

**NOTICE OF SPECIAL CITY COUNCIL MEETING - WORKSHOP
CITY OF TOMBALL, TEXAS**



**Monday, November 18, 2024
5:00 PM**

Notice is hereby given of a Special Workshop of the Tomball City Council, to be held on Monday, November 18, 2024 at 5:00 PM, City Hall, 401 Market Street, Tomball, Texas 77375, for the purpose of considering the following agenda items. All agenda items are subject to action. The Tomball City Council reserves the right to meet in a closed session for consultation with attorney on any agenda item should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

The public toll-free dial-in numbers to participate in the telephonic meeting are any one of the following (dial by your location): +1 312 626 6799 US (Chicago); +1 646 876 9923 US (New York); +1 301 715 8592 US; +1 346 248 7799 US (Houston); +1 408 638 0968 US (San Jose); +1 669 900 6833 US (San Jose); or +1 253 215 8782 US (Tahoma) - Meeting ID: 818 2348 4047 Passcode: 032713 . The public will be permitted to offer public comments telephonically, as provided by the agenda and as permitted by the presiding officer during the meeting.

- A. Call to Order
- B. Public Comments and Receipt of Petitions; *[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.]*
- C. General Discussion
 - 1. Discussion regarding the Tree Preservation Ordinance.
 - 2. Discussion regarding hours of operation at gas stations or convenience stores (with or without gasoline sales).
 - 3. Discuss amendments to Council reimbursement policy.
- D. Proposed December 2, 2024, Agenda Items

1. Approve a two-year Service Agreement with InfoSend, Inc. for Utility Billing Printing and Mailing Services (RFP 2024-12) for a total contract amount of \$110,000 (\$55,000 per year), approve the expenditure of funds therefor, and authorize the City Manager to execute any and all documents related to the purchases. These expenditures are included in the fiscal year 2024-2025 adopted budget.
 2. Approve a two-year Service Agreement with RGS for consumer debt collection services for utility accounts (RFP 2024-09R), approve the expenditure of funds therefor, and authorize the City Manager to execute any and all documents related to the purchases. These expenditures are included in the fiscal year 2024-2025 adopted budget.
 3. Authorize the City Manager to Execute an Interlocal Agreement between the City of Tomball and Harris County, by and through Harris County Public Health (HCPH), for a partnership in a wastewater-based epidemiology (WBE) program.
- E. Discussion Future Workshop Topics
- F. Adjournment

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

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall, City of Tomball, Texas, a place readily accessible to the general public at all times, on the 14th day of November 2024 by 5:00 PM, and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Tracylynn Garcia

Tracylynn Garcia, TRMC, MMC, CPM
City Secretary

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

City Council Meeting Agenda Item Data Sheet

Meeting Date: November 18, 2024

Topic:

Discussion regarding the Tree Preservation Ordinance.

Background:

Origination: Community Development Department

Recommendation:

Party(ies) responsible for placing this item on agenda: Craig T. Meyers, P.E.

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 Sasha Luna
Staff Member _____ Date _____

Approved by _____
City Manager _____ Date _____

ORDINANCE NO. 2024-38

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS AMENDING ITS CODE OF ORDINANCES BY AMENDING CHAPTER 18, ENVIRONMENT, BY ADDING A NEW ARTICLE XI, TREE PRESERVATION; PROVIDING FOR A PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF; PROVIDING FOR SEVERABILITY, MAKING FINDINGS OF FACT; AND PROVIDING FOR OTHER RELATED MATTERS.

* * * * *

WHEREAS, the City Council of the City of Tomball, Texas, finds that it is in the best interest of the health, safety and welfare of the citizens to add tree preservation provisions as set forth herein; now therefore,

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

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

Section 2. The Code of Ordinances is amended by adding a new Article XI, Tree preservation to read as follows:

Sec. 18-339.-Purpose.

The purpose of this section is to preserve, protect, and enhance existing trees and mitigate the effects of tree removal within the City of Tomball. Trees, particularly native species, add natural beauty and distinct local character, add shade, promote water conservation, provide locations for habitat, and increase property values. The provisions of this section are intended to support the long-term viability of healthy trees and promote natural ecological, environmental, and aesthetic quality in the community.

Sec. 18-340.-Applicability.

The provisions of this section shall apply to all property within the city limits.

Sec. 18-341.-Exemptions.

Exemptions from the requirements of this section are as follows:

- (a) Trees that the Director of Community Development or their designee determine are dead, diseased, in severe decline, or deemed a safety hazard. The property owner or developer can elect to hire a certified Urban Forester, Landscape Architect, or Arborist to confirm or reverse the City's determination.
- (b) Trees within proposed public streets, utility easements, and required fire lanes.
- (c) Or as otherwise exempt under applicable law, including Section 212.905 of the Texas Local Government Code.

Sec. 18-342.-Appeals.

The City Council shall consider appeals if it determines that compliance with this section creates an undue hardship for the applicant. An applicant may submit an alternative plan or request relief from compliance as part of an appeal application.

Sec. 18-343.-Definitions.

Caliper inch. The diameter of the trunk of a tree as measured at twelve (12) inches above grade. This measurement method is used for replacement trees.

Diameter inch (diameter breast-height). The diameter of the trunk measured four-and-one-half feet (54 inches) above grade. This measurement method is used for mature trees during a tree survey.

Clear-cutting. The indiscriminate cutting, plowing, or grubbing of trees without regard to type or size for the purpose of clearing the land.

Critically alter. Uprooting, removing the canopy or severing the main trunk of a tree, or causing damage which may cause a tree to die. This includes but is not limited to the removal of a tree from a property, damage inflicted upon a tree by machinery, storage of materials or the compaction of soil above the root system of a tree, a change in the natural grade above the root system of a tree, or excessive pruning.

Drip line. An imaginary line extending from the external boundary of a tree's canopy to the ground.

Mitigation. The method by which trees are replaced is either through replanting on the subject property, planting or transplanting to another location or same property, or through payment of fees-in-lieu of replanting approved by the City.

Parcel of land. Land in the City of Tomball which has been platted or not platted.

Protective fencing. Chain link, silt fence, or other fencing used to protect preserved trees during construction activities.

Protected tree. Any tree species listed in the City of Tomball Tree List (Table 18-344.1) that measures 18 diameter inches or larger. Species not listed in Table 18-344.1 do not require protection or replacement.

Tree, dead (or declining). A tree that is dead or in severe decline with substantial structural defects, no remedial options available, and no chance of recovery.

Tree, replacement. Trees planted to mitigate the loss of trees during development.

Tree fund. A City-administered fund established for collection of fees-in-lieu or replacement trees paid as mitigation and may include other contributions made in support of tree protection efforts.

Tree Survey. A plan or drawing to scale that identifies the exact size, location, condition (healthy, dead, or declining), and species of protected trees and the disposition of each protected tree during development. The plan shall indicate whether each protected tree is to be preserved or removed. The plan shall indicate the location and types of treatments to be utilized to protect trees during development such as fencing, mulching, root pruning, and other measures.

Sec. 18-344.-Protected tree species.

The requirements for tree replacement and mitigation as outlined in this section apply only to the trees listed in the City of Tomball Tree List (Table 18-344.1).

Table 18-344.1

| City of Tomball Tree List | |
|---------------------------|-------------------------|
| American Elm | Overcup Oak |
| American Holly | Pecan |
| American Sycamore | Pin Oak |
| Aristocrat Pear | Possumhaw Holly |
| American Sweetgum | Redbud |
| Arizona Cypress | Red Maple |
| Bald Cypress | River Birch |
| Black Gum | Sawtooth Oak |
| Boxelder | Shumard Oak |
| Bradford Pear | Slippery Elm |
| Bur Oak | Southern Magnolia |
| Cedar | Southern Sugar Maple |
| Cedar Elm | Swamp Chestnut Oak |
| Eastern Black Walnut | Sweet Gum |
| Eastern Red Cedar | Sycamore |
| Green Ash | Texas Red Oak |
| Lacebark Elm | Tulip Tree |
| Laurel Oak | Tulip Tree Liriodendron |
| Leyland Cypress | Water Oak |
| Live Oak | White Ash |
| London Plane Tree | White Oak |
| Magnolia | Willow Oak |

Sec. 18-345.-Tree removal permit.

- (a) Tree removal permit required. A tree removal permit is required for the removal of any protected tree within the City of Tomball.
- (b) Tree Removal Permit Application. A tree removal permit application and any associated permit application fees established by the City shall be submitted to the Community Development Department in conformance with the requirements of this section.
- (c) Approval. The Director of Community Development or their designee shall have the authority to issue a Tree Removal Permit if it complies with all the requirements of this Code
- (d) Expiration. A Tree Removal Permit shall expire two years after its issuance.

Sec. 18-346.-Tree survey.

(a) Tree survey required.

A tree survey shall be submitted prior to the removal of any protected trees. The tree survey shall be performed by a certified Urban Forester, Landscape Architect, or Arborist. The submitted tree survey shall include the exact size, location, condition (healthy, dead, or declining), and species of each tree that measures 18 caliper inches or larger and is listed on the City of Tomball Tree List (Table 18-344.1). It is recommended that the tree survey includes trees on the City of Tomball Tree List that measure eight (8) caliper inches or larger to retain eligibility for preserved tree credits according to Section 18-349. – Tree Preservation Incentives and Chapter 50.

(b) Tree survey requirements.

The tree survey shall be submitted on a scaled drawing of the property which includes the following information:

- (1) A vicinity map locating the property within the community;
- (2) The boundaries of the property and its calculated area;
- (3) The location of all existing streets, drainage and utility easements that are on or adjacent to the property;
- (4) The location of any required buffer zones;
- (5) Include all protected trees 18-inch diameter or larger and all trees 8-inch diameter or larger that are listed on the City of Tomball Tree List that will be preserved for tree credits. Each protected tree that is individually located by the survey will need to be flagged with blue plastic flagging. The tree survey submittals must include a table cross referenced to the diagram with the identification number, species, and diameter; and
- (6) Location of tree protection fencing installed at the edge of the drip line.

(c) Alternatives to a tree survey.

- (1) No Protected Trees on Site. In lieu of a tree survey, the applicant may submit an affidavit from a certified Urban Forester, Landscape Architect, or Arborist certifying that there are no protected trees on the property or all protected trees on the property are entirely dead or in severe decline. The affidavit shall be approved by the Director of Community Development or their designee to be accepted as an alternative to the required tree survey.
- (2) Preservation areas. In lieu of a tree survey, the applicant may submit a landscape plan together with the plat submittal or a tree removal permit depicting no-disturbance

preservation areas that include substantial existing tree canopy coverage that will not be disturbed or critically altered during grading or construction, with the following conditions:

- (a) The no-disturbance preservation areas shall constitute a minimum of 20% of the parcel area.
- (b) To confirm the existence of substantial existing tree canopy coverage in the designated areas, the submittal shall include aerial photographs and on-site photos.
- (c) Trees within the designated areas do not need to be identified as a protected tree species.

Sec. 18-347.-Buffer zones.

For plats submitted after the effective date of this provision that are adjacent to existing properties zoned for residential uses that are not part of the new subdivision, a buffer zone is required in the new subdivision along the common boundary between the new subdivision and the existing residential zone. The buffer zone shall be established as a platted reserve restricted exclusively for trees and landscaping, being a strip not less than 18 feet deep running parallel and adjacent to the common boundary and not less than 15 feet deep behind the back line of any easement or series of abutting parallel easements along the common boundary. Outside of any existing or proposed easement within the buffer zone, all trees and underbrush within this buffer zone, if they exist, are subject to mandatory preservation.

Exemptions from the buffer zone requirements include:

- (a) Subdivisions that are less than five acres in size; and
- (b) Replats of existing subdivisions where the boundary between the subdivision being replatted and the existing residential zone is unchanged and where additional lots are not being created along the boundary.

Sec. 18-348.-Tree Replacement Standards

- (a) Mitigation of Removed Trees. Protected trees meeting the minimum size and species requirements shall be replaced at a rate of 1 inch caliper of new trees for every 1-inch diameter of protected trees removed. The total number of caliper inches required to be mitigated shall not exceed 100 caliper inches per acre.
- (b) Replacement Tree Size. All replacement trees required per the mitigation ratio shall be a minimum of four (4) caliper inches. Trees must be a species listed in City of Tomball Tree List (Table 18-344.1).

(c) Landscape Credit. Replacement trees that are planted on site as mitigation for removal of protected trees are eligible to be counted toward the landscaping requirements of Chapter 50.

(d) Timing of Mitigation Compliance.

(1) Replacement trees shall be planted within 90 days of issuance of the tree removal permit. If the replacement trees cannot be planted within 90 days, the Director of Community Development or their designee may approve a delay in replacement of up to six months after the date of tree removal permit issuance.

(2) If an applicant cannot replace the mitigation trees required or gain approval to plant on an alternate site, a fee-in-lieu payment into the tree fund shall be required before the tree removal permit can be issued.

Sec. 18-349.-Tree Preservation Incentives

(a) Preserved Tree Credits. Trees listed in the City of Tomball Tree List (Table 18-344.1) that are preserved onsite and measure eight (8) diameter inches or greater may be credited toward the replacement trees required for mitigation or toward the landscape requirements in Chapter 50.

(b) Preserved tree credits will be granted according to the standards set out in Table 18-349.1.

Table 18-349.1

| Preserved Tree Size (in diameter inches) | Credits Toward Replacement Tree Requirement (Mitigation) |
|--|--|
| 8" – 11" | 8 caliper inches |
| 12" – 17" | 12 caliper inches |

(c) Code Conflicts. In certain cases, the preservation of protected trees may be desirable enough to take priority over full compliance of certain conflicting subdivision and zoning regulations, including, but not limited to, setbacks, lot design standards, building heights, sidewalks, lighting, signage, parking spaces, parking lot design, and driveway separation. When a conflict exists between the preservation of a protected tree and the provisions of subdivision or zoning ordinances, the applicant may request an alternative standard or design. The applicant’s request may be considered and approved by the Director of Community Development or their designee, provided that a reasonable application of public health and safety standards are maintained with the proposed design.

Sec. 18-350.-Alternative Mitigation Methods

(a) Fee-in-Lieu payment. If replacement tree plantings cannot be fully accommodated on site with adequate space and conditions for long-term health, then an alternative fee-in-lieu payment to the Tree Mitigation Fund, which is hereby established, may be considered. If the applicant can demonstrate every effort has been made to plant the required replacement

trees on site, the Director of Community Development or their designee may consider a fee-in-lieu payment for the remaining balance of replacement tree value. Payments to the fund will be on a per caliper inch basis at a rate established in the City's Master Fee Schedule. Replacement trees and fee-in-lieu payments may be combined to satisfy the requirement.

- (b) Off-site mitigation. If replacement tree plantings cannot be fully accommodated on site, then replacement trees may be proposed to be planted in a location mutually agreed upon by the Director of Community Development or their designee and the applicant, including parks and other public places such as streets, medians, and other common open spaces.

Sec. 18-351.-Tree Mitigation and Enforcement Funds

- (a) The Director of Community Development or their designee shall establish a dedicated account to be known as the Tree Mitigation Fund.
- (1) Mitigation fees paid as provided by Section 18-350 – Alternative Mitigation Methods of this article shall be recorded for the benefit of the fund and accounted for in a manner that distinguishes such funds from other general funds of the city. The balance of such fund remaining at the end of each fiscal year shall be appropriated as the beginning balance of the fund for the following fiscal year. The assets of the fund may be used as provided by this section, and for no other purpose.
- (2) The assets of the fund shall be expended to purchase and plant new trees in public parks, parkways, medians and rights-of-way of public streets and upon the grounds of other public property of the city. Planting costs payable from the fund include the installation of related irrigation equipment and other measures necessary to protect and subsequent maintenance following planting. An amount not to exceed 20 percent of the fund balance at the beginning of each fiscal year may be expended to promote public awareness of the objectives of this article, including Earth Day, or Arbor Day programs for the distribution of sapling trees to the general public.
- (3) The Director of Community Development or their designee shall establish a dedicated account to be known as the Tree Enforcement Fund.
- (a) Penalties for violations paid shall be recorded for the benefit of the fund and accounted for in a manner that distinguishes such funds from other general funds of the City. The balance of such fund remaining at the end of each fiscal year shall be appropriated as the beginning balance of the fund for the following fiscal year. The assets of the fund may be used as provided by this section, and for no other purpose.
- (b) The assets of the fund can be expended to hire or contract with a certified Urban Forester, Landscape Architect, or Arborist to help with enforcement, inspections and reviews as well as to promote public awareness of the

objectives of this article and may be used for necessary expenses, equipment, or contractual obligations related to the enforcement of this article.

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

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

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

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE ____ DAY OF _____ 2024.

| | |
|----------------------|-------|
| COUNCILMAN FORD | _____ |
| COUNCILMAN GARCIA | _____ |
| COUNCILMAN DUNAGIN | _____ |
| COUNCILMAN COVINGTON | _____ |
| COUNCILMAN PARR | _____ |

SECOND READING:

READ, PASSED, AND ORDAINED AS SET OUT BELOW AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL, HELD ON THE ____ DAY OF _____ 2024.

| | |
|----------------------|-------|
| COUNCILMAN FORD | _____ |
| COUNCILMAN GARCIA | _____ |
| COUNCILMAN DUNAGIN | _____ |
| COUNCILMAN COVINGTON | _____ |
| COUNCILMAN PARR | _____ |

LORI KLEIN QUINN, Mayor
City of Tomball

ATTEST:

Tracy Garcia, City Secretary
City of Tomball

City Council Meeting Agenda Item Data Sheet

Meeting Date: November 18, 2024

Topic:

Discussion regarding hours of operation at gas stations or convenience stores (with or without gasoline sales)

Background:

Origination: Community Development Department

Recommendation:

Party(ies) responsible for placing this item on agenda: Craig T. Meyers, P.E.

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 Sasha Luna
Staff Member _____
Date _____

Approved by _____
City Manager _____
Date _____

ORDINANCE NO. 2024-39

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS AMENDING ITS CODE OF ORDINANCES BY AMENDING CHAPTER 18, ENVIRONMENT, BY ADDING A NEW SECTION 18-169, BUSINESS HOURS OF OPERATION; PROVIDING FOR A PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF; PROVIDING FOR SEVERABILITY, MAKING FINDINGS OF FACT; AND PROVIDING FOR OTHER RELATED MATTERS.

* * * * *

WHEREAS, the City Council of the City of Tomball, Texas, finds that it is in the best interest of the health, safety and welfare of the citizens to establish business hours of operation as set forth herein; now therefore,

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

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

Section 2. The Code of Ordinances is amended by adding a new Section 18-169, Business hours of operation to read as follows:

Sec. 18-169. Business hours of operation.

It shall be unlawful for a gas station or convenience store (with or without gasoline sales) to be open for business between the hours of 11:01 pm and 4:59 am. Exemptions to this provision include:

- (1) Gas stations or convenience stores (with or without gasoline sales) with frontage along FM 2920, SH 249 Business, Tomball Parkway, Hufsmith-Kohrville Road, and Holderrieth Road.
- (2) Gas stations or convenience stores (with or without gasoline sales) that are not contiguous to a residential zoning district as defined in Section 50-82.
- (3) During a disaster or emergency declaration as declared by the Mayor of the City of Tomball.

Secs. 18-170 - 18-185. Reserved.

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

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

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

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE ____ DAY OF _____ 2024.

| | |
|----------------------|-------|
| COUNCILMAN FORD | _____ |
| COUNCILMAN GARCIA | _____ |
| COUNCILMAN DUNAGIN | _____ |
| COUNCILMAN COVINGTON | _____ |
| COUNCILMAN PARR | _____ |

SECOND READING:

READ, PASSED, AND ORDAINED AS SET OUT BELOW AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL, HELD ON THE ____ DAY OF _____ 2024.

| | |
|----------------------|-------|
| COUNCILMAN FORD | _____ |
| COUNCILMAN GARCIA | _____ |
| COUNCILMAN DUNAGIN | _____ |
| COUNCILMAN COVINGTON | _____ |
| COUNCILMAN PARR | _____ |

 LORI KLEIN QUINN, Mayor
 City of Tomball

ATTEST:

 Tracy Garcia, City Secretary
 City of Tomball

City Council Meeting Agenda Item Data Sheet

Meeting Date: November 18, 2024

Topic:

Discuss amendments to Council reimbursement policy.

Background:

Origination:

Recommendation:

n/a

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

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 _____
Staff Member Date

Approved by _____
City Manager Date

**CITY OF TOMBALL
ADMINISTRATIVE POLICIES, RULES AND PROCEDURES**

| | | | |
|--|--|--|--------------------|
| SUBJECT TRAVEL AND EXPENSE REIMBURSEMENT POLICY | NUMBER: 20 | EFFECTIVE DATE: May 18, 2009 | PAGE 1 OF 5 |
| | REVISED: May 18, 2009 | APPROVED BY CITY MANAGER: May 18, 2009 | |
| | SUPERSEDES: April 21, 2008 | APPROVED BY CITY COUNCIL: May 18, 2009 | |

Purpose: To establish uniform procedures that shall apply to reimbursement of all travel related expenditures for professional development necessary to maintain and enrich the City’s investment in and expectations of our employees.

Scope: This policy applies to all departments and all full time City employees as well as elected officials who travel **overnight** on City business. . Part time employees and volunteers are **not** eligible for any travel reimbursement without written approval of the City Manager prior to any expenditure for the trip in question.

Authorization: All In-State travel requires approval in advance by the Department Head on the Application to Travel Form before registration fees or travel and accommodation reservations are made. Department Head travel requires City Manager approval. Out-of-State travel requires approval of the Department Head and the City Manager or Assistant City Manager on the Application for Travel Form before registration fees or travel and accommodation reservations are made. This form must accompany requests for a travel advance and should be kept on file in the employee’s department for additional verification if needed.

Travel Expenses: Reasonable travel expenses for attendance at seminars, conferences and other training programs outside the City of Tomball will be reimbursed with the prior written approval of the department director or City Manager. The employee should strive to use the most economical method of travel while ensuring his/her safety and comfort. Reasonable travel expenses include but are not limited to:

Transportation costs which may include:

- a. **Public Transportation** – If the employee is required to travel by air, bus or train, the cost of the round-trip air, bus or train fare will be reimbursed.
- b. **City Vehicles:** City vehicles may be used according to the discretion of the Department Head. Direct expenses such as gasoline, oil and repairs associated with the use of vehicles will be reimbursed. Receipts for these items will be required.
- c. **Personal Vehicles:** If the employee drives his/her own car, the lesser of air fare and ground transportation costs (shuttle, taxi, rental car) to the location of the seminar (if available) or mileage at the rate allowed by the Internal Revenue Service will be reimbursed. The employee will only be reimbursed for cost incurred for 1 day of travel when using their personal vehicle.
- d. **Taxis:** The City will reimburse the City employee’s taxi, shuttle and bus fares for required ground transportation.

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: November 18, 2024

Topic:

Approve a two-year Service Agreement with InfoSend, Inc. for Utility Billing Printing and Mailing Services (RFP 2024-12) for a total contract amount of \$110,000 (\$55,000 per year), approve the expenditure of funds therefor, and authorize the City Manager to execute any and all documents related to the purchases. These expenditures are included in the fiscal year 2024-2025 adopted budget.

Background:

To obtain the most favorable pricing and in accordance with the City's Procurement Policy, sealed proposals (RFP 2024-12) were solicited for the services, which allowed interested parties to submit their qualifications and proposals to act as the primary vendor for utility billing printing and mailing services for City of Tomball utility accounts. A total of four (4) proposals were received, and after a thorough review it was determined that InfoSend was the lowest responsive bidder.

The agreement will include printing of monthly bills, delinquent notices, billing inserts, and mailing of all items. It was anticipated that this service would involve processing approximately 48,000 utility bills and inserts, and 8,000 delinquent statements annually. A breakdown of the submitted pricing is depicted below with an estimated annual contract amount. Staff is increasing the not-to-exceed contract amount by \$6,472 to account for additional utility accounts added during the year.

| Description | Rate | Estimated Annual Cost |
|---|---------|-----------------------|
| Monthly Billing Statements (double sided) | \$0.105 | \$5,040.00 |
| Monthly Insert (double sided) | \$0.206 | \$9,888.00 |
| Delinquent Statements (single sided) | \$0.105 | \$840.00 |
| #10 Envelopes (mailing envelopes) | \$0.024 | \$1,344.00 |
| #9 Envelopes (return envelopes) | \$0.021 | \$1,176.00 |
| Postage | \$0.540 | \$30,240.00 |
| Allowance for New Accounts | | \$6,472 |
| Estimated Annual Contract: \$55,000 per year | | |

The proposed services agreement will be for a two-year term beginning December 3, 2024, and expiring December 2, 2026, with a proposed contract amount of \$55,000 annually during the term of the contract.

Origination: Project Management

Recommendation:

Staff recommends approving a Service Agreement with InfoSend for Utility Billing print and mailing services for a not-to-exceed amount of \$110,000.

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

FUNDING (IF APPLICABLE)

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

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

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

Signed Meagan Mageo
Staff Member _____
Date _____

Approved by _____
City Manager _____
Date _____

**CITY OF TOMBALL
SERVICES AGREEMENT**

THE STATE OF TEXAS §

COUNTY OF HARRIS §

Description of Services: Utility Billing Printing & Mailing

This Agreement is made and entered into by the **City of Tomball** (referred to as the “City”), with an office at 501 James Street, Tomball, TX and, **InfoSend, Inc.** (the “Company”), with an office at **4240 E. La Palma Avenue, Anaheim, California 92807**, City hereby engages the services of Company as an independent contract, upon the following terms and conditions.

1. SCOPE OF AGREEMENT

- 1.1. The City hereby agrees to employ Company and Company agrees to perform the necessary services as set forth in Exhibit A – Scope of Work and Exhibit B – Contract Pricing, attached hereto and incorporated herein for all purposes.
- 1.2. In the event of a conflict among the terms of this Agreement and the Exhibit A, the term most favorable to the City, in the City’s sole discretion, shall control.

2. TERM OF AGREEMENT; TERMINATION

- 2.1. This Agreement shall be effective upon proper execution by the City. It shall be effective from **December 3, 2024 through December 2, 2026**, with the right and option to extend the term for three (3) additional one (1) year periods with the same terms and conditions upon the mutual agreement of the parties with a price escalation factor per Section 6. The City reserves the right to withdraw from the Agreement immediately if its governing body fails to appropriate funds necessary for the satisfaction of its contractual obligations. ***Either party may terminate this Agreement for any reason with ninety days (90) written notice to the other party.***
- 2.2. The City’s obligations under this Agreement shall not constitute a general obligation of the City or indebtedness under the constitution or laws of the State of Texas. Nothing contained herein shall ever be construed so as to require City to create a sinking fund or to assess, levy and collect any tax to fund its obligations under this Agreement.
- 2.3. The City reserves the right to enforce the performance of this Agreement in any manner prescribed by law or deemed to be in the best interest of the City in the event of breach or default of any provision of this Agreement, including immediate termination of this Agreement.

3. ENTIRE AGREEMENT

This Agreement represents the entire agreement between Company and the City and no prior or contemporaneous oral or written Agreements or representations shall be construed to alter its terms. No additional terms shall become part of this Agreement without the written consent of both parties and compliance with relevant state law. This Agreement supersedes all other prior agreements either oral or in writing.

4. ASSIGNMENT

Company shall not assign or subcontract its obligations under this Agreement without the prior written consent of the City.

5. COMPENSATION

For and in consideration of the services rendered by the Company pursuant to this Agreement, the City shall pay the Company only for the actual work performed under the Scope of Work, on the basis set forth in Attachment B, up to an amount not-to-exceed **\$110,000** (\$55,000 annually).

6. MODIFICATION OF RATES

Base Rate adjustments for changes in the Consumer Price Index (CPI) will be considered by the City no more than once per year during the renewal term of the Contract.

7. IDEMNITY

7.1. DEFINITIONS

For the purpose of this section the following definitions apply:

- a. "City" shall mean all officers, agents and employees of the City of Tomball.
- b. "Claims" shall mean all claims, liens, suits, demands, accusations, allegations, assertions, complaints, petitions, proceedings and causes of action of every kind and description brought for damages.
- c. "Company" includes the corporation, company, partnership, or other entity, its owners, officers, and/or partners, and their agents, successors, and assigns.
- d. "Company's employees" shall mean any employees, officers, agents, subcontractors, licensees and invitees of Company.
- e. "Damages" shall mean each and every injury, wound, hurt, harm, fee, damage, cost, expense, outlay, expenditure or loss of any and every nature, including but not limited to:
 - i. injury or damage to any property or right
 - ii. injury, damage, or death to any person or entity
 - iii. attorneys' fees, witness fees, expert witness fees and expenses,
 - iv. any settlement amounts; and
 - v. all other costs and expenses of litigation
- f. "Premise Defects" shall mean any defect, real or alleged, which now exists or which may hereafter arise upon the premises.

7.2. Indemnity

COMPANY AGREES TO INDEMNIFY, HOLD HARMLESS, AND DEFEND THE CITY FROM AND AGAINST LIABILITY FOR ANY CLAIMS FOR DAMAGES ARISING OUT OF THE COMPANY'S WORK AND ACTIVITIES CONDUCTED IN CONNECTION WITH THIS AGREEMENT.

COMPANY IS AN INDEPENDENT CONTRACTOR AND IS NOT, WITH RESPECT TO ITS ACTS OR OMISSIONS, AN AGENT OR EMPLOYEE OF THE CITY.

COMPANY MUST AT ALL TIMES EXERCISE REASONABLE PRECAUTIONS ON BEHALF OF, AND BE SOLELY RESPONSIBLE FOR, THE SAFETY OF COMPANY'S EMPLOYEES WHILE IN THE VICINITY WHERE THE WORK IS BEING DONE. THE CITY IS NOT LIABLE OR RESPONSIBLE FOR THE NEGLIGENCE OR INTENTIONAL ACTS OR OMISSIONS OF COMPANY OR COMPANY'S EMPLOYEES.

THE CITY ASSUMES NO RESPONSIBILITY OR LIABILITY FOR DAMAGES WHICH ARE DIRECTLY OR INDIRECTLY ATTRIBUTABLE TO PREMISE DEFECTS.

THE CITY AND COMPANY MUST PROVIDE THE OTHER PROMPT AND TIMELY NOTICE OF ANY COVERED EVENT WHICH IN ANY WAY AFFECTS OR MIGHT AFFECT THE COMPANY OR CITY. THE CITY HAS THE RIGHT TO COMPROMISE AND DEFEND THE SAME TO THE EXTENT OF ITS OWN INTERESTS.

THE INDEMNITY OBLIGATIONS HEREIN SHALL SURVIVE THE TERMINATION OF THE AGREEMENT FOR ANY REASON AND SHALL SURVIVE THE COMPLETION OF THE WORK.

8. INSURANCE

8.1. AMOUNTS OF INSURANCE

Company agrees to provide and to maintain the following types and amounts of insurance, for the term of this Contract:

| TYPE | AMOUNT |
|--------------------------|---|
| (a) Workers Compensation | (where required – Statutory by State Law) |
| Employer's Liability | \$100,000 per occurrence |

(b) Commercial (Public) Liability, including but not limited to:

- a. Premises/ Operations Combined Single Limit
- b. Independent Contractors
- c. Personal Injury
- d. Products/Completed Operations
- e. Contractual Liability (insuring above indemnity provisions)

All insured at combined single limits for bodily injury and property damage at \$500,000 per occurrence.

(c) Comprehensive Automobile Liability, in include coverage for:

- a. Owned/Leased Automobiles

- b. Non-owned Automobiles
- c. Hired Cars

All insured at combined single limits for bodily injury and property damage for \$500,000 per occurrence.

8.2. OTHER INSURANCE REQUIREMENTS

Company understands that it is its sole responsibility to provide the required Certificates and that failure to timely comply with the requirements of this article shall be a cause for termination of this Contract.

Insurance required herein shall be issued by a company or companies of sound and adequate financial responsibility and authorized to do business in the State of Texas. All policies shall be subject to examination and approval by the City Attorney's Office for their adequacy as to form, content, form of protection, and providing company.

Insurance required by this Contract for the City as additional insured shall be primary insurance and not contributing with any other insurance available to City, under any third party liability policy.

Company further agrees that with respect to the above required liability insurances, the City shall:

- a. Be named as an additional insured;
- b. Be provided with a waiver of subrogation, in favor of the City,
- c. Be provided with 30 days advance written notice of cancellation, nonrenewal, or reduction in coverage (all "endeavor to" and similar language of reservation stricken from cancellation section of certificate); and
- d. Prior to execution of this Agreement, be provided through the office of the City Attorney with their original Certificate of Insurance evidencing the above requirement.

The insurance requirements set out in this section are independent from all other obligations of Company under this Agreement and apply whether or not required by any other provision of this Agreement.

9. PAYMENT AND PERFORMANCE

Payment for services described in this Agreement will be made in accordance with the Texas Prompt Payment Act, Chapter 2251 of the Texas Government Code, or as subsequently amended.

10. VENUE; RECOVERY OF FEES; DISPUTE RESOLUTION; CHOICE OF LAW

Any suit or claim or cause of action regarding this Agreement shall be brought in Harris County, Texas, as the choice of venue and jurisdiction and site of performance by the parties. If the City is the prevailing party in any such action, the City may recover reasonable costs, including costs of court, attorney's fees, expert witnesses' fees, and trial consultants' fees. The parties further agree that the law of the State of Texas shall govern any interpretation of the terms of this Agreement.

11. COMPANY CERTIFICATIONS

Company certifies that neither it, nor any of its agents or employees, have or will offer or accept gifts or anything of value, or enter into any business arrangement, with any employee, official, or agent of the City.

Company certifies, pursuant to Texas Government Code Chapter 2270, that it does not boycott Israel and will not boycott Israel during the term of this Agreement. Company further certifies, pursuant to Texas Government Code Chapter 2252, Subchapter F, that it does not engage in business

with Iran, Sudan, or a foreign terrorist organization as may be designated by the United States Secretary of State pursuant to his authorization in 8 U.S.C. Section 1189.

12. NO WAIVER OF IMMUNITY

The City does not waive any statutory or common law right to sovereign immunity by virtue of the execution of this Agreement.

13. NOTICES

Any written notice provided under this Agreement or required by law shall be deemed to have been given and received on the next day after such notice has been deposited by Registered or Certified Mail with sufficient postage affixed thereto and addressed to the other party to the Agreement; provided, that this shall not prevent the giving of actual notice in any manner.

Notice to Company may be sent to the following address:

C/O: President
4240 E La Palma Ave
Anaheim, CA 92807

14. CONTRACT ADMINISTRATOR

This Agreement shall be administered on the City's behalf by the Project Manager, and all notices, questions, or documentation, arising under this Agreement shall be addressed to the Project Manager at:

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

15. FORCE MAJEURE

Neither party shall be liable, or deemed to be in default, to the other for any failure or delay in performing an obligation under this Agreement to the extent that its performance is delayed, impaired or rendered impossible by an event beyond its control ("Force Majeure Event") such as, but not limited to, natural disasters, war, terrorist acts, riots, labor strikes or shortages, civil disturbances, extra-ordinary losses of utilities (including telecommunications services).

AGREED to and ACCPETED this ___ day of _____, 2024.

Item 4.

Company

Signature

Print Name

Title

THE STATE OF TEXAS

§

COUNTY OF HARRIS

§

This instrument was acknowledged before me on this ___ day of _____, 2024,
by _____, on behalf of said entity.

Notary Public, State of Texas

AGREED to and ACCPETED this ___ day of _____, 2024.

City of Tomball

David Esquivel, PE
City Manager

Attest:

Tracylynn Garcia
City Secretary

RFP 2024-09R – UTILITY BILLING COLLECTION SERVICES
EXHIBIT A
SCOPE OF WORK

I. General Description

The City of Tomball (the City) is requesting proposals to secure the services of a collection agency to provide consumer debt collection service by locating, contacting, and securing payment from past due utility customers or accountholders of the City. The City provides utility services to approximately 3,731 accounts for water, wastewater, natural gas, and solid waste.

The City generates and distributes monthly bills, as well as delinquent notices to all utility customers who fail to make payment by the due date stated on the monthly bill. Deposits are collected according to the City's Code of Ordinances, Chapter 46 – Utilities, Article II, Section 46-56-Utility Account Deposits. Existing deposits are applied to any outstanding amount due at the time of termination of an account. Any remaining amount owed is included in the final bill.

II. Ability to Perform

The Vendor shall indicate the expertise and experience of the firm relative to the Scope of Work and specific requirements contained in this RFP. The Vendor shall provide pertinent financial data, which demonstrates the Vendors capability to successfully perform (e.g. annual financial reports and statements, Dun and Bradstreet and/or other credit bureau ratings). The information submitted shall include, but is not limited to, recent data describing Vendor's current organization, date of incorporation, dollar volume, number of employees, home office location, and other company profile information.

III. Requirements

The Vendor shall provide a written narrative describing the ability to meet the minimum requirements set forth herein. Sufficient detail shall be provided to demonstrate the Vendor's understanding, ability and/or willingness to satisfy all specified requirements. At a minimum, the Vendor shall address the following:

- A. Collection of delinquent items related to the billing of utility services.
- B. Development of a systems interface in coordination with the City for the data format, electronic transfer and maintenance of account information and reports as well as adherence to the technical specifications agreed to after award of the contract.

IV. Service Requirements

The City will require both routine collections related to the management of account receivables and skip tracing services. All items sent to the collection agency, other than those intended for skip tracing only, will be pursued until the delinquent amount is satisfied or for a period of 90 days. After the 90-day period, all uncollected items will be returned to the City unless the City authorizes further collection activity. The Vendor shall:

- A. Pursue recovery of all City items forwarded for collection through a series of collection letters and telephone calls.

- B. At a minimum, allow payments via mail or telephone using a credit card, ACH, EFT, money order or cashier's check.
- C. Provide lockbox or secure operation for processing mail-in payments. City approval of the Vendor's chosen operation is required.
- D. Remit collected funds separately to the designated financial institution via EFT within three (3) business days of receipt using pre-established City guidelines.
- E. Provide skip tracing or equal and approved method with documentation providing number of resources and credit bureaus.
- F. Address and contact information may be requested by the City when violation notes are sent and returned as undeliverable for any reason.
- G. Address and contact information obtained for collection purposes shall be used by the collection agency to pursue unpaid items.
- H. All information obtained through skip tracing and other approved methods shall be provided to the City.
- I. Contact accountholders by mail, telephone, or fax. A collector shall not contact an accountholder before 8:00 a.m. CST or after 8:00 p.m. CST. Maintain an automated record of phone calls and log all correspondence with debtors. Correspondence shall indicate an escalation of importance with resolution from one letter to the next.
- J. In the event a debt is reported to the major credit bureaus, the Vendor must do so in accordance with all applicable Federal and State laws.
- K. Maintain a toll-free telephone number for customer service and include the number in all correspondence to debtors.
- L. Maintain a high level of customer service while pursuing unpaid debts.
- M. Provide procedures for disputes and Cease and Desist Letters.
- N. Not use any false statement during the collection process.
- O. Have the ability to expand services to accommodate additional collection volumes as may be required by future conditions.
- P. Remit payments on collections as described below:
 - a. Payment received from the accountholder/customer shall be remitted to the designated financial institution via EFT within three (3) business days of receipt.
 - b. Payments received for debt items, where the collection period has exceeded 90 days, shall be remitted within three (3) business days.
 - c. The City does not recognize a partial payment as a satisfaction of a debt submitted to the collection agency. Any partial payment received by the collection agency shall be remitted to the City within three (3) business days.
 - d. The collection agency shall document partial payment and continue to collect the debt until it is paid in full. If the 90-day collection period expires prior to complete payment, the collection agency shall cease their efforts with the debt item and return it the City as an unsatisfied debt.
 - e. The City will notify the Vendor when payments made to the City by accountholder/customer during the collection process are received through a City office, so that the Vendor may reconcile the account.

V. Implementation Plan

The Vendor shall provide an Implementation Plan within 30 days of the contract award. The Implementation Plan shall include the following:

- A. Proposed operations start up process including a timeline schedule with dates and major milestones to be accomplished.
- B. Description of the deployment process of the debt collection services.
- C. Description of the expansion of debt collection services to support higher collection volumes as may be required by future conditions.

VI. Reports

The Vendor shall submit regular and timely reports to the City. Reports and formatting standards will be approved by the City and shall be delivered to the City's authorized representative. Reports shall include, but not be limited to the following:

- A. Summary Reports
 - i. Summarized by debt collection type, date range, method of payment, method of contact, amount collected, status, and any unique identifiers requested by the City shall be submitted every 30 days.
- B. Weekly Transmittal Reports
 - i. Provide daily collection and deposit activity detail by date to allow the City to verify and reconcile bank activity.
- C. Monthly Account Analysis Statement
 - i. An account analysis statement shall be provided to the City within five (5) business days from the end of the month.
 - 1. Provide activity summary by date on the following, but not limited to:
 - a. Number of accounts collected.
 - b. Pending accounts.
 - c. Returned uncollected accounts.
 - d. Dollar amount collected.

VII. Technical Requirements

The Vendor's operating system and use or disposal of any information shall be secure. The Vendor shall:

- A. Provide online account management to include at a minimum:
 - i. Submission of collection and skip tracing items to and from the City electronically.
 - ii. Access to Vendor's database for real time viewing of collection status.
 - iii. Real or near-real time updating of individual item or account status.
 - iv. Online log of contact initiated (mail, email, telephone) with debtors, including images of any collection documentation sent to or received from debtor.

VIII. Data and Information Security

All information regarding the collection services administered on behalf of the City shall be maintained in a secure environment. To prevent current or discarded information from being exposed to a third-party by unauthorized access or use, the Vendor shall adhere to the City's Record Retention Schedule as identified by the State of Texas.

IX. Ownership of Data

The City shall retain ownership of all data provided to the Vendor by the City or obtained by the Vendor related to this project.

X. Proposed Cost and Fees

The Vendor shall submit a completed Proposed Pricing Schedule (Exhibit A) with their sealed proposal. In addition, the Vendor shall include an itemized list of all proposed costs for any services, equipment, and/or supplies offered but not included in Exhibit A, Proposed Pricing Schedule.

- A. For all accounts referred by the City, unless otherwise instructed by the City's Finance Director, the Vendor fee shall be deducted from the principal amount of the debt prior to remittance to the City.
- B. Should there be any changes in laws or City policy that allow a different method for recovering collection fees, the Vendor shall modify its methods accordingly, upon instruction from the City's Finance Director.
- C. If an account is reduced or cancelled by the City, no collection fee will be due to the Vendor for the amount so reduced or cancelled.

**EXHIBIT B
COST PROPOSAL**

| Description | Estimated Quantity for contract life of two (2) years | Rate | Extended Price |
|---|---|----------|----------------|
| Programming Services* Initial Set Up for Formatting Fee | 1 | \$0 | \$0 |
| Graphic Design Service* Design of Utility Bill Layout | 1 | \$0 | \$0 |
| Monthly Billing Statements* Single Sided | 90,000 | \$ 0.105 | \$ 9,450.00 |
| Monthly Billing Statements* Double Sided | 90,000 | \$ 0.110 | \$ 9,900.00 |
| Delinquent Statements* Single Sided | 19,200 | \$ 0.105 | \$ 2,016.00 |
| Monthly Insert* Single Sided | 90,000 | \$ 0.196 | \$ 17,640.00 |
| Monthly Insert* Double Sided | 90,000 | \$ 0.206 | \$ 18,540.00 |
| #10 Envelopes* | 109,200 | \$ 0.024 | \$ 2,620.80 |
| #9 Envelopes* | 109,200 | \$ 0.021 | \$ 2,293.20 |
| Postage** | 109,200 | \$ 0.540 | \$ 58,968.00 |

*Waived during initial install. After initial install, pricing is \$150/hour.

*Waived during initial install. After initial install, pricing is \$95/hour.

*Price includes data processing, printing up to 4/0 ink, and one sheet of paper.

*Price includes data processing, printing up to 4/4 ink, and one sheet of paper.

*Price includes data processing, printing up to 4/0 ink, and one sheet of paper.

*Pricing for inserts is based on a monthly quantity of 3,800 pieces. Insert pricing good for 90 days from time of quote and will be quoted as needed.

*Pricing for inserts is based on a monthly quantity of 3,800 pieces. Insert pricing good for 90 days from time of quote and will be quoted as needed.

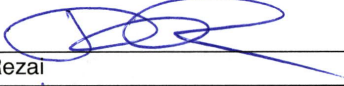
*InfoSend standard #10 double window envelope

*InfoSend standard #9 single window envelope

**Pricing based on qualified pieces for the presorted first-class automated 5-digit rate is \$0.545. InfoSend bills postage as a true pass-through cost and will pass on to the Client the Full-Service IMb discount of \$0.005 per qualified piece, for an updated final rate of \$0.540. Not all pieces will qualify. Postage rates may increase based on future USPS price increases.

Estimated quantities are based on current statements printed. Statements and inserts will vary between single and double sided.

Prices listed above are good for 90 calendar days after receipt of proposal

Signature: 
 Name: Russ Reza
 Date: 09/16/2024

InfoSend Data Processing, Print and Mail Pricing

| Client Volume Assumptions |
|---|
| <p>Customers Contacted or Billed Monthly 3,750 Statements 800 Notices</p> <p>Number of Batches Monthly Two</p> |

| Document Production Summary | |
|--|-----------------------------|
| <p>Statements & Notices Package includes: Data processing, one printed page up to 4/0 ink, InfoSend outgoing #10 envelope, InfoSend #9 return envelope</p> | \$0.15 per document |
| <p>Statements & Notices Package includes: Data processing, one printed page up to 4/4 ink, InfoSend outgoing #10 envelope, InfoSend #9 return envelope</p> | \$0.155 per document |

Finished mail pieces are delivered to the USPS **within one (1) business day (within 24 hours of receipt)**. If electronic PDF samples (proofs) are requested then the mailing will be completed within one day of sample approval. File upload deadline for next-day mailing is 1:30PM local time at the production facility designated for your account. If samples are required then they must be approved by 3:30PM local time for the file to be mailed by the next business day.

The below provides the components of the summary price given above. All pricing is based on “Client Volume Assumptions” listed and excludes applicable sales tax.

| Data Processing | |
|---|--|
| Setup Fee - Express PDF Input Files | \$0.00 (Waived during initial install) |
| Setup Fee – Data Only Input Files | \$0.00 (Waived during initial install) |
| Document Re-Design Fee | \$0.00 (Waived during initial install) |
| Data Processing Fee (per document) | \$0.01 |

| Printing and Mailing Service | |
|---|--|
| Statement and Notices - Printing & Mailing Fee with up to 4/0 Ink | \$0.079 |
| USPS Postage | Pass-through A postage deposit will be required prior to starting service. |
| Print Color Options (colors per side) * | \$0.079 for up to 4/0 printing \$0.084 for up to 4/4 printing |
| Inline Insert Print Fee* | \$0.079 Black printing \$0.084 Color printing |
| Batch Fee (per mailing batch under 200 mail pieces) | \$5.00 |
| Excess Pages Handwork Surcharge (per mail piece) | \$0.35 |
| Address Updates – per “hit” (address that gets updated) | \$0.30 NCOA \$0.30 ACS |
| <p>*Prices assume normal ink/toner coverage for business documents. Flood coating the entire page in color or other types of extremely high coverage designs may cost more or not be technically feasible. Extremely high coverage designs can cause content to bleed through to the other side of the page or to cause the page to curl too much to work properly with high-speed mail inserting equipment.</p> <p>The postage deposit is subject to ongoing review and may be adjusted at any time to account for changes to Client average mailing volume or changes to USPS postage rates with at least thirty (30) days’ written notice to Client.</p> | |

| Materials | |
|---|---------|
| Standard 8.5" x 11" Paper Stock (per sheet) | \$0.016 |
| Standard Double Window Outgoing #10 Envelope | \$0.024 |
| Standard Single Window Return #9 Envelope | \$0.021 |
| Outgoing Flat Envelope – used for mail pieces with excess pages | \$0.18 |

| Insert Services | |
|--|-------------------------------|
| InfoSend Produced | Quoted based on specification |
| Envelope Messaging (Snipes) | Quoted based on specification |
| Electronic Inserts | \$0.010 |
| Inserting Fee Fee to insert an InfoSend produced or Client provided marketing or informational insert. Client provided (drop-shipped) inserts must be professionally packaged and ready for usage. If folding is required then additional fees apply based on folding requirements. Minimum fee is \$0.01 per insert for folding. If inserts are not professionally packaged and damaged in shipment or require additional labor to prepare for inserting then additional fees can apply. Per item fee assumes the insert will be included in all mail pieces. Selective inserting is available but requirements must be reviewed on a case by case basis to determine if additional fees will apply for setup and handling. | \$0.010 per insert |

| Optional Document Services | |
|--|--|
| Print Image Archiving (Per Document Image), with included USPS mail tracking | \$0.010 - For 12 Months of Retention \$0.015 - For 18 Months of Retention \$0.020 - For 24 Months of Retention \$0.025 - For 36 Months of Retention |
| Print Image Archive API Monthly Support Fee | \$100.00 |
| Final Doc Transfer (FDT) | Option 1: \$0.02 per document. One PDF will be provided per batch with multiple documents in it. InfoSend standard batch file format provides account and page numbers for each record in the batch. Option 2: \$0.03per document. Each document will be provided in a separate PDF file. A custom batch file format can be provided if the InfoSend standard format will not work. |
| Professional Services Rate (per hour) | \$150.00 |
| Returned Mail Handling | \$0.35 per reported returned mail piece |
| Remit Tracking | \$50 monthly support fee |
| Email Bill Statement to Customers | \$0.07 each |
| eBilling Monthly Support Fee | \$50.00 |

Data Processing

- **Setup Fee - Express PDF Input:** Requires a final composed PDF is uploaded to InfoSend for processing. Clients maintain control of document look and feel, but InfoSend designs a program to parse the necessary data from the PDF.
- **Setup Fee - Data Only Input:** Requires the client provide a flat data extract, InfoSend creates, hosts and maintains an application to generate documents. Existing document design is copied.
- **Document Re-Design Fee:** Using the “Data Only Input” method, InfoSend’s Client Services Team assists in redesigning the format of printed documents to improve communications or to take advantage of new printing capabilities.
- **Data Processing Fee:** Per document image that is processed by the InfoSend system for output.

Printing and Mailing Service

- **Print Fee:** Price includes baseline number of colors printed on the front and back of the document. All variable and static images are dynamically imaged onto white form with a perforation.
- **Postage:** Clients are invoiced for the exact postage used. Leveraging InfoSend’s USPS compliance and expertise, clients are provided the lowest possible USPS automated rates when client batches qualify.
- **Optional Color Upgrades:** Different options are available at different prices. Numbers fewer than 4 equal individual colors, 4 equals full color. The number 1 means black or grey. All sheets are billed at the same rate; the price for the sheet with the highest number of colors is the applicable fee. **4 equals CMYK (full color).**
- **Batch Fee:** Assessed to cover InfoSend costs when batches transferred to InfoSend fall below threshold.
- **Inline Insert Print Fee:** Price for inserts printed on demand as additional pages. Allows for more dynamic customer messaging without the extra pre-production lead time and overhead.
- **Excess Pages Handwork Surcharge:** Surcharge is assessed per mail piece (not per page). This surcharge only applies to multiple page bills that have too many pages to be inserted into a #10 envelope by machine. This surcharge covers the necessary manual labor required to process these mail pieces.
- **Address Updates – NCOALink or ACS:** Per reported update. InfoSend electronically reports the addresses it received in your data that need to be updated because the customer filed a Change of Address Report with the USPS. Cost is per update.

Materials

- **Paper Stock:** White paper stock with or without perforation. Paper is 8.5x11” and 24lb. Price includes all inventory costs. A larger 8.5x14” format is available at a higher material cost and higher printing cost.
- **Outgoing #10 Envelope:** #10 InfoSend Standard Double Window Outgoing Envelope. Includes security tint printed on the inside of the paper stock and clear film that prevent the contents of the envelope from being viewed. Sourced with sustainably logged paper (SFI).
- **Return #9 Envelope:** #9 InfoSend Standard Single Window Return Envelope. Includes the same security tint and SFI paper as the #10.
- **Outgoing Flat Envelope:** Single window envelope, only used for multiple page statements that do not fit in the #10 envelope.

Insert Services

- **InfoSend Produced Inserts:** Utilizing InfoSend printing and/or design services, inserts can be produced by InfoSend. Price quoted on request.
- **Envelope Messaging (Snipes):** Custom messages and images can be printed onto the standard InfoSend #10 double window envelope as a more cost-effective alternative to pre-manufactured custom envelopes. The price depends on the artwork – number of colors and whether it prints on one or both sides of the envelope, as well as order quantity. Price is quoted upon request.
- **Electronic Inserts:** Fee per digital image of a physically produced insert included in the PDF copy of a document. Ensures that client representatives and client customers can get the same information in the electronic bill as would go out physically.
- **Inserting Fee:** Client provided or InfoSend produced inserts to be included with InfoSend produced mail. Additional fee applies if insert arrives at InfoSend but requires folding prior to insertion. Setup fees may apply for programming selective inserting. InfoSend-printed inserts are quoted upon request.

Optional Document Services

- **Enhanced Print Quality:** The baseline print image quality for transactional documents such as statements and invoices is 600 x 600 DPI. Work produced from InfoSend’s Anaheim facility can be printed at an enhanced image quality at an additional cost. This option uses high definition pigment ink & variable drop sizes to achieve a perceived 1200 x 1200 DPI image quality.
- **Print Image Archiving:** Fee per document to process, index, and store a document as a PDF for a set number of months. PDFs are securely accessed using an InfoSend website application, and includes USPS mail tracking for all outbound First Class mailed documents. Setup fees may apply depending on configuration needs.
- **Print Image Archive API Monthly Support Fee:** A flat monthly support fee to provide API access to documents in the InfoSend Print Image Archive. InfoSend will work with the designated third parties that a Client chooses, and provide support and open access to API calls on a monthly basis.
- **Final Doc Transfer FTP:** Each completed InfoSend batch is indexed and transferred to you via FTP or SFTP to store on your own network. InfoSend’s standard Batch File format is one PDF per batch with an XML companion file providing meta data and page numbers. If the client requires a custom scheme, including individual PDFs per each image in a batch, the Custom fee applies. Note: setup fees may also apply for some custom setups.
- **Professional Services Fee:** Per hour and performed only upon request for customizations made to processing program or document format after go-live. Work is only started after receiving client approval of a formal quote.
- **Returned Mail Handling:** InfoSend will provide electronic reporting of mail that is returned by USPS, saving clients the hassle of receiving and opening returned mail to update records. All records which are not delivered will be securely destroyed and recycled after reporting.
- **Remit Tracking:** For clients utilizing the Print Image Archiving service, InfoSend can also track inbound mail from customers utilizing an included remittance stub in the outbound mail. With Remit Tracking clients will be able to see when a customer responded to the original mail piece, as well as get a daily report of inbound mail with an estimated value of payment remittances based on the outbound mail.

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: November 18, 2024

Topic:

Approve a two-year Service Agreement with RGS for consumer debt collection services for utility accounts (RFP 2024-09R), approve the expenditure of funds therefor, and authorize the City Manager to execute any and all documents related to the purchases. These expenditures are included in the fiscal year 2024-2025 adopted budget.

Background:

To obtain the most favorable pricing and in accordance with the City's Procurement Policy, sealed proposals (RFP 2024-09) were solicited for the services, which allowed interested parties to submit their qualifications and proposals to act as the primary vendor for consumer debt collection services for utility accounts with unpaid balances greater than 90 days. Following the RFP process the City received no submitted proposal and readvertised the services (RFP 2024-09R). The City received one (1) proposal, and after a thorough review and interview, it was determined that RGS could provide the services requested.

The agreement will include providing services of a collection agency to provide consumer debt collection services by locating, contacting, and securing payment from past due utility customers or accountholders of the City.

Vendors were required to submit their fee percentage based on the delinquency of the accounts being sent to collections. RGS is compensated through their proposed fee, which is applied to the collections secured that are redirected to the City. Below is a breakdown demonstrating the estimated fees that could be paid to RGS based on our current accounts pending collection as of June 1, 2024.

| Description | Collection Amount* | Fee Percentage | Total Fee |
|--|--------------------|----------------|--------------|
| 91 days – 180 days (3/10/2024 – 6/8/2024) | \$53,843.58 | 18% | \$9,691.84 |
| 181 days – 1 year (9/3/2023 – 3/9/2024) | \$131,402.36 | 20% | \$26,280.47 |
| Over 1 year (beginning 9/5/2023) | \$672,363.50 | 25% | \$168,090.88 |
| Estimated Total Fee: \$204,063.19 | | | |

*Estimate only as of 6/1/2024

The proposed services agreement will be for a two-year term beginning December 3, 2024, and expiring December 2, 2026.

Origination: Project Management

Recommendation:

Staff recommends approving a Service Agreement with RGS for consumer debt collection services.

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 _____

GENERAL SERVICES
AGREEMENT

BETWEEN

CITY OF TOMBALL, TEXAS

AND

RGS FINANCIAL, LLC

THIS AGREEMENT, made and entered into as of this 4th, day of November 2024, by and between RGS FINANCIAL, LLC, hereafter called “Collector” and CITY OF TOMBALL, TX, hereafter called “Creditor” (the “Agreement”). This Agreement consists of the General Services Agreement and the schedule listed below:

Schedule A: Collector Fee Schedule

WITNESSETH:

WHEREAS, Creditor has unpaid accounts, loans, fines, fees, and/or other receivables (collectively “Debts”) which it desires Collector to attempt to recover on behalf of Creditor; and

Collector is qualified to collect Debts and desires to recover such Debts as referred for collection by Creditor.

IT IS THEREFORE MUTUALLY AGREED AS FOLLOWS:

SECTION 1- SERVICES AND FEES

- 1.1 Collector agrees to accept for collection, upon terms, conditions, and provisions herein set forth, Debts as Creditor refers for collection. Collector agrees to maintain licenses, as required by law, in states necessary to collect these Debts, and to employ lawful, ethical and nondiscriminatory means, methods and procedures, including but not limited to compliance with all federal and state laws relating to the collection of these Debts.
- 1.2 Collector shall remit to the Creditor the **NET** total of funds collected for the Creditor by the tenth (10th) day of each month during the term of this Agreement. Collector will provide separate payments as well as separate monthly accounting statements of all payments received and credited during said period. For any Debts placed with Collector, Creditor agrees to remit collection fees due to Collector in the event payments are made directly to the Creditor or anyone working on behalf of the Creditor that accepts payments of Debts.
 - i. If Collector remits to the Creditor the gross total of funds collected for the month and Creditor fails to pay Collector’s collection fees within sixty (60) days of Creditor receiving said gross funds, then each month thereafter Collector shall automatically remit to the Creditor the net total of funds collected (funds collected minus collection costs owed). Collector may also remove from Creditor’s net remit any outstanding receivable until the receivable is paid in full. If this provision of the Agreement is triggered by Creditor’s failure to remit funds, Creditor agrees

Collector shall remit net funds due to Creditor for the remaining term of the Agreement.

1.3 Types of Accounts and Fees:

- i. First Placements:
 - a. “First Placements” are Debts placed for collection by Creditor for the first time.
 - b. A set percentage of the total amount collected, as provided in the attached Schedule A, will be the sole consideration paid to Collector for First Placements (“First Placements Collection Fee”). Creditor shall not be liable for any costs and/or expenses incurred by Collector in the collection of Debts. Costs and/or expenses (“Costs and/or Expenses”) are defined as those monies necessary for the ordinary course of the Collector’s business operations (i.e. telephone expenses, computer costs, labor, collection letter costs, etc.). Costs and/or Expenses exclude any fees associated with Debts Creditor pursues through litigation except as otherwise addressed herein.
- ii. Second/Third Placements:
 - a. “Second/Third Placements” are Debts previously placed with Collector or any other collection entity (that were subsequently closed and returned to Creditor) that have been placed with Collector for an additional collection effort.
 - b. A set percentage of the total amount collected, as provided in the attached Schedule A, will be the sole consideration paid to Collector for Second/Third Placements (“Second/Third Placements Collection Fee”). Creditor shall not be liable for any costs and/or expenses incurred by Collector in the collection of Debts. Costs and/or expenses (“Costs and/or Expenses”) are defined as those monies necessary for the ordinary course of the Collector’s business operations (i.e. telephone expenses, computer costs, labor, collection letter costs, etc.). Costs and/or Expenses exclude any fees associated with Debts Creditor pursues through litigation except as otherwise addressed herein.
- iii. Accounts Approved for Litigation:
 - a. “Litigation Accounts” are Debts (First Placements, Second/Third Placements) Creditor has, in writing, authorized a lawsuit to be filed against the consumer and/or cosigner in the applicable court as required by law and Collector has, at Creditor’s direction, forwarded the account to Creditor’s law firm in the applicable jurisdiction.

- b. A set percentage of the total amount collected, as provided in the attached Schedule A, will be the sole consideration paid to Collector for Litigation Accounts (“Litigation Account Collection Fee”). Litigation Accounts. Creditor shall not be liable for any costs and/or expenses incurred by Collector in the collection of Debts. Costs and/or expenses (“Costs and/or Expenses”) shall be defined as those monies necessary for the ordinary course of the Collector’s business operations (i.e. telephone expenses, computer costs, labor, collection letter costs, etc.). Costs and/or Expenses do not include those monies necessary for Creditor to defend any claim or counterclaim (federal or state) brought by a consumer against the Creditor after the Creditor has pursued a Debt through litigation.
- c. If Collector advances any court costs (or other hard costs) relating to collection litigation against a consumer and/or cosigner and Creditor closes an account for any reason after costs have been paid by Collector, Creditor shall pay said advanced costs back to Collector within forty-five (45) days of closing the account.
- d. If Creditor authorizes litigation against a consumer and the consumer brings a counterclaim against Collector and/or the Creditor associated with the collection efforts of Creditor's attorneys, all attorney’s fees associated with defending the claim or counterclaim are the responsibility of the Creditor and are specifically excluded from the “Costs and/or Expenses” as that term is previously used in this Agreement.
- e. Lawsuit Authorization: Collector has no independent authority to forward a Debt to a law firm to file suit. Collector must receive written authority from Creditor prior to sending any Debt to a law firm. Collector shall make every effort to collect Debts to avoid Creditor filing a lawsuit. Creditor agrees to be bound by the terms and/or conditions outlined in the Suit Authorization Form. By authorizing litigation on a Debt, Creditor warrants the principal amount of the Debt and any amount above the principal Debt obligation is supported by a legible and enforceable contract between the consumer and the Creditor and/or is specifically allowed by applicable law. By authorizing litigation on a Debt, Creditor also warrants that said Debt is within the statute of limitations for the applicable jurisdiction. Creditor shall accurately disclose the following on each Suit Authorization Form: (a) the date the last voluntary payment was made on the Debt; and (b) all deferral or forbearance periods, including start and end dates.
- f. The decision to file a lawsuit to recover a Debt is solely that of the Creditor. Collector’s role is limited to providing account information to and from the law firm and the Creditor. Creditor chooses counsel to file the lawsuit on its behalf. If the Institution authorizes placement of an account with a law

firm that regularly litigates Debts for Collector's other Creditor clients, Creditor understands and agrees the Creditor is the client of the law firm and is responsible for any and all decisions related to the litigation.

iv. Fee Adjustments

- a. Beginning one (1) year from the date of execution of this Agreement and continuing each year thereafter, the fee schedule set forth in Schedule A may be increased by Collector, provided that in no event shall any such fee increase exceed the most recently available annual change in the Consumer Price Index ("CPI"). Collector shall give Creditor thirty (30) days prior written notice of any increase to the fees set forth in Schedule A.

1.4 Creditor Determines Amount of All Debts:

- i. Creditor, in its sole discretion, determines the amount of all Debts placed for collection with Collector. The amount and accuracy of each Debt placed for collection is the sole responsibility of the Creditor and Debt amounts shall comply with all applicable federal and state laws and regulations while the Debt is placed with Collector. Creditor agrees to notify Collector in writing immediately upon any change in consumer Debt calculations and/or consumer demographics (including any change in bankruptcy status).
- ii. Each Debt placed for collection may or may not include principal, interest, late fees, fines, and/or Creditor assessed fees. Creditor hereby warrants that any amount above the principal Debt obligation is supported by a legible and properly executed written agreement between the consumer and the Creditor and/or is specifically allowed by applicable law.
- a. Written Agreement. Creditor hereby warrants it has in its possession, custody, or control a legible copy of the entire written agreement between the Creditor and the consumer. If the written agreement is an electronic agreement (signed electronically), Creditor warrants it has in its possession a legible record of the consumer's e-signature that comports with the E-Sign Act. Creditor warrants the written agreement expressly allows for any amount incidental to the principal obligation being assessed by Creditor.
- iii. Creditor hereby understands and agrees that Creditor (not Collector) determines Debt amounts, including the assessment of any amount in addition to the applicable Debt's principal amount. Any communication with a consumer by the Creditor shall correctly and accurately inform the consumer of how Creditor Debts are calculated and inform consumers that all amounts related to a Debt are determined and assessed by the Creditor. At no time shall Creditor communicate to any person

or entity, in writing or otherwise, that any Debt amount is assessed, charged, or determined by Collector.

- iv. As set forth above, Collector charges Creditor certain amounts for collecting certain Debts. Collector does not charge the consumer any amount for collecting certain Debts. The Parties understand and agree that fees charged by Collector for performance of the services outlined herein are wholly unrelated to any consumer's Debt obligation to Creditor.
- 1.5 Credit Reporting. Upon written request by the Creditor, Collector shall furnish to national credit bureaus, bi-monthly, at no charge to Creditor, information containing current consumer Debt information (hereinafter "Information"). Collector shall bear the cost of preparation and delivery of tapes and other media to the national credit bureaus. Collector and Creditor understand the Information provided to the national credit bureaus will become property of the national credit bureaus. Collector shall report the consumer data provided by the Creditor. Creditor warrants the accuracy of the consumer data it provides. Creditor will take any/all actions requested by Collector during any Debt investigation required by the Fair Credit Reporting Act. Collector shall furnish Information only on those Debts that are currently placed with Collector for collection. Collector shall not have any obligation to furnish Information on Debts that are closed and/or returned to the Creditor.
- 1.6 Payment Processing. For purposes of collecting Debts; (1) Creditor agrees all Debts placed for collection are for goods and services provided by Creditor, (2) Collector may act as an agent for Creditor when accepting Debt payments, (3) Collector's receipt of funds to pay Debts are treated as a direct receipt of funds by Creditor, and (4) Collector is authorized to provide receipt of payments to consumers reflecting a payment to Collector as agent for Creditor.

SECTION 2- ACCURACY OF ACCOUNT INFORMATION

- 2.1 In addition to any other representation or warranty contained elsewhere in this Agreement, Creditor represents and warrants to Collector:
- i. Debts placed for collection are just obligations that are owed by the individual(s) associated with said Debt(s). If the individual has the same name as a parent or child (is a Junior, Senior, II, III, etc.), Creditor shall identify the accurate generation code/suffix in the placement file;
 - ii. amounts associated with Debts placed for collection are accurate and supported by legible and complete documentation Creditor generates in the ordinary course of its business;

- iii. Debt is not currently being collected by the Creditor or any other entity working on the Creditor's behalf;
- iv. Creditor is not aware of any material dispute as to the validity of any Debt placed for collection and the obligated consumer has not requested that Institution and/or any prior collection agency cease and desist collection activity for the Debt placed with Collector for recovery;
- v. if Collector reports to the any credit reporting agency on behalf of the Creditor, the date of delinquency provided by Creditor is an accurate date of delinquency as that term is used in the Fair Credit Reporting Act;
- vi. dates of default and dates of last voluntary payment provided to Collector by Creditor are accurate and are documented by the Creditor in records Creditor keeps in the ordinary course of its business operations. If the Debt is owed by more than one individual (i.e., consumer and cosigner), Creditor must identify the specific individual who made the last payment;
- vii. individual(s) associated with the Debt(s) are not involved with an ongoing bankruptcy;
- viii. Creditor will only place Debts for a consumer who has been discharged from a bankruptcy filing if; (1) the Debt at issue was incurred after the consumer filed for bankruptcy protection, or (2) Creditor warrants the Debt was not discharged pursuant to 11 U.S.C. § 523(a)(8) and Creditor will defend any threat or claim challenging Creditor's warranty; and
- ix. Consumer E-mail addresses provided to Collector when a Debt is placed for collection are accurate and were obtained directly from the consumer when the consumer registered and/or enrolled at the Creditor.

2.2 Accurate Credit Reporting Information. In addition to 2.1 above, Creditor, pursuant to current credit reporting standards, agrees to provide the following required information for accounts they wish Collector to report to credit reporting agencies:

- i. Consumer's full name (first name, middle name or initial (if available), last name and generation code/suffix (Jr/Sr);
- ii. Consumer's full address;
- iii. Consumer's full Social Security Number (if full Social Security Number is not available, full date of birth is required); and
- iv. Consumer's date of birth.

2.3 Creditor agrees to immediately notify Collector, in writing, of any change in consumer account information. This includes, but is not limited to, address changes, drop/add fees waived, other school fees waived, and balance adjustments. Collector agrees to notify the national credit bureaus bi-monthly of any change in information reported to the national credit bureaus.

- 2.4 Creditor agrees to provide a timely and accurate written response to Collector if Collector is investigating, or re-investigating, any disputed Account (whether the dispute is generated and received from a credit reporting agency or otherwise).
- 2.5 Creditor warrants that Creditor (initial appropriately) _____ HAS or ____HAS NOT, at the time of the transaction that led to the Debt, obtained express written consent from consumers to contact the consumers' cellular telephone numbers via automated telephone dialing equipment and/or to leave an automated and/or pre-recorded voice or text message. If Creditor has obtained consent, Creditor will immediately notify Collector if any consumer revokes that consent at any time by any means.

SECTION 3- COMPLIANCE AND PERFORMANCE STANDARDS

- 3.1 Creditor agrees to perform any pre-placement collection efforts required by law or regulation prior to turning Debts over to the Collector.
- 3.2 Collector agrees to implement comprehensive collection procedures in the attempt to achieve a maximum recovery of Debts. Such procedures may include, but are not limited to, a reasonable number of telephone calls along with a reasonable number of letters. Skip tracing procedures will be used wherever necessary and appropriate to locate a consumer.
- 3.3 Creditor understands and agrees Collector utilizes technology to identify consumers that regularly file lawsuits against the debt collection industry. Creditor further understands and agrees that Debts placed with Collector by Creditor that belong to consumers who are identified as serial litigants against the debt collection industry may be returned to Creditor at the sole discretion of Collector. Creditor understands and agrees that it will not place with Collector those Debts returned by other collection agencies if the agency returned the Debt because the consumer regularly sues the collection industry (or regularly issues unfiled litigation threats with a demand for monetary payments). The term serial litigant shall be defined by Collector at its sole discretion on a consumer-by-consumer basis.
- 3.4 Collector agrees to take affirmative action in complying with all applicable federal and state requirements concerning fair employment and employment of the handicapped, and concerning the treatment of all employees, without regard or discrimination by reason of race, color, religion, sex, national origin, physical handicap, and/or any other protected class of individual.
- 3.5 Collector shall promptly undertake, through proper and lawful means, the collection of all Debts referred by the Creditor without regard to the amount. Collector shall maintain

policies and procedures that conform to industry standards concerning adherence to guidelines established by the Fair Debt Collection Practices Act and make every reasonable effort to conform to said policies and procedures.

- 3.6 Collector acknowledges that all documents and information provided by Creditor will remain confidential. Collector will not disclose any such information to any person or entity for any purpose except as necessary to perform the tasks it is assigned to complete by Client or as otherwise required by law.
- 3.7 Collector agrees to compliance training with all current and future employees regarding federal and state legal and regulatory requirements governing the collection of consumer debt.
- 3.8 Collector agrees to abide by the principles of the Gramm-Leach-Bliley Act (GLB) as described in [16.CFR Part 314] of the May 23, 2002 Federal Register to secure and protect any non-public information for all accounts placed with Collector. Collector agrees to maintain a Safeguard of Information Procedure Report outlining the steps in place to ensure protection of all non-public information.
- 3.9 Creditor understands Collector is required, at times, to abide by regulations, processes, and procedures implemented by the Consumer Financial Protection Bureau (CFPB). Creditor agrees to reasonably cooperate with Collector to assist in Collector's compliance with CFPB regulations, processes, and procedures. Creditor's cooperation includes, but is not limited to, assisting Collector in responding to consumer complaints processed through the CFPB consumer complaint portal. Creditor agrees Collector may release any information related to a consumer or a consumer's account(s) that is necessary to facilitate a prompt and accurate response as required by the CFPB.
- 3.10 Creditor understands and agrees Collector may, because of this Agreement, be required to respond to state and/or federal regulators resulting from and associated with collection work performed on behalf of Creditor. An example of the type of inquiry includes, but is not limited to, Collector's receipt of a subpoena. Upon receipt of any state and/or federal inquiry, Collector shall notify Creditor. Creditor may, at its own expense, take any action necessary to protect its interests (i.e., filing a motion to quash a subpoena). Unless Collector is notified the inquiry has been withdrawn or is ruled invalid, Collector shall work with the state and/or federal regulator to respond to the inquiry fully and accurately. Creditor understands and agrees the response process places a significant operational burden on Collector. Creditor agrees to pay all of Collector's reasonable costs associated with an inquiry response. Costs shall include, but not be limited to, reasonable attorney's fees and reasonable hourly rates for Collector's employees that work on the response.

Creditor agrees Collector's employee rate shall be \$150/hour. Collector shall provide Creditor a detailed breakdown of the hours spent, and employee(s) involved. If Collector's employees and/or Collector's attorney(s) are required to travel in association with the inquiry, Creditor agrees to pay all reasonable travel costs which include, but are not limited to, coach air fare, meals, ground travel costs, and reasonable hotel accommodations.

3.11 Network Security: Collector and Creditor each desire to establish connectivity between each of their respective computer networks to enable the parties to electronically transmit and exchange data and other information in a secure environment.

- a. Creditor will allow only approved employees ("Authorized Creditor Employees") to communicate via secure email or SFTP. Creditor shall be solely responsible for ensuring that Authorized Creditor Employees are not security risks, and upon Collector's request, Creditor will provide Collector with any information reasonably necessary for Collector to evaluate security issues relating to any Authorized Creditor Employee access to the Network Connection.
- b. Each Party will be solely responsible for the selection, implementation, and maintenance of security procedures and policies that are sufficient to ensure that (a) such Party's use of the electronic communications are secure and is used only for authorized purposes, and (b) such Party's business records and data are protected against improper access, use, loss alteration or destruction.

3.12 Network Access: Subject to the terms and conditions of this Agreement, in order to facilitate the transmission, transfer and exchange of Data and other Confidential Information between the parties, each Party grants to the other Party a revocable, non-exclusive, and non-transferable right to electronically access, in accordance with the technical specifications referred to in section 3.11 above, the other Party's computer network for purposes of analyzing, evaluating, billing, collecting, processing, storing, searching, viewing, downloading, delivering, exchanging, and converting data and other Confidential Information and for no other purpose.

- a. Any access rights granted by a party to the other party may be revoked at any time following the delivery of written notice of such revocation to the other party. Neither party is authorized to sell, assign, transfer, publish, disclose, display, download, reverse engineer, copy, reproduce, sublicense, transfer, distribute, or otherwise make available to any third party any software, hardware or other programs provided by a party to the other party for use herein.
- b. Network access and use of the Data is expressly limited to the business purposes identified by this Agreement. To the extent the business relationship between

the Parties is terminated, the network access rights set forth in this Agreement shall also be terminated at the same such time, unless otherwise expressly agreed to in writing between the parties. Each Party will be responsible for all costs incurred by that Party under this Agreement, including, without limitation, costs for phone charges, telecommunications equipment and personnel for maintaining the network connection. Collector-approved method of remote access is based on VPN technology which forces all traffic through an encrypted tunnel. Therefore, all remote access traffic passed between Collector network and the end user is fully encrypted.

3.13 Security Procedures

- a. Each Party will be solely responsible for the selection, implementation, and maintenance of security procedures and policies that are sufficient to ensure that (1) such party's Confidential Information is secure and is used only for authorized purposes, (2) such party's business records and data are protected against improper access, use, loss alteration or destruction, (3) such Party's privacy and security policies and procedures adequately protect non-public personal information as defined by HIPAA, HITECH Act, GLBA, FDICPA and any and all other applicable federal, state and/or local laws, rules and regulations, and (4) such party will immediately communicate any breach or potential breach of its security policy or procedure as it relates to the other party's Confidential Information.
- b. Creditor and Collector each desire to establish connectivity between each of their respective computer networks to enable the parties to electronically transmit and exchange data and other information in a secure environment. Creditor and Collector desire to establish the connectivity guidelines, standards and methods and desires to establish controls with respect to such methods to protect the integrity of their respective computer networks, data and information, and maintain the confidentiality of information exchanged under this Agreement. Such connectivity shall be through secure email and SFTP.
- c. Collector has and shall maintain a designated Security Officer responsible for information security, safeguarding consumer information as defined by applicable laws. Collector has identified and assessed risks to consumer information in each relevant area of its operations and evaluated the effectiveness of current safeguards for controlling identified risks. Collector has designed a safeguards program and selected appropriate sub-contractors who are compliant with the program, to effectively implement Collector's services for Creditor. Collector will continue to monitor, test, evaluate and adjust the

program in response to relevant circumstances, including changes in business arrangements, operations, or the results of testing and monitoring or as needed to comply with any applicable law or regulation affecting the use or disclosure of consumer information. Collector uses and discloses information only as necessary to perform the specific functions and responsibilities for which it was retained by Creditor. Services provided by Collector are performed as part of Creditor's normal operations. Creditor is responsible for obtaining all required consents and authorizations for the release of consumer information and for Collector's use or further release of such information, as required.

SECTION 4 – INDEMNITY AND INSURANCE

- 4.1 Limited Liability. In no event will Collector be liable for any loss of profit or revenue by Creditor, or for any other consequential, incidental, future, punitive, or indirect damages incurred or suffered by Creditor arising as a result of or related to the services performed and/or Agreement, whether in contract, tort, or otherwise, even if Collector and/or Creditor has been advised of the possibility of such loss or damages. The total liability of Collector for all claims of any kind arising as a result of or related to the services performed and/or Agreement, or to any act or omission of Collector, whether in contract, tort, or otherwise, is limited to the lesser of actual damages or three (3) months of commissions paid to Collector by Creditor pursuant to this Agreement for the three (3) month period immediately prior to the claim. Collector shall not be liable to Creditor for any claim made by any consumer(s) alleging any violation of the Telephone Consumer Protection Act.
- 4.2 Insurance. Collector will maintain a fidelity bond in the amount of five million (\$5,000,000) dollars; said bond being for the benefit of Creditor. Collector will, upon Creditor's written request, provide Creditor with a copy of said bond and will provide Creditor with advance written notice of any change in the bond.

SECTION 5- TERM

- 5.1 This Agreement shall be in effect for three (3) years from the date of execution and shall automatically renew unless terminated by Collector or Creditor. Either the Collector or Creditor may terminate the agreement upon thirty (30) days prior written notice to the other. Termination by Creditor for cause, default, or negligence on the part of the Collector shall be excused from the thirty (30) day notice. The Parties remain responsible for remitting any monies that are or become due following termination of this Agreement.

- 5.2 In addition, beginning one (1) year from the date of execution of this Agreement and continuing each year thereafter, the fees in the attached Schedule A may be increased as set forth in Section 1.3 (iv.) of this Agreement.

SECTION 6- CHOICE OF LAW

- 6.1 This Agreement shall be interpreted in accordance with the laws of the State of Texas. For purposes of all legal proceedings between the Parties arising out of this Agreement, whether founded in law or equity, the Parties hereby irrevocably consent to the jurisdiction of the courts located in Dallas County, Texas or the United States District Court for the Northern District of Texas. The Parties hereby expressly waive any right to a trial by a jury regarding any action, legal or equitable, arising out of this Agreement. Prior to bringing any legal or equitable action in any court of law, the Parties hereby irrevocably consent to confidential mediation in Dallas County, Texas. Said mediation shall be conducted within sixty (60) days of a Party providing written notice of said Party's claim(s) and request to mediate. The Parties shall make a good faith effort to agree upon a mediator. To the extent the Parties are unable to agree, the mediator shall be chosen from a list of certified mediators provided by the Texas Bar Association.

SECTION 7- GENERAL PROVISIONS

- 7.1 Neither party shall be liable under any contracts or obligations of the other, except pursuant to the specific terms of this Agreement. Neither Party shall have authority to bind the other Party to any debt, contractual, or other undertaking.
- 7.2 Independent Contractor Relationship. The Parties to this Agreement are independent contractors to one another and nothing in this Agreement shall be deemed to create a relationship of principal and agent between the Parties. Additionally, nothing in this Agreement shall be construed to create an employer/employee, master/servant or partnership/joint venture relationship between the Parties. Each Party shall be exclusively responsible for selecting, supervising and compensating its own employees and/or representatives in the performance of their responsibilities under this Agreement. Neither Party shall have the authority to bind the other or to transact business in the name of the other nor to make representations or promises on behalf of the other except as expressly granted under this Agreement. An express exemption to this provision is when the Creditor directs Collector to send correspondence on Creditor's behalf that is a communication to a consumer from the Creditor (i.e. on Creditor letterhead & directing the consumer back to the Creditor for further communication and/or payment). This type of communication is created, sent, and managed at the direction and control of the Creditor whereby, for the

limited purpose of this type of communication, Collector is a “de facto employee” of the Creditor as that term is used in Fair Debt Collection Practices Act jurisprudence.

- 7.3 Creditor authorizes Collector to endorse any check or other negotiable instrument received by Collector for payment of or towards a placed Debt that is sent to Collector but payable to the Creditor.
- 7.4 Neither Party shall be deemed in breach of this Agreement during any period of time in which it is unable to perform its obligations as a result of the occurrence of any event of force majeure, which shall include, but not be limited to, acts of God, act or order of government, commercial power failure, government action, war, insurrection, terrorism, fire, strike, pandemic, failure of telecommunications facilities or any other circumstances beyond the reasonable control of that Party. The required time for a Party’s performance hereunder shall be extended to account for any such force majeure event.
- 7.5 Modification: This document contains the entire agreement relating to the subject matter hereof between Collector and Creditor and supersedes any prior or contemporaneous oral or written agreements or representations. Except for the Fee Adjustment pursuant to Section 1.3(iv), this Agreement may be modified only by a written agreement duly executed by authorized representatives of both Collector and Creditor except for the suit authorization form executed by the Creditor. The terms and conditions of the suit authorization form modify this Agreement, to the extent the terms and conditions set forth therein do not conflict with the terms of this Agreement. To the extent said terms and conditions do conflict with this Agreement, the terms and conditions of this Agreement shall control.
- 7.6 If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the other provisions shall remain in full force and shall in no way be affected, impaired or invalidated, unless to do so would substantially destroy the fundamental purposes of this Agreement or substantially and unfairly alter the respective burdens and benefits of the Parties hereunder.
- 7.7 Any waiver by either Party of a breach of any provision of this Agreement shall not operate as or be construed as a waiver of any other provision or any subsequent breach.
- 7.8 This Agreement shall not be assigned or transferred by Collector without Creditor's prior written consent, nor shall any of the duties or responsibilities of Collector be assigned or transferred. This Agreement shall not be assigned or transferred by Creditor, except to an entity which is in control of, controlled by, or under common control with Creditor.

- 7.9 All terms of this Agreement shall be binding upon, inure to the benefit of, and be enforceable by the Parties hereto, and their heirs, legal representatives, successors and permitted assigns.
- 7.10 This Agreement is the result of negotiation between the Parties, and no ambiguity herein shall be construed against either party because of that party's role in drafting this Agreement.
- 7.11 A fully executed facsimile or electronic copy of this Agreement shall be treated as an original Agreement and signatures may be made in counterparts to the Agreement.
- 7.12 Each party represents that its execution and performance of this Agreement will not violate any term, covenant or understanding with any other person or entity or place such party in breach of any contractual or legal obligation to a third party.
- 7.13 This Agreement is executed for the benefit of the named Parties only. Nothing in this Agreement or in the negotiation of this Agreement shall have the effect of conferring any rights or expectations on any third party. No one other than a Party to this Agreement or a Party's permitted successor or assign shall have the right to enforce any covenant, term or condition in this Agreement.
- 7.14 Non-Solicitation- During the term of this Agreement and for a period of twelve (12) months subsequent to the termination thereof, neither Party shall, either on its own account or for any person, firm, partnership, corporations, or other entity (a) solicit, interfere with, or endeavor to cause any employee of the other Party to leave his or her employment, or (b) induce or attempt to induce any such employee to breach his or her promise to his or her employer.

7.15 Any notice or other communication required or permitted by this Agreement shall be in writing and shall either be hand-delivered, sent via overnight mail by a nationally recognized courier service, or sent postage prepaid by certified or registered mail, return receipt requested, to the following addresses or to such other addresses or persons as may be furnished from time to time in writing by one party to the other party. The notice shall be effective on the date of delivery if delivered by hand, the date of delivery as indicated on the receipt if sent via overnight mail, or the date indicated on the return receipt whether or not such notice is accepted by the addressee.

If to Creditor:

If to Collector:


RGS Financial, LLC
Executive Vice President
1700 Jay Ell Drive, Suite 200
Richardson, TX 75081

IN WITNESS WHEREOF, Collector and Creditor have caused this Agreement to be executed by their duly authorized representatives on the date first above written:

City of Tomball

RGS Financial, LLC

By: _____

By:  _____

Printed Name: _____

Printed Name: Clay Mahan

Title: _____

Title: Executive Vice President

Date: _____

Date: November 4, 2024

Schedule A - Collector Fee Schedule

Collection fee(s) charged to Creditor will be based on the following table:

| Placement Type | Fee |
|--------------------------|---|
| Aged 0-180 days | Eighteen percent (18%) of the total amount collected will be the sole consideration paid to Collector |
| Aged 181 days – 365 days | Twenty percent (20%) of the total amount collected will be the sole consideration paid to Collector for Second/Third Placements. |
| Aged 1 year plus | Twenty five percent (25%) of the total amount collected will be the sole consideration paid to Collector for Litigation Accounts |
| | |

Collector and Creditor have expressly agreed to the fees set forth in this **Schedule A- Collector Fee Schedule**

Creditor expressly agrees to adjustments of this Schedule A as set forth in Section 1.3 (iv.) of the Agreement.

City of Tomball

RGS Financial, LLC

By: _____

By:  _____

Printed Name: _____

Printed Name: Clay Mahan

Title: _____

Title: Executive Vice President

Date: _____

Date: November 4, 2024

City Council Meeting Agenda Item Data Sheet

Meeting Date: November 18, 2024

Topic:

Authorize the City Manager to Execute an Interlocal Agreement between the City of Tomball and Harris County,by and through Harris County Public Health (HCPH), for a partnership in a wastewater-based epidemiology (WBE) program.

Background:

Wastewater surveillance provides early detection of emerging diseases to improve public health interventions. When combined with other surveillance data including clinical cases, hospital bed utilization, and laboratory testing, wastewater surveillance data can give a broader scope of disease surveillance to public health departments. Public health agencies often perform this work through a wastewater-based epidemiology (WBE) program.

Harris County Public Health maintains a WBE program that is designed to monitor wastewater to detect emerging health threats and provide early warnings for public health interventions. The wastewater data collected will be shared with the objective of using the data to allocate resources efficiently and mitigate potential future diseases surges.

This Agreement has no financial cost exchange associated with it. The County will handle all aspects of the installation, maintenance, and removal of wastewater samplers. Installation of any equipment will be coordinated with City of Tomball treatment plant operators to select a mutually convenient time. During both installation, removal and testing, the County will adhere to all relevant safety and compliance protocols.

Origination: Public Works Department

Recommendation:

Staff recommends approval for an Interlocal Agreement with Harris County, for a partnership in a wastewater based epidemiology (WBE) program.

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

FUNDING (IF APPLICABLE)

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

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

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

Signed: Drew Huffman **Approved by:** _____

Staff Member Date

City Manager Date

**INTERLOCAL AGREEMENT
BETWEEN HARRIS COUNTY AND
CITY OF TOMBALL**

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

THIS INTERLOCAL AGREEMENT (the "Agreement") is entered into upon signature by all parties ("Effective Date") by and between **Harris County, Texas** ("County"), a body corporate and politic under the laws of the State of Texas, by and through Harris County Public Health ("HCPH") and the **City of Tomball** ("City"), pursuant to the Interlocal Cooperation Act, Tex. Gov't Code Ann. §791.001 et seq. County and City are referred to herein collectively as the "Parties" and individually as a "Party."

RECITALS:

WHEREAS, County has developed a wastewater based epidemiology ("WBE") program;

WHEREAS, city desires to use County's WBE program to gain valuable insight into epidemiological trends in its jurisdiction;

WHEREAS, Parties desire to exchange wastewater surveillance data to enhance their understanding of epidemiological trends in the area and to use the data as an indicator to monitor disease outbreaks; and

WHEREAS, Parties find that collaborating will primarily serve a public purpose.

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

TERMS:

ARTICLE I. PURPOSE

The purpose of this Agreement is to describe each Party's role for the coordination of wastewater testing, analysis, and subsequent exchange of information between the Parties through the WBE program, a program developed by HCPH designed to test and analyze wastewater data. This data will be shared between the Parties, and the Parties will use the information to efficiently allocate resources and coordinate outreach to improve the health of residents and to mitigate future disease surges. The specific Scope of Work for this project is found in Attachment A, attached hereto and incorporated herein by reference.

ARTICLE II. CITY DUTIES

During the term of this Agreement, the City agrees to:

- A. Allow the County to access its wastewater facilities and collect influent wastewater samples (the "Samples"), subject to the presence and supervision of the City's Operator.
- B. Appoint a point of contact for County to coordinate supervised site visits in order to collect Samples at regular intervals, but not less than once per week.
- C. Secure, store, and use the data elements listed in Attachment A (the "Data") in a manner that complies with federal, state, and local law.

ARTICLE III. COUNTY DUTIES

During the term of this Agreement, the County agrees to:

- A. Collect Samples from City wastewater facilities at regular intervals and in coordination with and under the supervision of the City's Operator, but not more than twice per week. City shall provide County with the contact information for its Operator for purposes of this Agreement.
- B. Promptly test Samples using its wastewater testing program.
- C. Promptly provide the Data to City at regular intervals.
- D. Promptly inform City if there is an expected or ongoing outage to the data receiving process.
- E. The County will handle all aspects of the installation, maintenance, and removal of wastewater samplers. Installation will be coordinated with the wastewater treatment plant's operators to select a mutually convenient time, typically aimed for the morning hours. The City will not be responsible for any part of the installation or maintenance process. In the event that the City elects to discontinue participation in the program, as stated in Article IV below, a 30-day notice is required to allow the County sufficient time to arrange for the removal of the sampler. Notwithstanding the foregoing, the County may, at its discretion, accommodate a reduced notice period of 30 days if requested. During both installation and removal, the County will adhere to all relevant safety and compliance protocols.

ARTICLE IV. TERM AND TERMINATION

The term of this Agreement commences on the Effective Date and lasts until a year minus a day from the Effective Date ("Initial Term"), unless sooner terminated pursuant to the terms herein contained. This Agreement will automatically renew on the same terms and conditions for four additional one-year terms (each a "Renewal Term") unless it is terminated by either Party by giving the other Party prior written notice of its intention to terminate not less than thirty (30) days prior to the expiration of the term of this Agreement. Notwithstanding the foregoing, either Party may terminate

this Agreement at any time during the Initial Term or any Renewal Term, with or without cause, upon thirty (30) days' written notice to the other Party.

ARTICLE V. LIMIT OF APPROPRIATION

- A. It is agreed that the Parties will not charge a fee for any information disclosed pursuant to this Agreement.
- B. Each Party is responsible for its costs for performance under this Agreement.
- C. Nothing in this Agreement will be construed as obligating a Party to expend funds or to provide resources or be involved in any obligation for future payment of money or provision of resources.
- D. Any funds appropriated under this Agreement will be from current revenue.

ARTICLE VI. NOTICE

All notices and communications permitted or required under this Agreement are to be mailed by United States Postal Service, certified mail, return-receipt requested, to the following addresses:

FOR HARRIS COUNTY: All notices and communications must be mailed as follows:

FOR THE COUNTY:

1111 Fannin Street
Houston, TX 77002
Attention: Executive Director

FOR THE CITY:

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

These addresses may be changed upon giving prior written notice to the other Party. All mailed notices and communications which have been properly addressed are deemed given and complete upon depositing them in the United States Mail.

ARTICLE VII. SAMPLER SPECIFICATIONS

A. Wastewater Sampler Equipment

- i. HCPH will acquire and place the wastewater sampler in the City.
- ii. There are at least two different models that may be placed, with specifications as follows:
 - a. Teledyne Sampler: The sampler measures 32 inches in length, 29 inches in width, and 52 inches in height. These dimensions make it suitable for installation in various locations, including compact spaces. <https://store.teledyneisco.com>
 - b. Hach Sampler: The sampler has dimensions of 30 inches in length, 32 inches in width, and 51 inches in height. This sampler size has suitable space for sample collection and storage. <https://www.hach.com/>

B. Wastewater Sampler Equipment Placement

- i. The sampler(s) will be placed according to the following considerations:
 - a. Strategic Positioning: Samplers are strategically positioned at the influent of the wastewater facility. Placing the sampler at this location ensures easy access to raw, pretreated water, allowing for accurate sampling and analysis. HCPH will ensure that the vinyl tubing is not near the pump and only submerged five (5) inches into the influent.
 - b. Accessibility: Placement of the samplers at the influent also facilitates the sampling process, as it eliminates the need to transport samples over long distances, minimizing the risk of contamination or sample degradation.

C. Wastewater Sampler Requirements

- i. The Sampler requires the following to operate as intended:
 - a. Power Supply: The sampler requires uninterrupted access to a power outlet. These power outlets should be easily accessible and located in proximity to the sampling site to minimize the need for long extension cords or additional wiring.
 1. Power Requirements (Hz): 50 - 60 Hz
 2. Power Requirements (Voltage): 115 V

3. Power Supply: 115 V
 4. Extension Cord Usage: In cases where the existing power outlet is not within reach of the sampler, an extension cord may be used to connect the sampler to the power source.
- D. High-quality extension cords rated for outdoor use to prevent electrical hazards and ensure reliable power transmission are required. HCPH will provide the appropriate extension cord if the City does not have one available for use.
- i. Reliability: Given the critical nature of sampling operations, a reliable power supply is essential to maintain continuous refrigeration and pump operations. Backup power sources or contingency plans should be in place to mitigate the risk.
- E. Wastewater Sampler Equipment Components
- i. Refrigeration Unit: Each sampler is equipped with a refrigeration unit to maintain sample integrity and prevent degradation due to temperature fluctuations. This feature is crucial for preserving the quality of the samples, especially in environments with varying temperatures.
 - a. Sampling Mechanism: The samplers utilize a pump system connected to $\frac{3}{4}$ inch tubing, which is submerged in the influent. The pump draws water from the influent and fills a sample container located within the unit. This automated sampling process ensures consistent and reliable sample collection over time.
 - b. Sampling Frequency: Sampling occurs at regular intervals, with samples being collected once every hour over 24 hours. This frequent sampling schedule allows for comprehensive monitoring of water quality parameters, capturing any fluctuations or trends that may occur throughout the day.
- F. Wastewater Sample Collection Process
- i. Sample Retrieval: After each 24-hour sampling cycle, a trained field technician retrieves the samples from the samplers. During this process, the technician carefully inspects the samplers for any signs of malfunction or irregularities, ensuring that the sampling equipment is functioning properly.
 - ii. Maintenance and Resetting: Following sample retrieval, the technician performs routine maintenance tasks and resets the sampler for the next sampling cycle. This proactive approach to equipment maintenance helps minimize downtime and ensures continuous operation of the sampling system.

ARTICLE VIII. DATA SHARING

- A. Data Sharing. HCPH will share City's collected data in a timely manner, adhering to a secure file transfer protocol (SFTP) as a safety measure for file access, file sharing, and file

management between both parties. City will share facility service area maps and flow rate data with HCPH in a timely manner. HCPH will ensure data integrity and accuracy before any public dissemination.

- B. Public-Facing Dashboard. HCPH will create and maintain a public-facing dashboard that displays general trends derived from the wastewater surveillance data. The dashboard will include visual representations of data trends, such as graphs and color-coded maps, to enhance public understanding. To protect privacy, only aggregate data points related to individual wastewater facility City will be presented.
- C. Data Use and Privacy. Wastewater data is inherently deidentified and cannot be linked to any specific individual. The data provided to HCPH is aggregated and does not contain personally identifiable information. All data shared publicly will be aggregated to protect the identity and privacy of individuals. HCPH will share data with partnering wastewater facility prior to it being published on the dashboard. HCPH will adhere to all relevant data privacy laws and regulations in the handling and dissemination of data.
- D. Review and Updates. The effectiveness of the public messaging and dashboard will be reviewed periodically by HCPH and City. This article may be updated as needed, with the consent of all parties, to reflect changes in public health priorities or data utilization practices.
- E. Duration and Termination. Upon termination of the Agreement according to the terms contained herein all public messaging and dashboard updates will cease. The wastewater data collection is ongoing, with samples being collected weekly from each site. Data for the entire sampling period will be archived and available for viewing.

ARTICLE IX. GENERAL PROVISIONS

- A. Amendment. This Agreement may be amended only by an instrument in writing that is signed by the Parties. Amendments will be effective on the date stipulated therein.
- B. Change in Law. If federal or state laws or regulations or other federal or state requirements are amended or judicially interpreted so that a Party cannot reasonably fulfill this Agreement, and if the Parties cannot agree to an amendment that would enable substantial continuation of this Agreement, the Parties will be discharged from any further obligations under this Agreement upon ten (10) business days' written notice.
- C. Counterparts. This Agreement may be executed in one or more counterparts, each of which is deemed an original and all of which together constitute one and the same agreement.
- D. Integration. This Agreement constitutes the entire agreement between the Parties and supersedes all prior and contemporaneous, oral or written, understandings between the Parties with respect to the subject matter hereof.

- E. News Releases or Pronouncements. News releases and publications pertaining to this Agreement that are made by a Party must be approved in writing by all Parties prior to public dissemination. Notwithstanding the foregoing, disclosure of information and/or this Agreement as may be required by the Texas Public Information Act shall not require prior notice or agreement between the Parties.
- F. No Implied Authority. Any authority delegated to one Party by another Party is limited to the terms of this Agreement. No Party shall rely upon implied authority, and specifically, there is no delegated authority under this Agreement to:
- a. Make public policy;
 - b. Promulgate, amend, or disregard any Party's programs or policies; or
 - c. Unilaterally communicate or negotiate, on behalf of the other Party, with any member of the U.S. Congress or any member of its staff, any member of the Texas Legislature or any member of its staff, or any federal or state agency.
- G. NO WAIVER OF SOVEREIGN IMMUNITY. THE PARTIES EXPRESSLY AGREE THAT NO PROVISION OF THIS AGREEMENT IS AN ANY WAY INTENDED TO CONSTITUTE A WAIVER BY THE PARTIES OF ANY IMMUNITIES FROM SUIT OR FROM LIABILITY THAT THEY MAY HAVE BY OPERATION OF LAW.
- H. Insurance. HARRIS COUNTY is self-insured in accordance with its limited liabilities under the Texas Torts Claims Act as set forth in the Texas Civil Practice and Remedies Code, Chapters 101, 104, 108. Harris County has provided documentation of the self-insured letter as Attachment B, attached hereto and incorporated herein by reference.
- I. Severability. If any provision of this Agreement is held invalid, illegal, or unenforceable:
- a. such provision will be severed from this Agreement;
 - b. the validity, legality, and enforceability of the remaining provisions of this Agreement will not be affected or impaired in any way; and
 - c. the Parties shall negotiate in good faith in an attempt to agree to a substitute provision that is valid, legal, and enforceable and which carries out the Parties' intentions to the greatest lawful extent under this Agreement.
- J. Survivability. The termination of this Agreement for any reason will not release any Party from its obligations to comply with federal and state laws regarding the use and disclosure of the information exchanged under this Agreement.
- K. No Intended Third-Party Beneficiaries. Nothing contained in this Agreement is intended nor

will it be construed to create rights running to the benefit of third parties, unless otherwise expressly provided in this Agreement.

- L. Assignment. This Agreement is not assignable.

[EXECUTION PAGE FOLLOWS]

CITY OF TOMBALL

By: _____
David Esquivel
City Manager
Date: _____

HARRIS COUNTY

By: _____
Lina Hidalgo
County Judge
Date: _____

APPROVED AS TO FORM:
CHRISTIAN D. MENEFE COUNTY
ATTORNEY

By: _____
Shannon Fleming
Senior Assistant County Attorney
C.A.O. Case File No.: 24GEN0044

ATTACHMENT A

Scope of Work

Wastewater surveillance provides early detection of emerging diseases to improve public health interventions. When combined with other surveillance data including clinical cases, hospital bed utilization, and laboratory testing, wastewater surveillance data can give a broader scope of disease surveillance to public health departments. Considering the geographical size, population density, and diversity of Harris County, consistent sampling of wastewater for SARS-CoV-2 and potentially other types of pathogens or markers would provide invaluable insights into the health of the community. Led by local public health departments, wastewater surveillance operations must be conducted in collaboration with area wastewater treatment plants.

Wastewater surveillance has proven to be a reliable method of passive monitoring for the presence of viral or bacterial caseloads of pathogens in the wastewater influent, shed by infected individuals. Wastewater monitoring serves to estimate disease burden at a community level, providing data that signifies areas that are most at risk and need increased testing/vaccinations. Wastewater surveillance provides a more equitable approach to obtaining positivity rates in underserved communities, including the Hispanic and African American communities, disproportionately affected by COVID-19 and other emerging diseases. Each Party will foster a collaborative research relationship with the other that is focus on development of wastewater epidemiology and testing initiative.

ATTACHMENT B
Self-Insured Letter

(follows behind)

ORDER OF COMMISSIONERS COURT
Authorizing execution of an
Agreement

The Commissioners Court of Harris County, Texas, convened at a meeting of said Court at the Harris County Administration Building in the City of Houston, Texas, on _____, 2024, with all members present except _____

A quorum was present. Among other business, the following was transacted:

ORDER AUTHORIZING EXECUTION OF AN AGREEMENT BETWEEN HARRIS COUNTY AND CITY
OF TOMBALL TO
EXCHANGE WASTEWATER SURVEILLANCE DATA AND ALL RELATED
APPURTENANCBS

Commissioner _____ introduced an order and moved that Commissioners Court adopt the order. Commissioner __seconded the motion for adoption of the order. The motion, carrying with it the adoption of the order, prevailed by the following vote:

| Vote of the Court | <u>Yes</u> | <u>No</u> | <u>Abstain</u> |
|--------------------|--------------------------|--------------------------|--------------------------|
| Judge Hidalgo | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Comm. Ellis | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Comm. Garcia | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Comm. Ramsey, P.E. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Comm. Briones | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

The County Judge thereupon announced that the motion had duly and lawfully carried and that the order had been duly and lawfully adopted. The order adopted follows:

IT IS ORDERED that County Judge is hereby authorized to execute for and on behalf of Harris County an Agreement with City of Tomball to exchange wastewater surveillance data and all related appurtenances.

All Harris County officials and employees are authorized to do any and all things necessary or convenient to accomplish the purposes of this order.