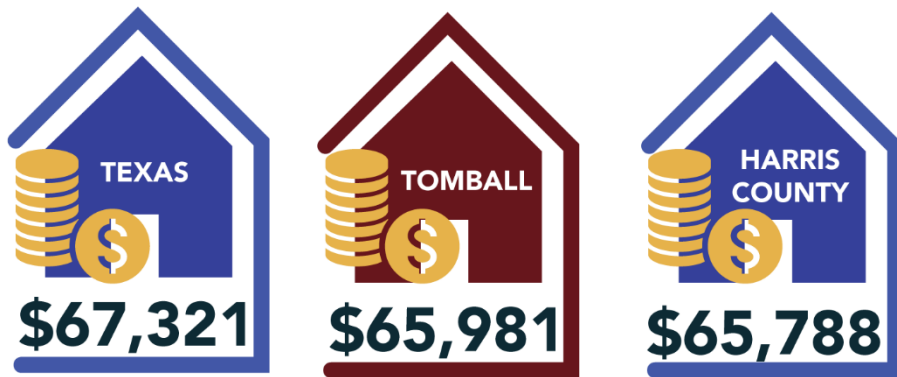
Racial Distribution



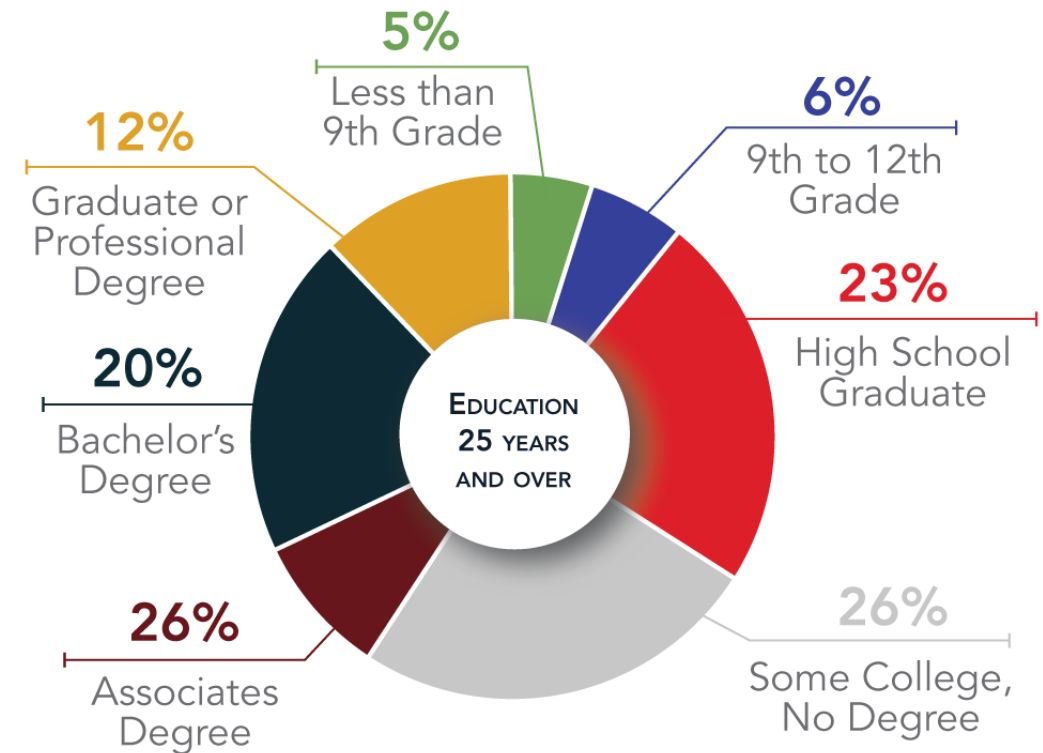
Age and Sex



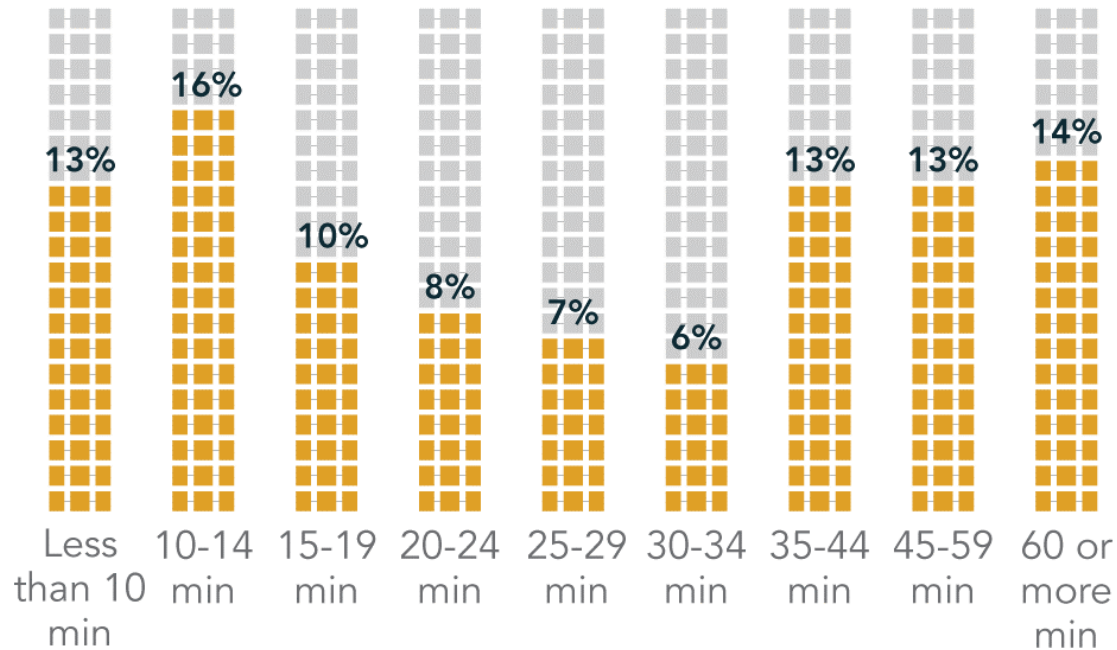
Median Household Income



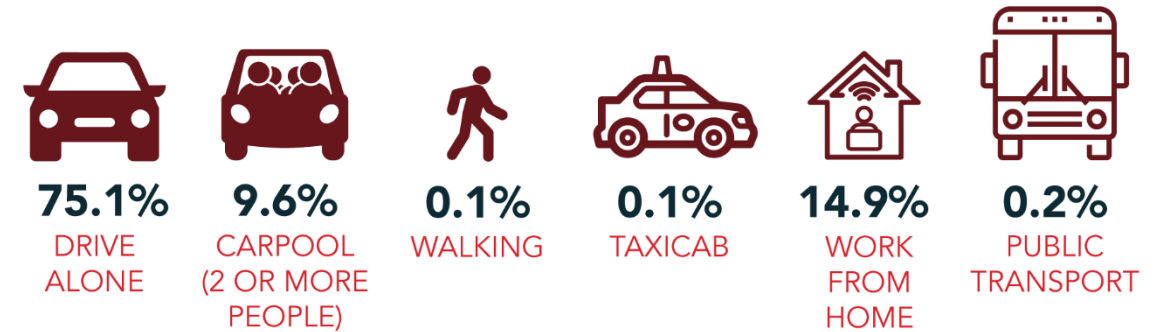
Education Attainment



Commute Time

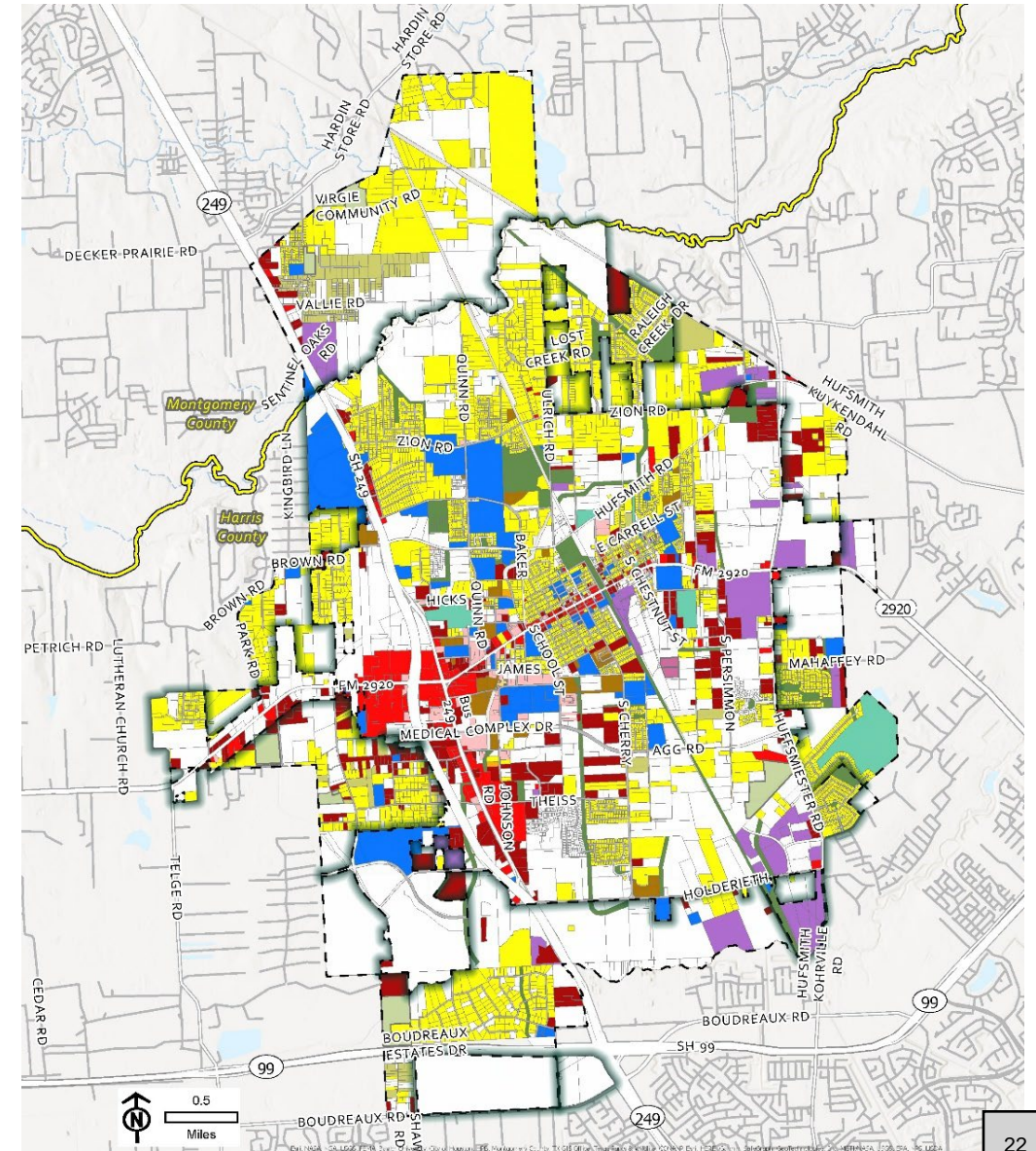
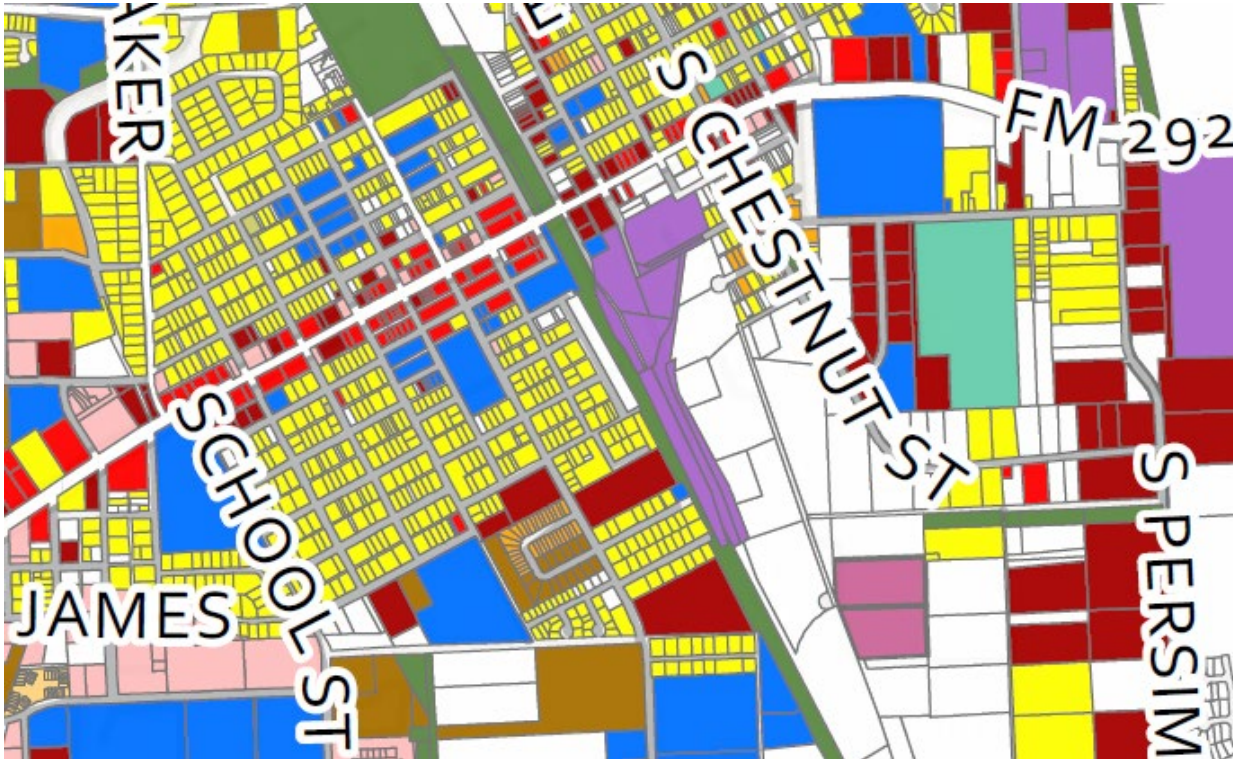
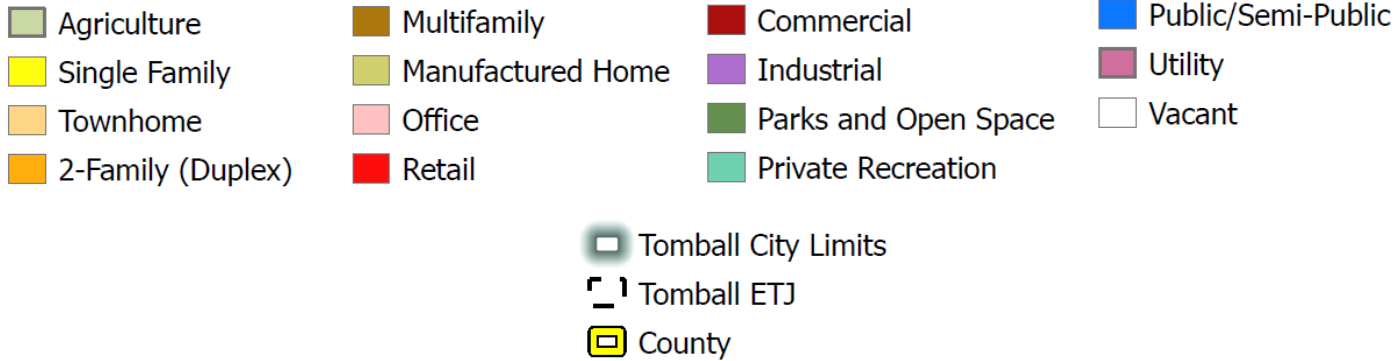


Transportation Mode









EXISTING LAND USE MAP

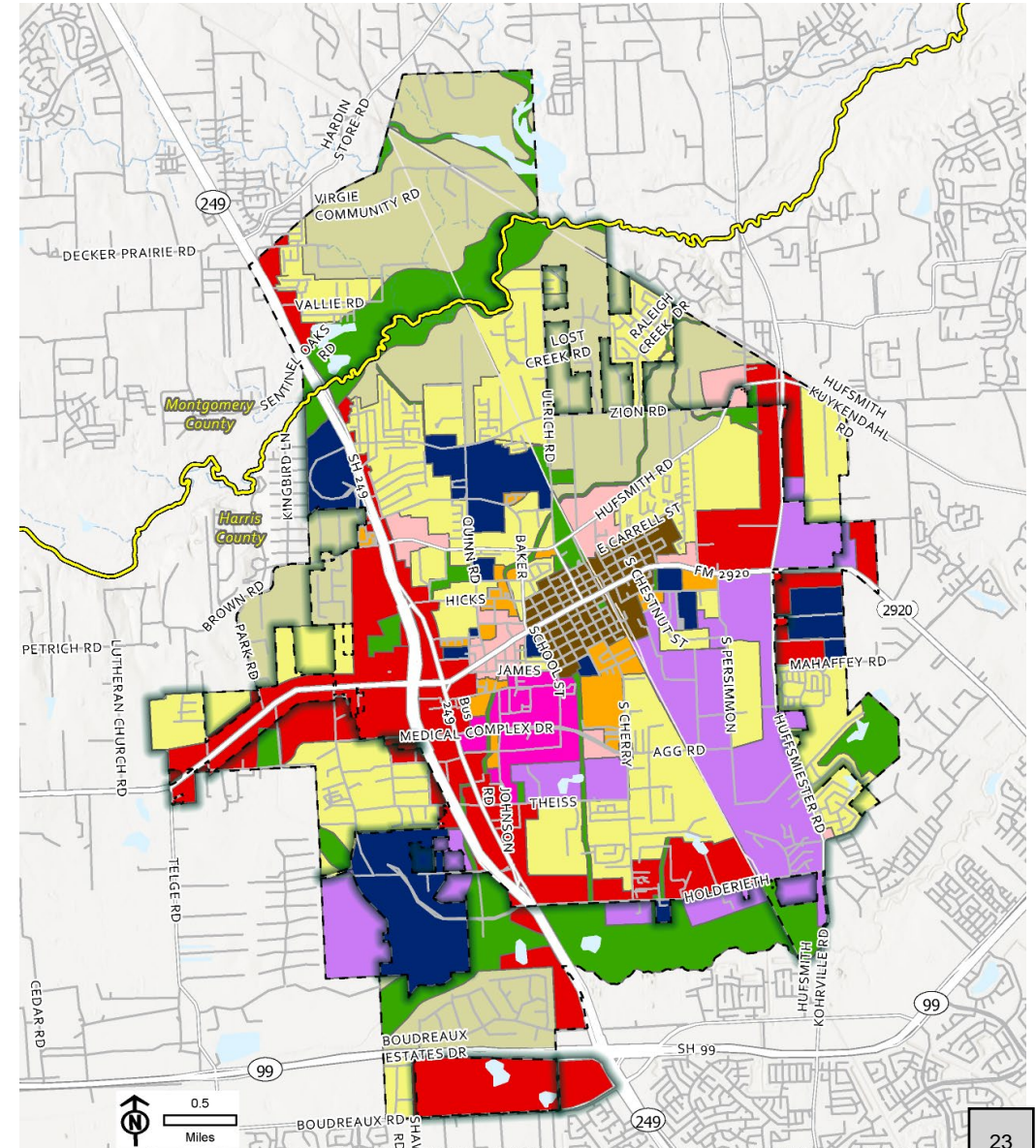
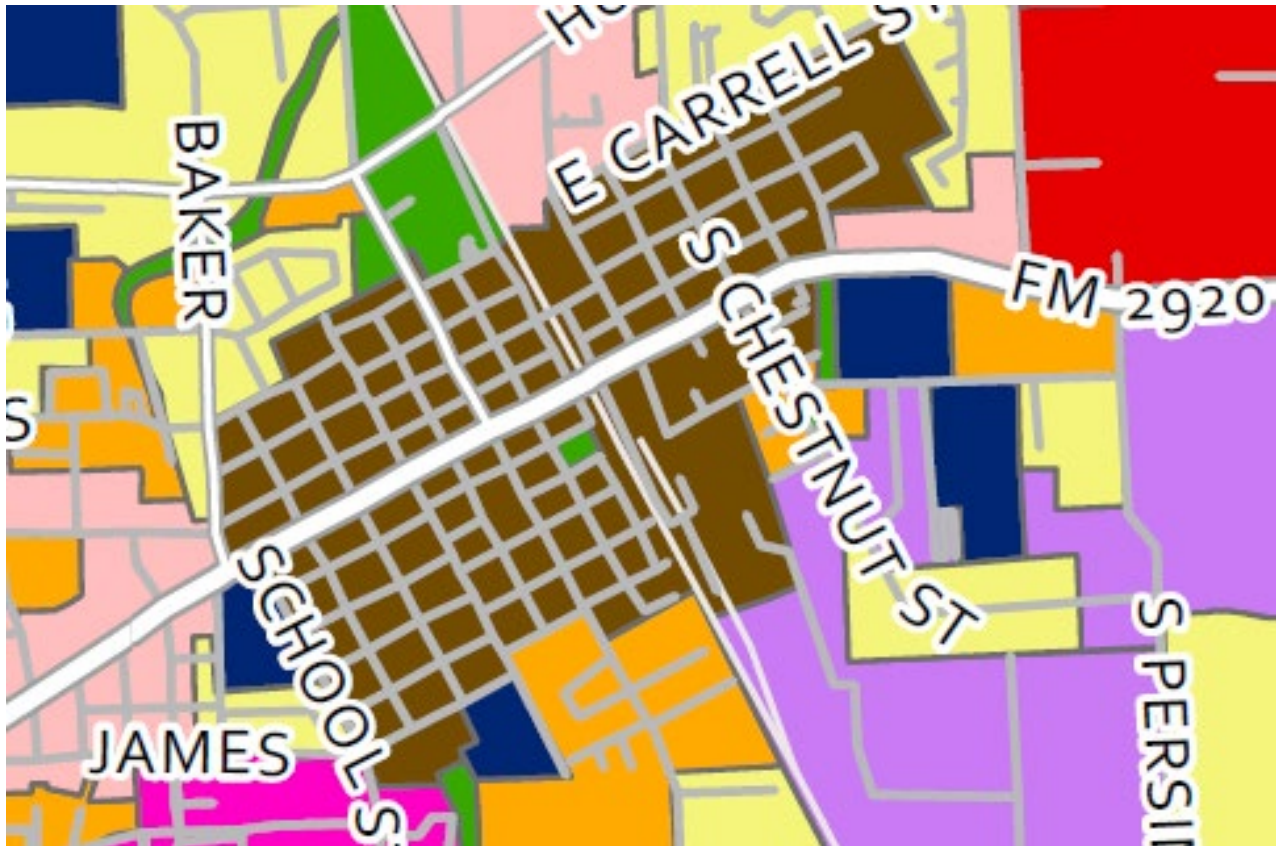
Item 1.



CURRENT FUTURE LAND USE MAP











Item 1.

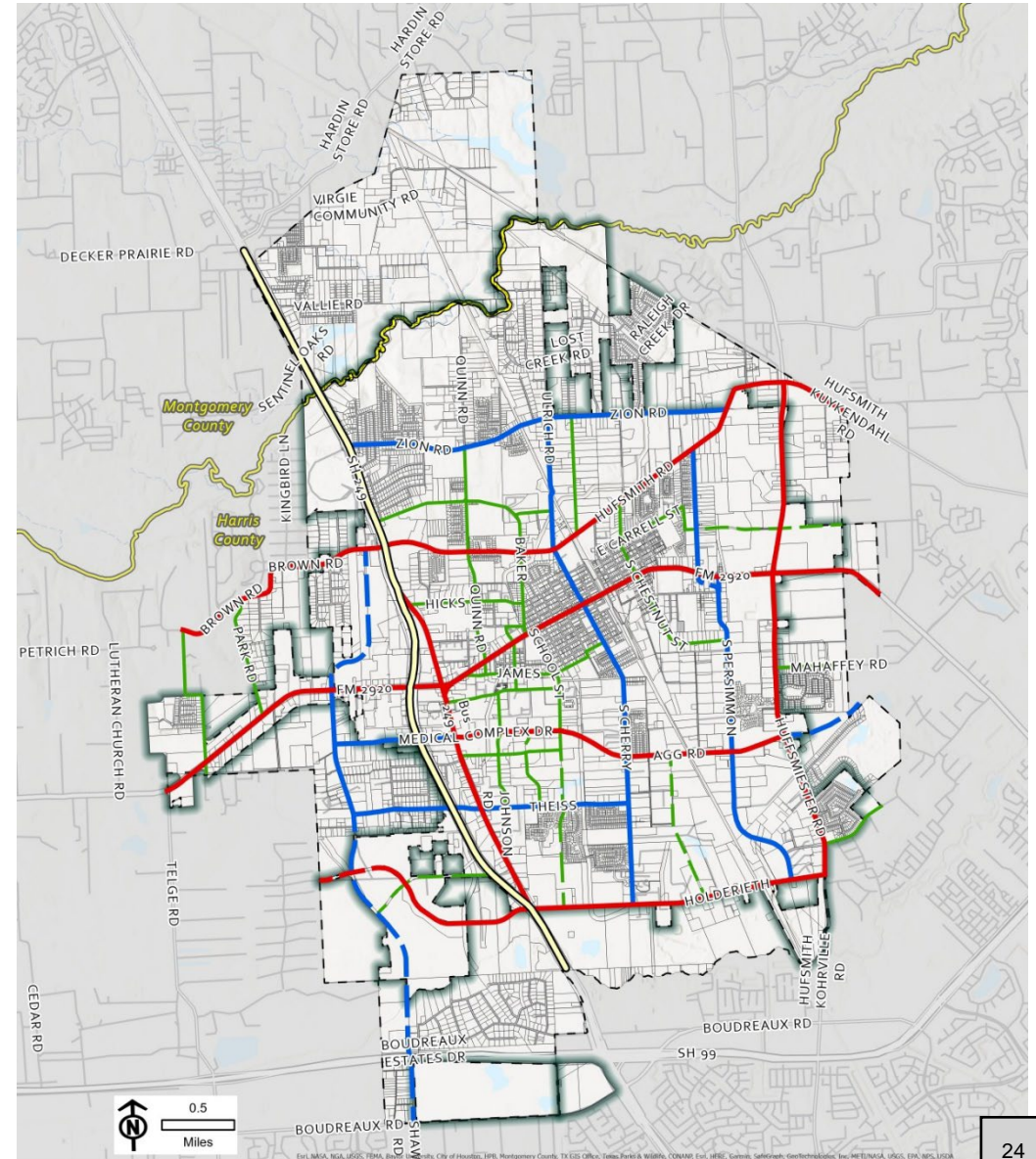
- | | | |
|--|--|--|
|  Neighborhood Commercial |  Neighborhood Residential |  Parks & Open Space |
|  Public & Institutional |  Medical District |  Business Park and Industrial |
|  Corridor Commercial |  Transitional Residential |  Tomball City Limits |
|  Old Town |  Ranch Rural & Estate |  Tomball ETJ |
| | |  County |



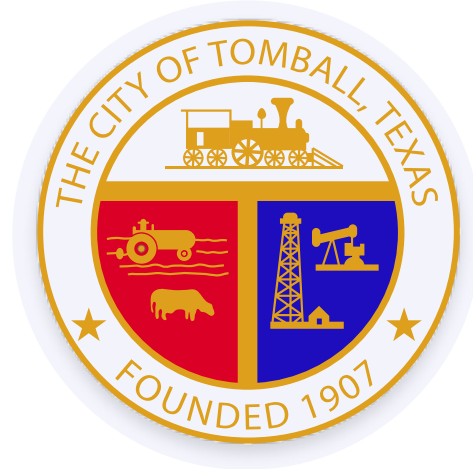
THOROUGHFARE PLAN MAP

Item 1.

-  State Highway
-  Major Arterial (existing)
-  Major Arterial (proposed)
-  Minor Arterial (existing)
-  Minor Arterial (proposed)
-  Collector (existing)
-  Collector (proposed)
-  Tomball City Limits
-  Tomball ETJ
-  County

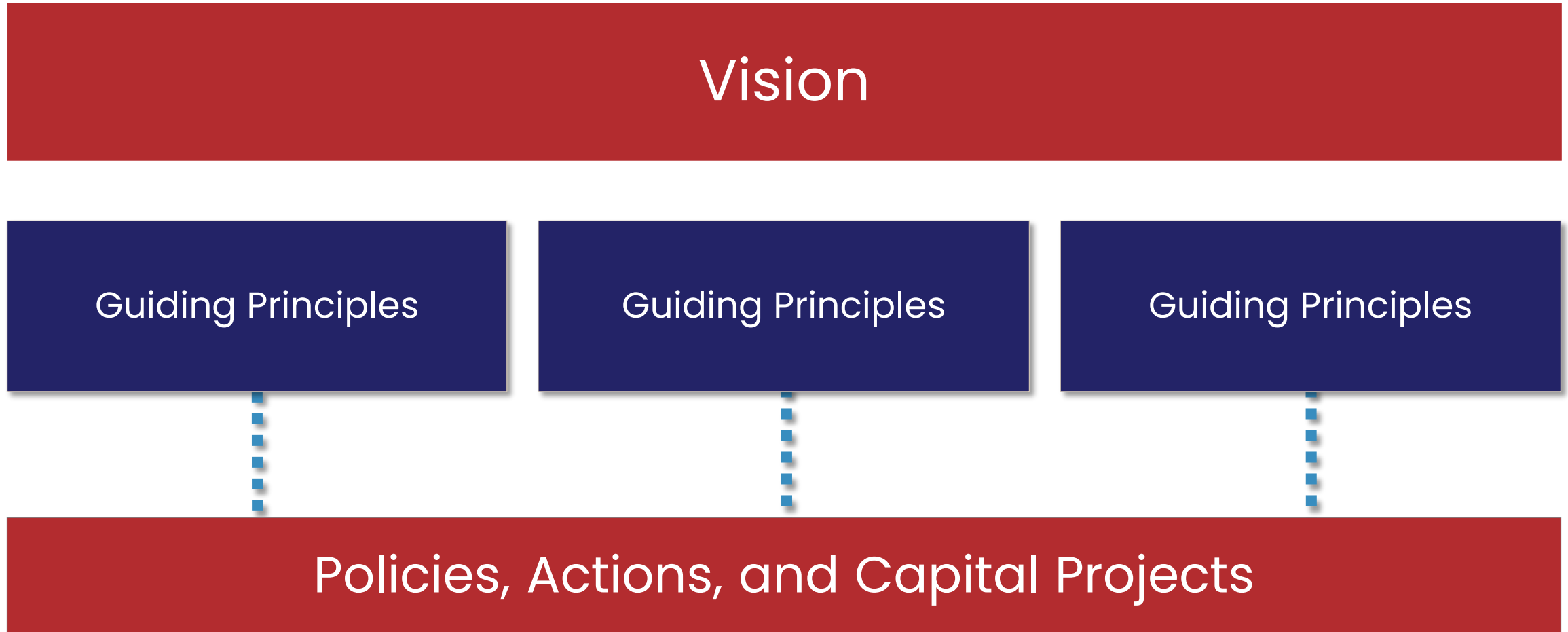


VISION EXERCISE



COMPREHENSIVE PLAN STRUCTURE

Item 1.



CURRENT COMMUNITY VISION

Item 1.

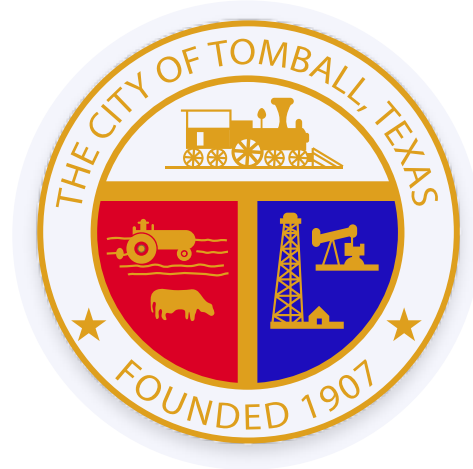
“Tomball in 2030 is a place where people make great connections – with families, friends, neighbors, through schools, jobs and businesses, to govern, worship, and celebrate. Our community has grown in an attractive, balanced, and well-managed way from a small farm-to-market town to a 21st century commerce center, maintaining its hometown feel and character while creating new amenities, services, and opportunities. Our strong values keep us focused on what is important – family, community, heritage, health, education, and environment. Tomball is a vibrant and healthy City we are proud to call home.”

CURRENT COMMUNITY VISION

Item 1.

- Does the current vision statement still accurately describe the vision for the future of Tomball?
- Do you believe updates should be considered?
- What (if anything) should be changed to align with changes in the community over the last 5 years?

S.O.A.R. EXCERCISE



S.O.A.R. EXERCISE

Item 1.



- **Strengths**

- What existing conditions are the community's greatest assets?

- **Opportunities**

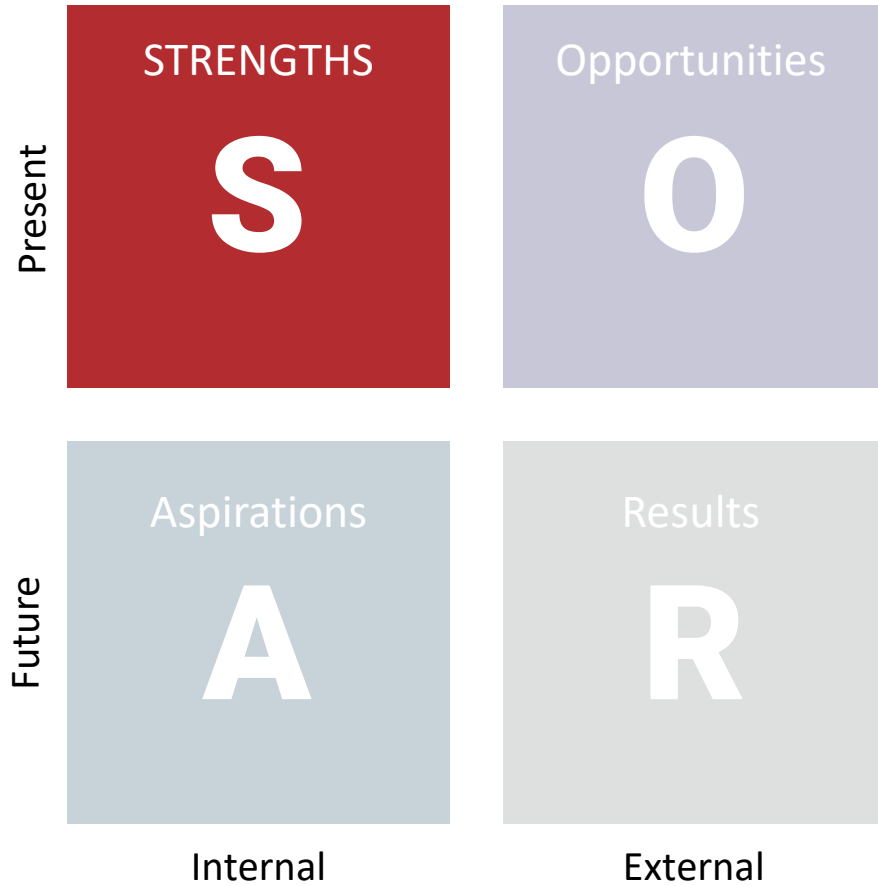
- What current conditions should be built upon in the future?

- **Aspirations**

- What is important to the community and what is the vision for the future?

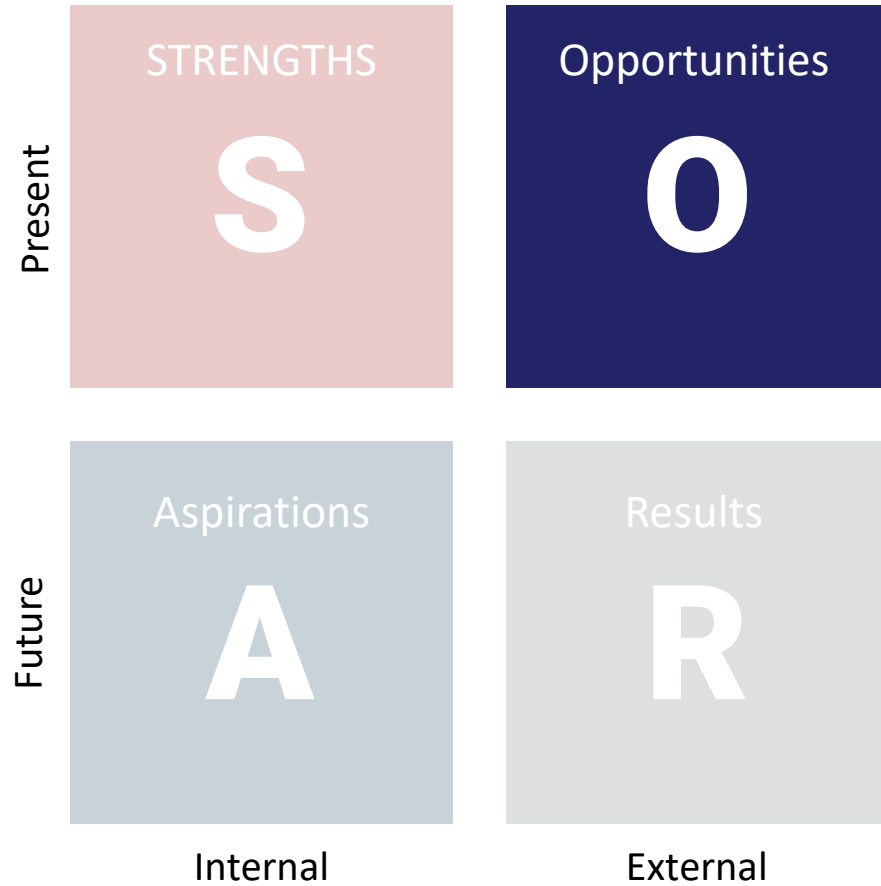
- **Results**

- What does success look like and how do we know the vision has been achieved?



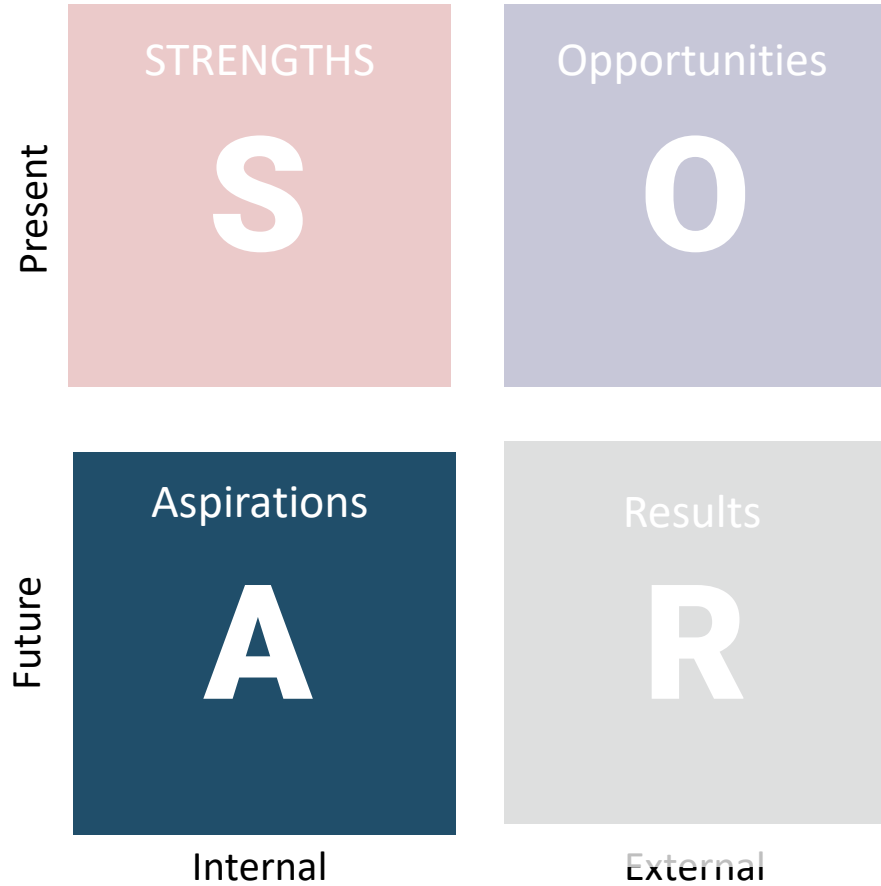
Strengths

- What are Tomball's greatest assets?
- What makes Tomball unique?
- What are your favorite places?



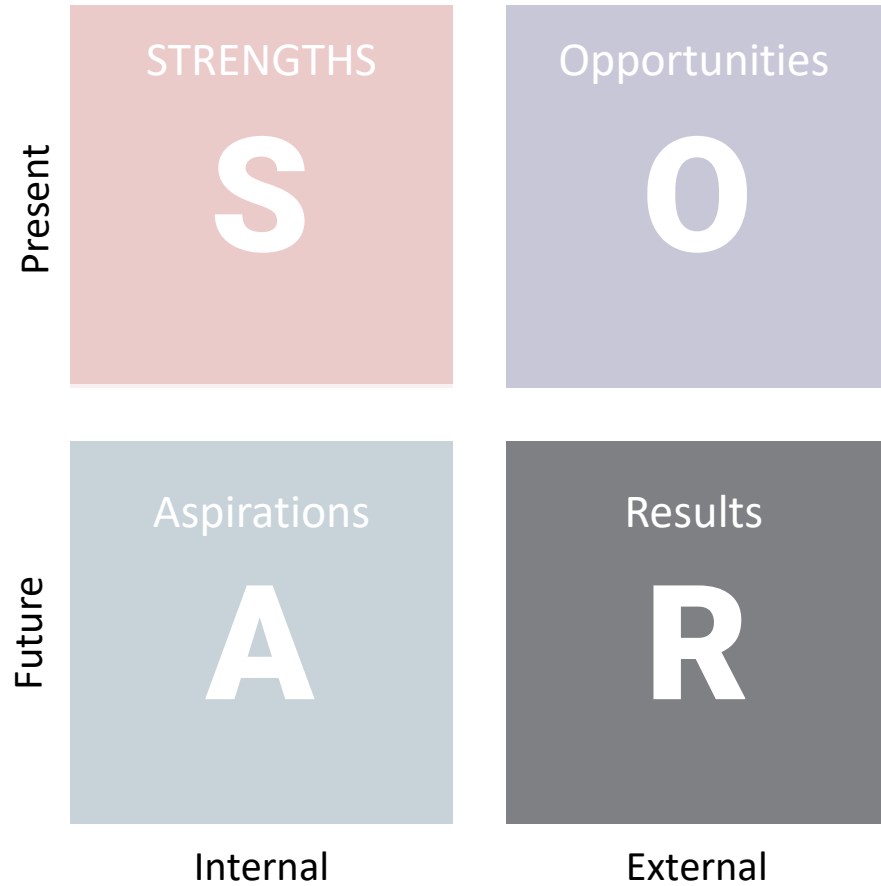
Opportunities

- What current conditions should be built upon?
- In what areas can Tomball grow or improve?



Aspirations

- What is important to the community?
- What should change in the future?
- What features or elements are missing?

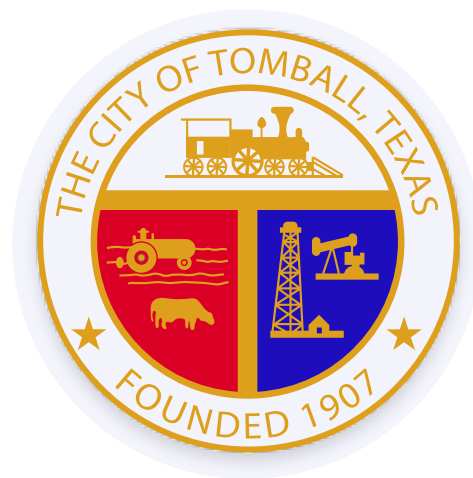


Results

- What does success look like in 10-20 years?
- How do we know the vision has been achieved?

**IN *ONE* WORD, WHAT
WOULD MAKE THIS
PLAN SUCCESSFUL?**

NEXT STEPS



This is Your Plan Stay Involved!

Monitor the **Project Website** or
Register for Updates

Take the **Online Community Survey**

Provide Input throughout the Process
and **Encourage Others to Participate**



TAKE THE ONLINE SURVEY!

Item 1.

Online Survey **Coming Soon**



Draft Comprehensive Plan Online Community Survey

Review the draft plan and then provide feedback
by taking the online survey.

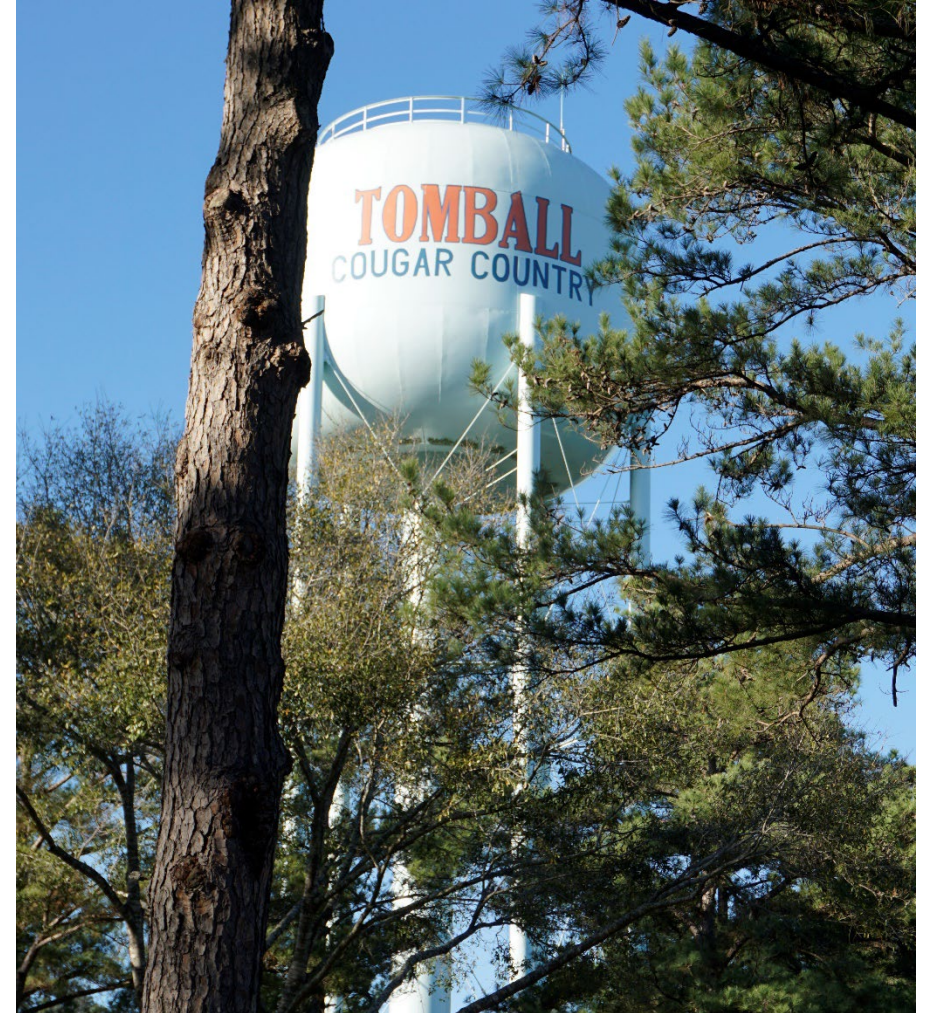
Take The Survey



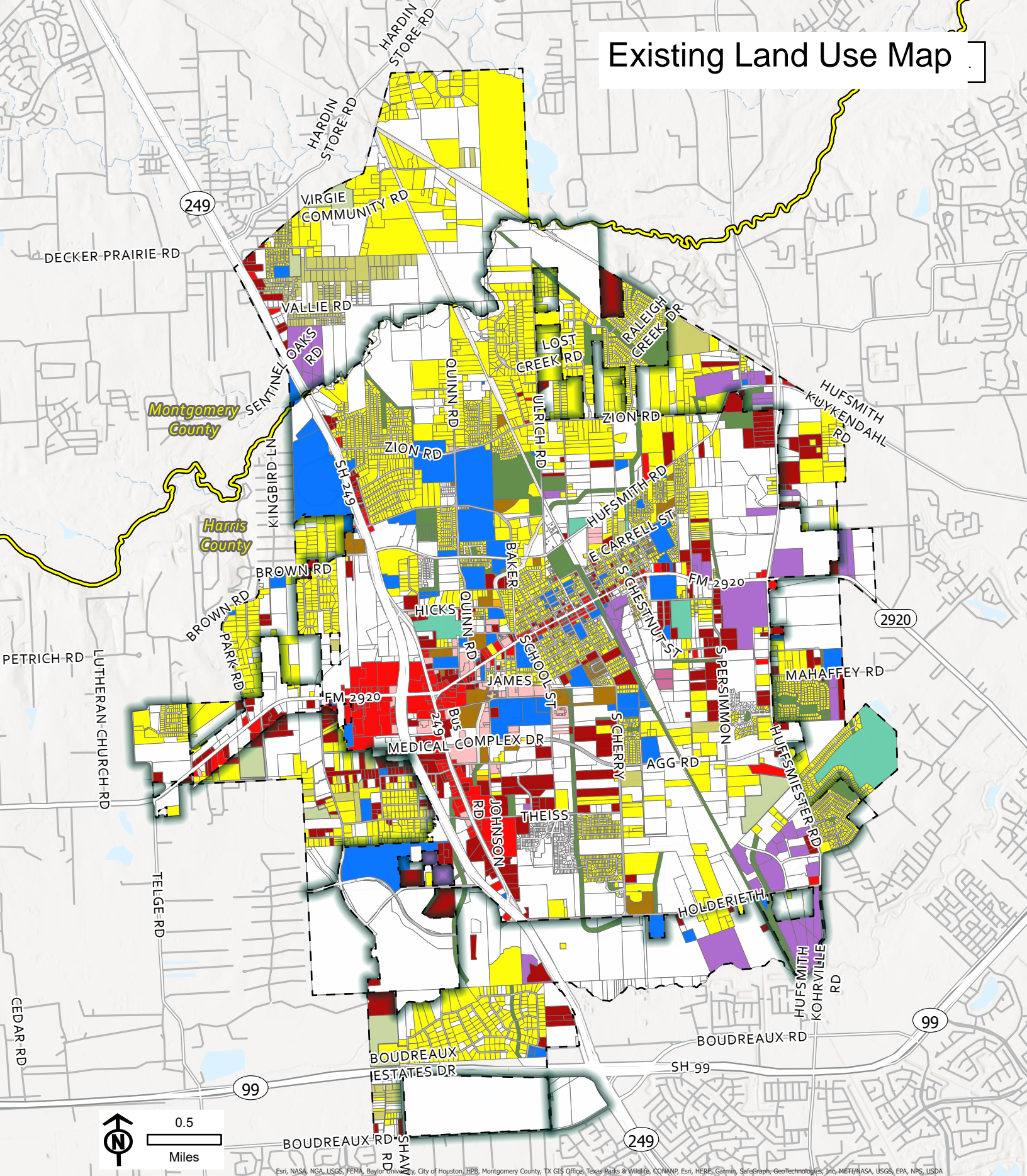
NEXT STEPS

Item 1.

- Launch Project Website **October 2023**
- Focus Group Meeting# 1 **October 2023**
- Launch Online Survey **October 2023**
- Community Event Coming **this Fall**
- Stakeholder Interviews **this Fall**
- Consultant Team Drafting Snapshot Chapter

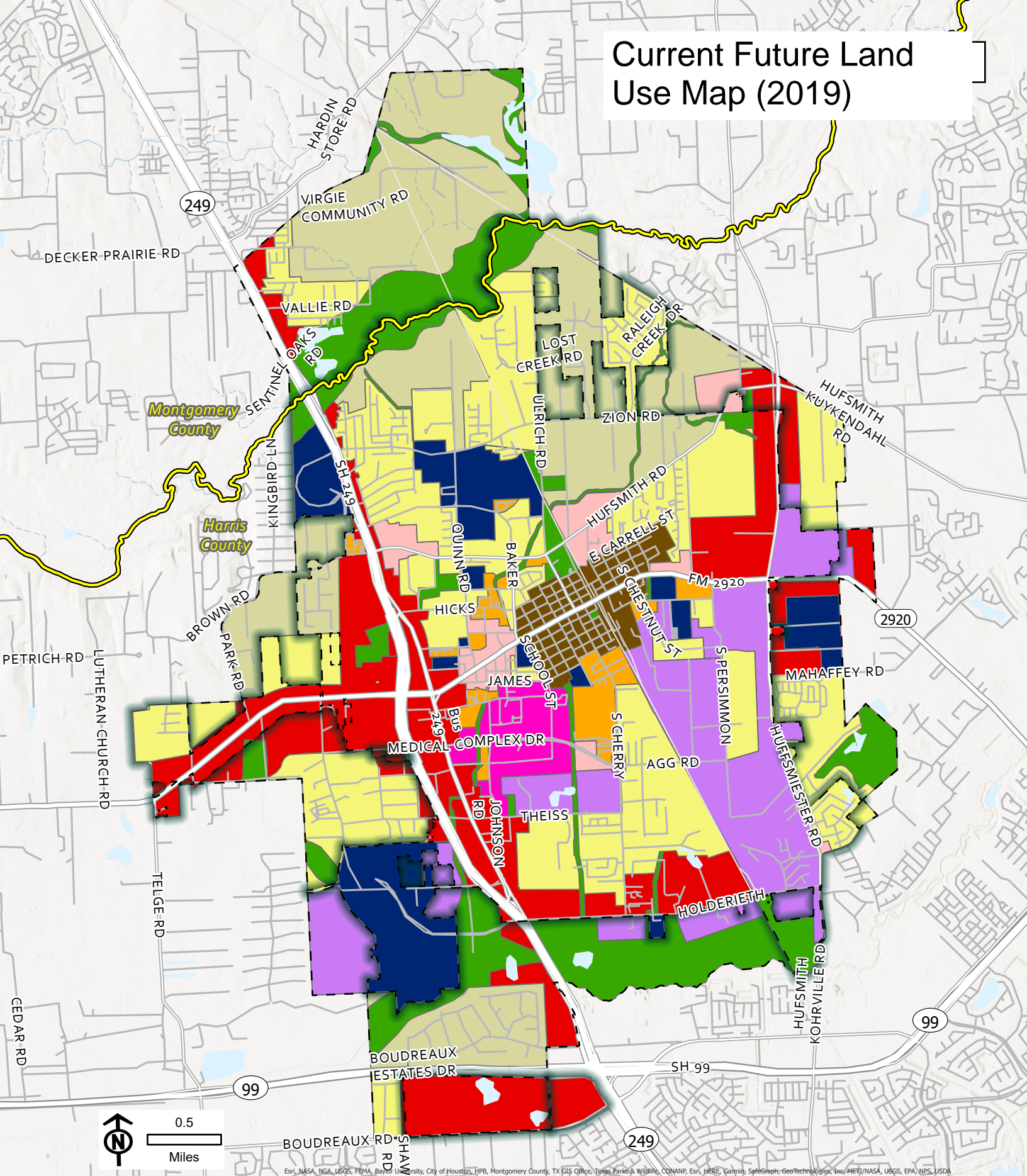


Existing Land Use Map



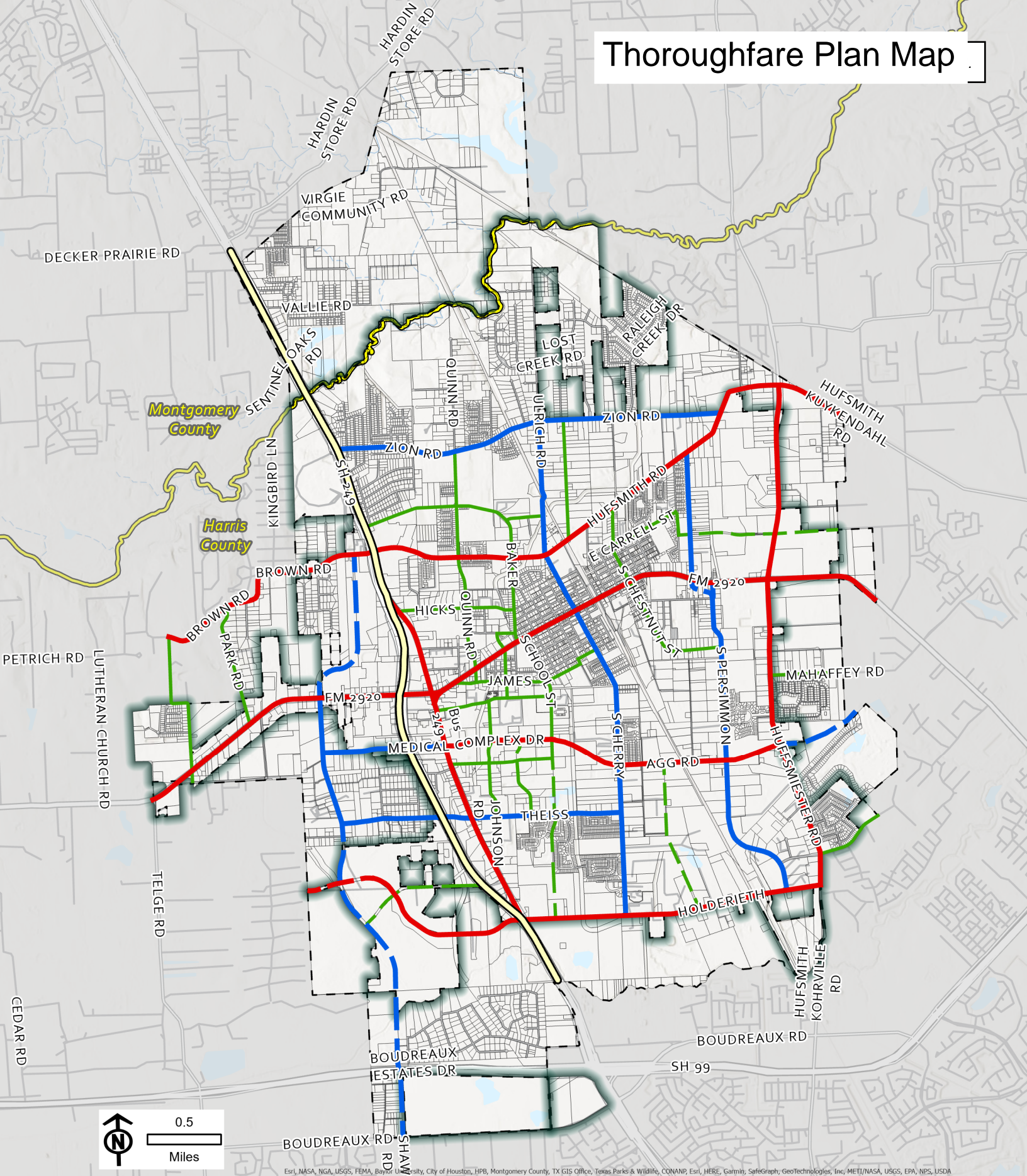
- | | | | | |
|---|---|--|--|---|
| Agriculture | Multifamily | Commercial | Public/Semi-Public | Tomball City Limits |
| Single Family | Manufactured Home | Industrial | Utility | Tomball ETJ |
| Townhome | Office | Parks and Open Space | Vacant | County |
| 2-Family (Duplex) | Retail | Private Recreation | | |

Current Future Land Use Map (2019)



- | | | | |
|---|--|--|---|
| Neighborhood Commercial | Neighborhood Residential | Parks & Open Space | Tomball City Limits |
| Public & Institutional | Medical District | Business Park and Industrial | Tomball ETJ |
| Corridor Commercial | Transitional Residential | | County |
| Old Town | Ranch Rural & Estate | | |

Thoroughfare Plan Map



- State Highway
- Major Arterial (existing)
- - Major Arterial (proposed)
- Minor Arterial (existing)
- - Minor Arterial (proposed)
- Collector (existing)
- - Collector (proposed)
- County
- Tomball City Limits
- Tomball ETJ

City Council Agenda Item Data Sheet

Meeting Date: October 9, 2023

Topic:

Presentation and discussion by Burditt Consultants regarding landscaping, tree preservation, and buffering.

Background:

Origination: Community Development Department

Recommendation:

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

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



Texas Tree Ordinances

City of Tomball Stakeholder Engagement:
Burditt Consultants
10-09-2023

Goals:

- To demonstrate and explain the various tree ordinances in use in the State of Texas; their pros and cons and their various functions
- To discuss the desired outcomes from a Tree Ordinance
- To determine the best approach for drafting a Tree Ordinance to achieve desired outcomes

Types of Tree Ordinances in Texas

- Public/Street Tree
- Tree Preservation
- Landscape
- Landscape & Tree Preservation
- Other: Technical Manuals, Oak Wilt & Diseased Trees, Obstruction & Clearance, Nuisance, Utility



Public/Street Tree Ordinance

- **Function-** to mandate care, removal, and planting of public trees located on rights-of-way, parks, and other public property
- To establish performance standards relating to tree planting and maintenance
- Violations for harm of public trees are usually associated
- Some cities, such as Austin, will even regulate the removal of trees on private properties whether they are hazardous or not
- Cities: Austin, Piney Point Village, Waco, Houston



Public/Street Tree Ordinance

Pros:

- Healthy public trees create more attractive cityscape
- Prevent hazardous tree incidents

Cons:

- City takes liability for hazardous trees
- Additional City Staff required for regulation/tree care

Tree Preservation Ordinance

- **Function-** to preserve existing native tree canopy and/or historical trees
- Permits are usually required to remove protected trees
- Mitigation may be required in the form of fees and/or plantings when removal of protected trees takes place either illegally or not
- May require buffers for streams or adjacent features
- City Forester sometimes employed to regulate enforcement
- Cities: Houston, Abilene, Cedar Hill



Tree Preservation Ordinance

Pros:

- Preservation of existing tree canopy which adds to overall health and happiness of citizens
- Creates more desirable development site which leads to higher attraction of patrons
- More trees is always a benefit

Cons:

- Limits certain types of development depending on how rigorous preservation requirements are
- Enforcement and regulation requires time and effort and best done by a professional

Tree Preservation Ordinance

Approaches to Tree Preservation Requirements:

- Require Tree Canopy Preservation (e.g.: 30% tree canopy preservation)
- Protect certain size trees (e.g.: 10" Diameter or greater)
- Protect certain tree species (e.g.: protected tree species list)
- Protect trees along buffers (e.g.: 18' buffer along frontage)

Landscape Ordinance

- **Function-** to ensure that planted trees and/or shrubs will be implemented for new developments
- This ordinance type also mandates species, size, and number requirements of planted landscape trees/shrubs
- May require landscape buffers for streams or adjacent features
- Landscape and irrigation plans will be reviewed by City Staff before building permits issued
- Cities: Houston, Abilene, Cedar Hill, Willis



Landscape Ordinance

Pros:

- New developments are more attractive
- Required plantings add to city tree canopy
- Parking lot plantings provide more shade and permeability

Cons:

- No regulation for existing canopy trees

Landscape & Tree Preservation Ordinance

- **Function-** to protect existing canopy trees **and** mandate landscape requirements for new developments
- A combined effort to preserve existing trees and plant new ones
- Cities: Conroe, Dallas, Georgetown, New Braunfels



Landscape & Tree Preservation Ordinance

Pros:

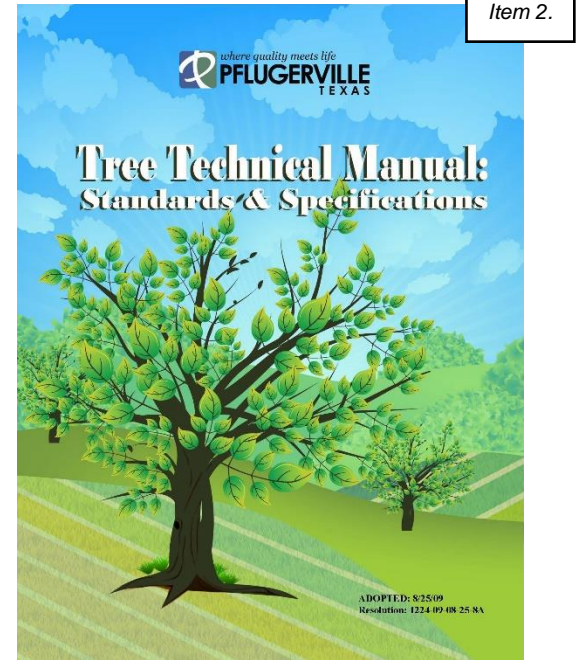
- Mandates and regulates not only existing canopy but also new trees
- Allows for more flexibility for developers
- Shade, beautification, diversity, energy saving...

Cons:

- Requirements can be demanding and cause potential project delays
- Enforcement and regulation requires time and effort and best done by a professional

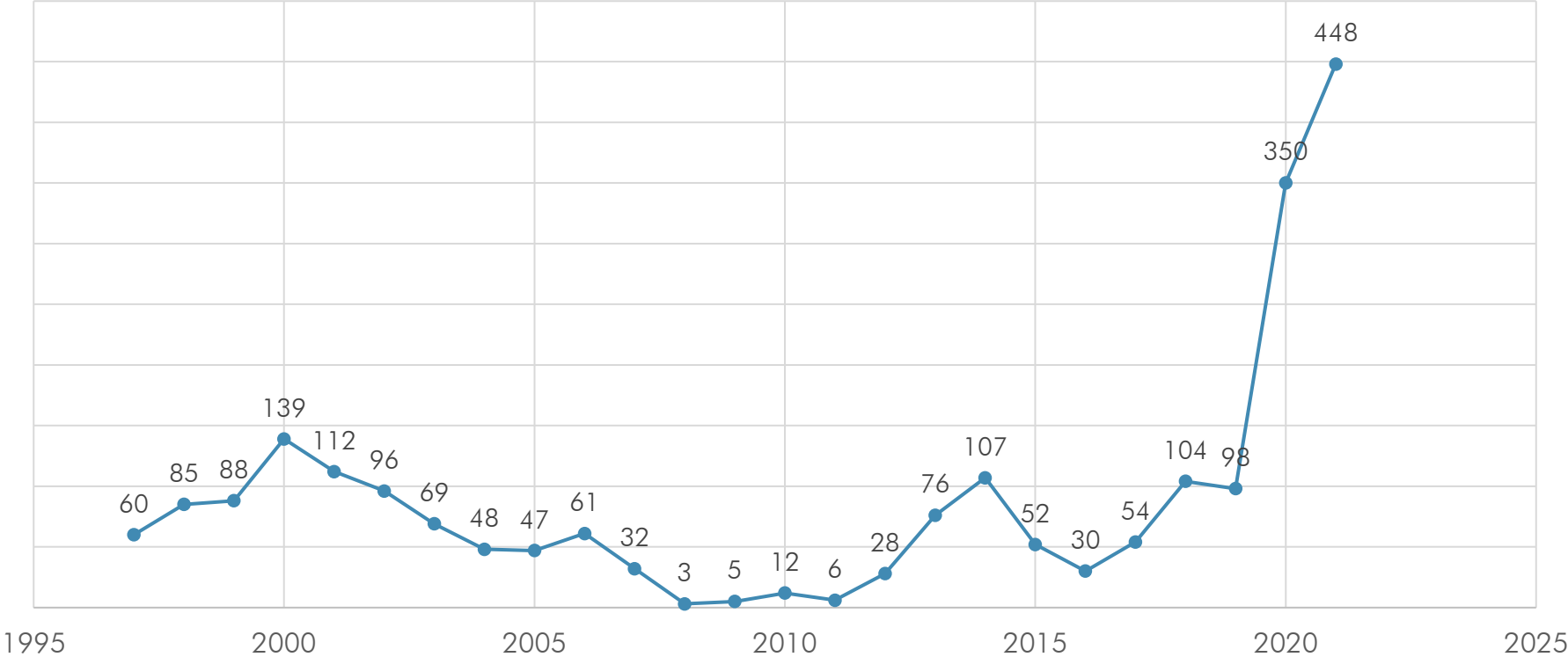
Other:

- Technical Manuals, Oak Wilt & Diseased Trees, Obstructions & Clearance, Nuisance, Utility
- Some cities include additional tree regulation measures for certain circumstances; these are usually supplemental to one of the main ordinances
- Example- Oak Wilt ordinances for central Texas cities that are heavily effected



Tomball's Growth

Tomball Single Family Home Building Permits



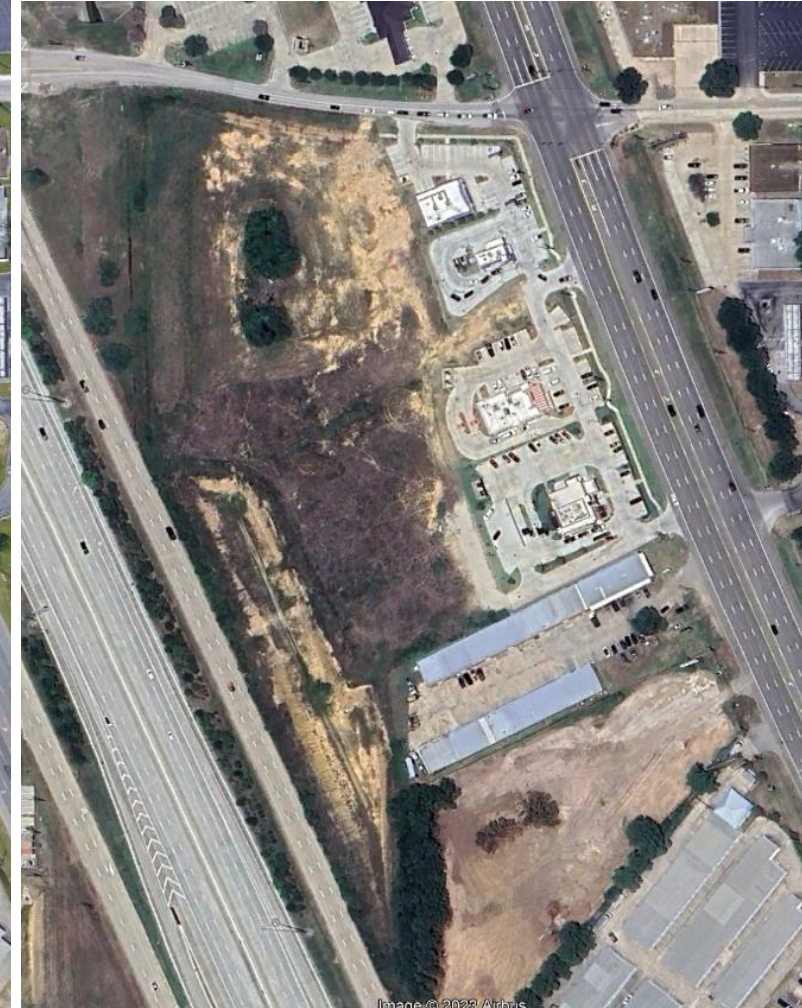
2017



2019



2023





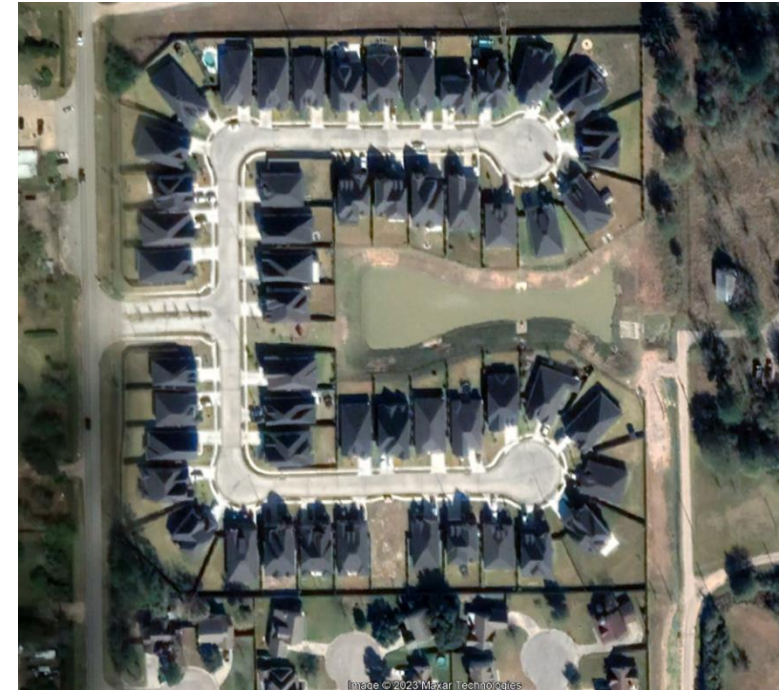
2017



2019



2022







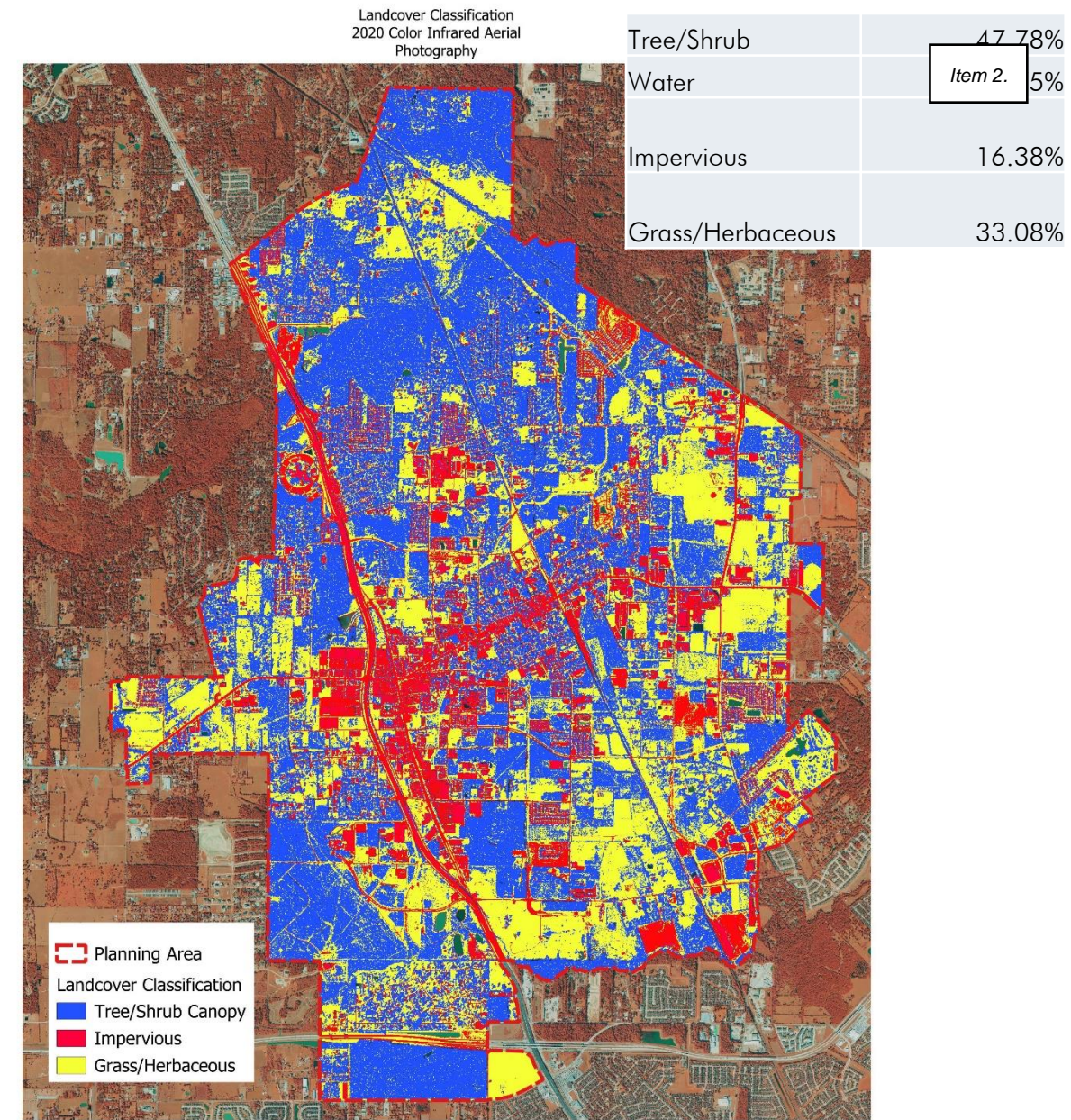
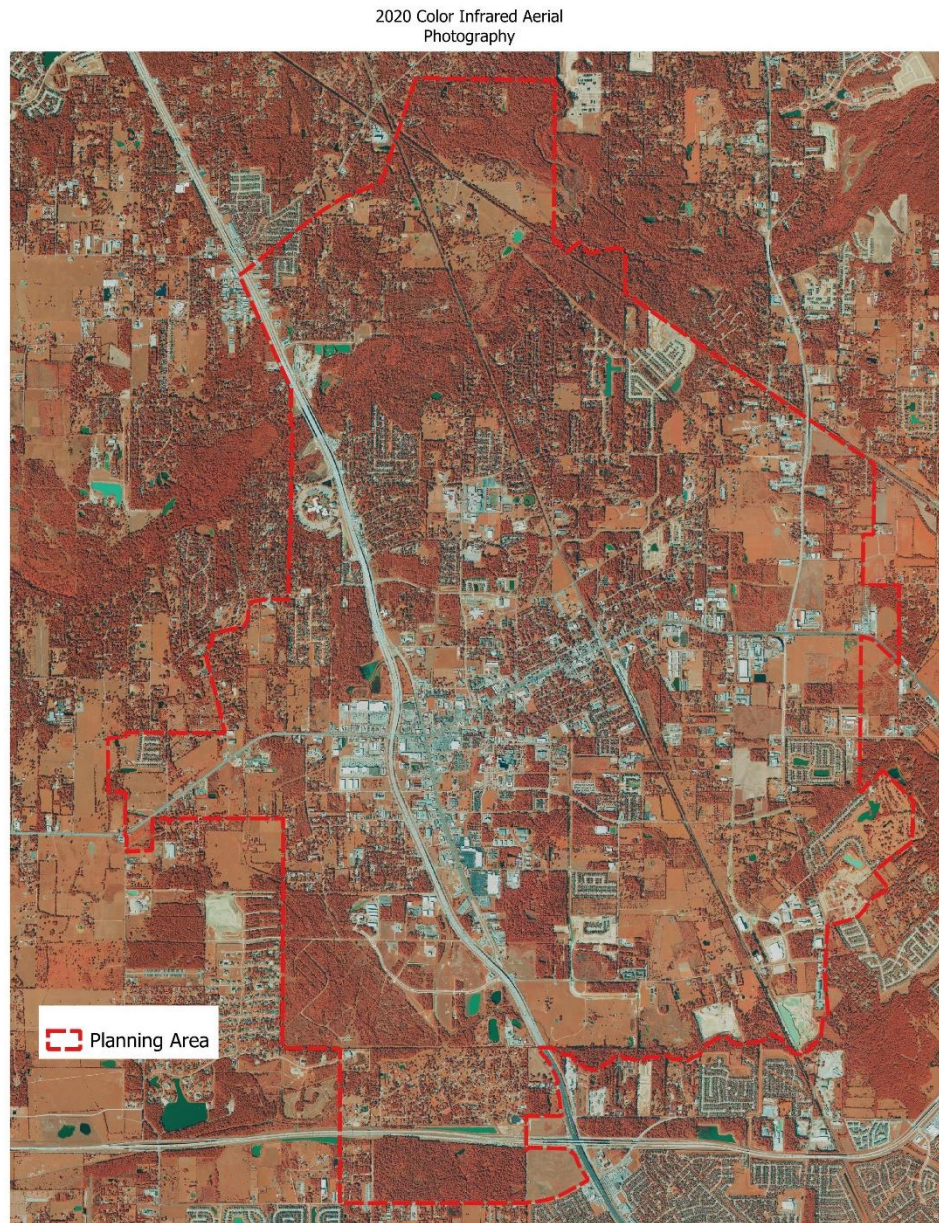
2020



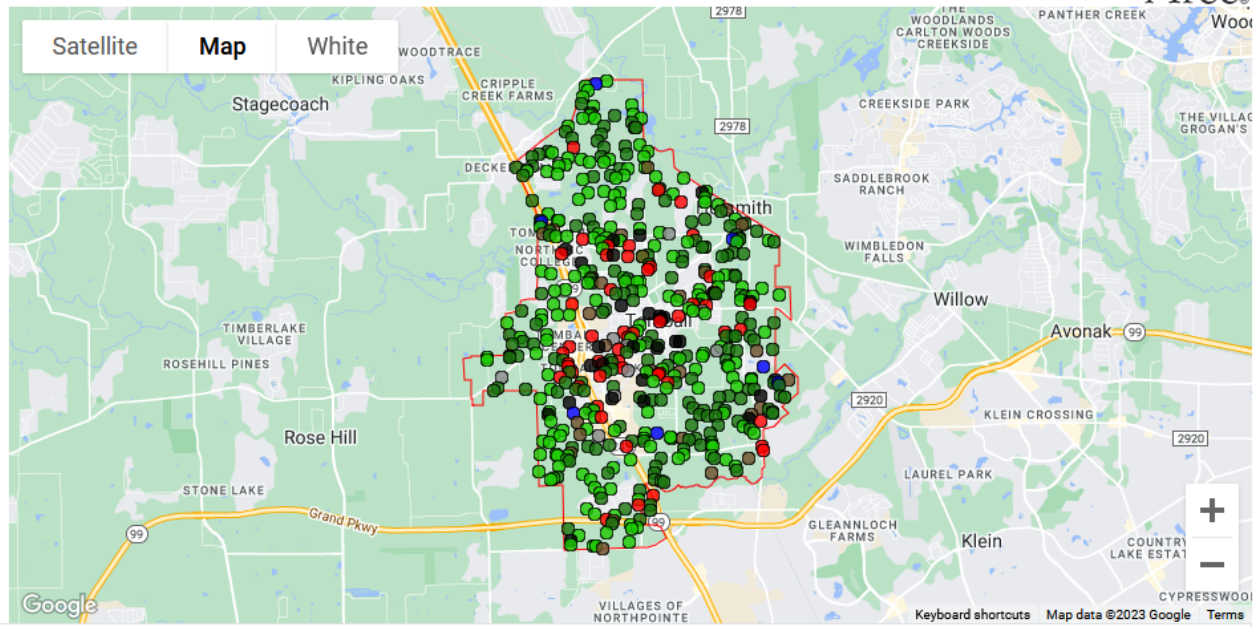
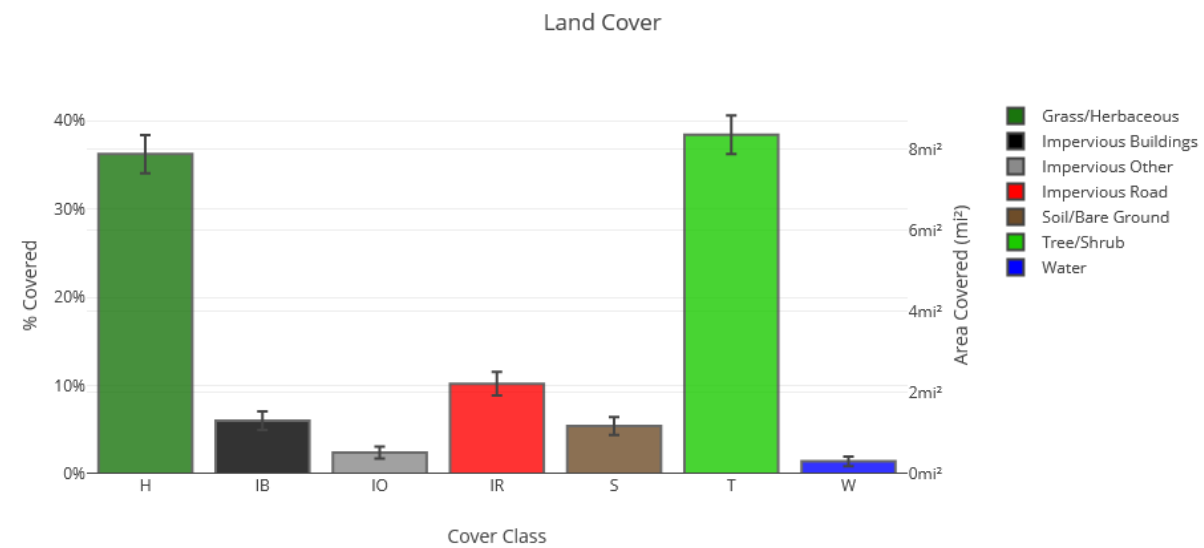
2023



Baseline Landcover Classification Of Aerial Photography 2020



A Comparative Study



Abbr.	Cover Class	Description	Points	% Cover ± SE	Area (mi²) ± SE
H	Grass/Herbaceous		181	36.20 ± 2.15	7.89 ± 0.47
IB	Impervious Buildings		30	6.00 ± 1.06	1.31 ± 0.23
IO	Impervious Other		12	2.40 ± 0.68	0.52 ± 0.15
IR	Impervious Road		51	10.20 ± 1.35	2.22 ± 0.30
S	Soil/Bare Ground		27	5.40 ± 1.01	1.18 ± 0.22
T	Tree/Shrub		192	38.40 ± 2.18	8.37 ± 0.47
W	Water		7	1.40 ± 0.53	0.31 ± 0.12
Total			500	100.00	21.80

38% Tree/Shrub Canopy

Ecosystem Services Provided by Tomball's Tree Canopy

Item 2.

Tree Benefit Estimates: Carbon (English units)

Description	Carbon (kT)	±SE	CO ₂ Equiv. (kT)	±SE	Value (USD)	±SE
Sequestered annually in trees	8.79	±0.50	32.25	±1.83	\$1,499,871	±84,956
Stored in trees (Note: this benefit is not an annual rate)	183.65	±10.40	673.37	±38.14	\$31,321,253	±1,774,103

Currency is in USD and rounded. Standard errors of removal and benefit amounts are based on standard errors of sampled and classified points. Amount sequestered is based on 1.051 kT of Carbon, or 3.852 kT of CO₂, per mi²/yr and rounded. Amount stored is based on 21.940 kT of Carbon, or 80.446 kT of CO₂, per mi² and rounded. Value (USD) is based on \$170,550.73/kT of Carbon, or \$46,513.84/kT of CO₂ and rounded. (English units: kT = kilotons (1,000 tons), mi² = square miles)

Tree Benefit Estimates: Air Pollution (English units)

Abbr.	Description	Amount (T)	±SE	Value (USD)	±SE
CO	Carbon Monoxide removed annually	3.41	±0.19	\$3,122	±177
NO ₂	Nitrogen Dioxide removed annually	25.07	±1.42	\$10,677	±605
O ₃	Ozone removed annually	156.30	±8.85	\$299,542	±16,967
SO ₂	Sulfur Dioxide removed annually	6.42	±0.36	\$1,026	±58
PM _{2.5}	Particulate Matter less than 2.5 microns removed annually	8.36	±0.47	\$776,056	±43,957
PM ₁₀ *	Particulate Matter greater than 2.5 microns and less than 10 microns removed annually	58.93	±3.34	\$242,509	±13,741
Total		258.50	±14.64	\$1,333,021	±75,505

Currency is in USD and rounded. Standard errors of removal and benefit amounts are based on standard errors of sampled and classified points. Air Pollution Estimates are based on these values in T/mi²/yr @ \$/T/yr and rounded: CO 0.408 @ \$914.78 | NO₂ 2.995 @ \$425.96 | O₃ 18.673 @ \$1,916.42 | SO₂ 0.768 @ \$159.63 | PM_{2.5} 0.999 @ \$92,790.34 | PM₁₀* 7.040 @ \$4,116.73 (English units: T = tons (2,000 pounds), mi² = square miles)

Ecosystem Services Provided by Tomball's Tree Canopy

Item 2.

Tree Benefit Estimates: Hydrological (English units)

Abbr.	Benefit	Amount (Mgal)	±SE	Value (USD)	±SE
AVRO	Avoided Runoff	88.27	±5.00	\$788,746	±44,676
E	Evaporation	398.32	±22.56	N/A	N/A
I	Interception	400.86	±22.71	N/A	N/A
T	Transpiration	1,034.37	±58.59	N/A	N/A
PE	Potential Evaporation	3,773.66	±213.75	N/A	N/A
PET	Potential Evapotranspiration	3,401.41	±192.66	N/A	N/A

Currency is in USD and rounded. Standard errors of removal and benefit amounts are based on standard errors of sampled and classified points. Hydrological Estimates are based on these values in Mgal/mi²/yr @ \$/Mgal/yr and rounded:
 AVRO 10.545 @ \$8,936.00 | E 47.586 @ N/A | I 47.890 @ N/A | T 123.573 @ N/A | PE 450.829 @ N/A | PET 406.358 @ N/A (English units: Mgal = millions of gallons, mi² = square miles)

About i-Tree Canopy

The concept and prototype of this program were developed by David J. Nowak, Jeffery T. Walton, and Eric J. Greenfield (USDA Forest Service). The current version of this program was developed and adapted to i-Tree by David Ellingsworth, Mike Binkley, and Scott Maco (The Davey Tree Expert Company)

Limitations of i-Tree Canopy

The accuracy of the analysis depends upon the ability of the user to correctly classify each point into its correct class. As the number of points increase, the precision of the estimate will increase as the standard error of the estimate will decrease. If too few points are classified, the standard error will be too high to have any real certainty of the estimate.



Additional support provided by:





Discussion

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: October 9, 2023

Topic:

Approve the expenditure of \$2.4 million dollars for the purchase of 810 W. Main St. and authorize the City Manager to execute any and all documents related to this expenditure.

Background:

The property is located at 810 W. Main Street, Tomball, Texas 77375, it is approximately 2.599 acres. The seller will provide the following:

- Alta Survey
- Topo Survey
- Survey CAD
- Phase 1 environmental
- Asbestos Report
- Floor Plan/As Built Plan

The approval of this transaction constitutes the ratification of the attached escrowed contract. A future budget amendment will allocate the necessary funds from the general fund balance before the executing the transaction.

Origination:

Recommendation:

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

FUNDING (IF APPLICABLE)

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

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

If no, funds will be transferred from account #100 _____ To account # _____

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



COMMERCIAL CONTRACT - IMPROVED PROPERTY

USE OF THIS FORM BY PERSONS WHO ARE NOT MEMBERS OF THE TEXAS ASSOCIATION OF REALTORS®, INC. IS NOT AUTHORIZED.
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1. **PARTIES:** Seller agrees to sell and convey to Buyer the Property described in Paragraph 2. Buyer agrees to buy the Property from Seller for the sales price stated in Paragraph 3. The parties to this contract are:

Seller: Emmanor Investments III LLC

Address: 1233 Yale Street, Houston, TX 77008-6959

Phone: (281)845-8295

E-mail: mike@emmanorgroup.com

Mobile: _____

Fax or Other: _____

Buyer: City of Tomball

Address: 401 Market Street, Tomball, TX 77375

Phone: (281)351-5484

E-mail: desquivel@tomballtx.gov

Mobile: (817)774-6313

Fax or Other: _____

2. PROPERTY:

- A. "Property" means that real property situated in Harris County, Texas at 810 W. Main Street, Tomball, TX 77375 (address)

and that is ~~legally described on the attached Exhibit~~ or as follows:

being approximately 2.599 acres, more or less, together with all improvements thereon, partially described as Tracts 22A-1, 22C thru 22H and 77, Abstract 34 of the J HOUSE Subdivision and being further described by metes and bounds in Exhibit "A" attached hereto and incorporated herein.

- B. Seller will sell and convey the Property together with:

- (1) all buildings, improvements, and fixtures;
- (2) all rights, privileges, and appurtenances pertaining to the Property, including Seller's right, title, and interest in any minerals, utilities, adjacent streets, alleys, strips, gores, and rights-of-way;
- (3) Seller's interest in all leases, rents, and security deposits for all or part of the Property;
- (4) Seller's interest in all licenses and permits related to the Property;
- (5) Seller's interest in all third party warranties or guaranties, if transferable, relating to the Property or any fixtures;
- (6) Seller's interest in any trade names, if transferable, used in connection with the Property; and
- (7) all Seller's tangible personal property located on the Property that is used in connection with the Property's operations except:

Any personal property not included in the sale must be removed by Seller prior to closing.

(Describe any exceptions, reservations, or restrictions in Paragraph 12 or an addendum.)

(If mineral rights are to be reserved an appropriate addendum should be attached.)

(If the Property is a condominium, attach Commercial Contract Condominium Addendum (TXR-1930) or (TXR-1946).)

3. **SALES PRICE:** At or before closing, Buyer will pay the following sales price for the Property:

A. Cash portion payable by Buyer at closing \$ 2,400,000.00

B. Sum of all financing described in Paragraph 4 \$ _____

C. Sales price (sum of 3A and 3B) \$ 2,400,000.00

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Commercial Contract - Improved Property concerning 810 W. Main Street, Tomball, TX 77375

4. FINANCING: Buyer will finance the portion of the sales price under Paragraph 3B as follows:

- ☒ A. **Third Party Financing:** One or more third party loans in the total amount of \$ N/A. This contract:
- ☒ (1) is not contingent upon Buyer obtaining third party financing.
- ☐ (2) is contingent upon Buyer obtaining third party financing in accordance with the attached Commercial Contract Financing Addendum (TXR-1931).
- ☐ B. **Assumption:** In accordance with the attached Commercial Contract Financing Addendum (TXR-1931), Buyer will assume the existing promissory note secured by the Property, which balance at closing will be \$ _____.
- ☐ C. **Seller Financing:** Buyer will deliver a promissory note and deed of trust from Buyer to Seller under the terms of the attached Commercial Contract Financing Addendum (TXR-1931) in the amount of \$ _____.

5. EARNEST MONEY:

- A. Not later than 3 days after the effective date, Buyer must deposit \$ \$21,500.00 as earnest money with Stewart Title - Tomball (title company) at 14080 FM 2920, Ste E, Tomball, TX 77377 (address) Jane Mathews (closer). If Buyer fails to timely deposit the earnest money, Seller may terminate this contract or exercise any of Seller's other remedies under Paragraph 15 by providing written notice to Buyer before Buyer deposits the earnest money.
- B. Buyer will deposit an additional amount of \$ _____ with the title company to be made part of the earnest money on or before:
- ☐ (i) _____ days after Buyer's right to terminate under Paragraph 7B expires; or
- ☐ (ii) _____
- Buyer will be in default if Buyer fails to deposit the additional amount required by this Paragraph 5B within 3 days after Seller notifies Buyer that Buyer has not timely deposited the additional amount.
- C. Buyer may instruct the title company to deposit the earnest money in an interest-bearing account at a federally insured financial institution and to credit any interest to Buyer.

6. TITLE POLICY, SURVEY, AND UCC SEARCH:

A. **Title Policy:**

- (1) Seller, at Seller's expense, will furnish Buyer an Owner's Policy of Title Insurance (the title policy) issued by any underwriter of the title company in the amount of the sales price, dated at or after closing, insuring Buyer against loss under the title policy, subject only to:
- (a) those title exceptions permitted by this contract or as may be approved by Buyer in writing; and
- (b) the standard printed exceptions contained in the promulgated form of title policy unless this contract provides otherwise.
- (2) The standard printed exception as to discrepancies, conflicts, or shortages in area and boundary lines, or any encroachments or protrusions, or any overlapping improvements:
- ☐ (a) will not be amended or deleted from the title policy.
- ☒ (b) ^{Amay} will be amended to read "shortages in areas" at the expense of ☒ Buyer ☐ Seller.
- (3) Within 15 days after the effective date, Seller will furnish Buyer a commitment for title insurance (the commitment) including legible copies of recorded documents evidencing title exceptions. Seller authorizes the title company to deliver the commitment and related documents to Buyer at Buyer's address.

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Commercial Contract - Improved Property concerning 810 W. Main Street, Tomball, TX 77375

B. Survey: Within 5 days after the effective date:

- ☐ (1) Buyer will obtain a survey of the Property at Buyer's expense and deliver a copy of the survey to Seller. The survey must be made in accordance with the: (i) ALTA/NSPS Land Title Survey standards, or (ii) Texas Society of Professional Surveyors' standards for a Category 1A survey under the appropriate condition. Seller will reimburse Buyer _____ (insert amount) of the cost of the survey at closing, if closing occurs.
- ☐ (2) Seller, at Seller's expense, will furnish Buyer a survey of the Property dated after the effective date. The survey must be made in accordance with the: (i) ALTA/NSPS Land Title Survey standards, or (ii) Texas Society of Professional Surveyors' standards for a Category 1A survey under the appropriate condition.
- ☒ (3) Seller will deliver to Buyer and the title company a true and correct copy of Seller's most recent survey of the Property along with an affidavit required by the title company for approval of the existing survey. If the existing survey is not acceptable to the title company, ☐ Seller ☒ Buyer (updating party), will, at the updating party's expense, obtain a new or updated survey acceptable to the title company and deliver the acceptable survey to the other party and the title company within ~~30 days after the title company notifies the parties that the existing survey is not acceptable to the title company. The closing date will be extended daily up to 30 days if necessary for the updating party to deliver an acceptable survey within the time required. The other party will reimburse the updating party _____ (insert amount or percentage) of the cost of the new or updated survey at closing, if closing occurs.~~ 21 days from the Effective Date.

C. UCC Search:

- ☐ (1) Within _____ days after the effective date, Seller, at Seller's expense, will furnish Buyer a Uniform Commercial Code (UCC) search prepared by a reporting service and dated after the effective date. The search must identify documents that are on file with the Texas Secretary of State and the county where the Property is located that relate to all personal property on the Property and show, as debtor, Seller and all other owners of the personal property in the last 5 years.
- ☒ (2) Buyer does not require Seller to furnish a UCC search.

D. Buyer's Objections to the Commitment, Survey, and UCC Search:

- (1) Within 10 days after Buyer receives the last of the commitment, copies of the documents evidencing the title exceptions, any required survey, and any required UCC search, Buyer may object to matters disclosed in the items if: (a) the matters disclosed are a restriction upon the Property or constitute a defect or encumbrance to title to the real or personal property described in Paragraph 2 other than those permitted by this contract or liens that Seller will satisfy at closing or Buyer will assume at closing; or (b) the items show that any part of the Property lies in a special flood hazard area (an "A" or "V" zone as defined by FEMA). If the commitment or survey is revised or any new document evidencing a title exception is delivered, Buyer may object to any new matter revealed in such revision or new document. Buyer's objection must be made within the same number of days stated in this paragraph, beginning when the revision or new document is delivered to Buyer. If Paragraph 6B(1) applies, Buyer is deemed to receive the survey on the earlier of: (i) the date Buyer actually receives the survey; or (ii) the deadline specified in Paragraph 6B.
- (2) Seller may, but is not obligated to, cure Buyer's timely objections within 15 days after Seller receives the objections. The closing date will be extended as necessary to provide such time to cure the objections. If Seller fails to cure the objections by the time required, Buyer may terminate

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810 W Main

Commercial Contract - Improved Property concerning 810 W. Main Street, Tomball, TX 77375

this contract by providing written notice to Seller within 5 days after the time by which Seller must cure the objections. If Buyer terminates, the earnest money, less any independent consideration under Paragraph 7B(1), will be refunded to Buyer.

(3) Buyer's failure to timely object or terminate under this Paragraph 6D is a waiver of Buyer's right to object except that Buyer will not waive the requirements in Schedule C of the commitment.

7. PROPERTY CONDITION:

A. **Present Condition:** Buyer accepts the Property in its present condition ~~except that Seller, at Seller's expense, will complete the following before closing:~~ See Special Provisions Addendum for further details.

B. **Feasibility Period:** Buyer may terminate this contract for any reason within 21 days after the effective date (feasibility period) by providing Seller written notice of termination.

(1) **Independent Consideration.** (Check only one box and insert amounts.)

☒ (a) If Buyer terminates under this Paragraph 7B, the earnest money will be refunded to Buyer less \$ 100.00 that Seller will retain as independent consideration for Buyer's unrestricted right to terminate. Buyer has tendered the independent consideration to Seller upon payment of the amount specified in Paragraph 5A to the title company. The independent consideration is to be credited to the sales price only upon closing of the sale. If no dollar amount is stated in this Paragraph 7B(1) or if Buyer fails to deposit the earnest money, Buyer will not have the right to terminate under this Paragraph 7B.

☐ (b) Not later than 3 days after the effective date, Buyer must pay \$ _____ as independent consideration for Buyer's right to terminate by tendering such amount to the title company. Buyer authorizes escrow agent to release and deliver the independent consideration to Seller at any time upon Seller's request without further notice to or consent from Buyer. If Buyer terminates under this Paragraph 7B, the earnest money will be refunded to Buyer and Seller will retain the independent consideration. The independent consideration will be credited to the sales price only upon closing of the sale. If no dollar amount is stated in this Paragraph 7B(2) or if Buyer fails to pay the independent consideration, Buyer will not have the right to terminate under this Paragraph 7B.

☐ (2) **Feasibility Period Extension:** Prior to the expiration of the initial feasibility period, Buyer may extend the feasibility period for a single additional period of _____ days by delivering \$ _____ to the title company as additional earnest money.

(a) \$ _____ of the additional earnest money will be retained by Seller as additional independent consideration for Buyer's unrestricted right to terminate, but will be credited to the sales price only upon closing of the sale. If Buyer terminates under this Paragraph 7B, the additional earnest money will be refunded to Buyer and Seller will retain the additional independent consideration.

(b) Buyer authorizes escrow agent to release and deliver to Seller the following at any time upon Seller's request without further notice to or consent from Buyer:

(i) The additional independent consideration.

(ii) (Check no boxes or only one box.)

☐ all or ☐ \$ _____ of the remaining portion of the additional earnest money, which will be refunded to Buyer if Buyer terminates under this Paragraph 7B or if Seller defaults under this contract.

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Commercial Contract - Improved Property concerning 810 W. Main Street, Tomball, TX 77375

If no dollar amount is stated in this Paragraph 7B(2) as additional earnest money or as additional independent consideration, or if Buyer fails to timely deliver the additional earnest money, the extension of the feasibility period will not be effective.

C. Inspections, Studies, or Assessments:

- (1) During the feasibility period, Buyer, at Buyer's expense, may complete or cause to be completed any and all inspections, studies, or assessments of the Property (including all improvements and fixtures) desired by Buyer.
- (2) Seller, at Seller's expense, will turn on all utilities necessary for Buyer to make inspections, studies, or assessments.
- (3) Buyer must:
 - (a) employ only trained and qualified inspectors and assessors;
 - (b) notify Seller, in advance, of when the inspectors or assessors will be on the Property;
 - (c) abide by any reasonable entry rules or requirements of Seller;
 - (d) not interfere with existing operations or occupants of the Property; and
 - (e) restore the Property to its original condition if altered due to inspections, studies, or assessments that Buyer completes or causes to be completed.
- (4) Except for those matters that arise from the negligence of Seller or Seller's agents, Buyer is responsible for any claim, liability, encumbrance, cause of action, and expense resulting from Buyer's inspections, studies, or assessments, including any property damage or personal injury. Buyer will indemnify, hold harmless, and defend Seller and Seller's agents against any claim involving a matter for which Buyer is responsible under this paragraph. This paragraph survives termination of this contract.

D. Property Information:

- (1) Delivery of Property Information: Within 5 days after the effective date, Seller will deliver to Buyer the following to the extent in Seller's possession: *(Check all that apply.)*
 - ☐ (a) a current rent roll of all leases affecting the Property certified by Seller as true and correct;
 - ☐ (b) copies of all current leases, including any mineral leases, pertaining to the Property, including any modifications, supplements, or amendments to the leases;
 - ☒ (c) a current inventory of all personal property to be conveyed under this contract and copies of any leases for such personal property;
 - ☐ (d) copies of all notes and deeds of trust against the Property that Buyer will assume or that Seller will not pay in full on or before closing;
 - ☒ (e) copies of all current service, utility, maintenance, and management agreements relating to the ownership and operation of the Property;
 - ☐ (f) copies of current utility capacity letters from the Property's water and sewer service provider;
 - ☐ (g) copies of all current warranties and guaranties relating to all or part of the Property;
 - ☐ (h) copies of fire, hazard, liability, and other insurance policies that currently relate to the Property;
 - ☐ (i) copies of all leasing or commission agreements that currently relate to the tenants of all or part of the Property;
 - ☒ (j) a copy of the "as-built" plans and specifications and plat of the Property;
 - ☐ (k) copies of all invoices for utilities and repairs incurred by Seller for the Property in the 24 months immediately preceding the effective date;
 - ☐ (l) a copy of Seller's income and expense statement for the Property from _____ to _____;
 - ☒ (m) copies of all previous environmental assessments, geotechnical reports, studies, or analyses made on or relating to the Property;

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Commercial Contract - Improved Property concerning 810 W. Main Street, Tomball, TX 77375

- ☐ (n) real and personal property tax statements for the Property for the previous 2 calendar years;
- ☐ (o) Tenant reconciliation statements including, operating expenses, insurance and taxes for the Property from _____ to _____; and
- ☐ (p) _____

(2) Return of Property Information: If this contract terminates for any reason, Buyer will, not later than 10 days after the termination date: *(Check all that apply.)*

- ☒ (a) return to Seller all those items described in Paragraph 7D(1) that Seller delivered to Buyer in other than an electronic format and all copies that Buyer made of those items;
- ☒ (b) delete or destroy all electronic versions of those items described in Paragraph 7D(1) that Seller delivered to Buyer or Buyer copied in any format; and
- ☒ (c) deliver to Seller copies of all inspection and assessment reports related to the Property that Buyer completed or caused to be completed.

This Paragraph 7D(2) survives termination of this contract.

E. Contracts Affecting Operations: Until closing, Seller: (1) will operate the Property in the same manner as on the effective date under reasonably prudent business standards; and (2) will not transfer or dispose of any part of the Property, any interest or right in the Property, or any of the personal property or other items described in Paragraph 2B or sold under this contract. After the feasibility period ends, Seller may not enter into, amend, or terminate any other contract that affects the operations of the Property without Buyer's written approval.

8. LEASES: **NONE IN EFFECT.**

~~A. Each written lease Seller is to assign to Buyer under this contract must be in full force and effect according to its terms. Seller may not enter into any new lease, fail to comply with any existing lease, or make any amendment or modification to any existing lease without Buyer's written consent. Seller must disclose, in writing, if any of the following exist at the time Seller provides the leases to the Buyer or subsequently occur before closing:~~

- ~~(1) any failure by Seller to comply with Seller's obligations under the leases;~~
- ~~(2) any circumstances under any lease that entitle the tenant to terminate the lease or seek any offsets or damages;~~
- ~~(3) any non-occupancy of the leased premises by a tenant;~~
- ~~(4) any advance sums paid by a tenant under any lease;~~
- ~~(5) any concessions, bonuses, free rents, rebates, brokerage commissions, or other matters that affect any lease; and~~
- ~~(6) any amounts payable under the leases that have been assigned or encumbered, except as security for loan(s) assumed or taken subject to under this contract.~~

~~B. Estoppel Certificates: Within _____ days after the effective date, Seller will deliver to Buyer estoppel certificates signed not earlier than _____ by each tenant that leases space in the Property. The estoppel certificates must include the certifications contained in the current version of TXR Form 1938 - Commercial Tenant Estoppel Certificate and any additional information requested by a third party lender providing financing under Paragraph 4 if the third party lender requests such additional information at least 10 days prior to the earliest date that Seller may deliver the signed estoppel certificates.~~

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Commercial Contract - Improved Property concerning

810 W. Main Street, Tomball, TX 77375**9. BROKERS:****A. The brokers to this sale are:**Principal Broker: S&P Interests, LLCCooperating Broker: Colliers International Houston, Inc.Agent: Joshua SebestaAgent: Tom Condon, Jr.Address: 5353 W Alabama St, Suite 602Address: 9950 Woodloch Forest Dr, Suite 1225Houston, TX 77056The Woodlands, TX 77380Phone & Fax: (713)298-1341Phone & Fax: (713)830-4007(713)830-4057E-mail: josh@spinterests.comE-mail: tom.condon.jr@colliers.comLicense No.: 9003291License No.: 0029114

Principal Broker: (Check only one box)

☒ represents Seller only.☐ represents Buyer only.☐ is an intermediary between Seller and Buyer.

Cooperating Broker represents Buyer.

B. Fees: (Check only (1) or (2) below.)

(Complete the Agreement Between Brokers on page 14 only if (1) is selected.)

- ☐ (1) Seller will pay Principal Broker the fee specified by separate written commission agreement between Principal Broker and Seller. Principal Broker will pay Cooperating Broker the fee specified in the Agreement Between Brokers found below the parties' signatures to this contract.

- ☒ (2) At the closing of this sale, Seller will pay:

Principal Broker a total cash fee of:

☒ 3.000 % of the sales price.

Cooperating Broker a total cash fee of:

☒ 3.000 % of the sales price.

The cash fees will be paid in Harris County, Texas. Seller authorizes the title company to pay the brokers from the Seller's proceeds at closing.

NOTICE: Chapter 62, Texas Property Code, authorizes a broker to secure an earned commission with a lien against the Property.

- C. The parties may not amend this Paragraph 9 without the written consent of the brokers affected by the amendment.

10. CLOSING:**A. The date of the closing of the sale (closing date) will be on or before the later of:**

- (1) ☒ 15 days after the expiration of the feasibility period.

☐ (specific date).

- (2) 7 days after objections made under Paragraph 6D have been cured or waived.

B. If either party fails to close by the closing date, the non-defaulting party may exercise the remedies in Paragraph 15.

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Phone: 713-322-2111 Fax: 713-830-2118

www.lwcl.com

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Commercial Contract - Improved Property concerning

810 W. Main Street, Tomball, TX 77375

- C. At closing, Seller will execute and deliver to Buyer, at Seller's expense, a ☐ general ☒ special warranty deed. The deed must include a vendor's lien if any part of the sales price is financed. The deed must convey good and indefeasible title to the Property and show no exceptions other than those permitted under Paragraph 6 or other provisions of this contract. Seller must convey the Property:
- (1) with no liens, assessments, or Uniform Commercial Code or other security interests against the Property which will not be satisfied out of the sales price, unless securing loans Buyer assumes;
 - (2) without any assumed loans in default; and
 - (3) with no persons in possession of any part of the Property as lessees, tenants at sufferance, or trespassers except tenants under the written leases assigned to Buyer under this contract.
- D. At closing, Seller, at Seller's expense, will also deliver to Buyer:
- (1) tax statements showing no delinquent taxes on the Property;
 - (2) a bill of sale with warranties to title conveying title, free and clear of all liens, to any personal property defined as part of the Property in Paragraph 2 or sold under this contract;
 - (3) ~~an assignment of all leases to or on the Property;~~
 - (4) to the extent that the following items are assignable, an assignment to Buyer of the following items as they relate to the Property or its operations:
 - (a) licenses and permits;
 - (b) service, utility, maintenance, management, and other contracts; and
 - (c) warranties and guaranties;
 - (5) ~~a rent roll current on the day of the closing certified by Seller as true and correct;~~
 - (6) evidence that the person executing this contract is legally capable and authorized to bind Seller;
 - (7) an affidavit acceptable to the title company stating that Seller is not a foreign person or, if Seller is a foreign person, a written authorization for the title company to: (i) withhold from Seller's proceeds an amount sufficient to comply with applicable tax law; and (ii) deliver the amount to the Internal Revenue Service together with appropriate tax forms; and
 - (8) any notices, statements, certificates, affidavits, releases, and other documents required by this contract, the commitment, or law necessary for the closing of the sale and the issuance of the title policy, all of which must be completed and executed by Seller as necessary.
- E. At closing, Buyer will:
- (1) pay the sales price in good funds acceptable to the title company;
 - (2) deliver evidence that the person executing this contract is legally capable and authorized to bind Buyer;
 - (3) ~~sign and send to each tenant in the Property a written statement that:~~
 - (a) ~~acknowledges Buyer has received and is responsible for the tenant's security deposit; and~~
 - (b) ~~specifies the exact dollar amount of the security deposit;~~
 - (4) ~~sign an assumption of all leases then in effect; and~~
 - (5) execute and deliver any notices, statements, certificates, or other documents required by this contract or law necessary to close the sale.
- F. Unless the parties agree otherwise, the closing documents will be as found in the basic forms in the current edition of the State Bar of Texas Real Estate Forms Manual without any additional clauses.

11. POSSESSION: Seller will deliver possession of the Property to Buyer upon closing and funding of this sale in its present condition with any repairs Seller is obligated to complete under this contract, ordinary wear and tear excepted. Any possession by Buyer before closing or by Seller after closing that is not authorized by a separate written lease agreement is a landlord-tenant at sufferance relationship between the parties.

(TXR-1801) 07-08-22

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Commercial Contract - Improved Property concerning 810 W. Main Street, Tomball, TX 77375

12. SPECIAL PROVISIONS: The following special provisions apply and will control in the event of a conflict with other provisions of this contract. *(If special provisions are contained in an Addendum, identify the Addendum here and reference the Addendum in Paragraph 22D.)*

This Contract is subject to the terms and conditions of the Special Provisions Addendum attached hereto and incorporated herein.

13. SALES EXPENSES:

A. **Seller's Expenses:** Seller will pay for the following at or before closing:

- (1) releases of existing liens, other than those liens assumed by Buyer, including prepayment penalties and recording fees;
- (2) release of Seller's loan liability, if applicable;
- (3) tax statements or certificates;
- (4) preparation of the deed and any bill of sale;
- (5) one-half of any escrow fee;
- (6) costs to record any documents to cure title objections that Seller must cure; and
- (7) other expenses that Seller will pay under other provisions of this contract.

B. **Buyer's Expenses:** Buyer will pay for the following at or before closing:

- (1) all loan expenses and fees;
- (2) preparation fees of any deed of trust;
- (3) recording fees for the deed and any deed of trust;
- (4) premiums for flood and hazard insurance as may be required by Buyer's lender;
- (5) one-half of any escrow fee; and
- (6) other expenses that Buyer will pay under other provisions of this contract.

14. PRORATIONS:

A. **Prorations:**

- (1) Interest on any assumed loan, taxes, rents, and any expense reimbursements from tenants will be prorated through the closing date.
- (2) If the amount of ad valorem taxes for the year in which the sale closes is not available on the closing date, taxes will be prorated on the basis of taxes assessed in the previous year. If the taxes for the year in which the sale closes vary from the amount prorated at closing, the parties will adjust the prorations when the tax statements for the year in which the sale closes become available. This Paragraph 14A(2) survives closing.
- (3) If Buyer assumes a loan or is taking the Property subject to an existing lien, Seller will transfer all reserve deposits held by the lender for the payment of taxes, insurance premiums, and other charges to Buyer at closing and Buyer will reimburse such amounts to Seller by an appropriate adjustment at closing.

B. **Rollback Taxes:** If Seller's use or change in use of the Property before closing results in the assessment of additional taxes, penalties, or interest (assessments) for periods before closing, the assessments will be the obligation of Seller. If this sale or Buyer's use of the Property after closing results in additional assessments for periods before closing, the assessments will be the obligation of Buyer. This Paragraph 14B survives closing.

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Commercial Contract - Improved Property concerning 810 W. Main Street, Tomball, TX 77375

- C. **Rent and Security Deposits:** At closing, Seller will tender to Buyer all security deposits and the following advance payments received by Seller for periods after closing: prepaid expenses, advance rental payments, and other advance payments paid by tenants. Rents prorated to one party but received by the other party will be remitted by the recipient to the party to whom it was prorated within 5 days after the rent is received. This Paragraph 14C survives closing.

15. DEFAULT:

- A. If Buyer fails to comply with this contract, Buyer is in default and Seller, as Seller's sole remedy(ies), may terminate this contract and receive the earnest money, as liquidated damages for Buyer's failure except for any damages resulting from Buyer's inspections, studies or assessments in accordance with Paragraph 7C(4) which Seller may pursue, or
(Check if applicable)
☐ enforce specific performance, or seek such other relief as may be provided by law.
- B. If, without fault, Seller is unable within the time allowed to deliver the estoppel certificates, survey or the commitment, Buyer may:
(1) terminate this contract and receive the earnest money, less any independent consideration under Paragraph 7B(1), as liquidated damages and as Buyer's sole remedy; or
(2) extend the time for performance up to 15 days and the closing will be extended as necessary.
- C. Except as provided in Paragraph 15B, if Seller fails to comply with this contract, Seller is in default and Buyer may:
(1) terminate this contract and receive the earnest money, less any independent consideration under Paragraph 7B(1), as liquidated damages and as Buyer's sole remedy; or
(2) enforce specific performance, or seek such other relief as may be provided by law, or both.

16. CASUALTY LOSS AND CONDEMNATION:

- A. If any part of the Property is damaged or destroyed by fire or other casualty after the effective date, Seller must restore the Property to its previous condition as soon as reasonably possible and not later than the closing date. If, without fault, Seller is unable to do so, Buyer may:
(1) terminate this contract and the earnest money, less any independent consideration under Paragraph 7B(1), will be refunded to Buyer;
(2) extend the time for performance up to 15 days and closing will be extended as necessary; or
(3) accept at closing: (i) the Property in its damaged condition; (ii) an assignment of any insurance proceeds Seller is entitled to receive along with the insurer's consent to the assignment; and (iii) a credit to the sales price in the amount of any unpaid deductible under the policy for the loss.
- B. If before closing, condemnation proceedings are commenced against any part of the Property, Buyer may:
(1) terminate this contract by providing written notice to Seller within 15 days after Buyer is advised of the condemnation proceedings and the earnest money, less any independent consideration under Paragraph 7B(1), will be refunded to Buyer; or
(2) appear and defend the condemnation proceedings and any award will, at Buyer's election, belong to: (a) Seller and the sales price will be reduced by the same amount; or (b) Buyer and the sales price will not be reduced.

17. **ATTORNEY'S FEES:** If Buyer, Seller, any broker, or the title company is a prevailing party in any legal proceeding brought under or with relation to this contract or this transaction, such party is entitled to recover from the non-prevailing parties all costs of such proceeding and reasonable attorney's fees. This Paragraph 17 survives termination of this contract.

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Colliers International, 1239 West Loop South, Suite 900 Houston TX 77027
Tom Condon

Phone: 713-222-3111 Fax: 713-434-2118
Produced with Lone Wolf Transactions (zipForm Edition) 717 N Harwood St, Suite 2200, Dallas, TX 75201 www.lwolf.com

810 W Main

Commercial Contract - Improved Property concerning

810 W. Main Street, Tomball, TX 77375**18. ESCROW:**

- A. At closing, the earnest money will be applied first to any cash down payment, then to Buyer's closing costs, and any excess will be refunded to Buyer. If no closing occurs, the title company may require payment of unpaid expenses incurred on behalf of the parties and a written release of liability of the title company from all parties.
- B. If one party makes written demand for the earnest money, the title company will give notice of the demand by providing to the other party a copy of the demand. If the title company does not receive written objection to the demand from the other party within 15 days after the date the title company sent the demand to the other party, the title company may disburse the earnest money to the party making demand, reduced by the amount of unpaid expenses incurred on behalf of the party receiving the earnest money and the title company may pay the same to the creditors.
- C. The title company will deduct any independent consideration under Paragraph 7B(1) before disbursing any earnest money to Buyer and will pay the independent consideration to Seller.
- D. If the title company complies with this Paragraph 18, each party hereby releases the title company from all claims related to the disbursement of the earnest money.
- E. Notices under this Paragraph 18 must be sent by certified mail, return receipt requested. Notices to the title company are effective upon receipt by the title company.
- F. Any party who wrongfully fails or refuses to sign a release acceptable to the title company within 7 days after receipt of the request will be liable to the other party for: (i) damages; (ii) the earnest money; (iii) reasonable attorney's fees; and (iv) all costs of suit.
- G. ☒ Seller ☐ Buyer intend(s) to complete this transaction as a part of an exchange of like-kind properties in accordance with Section 1031 of the Internal Revenue Code, as amended. All expenses in connection with the contemplated exchange will be paid by the exchanging party. The other party will not incur any expense or liability with respect to the exchange. The parties agree to cooperate fully and in good faith to arrange and consummate the exchange so as to comply to the maximum extent feasible with the provisions of Section 1031 of the Internal Revenue Code. The other provisions of this contract will not be affected in the event the contemplated exchange fails to occur.

19. MATERIAL FACTS: To the best of Seller's knowledge and belief: *(Check only one box.)*

- ☐ A. Seller is not aware of any material defects to the Property except as stated in the attached Commercial Property Condition Statement (TXR-1408).
- ☒ B. Except as otherwise provided in this contract, Seller is not aware of:
- (1) any subsurface: structures, pits, waste, springs, or improvements;
 - (2) any pending or threatened litigation, condemnation, or assessment affecting the Property;
 - (3) any environmental hazards or conditions that materially affect the Property;
 - (4) whether the Property is or has been used for the storage or disposal of hazardous materials or toxic waste, a dump site or landfill, or any underground tanks or containers;
 - (5) whether radon, asbestos containing materials, urea-formaldehyde foam insulation, lead-based paint, toxic mold (to the extent that it adversely affects the health of ordinary occupants), or other pollutants or contaminants of any nature now exist or ever existed on the Property;
 - (6) any wetlands, as defined by federal or state law or regulation, on the Property;
 - (7) any threatened or endangered species or their habitat on the Property;
 - (8) any present or past infestation of wood-destroying insects in the Property's improvements;
 - (9) any contemplated material changes to the Property or surrounding area that would materially and detrimentally affect the ordinary use of the Property;

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www.lwolf.com

810 W Main

Commercial Contract - Improved Property concerning 810 W. Main Street, Tomball, TX 77375

- (10) any material physical defects in the improvements on the Property; or
 (11) any condition on the Property that violates any law or ordinance.

(Describe any exceptions to (1)-(11) in Paragraph 12 or an addendum.)

20. NOTICES: All notices between the parties under this contract must be in writing and are effective when hand-delivered, mailed by certified mail return receipt requested, sent by a national or regional overnight delivery service that provides a delivery receipt, or sent by confirmed facsimile transmission to the parties addresses or facsimile numbers stated in Paragraph 1. The parties will send copies of any notices to the broker representing the party to whom the notices are sent.

- ☒ A. Seller also consents to receive any notices by e-mail at Seller's e-mail address stated in Paragraph 1.
☒ B. Buyer also consents to receive any notices by e-mail at Buyer's e-mail address stated in Paragraph 1.

21. DISPUTE RESOLUTION: The parties agree to negotiate in good faith in an effort to resolve any dispute related to this contract that may arise. If the dispute cannot be resolved by negotiation, the parties will submit the dispute to mediation before resorting to arbitration or litigation and will equally share the costs of a mutually acceptable mediator. This paragraph survives termination of this contract. This paragraph does not preclude a party from seeking equitable relief from a court of competent jurisdiction.

22. AGREEMENT OF THE PARTIES:

- A. This contract is binding on the parties, their heirs, executors, representatives, successors, and permitted assigns. This contract is to be construed in accordance with the laws of the State of Texas. If any term or condition of this contract shall be held to be invalid or unenforceable, the remainder of this contract shall not be affected thereby. All individuals signing represent that they have the authority to sign on behalf of and bind the party for whom they are signing.
- B. This contract contains the entire agreement of the parties and may not be changed except in writing.
- C. If this contract is executed in a number of identical counterparts, each counterpart is an original and all counterparts, collectively, constitute one agreement.

D. Addenda which are part of this contract are: (Check all that apply.)

- ☒ (1) Property Description Exhibit identified in Paragraph 2;
☐ (2) Commercial Contract Condominium Addendum (TXR-1930) or (TXR-1946);
☐ (3) Commercial Contract Financing Addendum (TXR-1931);
☐ (4) Commercial Property Condition Statement (TXR-1408);
☐ (5) Commercial Contract Addendum for Special Provisions (TXR-1940);
☐ (6) Addendum for Seller's Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards (TXR-1906);
☐ (7) Notice to Purchaser of Real Property in a Water District (MUD);
☐ (8) Addendum for Coastal Area Property (TXR-1915);
☐ (9) Addendum for Property Located Seaward of the Gulf Intracoastal Waterway (TXR-1916);
☒ (10) Information About Brokerage Services (TXR-2501);
☐ (11) Information About Mineral Clauses in Contract Forms (TXR-2509);
☐ (12) Notice of Obligation to Pay Improvement District Assessment (TXR-1955, PID);
☒ (13) **Special Provisions Addendum**

(Note: Counsel for Texas REALTORS® has determined that any of the foregoing addenda which are promulgated by the Texas Real Estate Commission (TREC) or published by Texas REALTORS® are appropriate for use with this form.)

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Commercial Contract - Improved Property concerning 810 W. Main Street, Tomball, TX 77375

- E. Buyer ☒ may ☐ may not assign this contract. If Buyer assigns this contract, Buyer will be relieved of any future liability under this contract only if the assignee assumes, in writing, all of Buyer's obligations under this contract.

23. TIME: Time is of the essence in this contract. The parties require strict compliance with the times for performance. If the last day to perform under a provision of this contract falls on a Saturday, Sunday, or federal reserve bank holiday, the time for performance is extended until the end of the next day which is not a Saturday, Sunday, or federal reserve bank holiday.

24. EFFECTIVE DATE: The effective date of this contract for the purpose of performance of all obligations is the date the title company receipts this contract after all parties execute this contract.

25. ADDITIONAL NOTICES:

- A. Buyer should have an abstract covering the Property examined by an attorney of Buyer's selection, or Buyer should be furnished with or obtain a title policy.
- B. If the Property is situated in a utility or other statutorily created district providing water, sewer, drainage, or flood control facilities and services, Chapter 49, Texas Water Code, requires Seller to deliver and Buyer to sign the statutory notice relating to the tax rate, bonded indebtedness, or standby fees of the district before final execution of this contract.
- C. Notice Required by §13.257, Water Code: "The real property, described below, that you are about to purchase may be located in a certificated water or sewer service area, which is authorized by law to provide water or sewer service to the properties in the certificated area. If your property is located in a certificated area there may be special costs or charges that you will be required to pay before you can receive water or sewer service. There may be a period required to construct lines or other facilities necessary to provide water or sewer service to your property. You are advised to determine if the property is in a certificated area and contact the utility service provider to determine the cost that you will be required to pay and the period, if any, that is required to provide water or sewer service to your property. The undersigned purchaser hereby acknowledges receipt of the foregoing notice at or before the execution of a binding contract for the purchase of the real property described in the notice or at closing of purchase of the real property." The real property is described in Paragraph 2 of this contract.
- D. If the Property adjoins or shares a common boundary with the tidally influenced submerged lands of the state, §33.135, Texas Natural Resources Code, requires a notice regarding coastal area property to be included as part of this contract (*the Addendum for Coastal Area Property (TXR-1915) may be used*).
- E. If the Property is located seaward of the Gulf Intracoastal Waterway, §61.025, Texas Natural Resources Code, requires a notice regarding the seaward location of the Property to be included as part of this contract (*the Addendum for Property Located Seaward of the Gulf Intracoastal Waterway (TXR-1916) may be used*).
- F. If the Property is located outside the limits of a municipality, the Property may now or later be included in the extra-territorial jurisdiction (ETJ) of a municipality and may now or later be subject to annexation by the municipality. Each municipality maintains a map that depicts its boundaries and ETJ. To determine if the Property is located within a municipality's ETJ, Buyer should contact all municipalities located in the general proximity of the Property for further information.
- G. If apartments or other residential units are on the Property and the units were built before 1978, federal law requires a lead-based paint and hazard disclosure statement to be made part of this contract (*the Addendum for Seller's Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards (TXR-1906) may be used*).

(TXR-1801) 07-08-22

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Commercial Contract - Improved Property concerning

810 W. Main Street, Tomball, TX 77375

- H. Section 1958.154, Occupations Code requires Seller to provide Buyer a copy of any mold remediation certificate issued for the Property during the 5 years preceding the date the Seller sells the Property.
- I. Brokers are not qualified to perform property inspections, surveys, engineering studies, environmental assessments, or inspections to determine compliance with zoning, governmental regulations, or laws. Buyer should seek experts to perform such services. Buyer should review local building codes, ordinances and other applicable laws to determine their effect on the Property. Selection of experts, inspectors, and repairmen is the responsibility of Buyer and not the brokers. Brokers are not qualified to determine the credit worthiness of the parties. **NOTICE OF WATER LEVEL FLUCTUATIONS:** If the Property adjoins an impoundment of water, including a reservoir or lake, constructed and maintained under Chapter 11, Water Code, that has a storage capacity of at least 5,000 acre-feet at the impoundment's normal operating level, Seller hereby notifies Buyer: "The water level of the impoundment of water adjoining the Property fluctuates for various reasons, including as a result of: (1) an entity lawfully exercising its right to use the water stored in the impoundment; or (2) drought or flood conditions."
- J. **PUBLIC IMPROVEMENT DISTRICTS:** If the Property is in a public improvement district, Seller is required by §5.014, Property Code to give Buyer a written notice concerning the obligation to pay assessments. The form of the required notice is available as a part of the Notice of Obligation to Pay Improvement District Assessment (TXR-1955).
- K. **LICENSE HOLDER DISCLOSURE:** Texas law requires a real estate license holder who is a party to a transaction or acting on behalf of a spouse, parent, child, business entity in which the license holder owns more than 10%, or a trust for which the license holder acts as a trustee or of which the license holder or the license holder's spouse, parent or child is a beneficiary, to notify the other party in writing before entering into a contract of sale. Disclose if applicable: _____

26. CONTRACT AS OFFER: The execution of this contract by the first party constitutes an offer to buy or sell the Property. Unless the other party accepts the offer by 5:00 p.m., in the time zone in which the Property is located, on October 3, 2023, the offer will lapse and become null and void.

READ THIS CONTRACT CAREFULLY. The brokers and agents make no representation or recommendation as to the legal sufficiency, legal effect, or tax consequences of this document or transaction. **CONSULT** your attorney **BEFORE** signing.

Seller: Emmanor Investments III LLCBuyer: City of Tomball

By: _____

DocuSigned by:

Michael Ho

By (signature): _____

2F10A1701AB347E...

Printed Name: Michael HoTitle: President

By: _____

By (signature): _____

Printed Name: _____

Title: _____

By: _____

DocuSigned by:

David Esquivel

By (signature): _____

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Printed Name: David EsquivelTitle: City Manager

By: _____

By (signature): _____

Printed Name: _____

Title: _____

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Commercial Contract - Improved Property concerning

810 W. Main Street, Tomball, TX 77375**AGREEMENT BETWEEN BROKERS***(use only if Paragraph 9B(1) is effective)*

Principal Broker agrees to pay _____ (Cooperating Broker) a fee when the Principal Broker's fee is received. The fee to be paid to Cooperating Broker will be:

☐ \$ _____, or
☐ _____ % of the sales price, or
☐ _____ % of the Principal Broker's fee.

The title company is authorized and directed to pay Cooperating Broker from Principal Broker's fee at closing. This Agreement Between Brokers supersedes any prior offers and agreements for compensation between brokers.

Principal Broker: _____

Cooperating Broker: _____

By: _____

By: _____

ATTORNEYS

Seller's attorney: Eric D'olive
Emmanor Group

Address: 1233 Yale Street
Houston, TX 77008

Phone & Fax: (281)900-6598

E-mail: eric.dolive@emmanorgroup.com

Seller's attorney requests copies of documents, notices, and other information:

- ☒ the title company sends to Seller.
☒ Buyer sends to Seller.

Buyer's attorney: Loren Smith
Olson & Olson LLP

Address: 2727 Allen Parkway, Ste 600
Houston, TX 77019

Phone & Fax: (713)817-2074

E-mail: lsmith@olsonllp.com

Buyer's attorney requests copies of documents, notices, and other information:

- ☒ the title company sends to Buyer.
☒ Seller sends to Buyer.

ESCROW RECEIPT

The title company acknowledges receipt of:

- ☐ A. the contract on this day _____ (effective date);
☐ B. earnest money in the amount of \$ _____ in the form of _____
 on _____.

Title company: _____

Address: _____

By: _____

Phone & Fax: _____

Assigned file number (GF#): _____

E-mail: _____

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**SPECIAL PROVISIONS ADDENDUM
TO
COMMERCIAL CONTRACT - IMPROVED PROPERTY**

This Special Provisions Addendum to Commercial Contract - Improved Property ("Addendum") is entered into between **CITY OF TOMBALL** ("Seller") and **EMMANOR INVESTMENTS III LLC** ("Seller") in order to amend the terms of a Commercial Contract - Improved Property contract ("Contract") entered into contemporaneously with the execution of this Addendum with respect to 810 W. Main Street, Tomball, TX 77375 (the "Property").

Seller and Buyer agree as follows:

1. **Buyer Approval.** This transaction shall be subject to the City of Tomball's City Council approving the transaction and ratifying the escrowed Contract prior to the expiration of the Feasibility Period provided for in the Contract.
2. **Closing Contingencies.** Notwithstanding anything contrary within the Contract, the obligation of Buyer to close the contemplated transaction and for the Earnest Money to remain Non-Refundable to Buyer and "At Risk" shall be subject to the following contingencies:
 - i) Survey and Title to be free and clear of any objections to same being made by Buyer during the period of time provided for objecting to same and remaining unresolved at Closing, and
 - ii) No recognized environmental conditions, if identified in a Phase I or II Environmental Site Assessment, Geotechnical, Asbestos or Soil Testing Report being present.
3. **Condition.** Notwithstanding anything to the contrary within the Contract, Seller shall represent and warrant that there are no liens or outstanding assessments arising by, through, or under Seller, due on the Property at closing that would survive closing. Except for the special warranty of title and the agreements to be executed at Closing, the Property will be conveyed, as-is, with all faults, disclaiming all representations and warranties relating to the building or Buyer's use thereof. This Paragraph 3 will survive the Closing and will not merge with the deed or other documents to be executed at Closing.
4. **Representations.** In Paragraph 19.B "Seller's knowledge and belief" means and refers to the actual knowledge of Michael Ho, and does not include any constructive, implied, or imputed knowledge, and does not include the knowledge any other person or entity. Mr. Ho does not have any duty to investigate the matter to which the actual knowledge, or absence thereof, pertains. The matters disclosed in the existing Environmental and Asbestos reports to be provided to Buyer are exceptions to Paragraph 19.B(5) and (11). Mr. Ho will not be personally liable for any representation arising out of or relating to the representations in Paragraph 19.B.
5. **Signatures.** The parties hereto consent to and agree that delivery of a copy of a signed document will have the same effect as physical delivery of the paper document bearing the original signature for all purposes relating to the Contract, including this Addendum: if bearing an original signature, by email in "portable document format" form; or, if bearing an electronic signature, by generally recognized e-signature technology that validates and stores the email address of the signatory in "portable document format" form.
6. **Terms.** Defined and capitalized terms in this Addendum will have the same meaning as in the Contract, unless otherwise indicated.
7. **Ratification.** Except as amended, the Contract is ratified and affirmed.
8. **Merger.** All prior oral agreements of the parties are merged into the terms of the Contract and this Addendum.

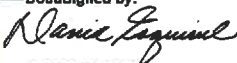
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9. Conflict. In the event of a direct conflict between the terms of this Addendum and the Contract, the terms of this Addendum will control.

BUYER:

CITY OF TOMBALL

DocuSigned by:

By: 1E5439D410B041E...
David Esquivel,
City Manager

SELLER:

EMMANOR INVESTMENTS III LLC

DocuSigned by:

By: 2F10A1701A8347E...
Michael Ho,
President

EXHIBIT "A"**DESCRIPTION**

A TRACT OR PARCEL CONTAINING 2.599 ACRES OR 113,231 SQUARE FEET OF LAND BEING ALL OF THE NEW UNRESTRICTED RESERVE "G3", REPLAT OF UNRESTRICTED RESERVE "G", TOMBALL VILLAGE SQUARE, BLOCK FOUR, MAP OR PLAT THEREOF RECORDED UNDER FILM CODE (F.C.) NO. 533022 HARRIS COUNTY MAP RECORDS (H.C.M.R.) AND ALSO BEING OUT OF THE REMAINDER OF A CALLED 3.60850 ACRE TRACT CONVEYED TO THE HAMILTON NATIONAL BANK AS RECORDED UNDER HARRIS COUNTY CLERK'S FILE (H.C.C.F.) NO. M023919 SITUATED IN THE J. HOUSE SURVEY, ABSTRACT NO. 34, HARRIS COUNTY, TEXAS, WITH SAID 2.599 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS, WITH ALL BEARINGS BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE (NAD 83):

BEGINNING AT A 1/2 INCH IRON ROD FOUND AT THE INTERSECTION OF THE NORTHWEST RIGHT-OF-WAY (R.O.W.) LINE OF MAIN STREET (F.M. 2920) (100 FEET WIDE), AND THE NORTHEAST R.O.W. LINE OF HOLDERRIETH BOULEVARD (60 FEET WIDE), AS RECORDED UNDER VOL. 318, PG. 86, H.C.M.R. FOR THE SOUTHWEST CORNER OF SAID REMAINDER OF CALLED 3.60850 ACRE TRACT AND OF THE HEREIN DESCRIBED TRACT;

THENCE, NORTH 32 DEG. 57 MIN. 18 SEC. WEST, ALONG THE NORTHEAST R.O.W. LINE OF SAID HOLDERRIETH BOULEVARD, A DISTANCE OF 317.14 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT;

THENCE, CONTINUING ALONG THE NORTHEAST CURVED R.O.W. LINE OF SAID HOLDERRIETH BOULEVARD, WITH SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 370.00 FEET, A CENTRAL ANGLE OF 00 DEG. 19 MIN. 47 SEC., AN ARC LENGTH OF 2.13 FEET AND A CHORD BEARING AND DISTANCE OF NORTH 32 DEG. 48 MIN. 32 SEC. WEST - 2.13 FEET TO THE SOUTHWEST CORNER OF LOT 1, BLOCK 1 OF THE REPLAT OF UNRESTRICTED RESERVE "G1" TOMBALL VILLAGE SQUARE, MAP OR PLAT THEREOF RECORDED UNDER F.C. NO. 680503, H.C.M.R., CONVEYED TO 4848 TOMBALL REAL ESTATE, LLC., AS RECORDED UNDER H.C.C.F. NO. RP-2017-105416, FOR THE NORTHWEST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE, NORTH 56 DEG. 53 MIN. 23 SEC. EAST, ALONG THE SOUTHEAST LINE OF SAID RESERVE "G1", A DISTANCE OF 313.99 FEET TO A CAPPED 5/8 INCH IRON ROD STAMPED "RPLS 2053" FOUND FOR THE SOUTHEAST CORNER OF LOT 2 OF SAID RESERVE "G1", BEING A CALLED 0.3349 ACRE TRACT CONVEYED TO PAUL D. HADDON AND MARGIE L. HADDON, AS RECORDED UNDER H.C.C.F. NO. RP-2018-413680, AND AN INTERIOR CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE, NORTH 29 DEG. 59 MIN. 59 SEC. WEST, ALONG THE NORTHEAST LINE OF SAID 0.3349 ACRE TRACT, A DISTANCE OF 59.16 FEET TO A 5/8 INCH CAPPED IRON ROD STAMPED "RPLS 2053" FOUND ON THE SOUTH R.O.W. LINE OF VILLAGE SQUARE DRIVE (60 FEET WIDE), AS RECORDED UNDER VOL. 318, PG. 86, H.C.M.R., FOR THE NORTHEAST CORNER OF SAID 0.3349 ACRE TRACT AND THE MOST NORTHERLY NORTHWEST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE, NORTH 86 DEG. 52 MIN. 50 SEC. EAST, ALONG THE SOUTH R.O.W. LINE OF SAID VILLAGE SQUARE DRIVE, A DISTANCE OF 37.90 FEET TO A METAL DISK STAMPED "RPLS 1573" FOUND FOR THE NORTHWEST CORNER OF A TRACT OF LAND CONVEYED TO JOSEPH ANTHONY FOLTIN AND GLORIA FOLTIN, AS RECORDED UNDER H.C.C.F. NO. J645992, AND THE NORTHEAST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE, SOUTH 32 DEG. 55 MIN. 27 SEC. EAST, ALONG THE SOUTHWEST LINE OF SAID TRACT OF LAND RECORDED UNDER H.C.C.F. NO. J645992, PASSING A DISTANCE OF 78.56 FEET A METAL DISK STAMPED "RPLS 1573" FOUND FOR THE SOUTHWEST CORNER OF SAID TRACT OF LAND RECORDED UNDER H.C.C.F. NO. J645992 AND THE NORTHWEST CORNER OF A TRACT OF LAND CONVEYED TO JOSEPH ANTHONY FOLTIN AND GLORIA FOLTIN, ALSO KNOWN AS TRACT I, AS RECORDED UNDER H.C.C.F. NO. D411696, CONTINUING A DISTANCE OF 140.00 FEET TO A METAL DISK STAMPED "RPLS 1573" FOUND FOR THE SOUTHWEST CORNER OF SAID TRACT II AND THE NORTHWEST CORNER OF A TRACT OF LAND CONVEYED TO JOSEPH ANTHONY FOLTIN AND GLORIA FOLTIN, ALSO KNOWN AS TRACT I, AS RECORDED UNDER H.C.C.F. NO. D411696, AND CONTINUING FOR A TOTAL DISTANCE OF 360.78 FEET TO A 1/2 INCH IRON ROD FOUND ON THE NORTHWEST R.O.W. LINE OF SAID MAIN STREET, FOR THE SOUTHWEST CORNER OF SAID TRACT II AND THE SOUTHEAST CORNER OF SAID REMAINDER OF 3.60850 ACRE TRACT AND OF THE HEREIN DESCRIBED TRACT;

THENCE, ALONG THE NORTHWEST CURVED R.O.W. LINE OF SAID MAIN STREET, WITH A CURVE TO THE RIGHT, HAVING A RADIUS OF 5,780.00 FEET, A CENTRAL ANGLE OF 02 DEG. 08 MIN. 46 SEC., AN ARC LENGTH OF 216.50 FEET AND A CHORD BEARING AND DISTANCE OF SOUTH 57 DEG. 31 MIN. 32 SEC. WEST - 216.49 FEET TO A MAG NAIL SET FOR A POINT OF TANGENCY OF THE HEREIN DESCRIBED TRACT;

THENCE, SOUTH 56 DEG. 27 MIN. 09 SEC. WEST, CONTINUING ALONG THE NORTHWEST R.O.W. LINE OF SAID MAIN STREET, A DISTANCE OF 133.25 FEET TO THE PLACE OF BEGINNING AND CONTAINING 2.599 ACRES OR 113,231 SQUARE FEET OF LAND.

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Information About Brokerage Services

Texas law requires all real estate license holders to give the following information about brokerage services to prospective buyers, tenants, sellers and landlords.



TYPES OF REAL ESTATE LICENSE HOLDERS:

- A **BROKER** is responsible for all brokerage activities, including acts performed by sales agents sponsored by the broker.
- A **SALES AGENT** must be sponsored by a broker and works with clients on behalf of the broker.

A BROKER'S MINIMUM DUTIES REQUIRED BY LAW (A client is the person or party that the broker represents):

- Put the interests of the client above all others, including the broker's own interests;
- Inform the client of any material information about the property or transaction received by the broker;
- Answer the client's questions and present any offer to or counter-offer from the client; and
- Treat all parties to a real estate transaction honestly and fairly.

A LICENSE HOLDER CAN REPRESENT A PARTY IN A REAL ESTATE TRANSACTION:

AS AGENT FOR OWNER (SELLER/LANDLORD): The broker becomes the property owner's agent through an agreement with the owner, usually in a written listing to sell or property management agreement. An owner's agent must perform the broker's minimum duties above and must inform the owner of any material information about the property or transaction known by the agent, including information disclosed to the agent or subagent by the buyer or buyer's agent.

AS AGENT FOR BUYER/TENANT: The broker becomes the buyer/tenant's agent by agreeing to represent the buyer, usually through a written representation agreement. A buyer's agent must perform the broker's minimum duties above and must inform the buyer of any material information about the property or transaction known by the agent, including information disclosed to the agent by the seller or seller's agent.

AS AGENT FOR BOTH - INTERMEDIARY: To act as an intermediary between the parties the broker must first obtain the written agreement of *each party* to the transaction. The written agreement must state who will pay the broker and, in conspicuous bold or underlined print, set forth the broker's obligations as an intermediary. A broker who acts as an intermediary:

- Must treat all parties to the transaction impartially and fairly;
- May, with the parties' written consent, appoint a different license holder associated with the broker to each party (owner and buyer) to communicate with, provide opinions and advice to, and carry out the instructions of each party to the transaction.
- Must not, unless specifically authorized in writing to do so by the party, disclose:
 - that the owner will accept a price less than the written asking price;
 - that the buyer/tenant will pay a price greater than the price submitted in a written offer; and
 - any confidential information or any other information that a party specifically instructs the broker in writing not to disclose, unless required to do so by law.

AS SUBAGENT: A license holder acts as a subagent when aiding a buyer in a transaction without an agreement to represent the buyer. A subagent can assist the buyer but does not represent the buyer and must place the interests of the owner first.

TO AVOID DISPUTES, ALL AGREEMENTS BETWEEN YOU AND A BROKER SHOULD BE IN WRITING AND CLEARLY ESTABLISH:

- The broker's duties and responsibilities to you, and your obligations under the representation agreement.
- Who will pay the broker for services provided to you, when payment will be made and how the payment will be calculated.

LICENSE HOLDER CONTACT INFORMATION: This notice is being provided for information purposes. It does not create an obligation for you to use the broker's services. Please acknowledge receipt of this notice below and retain a copy for your records.

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DS Mlt	10/2/2023	DS RL	10/2/2023
Buyer/Tenant/Seller/Landlord Initials		Date	