

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



**Monday, January 16, 2023
6:00 PM**

Notice is hereby given of a Regular meeting of the Tomball City Council, to be held on Monday, January 16, 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 JANUARY 16, 2023, 6:00 PM, AT 401 MARKET STREET, TOMBALL, TEXAS, 77375. THIS MEETING AGENDA AND THE AGENDA PACKET ARE POSTED ONLINE AT:

[HTTPS://TOMBALLTX.GOV/ARCHIVE.ASPX?AMID=38](https://tomballtx.gov/archive.aspx?amid=38)

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: 853 9381 8820, Passcode: 523247. 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 Bill Haygood - Tomball Methodist Church
- C. Pledges to U.S. and Texas Flags
- D. Public Comments and Receipt of Petitions; *[At this time, anyone will be allowed to speak on any matter other than personnel matters or matters under litigation, for length of time not to exceed three minutes. No Council/Board discussion or action may take*

place on a matter until such matter has been placed on an agenda and posted in accordance with law - GC, 551.042.]

E. Presentations

- I. Presentation by Mind Dance Marketing for a donation in the amount of \$100,000 for the development and construction of Louie’s Together Playground.

F. Reports and Announcements

1. Announcements

- I. January 18, 2023 – First day to apply for Place on Ballot for the May 6, 2023 General City Election

- II. February 17, 2023 – Last day to apply for Place on Ballot for the May 6, 2023 General City Election

- III. February 21, 2023 – ***Sam Houston Trailride Reception*** – 12 Noon at the Depot

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

- I. Doris Speer – City Secretary’s Office has received the 2022 “***5 Star Exemplary Award***” from Texas Department of Vital Statistics – (12 years)

G. Approval of Minutes

- I. Approve the Minutes of the January 3, 2023 Regular City Council Meeting

H. New Business

- I. Consideration to approve **Zoning Case Z-23-01**: Request by John & Tracy Randall, represented by BGE, Inc. to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 36.82 acres of land legally described as being portions of Lots 374 through 377 & Lots 379 through 383 of Tomball Outlots from Single Family Residential – 20 (SF-20) to Single Family Residential – 6 (SF-6). The property is located at 21725 Hufsmith-Kohrville Road, within the City of Tomball, Harris County, Texas.

* Conduct Public Hearing on **Case Z-23-01**

* Adopt, on First Reading, Ordinance No. 2023-01, an Ordinance of the City of Tomball, Texas, Amending Chapter 50 (Zoning) of the Tomball Code of

Ordinances by changing the zoning district classification of approximately 36.82 acres of land legally described as being portions of Lots 374 through 377 and Lots 379 through 383 of Tomball Outlots, from Single Family Residential – 20 (SF-20) to Single Family Residential – 6 (SF-6). The property is generally located within the 21700-21800 block (west side) of Hufsmith-Kohrville Road, City of Tomball, Harris County, Texas; providing for the amendment to the Official Zoning Map of the City; providing for severability; providing for penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters.

2. Approve the Services Agreement with Tyler Technologies for Incode software support and maintenance for a not-to-exceed amount of \$110,477, authorize the expenditure of funds therefor, and authorize the City Manager to execute the agreement.
3. Consideration to reject all responses received for Request for Proposal (RFP) 2023-04 – Classification and Compensation Study and readvertise the project.
4. Approve a professional services agreement with Four and One, LLC. for the creation of a Parks, Recreation, and Trails System Master Plan, for a not-to-exceed amount of \$149,600 (RFQ 2023-01), 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 a contract with Smith Pump Company for the repair of the motor for Pine Street Well No. 2 through a BuyBoard Contract (Contract No. 672-22) for a not-to-exceed amount of \$52,231, 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.
6. Discussion and Possible Action regarding Legislative Items at the 2023 Texas Legislative Session:

 - * Sprinkler Systems
 - * Pipelines
7. Executive Session: The City Council will meet in Executive Session as Authorized by Title 5, Chapter 551, Government Code, the Texas Open Meetings Act, for the Following Purpose(s):

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

- Sec. 551.076 – Deliberation regarding Security Devices

I. Adjournment

CERTIFICATION

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall, City of Tomball, Texas, a place readily accessible to the general public at all times, on the 12th day of January 2023 by 5:00 PM, and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Doris Speer, City Secretary, TRMC, MMC

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: January 16, 2023

Topic:

Presentation by Mind Dance Marketing for a donation in the amount of \$100,000 for the development and construction of Louie’s Together Playground.

Background:

Mind Dance Marketing has generously donated \$100,000 toward the development and construction of Louie’s Together Playground, an inclusive playground to be constructed at Juergens Park. This park will be mainly funded through donations raised by the Munson Family.

Origination: Project Management

Recommendation:

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

FUNDING (IF APPLICABLE)

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

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

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

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

**City Council Meeting
Agenda Item
Data Sheet**

Meeting Date: January 3, 2023

Topic:

January 18, 2023 – First day to apply for Place on Ballot for the May 6, 2023 General City Election

Background:

Origination:

Recommendation:

Party(ies) responsible for placing this item on agenda: Doris Speer, City Secretary

Signed	<u>Doris Speer</u>	<u>12-27-2022</u>	Approved by	_____
	Staff Member	Date		City Manager
				Date

City Council Meeting Agenda Item Data Sheet

Meeting Date: January 3, 2023

Topic:

February 17, 2023 – Last day to apply for Place on Ballot for the May 6, 2023 General City Election

Background:

Origination:

Recommendation:

Party(ies) responsible for placing this item on agenda: Doris Speer, City Secretary

Signed Doris Speer 12-27-2022 Approved by _____
Staff Member Date City Manager Date

**City Council Meeting
Agenda Item
Data Sheet**

Meeting Date: January 3, 2023

Topic:

February 21, 2023 – *Sam Houston Trailride Reception* – 12 Noon at the Depot

Background:

Origination:

Recommendation:

Party(ies) responsible for placing this item on agenda: Doris Speer, City Secretary

**City Council Meeting
Agenda Item
Data Sheet**

Meeting Date: January 16, 2023

Topic:

Doris Speer – City Secretary’s Office has received the 2022 *“5 Star Exemplary Award”* from Texas Department of Vital Statistics – (12 years)

Background:

Origination:

Recommendation:

Party(ies) responsible for placing this item on agenda: Doris Speer, City Secretary

**City Council Meeting
Agenda Item
Data Sheet**

Meeting Date: January 16, 2023

Topic:

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

Background:

Origination: City Secretary

Recommendation:

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

Party(ies) responsible for placing this item on agenda: Doris Speer, City Secretary

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



**Tuesday, January 3, 2023
6:00 PM**

The City Council of the City of Tomball, Texas, conducted the meeting scheduled for January 3, 2023, 6:00 PM, at 401 Market Street, Tomball, Texas 77375, via physical attendance and video/telephone conference.

- A. Mayor Pro Tem/Council 1 Ford called the meeting of the Tomball City Council to order at 6:00 p.m.

PRESENT

Council 2 Mark Stoll
Council 3 Dane Dunagin
Council 5 Randy Parr

ABSENT

Mayor Lori Klein Quinn - Excused
Council 4 Derek Townsend, Sr. - Excused

OTHERS PRESENT

City Manager – David Esquivel
Assistant City Manager – Jessica Rogers
City Secretary – Doris Speer
City Attorney – Tommy Ramsey
Assistant City Secretary – Tracylynn Garcia
Director of Community Development – Nathan Dietrich
Interim HR Director – Mary Jo Vargas
Director of Public Works – Drew Huffman
Police Chief – Jeff Bert
Assistant Fire Chief – Jeff Cook
Sr. HR Generalist – Alison Ashbury
HR Generalist – Shanna Botelho
Sr. Administrative Assistant-CSO – Sasha Luna
IT Sr. Specialist – Ben Lato
Community Center Manager – Rosalie Dillon

- B. Invocation - Led by Pastor Brandon Guindon – Real Life Ministries Texas

C. Pledges to U.S. and Texas Flags – Led by Jeff Bert

D. The following public comments were received:

Earl Detwiler - Expressed his concern regarding ambush
626 Texas, 77375 protection for public safety officers

E. Presentations

- David Esquivel presented the **2022 Employee of the Year** award to ***Alison Ashbury***

F. Reports and Announcements

1. Announcements

I. January 18, 2023 – First day to apply for Place on Ballot for the May 6, 2023 General City Election

II. February 11, 2023 – **2nd Saturday at the Depot**

III. February 17, 2023 – Last day to apply for Place on Ballot for the May 6, 2023 General City Election

IV. February 21, 2023 – ***Sam Houston Trailride Reception*** – 12 Noon at the Depot

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

G. Old Business

1. Motion made by Council 2 Stoll, Seconded by Council 3 Dunagin, to adopt, on Second Reading, Ordinance No. 2022-43, an Ordinance of the City of Tomball to amend Section(s) 50-2 (*Definitions*) and Section 50-82 (*Use Regulations (Charts)*), Subsection (b) (*Use Charts*) of the Tomball Code of Ordinances by adding/revising standards pertaining to “Market, open air, flea”; providing for the amendment of the Official Zoning Map of the City; providing for severability; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters.

Voting Yea: Mayor Pro Tem/Council 1 Ford, Council 2 Stoll, Council 3 Dunagin,
Council 5 Parr
Absent: 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 December 19, 2022 Regular Tomball City Council Meeting
2. Approve Resoluton No. 2023-01, a **Resolution and Order of the City Council of the City of Tomball, Texas, Ordering a Regular City Officer's Election, to be Held in the City of Tomball on Saturday, May 6, 2023**; Designating the Polling Places and Appointing Election Officials for Such Election; Directing the Giving of Notice of Such Election; Designating the Date for a Runoff Election if Needed; and Providing Details Relating to the Holding of Such Election
Aprobar la Resolución Nro. 2023-01, una Resolución y Orden del Consejo Municipal de la Ciudad de Tomball Texas, Ordenando una Elección Regular de Funcionarios Municipales a Celebrarse el sábado 6 de mayo de 2023; Designando los Lugares de Votación y Nombrando a los Oficiales Electorales de tal Elección; Instruyendo que se Notifique Sobre esta Elección; Designando la Fecha de una Elección de Desempate de ser Necesaria; y Proporcionando Detalles Referentes a la Celebración de Tal Elección.
Chấp thuận Nghị Quyết số 2023-01, một Nghị Quyết và Sắc Lệnh của Hội Đồng Thành Phố Tomball, Texas, Yêu Cầu một Cuộc Bầu Cử Viên Chức Thường Lệ sẽ được tổ chức tại Thành Phố Tomball vào Thứ Bảy, ngày 6 tháng Năm, 2023; Chỉ định các Địa Điểm Bỏ Phiếu và Chỉ Định các Viên Chức Bầu Cử cho Cuộc Bầu Cử đó; Hướng Dẫn việc Đưa Ra Thông Báo của Cuộc Bầu Cử đó; Chỉ Định Ngày Bầu Cử Chung Cuộc nếu cần; và Đưa Ra các Chi Tiết có Liên Quan đến việc Tổ Chức Cuộc Bầu Cử đó
批准決議案編號2023-01, 為一德克薩斯州, Tomball市市議會決議及指示, 特指示一市府官員普選, 其將於2023年5月6日, 星期六在Tomball市召開; 並已為此選舉指定投票所地點以及指派選舉官員; 指導發出本選舉之選舉通知; 如需要, 將指定決選日期; 以及提供所有與召開本選舉相關的細節
3. Approve Resolution No. 2023-02, a Resolution of the City Council of the City of Tomball, Texas, Designating The Potpourri, Tomball Edition (Houston

Community Newspapers/Houston Chronicle) as the Official Newspaper for 2023 for Publication of Matters Pertaining to the City of Tomball

Motion made by Council 5 Parr, Seconded by Council 3 Dunagin, to approve the items in New Business Consent.

Moción presentada por el Consejo 5 Parr, secundada por el Consejo 3 Dunagin, para aprobar los puntos en el Consentimiento de Nuevos Negocios.

Kiến nghị được đưa ra bởi Hội đồng 5 Parr, được Hội đồng 3 Dunagin biệt phái, để phê duyệt các mục trong Sự đồng ý kinh doanh mới.

理事會 5 Parr 提出的動議，由理事會 3 Dunagin 附議，以批准新業務同意書中的專案。

Voting Yea: Mayor Pro Tem/Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 5 Parr

Absent: Council 4 Townsend, Sr.

Votando sí: Alcalde Pro Tem/Consejo 1 Ford, Consejo 2 Stoll, Consejo 3 Dunagin, Consejo 5 Parr

Ausente: Consejo 4 Townsend, Sr.

Bỏ phiếu đồng ý: Thị trưởng Pro Tem / Hội đồng 1 Ford, Hội đồng 2 Stoll, Hội đồng 3 Dunagin, Hội đồng 5 Parr

Vắng mặt: Hội đồng 4 Townsend, Sr.

投贊成票：市長Pro Tem/理事會1福特，理事會2斯托爾，理事會3杜納金，理事會5帕爾

缺席：理事會4湯森，老

Motion carried unanimously.

Moción aprobada por unanimidad.

Chuyển động mang theo nhất trí.

議案一致通過。

I. New Business

1. Discussion was held possible items to address with City's representatives in the Texas Legislature. Possible items: Home Rule cities' rights; authority to control building facades; requirements for sprinklers in construction; abandoned pipelines.

No action was taken.

2. Executive Session: The City Council recessed at 6:21 p.m. to meet in Executive Session as Authorized by Title 5, Chapter 551, Government Code, the Texas Open Meetings Act, for the Following Purpose(s):
 - Sec. 551.071 – Consultation with the City Attorney regarding a matter which the Attorney’s duty requires to be discussed in closed session
 - Sec. 551.076 – Deliberation regarding Security Devices

Upon reconvening at 6:54 p.m., the following action was taken:

3. Motion made by Council 2 Stoll, Seconded by Council 5 Parr, to authorize the City Manager to execute necessary contracts and expenditures for citywide software upgrades.

Voting Yea: Mayor Pro Tem/Council 1 Ford, Council 2 Stoll, Council 3 Dunagin,
Council 5 Parr
Absent: Council 4 Townsend, Sr.

Motion carried unanimously.

- J. Motion made by Council 2 Stoll, Seconded by Council 5 Parr, to adjourn.

Voting Yea: Mayor Pro Tem/Council 1 Ford, Council 2 Stoll, Council 3 Dunagin,
Council 5 Parr
Absent: Council 4 Townsend, Sr.

Motion carried unanimously.

PASSED AND APPROVED this the 16th day of January 2023.

Doris Speer
City Secretary, TRMC, MMC

Lori Klein Quinn
Mayor

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: 01/16/2023

Topic:

Consideration to approve **Zoning Case Z-23-01**: Request by John & Tracy Randall, represented by BGE, Inc. to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 36.82 acres of land legally described as being portions of Lots 374 through 377 & Lots 379 through 383 of Tomball Outlots from Single Family Residential – 20 (SF-20) to Single Family Residential – 6 (SF-6). The property is located at 21725 Hufsmith-Kohrville Road, within the City of Tomball, Harris County, Texas.

Conduct Public Hearing on Case Z-23-01

Adopt, on First Reading, Ordinance No. 2023-01, an Ordinance of the City of Tomball, Texas, Amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by changing the zoning district classification of approximately 36.82 acres of land legally described as being portions of Lots 374 through 377 and Lots 379 through 383 of Tomball Outlots, from Single Family Residential – 20 (SF-20) to Single Family Residential – 6 (SF-6). The property is generally located within the 21700-21800 block (west side) of Hufsmith-Kohrville Road, City of Tomball, Harris County, Texas; providing for the amendment to the Official Zoning Map of the City; providing for severability; providing for penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters.

Background:

The subject property has been within the City Limits of Tomball since at least 1909. There is now a single-family residence on the subject property. According to Harris County Appraisal District records the existing home was built in 1999. The applicants are requesting to rezone the subject property to Single Family Residential – 6 to allow the development of a single-family residential subdivision comprised of lots with a minimum size of 6,000 square feet.

Origination: John & Tracy Randall, represented by BGE, Inc.

Recommendation:

Denial

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

FUNDING (IF APPLICABLE)

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

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

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

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

ORDINANCE NO. 2023-01

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING CHAPTER 50 (ZONING) OF THE TOMBALL CODE OF ORDINANCES BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES (EXHIBIT “A”); FROM SINGLE FAMILY RESIDENTIAL – 20 (SF-20) TO SINGLE FAMILY RESIDENTIAL – 6 (SF-6) DISTRICT; PROVIDING FOR A PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF, MAKING FINDINGS OF FACT; AND PROVIDING FOR OTHER RELATED MATTERS.

Whereas, John & Tracy Randall, represented by BGE, Inc. has requested that approximately 36.82 acres of land legally described as being portions of Lots 374 through 377 & Lots 379 through 383 of Tomball Outlots, generally located in the 21700-21800 block (west side) of Hufsmith-Kohrville Road, within the City of Tomball, Harris County, Texas (the “Property”), be rezoned; and

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

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

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

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

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

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

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

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

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

Section 5. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be found to be invalid, the same shall nevertheless remain in full force and effect as to all other sections, paragraphs, subdivisions, clauses, phrases, provisions, sentences, or parts of this Ordinance.

adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

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

FIRST READING:

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

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

SECOND READING:

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

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

LORI KLEIN QUINN, Mayor

ATTEST:

DORIS SPEER, City Secretary

Exhibit "A"

HUFSMITH TRACT BOUNDARY SURVEY
6.191 ACRES

AUGUST 23, 2022
JOB NO. 10671-00

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

BEING a 6.191 acre (269,671 square foot) tract of land situated in the Jesse Pruett Survey, Abstract No. 629 of Harris County, Texas and being all of a called 6.188 acre tract of land as described in an instrument to John W. Randall, Jr. and Tracy A. Randall recorded under File Number (F.N.) 20100453523 of the Official Public Records of Harris County (O.P.R.H.C.), a portion of Lots 134, 371, 376, and 377, and a 30 foot unimproved road as shown on CORRECTED MAP OF TOMBALL OUTLOTS, a subdivision per plat recorded under Volume 4, Page 75 of the Harris County Map Records (H.C.M.R.), said 6.191 acre tract of land described by metes and bounds as follows, with all bearings based on the Texas Coordinate System of 1983 (NAD83), South Central Zone 4204 and referenced to monuments found along the South line of a called 11.06 acre tract of land as cited herein and as shown on a survey plat of even date prepared by the undersigned in conjunction with this metes and bounds description:

BEGINNING at a 1/2-inch iron rod found for the Northwest corner of the herein described tract and said 6.188 acre tract, lying on the South line of a called 11.06 acre tract of land as described in an instrument to Charles L. Laswell recorded under Harris County Clerk's File Number (H.C.C.F. No.) C792063, from which a 5/8-inch iron rod found for and interior corner of a called 7.6266 acre tract of land as described in an instrument to James R. Grappe and Carolyn J. Grappe recorded under H.C.C.F. No. N584790 and the Southwest corner of said 11.06 acre tract bears N 83°11'34" W, a distance of 270.89 feet;

THENCE, S 83°25'52" E, along and with the South line of said 11.06 acre tract and the North line of said 6.188 acre tract, a distance of 1,148.25 feet (called S 80°13'03" E, 1,149.03 feet) to a 3/4-inch iron rod with cap stamped "BGE INC" set for the Northeast corner of the herein described tract and the Southeast corner of said 11.06 acre tract, lying on the Southwest right-of-way line of Hufsmith Kohrville Road (60 feet wide) recorded under Volume (Vol.) 2549, Page (Pg.) 325 of the Harris County Deed Records (H.C.D.R.) and said CORRECTED MAP OF TOMBALL OUTLOTS;

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

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

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

HUFSMITH TRACT BOUNDARY SURVEY
6.191 ACRES

AUGUST 23, 2022
JOB NO. 10671-00

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

THENCE, N 02°23'16" W, along and with the West line of said 30 foot unimproved road and said 6.191 acre tract, and the East line of said Lot 375, at a distance of 323.98 feet pass the Northeast corner of said Lot 375 and the Southeast corner of Lot 375 of said CORRECTED MAP OF TOMBALL OUTLOTS, from which a found 1/2-inch iron rod bears N 65°09' E, a distance of 1.60 feet, continuing along and with the West line of said 6.188 acre tract and said 30 foot unimproved road, a total distance of 732.55 feet (called N 00°43'58" E, 732.55 feet) to the **POINT OF BEGINNING** and containing 6.191 acres (269,671 square feet) of land.



Austin Woo RPLS No. 6852
BGE, Inc.
10777 Westheimer Road, Suite 400
Houston, Texas 77042
Telephone: (281) 558-8700
TBPLS Licensed Surveying Firm No. 10106500

DESCRIPTION OF A 15.05 ACRE TRACT OF LAND SITUATED
IN THE JESSE PRUETT SURVEY, ABSTRACT NO. 629
HARRIS COUNTY, TEXAS

BEING a 15.05 acre (655,665 square foot) tract of land situated in the Jesse Pruett Survey, Abstract No. 629 of Harris County, Texas and being a portion of the remainder of a called 56.8003 acre tract of land as described in an instrument to Melvin E. Michel and Tracy A. Michel recorded under Harris County Clerk's File Number (H.C.C.F. No.) S954259 and a portion of Lots 134, 371, 376, 377, and 380 of CORRECTED MAP OF TOMBALL OUTLOTS, a subdivision per plat recorded under Volume 4, Page 75 of the Harris County Map Records (H.C.M.R.), said 15.05 acre tract of land described by metes and bounds as follows, with all bearings based on the Texas Coordinate System of 1983 (NAD83), South Central Zone 4204 and referenced to monuments found along the perimeter of said 56.8003 acre tract as cited herein and as shown on a survey plat of even date prepared by the undersigned in conjunction with this metes and bounds description:

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

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

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

THENCE, S 42°38'24" W, along and with the Southwesterly line of said 56.8003 acre tract, and the Northwesterly lines of a called 0.4847 acre tract of land as described in an instrument to City of Tomball, Texas recorded under H.C.C.F. No. T616046, a 30-foot unimproved road as shown on said CORRECTED MAP OF TOMBALL OUTLOTS, and TOMBALL SOUTH COMMERCIAL NO. 2, a subdivision per plat recorded under Film Code Number (F.C. No.) 659297 of the Harris County Map Records (H.C.M.R.), a distance of 1,621.52 feet to a 3/4-inch iron rod with cap stamped "BGE INC" set for the Southwest corner of the herein described tract and the East end of the Southern terminus of a 30-foot unimproved road as shown on said CORRECTED MAP OF TOMBALL OUTLOTS;

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

HUFSMITH TRACT BOUNDARY SURVEY
15.05 ACRES

AUGUST 23, 2022
JOB NO. 10671-00

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

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

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



Austin Woo RPLS No. 6852
BGE, Inc.
10777 Westheimer Road, Suite 400
Houston, Texas 77042
Telephone: (281) 558-8700
TBPLS Licensed Surveying Firm No. 10106500

DESCRIPTION OF A 15.17 ACRE TRACT OF LAND SITUATED
IN THE JESSE PRUETT SURVEY, ABSTRACT NO. 629
HARRIS COUNTY, TEXAS

BEING a 15.17 acre (660,615 square foot) tract of land situated in the Jesse Pruett Survey, Abstract No. 629 of Harris County, Texas and being a portion the remainder of a called 56.8003 acre tract of land as described in an instrument to Melvin E. Michel and Tracy A. Michel recorded under Harris County Clerk's File Number (H.C.C.F. No.) S954259 and being all of Lots 379, 382, 383 of CORRECTED MAP OF TOMBALL OUTLOTS, a subdivision per plat recorded under Volume 4, Page 75 of the Harris County Map Records (H.C.M.R.), said 15.17 acre tract of land described by metes and bounds as follows, with all bearings based on the Texas Coordinate System of 1983 (NAD83), South Central Zone 4204 and referenced to monuments found along the perimeter of said 56.8003 acre tract as cited herein and as shown on a survey plat of even date prepared by the undersigned in conjunction with this metes and bounds description:

BEGINNING at a 1/2-inch iron rod found for the Southwest corner of the herein described tract and said Lot 383 and the most Southerly Southwest corner of said 56.8003 acre tract;

THENCE, N 05°07'20" W, along and with a Westerly line of said 56.8003 acre tract and said Lot 383, a distance of 481.10 feet to a 1/2-inch iron rod found for the Northwest corner of said Lot 383 and an interior corner of said 56.8003 acre tract, lying on the South line of a called 4.8373 acre tract of land described as Lot 381 in an instrument to Paul Mladenka and Brenda Mladenka recorded under File Number (F.N.) 20080184176 of the Official Public Records of Harris County (O.P.R.H.C.);

THENCE, N 85°12'22" E, along and with the South line of said 4.8373 acre tract and the North line of said Lot 383, a distance of 122.88 feet to a 1/2-inch iron rod with cap stamped "WESTAR" found an interior corner of the herein described tract and the Southeast corner of said 4.8373 acre tract, same being the Southwest corner of said Lot 382;

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

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

HUFSMITH TRACT BOUNDARY SURVEY
15.17 ACRES

AUGUST 23, 2022
JOB NO. 10671-00

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

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

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



Austin Woo RPLS No. 6852
BGE, Inc.
10777 Westheimer Road, Suite 400
Houston, Texas 77042
Telephone: (281) 558-8700
TBPLS Licensed Surveying Firm No. 10106500



Location: 21700-21800 block (west side) of Hufsmith-Kohrville Road. Being portions of Lots 374 through 377 & Lots 379 through 383 of Tomball Outlots, City of Tomball, Harris County, Texas



Notice of Public Hearing

YOU ARE INVITED TO ATTEND the Public Hearing before the **PLANNING & ZONING COMMISSION** and **CITY COUNCIL** of the City of Tomball regarding the following item:

CASE NUMBER: Z23-01

APPLICANT/OWNER: John and Tracy Randall,
represented by BGE, Inc.

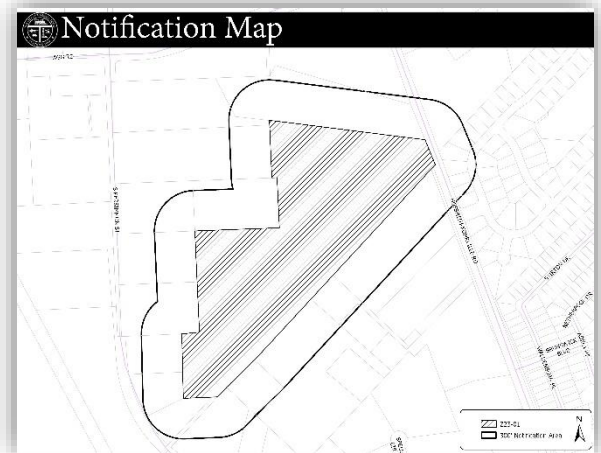
LOCATION: The property is located at 21725 Hufsmith-Kohrville Road, within the City of Tomball, Harris County, Texas.

PROPOSAL: A Rezoning to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 36.82 acres of land legally described as being portions of Lots 374 through 377 & Lots 379 through 383 of Tomball Outlots from Single Family Residential-20 (SF-20) to Single Family Residential-6 (SF-6).

CONTACT: Jared Smith, City Planner
PHONE: (281) 290-1491
E-MAIL: tomballtxcd@gmail.com

Interested parties may contact the City of Tomball between 8:00 a.m. and 5:00 p.m. Monday through Friday for further information. The application is available for public review Monday through Friday, except holidays, between the hours of 8:00 a.m. and 5:00 p.m. in the Community Development Department office, located at 501 James Street, Tomball, TX 77375. The staff report will be available no later than 4:00 p.m. on the Friday preceding the meeting.

This notice is being mailed to all owners of real property within 300 feet of the request as such ownership appears on the last approved Harris County Appraisal District tax roll.



Planning & Zoning Commission

Public Hearing:

Monday, January 9, 2023 @ 6:00 P.M

City Council Public Hearing:

***Monday, January 16, 2023 @ 6:00 P.M.**

**The Public Hearings will be held in the
City Council Chambers, City Hall 401
Market Street, Tomball, Texas.**

*Should the Planning & Zoning Commission vote to table the recommendation on the case, the date and time of a future meeting will be specified and the City Council will not review the subject case until such a recommendation is forwarded to the City Council by the Planning & Zoning Commission.



Public Comment Form

All submitted forms will become a part of the public record.

Please return to:

City of Tomball
Attn: Jared Smith
501 James Street
Tomball, TX 77375

Name:

Melody Wilkerson

(Please Print)

Address:

3004 Riley Rd
Walker TX 77484

Signature:

Date:

X

I am **FOR** the requested Re-zoning as explained on the attached public notice for Zoning Case Z23-001. (Please state reasons below)

I am **AGAINST** the requested Re-zoning as explained on the attached public notice for Zoning Case Z23-001. (Please state reasons below)

Date, Location & Time of **Planning & Zoning Commission** meeting:

Monday, January 9, 2023 @ 6:00 P.M.

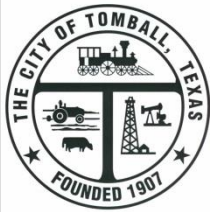
City Council Chambers of the City of Tomball, City Hall
401 Market Street, Tomball, Texas 77375

Date, Location & Time of **City Council** meeting:

Monday, January 16, 2023 @ 6:00 P.M.

City Council Chambers of the City of Tomball, City Hall
401 Market Street, Tomball, Texas 77375

COMMENTS:



**Rezoning
Staff Report**

Planning & Zoning Commission Public Hearing Date: January 9, 2023
City Council Public Hearing Date: January 16, 2023

Rezoning Case: Z23-01
Property Owner(s): John & Tracy Randall
Applicant(s): BGE Inc.
Legal Description: Portions of Lots 374 through 377 & Lots 379 through 383 of Tomball Outlots
Location: 21725 Hufsmith-Khorville Road. (Exhibit “A”)
Area: 36.82 acres
Comp Plan Designation: Business Park and Industrial (Exhibit “B”)
Present Zoning: Single-Family Residential -20 District (Exhibit “C”)
Request: Rezone from the Single-Family Residential – 20 (SF-20) to the Single-Family Residential – 6 (SF-6) district

Adjacent Zoning & Land Uses:

North: Single-Family Residential -20 (SF-20)/ Single-family residence(s)

South: Single-Family Residential – 20 (SF-20) and Light Industrial (LI)/ Single Family residence(s) and Self-Storage Facility

West: Single-Family Residential – 20 (SF-20) / Single-family residence(s)

East: ETJ / Single-family residence(s)

BACKGROUND

The subject property has been within the City Limits of Tomball since at least 1909. There is now a single-family residence on the subject property. According to Harris County Appraisal District records the existing home was built in 1999. The applicants are requesting to rezone the subject property to Single Family Residential – 6 to allow the development of a single-family residential subdivision comprised of lots with a minimum size of 6,000 square feet.

ANALYSIS

Description: The subject property comprises about 36.82 acres, located in the 21700-21800 block on the west side of Hufsmith-Kohrville Road. Currently the subject property is located within Single Family Residential – 20 zoning and has been within this zoning classification since the City of Tomball adopted zoning in 2008. Immediately north of the subject property are existing single-family residences located on large lots within Single-Family Residential -20 zoning. South of the subject site is an existing self-storage facility located on property that was rezoned to Light Industrial in 2013. In addition to this self-storage facility there are single-family residences located on large lots within Single-Family Residential – 20 zoning. East of the subject property on the east side of Hufsmith-Kohrville Road are properties located outside the city limits within the City of Tomball Extraterritorial Jurisdiction (ETJ), these properties are being utilized for single family residential purposes. West of the subject property are vacant parcels of land in Single Family Residential – 20 zoning. Since the adoption of zoning in 2008, Tomball Business and Technology Park has been established south of the subject site. Properties within the business park as well as the properties immediately adjacent to the business park have been transitioning steadily to Light Industrial zoning in accordance with the Future Land Use Plans objective of establishing “Business Park & Industrial” land uses in this area.

Comprehensive Plan Recommendation: The property is designated as “Business Park & Industrial” by the Comprehensive Plans Future Land Use Map. This Business Park & Industrial category is intended to create opportunities for employment. The uses that are to be promoted in this designated land use should be uses that benefit from proximity to major thoroughfares which provide convenient access for vehicle traffic, including freight traffic.

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

The Comprehensive Plan recommends the zoning districts of – Light Industrial (LI), Commercial (C), Office (O), or Planned Developments (PD) for the Business Park & Industrial land use category.

The Comprehensive Plan identifies the need to encourage continued growth of business parks and corporate campuses in Tomball and the desire to promote development that creates complimentary relationships between differing land uses. According to the Comprehensive Plan it is important to transition or buffer land uses by “stepping down” land uses from more intense to less intense uses.

Staff Review Comments:

When zoning measures were initially adopted in the United States in 1916, one of the primary objectives was to separate incompatible commercial land uses from residences and prevent further encroachment of incompatible commercial uses into residential areas to improve the overall quality of life for residents. The request to rezone the subject site to single family residential – 6 will promote a new subdivision immediately adjacent to land that is currently zoned or planned to be zoned (as identified in the Future Land Use Plan) for Industrial and/or Commercial uses that may be incompatible or undesirable to neighboring single-family residences. The requested rezoning does not account for any affective means of providing a transition in land use between the subject site and existing/planned industrial or commercial land uses desired by the “Business Park & Industrial” land use category that the subject site and surrounding properties fall entirely within. Furthermore, encouraging a single-family residential subdivision within an area planned

for “Business Park & Industrial” on the Future Land Use Plan map is in direct conflict with the Comprehensive Plans objective of the encouraging continued growth of business parks and corporate campuses in Tomball, specifically the Tomball Business and Technology Park immediately south of the subject site.

PUBLIC COMMENT

A Notice of Public Hearing was published in the paper and property owners within 300 feet of the project site were mailed notification of this proposal on December 30, 2022. Any public comment forms will be provided in the Planning & Zoning Commission and City Council packets or during the public hearing.

RECOMMENDATION

Based on the findings outlined in the analysis section of this staff report, City staff recommends denial of Zoning Case Z23-01.

EXHIBITS

- A. Aerial Photo
- B. Comprehensive Plan
- C. Zoning Map
- D. Site Photo
- E. Rezoning Application

Exhibit "A"
Aerial Location Map



Location Map

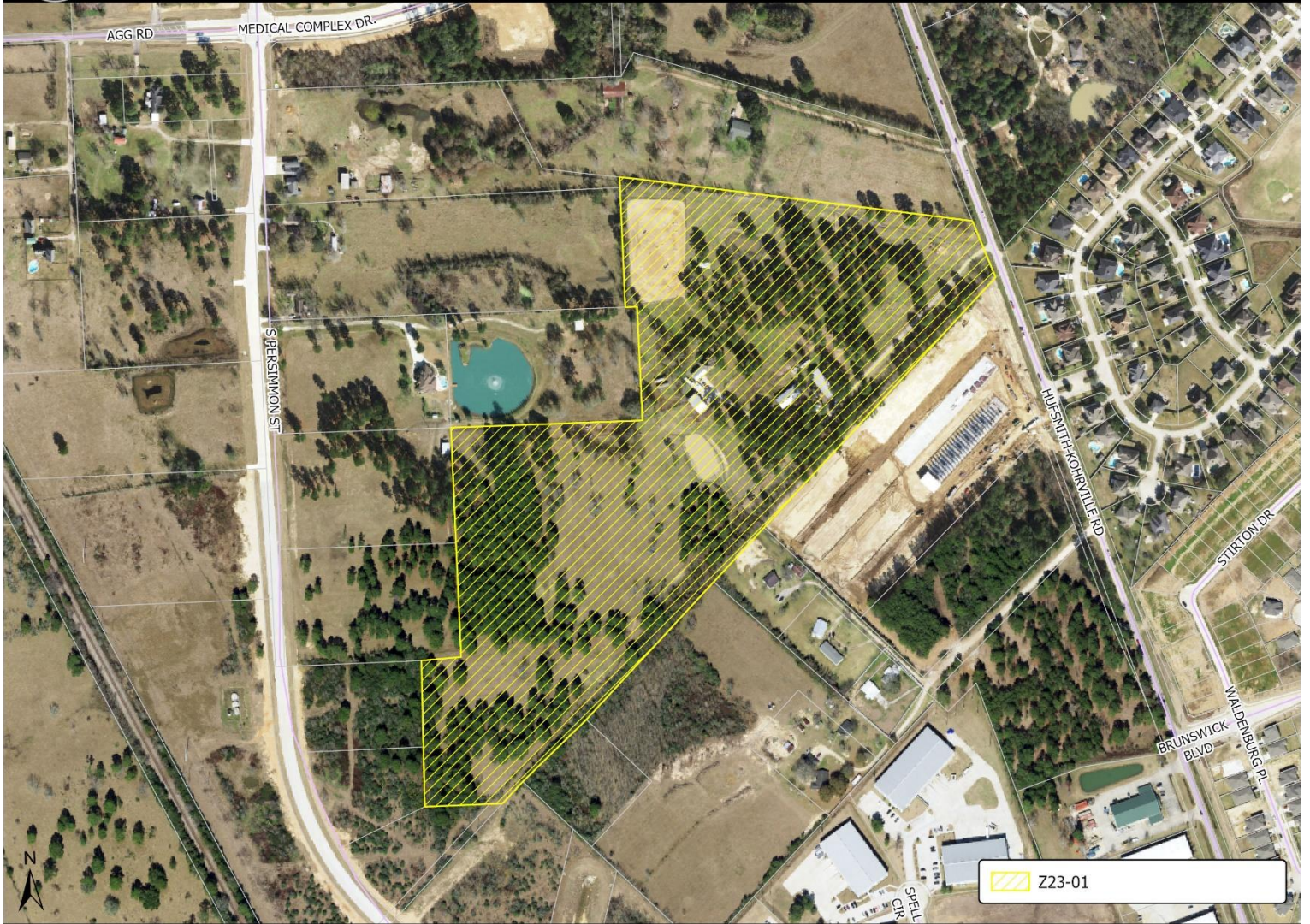


Exhibit "B"
Future Land Use Plan



Future Land Use Map

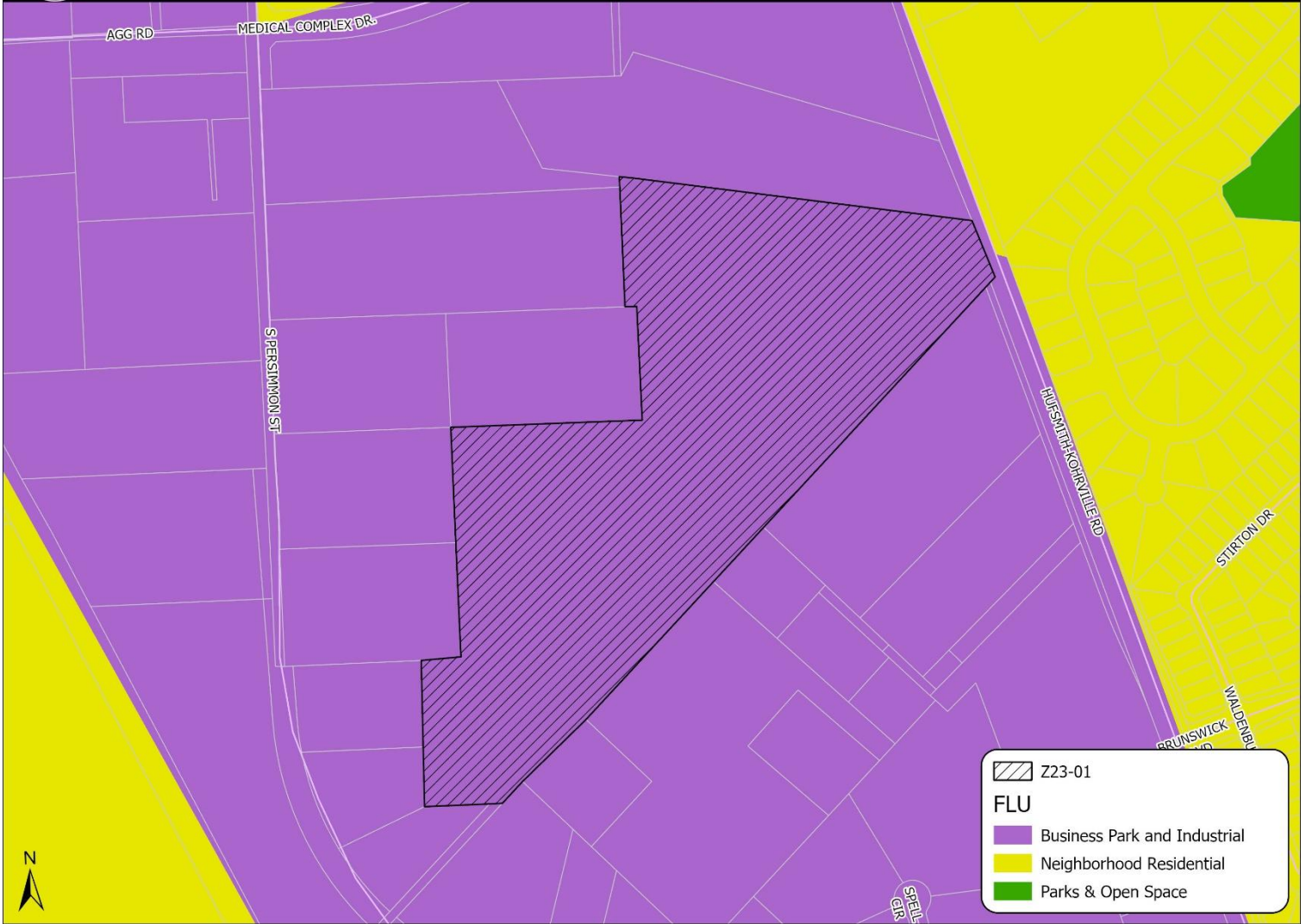


Exhibit "C"
Zoning Map

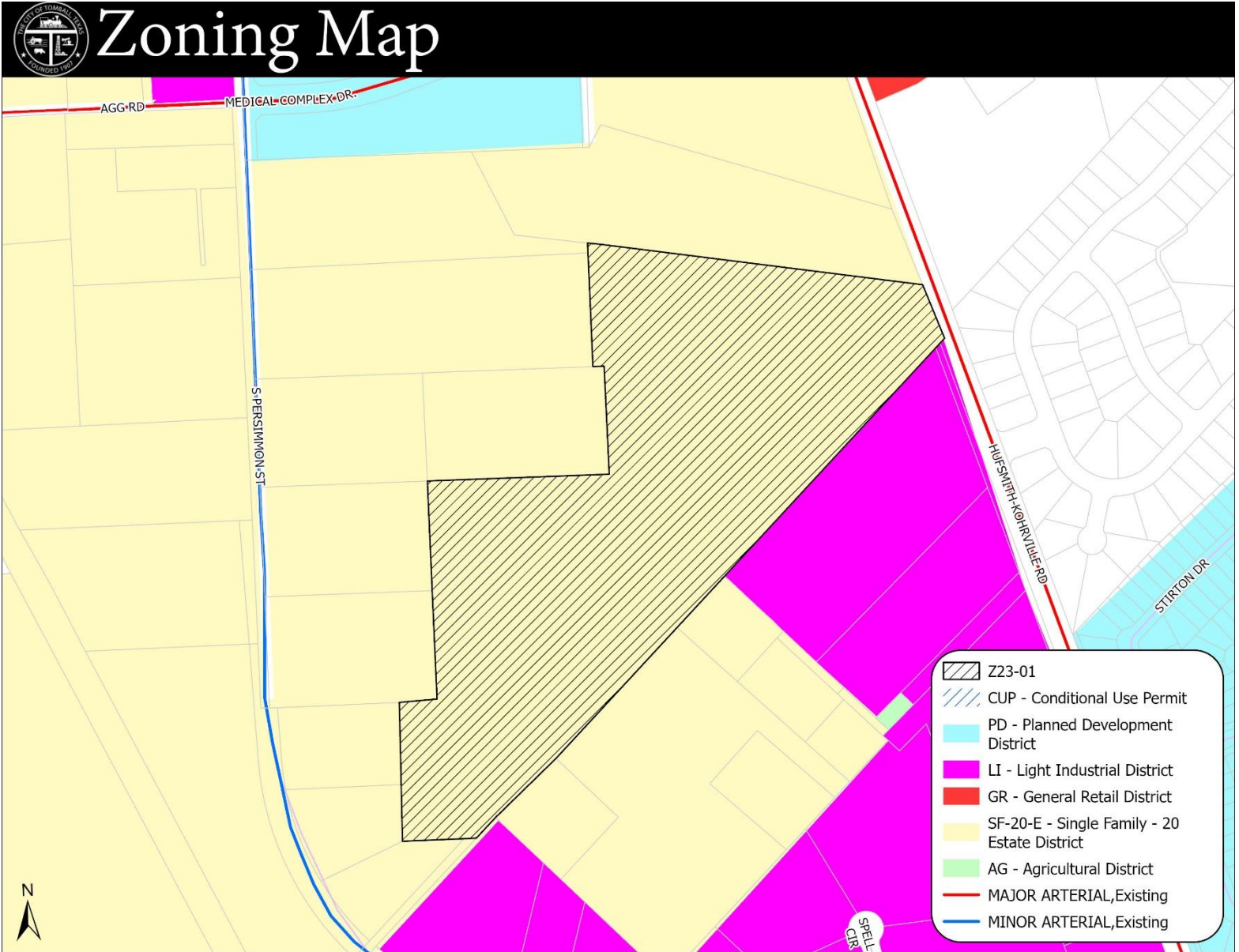


Exhibit "D"
Site Photo(s)

Subject Site



Neighbor (West)



Neighbor (East)



Neighbor (North)



Neighbor (South)



Exhibit "E"
Rezoning Application

DocuSign Envelope ID: 812A5406-579E-4437-97B0-A8E49137845C

Revised: 10/1/2022



APPLICATION FOR RE-ZONING

Community Development Department
Planning Division

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

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

DIGITAL PLAN SUBMITTALS:

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

WEBSITE: tomballtx.gov/secure/send
USERNAME: [tombalcedd](#)
PASSWORD: [Tomball1](#)

Applicant

Name: BGE, Inc. Title: Senior Planner
Mailing Address: 10777 Westheimer Road, Ste. 400 City: Houston State: Texas
Zip: 77042 Contact: Andrew Lang
Phone: (281) 558-8700 Email: bgeplat@bgeinc.com

Owner

Name: Tracy Randall Title: _____
Mailing Address: 21725 Hufsmith Kohrville Road City: Tomball State: Texas
Zip: 77375 Contact: _____
Phone: (281) 728-9551 Email: randalltracya@gmail.com

Engineer/Surveyor (if applicable)

Name: BGE, Inc Title: Senior Project Manager
Mailing Address: 1450 Lake Robbins Drive, Ste. 310 City: Woodlands State: Texas
Zip: 77380 Contact: Darrin Fentress
Phone: (281) 210-5570 Fax: (281) 210-0141 Email: dfentress@bgeinc.com

Description of Proposed Project: Single-family residential subdivision
+/- 1,200 feet south of the intersection of Hufsmith-Kohrville Road and Medical
Physical Location of Property: Complex Drive

[General Location – approximate distance to nearest existing street corner]

Legal Description of Property: See attached M&Bs
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]

Current Zoning District: SF-20-E - Single-family 20 Estate District

City of Tomball, Texas 501 James Street, Tomball, Texas 77375 Phone: 281-290-1405 www.tomballtx.gov

Revised: 10/1/2022

Current Use of Property: Single-family residential

Proposed Zoning District: SF-6 - Single-Family Residential District 6

Proposed Use of Property: Single-family residential subdivision

0352920000531; 0352920000374;

HCAD Identification Number: 0352920000530; 0352920000134; Acreage: +/- 47 acres
0352920000521

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

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

X  11-14-2022
Signature of Applicant Date

X DocuSigned by:
 11/29/2022
Signature of Owner Date

Submittal Requirements

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

Applications must be received by the City of Tomball at least 40 calendar days prior to the City Planning and Zoning Commission hearing date.

- **Application Fee: \$1,000.00**
- **Completed application form**
- ***Copy of Recorded/Final Plat**
- **Letter stating reason for request and issues relating to request**
- **Conceptual Site Plan (if applicable)**
- **Metes & Bounds of property**
- **Payment of all indebtedness attributed to subject property must be paid with application or an arrangement in accordance with Section 50-36(a)(3) of the Code of Ordinances as cited below:**

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

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

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

Application Process

1. The official filing date is the date the application and fee are received by the City.
2. The City will review the application for completeness and will notify the applicant in writing within 10 days if the application is deemed incomplete.
3. Property owners within two-hundred (300) feet of the project site will be notified by letter within 10 calendar days prior to the public hearing date and legal notice will appear in the official newspaper of the City before the eighth calendar day prior to the date of the hearing.
4. A public hearing will be held by the Planning and Zoning Commission at 6:00 p.m. in the City Council chambers, unless otherwise noted. The Planning and Zoning Commission meetings are scheduled on the second Monday of the month. The staff will review the request with the Commission and after staff presentations the chair will open the public hearing. The applicant will have ten (10) minutes to present the request. The chair will then allow those present in favor of the request and those in opposition to the request to speak. The Commission may then ask staff or anyone present additional questions, after which the Commission may close or table the public hearing. The Commission may then vote to recommend approval or denial to the City Council. The Commission may also table the request to a future date before a recommendation is sent to the City Council.
5. A second public hearing will be scheduled before the City Council after fifteen (15) days of legal notice. The Council meetings are held on the first (1st) and third (3rd) Mondays of the month at 6:00 p.m. in the City Council chambers (401 Market Street, Tomball, Texas, 77375).
6. The City Council will conduct a public hearing on the request in the same manner as the Planning and Zoning Commission. In the event that there has been a petition filed with the City Secretary with twenty percent (20%) of the adjoining property owners in opposition to the subject zoning request, it will require a three fourths (3/4) vote of the full Council to approve the request. Upon approval of the request by the City Council, an amended ordinance shall be prepared and adopted. The ordinance shall have two separate readings and will be effective at such time that it is adopted by City Council and signed by the Mayor and attested by the City Secretary.

FAILURE TO APPEAR: It is the applicant/property owner's responsibility to attend all Planning and Zoning Commission and City Council meetings regarding their case. Failure of the applicant or his/her authorized representative to appear before the Planning and Zoning Commission or the City Council for more than one (1) hearing without approved delay by the City Manager, or his/her designee, may constitute sufficient grounds for the Planning and Zoning Commission or the City Council to table or deny the application unless the City Manager or his/her designee is notified in writing by the applicant at least seventy-two (72) hours prior to the hearing. If the agenda item is tabled the Planning and Zoning Commission shall specify a specific date at which it will be reconsidered.



November 29, 2022

Mr. Nathan Dietrich
City of Tomball
501 James Street
Tomball, TX 77375

RE: Hufsmith-Kohrville Road Tract Re-Zone

Dear Mr. Dietrich,

On behalf of our client, Mr. Chett Wignall of HistoryMaker Homes, we respectfully submit the above stated re-zoning application for the +/- 47.8 acre tract located along Hufsmith-Kohrville Road just south of the intersection of Medical Complex Drive. We are proposing to change the zoning classification from a Single-Family 20 Estate District (SF-20-E) to a Single-Family Residential District 6 (SF-6).

The purpose of the proposed re-zoning application is to develop the property as a single-family residential subdivision with fifty-foot wide detached single-family lots. The intent of the proposed development is to provide high-quality housing that will supplement existing single-family development nearby and provide housing for on-going commercial and business development taking place in the area.

Additionally, our client intends to approach the City with a Public Improvement District application at a later date to facilitate the development of the project. Thank you for the opportunity to work with you and your team on this project, and we appreciate your time and consideration of this application.

Sincerely,

A handwritten signature in blue ink that reads 'Andrew Lang'.

Andrew Lang

Senior Planner

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HUFSMITH TRACT BOUNDARY SURVEY
6.191 ACRES

AUGUST 23, 2022
JOB NO. 10671-00

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

BEING a 6.191 acre (269,671 square foot) tract of land situated in the Jesse Pruett Survey, Abstract No. 629 of Harris County, Texas and being all of a called 6.188 acre tract of land as described in an instrument to John W. Randall, Jr. and Tracy A. Randall recorded under File Number (F.N.) 20100453523 of the Official Public Records of Harris County (O.P.R.H.C.), a portion of Lots 134, 371, 376, and 377, and a 30 foot unimproved road as shown on CORRECTED MAP OF TOMBALL OUTLOTS, a subdivision per plat recorded under Volume 4, Page 75 of the Harris County Map Records (H.C.M.R.), said 6.191 acre tract of land described by metes and bounds as follows, with all bearings based on the Texas Coordinate System of 1983 (NAD83), South Central Zone 4204 and referenced to monuments found along the South line of a called 11.06 acre tract of land as cited herein and as shown on a survey plat of even date prepared by the undersigned in conjunction with this metes and bounds description:

BEGINNING at a 1/2-inch iron rod found for the Northwest corner of the herein described tract and said 6.188 acre tract, lying on the South line of a called 11.06 acre tract of land as described in an instrument to Charles L. Laswell recorded under Harris County Clerk's File Number (H.C.C.F. No.) C792063, from which a 5/8-inch iron rod found for and interior corner of a called 7.6266 acre tract of land as described in an instrument to James R. Grappe and Carolyn J. Grappe recorded under H.C.C.F. No. N584790 and the Southwest corner of said 11.06 acre tract bears N 83°11'34" W, a distance of 270.89 feet;

THENCE, S 83°25'52" E, along and with the South line of said 11.06 acre tract and the North line of said 6.188 acre tract, a distance of 1,148.25 feet (called S 80°13'03" E, 1,149.03 feet) to a 3/4-inch iron rod with cap stamped "BGE INC" set for the Northeast corner of the herein described tract and the Southeast corner of said 11.06 acre tract, lying on the Southwest right-of-way line of Hufsmith Kohrville Road (60 feet wide) recorded under Volume (Vol.) 2549, Page (Pg.) 325 of the Harris County Deed Records (H.C.D.R.) and said CORRECTED MAP OF TOMBALL OUTLOTS;

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

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

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

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HUFSMITH TRACT BOUNDARY SURVEY
6.191 ACRES

AUGUST 23, 2022
JOB NO. 10671-00

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

THENCE, N 02°23'16" W, along and with the West line of said 30 foot unimproved road and said 6.191 acre tract, and the East line of said Lot 375, at a distance of 323.98 feet pass the Northeast corner of said Lot 375 and the Southeast corner of Lot 375 of said CORRECTED MAP OF TOMBALL OUTLOTS, from which a found 1/2-inch iron rod bears N 65°09' E, a distance of 1.60 feet, continuing along and with the West line of said 6.188 acre tract and said 30 foot unimproved road, a total distance of 732.55 feet (called N 00°43'58" E, 732.55 feet) to the **POINT OF BEGINNING** and containing 6.191 acres (269,671 square feet) of land.



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Houston, Texas 77042
Telephone: (281) 558-8700
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DESCRIPTION OF A 15.05 ACRE TRACT OF LAND SITUATED
IN THE JESSE PRUETT SURVEY, ABSTRACT NO. 629
HARRIS COUNTY, TEXAS

BEING a 15.05 acre (655,665 square foot) tract of land situated in the Jesse Pruett Survey, Abstract No. 629 of Harris County, Texas and being a portion of the remainder of a called 56.8003 acre tract of land as described in an instrument to Melvin E. Michel and Tracy A. Michel recorded under Harris County Clerk's File Number (H.C.C.F. No.) S954259 and a portion of Lots 134, 371, 376, 377, and 380 of CORRECTED MAP OF TOMBALL OUTLOTS, a subdivision per plat recorded under Volume 4, Page 75 of the Harris County Map Records (H.C.M.R.), said 15.05 acre tract of land described by metes and bounds as follows, with all bearings based on the Texas Coordinate System of 1983 (NAD83), South Central Zone 4204 and referenced to monuments found along the perimeter of said 56.8003 acre tract as cited herein and as shown on a survey plat of even date prepared by the undersigned in conjunction with this metes and bounds description:

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

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

THENCE, S 20°12'50" E, along and with the Southwest right-of-way line of said Hufsmith Kohrville Road and the Northeasterly line of said 56.8003 acre tract, a distance of 106.49 feet to a 3/4-inch iron rod with cap stamped "BGE INC" set for the Southeast corner of the herein described tract and said 58.8003 acre tract;

THENCE, S 42°38'24" W, along and with the Southwesterly line of said 56.8003 acre tract, and the Northwesterly lines of a called 0.4847 acre tract of land as described in an instrument to City of Tomball, Texas recorded under H.C.C.F. No. T616046, a 30-foot unimproved road as shown on said CORRECTED MAP OF TOMBALL OUTLOTS, and TOMBALL SOUTH COMMERCIAL NO. 2, a subdivision per plat recorded under Film Code Number (F.C. No.) 659297 of the Harris County Map Records (H.C.M.R.), a distance of 1,621.52 feet to a 3/4-inch iron rod with cap stamped "BGE INC" set for the Southwest corner of the herein described tract and the East end of the Southern terminus of a 30-foot unimproved road as shown on said CORRECTED MAP OF TOMBALL OUTLOTS;

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

HUFSMITH TRACT BOUNDARY SURVEY
15.05 ACRES

AUGUST 23, 2022
JOB NO. 10671-00

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

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

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



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DESCRIPTION OF A 15.17 ACRE TRACT OF LAND SITUATED
IN THE JESSE PRUETT SURVEY, ABSTRACT NO. 629
HARRIS COUNTY, TEXAS

BEING a 15.17 acre (660,615 square foot) tract of land situated in the Jesse Pruett Survey, Abstract No. 629 of Harris County, Texas and being a portion the remainder of a called 56.8003 acre tract of land as described in an instrument to Melvin E. Michel and Tracy A. Michel recorded under Harris County Clerk's File Number (H.C.C.F. No.) S954259 and being all of Lots 379, 382, 383 of CORRECTED MAP OF TOMBALL OUTLOTS, a subdivision per plat recorded under Volume 4, Page 75 of the Harris County Map Records (H.C.M.R.), said 15.17 acre tract of land described by metes and bounds as follows, with all bearings based on the Texas Coordinate System of 1983 (NAD83), South Central Zone 4204 and referenced to monuments found along the perimeter of said 56.8003 acre tract as cited herein and as shown on a survey plat of even date prepared by the undersigned in conjunction with this metes and bounds description:

BEGINNING at a 1/2-inch iron rod found for the Southwest corner of the herein described tract and said Lot 383 and the most Southerly Southwest corner of said 56.8003 acre tract;

THENCE, N 05°07'20" W, along and with a Westerly line of said 56.8003 acre tract and said Lot 383, a distance of 481.10 feet to a 1/2-inch iron rod found for the Northwest corner of said Lot 383 and an interior corner of said 56.8003 acre tract, lying on the South line of a called 4.8373 acre tract of land described as Lot 381 in an instrument to Paul Mladenka and Brenda Mladenka recorded under File Number (F.N.) 20080184176 of the Official Public Records of Harris County (O.P.R.H.C.);

THENCE, N 85°12'22" E, along and with the South line of said 4.8373 acre tract and the North line of said Lot 383, a distance of 122.88 feet to a 1/2-inch iron rod with cap stamped "WESTAR" found an interior corner of the herein described tract and the Southeast corner of said 4.8373 acre tract, same being the Southwest corner of said Lot 382;

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

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

HUFSMITH TRACT BOUNDARY SURVEY
15.17 ACRES

AUGUST 23, 2022
JOB NO. 10671-00

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

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

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



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CONCEPTUAL LAND USE PLAN
HUFSMITH-KOHRVILLE TRACT

±47.8 ACRES OF LAND
 TOMBALL, TEXAS
 OCTOBER 19, 2022
 BGE #9151



BGE, Inc.
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City Council Meeting Agenda Item Data Sheet

Meeting Date: January 16, 2023

Topic:

Approve the Services Agreement with Tyler Technologies for Incode software support and maintenance for a not-to-exceed amount of \$110,477, authorize the expenditure of funds therefor, and authorize the City Manager to execute the agreement.

Background:

In 2008, the City entered into a software license agreement with Tyler Technologies, Inc. for Incode, which is an enterprise resource planning software. The agreement included the one-time implementation cost and recurring costs for support and maintenance. The Incode software provided by Tyler Technologies, Inc. includes modules for utility billing, finance, purchasing, personnel management, municipal court, permitting, and work orders. As part of the use of the software, the City pays for an annual support and maintenance from Tyler Technologies, Inc. City Council approved the expenditure for this service agreement in the amount of \$56,700 at the November 21 council meeting of this year. However, staff is requesting to upgrade the agreement to have Tyler Technologies host the software on their cloud platform instead of hosting the software locally. The new cost of the agreement is \$110,477, an increase of \$53,777.

Per the City’s adopted Procurement and Policy Manual, City Council approval is required for any expenditure over \$50,000.

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

Origination: City Management

Recommendation:

Staff recommends awarding the Services Agreement to Tyler Technologies for Incode software, annual support and maintenance in the amount of \$110,477.

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: X No: _____ If yes, specify Account Number: # 600-615-6302

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

Signed	<u>David Esquivel</u>	<u>01/11/23</u>	Approved by	_____
	Staff Member	Date		City Manager
				Date



SOFTWARE AS A SERVICE AGREEMENT

This Software as a Service Agreement is made between Tyler Technologies, Inc. and Client.

WHEREAS, Client selected Tyler to provide certain products and services set forth in the Investment Summary, including providing Client with access to Tyler's proprietary software products, and Tyler desires to provide such products and services under the terms of this Agreement;

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants and promises set forth in this Agreement, Tyler and Client agree as follows:

SECTION A – DEFINITIONS

- **“Agreement”** means this Software as a Service Agreement.
- **“Business Travel Policy”** means our business travel policy. A copy of our current Business Travel Policy is attached as Schedule 1 to Exhibit B.
- **“Client”** means the City of Tomball, Texas.
- **“Data”** means your data necessary to utilize the Tyler Software.
- **“Data Storage Capacity”** means the contracted amount of storage capacity for your Data identified in the Investment Summary.
- **“Defect”** means a failure of the Tyler Software to substantially conform to the functional descriptions set forth in our written proposal to you, or their functional equivalent. Future functionality may be updated, modified, or otherwise enhanced through our maintenance and support services, and the governing functional descriptions for such future functionality will be set forth in our then-current Documentation.
- **“Defined Users”** means the number of users that are authorized to use the SaaS Services. The Defined Users for the Agreement are as identified in the Investment Summary. If Exhibit A contains Enterprise Permitting & Licensing labeled software, defined users mean the maximum number of named users that are authorized to use the Enterprise Permitting & Licensing labeled modules as indicated in the Investment Summary.
- **“Developer”** means a third party who owns the intellectual property rights to Third Party Software.
- **“Documentation”** means any online or written documentation related to the use or functionality of the Tyler Software that we provide or otherwise make available to you, including instructions, user guides, manuals and other training or self-help documentation.
- **“Effective Date”** means the date by which both your and our authorized representatives have signed the Agreement.
- **“Force Majeure”** means an event beyond the reasonable control of you or us, including, without limitation, governmental action, war, riot or civil commotion, fire, natural disaster, or any other cause that could not with reasonable diligence be foreseen or prevented by you or us.
- **“Investment Summary”** means the agreed upon cost proposal for the products and services attached as Exhibit A.

- **“Invoicing and Payment Policy”** means the invoicing and payment policy. A copy of our current Invoicing and Payment Policy is attached as Exhibit B.
- **“Order Form”** means an ordering document that includes a quote or investment summary and specifying the items to be provided by Tyler to Client, including any addenda and supplements thereto.
- **“SaaS Fees”** means the fees for the SaaS Services identified in the Investment Summary.
- **“SaaS Services”** means software as a service consisting of system administration, system management, and system monitoring activities that Tyler performs for the Tyler Software, and includes the right to access and use the Tyler Software, receive maintenance and support on the Tyler Software, including Downtime resolution under the terms of the SLA, and Data storage and archiving. SaaS Services do not include support of an operating system or hardware, support outside of our normal business hours, or training, consulting or other professional services.
- **“SLA”** means the service level agreement. A copy of our current SLA is attached hereto as Exhibit C.
- **“Support Call Process”** means the support call process applicable to all of our customers who have licensed the Tyler Software. A copy of our current Support Call Process is attached as Schedule 1 to Exhibit C.
- **“Third Party Hardware”** means the third party hardware, if any, identified in the Investment Summary.
- **“Third Party Products”** means the Third Party Software and Third Party Hardware.
- **“Third Party SaaS Services”** means software as a service provided by a third party, if any, identified in the Investment Summary.
- **“Third Party Services”** means the third party services, if any, identified in the Investment Summary.
- **“Third Party Software”** means the third party software, if any, identified in the Investment Summary.
- **“Third Party Terms”** means, if any, the end user license agreement(s) or similar terms for the Third Party Products or other parties’ products or services, as applicable.
- **“Tyler”** means Tyler Technologies, Inc., a Delaware corporation.
- **“Tyler Software”** means our proprietary software, including any integrations, custom modifications, and/or other related interfaces identified in the Investment Summary and licensed by us to you through this Agreement.
- **“we”, “us”, “our”** and similar terms mean Tyler.
- **“you”** and similar terms mean Client.

SECTION B – SAAS SERVICES

1. Rights Granted. We grant to you the non-exclusive, non-assignable limited right to use the SaaS Services solely for your internal business purposes for the number of Defined Users only. The Tyler Software will be made available to you according to the terms of the SLA. You acknowledge that we have no delivery obligations and we will not ship copies of the Tyler Software as part of the SaaS Services. You may use the SaaS Services to access updates and enhancements to the Tyler Software, as further described in Section C(9). The foregoing notwithstanding, to the extent we have sold you perpetual licenses for Tyler Software, if and listed in the Investment Summary, for which you are receiving SaaS Services, your rights to use such Tyler Software are perpetual, subject to the terms and conditions of this Agreement including, without limitation, Section B(4). We will make any such software available to you for download.

2. SaaS Fees. You agree to pay us the SaaS Fees. Those amounts are payable in accordance with our Invoicing and Payment Policy. The SaaS Fees are based on the number of Defined Users and amount of Data Storage Capacity. You may add additional users or additional data storage capacity on the terms set forth in Section H(1). In the event you regularly and/or meaningfully exceed the Defined Users or Data Storage Capacity, we reserve the right to charge you additional fees commensurate with the overage(s).
3. Ownership.
 - 3.1 We retain all ownership and intellectual property rights to the SaaS Services, the Tyler Software, and anything developed by us under this Agreement. You do not acquire under this Agreement any license to use the Tyler Software in excess of the scope and/or duration of the SaaS Services.
 - 3.2 The Documentation is licensed to you and may be used and copied by your employees for internal, non-commercial reference purposes only.
 - 3.3 You retain all ownership and intellectual property rights to the Data. You expressly recognize that except to the extent necessary to carry out our obligations contained in this Agreement, we do not create or endorse any Data used in connection with the SaaS Services.
4. Restrictions. You may not: (a) make the Tyler Software or Documentation resulting from the SaaS Services available in any manner to any third party for use in the third party's business operations; (b) modify, make derivative works of, disassemble, reverse compile, or reverse engineer any part of the SaaS Services; (c) access or use the SaaS Services in order to build or support, and/or assist a third party in building or supporting, products or services competitive to us; or (d) license, sell, rent, lease, transfer, assign, distribute, display, host, outsource, disclose, permit timesharing or service bureau use, or otherwise commercially exploit or make the SaaS Services, Tyler Software, or Documentation available to any third party other than as expressly permitted by this Agreement.
5. Software Warranty. We warrant that the Tyler Software will perform without Defects during the term of this Agreement. If the Tyler Software does not perform as warranted, we will use all reasonable efforts, consistent with industry standards, to cure the Defect in accordance with the maintenance and support process set forth in Section C(9), below, the SLA and our then current Support Call Process.
6. SaaS Services.
 - 6.1 Our SaaS Services are audited at least yearly in accordance with the AICPA's Statement on Standards for Attestation Engagements ("SSAE") No. 18. We have attained, and will maintain, SOC 1 and SOC 2 compliance, or its equivalent, for so long as you are timely paying for SaaS Services. The scope of audit coverage varies for some Tyler Software solutions. Upon execution of a mutually agreeable Non-Disclosure Agreement ("NDA"), we will provide you with a summary of our compliance report(s) or its equivalent. Every year thereafter, for so long as the NDA is in effect and in which you make a written request, we will provide that same information. If our SaaS Services are provided using a 3rd party data center, we will provide available compliance reports for that data center.

- 6.2 You will be hosted on shared hardware in a Tyler data center or in a third-party data center. In either event, databases containing your Data will be dedicated to you and inaccessible to our other customers.
- 6.3 Our Tyler data centers have fully-redundant telecommunications access, electrical power, and the required hardware to provide access to the Tyler Software in the event of a disaster or component failure. In the event of a data center failure, we reserve the right to employ our disaster recovery plan for resumption of the SaaS Services. In that event, we commit to a Recovery Point Objective (“RPO”) of 24 hours and a Recovery Time Objective (“RTO”) of 24 hours. RPO represents the maximum duration of time between the most recent recoverable copy of your hosted Data and subsequent data center failure. RTO represents the maximum duration of time following data center failure within which your access to the Tyler Software must be restored.
- 6.4 We conduct annual penetration testing of either the production network and/or web application to be performed. We will maintain industry standard intrusion detection and prevention systems to monitor malicious activity in the network and to log and block any such activity. We will provide you with a written or electronic record of the actions taken by us in the event that any unauthorized access to your database(s) is detected as a result of our security protocols. We will undertake an additional security audit, on terms and timing to be mutually agreed to by the parties, at your written request. You may not attempt to bypass or subvert security restrictions in the SaaS Services or environments related to the Tyler Software. Unauthorized attempts to access files, passwords or other confidential information, and unauthorized vulnerability and penetration test scanning of our network and systems (hosted or otherwise) is prohibited without the prior written approval of our IT Security Officer.
- 6.5 We test our disaster recovery plan on an annual basis. Our standard test is not client-specific. Should you request a client-specific disaster recovery test, we will work with you to schedule and execute such a test on a mutually agreeable schedule. At your written request, we will provide test results to you within a commercially reasonable timeframe after receipt of the request.
- 6.6 We will be responsible for importing back-up and verifying that you can log-in. You will be responsible for running reports and testing critical processes to verify the returned Data.
- 6.7 We provide secure Data transmission paths between each of your workstations and our servers.
- 6.8 Tyler data centers are accessible only by authorized personnel with a unique key entry. All other visitors to Tyler data centers must be signed in and accompanied by authorized personnel. Entry attempts to the data center are regularly audited by internal staff and external auditors to ensure no unauthorized access.
- 6.9 Where applicable with respect to our applications that take or process card payment data, we are responsible for the security of cardholder data that we possess, including functions relating to storing, processing, and transmitting of the cardholder data and affirm that, as of the Effective Date, we comply with applicable requirements to be considered PCI DSS compliant and have performed the necessary steps to validate compliance with the PCI DSS. We agree to supply the current status of our PCI DSS compliance program in the form of an official

Attestation of Compliance, which can be found at <https://www.tylertech.com/about-us/compliance>, and in the event of any change in our status, will comply with applicable notice requirements.

SECTION C – PROFESSIONAL SERVICES

1. Professional Services. We will provide you the various implementation-related services itemized in the Investment Summary and described in the Statement of Work.
2. Professional Services Fees. You agree to pay us the professional services fees in the amounts set forth in the Investment Summary. Those amounts are payable in accordance with our Invoicing and Payment Policy. You acknowledge that the fees stated in the Investment Summary are good-faith estimates of the amount of time and materials required for your implementation. We will bill you the actual fees incurred based on the in-scope services provided to you. Any discrepancies in the total values set forth in the Investment Summary will be resolved by multiplying the applicable hourly rate by the quoted hours.
3. Additional Services. The Investment Summary contains, and the Statement of Work describes, the scope of services and related costs (including programming and/or interface estimates) required for the project based on our understanding of the specifications you supplied. If additional work is required, or if you use or request additional services, we will provide you with an addendum or change order, as applicable, outlining the costs for the additional work. The price quotes in the addendum or change order will be valid for thirty (30) days from the date of the quote.
4. Cancellation. If travel is required, we will make all reasonable efforts to schedule travel for our personnel, including arranging travel reservations, at least two (2) weeks in advance of commitments. Therefore, if you cancel services less than two (2) weeks in advance (other than for Force Majeure or breach by us), you will be liable for all (a) non-refundable expenses incurred by us on your behalf, and (b) daily fees associated with cancelled professional services if we are unable to reassign our personnel. We will make all reasonable efforts to reassign personnel in the event you cancel within two (2) weeks of scheduled commitments.
5. Services Warranty. We will perform the services in a professional, workmanlike manner, consistent with industry standards. In the event we provide services that do not conform to this warranty, we will re-perform such services at no additional cost to you.
6. Site Access and Requirements. At no cost to us, you agree to provide us with full and free access to your personnel, facilities, and equipment as may be reasonably necessary for us to provide implementation services, subject to any reasonable security protocols or other written policies provided to us as of the Effective Date, and thereafter as mutually agreed to by you and us.
7. Background Checks. For at least the past twelve (12) years, all of our employees have undergone criminal background checks prior to hire. All employees sign our confidentiality agreement and security policies.
8. Client Assistance. You acknowledge that the implementation of the Tyler Software is a cooperative process requiring the time and resources of your personnel. You agree to use all reasonable efforts to cooperate with and assist us as may be reasonably required to meet the agreed upon project

deadlines and other milestones for implementation. This cooperation includes at least working with us to schedule the implementation-related services outlined in this Agreement. We will not be liable for failure to meet any deadlines and milestones when such failure is due to Force Majeure or to the failure by your personnel to provide such cooperation and assistance (either through action or omission).

9. Maintenance and Support. For so long as you timely pay your SaaS Fees according to the Invoicing and Payment Policy, then in addition to the terms set forth in the SLA and the Support Call Process, we will:

9.1 perform our maintenance and support obligations in a professional, good, and workmanlike manner, consistent with industry standards, to resolve Defects in the Tyler Software (subject to any applicable release life cycle policy);

9.2 provide support during our established support hours;

9.3 maintain personnel that are sufficiently trained to be familiar with the Tyler Software and Third Party Software, if any, in order to provide maintenance and support services;

9.4 make available to you all releases to the Tyler Software (including updates and enhancements) that we make generally available without additional charge to customers who have a maintenance and support agreement in effect; and

9.5 provide non-Defect resolution support of prior releases of the Tyler Software in accordance with any applicable release life cycle policy.

We will use all reasonable efforts to perform support services remotely. Currently, we use a third-party secure unattended connectivity tool called Bomgar, as well as GotoAssist by Citrix. Therefore, you agree to maintain a high-speed internet connection capable of connecting us to your PCs and server(s). You agree to provide us with a login account and local administrative privileges as we may reasonably require to perform remote services. We will, at our option, use the secure connection to assist with proper diagnosis and resolution, subject to any reasonably applicable security protocols. If we cannot resolve a support issue remotely, we may be required to provide onsite services. In such event, we will be responsible for our travel expenses, unless it is determined that the reason onsite support was required was a reason outside our control. Either way, you agree to provide us with full and free access to the Tyler Software, working space, adequate facilities within a reasonable distance from the equipment, and use of machines, attachments, features, or other equipment reasonably necessary for us to provide the maintenance and support services, all at no charge to us. We strongly recommend that you also maintain your VPN for backup connectivity purposes.

For the avoidance of doubt, SaaS Fees do not include the following services: (a) onsite support (unless Tyler cannot remotely correct a Defect in the Tyler Software, as set forth above); (b) application design; (c) other consulting services; or (d) support outside our normal business hours as listed in our then-current Support Call Process. Requested services such as those outlined in this section will be billed to you on a time and materials basis at our then current rates. You must request those services with at least one (1) weeks' advance notice.

SECTION D – THIRD PARTY PRODUCTS

1. Third Party Hardware. We will sell, deliver, and install onsite the Third Party Hardware, if you have purchased any, for the price set forth in the Investment Summary. Those amounts are payable in accordance with our Invoicing and Payment Policy.
2. Third Party Software. As part of the SaaS Services, you will receive access to the Third Party Software and related documentation for internal business purposes only. Your rights to the Third Party Software will be governed by the Third Party Terms.
3. Third Party Products Warranties.
 - 3.1 We are authorized by each Developer to grant access to the Third Party Software.
 - 3.2 The Third Party Hardware will be new and unused, and upon payment in full, you will receive free and clear title to the Third Party Hardware.
 - 3.3 You acknowledge that we are not the manufacturer of the Third Party Products. We do not warrant or guarantee the performance of the Third Party Products. However, we grant and pass through to you any warranty that we may receive from the Developer or supplier of the Third Party Products.
4. Third Party Services. If you have purchased Third Party Services, those services will be provided independent of Tyler by such third-party at the rates set forth in the Investment Summary and in accordance with our Invoicing and Payment Policy.

SECTION E - INVOICING AND PAYMENT; INVOICE DISPUTES

1. Invoicing and Payment. We will invoice you the SaaS Fees and fees for other professional services in the Investment Summary per our Invoicing and Payment Policy, subject to Section E(2).
2. Invoice Disputes. If you believe any delivered software or service does not conform to the warranties in this Agreement, you will provide us with written notice within thirty (30) days of your receipt of the applicable invoice. The written notice must contain reasonable detail of the issues you contend are in dispute so that we can confirm the issue and respond to your notice with either a justification of the invoice, an adjustment to the invoice, or a proposal addressing the issues presented in your notice. We will work with you as may be necessary to develop an action plan that outlines reasonable steps to be taken by each of us to resolve any issues presented in your notice. You may withhold payment of the amount(s) actually in dispute, and only those amounts, until we complete the action items outlined in the plan. If we are unable to complete the action items outlined in the action plan because of your failure to complete the items agreed to be done by you, then you will remit full payment of the invoice. We reserve the right to suspend delivery of all SaaS Services, including maintenance and support services, if you fail to pay an invoice not disputed as described above within fifteen (15) days of notice of our intent to do so.

SECTION F – TERM AND TERMINATION

1. Term. The initial term of this Agreement is equal to the number of years indicated for SaaS Services in Exhibit A, commencing on the first day of the first month following the date Tyler makes the SaaS environment available to you, unless earlier terminated as set forth below. If no duration is indicated in Exhibit A, the initial term is one (1) year. Upon expiration of the initial term, this Agreement will renew automatically for additional one (1) year renewal terms at our then-current SaaS Fees unless terminated in writing by either party at least sixty (60) days prior to the end of the then-current renewal term. Your right to access or use the Tyler Software and the SaaS Services will terminate at the end of this Agreement.
2. Termination. This Agreement may be terminated as set forth below. In the event of termination, you will pay us for all undisputed fees and expenses related to the software, products, and/or services you have received, or we have incurred or delivered, prior to the effective date of termination. Disputed fees and expenses in all terminations other than your termination for cause must have been submitted as invoice disputes in accordance with Section E(2).
 - 2.1 Failure to Pay SaaS Fees. You acknowledge that continued access to the SaaS Services is contingent upon your timely payment of SaaS Fees. If you fail to timely pay the SaaS Fees, we may discontinue the SaaS Services and deny your access to the Tyler Software. We may also terminate this Agreement if you don't cure such failure to pay within forty-five (45) days of receiving written notice of our intent to terminate.
 - 2.2 For Cause. If you believe we have materially breached this Agreement, you will invoke the Dispute Resolution clause set forth in Section H(3). You may terminate this Agreement for cause in the event we do not cure, or create a mutually agreeable action plan to address, a material breach of this Agreement within the thirty (30) day window set forth in Section H(3).
 - 2.3 Force Majeure. Either party has the right to terminate this Agreement if a Force Majeure event suspends performance of the SaaS Services for a period of forty-five (45) days or more.
 - 2.4 Lack of Appropriations. If you should not appropriate or otherwise make available funds sufficient to utilize the SaaS Services, you may unilaterally terminate this Agreement upon thirty (30) days written notice to us. You will not be entitled to a refund or offset of previously paid, but unused SaaS Fees. You agree not to use termination for lack of appropriations as a substitute for termination for convenience.

SECTION G – INDEMNIFICATION, LIMITATION OF LIABILITY AND INSURANCE

1. Intellectual Property Infringement Indemnification.
 - 1.1 We will defend you against any third party claim(s) that the Tyler Software or Documentation infringes that third party's patent, copyright, or trademark, or misappropriates its trade secrets, and will pay the amount of any resulting adverse final judgment (or settlement to which we consent). You must notify us promptly in writing of the claim and give us sole control over its defense or settlement. You agree to provide us with reasonable assistance, cooperation, and information in defending the claim at our expense.

- 1.2 Our obligations under this Section G(1) will not apply to the extent the claim or adverse final judgment is based on your use of the Tyler Software in contradiction of this Agreement, including with non-licensed third parties, or your willful infringement.
- 1.3 If we receive information concerning an infringement or misappropriation claim related to the Tyler Software, we may, at our expense and without obligation to do so, either: (a) procure for you the right to continue its use; (b) modify it to make it non-infringing; or (c) replace it with a functional equivalent, in which case you will stop running the allegedly infringing Tyler Software immediately. Alternatively, we may decide to litigate the claim to judgment, in which case you may continue to use the Tyler Software consistent with the terms of this Agreement.
- 1.4 If an infringement or misappropriation claim is fully litigated and your use of the Tyler Software is enjoined by a court of competent jurisdiction, in addition to paying any adverse final judgment (or settlement to which we consent), we will, at our option, either: (a) procure the right to continue its use; (b) modify it to make it non-infringing; or (c) replace it with a functional equivalent. This section provides your exclusive remedy for third party copyright, patent, or trademark infringement and trade secret misappropriation claims.

2. General Indemnification.

- 2.1 We will indemnify and hold harmless you and your agents, officials, and employees from and against any and all third-party claims, losses, liabilities, damages, costs, and expenses (including reasonable attorney's fees and costs) for (a) personal injury or property damage to the extent caused by our negligence or willful misconduct; or (b) our violation of PCI-DSS requirements or a law applicable to our performance under this Agreement. You must notify us promptly in writing of the claim and give us sole control over its defense or settlement. You agree to provide us with reasonable assistance, cooperation, and information in defending the claim at our expense.
- 2.2 To the extent permitted by applicable law, you will indemnify and hold harmless us and our agents, officials, and employees from and against any and all third-party claims, losses, liabilities, damages, costs, and expenses (including reasonable attorney's fees and costs) for personal injury or property damage to the extent caused by your negligence or willful misconduct; or (b) your violation of a law applicable to your performance under this Agreement. We will notify you promptly in writing of the claim and will give you sole control over its defense or settlement. We agree to provide you with reasonable assistance, cooperation, and information in defending the claim at your expense.

3. **DISCLAIMER. EXCEPT FOR THE EXPRESS WARRANTIES PROVIDED IN THIS AGREEMENT AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WE HEREBY DISCLAIM ALL OTHER WARRANTIES AND CONDITIONS, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES, DUTIES, OR CONDITIONS OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. CLIENT UNDERSTANDS AND AGREES THAT TYLER DISCLAIMS ANY LIABILITY FOR ERRORS THAT RELATE TO USER ERROR.**
4. **LIMITATION OF LIABILITY. EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT, OUR LIABILITY FOR DAMAGES ARISING OUT OF THIS AGREEMENT, WHETHER BASED ON A THEORY OF CONTRACT OR TORT, INCLUDING NEGLIGENCE AND STRICT LIABILITY, SHALL BE LIMITED TO**

YOUR ACTUAL DIRECT DAMAGES, NOT TO EXCEED (A) DURING THE INITIAL TERM, AS SET FORTH IN SECTION F(1), TOTAL FEES PAID AS OF THE TIME OF THE CLAIM; OR (B) DURING ANY RENEWAL TERM, THE THEN-CURRENT ANNUAL SAAS FEES PAYABLE IN THAT RENEWAL TERM. THE PARTIES ACKNOWLEDGE AND AGREE THAT THE PRICES SET FORTH IN THIS AGREEMENT ARE SET IN RELIANCE UPON THIS LIMITATION OF LIABILITY AND TO THE MAXIMUM EXTENT ALLOWED UNDER APPLICABLE LAW, THE EXCLUSION OF CERTAIN DAMAGES, AND EACH SHALL APPLY REGARDLESS OF THE FAILURE OF AN ESSENTIAL PURPOSE OF ANY REMEDY. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO CLAIMS THAT ARE SUBJECT TO SECTIONS G(1) AND G(2).

5. **EXCLUSION OF CERTAIN DAMAGES.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL WE BE LIABLE FOR ANY SPECIAL, INCIDENTAL, PUNITIVE, INDIRECT, OR CONSEQUENTIAL DAMAGES WHATSOEVER, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

6. Insurance. During the course of performing services under this Agreement, we agree to maintain the following levels of insurance: (a) Commercial General Liability of at least \$1,000,000; (b) Automobile Liability of at least \$1,000,000; (c) Professional Liability of at least \$1,000,000; (d) Workers Compensation complying with applicable statutory requirements; and (e) Excess/Umbrella Liability of at least \$5,000,000. We will add you as an additional insured to our Commercial General Liability and Automobile Liability policies, which will automatically add you as an additional insured to our Excess/Umbrella Liability policy as well. We will provide you with copies of certificates of insurance upon your written request.

SECTION H – GENERAL TERMS AND CONDITIONS

1. Additional Products and Services. You may purchase additional products and services at the rates set forth in the Investment Summary for twelve (12) months from the Effective Date by executing a mutually agreed addendum. If no rate is provided in the Investment Summary, or those twelve (12) months have expired, you may purchase additional products and services at our then-current list price, also by executing a mutually agreed addendum. The terms of this Agreement will control any such additional purchase(s), unless otherwise specifically provided in the addendum.

2. Optional Items. Pricing for any listed optional products and services in the Investment Summary will be valid for twelve (12) months from the Effective Date.

3. Dispute Resolution. You agree to provide us with written notice within thirty (30) days of becoming aware of a dispute. You agree to cooperate with us in trying to reasonably resolve all disputes, including, if requested by either party, appointing a senior representative to meet and engage in good faith negotiations with our appointed senior representative. Senior representatives will convene within thirty (30) days of the written dispute notice, unless otherwise agreed. All meetings and discussions between senior representatives will be deemed confidential settlement discussions not subject to disclosure under Federal Rule of Evidence 408 or any similar applicable state rule. If we fail to resolve the dispute, then the parties shall participate in non-binding mediation in an effort to resolve the dispute. If the dispute remains unresolved after mediation, then either of us may assert our respective rights and remedies in a court of competent jurisdiction. Nothing in this section shall prevent you or us from seeking necessary injunctive relief during the dispute resolution procedures.

4. Taxes. The fees in the Investment Summary do not include any taxes, including, without limitation, sales, use, or excise tax. If you are a tax-exempt entity, you agree to provide us with a tax-exempt certificate. Otherwise, we will pay all applicable taxes to the proper authorities and you will reimburse us for such taxes. If you have a valid direct-pay permit, you agree to provide us with a copy. For clarity, we are responsible for paying our income taxes, both federal and state, as applicable, arising from our performance of this Agreement.
5. Nondiscrimination. We will not discriminate against any person employed or applying for employment concerning the performance of our responsibilities under this Agreement. This discrimination prohibition will apply to all matters of initial employment, tenure, and terms of employment, or otherwise with respect to any matter directly or indirectly relating to employment concerning race, color, religion, national origin, age, sex, sexual orientation, ancestry, disability that is unrelated to the individual's ability to perform the duties of a particular job or position, height, weight, marital status, or political affiliation. We will post, where appropriate, all notices related to nondiscrimination as may be required by applicable law.
6. E-Verify. We have complied, and will comply, with the E-Verify procedures administered by the U.S. Citizenship and Immigration Services Verification Division for all of our employees assigned to your project.
7. Subcontractors. We will not subcontract any services under this Agreement without your prior written consent, not to be unreasonably withheld.
8. Binding Effect; No Assignment. This Agreement shall be binding on, and shall be for the benefit of, either your or our successor(s) or permitted assign(s). Neither party may assign this Agreement without the prior written consent of the other party; provided, however, your consent is not required for an assignment by us as a result of a corporate reorganization, merger, acquisition, or purchase of substantially all of our assets.
9. Force Majeure. Except for your payment obligations, neither party will be liable for delays in performing its obligations under this Agreement to the extent that the delay is caused by Force Majeure; provided, however, that within ten (10) business days of the Force Majeure event, the party whose performance is delayed provides the other party with written notice explaining the cause and extent thereof, as well as a request for a reasonable time extension equal to the estimated duration of the Force Majeure event.
10. No Intended Third Party Beneficiaries. This Agreement is entered into solely for the benefit of you and us. No third party will be deemed a beneficiary of this Agreement, and no third party will have the right to make any claim or assert any right under this Agreement. This provision does not affect the rights of third parties under any Third Party Terms.
11. Entire Agreement; Amendment. This Agreement represents the entire agreement between you and us with respect to the subject matter hereof, and supersedes any prior agreements, understandings, and representations, whether written, oral, expressed, implied, or statutory. Purchase orders submitted by you, if any, are for your internal administrative purposes only, and the terms and conditions contained in those purchase orders will have no force or effect. This Agreement may only be modified by a written amendment signed by an authorized representative of each party.

12. Severability. If any term or provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement will be considered valid and enforceable to the fullest extent permitted by law.
13. No Waiver. In the event that the terms and conditions of this Agreement are not strictly enforced by either party, such non-enforcement will not act as or be deemed to act as a waiver or modification of this Agreement, nor will such non-enforcement prevent such party from enforcing each and every term of this Agreement thereafter.
14. Independent Contractor. We are an independent contractor for all purposes under this Agreement.
15. Notices. All notices or communications required or permitted as a part of this Agreement, such as notice of an alleged material breach for a termination for cause or a dispute that must be submitted to dispute resolution, must be in writing and will be deemed delivered upon the earlier of the following: (a) actual receipt by the receiving party; (b) upon receipt by sender of a certified mail, return receipt signed by an employee or agent of the receiving party; (c) upon receipt by sender of proof of email delivery; or (d) if not actually received, five (5) days after deposit with the United States Postal Service authorized mail center with proper postage (certified mail, return receipt requested) affixed and addressed to the other party at the address set forth on the signature page hereto or such other address as the party may have designated by proper notice. The consequences for the failure to receive a notice due to improper notification by the intended receiving party of a change in address will be borne by the intended receiving party.
16. Client Lists. You agree that we may identify you by name in client lists, marketing presentations, and promotional materials.
17. Confidentiality. Both parties recognize that their respective employees and agents, in the course of performance of this Agreement, may be exposed to confidential information and that disclosure of such information could violate rights to private individuals and entities, including the parties. Confidential information is nonpublic information that a reasonable person would believe to be confidential and includes, without limitation, personal identifying information (*e.g.*, social security numbers) and trade secrets, each as defined by applicable state law. Each party agrees that it will not disclose any confidential information of the other party and further agrees to take all reasonable and appropriate action to prevent such disclosure by its employees or agents. The confidentiality covenants contained herein will survive the termination or cancellation of this Agreement. This obligation of confidentiality will not apply to information that:
 - (a) is in the public domain, either at the time of disclosure or afterwards, except by breach of this Agreement by a party or its employees or agents;
 - (b) a party can establish by reasonable proof was in that party's possession at the time of initial disclosure;
 - (c) a party receives from a third party who has a right to disclose it to the receiving party; or
 - (d) is the subject of a legitimate disclosure request under the open records laws or similar applicable public disclosure laws governing this Agreement; provided, however, that in the event you receive an open records or other similar applicable request, you will give us prompt notice and otherwise perform the functions required by applicable law.

18. Quarantining of Client Data. Some services provided by Tyler require us to be in possession of your Data. In the event we detect malware or other conditions associated with your Data that are reasonably suspected of putting Tyler resources or other Tyler clients' data at risk, we reserve the absolute right to move your Data from its location within a multi-tenancy Tyler hosted environment to an isolated "quarantined" environment without advance notice. Your Data will remain in such quarantine for a period of at least six (6) months during which time we will review the Data, and all traffic associated with the Data, for signs of malware or other similar issues. If no issues are detected through such reviews during the six (6) month period of quarantine, we will coordinate with you the restoration of your Data to a non-quarantined environment. In the event your Data must remain in quarantine beyond this six (6) month period through no fault of Tyler's, we reserve the right to require payment of additional fees for the extended duration of quarantine. We will provide an estimate of what those costs will be upon your request.
19. Business License. In the event a local business license is required for us to perform services hereunder, you will promptly notify us and provide us with the necessary paperwork and/or contact information so that we may timely obtain such license.
20. Governing Law. This Agreement will be governed by and construed in accordance with the laws of your state of domicile, without regard to its rules on conflicts of law.
21. Multiple Originals and Authorized Signatures. This Agreement may be executed in multiple originals, any of which will be independently treated as an original document. Any electronic, faxed, scanned, photocopied, or similarly reproduced signature on this Agreement or any amendment hereto will be deemed an original signature and will be fully enforceable as if an original signature. Each party represents to the other that the signatory set forth below is duly authorized to bind that party to this Agreement.
22. Cooperative Procurement. To the maximum extent permitted by applicable law, we agree that this Agreement may be used as a cooperative procurement vehicle by eligible jurisdictions. We reserve the right to negotiate and customize the terms and conditions set forth herein, including but not limited to pricing, to the scope and circumstances of that cooperative procurement.
23. Data & Insights Solution Terms. Your use of certain Tyler solutions includes Tyler's Data & Insights data platform. Your rights, and the rights of any of your end users, to use Tyler's Data & Insights data platform is subject to the Data & Insights SaaS Services Terms of Service, available at <https://www.tylertech.com/terms/data-insights-saas-services-terms-of-service>. By signing a Tyler Agreement or Order Form, or accessing, installing, or using any of the Tyler solutions listed at the linked terms, you certify that you have reviewed, understand, and agree to said terms.
24. Contract Documents. This Agreement includes the following exhibits:

- | | |
|-----------|--|
| Exhibit A | Investment Summary |
| Exhibit B | Invoicing and Payment Policy
Schedule 1: Business Travel Policy |
| Exhibit C | Service Level Agreement
Schedule 1: Support Call Process |

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, a duly authorized representative of each party has executed this Agreement as of the date(s) set forth below.

Tyler Technologies, Inc.

City of Tomball, TX

By: _____

By: David Esquivel

Name: _____

Name: David Esquivel

Title: _____

Title: City Manager

Date: _____

Date: 01/06/23

Address for Notices:

Tyler Technologies, Inc.
One Tyler Drive
Yarmouth, ME 04096
Attention: Chief Legal Officer

Address for Notices:

City of Tomball
401 Market Street; Suite C
Tomball, TX 77375
Attention: Doug Tippey



Exhibit A Investment Summary

The following Investment Summary details the software and services to be delivered by us to you under the Agreement. This Investment Summary is effective as of the Effective Date, despite any expiration date in the Investment Summary that may have lapsed as of the Effective Date. Capitalized terms not otherwise defined will have the meaning assigned to such terms in the Agreement. In the event of conflict between the Agreement and terms in the Comments section of this Investment Summary, the language in the Agreement will prevail.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

Quoted By:
 Quote Expiration:
 Quote Name:

DK Robertson
 07/03/23
 SaaS Flip



Sales Quotation For:

City of Tomball
 401 Market St Ste C
 Tomball TX 77375-4697
 Doug Tippey
 +1 (281) 290-1407
 dtippey@tomballtx.gov

Tyler Annual Software – SaaS

Description	Annual
ERP Pro powered by Incode	
ERP Pro 10 Financial Management Suite	
Core Financials	\$ 20,054
Applicant Tracking Interface	\$ 0
Electronic Time Clock Interface	\$ 667
Fixed Assets	\$ 1,964
Inventory Control	\$ 3,606
Human Resources Management (Includes Position Budgeting)	\$ 9,454
Employee Access Pro	\$ 0

Project Accounting	\$ 3,935
Purchasing	\$ 5,156
Accounts Receivable	\$ 3,435
ERP Pro 9 Financial Management Suite	
Work Orders	\$ 4,558
ERP Pro 10 Customer Relationship Management Suite	
Utility Billing Water/Gas	\$ 14,432
Additional Handheld Meter-Reader Interface	\$ 933
Cashiering	\$ 4,327
Meter Data Sync with Scheduler	\$ 3,815
Third-Party Printing Interface	\$ 3,693
ERP Pro 9 Customer Relationship Management Suite	
Additional Handheld Meter-Reader Interface	\$ 1,211
Call Center	\$ 3,959
Building Projects	\$ 2,378
Municipal Justice 9 Suite	
Civil Case Manager	\$ 2,834
Municipal Justice powered by Incode	
Municipal Justice 9 Suite	
Collection Agency Export Interface	\$ 1,322
Criminal Case Manager	\$ 10,485
Citation Issuing Device Third-Party Interface	\$ 2,385
Court to Police Third-Party Interface	\$ 2,448
Tyler One	
Content Manager Suite	
Core	\$ 3,426

TOTAL:

\$ 110,477

Summary

Total SaaS

Total Tyler Services

Summary Total

Contract Total

One Time Fees

\$ 0

\$ 110,477

Recurring Fees

\$ 110,477

\$ 110,477

Comments

2023-379229-F6C1C9

- Work will be delivered remotely unless otherwise noted in this agreement.
- Expenses associated with onsite services are invoiced as incurred according to Tyler's standard business travel policy.

SaaS is considered a term of one year unless otherwise indicated.

Cashiering supports credit/debit cards via ETS, includes PCI Compliant, a cash collection interface, a cashiering receipt import)

Core Financials includes general ledger, budget prep, bank recon, AP, CellSense, a standard forms pkg, output director, positive pay, secure signatures.

Utility CIS System includes collections, tax lien process and import, a standard forms pkg., output director and one Utility handheld meter-reader interface.

Client agrees that items in this sales quotation are, upon Client's signature or approval of same, hereby added to the existing agreement ("Agreement") between the parties and subject to its terms. Additionally, payment for said items, as applicable but subject to any listed assumptions herein, shall conform to the following terms, subject to payment terms in an agreement, amendment, or similar document in which this sales quotation is included:

- License fees for Tyler and third-party software are invoiced upon the earlier of (i) delivery of the license key or (ii) when Tyler makes such software available accessible.
- Fees for hardware are invoiced upon delivery.
- Fees for year one of hardware maintenance are invoiced upon delivery of the hardware.
- Annual Maintenance and Support fees, SaaS fees, Hosting fees, and Subscription fees are first payable when Tyler makes the software accessible to the Client (for Maintenance) or on the first day of the month following the date this quotation was signed (for SaaS, Hosting, and Subscription), and any such fees are prorated to align with the applicable term under the agreement, with renewals invoiced annually thereafter in accord with the Agreement.
- Fees for services included in this sales quotation shall be invoiced as indicated below.
 - o Implementation and other professional services fees shall be invoiced as delivered.
 - o Fixed-fee Business Process Consulting services shall be invoiced 50% upon delivery of the Best Practice Recommendations, by module, and 50% upon delivery of custom desktop procedures, by module.
 - o Fixed-fee conversions are invoiced 50% upon initial delivery of the converted data, by conversion option, and 50% upon Client acceptance to load the converted data into Live/Production environment, by conversion option. Where conversions are quoted as estimated, Tyler will invoice Client the actual services delivered on a time and materials basis.
 - o Except as otherwise provided, other fixed price services are invoiced upon complete delivery of the service. For the avoidance of doubt, where "Project Planning Services" are provided, payment shall be invoiced upon delivery of the Implementation Planning document. Dedicated Project

Management services, if any, will be invoiced monthly in arrears, beginning on the first day of the month immediately following initiation of project planning.

o If Client has purchased any change management services, those services will be invoiced in accordance with the Agreement.

o Notwithstanding anything to the contrary stated above, the following payment terms shall apply to fees specifically for migrations: Tyler will invoice Client 50% of any Migration Services Fees listed above upon Client approval of the product suite migration schedule. The remaining 50%, by line item, will be billed upon the go-live of the applicable product suite. Tyler will invoice Client for any Project Management Fees listed above upon the go-live of the first product suite. Annual SaaS Fees will be invoiced upon availability of the hosted environment.

Any SaaS or hosted solutions added to an agreement containing Client-hosted Tyler solutions are subject to Tyler’s SaaS Services terms found here: <https://www.tylertech.com/terms/tyler-saas-services>.

Unless otherwise indicated in the contract or amendment thereto, pricing for optional items will be held For six (6) months from the Quote date or the Effective Date of the Contract, whichever is later.

Customer Approval: David Esquivel Date: 01/06/23
Print Name: David Esquivel P.O.#: _____



Exhibit B

Invoicing and Payment Policy

We will provide you with the software and services set forth in the Investment Summary of the Agreement. Capitalized terms not otherwise defined will have the meaning assigned to such terms in the Agreement.

Invoicing: We will invoice you for the applicable software and services in the Investment Summary as set forth below. Your rights to dispute any invoice are set forth in the Agreement.

1. **SaaS Fees.** SaaS Fees are invoiced on an annual basis, beginning on the commencement of the initial term as set forth in Section F (1) of this Agreement. Your annual SaaS fees for the initial term are set forth in the Investment Summary. Upon expiration of the initial term, your annual SaaS fees will be at our then-current rates.
2. **Other Tyler Software and Services.**
 - 2.1 *VPN Device:* The fee for the VPN device will be invoiced upon installation of the VPN.
 - 2.2 *Implementation and Other Professional Services (including training):* Implementation and other professional services (including training) are billed and invoiced as delivered, at the rates set forth in the Investment Summary.
 - 2.3 *Consulting Services:* If you have purchased any Business Process Consulting services, if they have been quoted as fixed-fee services, they will be invoiced 50% upon your acceptance of the best practice recommendations, by module, and 50% upon your acceptance of custom desktop procedures, by module. If you have purchased any Business Process Consulting services and they are quoted as an estimate, then we will bill you the actual services delivered on a time and materials basis.
 - 2.4 *Conversions:* Fixed-fee conversions are invoiced 50% upon initial delivery of the converted Data, by conversion option, and 50% upon Client acceptance to load the converted Data into Live/Production environment, by conversion option. Where conversions are quoted as estimated, we will bill you the actual services delivered on a time and materials basis.
 - 2.5 *Requested Modifications to the Tyler Software:* Requested modifications to the Tyler Software are invoiced 50% upon delivery of specifications and 50% upon delivery of the applicable modification. You must report any failure of the modification to conform to the specifications within thirty (30) days of delivery; otherwise, the modification will be deemed to be in compliance with the specifications after the 30-day window has passed. You may still report Defects to us as set forth in this Agreement.

- 2.6 *Other Fixed Price Services*: Other fixed price services are invoiced as delivered, at the rates set forth in the Investment Summary. For the avoidance of doubt, where “Project Planning Services” are provided, payment will be due upon delivery of the Implementation Planning document. Dedicated Project Management services, if any, will be billed monthly in arrears, beginning on the first day of the month immediately following initiation of project planning.
- 2.7 *Annual Services*: Unless otherwise indicated in this Exhibit B, fees for annual services are due annually, in advance, commencing on the availability of the service. Your annual fees for the initial term are set forth in the Investment Summary. Upon expiration of the initial term, your annual fees will be at our then-current rates.
3. Third Party Products.
- 3.1 *Third Party Software License Fees*: License fees for Third Party Software, if any, are invoiced when we make it available to you for downloading.
- 3.2 *Third Party Software Maintenance*: The first year maintenance for the Third Party Software is invoiced when we make it available to you for downloading.
- 3.3 *Third Party Hardware*: Third Party Hardware costs, if any, are invoiced upon delivery.
- 3.4 *Third Party Services*: Fees for Third Party Services, if any, are invoiced as delivered, along with applicable expenses, at the rates set forth in the Investment Summary.
- 3.5 *Third Party SaaS*: Third Party SaaS Services fees, if any, are invoiced annually, in advance, commencing with availability of the respective Third Party SaaS Services. Pricing for the first year of Third Party SaaS Services is indicated in the Investment Summary. Pricing for subsequent years will be at the respective third party’s then-current rates.
4. Transaction Fees. Unless paid directly by an end user at the time of transaction, per transaction (call, message, etc.) fees are invoiced on a quarterly basis. Fees are indicated in Exhibit A and may be increased by Tyler upon notice of no less than thirty (30) days.
5. Expenses. The service rates in the Investment Summary do not include travel expenses. Expenses for Tyler delivered services will be billed as incurred and only in accordance with our then-current Business Travel Policy, plus a 10% travel agency processing fee. Our current Business Travel Policy is attached to this Exhibit B as Schedule 1. Copies of receipts will be provided upon request; we reserve the right to charge you an administrative fee depending on the extent of your requests. Receipts for miscellaneous items less than twenty-five dollars and mileage logs are not available.
6. Credit for Prepaid Maintenance and Support Fees for Tyler Software. Client will receive a credit for the maintenance and support fees prepaid for the Tyler Software for the time period commencing on the first day of the SaaS Term.

Payment. Payment for undisputed invoices is due within forty-five (45) days of the invoice date. We prefer to receive payments electronically. Our electronic payment information is available by contacting AR@tylertech.com.



Exhibit B
Schedule 1
Business Travel Policy

1. Air Travel

A. Reservations & Tickets

The Travel Management Company (TMC) used by Tyler will provide an employee with a direct flight within two hours before or after the requested departure time, assuming that flight does not add more than three hours to the employee's total trip duration and the fare is within \$100 (each way) of the lowest logical fare. If a net savings of \$200 or more (each way) is possible through a connecting flight that is within two hours before or after the requested departure time and that does not add more than three hours to the employee's total trip duration, the connecting flight should be accepted.

Employees are encouraged to make advanced reservations to take full advantage of discount opportunities. Employees should use all reasonable efforts to make travel arrangements at least two (2) weeks in advance of commitments. A seven (7) day advance booking requirement is mandatory. When booking less than seven (7) days in advance, management approval will be required.

Except in the case of international travel where a segment of continuous air travel is six (6) or more consecutive hours in length, only economy or coach class seating is reimbursable. Employees shall not be reimbursed for "Basic Economy Fares" because these fares are non-refundable and have many restrictions that outweigh the cost-savings.

B. Baggage Fees

Reimbursement of personal baggage charges are based on trip duration as follows:

- Up to five (5) days = one (1) checked bag
- Six (6) or more days = two (2) checked bags

Baggage fees for sports equipment are not reimbursable.

2. Ground Transportation

A. Private Automobile

Mileage Allowance – Business use of an employee’s private automobile will be reimbursed at the current IRS allowable rate, plus out of pocket costs for tolls and parking. Mileage will be calculated by using the employee’s office as the starting and ending point, in compliance with IRS regulations. Employees who have been designated a home office should calculate miles from their home.

B. Rental Car

Employees are authorized to rent cars only in conjunction with air travel when cost, convenience, and the specific situation reasonably require their use. When renting a car for Tyler business, employees should select a “mid-size” or “intermediate” car. “Full” size cars may be rented when three or more employees are traveling together. Tyler carries leased vehicle coverage for business car rentals; except for employees traveling to Alaska and internationally (excluding Canada), additional insurance on the rental agreement should be declined.

C. Public Transportation

Taxi or airport limousine services may be considered when traveling in and around cities or to and from airports when less expensive means of transportation are unavailable or impractical. The actual fare plus a reasonable tip (15-18%) are reimbursable. In the case of a free hotel shuttle to the airport, tips are included in the per diem rates and will not be reimbursed separately.

D. Parking & Tolls

When parking at the airport, employees must use longer term parking areas that are measured in days as opposed to hours. Park and fly options located near some airports may also be used. For extended trips that would result in excessive parking charges, public transportation to/from the airport should be considered. Tolls will be reimbursed when receipts are presented.

3. Lodging

Tyler’s TMC will select hotel chains that are well established, reasonable in price, and conveniently located in relation to the traveler’s work assignment. Typical hotel chains include Courtyard, Fairfield Inn, Hampton Inn, and Holiday Inn Express. If the employee has a discount rate with a local hotel, the hotel reservation should note that discount and the employee should confirm the lower rate with the hotel upon arrival. Employee memberships in travel clubs such as AAA should be noted in their travel profiles so that the employee can take advantage of any lower club rates.

“No shows” or cancellation fees are not reimbursable if the employee does not comply with the hotel’s cancellation policy.

Tips for maids and other hotel staff are included in the per diem rate and are not reimbursed separately.

Employees are not authorized to reserve non-traditional short-term lodging, such as Airbnb, VRBO, and HomeAway. Employees who elect to make such reservations shall not be reimbursed.

4. Meals and Incidental Expenses

Employee meals and incidental expenses while on travel status within the continental U.S. are in accordance with the federal per diem rates published by the General Services Administration. Incidental expenses include tips to maids, hotel staff, and shuttle drivers and other minor travel expenses. Per diem rates are available at www.gsa.gov/perdiem.

Per diem for Alaska, Hawaii, U.S. protectorates and international destinations are provided separately by the Department of State and will be determined as required.

A. Overnight Travel

For each full day of travel, all three meals are reimbursable. Per diems on the first and last day of a trip are governed as set forth below.

Departure Day

Depart before 12:00 noon	Lunch and dinner
Depart after 12:00 noon	Dinner

Return Day

Return before 12:00 noon	Breakfast
Return between 12:00 noon & 7:00 p.m.	Breakfast and lunch
Return after 7:00 p.m.*	Breakfast, lunch and dinner

*7:00 p.m. is defined as direct travel time and does not include time taken to stop for dinner.

The reimbursement rates for individual meals are calculated as a percentage of the full day per diem as follows:

Breakfast	15%
Lunch	25%
Dinner	60%

B. Same Day Travel

Employees traveling at least 100 miles to a site and returning in the same day are eligible to claim lunch on an expense report. Employees on same day travel status are eligible to claim dinner in the event they return home after 7:00 p.m.*

*7:00 p.m. is defined as direct travel time and does not include time taken to stop for dinner.

5. Internet Access – Hotels and Airports

Employees who travel may need to access their e-mail at night. Many hotels provide free high speed internet access and Tyler employees are encouraged to use such hotels whenever possible. If an employee's hotel charges for internet access it is reimbursable up to \$10.00 per day. Charges for internet access at airports are not reimbursable.

6. International Travel

All international flights with the exception of flights between the U.S. and Canada should be reserved through TMC using the "lowest practical coach fare" with the exception of flights that are six (6) or more consecutive hours in length. In such event, the next available seating class above coach shall be reimbursed.

When required to travel internationally for business, employees shall be reimbursed for photo fees, application fees, and execution fees when obtaining a new passport book, but fees related to passport renewals are not reimbursable. Visa application and legal fees, entry taxes and departure taxes are reimbursable.

The cost of vaccinations that are either required for travel to specific countries or suggested by the U.S. Department of Health & Human Services for travel to specific countries, is reimbursable.

Section 4, Meals & Incidental Expenses, and Section 2.b., Rental Car, shall apply to this section.



Exhibit C Service Level Agreement

I. Agreement Overview

This SLA operates in conjunction with, and does not supersede or replace any part of, the Agreement. It outlines the information technology service levels that we will provide to you to ensure the availability of the application services that you have requested us to provide. This SLA does not apply to any Third Party SaaS Services. All other support services are documented in the Support Call Process.

II. Definitions. Except as defined below, all defined terms have the meaning set forth in the Agreement.

Actual Attainment: The percentage of time the Tyler Software is available during a calendar quarter, calculated as follows: $(\text{Service Availability} - \text{Downtime}) \div \text{Service Availability}$.

Client Error Incident: Any service unavailability resulting from your applications, content or equipment, or the acts or omissions of any of your service users or third-party providers over whom we exercise no control.

Downtime: Those minutes during Service Availability, as defined below, when all users cannot launch, login, search or save primary data in the Tyler Software. Downtime does not include those instances in which only a Defect is present.

Emergency Maintenance: (1) maintenance that is required to patch a critical security vulnerability; (2) maintenance that is required to prevent an imminent outage of Service Availability; or (3) maintenance that is mutually agreed upon in writing by Tyler and the Client.

Planned Downtime: Downtime that occurs during a Standard or Emergency Maintenance window.

Service Availability: The total number of minutes in a calendar quarter that the Tyler Software is capable of receiving, processing, and responding to requests, excluding Planned Downtime, Client Error Incidents, denial of service attacks and Force Majeure.

Standard Maintenance: Routine maintenance to the Tyler Software and infrastructure. Standard Maintenance is limited to five (5) hours per week.

III. **Service Availability**

a. Your Responsibilities

Whenever you experience Downtime, you must make a support call according to the procedures outlined in the Support Call Process. You will receive a support case number.

b. Our Responsibilities

When our support team receives a call from you that Downtime has occurred or is occurring, we will work with you to identify the cause of the Downtime (including whether it may be the result of Planned

Downtime, a Client Error Incident, Denial of Service attack or Force Majeure). We will also work with you to resume normal operations.

c. Client Relief

Our targeted Attainment Goal is 100%. You may be entitled to credits as indicated in the Client Relief Schedule found below. Your relief credit is calculated as a percentage of the SaaS fees paid for the calendar quarter.

In order to receive relief credits, you must submit a request through one of the channels listed in our Support Call Process within fifteen days (15) of the end of the applicable quarter. We will respond to your relief request within thirty (30) day(s) of receipt.

The total credits confirmed by us will be applied to the SaaS Fee for the next billing cycle. Issuing of such credit does not relieve us of our obligations under the Agreement to correct the problem which created the service interruption.

Client Relief Schedule	
Actual Attainment	Client Relief
99.99% - 98.00%	Remedial action will be taken
97.99% - 95.00%	4%
Below 95.00%	5%

IV. Maintenance Notifications

We perform Standard Maintenance during limited windows that are historically known to be reliably low-traffic times. If and when maintenance is predicted to occur during periods of higher traffic, we will provide advance notice of those windows and will coordinate to the greatest extent possible with you.

Not all maintenance activities will cause application unavailability. However, if Tyler anticipates that activities during a Standard or Emergency Maintenance window may make the Tyler Software unavailable, we will provide advance notice, as reasonably practicable that the Tyler Software will be unavailable during the maintenance window.



Exhibit C Schedule 1 Support Call Process

Support Channels

Tyler Technologies, Inc. provides the following channels of software support for authorized users*:

- (1) On-line submission (portal) – for less urgent and functionality-based questions, users may create support incidents through the Tyler Customer Portal available at the Tyler Technologies website. A built-in Answer Panel provides users with resolutions to most “how-to” and configuration-based questions through a simplified search interface with machine learning, potentially eliminating the need to submit the support case.
- (2) Email – for less urgent situations, users may submit emails directly to the software support group.
- (3) Telephone – for urgent or complex questions, users receive toll-free, telephone software support.

** Channel availability may be limited for certain applications.*

Support Resources

A number of additional resources are available to provide a comprehensive and complete support experience:

- (1) Tyler Website – www.tylertech.com – for accessing client tools, documentation, and other information including support contact information.
- (2) Tyler Search -a knowledge based search engine that lets you search multiple sources simultaneously to find the answers you need, 24x7.
- (3) Tyler Community –provides a venue for all Tyler clients with current maintenance agreements to collaborate with one another, share best practices and resources, and access documentation.
- (4) Tyler University – online training courses on Tyler products.

Support Availability

Tyler Technologies support is available during the local business hours of 8 AM to 5 PM (Monday – Friday) across four US time zones (Pacific, Mountain, Central and Eastern). Tyler’s holiday schedule is outlined below. There will be no support coverage on these days.

New Year’s Day	Labor Day
Martin Luther King, Jr. Day	Thanksgiving Day
Memorial Day	Day after Thanksgiving
Independence Day	Christmas Day

For support teams that provide after-hours service, we will provide you with procedures for contacting support staff after normal business hours for reporting Priority Level 1 Defects only. Upon receipt of

such a Defect notification, we will use commercially reasonable efforts to meet the resolution targets set forth below.

We will also make commercially reasonable efforts to be available for one pre-scheduled Saturday of each month to assist your IT staff with applying patches and release upgrades, as well as consulting with them on server maintenance and configuration of the Tyler Software environment.

Incident Handling

Incident Tracking

Every support incident is logged into Tyler’s Customer Relationship Management System and given a unique case number. This system tracks the history of each incident. The case number is used to track and reference open issues when clients contact support. Clients may track incidents, using the case number, through Tyler’s Customer Portal or by calling software support directly.

Incident Priority

Each incident is assigned a priority level, which corresponds to the Client’s needs. Tyler and the Client will reasonably set the priority of the incident per the chart below. This chart is not intended to address every type of support incident, and certain “characteristics” may or may not apply depending on whether the Tyler software has been deployed on customer infrastructure or the Tyler cloud. The goal is to help guide the Client towards clearly understanding and communicating the importance of the issue and to describe generally expected response and resolution targets in the production environment only.

References to a “confirmed support incident” mean that Tyler and the Client have successfully validated the reported Defect/support incident.

Priority Level	Characteristics of Support Incident	Resolution Targets*
1 Critical	Support incident that causes (a) complete application failure or application unavailability; (b) application failure or unavailability in one or more of the client’s remote location; or (c) systemic loss of multiple essential system functions.	Tyler shall provide an initial response to Priority Level 1 incidents within one (1) business hour of receipt of the incident. Once the incident has been confirmed, Tyler shall use commercially reasonable efforts to resolve such support incidents or provide a circumvention procedure within one (1) business day. For non-hosted customers, Tyler’s responsibility for lost or corrupted data is limited to assisting the Client in restoring its last available database.

Priority Level	Characteristics of Support Incident	Resolution Targets*
2 High	Support incident that causes (a) repeated, consistent failure of essential functionality affecting more than one user or (b) loss or corruption of data.	Tyler shall provide an initial response to Priority Level 2 incidents within four (4) business hours of receipt of the incident. Once the incident has been confirmed, Tyler shall use commercially reasonable efforts to resolve such support incidents or provide a circumvention procedure within ten (10) business days. For non-hosted customers, Tyler's responsibility for loss or corrupted data is limited to assisting the Client in restoring its last available database.
3 Medium	Priority Level 1 incident with an existing circumvention procedure, or a Priority Level 2 incident that affects only one user or for which there is an existing circumvention procedure.	Tyler shall provide an initial response to Priority Level 3 incidents within one (1) business day of receipt of the incident. Once the incident has been confirmed, Tyler shall use commercially reasonable efforts to resolve such support incidents without the need for a circumvention procedure with the next published maintenance update or service pack, which shall occur at least quarterly. For non-hosted customers, Tyler's responsibility for lost or corrupted data is limited to assisting the Client in restoring its last available database.
4 Non-critical	Support incident that causes failure of non-essential functionality or a cosmetic or other issue that does not qualify as any other Priority Level.	Tyler shall provide an initial response to Priority Level 4 incidents within two (2) business days of receipt of the incident. Once the incident has been confirmed, Tyler shall use commercially reasonable efforts to resolve such support incidents, as well as cosmetic issues, with a future version release.

**Response and Resolution Targets may differ by product or business need*

Incident Escalation

If Tyler is unable to resolve any priority level 1 or 2 defect as listed above or the priority of an issue has elevated since initiation, you may escalate the incident to the appropriate resource, as outlined by each product support team. The corresponding resource will meet with you and any Tyler staff to establish a mutually agreeable plan for addressing the defect.

Remote Support Tool

Some support calls may require further analysis of the Client's database, processes or setup to diagnose a problem or to assist with a question. Tyler will, at its discretion, use an industry-standard remote support tool. Tyler's support team must have the ability to quickly connect to the Client's system and view the site's setup, diagnose problems, or assist with screen navigation. More information about the remote support tool Tyler uses is available upon request.



One Tyler Drive
Yarmouth, ME 04096

P: 800.772.2260
F: 207.781.2459

www.tylertech.com

November 3, 2022

Doug Tippey
City of Tomball
401 Market Street; Suite C
Tomball, TX 77375

RE: Tyler Technologies software and support

Dear Mr. Tippey:

Please accept this letter as confirmation that Tyler Technologies, Inc. is the sole provider of the Tyler Financial, Customer Relationship, Court, and Content Management software. Additionally, Tyler is the only party authorized to support, and update or modify the software.

Tyler is the sole developer and implementer of the software listed above.

Please let me know if you have any additional questions.

Regards,

A handwritten signature in blue ink, appearing to read "Robert Kennedy-Jensen".

Robert Kennedy-Jensen
Group General Counsel

City Council Meeting Agenda Item Data Sheet

Meeting Date: January 16, 2023

Topic:

Consideration to reject all responses received for Request for Proposal (RFP) 2023-04 – Classification and Compensation Study and readvertise the project.

Background:

City Management and Human Resources developed a Request for Proposal to obtain a qualified firm to assist in conducting a comprehensive and classification study. The intent of the study was to develop create a plan that would attract and retain a qualified workforce to achieve the goals and mission of the city while being mindful of the City’s operational commitment to provide reliable and excellent service and responsible stewardship of City resources.

In an effort to obtain the most favorable pricing, sealed proposals were solicited for the development of the study with responses due on December 22, 2022. Staff received two submissions, unfortunately due to the cyber-attack staff did not have access to email from December 20 through the submission date and therefore cannot ensure that no additional requests were received for the proposal.

Staff is requesting Council to reject the submitted proposals and readvertise the project.

Origination: Project Management

Recommendation:

Staff recommends rejecting the submitted proposals received for Request for Proposal No. 2023-04, Classification and Compensation Study, and readvertising the project.

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

FUNDING (IF APPLICABLE)

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

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

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

Signed Meagan Mageo
Staff Member _____
Date _____

Approved by _____
City Manager _____
Date _____

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: January 16, 2023

Topic:

Approve a professional services agreement with Four and One, LLC. for the creation of a Parks, Recreation, and Trails System Master Plan, for a not-to-exceed amount of \$149,600 (RFQ 2023-01), authorize the expenditure of funds therefor, and authorize the City Manager to execute the agreement. This amount is included in the FY 2022-2023 budget.

Background:

The proposed professional services agreement with Four and One, LLC. includes a scope of work to develop a ten-year master plan for the City’s parks and recreation future, to include determining priorities and budgets for annual maintenance and replacement and prioritize infrastructure and capital improvement projects.

The professional services agreement includes a scope of work for site analysis of all our existing amenities, community engagement to determine the wants and needs, and the overall development of the master plan with a five-year action plan and ten-year horizon plan.

Four and One, LLC was selected through the Request for Qualifications process (RFQ 2023-01). Seven firms submitted sealed qualifications, of which five were determined to be qualified responses. Each response was scored with the top two firms interviewed. After scoring and interviews, Four and One, LLC was selected as offering the best quality of service to the City based on the proposed scope of work. The selection and discussions were held in accordance with the City’s adopted Procurement Policy and Manual and state procurement law.

Funds for development of a Parks, Recreation and Trails System Master Plan were allocated in the Fiscal Year 2022-2023 budget,

Origination: Project Management

Recommendation:

Staff recommends awarding a Professional Services Agreement to Four and One, LLC for the creation of a Parks, Recreation and Trails System Master Plan for a total contract amount not-to-exceed \$149,600.

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

FUNDING (IF APPLICABLE)

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

Yes: X No: _____ If yes, specify Account Number: #100-153-6304

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

Signed Meagan Mageo
Staff Member _____
Date

Approved by _____
City Manager _____
Date

**PROFESSIONAL SERVICES AGREEMENT
FOR
ENGINEERING SERVICES
RELATED TO
ENGINEERING & PLANNING PROJECT NO. 2023-10013
CITY OF TOMBALL
PARKS, RECREATION, AND TRAILS SYSTEM MASTER PLAN**

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

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

WITNESSETH:

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

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

**1.
SCOPE OF AGREEMENT**

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

**2.
CHARACTER AND EXTENT OF SERVICES**

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

3.
OWNERSHIP OF WORK PRODUCT

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

4.
TIME FOR PERFORMANCE

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

5.
COMPLIANCE AND STANDARDS

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

6.
INDEMNIFICATION

Consultant shall and does hereby agree to indemnify and hold harmless the City, its officers, agents, and employees from any and all damages, loss or liability of any kind whatsoever, by reason of death or injury to property or third persons to the extent caused by the negligent act or omission of Consultant and its officers, agents, employees, invitees or other persons for whom it is legally liable, with regard to the performance of this Agreement, and Consultant will reimburse the City's reasonable attorney's fees in proportion to the Consultant's liability. Such indemnity shall apply where the suits, actions, legal proceedings, claims, demands, damages, costs, expenses and attorney fees arise in whole from the negligence of Consultant.

7.
COMPENSATION

For and in consideration of the services rendered by Consultant pursuant to this Agreement, the City shall pay Consultant only for the actual work performed under the Scope of Work, on the basis set forth in Exhibit "A," up to an amount not to exceed \$149,600, including reimbursable expenses.

8.
INSURANCE

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

9.
TERMINATION

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

10.
ADDRESSES, NOTICES AND COMMUNICATIONS

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

Four and One, LLC
Attn: Tara Y. Klein
23544 Coons Road
Tomball, Texas 77375

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

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

**11.
LIMIT OF APPROPRIATION**

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

**12.
SUCCESSORS AND ASSIGNS**

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

**13.
DISCLOSURE OF INFORMATION**

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

**14.
MODIFICATIONS**

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

15.
ADDITIONAL SERVICES

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

16.
CONFLICTS OF INTEREST

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

17.
PAYMENT FOR SERVICES AND REIMBURSABLE EXPENSES

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

18.
MISCELLANEOUS PROVISIONS

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

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

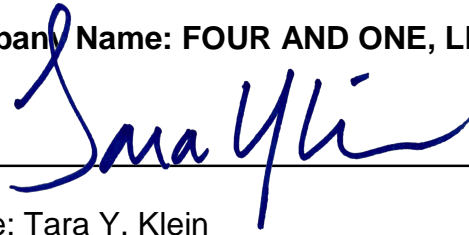
C. Consultant further covenants and agrees that it does not and will not knowingly employ an undocumented worker. An "undocumented worker" shall mean an individual who, at the time of employment, is not (a) lawfully admitted for permanent residence to the United States, or (b) authorized by law to be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

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

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

EXECUTED on this ___ day of _____, 2022.

Company Name: FOUR AND ONE, LLC



Name: Tara Y. Klein

Title: President

CITY OF TOMBALL, TEXAS

David Esquivel, City Manager

ATTEST:

Doris Speer, City Secretary

EXHIBIT A



December 2, 2022

City of Tomball
Attn: Drew Huffman
501 James St.
Tomball, TX 77375

Re: MASTER PLAN FOR RECREATIONAL SPACES THROUGHOUT THE CITY OF TOMBALL

Dear Mr. Huffman,

Four and One, LLC (“4&1”) is pleased to submit this proposal for a Park System Master Plan report (the “Project”) to be used as a tool to direct the City for the next 10 years for the existing and potential recreational spaces throughout the City of Tomball (“Client”).

SITE ANALYSIS

During this scope 4&1 will review and inventory of the existing City parks, aquatic facilities, trails, athletic facilities, rental facilities, and open spaces throughout the Tomball city limits. This will include multiple site visits by the design team and potential discussion with maintenance personnel for understanding of park from the facilities and operations. 4&1 will collect aerial photographs, maps, and compile data as necessary to have a cohesive understanding of the city and their internal workings of parks, greenspace, and amenities within the city to be able to identify priorities and budgets for routine replacement, prioritize infrastructure, and capital improvement projects for these existing spaces. 4&1 will also research the surrounding area to determine if there are any opportunities nearby to tie into for recreation, for property acquisition, and to make sure the design is not duplicating amenities within proximity. This task will also include coordination with existing consultants to the city to compile their base map information and any existing survey as well for a cohesive base and programming elements for appropriate conceptual design within the overall master plan.

The maps and images produced and compiled in this scope will be used as exhibits for the community engagement meetings. Compiling and creating a digital survey to be used throughout the Community Engagement scope. This also includes inputting written surveys to digital feedback.

Lump Sum..... \$19,200.00

COMMUNITY ENGAGEMENT

4&1 combined with the communications team at Touchstone District Services (“TDS”) will conduct a needs assessment to gain city departments and citizen input through multiple meetings to the current uses of the park amenities and wants and demands for the future of the community’s public parks system and open spaces.

This will include “Focus Group Meetings” with a combination of different stakeholder groups (i.e. Chamber of Commerce, Rotary Club, EDC, Little League, Tomball ISD, etc.), the City’s various advisory boards including, but not limited to, the Capital Improvement Projects Advisory Committee, Planning and Zoning, and City Council. Stakeholders to give input will also include City staff to provide the element of a realistic plan that can be implemented within timelines and current and potential budgets.

Public Workshops will also be offered for the public to attend and share their opinions. These workshops will be an open house platform for a total of 3 hours with different stations for community members to move through with different opportunities to share and provide input. At these meetings there will be attendance by both 4&1 and TDS to help assist in gaining the most feedback as possible from the attendees.

Part of the scope of community engagement includes branding and advertising these meeting opportunities as well as offering an online portal to share as well. 4&1 with TDS will create a compilation of marketing collateral print materials to be used during data collection pop-ups which can be hosted by community members or by the TDS and 4&1 team. Along with the printed marketing collateral there will also be branded social media content to be used to seek engagement through the City's social media channels as well as a hosted website by TDS to provide information as it comes in to keep the public regularly informed of up-to-date information and seek stakeholder input. The team will provide two options for graphic design and branding to the Client for their final decision. TDS can also provide written articles that both advertise for the events being hosted to gain participation in the feedback process but also follow up articles that summarize the turnouts and highlight the success of meetings as they occur to gain traction and support.

4&1 along with TDS will conduct a needs assessment to include data collected from the stakeholders, City departments, and through citizen input in the planning process through the form of multiple media applications. This information will be collected at the meetings through verbal communication which will be documented through recordings and then transferred as necessary into statistical feedback. The team will also conduct public surveys through the web site, text messaging, and tablets to be used during the Public Workshops to help determine the vision and course for parks and recreation for the City of Tomball. Paper copies will also be available and then converted to digital for running statistical information. At the end of the community engagement scope all the content collected will be compiled into clear and concise records of what the research and engagement was done, and the outcomes of the community's opinions based upon actual feedback will be implemented into the Master Plan.

Hourly (Not to Exceed) \$20,000.00

MASTER PLANNING SERVICES

4&1 will prepare a master plan that will prioritize the focus on Tomball's historic downtown, festivals, parades, parks, trails, and growth of not only recreational activities but also celebrations. The final plan should include a visionary element that represent proposed improvements for the current parks, recreation amenity options, and trail assets coupled with expressions of enhancement. It should include opportunities for expansion and new development. Assets should be seen as usable by more than just one sector of the community. An example would be how a space could be used actively programed and/or passively, for families and individuals. The plan's format shall include understandable language, visual imagery, and encourage usage by a broad audience.

The plan should include segments of implementation, policies for ongoing decision-making as well as specific, achievable actions. It should be driven with short and long-term goals concerning park acquisition and development, recreation program needs, accessibility, and trail connectivity.

4&1, along with staff input will review existing funding sources, research any potential new revenue streams, and provide a 5-year action plan with a 10-year horizon plan to direct the City moving forward.

Conceptual design for improvements will be documented and improvements will be categorized in a five-year Capital Improvement Plan with recommendations and probable cost analysis for the plan.

The plan should utilize a combination of maps, illustrations, tables, and succinct writing to convey its message. Users should be able to determine what the objectives are, and the steps needed to reach the goals.

The master plan will also show the demand-based assessment compiled after all the Community Engagement which can identify what the community wants and what they are willing to support. This will include the in-depth research and engagement with community and various Boards and Commission that is statistically valid for the amenities presented in the Master Plan.

The Master Plan document will be in accordance with the Texas Department of Parks and Wildlife Local Grant Program guidelines to enable the Master Plan to be submitted and approved. In addition, there will be a Design Guideline and Standard Manual to blend with the Park, Recreation and Trails System Master Plan. The Master Plan will meet all requirements and structure necessary for future accreditation with the

Commission for Accreditation of Park and Recreation Agencies (CAPRA), Texas Parks Wildlife Department (TPWD) Master Plan objectives and meet TPWD standards for future Grant opportunities.

Other items that will be provided within the Master Plan are:

- Recommendations as to land acquisition, park and facility development, park improvements, recreational programming and health, trail connectivity, and policy recommendations.
- A citywide trails masterplan including integration of the public sidewalk system.
- Community scaled park survey plan developed park by park.
- Programming recommendations based on wants and feasibility.
- A detailed Parks and Recreation Master Plan document for the City of Tomball, with short, medium, and long-term goals.
- Financial data report and recommendations to support the implementation of the plan.
- A conclusive discussion document that explores the need and feasibility for a Sport Facility in the City of Tomball.
- A community profile and needs assessment. It should be standards-based with a complete accessibility analysis.
- +Creation of marketing materials to be used during future funding efforts. This will be based upon the graphic efforts only and any specialty media is listed below as alternate forms of communication.
- Evaluation and recommendations for new civic space and parkland requirements for new development, focused on policies for amount of land dedicated and park improvements provided by private development.
- Provide a comparative review of parkland dedication requirements in the area and proposed amount for dedication and park development fees.
- Park condition assessment of current spaces with recommendations for replacement, rehabilitation, and reconstruction.
- Design of a comprehensive City Park Style Guide focused on entryway and internal signage.

Once the Master Plan is completed 4&1 will provide an introduction and conclusion presentation to City Council.

<i>Lump Sum</i>	<i>\$95,600.00</i>
<i>+Compile a two-three minute video to advertise the Parks Master Plan</i>	
<i>Lump Sum</i>	<i>\$6,800.00</i>

COMPENSATION

4&1 will provide the above-described scope of services as needed and directed by the Client. Invoicing will be done monthly based upon the percentage of the scope items completed to date. Hourly items and reimbursements will be billed monthly with a brief description will be provided. Any additional services or renderings over the areas described can be added as additional services or to be done hourly with written approval. If the Client determines to go forward with a specific project in the master plan a new proposal will be prepared according to the new scope of work. The scope items above do not include architecture or engineering and if assessed as a needed component of the project then it can be added as an additional service or at an approved hourly rate. All meetings and meeting preparation will be billed on an hourly rate as described in 'Exhibit A' attached to this proposal unless otherwise noted.

Reimbursable expenses are additional and will be invoiced as described below.

REIMBURSEMENTS

The following costs shall be reimbursed at cost plus ten percent to compensate administrative time and are estimated at \$8000. Reimbursable expenses are not included in the fee for professional services.

- a. Cost of copies for drawings, specifications, reports, cost estimates, xerography and photographic reproduction of drawings and other documents furnished or prepared in connection with the work of this contract
- b. Travel associated with the project, including, but not limited to, mileage (current rate)
- c. Cost of postage and shipping expenses other than first class mail
- d. Cost of digital scanning
- e. Cost of printing for small and large format plots black and white as well as color plots
- f. Cost of models, special renderings, promotional photography, special process printing, special equipment, special printed reports or publications, maps and documents approved in advance by the Client
- g. Fees for additional consultants retained with the approval of the Client

We look forward to the opportunity on developing a master plan for the City of Tomball. Please do not hesitate to contact me if you have any questions or need any additional information.

Thank you,



Tara Y. Klein, RLA
Four and One, llc
23544 Coons Road
Tomball, TX 77375
281.217.1113p | tara@4and1design.com

APPROVED:

BY

DATE

EXHIBIT A: CONTRACT TERMS AND CONDITIONS

- A. Effective Date Payment
This Agreement shall become effective upon its execution by the Client. Work will commence when the Client provides written authorization to 4&1 to begin.
- B. Standard of Care
4&1 will perform its services in accordance with the standard of care expected of landscape architects doing projects of similar scope in the State of Texas. To the extent that 4&1 is relying upon documents supplied to it by the Client or the Client's consultants, it shall be entitled to rely upon the accuracy of those documents in preparing its drawings or opinions.
- C. Guarantee of Certifications
Unless specifically provided for elsewhere in this Agreement, 4&1 makes no warranties, representations or guarantees regarding the energy use or operating costs or expenses of any project. 4&1 makes no guarantees that any grant funding or outside funding will be obtained. Services related to LEED are not included within this proposal.
- D. Parties to this Agreement
This is a professional services agreement which 4&1 is entering into for the exclusive benefit of the Client. There are no intended third-party beneficiaries of the Agreement, and both 4&1 and the Client agree not to assign this Agreement or any causes of action which arise under it without the express written consent of the other party. The relationship of 4&1 to Client under this Agreement and otherwise shall be that of an independent contractor. 4&1 is not by the terms of this Agreement or otherwise an agent, employee, or representative of Client. It is further expressly agreed that neither 4&1 nor any of 4&1's officers or employees will perform services for Client by or through any other enterprise, including, without limitation, any other consultant of Client.
- E. Instruments of Service
The drawings, specifications, computer files, electronic media, field data, notes and other documents prepared or used by 4&1 for the Client (collectively, the "Documents") shall be the property of the Client. 4&1 agrees that it shall not reuse any portion of the Documents that is unique to the Client or the Client's projects for any other client, without the express written consent of the Client. 4&1 may retain a set of reproducible record copies of the Documents.
The drawings, specifications, computer files, electronic media, field data, notes and other documents prepared by 4&1 for this Project are Instruments of Service for use solely with respect to this Project. 4&1 shall be deemed the author or creator of these documents and shall retain all common law, statutory and other reserved rights, including the copyright. All Instruments of Service produced by 4&1 shall be released to Client as Adobe PDF files, and not in the native format available through programs including, but not limited to, InDesign, AutoCad or other proprietary formats.
- F. Indemnification/Release of Drawings
In the event of termination of this Agreement, and 4&1's services are not continued through the completion of the Project for any reason, the Client shall be permitted to use the Instruments of Services prepared by 4&1 and provided to Client, under the following conditions:
1. With the release of 4&1's documents (including any electronic files), 4&1 and its consultants shall have no liability in connection with the drawings and specifications.
 2. The Client shall (and shall require any other design professionals engaged by 4&1 as a subconsultant to complete the improvements on the property to) release, indemnify, defend and hold harmless 4&1 from any and all losses, claims, expenses or liabilities arising from (i) the use of 4&1's Instruments of Service as may be used, revised and/or altered and (ii) the completion of the improvements on the property; and
 3. 4&1 and its subconsultants shall have been paid in full for services, materials and reimbursables provided through to the date of termination.
- G. Statements and Payment
An initial fifteen percent (15%) of the total lump sum contract will be billed upon commencement of the contract. Fees for professional services will be invoiced to the Client monthly based on percentages of the Project completed and any hourly services performed for the month. A task-by-task description of work performed, if billed hourly, will be submitted with each invoice. 4&1 reserves the right to suspend services if invoices exceeding a total amount of \$2,500 remain unpaid for more than sixty (60) days.
- H. Revised Project Budget
If the project budget defined by the scope of services is increased or decreased by more than ten percent (10%) after the design development phase of the work, the time and effort required to redesign the project within the new budget will be considered additional services to this agreement.
- I. Additional Services

Additional services are services that may be needed by the Client, but which are not included in the scope of services. Additional services will be provided only with prior approval of the Client, and include but are not limited to the following:

1. Preparation and presentation of graphic exhibits other than those described in the basic scope of services.
2. Revisions and changes in drawings, specifications or other documents previously given by the Client, or the preparation of alternates or deductive change orders requested by the Client.
3. Preparation of record drawings or of measured drawings of existing conditions.
4. Providing prolonged construction observation should the construction time be substantially extended through no fault of 4&1.

J. Termination

This Agreement may be terminated by either party with or without cause upon thirty (30) days written notice. 4&1 shall be due payment for all services rendered prior to termination.

K. Risk Allocation

4&1 will be responsible only for its own work and not for defects in the work designed by our sub consultants or built by the contractor.

L. Dispute Resolution

As a condition precedent to either the Client or 4&1's filing of any claim in litigation, the Presidents of 4&1 and the Client shall meet within thirty (30) days of a request by either party to attempt to resolve the dispute. Venue for any unresolved dispute arising out of the services provided by 4&1 under this Agreement shall be in Harris County, Texas.

M. Additional Services

Any additional services requested by the Client but not contemplated by this Agreement will be provided by 4&1 pursuant to a separate written agreement between the parties.

N. Insurance Requirements

4&1 shall procure and maintain throughout the term of this Agreement, at its sole cost and expense, design professional liability coverage limits of \$1,000,000 per claim and \$2,000,000 aggregate. 4&1 shall furnish certificates of insurance to the Client evidencing compliance with the insurance requirements hereof. Certificates shall list 4&1, the name of the insurance company, the policy number, the term of coverage, and the limits of coverage. 4&1 shall cause its insurance companies to provide the Client with at least thirty (30) days prior written notice of any reduction in the limit of liability, cancellation, or non-renewal of the insurance coverage required under this Agreement. 4&1 shall obtain such insurance from such companies having a Best's rating of B+/VII or better, licensed or approved to transact business in the State of Texas.

O. Rate Schedule per hour

Licensed Landscape Architect (4&1)	\$ 160.00
Designer (4&1)	\$ 150.00
Strategic Consulting (TDS)	\$ 165.00
Content Production/Design/Sr. Developer (TDS)	\$ 150.00
Event Planning and Attendance (TDS)	\$ 135.00

P. Printing Schedule

Any oversized prints will be sent out for printing and all receipts will be attached to invoices for reimbursement. All Letter and Ledger sized paper will be billed at the pricing below to cover the in-house expense of printing and will be billed to the client monthly with a description of print:

Black and White Letter (8.5"x11")	\$0.25
Color Letter Size (8.5"x11")	\$0.75
Black and White Ledger (11x17)	\$0.55
Color Ledger (11x17)	\$1.75

Q. Consultant, in conjunction with the execution of this contract and in accordance with Chapter 2270, Texas Government Code, effective September 1, 2017, does hereby agree, confirm, and verify that it does not Boycott Israel, as defined in Chapter 808 of Subtitle A, Title 8, Texas Government Code, and will not Boycott Israel during the term of the contract. Consultant hereby acknowledges and agrees that this verification is a material term of the contract and Owner is expressly relying on this verification in agreeing to enter into the contract with Consultant.

R. Chapter 2271 – Anti-Boycott of Israel Verification. By signing and entering into the Agreement, Engineer verifies, pursuant to Chapter 2271 of the Government Code, it is a Company that does not boycott Israel and will not boycott Israel during the term of this Agreement. "Boycott Israel" has the meaning assigned by Section 808.001, Government Code. For purposes of this paragraph, "Company" means a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability

- company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit.
- S. Chapter 2274 – Anti - Boycott of Energy Companies Verification. By signing and entering into the Agreement, Engineer verifies, pursuant Chapter 2274 (as added by Senate Bill 13, 87th Legislature Regular Session) of the Government Code, it is a Company that does not boycott energy companies and will not boycott energy companies during the term of this Agreement. “Boycott energy company” has the meaning assigned by Section 809.001, Government Code. For purposes of this paragraph, “Company” means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations, that exists to make a profit.
- T. Chapter 2274 – Anti - Discrimination of Firearm Entity or Firearm Trade Association Verification. By signing and entering into the Agreement, Engineer verifies, pursuant to Chapter 2274 (as added by Senate Bill 19, 87th Legislature Regular Session) of the Government Code that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate during the term of this Agreement against a firearm entity or firearm trade association. “Discriminate against a firearm entity or firearm trade association” has the meaning assigned by Section 2274.001(3), Government Code. For purposes of this paragraph, “Company” means a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations, that exists to make a profit. The term does not include a sole proprietorship.
- U. Chapter 2274 - Lone Star Infrastructure Protection Act Verification. By signing and entering into the Agreement, Engineer verifies, pursuant to Chapter 2274 of the Government Code that (as added by Senate Bill 2116, 87th Legislature Regular Session): that a) neither Engineer, nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of Engineer, nor any of its sub-contractors (i) is owned or controlled by (a) individuals who are citizens of China, Iran, North Korea, Russia or any designated country; or (b) a company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, of any designated country; and (ii) is headquartered in China, Iran, North Korea, Russia or a designated country. The term “designated country” means a country designated by the Governor as a threat to critical infrastructure under Section 113.003 of the Texas Business & Commerce Code.
- V. Chapter 2252 Verification – Anti-Terrorism Verification. Engineer hereby represents and warrants that at the time of this Agreement neither Engineer, nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of Engineer: (i) engages in business with Iran, Sudan, or any foreign terrorist organization pursuant to Subchapter F of Chapter 2252 of the Texas Government Code; or (ii) is a company listed by the Texas Comptroller pursuant to Section 2252.153 of the Texas Government Code. The term “foreign terrorist organization” has the meaning assigned to such term pursuant to Section 2252.151 of the Texas Government Code. For purposes of this paragraph, “Company” means a sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or other entity or business association whose securities are publicly traded, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations, that exists to make a profit.
- W. ANTI-TERRORISM VERIFICATION.
Landscape Architect hereby represents and warrants that at the time of this Agreement neither Landscape Architect, nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of Landscape Architect: (i) engages in business with Iran, Sudan, or any foreign terrorist organization pursuant to Chapters 806 or 807 of the Texas Government Code, or Subchapter F of Chapter 2252 of the Texas Government Code; or (ii) is a company listed by the Texas Comptroller pursuant to Sections 806.051, 807.051, or 2252.153 of the Texas Government Code. The term “foreign terrorist organization” has the meaning assigned to such term pursuant to Section 2252.151 of the Texas Government Code.
- X. WAIVER OF CHAPTER 2272 CLAIMS PROCEDURES. Owner and Landscape Architect mutually agree that Chapter 2272 of Subtitle F, Title 10, of the Government Code (“Chapter 2272”), shall not apply to the services provided by Landscape Architect under this Agreement. Owner and Landscape Architect waive the application of Chapter 2272, if any, to this Agreement.
- Y. FEMA/ NRCS CAP
If required to facilitate District’s reimbursement of monies from the Federal Emergency Management Agency, Natural Resources Conservation Services or other governmental entity, District and Landscape Architect will work in good faith to determine a reasonable cap of the Landscape Architect’s fees to meet such reimbursement requirements at the time the work is authorized.

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
 Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Four and One, llc
 Tomball, TX United States

Certificate Number:
 2022-948642

Date Filed:
 10/25/2022

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Tomball

Date Acknowledged:

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

COT_Park MP_10-27-22
 Master Planning Services

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Klein, Tara	TOMBALL, TX United States	X	

5 Check only if there is NO Interested Party.

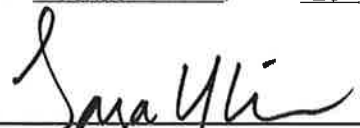
6 UNSWORN DECLARATION

My name is Tara Klein, and my date of birth is 08-26-1978.

My address is 23544 Coons Road, Tomball, TX, 77375, USA.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Harris County, State of Texas, on the 25 day of October, 20 22.
(month) (year)



 Signature of authorized agent of contracting business entity
 (Declarant)

CONFLICT OF INTEREST QUESTIONNAIRE
For vendor doing business with local governmental entity

FORM CIQ

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

OFFICE USE ONLY

Date Received

1 Name of vendor who has a business relationship with local governmental entity.

Four and One, LLC

2 **Check this box if you are filing an update to a previously filed questionnaire.** (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 Name of local government officer about whom the information is being disclosed.

Name of Officer

4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

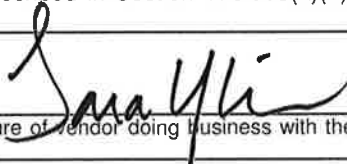
Yes No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

Yes No

5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.

6 Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7 

Signature of vendor doing business with the governmental entity

10/25/22

Date

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: January 16, 2023

Topic:

Approve a contract with Smith Pump Company for the repair of the motor for Pine Street Well No. 2 through a BuyBoard Contract (Contract No. 672-22) for a not-to-exceed amount of \$52,231, 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:

An electrical malfunction in the fuse box of the Pine Street Well #2 motor caused contacts to overheat, resulting in potential damage to the motor. The pump motor needs to be pulled and inspected to determine repairs or replacement if needed. Motor specs are as follows: US Motors, 350 HP Vertical turbine hollow shaft, 1800 RPM, 447TPA Frame Size, 460 Voltage, 2100 Weight (lbs.) This motor was installed in August of 2013 and been maintained and serviced in accordance with the operation and maintenance manual for this model.

This item authorizes a contract with Smith Pump Company who will perform the necessary work on the motor under a BuyBoard Contract (Contract No. 672-22).

Origination: Public Works Department

Recommendation:

Staff recommends approving a contract with Smith Pump Company to perform repair of the Pine Street Well No. 2 motor.

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

Drew Huffman, Public Works
Director

FUNDING (IF APPLICABLE)

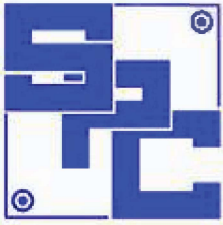
Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: X No: _____ If yes, specify Account Number: # 600-613-6207

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

Signed Drew Huffman
Staff Member _____
Date _____

Approved by _____
City Manager _____
Date _____



Smith Pump Company, Inc.

301 MB Industrial Blvd
Waco, TX 76712 US

Phone: 800-299-8909
Fax: 254-776-0023
www.smithpump.com

Quote No: 35257

Thursday, January 5, 2023

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Prepared For: Will Goff

Shipping: Randy

City of Tomball

Public Works
501 James St.
Tomball, TX 77375

City of Tomball

Pine St. WTP
802 S. Pine Street A
Tomball, TX

Shipping Method
Bestway

Freight Terms
FOB Destination

Payment Terms
Cash on Delivery

Salesperson:
TXSE - Ian Bell

Motor Service for Pine St Water Plant

Per BuyBoard Contract 672-22

Note: All labor hours below are estimates. Final invoicing to be at actual labor hours consumed per our BuyBoard labor rates.

Thank you for the opportunity to present our quotation for your upcoming project. Please give us a call if you require additional information.

Sincerely,

Ian Bell

ianb@smithpump.com

Line: 1

Part ID: 4101

Rev: 0

Pull Vertical Motor

(2) Field Service Technicians to Disconnect and Remove a Vertical Turbine Pump from Service.

Includes:

- 1. Labor
- 2. Mileage to/from Jobsite
- 3. Transport Pump to Shop for Inspection

Quantity	U/M	Unit Price	Discount	Discounted Unit Price	Line Price
1.00	EA	3,370.00000			\$3,370.00 *

Line: 2

Part ID: 4533

Rev: 0

Vertical Motor Inspection

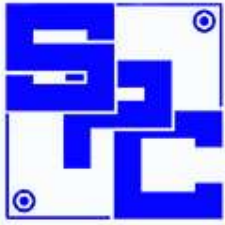
Item of shop disassembly & inspection of vertical motor

Inspection includes:

- 1. Incoming electrical / mechanical inspection
- 2. Disassembly of motor
- 3. Inspection of parts to determine necessary repairs
- 4. Provide quotation for recommended repairs
- 5. Advise replacement and/or upgrade costs

Motor:

Manufacturer: NIDEC
Model: H0350S2SLHX
S/N: U 01 7550480-0001 R 00 01
RPM: 1780 HP: 350
V: 460 PH: 3



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Quantity	U/M	Unit Price	Discount	Discounted Unit Price	Line Price
1.00	EA	1,879.00000			\$1,879.00 *

Line: 3 Part ID: 4751 Rev: 0

Rewind VHS Motor

Repair Estimate Includes:

Rewind and Replace Bearings

- Test, teardown, and inspect all components
- Burn out, strip, and prepare stator for winding
- Rewind stator, dip, and bake
- Install New Bearings
- Reassemble, adjust vertical play, paint and test

Repair Estimate is Quoted Sight-Unseen. Actual Quote to be Provided After Inspection

Quantity	U/M	Unit Price	Discount	Discounted Unit Price	Line Price
1.00	EA	12,000.00000			\$12,000.00 *

Line: 4 Part ID: 4201 Rev: 0

Install Vertical VHS Motor

(2) Field Service Technicians to Install and Reconnect a Vertical Turbine Pump.

Includes:

1. Labor
2. Mileage to/from Jobsite

Quantity	U/M	Unit Price	Discount	Discounted Unit Price	Line Price
1.00	EA	3,370.00000			\$3,370.00 *

Line: 5 Part ID: 2002-350HP-1800-460/3-WPI Rev: 0

Motor-VHS-HT-350HP-1800-460/3-WPI

Replacement Motor

NIDEC Vertical Hollow Shaft Motor

350 HP, 460V, 3PH, 1780 RPM

WPI Enclosure, Non-Reverse Ratchet, Class F Insulation

Includes Delivery to Tomball, TX

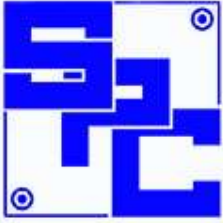
Lead Time as of 1/5/2023: 8-10 Weeks

Quantity	U/M	Unit Price	Discount	Discounted Unit Price	Line Price
1.00	EA	31,622.00000			\$31,622.00 *

* Indicates which quantity price is included in the Total

Total: \$52,241.00

Prices are Valid Until Saturday, February 4, 2023



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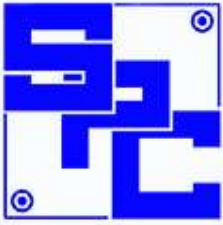
Page: 3

ACCEPTED BY: _____

PRINTED NAME: _____

PURCHASE ORDER (IF APPLICABLE): _____

SIGNED ON DATE: _____



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Thursday, January 5, 2023

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Terms and Conditions

- Applicability** - These Terms and Conditions of Sale ("Terms") shall govern all sales of equipment or services to Customer. These Terms supersede any prior written or oral agreement, understanding, representation or promise and any pre-printed or standard terms and conditions contained in Customer's request for quote, purchase order, invoice, order acknowledgement or similar document. These Terms may not be amended, supplemented, changed or modified except by concurrent or subsequent written agreement signed by an authorized representative of both Smith Pump Company ("SPCO") and Customer. SPCO's acknowledgement of Customer's purchase order shall not constitute acceptance of any terms or conditions contained therein which are in any way inconsistent with the Terms. Any additional or different terms or conditions included in any acceptance of this quotation are expressly disclaimed and rejected in advance, and unless there is prior mutual agreement otherwise, shall not become a part of any contract resulting from this quotation.
- Price** - Unless otherwise stated in this quotation, all prices are FOB shipping point. All transportation, insurance and similar charges incident to delivery shall be borne by the Customer. This quotation is valid for thirty (30) days only. Shipping dates are approximate and are based on prompt receipt of all necessary information. In the case of delay in furnishing complete information to SPCO, dates of shipment may be extended for a reasonable time. In the event SPCO provides transport services, these will be quoted as a lump sum price based on destination and shipping mode. In the event Customer requests a delay or suspension in the completion and/or shipment of equipment or services covered by this quotation, or any part thereof, for any reason, the parties shall agree upon any cost and/or scheduling impact of such delay and all such costs to Customer's account. Any delay period beyond thirty (30) days after original scheduled shipment date shall require Customer to (i) take title and risk of loss of any equipment covered by this quotation, and (ii) make arrangements for the storage of such equipment with SPCO or other party. SPCO's invoice, which is contractually based on shipment, shall be issued upon SPCO's readiness to ship the equipment covered by this quotation. SPCO shall not be liable for delay and delivery due to causes beyond its reasonable control including, but not limited to, acts of God, acts of government, acts of Customer, fires, labor disputes, boycotts, floods, epidemics, quarantine restrictions, war, insurrection, terrorism, riot, civil or military authority, freight embargos, transportation shortages or delays, unusually severe weather or inability to obtain necessary labor, materials or manufacturing facilities due to such causes. In the event of any such delay, the date of delivery shall be extended for a length of time equal to the period of the delay.
- Warranty** - SPCO warrants new equipment or parts to be free from defects in materials and workmanship for a period of eighteen (18) months from the date of shipment or twelve (12) months from the date of startup or initial use, whichever comes first. SPCO SHALL NOT BE RESPONSIBLE FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL OR LIQUIDATED DAMAGES. NO EXPRESSED OR IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE SHALL APPLY. Repairs performed by SPCO are warranted against defects in workmanship and/or materials for a period of twelve (12) months from the date of shipment. SPCO will not be responsible for any removal or reinstallation charges or transportation charges in cases where equipment has failed under these warranty conditions. SPCO's sole obligation and Customer's sole remedy under this warranty is repair or replacement at SPCO's election. Customer agrees to provide SPCO reasonable and clear access to any equipment covered by this warranty which may include removal or materials or structures as well as supplying any equipment, materials or structures which are necessary to provide reasonable access to the equipment being repaired or replaced. Costs to remove and/or reinstall equipment for warranty purposes shall be the responsibility of Customer. Replacement parts or repairs furnished under this warranty shall be subject to warranty provisions herein for the remaining warranty period. All equipment repaired or replaced will be re-warranted only for the remainder of the original warranty period. SPCO does not warrant the equipment covered by this quotation or any repair/replacement part against the effects of erosion, corrosion, or normal wear and tear due to operation or the environment. The warranty and remedies set forth herein are conditioned upon proper storage, installation, use and maintenance of the equipment covered by this quotation in all material respects, and in accordance with SPCO's written recommendations. Customer must notify SPCO in writing of any warranty claim during the warranty period or within thirty (30) days thereafter. SPCO will not be liable under this warranty if warranted goods have been exposed or subjected to any (1) maintenance, repair, installation, handling, packaging, transportation, storage, operation, or use which is improper or otherwise not in compliance with SPCO's instructions, (2) alteration, modification or repair by anyone other than SPCO or those specifically authorized by SPCO, (3) accident, contamination, foreign object damage, abuse, neglect, or negligence after shipment to Customer, (4) damage caused by failure of a SPCO supplied product not under warranty or by any hardware or software not supplied by SPCO, (5) use of counterfeit or replacement parts that are not manufactured by the manufacturer of goods provided by SPCO or approved by SPCO for use in goods provided by SPCO, or (6) goods which are normally consumed in operation or which have normal life inherently shorter than the warranty period including, but not limited to, consumables (e.g. lamps, batteries, storage capacitors).
- Payment** - All prices are net cash to be paid thirty (30) days after date of invoice. Customer agrees to make payment within that period. Discounts will apply only as stated on the invoice. Invoices unpaid for thirty (30) days after issuance shall bear interest at the highest lawful rate due and payable on any invoiced account, which is delinquent and not paid within the stated terms. Should Customer for any reason fail to pay in accordance with these terms, Customer agrees to pay all collection costs, attorney's fees and expenses incurred in collecting payment. If Customer's financial condition is or becomes unsatisfactory to SPCO, SPCO reserves the right to (a) require payment from Customer on a cash in advance basis, (b) require a letter of credit or other acceptable security before shipment, (c) cancel shipment at any time prior to delivery without further obligation or liability on SPCO's part, (d) terminate any contract or obligation on the part of SPCO, or (e) require other special payment terms acceptable to SPCO to assure payment. All extensions of credit are subject to the approval of SPCO's credit department and management.
- Joint Check Agreement** - If Customer fails to pay laborers and materialmen within thirty (30) days after payment by SPCO, SPCO will have the right to make future payments by check payable jointly to Customer and laborers or materialmen to the extent of unpaid indebtedness arising out of the job. SPCO will credit joint checks against the contract sum on the next payment application.
- Taxes** - The amount of all federal, state or local taxes applicable to the sale, use, delivery or transportation of the equipment or services sold hereunder and all duties, imports, tariffs, and other similar levies shall be added to the contract price and paid by the Customer except where the Customer shall furnish an appropriate certificate of exemption.
- Property Damage** - SPCO shall not be responsible for damage to topsoil or groundcover in connection with the work or service performed under this contract. SPCO shall not be responsible for claims arising from the pumping of water onto the ground which is necessary in connection with the service or work provided by SPCO. The customer agrees to hold SPCO harmless from claims arising out of damage caused by the pumping of water onto the ground.
- Startup** - If the equipment supplied pursuant to this quotation has a warranty requirement, qualified SPCO personnel must be present during the initial equipment startup and commissioning. Failure to request and assure the presence of qualified SPCO personnel will void any warranty herein. Requests for startup must occur at least seven (7) days prior to the scheduled date of the startup.
- Limitation of Liability** - The remedies set forth herein are exclusive and the total liability of SPCO with respect to this quotation, and any contract for goods or services arising from this quotation, or for any breach thereof, whether based on contract, warranty, torts (including negligence), indemnity, strict liability or otherwise, shall not exceed the quotation or sales price of the specific equipment or service which gives rise to the claim.
- Setoff** - All amounts that Customer owes SPCO under this quotation shall be due and payable in accordance with the terms of the quotation. Customer shall not setoff such amounts or any portion thereof, whether or not liquidated, against sums which Customer asserts are due to it, its parent, affiliates, subsidiaries or other division under other transactions with SPCO.
- Customer Cancellation** - Customer may cancel this order only upon written notice and payment to SPCO of reasonable and proper cancellation charges. In the event of cancellation, Customer must pay for all material, expense and labor costs incurred by SPCO in connection with the materials and services to be provided pursuant to this quotation, as well as all expenses relating to any specially fabricated materials and restocking charges.
- Assignment** - Neither party may assign this order or any portion thereof without the advance, written consent of the other party, which consent shall not be unreasonably withheld.
- Waiver/Severability** - Failure by SPCO to assert all or any of its rights upon any breach by Customer shall not be deemed a waiver of such rights either with respect to such breach or any subsequent breach, nor shall any waiver be implied from the acceptance of any payment. No waiver of any right shall extend to or affect any other right Customer may possess nor shall such waiver extend to any subsequent similar or dissimilar breach. If any portion of these Terms are determined to be illegal, invalid or unenforceable for any reason, such provision shall be deemed stricken for the purposes of the dispute in question and all other provisions shall remain in full force and effect.
- Applicable Law** - The contract involving the sale of the equipment and services covered by this quotation shall be interpreted in accordance with the laws of the State of Texas. This contract is performable in McLennan County, Texas and venue for any court action in any way relating to or arising out of this contract shall be McLennan County, Texas.

City Council Meeting Agenda Item Data Sheet

Meeting Date: January 16, 2023

Topic:

Discussion and Possible Action regarding Legislative Items at the 2023 Texas Legislative Session:

- Sprinkler Systems
- Pipelines

Background:

Origination: Requested by Councilman Parr

Recommendation:

Party(ies) responsible for placing this item on agenda: Doris Speer, City Secretary

City Council Meeting Agenda Item Data Sheet

Meeting Date: January 3, 2023

Topic:

Executive Session: The City Council will meet in Executive Session as Authorized by Title 5, Chapter 551, Government Code, the Texas Open Meetings Act, for the Following Purpose(s):

- Sec. 551.071 – Consultation with the City Attorney regarding a matter which the Attorney’s duty requires to be discussed in closed session
- Sec. 551.076 – Deliberation regarding Security Devices

Background:

Origination: David Esquivel, City Manager

Recommendation:

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