

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



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

Notice is hereby given of a Regular meeting of the Tomball City Council, to be held on Monday, May 01, 2023 at 6:00 PM, City Hall, 401 Market Street, Tomball, Texas 77375, for the purpose of considering the following agenda items. All agenda items are subject to action. The Tomball City Council reserves the right to meet in a closed session for consultation with attorney on any agenda item should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS, WILL CONDUCT THE MEETING SCHEDULED FOR MAY 1, 2023, 6:00 PM, AT 401 MARKET STREET, TOMBALL, TEXAS, 77375.

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

The public toll-free dial-in numbers to participate in the telephonic meeting are any one of the following (dial by your location): +1 312 626 6799 US (Chicago); +1 646 876 9923 US (New York); +1 301 715 8592 US; +1 346 248 7799 US (Houston); +1 408 638 0968 US (San Jose); +1 669 900 6833 US (San Jose); or +1 253 215 8782 US (Tahoma) - Meeting ID: 832 7037 8101 Passcode: 551163. The public will be permitted to offer public comments telephonically, as provided by the agenda and as permitted by the presiding officer during the meeting.

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

E. Presentations

1.

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

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

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

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

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

F. Reports and Announcements

1. Announcements

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

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

1. Quarterly Investment Report for Period Ending March 31, 2023. The Public Funds Investment Act requires that a report of the City’s cash and investments be presented to City Council on a quarterly basis.

G. Approval of Minutes

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

H. New Business

1. Discussion, direction, and possible action regarding Legislative Items at the 2023 Texas Legislative Session.

2. Approve and authorize City Manager to execute a Gas Service Agreement to serve Macy’s Distribution and Logistics Center at 19201 Hamish Road.

3. Approve Resolution No. 2023-26, a Resolution of the City Council of the City of Tomball, Texas, authorizing the Mayor to execute settlement release documents

with Allergan, CVS, Walgreens, and Walmart as additional settling parties within the national opioid settlement participation previously authorized by the city.

4. Approve a contract with B&C Constructors, LP for the replacement of HVAC systems at the Community Center and City Hall through a 1GPA Contract (Contract No. 19-03DP) for a not-to-exceed amount of \$76,065.12, approve the expenditure of funds therefor, and authorize the City Manager to execute any and all documents related to the purchase. This expenditure is included in the FY 2022-2023 Budget.
5. Approve the purchase of four (4) Chevrolet Silverado 1500s from Lake Country Chevrolet, Vendor-5426, through the TIPS USA Automobiles Contract (Contract No. 210907) for a not-to-exceed amount of \$187,237.00, approve the expenditure of funds therefor, and authorize the City Manager to execute any and all documents related to the purchase. These purchases are included in the FY 2022-2023 Budget.

I. Adjournment

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

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall, City of Tomball, Texas, a place readily accessible to the general public at all times, on the 27th of April 2023 by 5:00 PM, and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Tracylynn Garcia, TRMC, CMC, CPM
City Secretary

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary's office at (281) 290-1002 or FAX (281) 351-6256 for further information.

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

City Council Meeting Agenda Item Data Sheet

Meeting Date: May 1, 2023

Topic:

- Proclamation - “Justin Rudel Day” May 1, 2023
- Proclamation - “54th Annual Professional Municipal Clerks Week” April 30-May 6, 2023
- Proclamation - “National Hurricane Preparedness Week” April 30-May 6, 2023
- Proclamation - “National Nurses Week” May 6-12, 2023
- Proclamation - National Economic Development Week” May 8-15, 2023

Background:

Origination: Mayor

Recommendation:

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

FUNDING (IF APPLICABLE)

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

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

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

Signed Tracylynn Garcia 4-26-2023 Approved by _____
Staff Member Date City Manager Date

City Council Meeting Agenda Item Data Sheet

Meeting Date: April 27, 2023

Topic:

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

Background:

Origination:

Recommendation:

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

FUNDING (IF APPLICABLE)

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

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

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

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

City Council Meeting Agenda Item Data Sheet

Meeting Date: May 1, 2023

Topic:

Quarterly Investment Report for Period Ending March 31, 2023. The Public Funds Investment Act requires that a report of the City’s cash and investments be presented to City Council on a quarterly basis.

Background:

Origination: Finance Director

Recommendation:

Party(ies) responsible for placing this item on agenda: Katherine Tapscott, Finance Director

FUNDING (IF APPLICABLE)

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

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

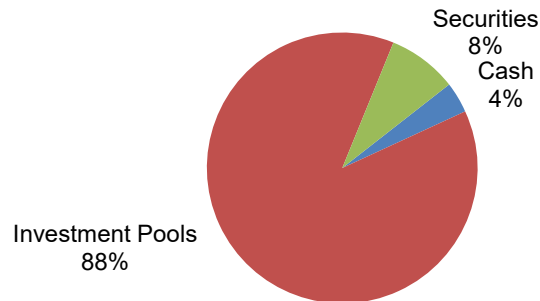
If no, funds will be transferred from account # _____ To account # _____

Signed	<u>Katherine Tapscott</u>	<u>4/25/2023</u>	Approved by	_____
	Staff Member	Date		City Manager
				Date

CITY OF TOMBALL QUARTERLY INVESTMENT REPORT March 31, 2023

	Market Value	
	12/31/2022	3/31/2023
Cash	\$ 4,864,181	\$ 3,177,618
Investment Pools	76,655,598	75,808,550
Securities	8,157,131	7,112,502
Total Portfolio	\$ 89,676,910	\$ 86,098,670

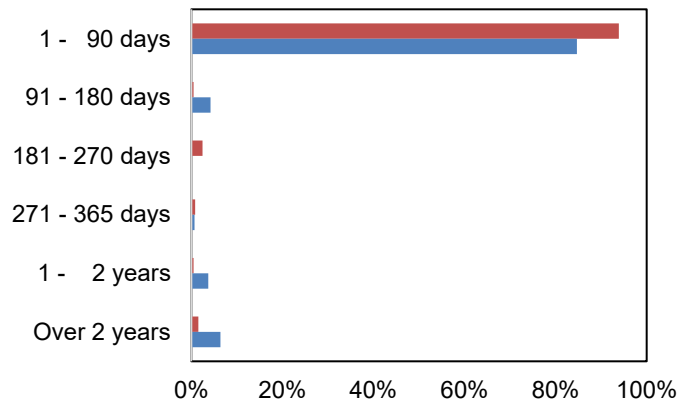
**Diversification by Type
as of March 31, 2023**



Safety of principal is the first priority of any Public investing portfolio. The City of Tomball invests in securities of federal, state and local governments, and investment pools. These investments are in securities with a rating of A-1/P-1 or higher and pools with Standard & Poor's highest rating of AAAM. Our charter requires that we maintain reserves of no less than 90 days and no more than one year of the current budgeted expenditures. The City currently has reserves in excess of the charter requirement.

	Current Market Value	Percent Portfolio
1 - 90 days	\$ 80,851,016	94%
91 - 180 days	497,097	1%
181 - 270 days	2,167,141	3%
271 - 365 days	756,921	1%
1 - 2 years	466,951	1%
Over 2 years	1,359,542	2%
Total Portfolio	\$ 86,098,670	

**Diversification by Maturity
as of March 31, 2023**



Ensuring adequate liquidity is available to cover all expenditures is the second priority of any public investing program. The City staff forecasts cash flow and matches the maturity of investments with future cash needs. A portion of funds are kept in overnight investments as a buffer for any unexpected expenditures. These overnight investments (TexPool, Texas CLASS) have been performing according to market in terms of yield as well as providing liquidity.

This report is in compliance with the investment strategies as approved and the Public Funds Investment Act.

Katherine Tapscott
Finance Director

**CITY OF TOMBALL
INVESTMENT PORTFOLIO SUMMARY
ACTIVITY FOR QUARTER ENDING
March 31, 2023**

INVESTMENTS	COST	MARKET	RATIO	YTM at COST	BENCHMARK YTM**
Beginning of period	\$ 8,803,601	\$ 8,157,131	92.66%	3.256%	4.73%
Purchases	-	-			
Maturities/Calls	(1,149,939)	(1,080,000)			
Change in Value	-	35,371			
End of period	\$ 7,653,662	\$ 7,112,502	92.93%	3.045%	4.64%

**Benchmark security is the One-year U. S. Treasury Bill

Weighted average maturity of the portfolio at quarter end is the following number of days: 325

**CITY OF TOMBALL
INVESTMENT PORTFOLIO
March 31, 2023**

	SECURITY DESCRIPTION	CUSIP NUMBER	RATING	MATURITY DATE	INTEREST YIELD	PAR VALUE	MARKET VALUE	DAYS AFTER 03/31/23	INDIVIDUAL MARKET VALUE/TOTAL	WAM DAYS x PERCENT	CALLABLE
1	Texas A&M Revenue	88213AKA2	AAA	5/15/2023	2.349%	470,000	468,674	45	6.59%	3	N
2	Allen TX WTRWKS & SWR Revenue	018112SF0	AAA	6/1/2023	5.000%	400,000	401,525	62	5.65%	4	N
3	Federal Home Loan Bank	3130ASAP4	AAA	6/16/2023	2.250%	1,000,000	994,650	77	13.98%	11	Y
4	Farmer Mac	31422XE81	AAA	8/29/2023	3.360%	500,000	497,097	151	6.99%	11	N
5	Grand Parkway Trans	38611TCV7	AA	10/1/2023	1.608%	445,000	437,745	184	6.15%	11	Y
6	Texas ST REF TXBL	8827235H8	AAA	10/1/2023	4.000%	570,000	567,596	184	7.98%	15	N
7	Austin TX Elec Utility	052414PE3	AA-	11/15/2023	5.000%	875,000	887,682	229	12.48%	29	N
8	N Harris CNTY	65956NGL4	A+	12/15/2023	5.000%	270,000	274,118	259	3.85%	10	N
9	San Antonio Elec & Gas Rev	7962532J0	AA-	2/1/2024	5.250%	255,000	260,261	307	3.66%	11	Y
10	Amarillo TX Tax NTS	023015J35	AAA	2/15/2024	2.000%	500,000	496,661	321	6.98%	22	N
11	Nueces Co TXBL REF Ser B	670386ST9	AA	2/15/2025	0.864%	500,000	466,951	687	6.57%	45	N
12	Wisconsin ST GF Annual A TXBL	977100GX8	AA	5/1/2025	1.899%	450,000	426,633	762	6.00%	46	Y
13	Federal Home Loan Bank	3130AMTK8	AAA	6/30/2025	1.000%	1,000,000	932,909	822	13.12%	108	Y
TOTAL					3.045%	\$ 7,235,000	\$ 7,112,502	315	100.00%	325	

**City Council Meeting
Agenda Item
Data Sheet**

Meeting Date: May 1, 2023

Topic:

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

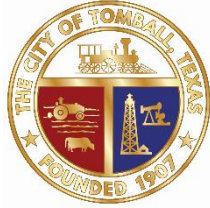
Background:

Origination: City Secretary

Recommendation:

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

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



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

The City Council of the City of Tomball, Texas, conducted the meeting scheduled for April 17, 2023, 6:00 PM, at 401 Market Street, Tomball, Texas 77375, via physical attendance and video/telephone conference.

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

PRESENT

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

ABSENT

Council 5 Randy Parr

OTHERS PRESENT:

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

- B. Invocation - Led by Pastor David Hinkle – Tomball Bible Church

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

No public comments received.

E. Presentations

1. Drew Huffman presented on the progress of the Parks, Recreation, and Trails System Master Plan.

F. Reports and Announcements

1. Announcements

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

- II. Nathan Dietrich recognized Building Department Inspector Christopher Plummer for passing the State Plumbing exam.

G. Old Business

1. Adopt, on Second Reading, Ordinance No. 2023-06, an Ordinance of the City Council of Tomball, Texas, Approving a Service and Assessment Plan and Assessment Roll for Authorized Improvements for the Seven Oaks Public Improvement District (the “District”); Making a Finding of Special Benefit to Certain Property in the District; Levying Assessments against Certain Property within the District and Establishing a Lien on Such Property; Providing for Payment of the Assessment in Accordance with Chapter 372, Texas Local Government Code, as Amended; Providing for the Method of Assessment and the Payment of the Assessments; Providing for Penalties and Interest on Delinquent Assessments; Providing for Severability and Providing an Effective Date. The proposed Service and Assessment Plan complies with the requirements of the approved Development Agreement as approved by City Council on August 15, 2022.

Motion made by Council 4 Townsend, Sr., Seconded by Council 2 Stoll to adopt on Second Reading Ordinance No. 2023-06.

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

Motion carried unanimously.

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

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

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

Motion carried unanimously.

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

1. Approve the Minutes of the April 3, 2023, Regular City Council Meeting
2. Approve Resolution No. 2023-22, a Resolution Of The City Council Of The City Of Tomball, Texas, Sponsoring The City's Annual July 4th Celebration, To Be Held In Tomball On July 4th Of Each Year Closing State Highway Business 249 From Hicks Street To The North Entrance To The Kroger Parking Lot From 12:00 P.M. Until 11:00 P.M., And Authorizing The City Manager To Issue A Letter To TxDOT Requesting The Closure Of The Designated Portion Of State Highway Business 249
3. Approve for the purchase of network switches from Waypoint Business Solutions through the Choice Partners Cooperative for a not-to-exceed amount of \$43,399.80, approve the expenditure of funds therefor, and authorize the City Manager to execute any and all documents related to the purchase. The purchases are included in the FY 2022-2023 Budget.
4. Approve a Professional Services Agreement with Willdan Financial Services, Administrative Contract Number 0000-10089, Utility Rate Study, for a not-to-exceed amount of \$45,000 (RFP 2023-096), authorize the expenditure of funds therefor, and authorize the City Manager to execute the agreement. This amount is included in the FY 2022-2023 budget.
5. Approve Resolution Number 2023-23, a Resolution of the City Council of the City of Tomball, Texas approving the Amended and Restated Reimbursement Agreement for the Seven Oaks Public Improvement District Number 14.

Motion made by Council 4 Townsend, Sr., Seconded by Council 2 Stoll to approve all items on consent agenda except for #6.

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

Motion carried unanimously.

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

Motion made by Council 3 Dunagin, Seconded by Council 4 Townsend, Sr., to approve contract with Landmark Structures I, LP.

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

Motion carried unanimously.

I. New Business

1. Jessica discussed and provided an update Legislative Items at the 2023 Texas Legislative Session.
2. Approve request from Tomball Rotary Club for City Support and In-Kind Services for the Tomball Rotary Annual Big Show at the Depot in downtown Tomball, on Saturday, October 14, 2023

Motion made by Council 3 Dunagin, Seconded by Council 2 Stoll.

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

Motion carried unanimously.

3. Authorize the donation of obsolete firefighting nozzles, adapters, various equipment, and uniforms to the East Texas Mutual Aid Association.

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

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

Motion carried unanimously.

4. Approve Resolution No. 2023-25 a Resolution of the City of Tomball, Texas, amending sections of the Master Fee Schedule for Fiscal Year 2022-2023.

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

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

Motion carried unanimously.

5. Appoint members to position 1, 3 and alternate position 2 and 4 to the Board of Adjustment (BOA) for a two-year term expiring March 2, 2025.

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

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

Motion carried unanimously.

6. Appointment of Member to the Capital Improvement Advisory Committee (CIPAC).

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

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

Motion carried unanimously.

7. Discussion and possible direction regarding any changes to Chapter 18 Environment - Article IV Noise Ordinance.

The following public comments were received:

Rodney Posinki 12215 Zion Rd Tomball, Texas	-	opposition to changes; lives behind Boxwood Manor
Gretchen Fagan 1314 Pinebrook Tomball, Texas	-	working towards bringing our children back to Tomball. Current business owner, have been open for 6 years; karaoke, porch music and etc. People shop here and it helps our sales tax, and our city is

driven by sales tax. No one is complaining, so why are we changing it.

- | | | |
|--|---|---|
| Colleen Pye
207 Florence St.
Tomball, Texas | - | 2 people grew up in Tomball, moved away and want to come back. VFW will be playing live music. I garden and enjoy listening to music. |
| Latrell Shannon
823 Lizzie Lane
Tomball, Texas | - | rumors of live stage band coming to east side of town, we just don't want to wake up to loud music every night. Don't want to have the decibel levels get higher. |
| Al Pye
207 Florence St.
Tomball, Texas | - | restaurants say when the music is playing, it's their busiest days. 1-2 speakers outside businesses. We have a lot to offer in Tomball and we want to keep it that way. |
| Sherrie Meicher
222 Southmore
Tomball, Texas | - | came in 1982, concerned with the noise; due to festivals, you just tolerate it. Tomball is changing, but am concerned with the booming music. |

8. Executive Session: The City Council entered Executive Session 8:09 pm after a 5 minute break as Authorized by Title 5, Chapter 551, Government Code, the Texas Open Meetings Act, for the Following Purpose(s):

Sec. 551.071 – Consultation with the City Attorney regarding a matter which the Attorney's duty requires to be discussed in closed session.

Sec. 551.072 – Deliberations regarding Real Property.

Sec. 551.076 – Deliberations regarding Security Devices.

The council reconvened back into regular session at 8:30 pm.

J. Adjournment

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

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

Motion carried unanimously.

PASSED AND APPROVED this 1st day of May 2023.

Tracylynn Garcia
City Secretary, TRMC, CMC, CPM

Lori Klein Quinn
Mayor

City Council Meeting Agenda Item Data Sheet

Meeting Date: April 17, 2023

Topic:

Discussion, direction, and possible action regarding Legislative Items at the 2023 Texas Legislative Session.

Background:

The 88th Session of the Texas Legislature began on Jan. 10, 2023, with early bill filing beginning in Nov. 2022. Since the Session began, 6,754 House bills have been filed and 3,142 Senate bills have been filed, for a total of 9,896 filed pieces of legislation.

Thousands of filed bills impact Texas cities in a variety of ways, including limiting local authority on key issues such as community development and land use, public safety, transparency, finance and revenue, and more.

This item is to provide Council an update on legislative activity since the last Council meeting and receive direction on any actions needed.

Origination: City Manager’s Office

Recommendation:

N/A

Party(ies) responsible for placing this item on agenda: Jessica Rogers, Assistant City Manager

FUNDING (IF APPLICABLE)

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

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

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

Signed: Jessica Rogers 4/26/2023 **Approved by:** _____
Staff Member Date City Manager Date

City Council Meeting Agenda Item Data Sheet

Meeting Date: 02/07/2022

Topic:

Approve and authorize City Manager to execute a Gas Service Agreement to serve Macy's Distribution and Logistics Center at 19201 Hamish Road.

Background:

Lovett Industrial is in the final stages of completing a 240 acre industrial park at the southwest corner of Grand Parkway and St. Hwy 249. There are currently no gas distribution lines in the immediate vicinity of this development, however the development does require gas service for their operations. Staff is recommending authorizing executing the attached agreement to outline the timeline to provide gas service, limit the duration that gas service will be provided in the interim by Centerpoint and provide for a cost sharing reimbursement by Lovett Industrial to build out an additional gas gate that will service this area.

Staff recommends approval of the agreement.

Origination: City Admin

Recommendation:

Staff recommends approval

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

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 <u>David Esquivel</u>	<u>02/02/2022</u>
Staff Member	City Manager	Date

**AGREEMENT REGARDING GAS SERVICE TO MACY'S AT 19201 HAMISH ROAD
IN TOMBALL, TEXAS**

This Agreement Regarding Gas Service to Macy's at 19201 Hamish Road in Tomball, Texas ("Agreement") is entered into by and between the City of Tomball, Texas ("City") and LIT INTERCHANGE 249 HANKS OWNER, LLC, a Delaware limited liability company ("Owner") (collectively, "Parties").

RECITALS

WHEREAS, the City owns and operates the gas system within the city limits of Tomball, Texas.

WHEREAS, Owner is developing a Macy's distribution and logistics center at 19201 Hamish Road in Tomball, Texas ("Macy's"), which requires gas service.

WHEREAS, City has the gas supply capacity to serve Macy's.

WHEREAS, City is in the process of constructing the necessary infrastructure to provide gas service to Macy's.

WHEREAS, following City's completion of the necessary services lines and gas supply gate, the Parties agree that City will provide gas service to Macy's.

WHEREAS, the Parties agree that Owner may develop additional commercial buildings at 19201 Hamish Road and on adjacent land in the future that require gas service, but this Agreement only applies to gas service for Macy's.

WHEREAS, the Parties understand that any current estimate of City's costs to build the necessary gas service lines and city gas supply gate to accommodate Macy's is subject to change based on factors including, but not limited to, material costs, labor costs, and engineering assessments.

WHEREAS, City desires to assist Owner with obtaining reimbursements for Owner's contribution in aid of construction of the proposed gas service line and city gas supply gate from the City of Tomball Tax Increment Reinvestment Zone Number Three (the "TIRZ"), including obtaining and maintaining Owner's eligibility for such reimbursements from the TIRZ, amending the TIRZ Preliminary Project Plan and Reinvestment Zone Financing Plan (the "TIRZ Finance Plan and Project Plan"), and ultimately finalizing and obtaining the necessary approvals for the TIRZ Finance Plan and Project Plan to include the gas service line.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, City and Owner agree as follows:

AGREEMENT

I. Commencement of City Gas Services to Macy's

City expects to complete construction of the service lines and gas gate necessary for providing gas service to Macy's by April 2024 ("Expected Service Date").

Owner will use gas service from CenterPoint ("CPE") until the Expected Service Date, or until such other time as City's service lines and gas supply gate are complete and City can begin providing gas service to Macy's.

Owner must terminate service with CPE and begin obtaining gas service from City for Macy's no later than 30 days from the date City's construction of the necessary service lines is complete.

II. Contribution in Aid of Construction

Owner must provide a contribution in aid of construction ("CIAC") for the City's construction of the city gas supply gate and appurtenances that amounts to 30% of the total project cost. Prior to commencing construction of the gas service lines, City and Owner must agree to the location and routing of the gas service lines, the anticipated schedule for construction of the gas service lines, and a detailed estimated cost of construction for gas service lines (collectively, the "Service Line Plans"). City's and Owner's approval of the city gas supply gate and appurtenances Plans shall not be unreasonably conditioned, withheld, or delayed. Notwithstanding the foregoing, Owner may withhold approval if the proposed routing and location of the gas service line would adversely affect Owner's or Owner's affiliate's development of 19201 Hamish Road, Tomball, Texas 77377 and the adjacent real property. Further notwithstanding Owner's share of CIAC will not exceed \$240,000.00.

Throughout the construction process, City will periodically notify Owner of the costs of constructing the necessary service lines to provide gas service to Macy's.

III. Remedies in Event of Default

In addition to all rights and remedies prescribed by the laws of the State of Texas, in the event of a breach of this Agreement by either party, the other party shall be entitled, but not limited to, specific performance or a writ of mandamus to compel any necessary action by the breaching party. In the event that a party seeks monetary damages, the breaching party shall be required to pay for the non-breaching party's attorneys' fees and court costs.

IV. Effective Date and Expiration

This Agreement becomes effective as of the date of the last signature by either party. This Agreement shall automatically expire upon on the earlier of the following to occur: (a) first

(1st) day the City provides gas service to Macy's, or (b) 2 years after effective date of this Agreement.

V. Severability

If any provision contained in this Agreement is held to be invalid, unconstitutional, or unenforceable, the remaining provisions shall be deemed severable and shall remain in full force and effect.

VI. Recitals

Each of the recitals contained herein, by this reference, shall be incorporated into, and deemed a part of, this Agreement.

VII. Modification of Agreement

This Agreement cannot be modified or amended without the written consent of the Parties attached to and made part of this Agreement.

[signature page to follow]

IN WITNESS WHEREOF, the Parties have executed this Agreement with an effective date as set forth by Section IV of this Agreement.

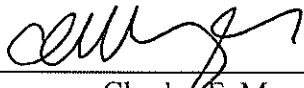
CITY OF TOMBALL

By: _____
Name: David Esquivel
Title: City Manager
Date: _____, 2023

LIT INTERCHANGE 249 HANKS OWNER, LLC,
a Delaware limited liability company

By: Interchange 249 Business Park, LP,
a Texas limited partnership
its Managing Member

By: Interchange 249 Business Park GP, LLC,
a Texas limited liability company
its General Partner

By: 
Name: Charles F. Meyer, Jr.
Title: Authorized Signatory

City Council Meeting Agenda Item Data Sheet

Meeting Date: April 27, 2023

Topic:

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

Background:

.

Origination: City Manager

Recommendation:

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

FUNDING (IF APPLICABLE)

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

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

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

Signed _____ Approved by _____
Staff Member Date City Manager Date

RESOLUTION NO. 2023-26

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS, AUTHORIZING THE MAYOR TO EXECUTE SETTLEMENT RELEASE DOCUMENTS WITH ALLERGAN, CVS, WALGREENS, AND WALMART AS ADDITIONAL SETTLING PARTIES WITHIN THE NATIONAL OPIOID SETTLEMENT PARTICIPATION PREVIOUSLY AUTHORIZED BY THE CITY.

WHEREAS, the City of Tomball, Texas (the “City”) duly authorized participation in the opioid settlement and adopted the Texas Term Sheet; and

WHEREAS, Allergan, CVS, Walgreens, and Walmart have now joined the proposed opioid settlement; and

WHEREAS, the City Council hereby finds that there is a substantial need for repayment of opioid-related expenditures and payment to abate opioid-related harms in and about the City; and

WHEREAS, the City desires to execute the settlement release forms with Allergan [**EXHIBIT A**], CVS [**EXHIBIT B**], Walgreens [**EXHIBIT C**], and Walmart [**EXHIBIT D**], in their entirety; and **NOW, THEREFORE**,

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

SECTION 1. THAT the statements provided in the caption and the recitals of this Resolution are true and correct and are adopted herein for all intents and purposes.

SECTION 2. THAT the Mayor is authorized to execute the settlement release documents attached as Exhibits A, B, C, and D, respectively, with Allergan, CVS, Walgreens, and Walmart in a timely manner.

PASSED AND APPROVED ON THE _____ DAY OF _____ 2023.

FOR THE CITY:

LORI KLEIN QUINN, MAYOR

ATTEST:

Tracylynn Garcia, City Secretary

EXHIBIT A

Subdivision and Special District Settlement Participation Form

Governmental Entity:	State:
Authorized Signatory:	
Address 1:	
Address 2:	
City, State, Zip:	
Phone:	
Email:	

The governmental entity identified above (“*Governmental Entity*”), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Agreement dated November 22, 2022 (“*Allergan Settlement*”), and acting through the undersigned authorized official, hereby elects to participate in the Allergan Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Allergan Settlement, understands that all terms in this Election and Release have the meanings defined therein, and agrees that by this Election, the Governmental Entity elects to participate in the Allergan Settlement as provided therein.
2. Following the execution of this Settlement Participation Form, the Governmental Entity shall comply with Section III.B of the Allergan Settlement regarding Cessation of Litigation Activities.
3. The Governmental Entity shall, within fourteen (14) days of the Reference Date and prior to the filing of the Consent Judgment, file a request to dismiss with prejudice any Released Claims that it has filed. With respect to any Released Claims pending in *In re National Prescription Opiate Litigation*, MDL No. 2804, the Governmental Entity authorizes the MDL Plaintiffs’ Executive Committee to execute and file on behalf of the Governmental Entity a Stipulation of Dismissal With Prejudice substantially in the form found at <https://nationalopiodsettlement.com>.
4. The Governmental Entity agrees to the terms of the Allergan Settlement pertaining to Subdivisions and Special Districts as defined therein.
5. By agreeing to the terms of the Allergan Settlement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date.
6. The Governmental Entity agrees to use any monies it receives through the Allergan Settlement solely for the purposes provided therein.



7. The Governmental Entity submits to the jurisdiction of the court in the Governmental Entity's state where the Consent Judgment is filed for purposes limited to that court's role as provided in, and for resolving disputes to the extent provided in, the Allergan Settlement.
8. The Governmental Entity has the right to enforce the Allergan Settlement as provided therein.
9. The Governmental Entity, as a Participating Subdivision or Participating Special District, hereby becomes a Releasor for all purposes in the Allergan Settlement, including, but not limited to, all provisions of **Section V (Release)**, and along with all departments, agencies, divisions, boards, commissions, Subdivisions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity whether elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist in bringing, or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Allergan Settlement are intended to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in anyway to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Allergan Settlement shall be a complete bar to any Released Claim.
10. The Governmental Entity hereby takes on all rights and obligations of a Participating Subdivision or Participating Special District as set forth in the Allergan Settlement.
11. In connection with the releases provided for in the Allergan Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

General Release; extent. A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the Allergan Settlement.

12. Nothing herein is intended to modify in any way the terms of the Allergan Settlement, to which the Governmental Entity hereby agrees. To the extent this Settlement Participation Form is interpreted differently from the Allergan Settlement in any respect, the Allergan Settlement controls.



EXHIBIT B

Subdivision Participation and Release Form

Governmental Entity:	State:
Authorized Signatory:	
Address 1:	
Address 2:	
City, State, Zip:	
Phone:	
Email:	

The governmental entity identified above (“*Governmental Entity*”), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated December 9, 2022 (“*CVS Settlement*”), and acting through the undersigned authorized official, hereby elects to participate in the CVS Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the CVS Settlement, understands that all terms in this Participation and Release Form have the meanings defined therein, and agrees that by executing this Participation and Release Form, the Governmental Entity elects to participate in the CVS Settlement and become a Participating Subdivision as provided therein.
2. The Governmental Entity shall promptly, and in any event no later than 14 days after the Reference Date and prior to the filing of the Consent Judgment, dismiss with prejudice any Released Claims that it has filed. With respect to any Released Claims pending in *In re National Prescription Opiate Litigation*, MDL No. 2804, the Governmental Entity authorizes the Plaintiffs’ Executive Committee to execute and file on behalf of the Governmental Entity a Stipulation of Dismissal with Prejudice substantially in the form found at <https://nationalopiodsettlement.com>.
3. The Governmental Entity agrees to the terms of the CVS Settlement pertaining to Participating Subdivisions as defined therein.
4. By agreeing to the terms of the CVS Settlement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date.
5. The Governmental Entity agrees to use any monies it receives through the CVS Settlement solely for the purposes provided therein.



6. The Governmental Entity submits to the jurisdiction of the court in the Governmental Entity's state where the Consent Judgment is filed for purposes limited to that court's role as provided in, and for resolving disputes to the extent provided in, the CVS Settlement. The Governmental Entity likewise agrees to arbitrate before the National Arbitration Panel as provided in, and for resolving disputes to the extent otherwise provided in, the CVS Settlement.
7. The Governmental Entity has the right to enforce the CVS Settlement as provided therein.
8. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the CVS Settlement, including without limitation all provisions of Section XI (Release), and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the CVS Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in anyway to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The CVS Settlement shall be a complete bar to any Released Claim.
9. The Governmental Entity hereby takes on all rights and obligations of a Participating Subdivision as set forth in the CVS Settlement.
10. In connection with the releases provided for in the CVS Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

General Release; extent. A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the CVS Settlement.



11. Nothing herein is intended to modify in any way the terms of the CVS Settlement, to which Governmental Entity hereby agrees. To the extent this Participation and Release Form is interpreted differently from the CVS Settlement in any respect, the CVS Settlement controls.

I have all necessary power and authorization to execute this Participation and Release Form on behalf of the Governmental Entity.

Signature: _____

Name: _____

Title: _____

Date: _____



EXHIBIT C

Subdivision Participation and Release Form

Governmental Entity:	State:
Authorized Signatory:	
Address 1:	
Address 2:	
City, State, Zip:	
Phone:	
Email:	

The governmental entity identified above (“*Governmental Entity*”), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated December 9, 2022 (“*Walgreens Settlement*”), and acting through the undersigned authorized official, hereby elects to participate in the Walgreens Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Walgreens Settlement, understands that all terms in this Participation and Release Form have the meanings defined therein, and agrees that by executing this Participation and Release Form, the Governmental Entity elects to participate in the Walgreens Settlement and become a Participating Subdivision as provided therein.
2. The Governmental Entity shall promptly, and in any event no later than 14 days after the Reference Date and prior to the filing of the Consent Judgment, dismiss with prejudice any Released Claims that it has filed. With respect to any Released Claims pending in *In re National Prescription Opiate Litigation*, MDL No. 2804, the Governmental Entity authorizes the Plaintiffs’ Executive Committee to execute and file on behalf of the Governmental Entity a Stipulation of Dismissal with Prejudice substantially in the form found at <https://nationalopiodsettlement.com>.
3. The Governmental Entity agrees to the terms of the Walgreens Settlement pertaining to Participating Subdivisions as defined therein.
4. By agreeing to the terms of the Walgreens Settlement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date.
5. The Governmental Entity agrees to use any monies it receives through the Walgreens Settlement solely for the purposes provided therein.



6. The Governmental Entity submits to the jurisdiction of the court in the Governmental Entity's state where the Consent Judgment is filed for purposes limited to that court's role as provided in, and for resolving disputes to the extent provided in, the Walgreens Settlement. The Governmental Entity likewise agrees to arbitrate before the National Arbitration Panel as provided in, and for resolving disputes to the extent otherwise provided in, the Walgreens Settlement.
7. The Governmental Entity has the right to enforce the Walgreens Settlement as provided therein.
8. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Walgreens Settlement, including without limitation all provisions of Section XI (Release), and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Walgreens Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in anyway to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Walgreens Settlement shall be a complete bar to any Released Claim.
9. The Governmental Entity hereby takes on all rights and obligations of a Participating Subdivision as set forth in the Walgreens Settlement.
10. In connection with the releases provided for in the Walgreens Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

General Release; extent. A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the Walgreens Settlement.



11. Nothing herein is intended to modify in any way the terms of the Walgreens Settlement, to which Governmental Entity hereby agrees. To the extent this Participation and Release Form is interpreted differently from the Walgreens Settlement in any respect, the Walgreens Settlement controls.

I have all necessary power and authorization to execute this Participation and Release Form on behalf of the Governmental Entity.

Signature: _____

Name: _____

Title: _____

Date: _____



EXHIBIT D
Subdivision Participation Form

Governmental Entity:	State:
Authorized Official:	
Address 1:	
Address 2:	
City, State, Zip:	
Phone:	
Email:	

The governmental entity identified above (“Governmental Entity”), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated November 14, 2022 (“Walmart Settlement”), and acting through the undersigned authorized official, hereby elects to participate in the Walmart Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Walmart Settlement, understands that all terms in this Election and Release have the meanings defined therein, and agrees that by this Election, the Governmental Entity elects to participate in the Walmart Settlement and become a Participating Subdivision as provided therein.
2. The Governmental Entity shall promptly, and in any event within 14 days of the Effective Date and prior to the filing of the Consent Judgment, dismiss with prejudice any Released Claims that it has filed. With respect to any Released Claims pending in In re National Prescription Opiate Litigation, MDL No. 2804, the Governmental Entity authorizes the Plaintiffs’ Executive Committee to execute and file on behalf of the Governmental Entity a Stipulation of Dismissal With Prejudice substantially in the form found at <https://nationalopiodsettlement.com/>.
3. The Governmental Entity agrees to the terms of the Walmart Settlement pertaining to Subdivisions as defined therein.
4. By agreeing to the terms of the Walmart Settlement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date.
5. The Governmental Entity agrees to use any monies it receives through the Walmart Settlement solely for the purposes provided therein.



6. The Governmental Entity submits to the jurisdiction of the court in the Governmental Entity's state where the Consent Judgment is filed for purposes limited to that court's role as provided in, and for resolving disputes to the extent provided in, the Walmart Settlement.
7. The Governmental Entity has the right to enforce the Walmart Settlement as provided therein.
8. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Walmart Settlement, including but not limited to all provisions of Section X (Release), and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Walmart Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in anyway to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Walmart Settlement shall be a complete bar to any Released Claim.
9. In connection with the releases provided for in the Walmart Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

General Release; extent. A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the Walmart Settlement.

10. Nothing herein is intended to modify in anyway the terms of the Walmart Settlement, to which Governmental Entity hereby agrees. To the extent this Election and Release is interpreted differently from the Walmart Settlement in any respect, the Walmart Settlement controls.



I have all necessary power and authorization to execute this Election and Release on behalf of the Governmental Entity.

Signature: _____

Name: _____

Title: _____

Date: _____



City Council Meeting Agenda Item Data Sheet

Meeting Date: May 1, 2023

Topic:

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

Background:

In 2022, staff completed an inspection of the HVAC at the Community Center and City Hall and identified retrofits and replacements that are required due to the age and repairs of HVAC systems. With a preliminary list of potential upgrades and repairs, staff requested funding in the FY 2022-2023 Budget.

Staff worked with our contractor, B&C Constructors, to obtain a quote for the work to be completed, including the complete retrofit of the entire HVAC systems at the Community Center, and two five-ton units and two four-ton units. The scope of work will also include replacing one five-ton unit at City Hall.

This item authorizes a contract with B&C Constructors who will perform the necessary work on the HVAC system at the Community Center and City Hall under a 1GPA Contract (Contract No. 19-03DP).

Origination: Public Works Department

Recommendation:

Staff recommends approving a contract with B & C Constructors, LP to perform the HVAC system retrofit and replacement at the Community Center and City Hall.

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

FUNDING (IF APPLICABLE)

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

Yes: X No: _____ If yes, specify Account Number: # 100-157-6403

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

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



Budget Proposal

Magnolia, Texas 77354
 713.932.9400 - o
 713.932.9443 - f

DATE: March 6, 2023

PROJECT: Tomball Community Center / City Hall HVAC Retrofit

To: Justin Pruitt

City of Tomball
 501 James Street
 Tomball TX, 77375

1GPA # 19-03DP

Attn: Justin Pruitt

DESCRIPTION	AMOUNT
General Conditions/Supervision	\$ 4,200.00
Community Center (office area)- Retrofit to include complete systems.	
Retrofit of 2ea. existing 5 ton	\$ 32,550.00
Retrofit of 2ea. existing 4 ton	\$ 28,700.00
Replacement of one ea. 5ton HVAC system with gas heating at City Hall.	\$ 13,000.00
Subtotal	\$ 78,450.00
Buy Board Coefficient .96	\$ 75,312.00
Buy Board J.O.C Fee 1%	\$ 753.12
SCOPE OF PROPOSAL	
Quote is subject to price change and availability from time of order.	
James Laycock, Project Manager	TOTAL AMOUNT \$ 76,065.12

THANK YOU FOR YOUR BUSINESS!

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: 04/15/2022

Topic:

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

Background:

On November 7, 2022, City Council approved the original purchase of four Ford F-150s for a total of \$176,841. Due to current vehicle manufacturer restraints, the order of the F-150s does not have a fill date and the City of Tomball can no longer be guaranteed delivery.

While the price of the Chevrolet vehicles is higher than the original order, the overall cost of getting the vehicles into the fleet will be lower. The previously ordered vehicles did not include all outfitting costs, which would be an additional \$5,000 or more per vehicle once received by the Fleet Department. The Chevrolet vehicles have already been outfitted with most needed items, minus the warning lights, which will be a \$9,000 total savings.

The purchases are being made through The Interlocal Purchasing System (TIPS) purchasing cooperative contract and will be funded from allocated appropriations as part of the adopted Fiscal Year 2022-2023 Budget. These purchases are for the replacement of three (3) existing vehicles along with a purchase of one (1) new vehicle that is needed for the new Construction Inspector position. Once approved, these vehicles will be purchased from Lake Country Chevrolet for a total amount of \$187,237.00.

Origination: Public Works Department

Recommendation:

Staff recommends approving the purchase of the vehicles with up-fit as appropriated in the Fiscal Year 2022-2023.

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

Drew Huffman, Director of Public Works

FUNDING (IF APPLICABLE)

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

Yes: X No: _____

If yes, specify Account Number: # 650-651-6405

If no, funds will be transferred from account # _____

To account # _____

Signed Drew Huffman

Approved by _____

