

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AN ORDER GRANTING THE PETITION FOR CREATION OF TOMBALL BUSINESS IMPROVEMENT DISTRICT NO. 1 AND APPOINTING INITIAL DIRECTORS

DOCKET NO. 2022-0535-DIS

On August 10, 2022, the Texas Commission on Environmental Quality (Commission) met in regular session at its offices in Austin, Texas, with notice of the meeting issued in compliance with the Open Meetings Act, Texas Government Code §§ 551.001-551.146, and the Administrative Procedure Act, Texas Government Code §§ 2001.001-2001.903, to consider the petition (Petition) filed by LIT Interchange 249 Business Park, LLC, as authorized, to create Tomball Business Improvement District No. 1 (District) of Harris County pursuant to Article XVI, § 59, and Article III, §§ 52 and 52(a) of the Texas Constitution and Chapter 375 Texas Local Government Code, and Chapter 49, Texas Water Code.

The Commission has jurisdiction to consider this matter and the following Findings of Fact and Conclusions of Law are appropriate after examining the application and supporting documentation:

FINDINGS OF FACT

1. On March 29, 2022, an application (including the Petition) by LIT Interchange 249 Business Park, LLC, a Delaware limited liability company (Petitioner) was filed with the Commission pursuant to Chapter 375, Texas Local Government Code; Chapter 49, Texas Water Code; and Chapter 293, Title 30 Texas Administrative Code.
2. The Petition was signed by a duly authorized officer of the Petitioner.
3. The Petitioner holds a majority in value of title to the land to be included within the proposed District's boundaries.
4. Petitioner requested that the Commission hold a public hearing on the question of the creation of the District pursuant to Texas Local Government Code §375.023; Chapter 49, Texas Water Code; and Title 30 Texas Administrative Code §293.12(g).
5. The Petition contains a metes and bounds description of the boundaries of the District; states the specific purpose for which the District will be created; states the general nature of the work, the necessity for the work, and the approximate cost of the work; includes the name of the District; includes a proposed list of initial directors, their experience, and their initial term of service; and includes a Resolution by the City of Tomball, which expresses the city's consent to create the District.
6. There are no lienholders on the land in the proposed District.
7. Harris County is the county in which the District is to be located.

8. Notice of the hearing on the application was published on July 6 and July 13, 2022, in the *Houston Chronicle dba The Potpourri*, a newspaper regularly published and generally circulated in Harris County, Texas, which is the county in which the proposed District is to be located.

9. The notices of the hearing on the application contained the statement, "Each person has a right to appear and present evidence and testify for or against the allegations in the petition, the form of the petition, the necessity and feasibility of the district's project, and the benefits to accrue."

10. Submitted within the petition were notarized affidavits for each of the proposed initial directors, listed as follows and indicating that each meets the qualification requirements of Texas Local Government Code § 375.063:

Two-Year Term
Jorge Guerra, Jr.
Joel Curtis

Four-Year Term
Joe Elkin
Michael Edward Harney
Randall Parr

Pursuant to Texas Local Government Code § 375.062, Petitioner requests that the Commission divide the initial directors into two groups, with two directors serving two-year terms and three directors serving four-year terms, as indicated above.

11. By Ordinance No. 2021-44, passed and approved November 29, 2021, the City of Tomball has consented to the creation of the District, as required by 30 Texas Administrative Code § 293.11(j)(1)(F).

12. The Executive Director conducted a review of the application and memorialized his findings in a technical memorandum dated May 27, 2022 (Memorandum). The Memorandum is attached as Exhibit "B" and is incorporated as part of this Order.

13. The creation of the District as set out in the Petition is feasible, necessary, and would be a benefit to the land to be included in the District.

14. The District and its system and subsequent development within the District will not have an unreasonable effect on the following: land elevations; subsidence; groundwater level within the region; recharge capability of a groundwater source; natural run-off rates and drainage; and water quality.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction to consider this Petition and is authorized to make and enter its Findings of Fact, Conclusions of Law, and Orders with respect to the creation of the proposed District.

2. All of the land and property proposed may properly be included within the District.

3. The Petition conforms to the requirement of Texas Local Government Code § 375.022.

4. Proper notice of this application was given pursuant to Texas Local Government Code §§ 375.023 and 375.024.

5. All statutory and regulatory requirement for creation of Tomball Business Improvement District No. 1 have been fulfilled in accordance with Chapter 375, Texas Local Government Code and Title 30 Texas Administrative Code § 293.11(j).

NOW THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY THAT:

1. The Petition for the creation of Tomball Business Improvement District No. 1 is hereby granted.

2. The District is created under the terms and conditions of Article XVI, § 59, and Article III, §§ 52 and 52(a) of the Texas Constitution, and Chapter 375, Texas Local Government Code, and Chapter 49, Texas Water Code.

3. The District shall have, and shall be subject to, all of the rights, duties, powers, privileges, authority, and functions conferred and imposed by the Commission and the general laws of the State of Texas relating to municipal management districts.

4. The general nature of the work proposed to be done by the District at the present time is to purchase, construct, acquire, maintain, own, operate, repair, improve and extend a waterworks and sanitary sewer system for industrial and commercial purposes; to construct, acquire, improve, extend, maintain, and operate of works, improvements, facilities, plants, equipment, and appliances helpful or necessary to provide more adequate drainage for the District; to control, abate, and amend local storm waters or other harmful excesses of waters as shall be consonant with the purposes for which the District is created, all as more particularly described in an engineer's report filed simultaneously with the filing of the petition, to which reference is made for a more detailed description, and such other additional facilities, systems, plants, and enterprises, and road, park and recreational facilities, as shall be consistent with all of the purposes for which the District is created.

5. The District shall be composed of the area situated wholly within the corporate limits of the City of Tomball, Harris County, Texas, described by metes and bounds in Exhibit "A" attached hereto and incorporated herein for all purposes.

6. The following five persons with terms, as noted, are hereby named and appointed as initial directors of the District to serve until their successors are elected or have been appointed in accordance with applicable law:

Two-Year Term
Jorge Guerra, Jr.
Joel Curtis

Four-Year Term
Joe Elkin
Michael Edward Harney
Randall Parr

7. The foregoing initial directors shall, as soon as practicable after the date of entry of this Order, execute their official bonds and take their official oath of office. All such bonds shall be approved by the Board of Directors of the District and each bond and oath shall be filed with the District and retained in its records.

8. This Order shall in no event be construed as an approval of any proposed agreements or of any particular items in any documents provided in support of the petition for creation, nor as a commitment or requirement of the Commission in the future to approve or disapprove any particular items or agreements in future applications submitted by the District for Commission consideration.

9. This order shall not constitute approval or recognition of the validity of any provision in the City of Tomball consent Ordinance No. 2021-44, passed and approved November 29, 2021, and any other ordinance/resolution incorporated therein by reference to the extent that such provisions exceed the authority granted to the City of Tomball, by the laws of the State of Texas.

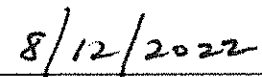
10. The Chief Clerk of the Texas Commission on Environmental Quality shall forward a copy of this Order to all affected persons.

11. If any provision, sentence, clause, or phrase of this Order is for any reason held to be invalid, the invalidity of any portion shall not affect the validity of the remaining portions of the Order.

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY



Jon Niermann, Chairman



Date Signed

Exhibit A
Metes and Bounds Description

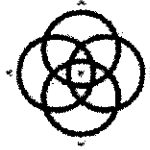


EXHIBIT A

WINDROSE

LAND SURVEYING | PLATTING

DESCRIPTION OF 240.075 ACRES OR 10,457,658 SQ. FT.

A TRACT OR PARCEL CONTAINING 240.075 ACRES OR 10,457,658 SQUARE FEET OF LAND SITUATED IN THE AUGUSTE SENERCHAL SURVEY, ABSTRACT NO. 722, HARRIS COUNTY, TEXAS, BEING A RESIDUE OF A CALLED 314.8179 ACERS DESCRIBED IN DEED TO EXXON MOBILE CORPORATION, AS RECORDED UNDER HARRIS COUNTY CLERK'S FILE (H.C.C.F.) NO. W883345, WITH SAID 240.075 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS, WITH ALL BEARINGS BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE (NAD 83):

BEGINNING AT A BRASS DISK FOUND ON THE NORTHWEST END OF A CUTBACK CORNER LOCATED AT THE INTERSECTION OF THE WEST RIGHT-OF-WAY (R.O.W.) LINE OF ROCKY ROAD (60 FEET WIDE) AND THE SOUTH R.O.W. LINE OF STATE HIGHWAY 99 (WIDTH VARIES) DESCRIBED IN H.C.C.F. NO. 20150158935, MARKING A NORTHEAST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE, SOUTH 47 DEG. 13 MIN. 03 SEC. EAST, ALONG THE SAID CUTBACK LINE, A DISTANCE OF 48.58 FEET TO A 5/8 INCH IRON ROD FOUND ON THE SOUTHEAST END OF SAID CUTBACK CORNER, FOR A NORTHEAST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE, ALONG THE WEST LINE OF SAID ROCKY ROAD, THE FOLLOWING COURSES AND DISTANCES:

SOUTH 02 DEG. 48 MIN. 39 SEC. EAST, A DISTANCE OF 69.85 FEET TO A BRASS DISK FOUND FOR AN INTERIOR CORNER OF THE HEREIN DESCRIBED TRACT;

NORTH 87 DEG. 08 MIN. 19 SEC. EAST, A DISTANCE OF 9.43 FEET TO A CAPPED 5/8 INCH IRON ROD STAMPED "WINDROSE" SET FOR AN EASTERLY CORNER OF THE HEREIN DESCRIBED TRACT;

SOUTH 02 DEG. 54 MIN. 51 SEC. EAST, A DISTANCE OF 1,737.73 FEET TO A CAPPED 5/8 INCH IRON ROD STAMPED "WINDROSE" SET ON THE NORTHEAST END OF A CUTBACK CORNER LOCATED AT THE INTERSECTION OF SAID ROCKY ROAD AND THE NORTH R.O.W. LINE OF BOUDREAUX ROAD (60 FEET WIDE), MARKING THE MOST EASTERLY SOUTHEAST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE, SOUTH 42 DEG. 03 MIN. 13 SEC. WEST, ALONG THE SAID CUTBACK LINE, A DISTANCE OF 21.23 FEET TO A CAPPED 5/8 INCH IRON ROD STAMPED "WINDROSE" SET FOR THE SOUTHWEST END OF SAID CUTBACK MARKING A SOUTHEAST CORNER OF THE HEREIN DESCRIBED TRACT; FROM WHICH A 1/2 INCH IRON ROD BEARS FOR REFERENCE SOUTH 30 DEG. 14 MIN. 11 SEC. WEST, A DISTANCE OF 3.93 FEET.

THENCE, SOUTH 87 DEG. 01 MIN. 16 SEC. WEST, ALONG THE NORTH R.O.W. LINE OF SAID BOUDREAUX ROAD, A DISTANCE OF 5,152.11 FEET TO A CAPPED 5/8 INCH IRON ROD STAMPED "TSI 5269" FOUND MARKING THE SOUTHEAST CORNER OF A CALLED 5.6619 ACRE TRACT DESCRIBED IN DEED TO COUNTY OF HARRIS, AS RECORDED UNDER H.C.C.F. NO. 20130144685, AND THE SOUTHWEST CORNER OF THE HEREIN DESCRIBED TRACT;

EXHIBIT A

THENCE, NORTH 03 DEG. 04 MIN. 42 SEC. WEST, ALONG THE EAST LINE OF SAID CALLED 5.6619 ACRE TRACT, A DISTANCE OF 2,163.53 FEET TO A 1/2 INCH IRON ROD FOUND ON THE SOUTH LINE OF SAID STATE HIGHWAY 99, MARKING THE NORTHEAST CORNER OF SAID CALLED 5.6619 ACRE TRACT AND THE NORTHWEST CORNER OF THE HEREIN DESCRIBED TRACT;

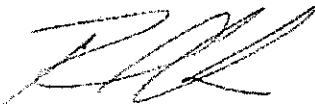
THENCE, ALONG THE SOUTH R.O.W. LINE OF SAID STATE HIGHWAY 99, THE FOLLOWING COURSES AND DISTANCES:

NORTH 87 DEG. 03 MIN. 20 SEC. EAST, A DISTANCE OF 269.34 FEET (CALLED 269.61') TO A BRASS DISK MARKING THE BEGINNING OF A CURVE TO THE RIGHT;

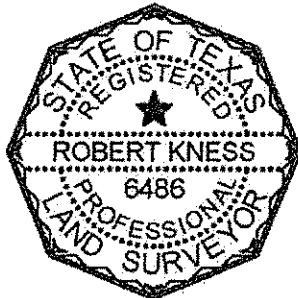
WITH SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 11,259.16 FEET, A CENTRAL ANGLE OF 04 DEG. 03 MIN. 25 SEC., AN ARC LENGTH OF 558.81 FEET AND A CHORD BEARING AND DISTANCE OF NORTH 89 DEG. 05 MIN. 02 SEC. EAST - A DISTANCE OF 797.06 FEET TO A CAPPED 5/8 INCH IRON ROD STAMPED WINDROSE SET MARKING A POINT OF TANGENCY;

SOUTH 88 DEG. 53 MIN. 15 SEC. EAST, A DISTANCE OF 3,514.68 FEET TO A BRASS DISK MARKING THE BEGINNING OF A CURVE TO THE LEFT;

WITH SAID CURVE TO THE LEFT, HAVING A RADIUS OF 11,659.16 FEET, A CENTRAL ANGLE OF 02 DEG. 44 MIN. 46 SEC., AN ARC LENGTH OF 558.81 FEET AND A CHORD BEARING AND DISTANCE OF NORTH 89 DEG. 44 MIN. 22 SEC. EAST - A DISTANCE OF 558.75 FEET TO THE **POINT OF BEGINNING** AND CONTAINING 240.075 ACRES OR 10,457,658 SQUARE FEET OF LAND.



ROBERT KNESS
R.P.L.S. NO. 6599
STATE OF TEXAS
FIRM REGISTRATION NO. 10108800



DATE: 7-12-2021

Exhibit B
Staff Memorandum

Texas Commission on Environmental Quality

TECHNICAL MEMORANDUM

To: Justin P. Taack, Manager
Districts Section

Date: May 27, 2022

Thru: Andrew Paynter, Technical Specialist
Districts Section

From: James Walker
Districts Creation Review Team

Subject: Docket No. 2022-0535-DIS; Petition by LIT Interchange 249 Business Park, LLC for the Creation of Tomball Business Improvement District No. 1; Pursuant to Chapter 375, Texas Local Government Code and Chapter 49, Texas Water Code. TCEQ Internal Control No. D-03292022-056 (TC)
CN: 606001535 RN: 111468054

A. GENERAL INFORMATION

The Texas Commission on Environmental Quality (TCEQ) received a petition within the application requesting approval for the creation of Tomball Business Improvement District No. 1 (District) of Harris County. The petition was signed by Charles F. Meyer, Jr. as the authorized signatory of Interchange 249 Business Park GP, LLC, a Texas limited liability company, the general partner of Interchange 249 Business Park, LP, a Texas limited partnership, an operating member of LIT Interchange 249 Business Park, LLC, a Delaware limited liability company (Petitioner). In compliance with 30 Texas Administrative Code (30 TAC) Section 293.11(j)(1), the petition states that the Petitioner constitutes a majority of the value of the holders of title of the land within the proposed District, as indicated by the tax rolls of Harris County Appraisal District. There are no lienholders on the property to be included in the proposed District.

The District is proposed to be created and organized according to the terms and provisions of Article XVI, Section 59, and Article III, Sections 52 and 52(a) of the Texas Constitution, and Chapter 375, Texas Local Government Code (TLGC), and Chapter 49, Texas Water Code (TWC).

Location and Access

The proposed District is located in Harris County, Texas, south of State Highway 99, west of Rocky Road, and north of Boudreaux Road. The proposed District is located wholly within the corporate limits of the City of Tomball (City). Access to the proposed District will be provided by State Highway 99 to State Highway 249 to Boudreaux Road.

Metes and Bounds Description

The proposed District contains one tract of land totaling 240.075 acres. The metes and bounds description of the proposed District has been checked by TCEQ staff and has been found to form an acceptable closure.

City Consent

By Ordinance No. 2021-44, passed and approved November 29, 2021, the City granted its consent to the petition for creation of the proposed District. Accordingly, the requirement of 30 TAC Section 293.11(j)(1)(F) has been satisfied.

Statements of Filing Petition

Evidence of filing the petition with the City Secretary's office, Harris County, the TCEQ's Houston regional office, the Texas State Representative, and the Texas State Senator was included in the application.

Notice Requirements

Proper notice of the application was published on July 6 and July 13, 2022, in the *Houston Chronicle dba The Potpourri*, a newspaper regularly published or circulated in Harris County, the county in which the District is proposed to be located. Accordingly, the notice requirements of 30 TAC Section 293.12(g) have been satisfied.

Type of Project

The proposed District will be considered a "developer project" as defined by 30 TAC Section 293.44(a). Therefore, developer cost participation in accordance with 30 TAC Section 293.47 will be required.

Developer Qualifications

Application material indicates that Lovett Industrial will carry out the development of the proposed District. Lovett Industrial was founded in 2020 with the goal of being the premier industrial and logistics real estate operating platform in the United States. Lovett Industrial currently has 16 projects across the United States.

Appraisal District Certificate

By certificate dated January 18, 2022, the Harris County Appraisal District has certified that the appraisal roll indicates that the Petitioner represents the owner of the majority of value of the property in the proposed District.

Temporary Director Affidavits

The TCEQ has received affidavits for consideration of the appointment of temporary directors for the following:

Two-Year Term

Jorge Guerra, Jr.
Joel Curtis

Four-Year Term

Joe Elkin
Michael Edward Harney
Randall Parr

Submitted within the application were notarized affidavits for each of the proposed temporary directors, indicating that each meets the qualification requirements of Texas Local Government Code Section 375.063.

Pursuant to Texas Local Government Code Section 375.062, the Petitioner requests that the TCEQ divide the temporary directors into two groups, with two directors serving two-year terms and three directors serving four-year terms, as indicated above.

B. ENGINEERING ANALYSIS

Availability of Comparable Service

The proposed District is within the corporate limits of the City of Tomball. According to information provided, there are no other utility servicers which have the facilities or capacity to serve the development. The proposed District will construct all internal water, wastewater, drainage, and road facilities, as well as required offsite roadway and wastewater improvements necessary to serve the proposed District. Once constructed, the required water, wastewater, and road improvements will be conveyed to the City for ownership and maintenance. Drainage improvements will be owned, operated, and maintained by the proposed District. All infrastructure proposed to serve the proposed District will be designed according to applicable criteria established by the City of Tomball, Harris County, Harris County Flood Control, Texas Department of Transportation, and the TCEQ as appropriate.

Water Supply

The proposed District is located within the corporate limits of the City of Tomball. The City holds the water Certificate of Convenience and Necessity (CCN) for the land to be included in the proposed District. It is expected that the proposed District will connect to existing City of Tomball infrastructure. The proposed District will not have a residential population, it will serve industrial and commercial development with an equivalent single-family connection (ESFC) count of 425. The ultimate average daily demand is estimated to be 0.11 million gallons per day (MGD) with a max day and peak hour demand of 0.26 MGD and 0.47 MGD, respectively.

Water Distribution

The water distribution system for full development of the proposed District will consist of approximately 4,600 linear feet (LF) of 12-inch water lines along with related appurtenances. Connection to the City's water system will be made to existing waterlines at Rocky Road and Boudreaux Road. The internal water distribution system will be looped with connection to waterlines within both Rocky Road and Boudreaux Road to improve supply conditions during emergencies and maintenance periods, and to equalize pressure in the system. Valves, fire hydrants, and flushing valves will be provided at intervals as required by the TCEQ and the City. The City intends to construct a 1.0 MGD elevated storage tank within the boundaries of the proposed District in order to supplement water pressure in the southwest corner of the City. The elevated storage tank is anticipated to be funded 50% by the City and 50% by the developer. Upon completion and inspection of the water supply facilities, all facilities will be conveyed to the City for ownership, maintenance, and operation.

Wastewater Treatment

The wastewater generated by the development within the proposed District will flow by gravity through internal wastewater lines to an onsite lift station which will pump to an existing City of Tomball wastewater system at the corner of State Highway 249 and Holderrieth Road, approximately 1 mile north of the proposed District.

Wastewater Collection

The wastewater collection system for full development of the proposed District will consist of approximately 4,050 LF of 12-inch diameter gravity flow wastewater line which will flow into a proposed lift station on the east side of the site. Approximately 8,160 LF of 6-inch wastewater force main is proposed to be installed east to Rocky Road, north along Rocky Road to Boudreaux Estates Drive, east along Boudreaux Estates Drive to the west side of State Highway 249, and north along the west side of State Highway 249 to the northwest corner of State Highway 249 and Holderrieth Road where it will connect to an existing City of Tomball wastewater manhole. It is estimated that the proposed District will contain 425 ESFCs at ultimate development, requiring 106,250 gallons per day of wastewater treatment capacity, using 250 gallons per day per connection. Upon completion and inspection of the wastewater facilities, all facilities will be conveyed to the City for ownership, maintenance, and operation.

Storm Water Drainage System and Drainage Improvements

The stormwater collection system for the full development of the District will consist of a combination of street curbs and gutters with inlets, detention ponds, and internal storm drain conduit. Major storm pipe infrastructure ranges from 18-inch reinforced concrete pipe to 6'x5' reinforced concrete box. The storm water collection system will be designed to convey the 2-year storm within a pipe system to the two proposed detention ponds onsite. One will be at the northwest corner of the site, and one will be at the eastern side of the site. The 100-year storm will be conveyed to the detention ponds via sheet flow.

Road Improvements

The paving within the proposed District will be 40-foot concrete curb and gutter roadways provided by the proposed District. Connections to Rocky Road, State Highway 99, Shaw Road, and Boudreaux Road will provide ingress/egress access to the site. The collector roadways for full development of the proposed District will consist of a north/south roadway providing connectivity to State Highway 99 and Hamish Road and an east/west roadway which will provide connectivity from Hamish Road to Rocky Road. Application material indicates the proposed District will construct improvements within the proposed District. Once constructed, the roadway improvements will be conveyed to the City for ownership and maintenance. The City has consented by ordinance to the creation of the District with road powers.

Recreational Facilities

The proposed District will construct recreational facilities consisting of major amenity infrastructures.

Topography/Land Elevation

The topography of the proposed District is relatively flat and forested, with some steeper slopes near the northwest corner. Elevations range from 170 to 159 feet above mean seal level. The fill and/or excavation associated with the development of the proposed District's systems will not cause any changes in land elevation other than that normally associated with the construction of the underground utility systems, drainage facilities, and paving.

Floodplain

According to Federal Emergency Management Agency Flood Insurance Rate Map No. 48201C0220L, dated June 18, 2007, and 48201C0240M dated October 16, 2013, approximately 1 acre of the proposed District is located within Zone "X". The floodplain area is expected to be utilized for detention. Any mitigation required will be provided during design.

Subsidence

According to application material, the proposed District is anticipated to have minimal effect on subsidence.

Groundwater Level/Recharge

The water supply sources utilized by the City are mostly sourced by groundwater. As the CCN holder and retail provider for the proposed District and based on conversations between the proposed District and the City, it is understood that the City has adequate well capacity to serve the proposed District. Recharge to the unconfined portion of the aquifers beneath the surface of the proposed District area is primarily from infiltration of precipitation and seepage of surface water bodies. Approximately 80% of the proposed District's area will be made impervious as a result of development, leaving 20% of the site pervious to allow for groundwater recharge.

Water Quality

No adverse effect on the water quality of ground or surface water is anticipated due to the treatment and disposal of wastewater flows from the proposed District into existing City facilities. Additionally, facilities to serve the proposed District will be operated in accordance with the terms of the waste discharge permit obtained from the TCEQ.

C. SUMMARY OF COSTS

WATER, WASTEWATER, AND DRAINAGE

	District's ⁽¹⁾
<u>Construction Costs</u>	<u>Share</u>
1. Water Distribution System	\$ 3,463,400
2. Wastewater Collection System	5,890,600
3. Storm Drainage System	<u>19,199,100</u>
TOTAL CONSTRUCTION COSTS (78.77% of Bond Issue)	\$ 28,553,100
<u>Non-construction Costs</u>	
A. Legal Fees	\$ 906,250
B. Fiscal Agent Fees	725,000
C. Interest	
1. Capitalized Interest (1 year at 4.5%)	1,631,250
2. Developer Interest (2 years at 4.5% of Construction Costs)	2,569,779 ⁽²⁾
D. Bond Discount (3%)	1,087,500
E. Bond Issuance Expenses	175,246
F. Bond Application Report Costs	300,000
G. Creation Expenses	75,000
H. Operating Expenses	100,000
I. Attorney General Fee (0.10%)	36,250
J. TCEQ Bond Issuance Fee (0.25%)	<u>90,625</u>
TOTAL NON-CONSTRUCTION COSTS	\$ 7,696,900
TOTAL BOND ISSUE REQUIREMENT	\$ 36,250,000

Notes:

- (1) Assumes 100% funding of anticipated developer contribution items, where applicable.
- (2) Based on developer advancing funds approximately two years prior to reimbursement.

Eligibility of costs for District funding and 30% developer contribution requirements will be determined in accordance with TCEQ rules in effect at the time bond applications are reviewed.

ROADS

<u>Construction Costs</u>		District's ⁽¹⁾ Share
1. Collector Roads	\$	3,274,800
2. Perimeter Roads		<u>4,522,700</u>
TOTAL CONSTRUCTION COSTS (79.93% of Bond Issue)	\$	7,797,500
 <u>Non-construction Costs</u>		
A. Legal Fees	\$	243,875
B. Fiscal Agent Fees		195,100
C. Interest		
1. Capitalized Interest (1 year at 4.5%)		438,975
2. Developer Interest (2 years at 4.5% of Construction Costs)		701,775 ⁽²⁾
D. Bond Discount (3%)		292,650
E. Bond Issuance Expenses		75,370
F. Attorney General Fee (0.10%)		<u>9,755</u>
TOTAL NON-CONSTRUCTION COSTS	\$	1,957,500
 TOTAL BOND ISSUE REQUIREMENT	 \$	 9,755,000

Notes:

- (1) Assumes 100% funding of anticipated developer contribution items, where applicable.
- (2) Based on developer advancing funds approximately two years prior to reimbursement.

A preliminary layout of roads proposed for funding has been provided, and they appear to benefit the proposed District and the land included within the proposed District. Eligibility of costs may be subject to TCEQ review to be determined in accordance with TCEQ rules in effect at the time bond applications are reviewed.

RECREATIONAL FACILITIES

<u>Construction Costs</u>		District's ⁽¹⁾ Share
1. Major Amenity Infrastructure	\$	<u>3,274,800</u>
TOTAL CONSTRUCTION COSTS (78.72% of Bond Issue)	\$	3,274,800
 <u>Non-construction Costs</u>		
A. Legal Fees	\$	104,000
B. Fiscal Agent Fees		83,200
C. Interest		
1. Capitalized Interest (1 year at 4.5%)		187,200
2. Developer Interest (2 years at 4.5% of Construction Costs)		294,732 ⁽²⁾

D. Bond Discount (3%)	124,800
E. Bond Issuance Expenses	76,708
F. Attorney General Fee (0.10%)	4,160
G. TCEQ Bond Issuance Fee (0.25%)	<u>10,400</u>
TOTAL NON-CONSTRUCTION COSTS	\$ 885,200
TOTAL BOND ISSUE REQUIREMENT	\$ 4,160,000

Notes:

- (1) Assumes 100% funding of anticipated developer contribution items, where applicable.
- (2) Based on developer advancing funds approximately two years prior to reimbursement.

Eligibility of costs may be subject to TCEQ review to be determined in accordance with TCEQ rules in effect at the time bond applications are reviewed.

D. ECONOMIC ANALYSIS

Land Use

The land use for the proposed District is projected in the following table:

<u>Development</u>	<u>Acres</u>	<u>ESFCs</u>
Industrial	174.937	392
Commercial/Retail	10.900	34
Boudreaux Road Right-of-way	4.751	0
Internal Collector Right-of-way	6.926	0
Detention Pond	40.726	0
Water/Wastewater Facilities	<u>1.834</u>	<u>0</u>
Total	240.075	426

Market Study

A market study, prepared in February 2022, by Community Development Strategies, has been submitted in support of the creation of the proposed District. The market study indicates that approximately 3,085,545 square feet of the planned 3,176,105 square feet will be 10 industrial structures and constructed in three phases. The buildings will consist of a mix of larger buildings with a cross-dock loading configuration and smaller front or rear load buildings. A building including approximately 909,198 square feet will be the first constructed during 2022-2023 and is pre-leased as a build-to-suit for a single tenant. The remaining buildings will be constructed over three phases for either single tenants or up to two/three tenants depending on size and design. There will also be two retail sites totaling 8.2 acres. An additional 2.7-acre site is permitted for light industrial or retail use.

Project Financing

The estimated total assessed valuation of the proposed district at completion is as follows:

<u>Units Planned</u>	<u>Acreage</u>	<u>Value per Acre</u>	<u>Total Value at Build-Out</u>
Industrial	174.94	\$1,834,900	\$320,992,000 ⁽¹⁾

Retail/Commercial	10.9	\$1,834,900	<u>\$20,001,000</u> ⁽¹⁾
Total Assessed Valuation (AV)			\$341,000,000 ⁽³⁾

Note:

(1) Values are based on estimated costs as presented in the engineering report.

The application considers an estimated bond issue requirement of \$50,155,000 (\$36,250,000 for utilities, \$9,755,000 for roads, and \$4,150,000 for recreational facilities), assuming 100% financing, a bond coupon rate of 4.5%, and a 30-year bond life; therefore, the average annual debt service requirement would be \$3,079,707 (\$2,225,443 for utilities, \$598,875 for roads, and \$255,389 for recreational facilities). Assuming a 98% collection rate and an ultimate assessed valuation of \$341,000,000, a tax rate of approximately \$0.93 (\$0.67 for utilities, \$0.18 for roads, and \$0.08 for recreational facilities) per \$100 assessed valuation would be necessary to meet the annual debt service requirement. Application material also indicates a maintenance tax of \$0.05 per \$100 assessed valuation is anticipated.

The total 2021 overlapping tax rates on land within the proposed District are shown in the following table.

<u>Taxing Jurisdiction</u>	<u>Tax Rate</u> ⁽¹⁾
Tomball Business Improvement District No. 1	\$ 0.980000 ⁽²⁾
City of Tomball	0.333339
Tomball ISD	1.250000
Harris County	0.376930
Harris County Flood Control District	0.033490
Port of Houston Authority	0.008720
Harris County Hospital District	0.162210
Harris County Education Department	0.004990
Lone Star College System	0.107800
Harris County ESD 15	0.048810
Harris County ESD 8	<u>0.094245</u>
Total Tax Rate	3.400534

Notes:

(1) Represents tax rate per \$100 assessed valuation.

(2) Represents \$0.67 for utilities, \$0.18 for roads, \$0.08 for recreational, and \$0.05 for operation and maintenance tax.

Based on the proposed District tax rate and the year 2021 overlapping tax rate on land within the proposed District, the project is considered economically feasible.

Water and Wastewater Rates

According to information provided, the City will provide retail water and wastewater services to the proposed District's customers. The current water rates are as follows:

Water rate:

Monthly Base Fee	\$51.99 Flat Fee
Per 1,000 gallons	\$5.40

Wastewater rate:

Monthly Fee	\$23.50 Flat Fee
0 to 5,000 gallons	\$4.27 per 1,000 gallons
5,001 to 51,000 gallons	\$5.33 per 1,000 gallons
51,001 gallons and above	\$6.67 per 1,000 gallons

Based on the above rates, the estimated monthly fee for 10,000 gallons of water and wastewater would be \$177.49.

Comparative Water District Tax Rates

A tax rate of \$1.313339 (\$0.98 District tax rate plus \$0.333339 City tax rate) per \$100 assessed valuation for 100% financing for the proposed District is comparable to other districts in the area. Based on the requirements of 30 TAC Section 293.59, this project is considered economically feasible.

E. SPECIAL CONSIDERATIONS

I. Hearing Action

Pursuant to Texas Local Government Code Section 375.023, the TCEQ shall conduct a hearing to consider the petition received requesting the creation of a municipal management district and its necessity, the feasibility of the proposed District's projects, and the benefit it represents for the land within its boundary.

2. Powers of Municipal Management Districts

Municipal management districts have the general powers granted to conservation and reclamation districts pursuant to Article XVI, Section 59 of the Texas Constitution, including those conferred by Chapter 49, Texas Water Code. Pursuant to Article III, Sections 52 and 52(a) of the Texas Constitution municipal management districts also have the powers and authorities granted to road utility districts which includes the power to levy ad valorem taxes for construction and maintenance of roads, and for the provision of mass transit services. Municipal management districts may borrow money, purchase, or lease property, enter into agreements for joint use of facilities, establish fees for use of district facilities or property, pursue grants from government or private entities, among other things. Municipal management districts do not have the power of eminent domain.

A municipal management district may issue either general obligation or revenue bonds to finance improvements or services. Bonds payable from taxes may only be issued after first holding an election.

F. CONCLUSIONS

1. Based on TCEQ policy, compliance with TCEQ rules, and review of the engineering report and supporting documents, the proposed District is considered feasible, practicable, would be a benefit to the land within the proposed District, and would be necessary as a means to finance utilities and to provide utility service to future customers.
2. Based on a review of the preliminary engineering report, market study, the proposed District's water, wastewater, drainage, road, and recreational facilities; a combined projected tax rate of \$0.98 per \$100 assessed valuation when assuming 100% financing; the

proposed District obtaining a 4.5% bond coupon rate; and other supporting data, the proposed District is considered feasible under the feasibility limits prescribed by 30 TAC Section 293.59.

3. The recommendations are made under authority delegated by the Executive Director of the TCEQ.

G. RECOMMENDATIONS

1. Grant the petition for creation of Tomball Business Improvement District No. 1.
2. Appoint the following to serve as temporary directors, with terms as noted, until permanent directors are elected and qualified:

<u>Two-Year Term</u>	<u>Four-Year Term</u>
Jorge Guerra, Jr.	Joe Elkin
Joel Curtis	Michael Edward Harney
	Randall Parr

3. The order granting the petition should include the following statements:

"This Order shall in no event be construed as an approval of any proposed agreements or of any particular items in any documents provided in support of the petition for creation, nor as a commitment or requirement of the TCEQ in the future to approve or disapprove any particular items or agreements in future applications submitted by the District for TCEQ consideration."

"This order shall not constitute approval or recognition of the validity of any provision in the City of Tomball consent Ordinance No. 2021-44, passed and approved November 29, 2021, and any other ordinance/resolution incorporated therein by reference to the extent that such provisions exceed the authority granted to the City of Tomball, by the laws of the State of Texas."

H. ADDITIONAL INFORMATION

The petitioner's professional representatives are:

Attorney: Ms. Jessica Holoubek – Allen Boone Humphries Robinson, LLP
Engineer: Ms. Stephanie White, P.E. – Kimley-Horn