

ORDINANCE NO. 2023-21

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS APPROVING THE 2023 ANNUAL UPDATE TO THE SERVICE AND ASSESSMENT PLAN AND ASSESSMENT ROLL FOR THE RABURN RESERVE PUBLIC IMPROVEMENT DISTRICT INCLUDING THE COLLECTION OF THE 2023 ANNUAL INSTALLMENTS.

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WHEREAS, the City of Tomball, Texas (the “City”) received a petition meeting the requirements of Sec. 372.005 of the Public Improvement District Assessment Act (the “Act” requesting the creation of a public improvement district over a portion of the area within the corporate limits of the City to be known as the Raburn Reserve Public Improvement District (the “District”); and

WHEREAS, the petition contained the signatures of the owners of taxable property representing more than fifty percent of the appraised value of taxable real property liable for assessment within the boundaries of the proposed District, as determined by the then current ad valorem tax rolls of the Harris County Appraisal District and the signatures of property owners who own taxable real property that constitutes more than fifty percent of the area of all taxable property that is liable for assessment by the City; and

WHEREAS, on August 5, 2019, the City Council accepted the Petition and called a public hearing for September 3, 2019, on creation of the District and the advisability of the improvements; and

WHEREAS, notice of the hearing was published in a newspaper of general circulation in the City in which the District is to be located on August 14, 2019; and

WHEREAS, on August 16, 2019, notice to the owners of the property within the proposed District was sent by first-class mail to the owners of 100% of the property subject to assessment under the proposed District containing the information required by the Act such that such owners had actual knowledge of the public hearing to be held on September 3, 2019; and

WHEREAS, the City Council opened and conducted such public hearing on the advisability of the improvements and the creation of the District, and closed such hearing on September 3, 2019; and

WHEREAS, the City Council approved the creation of the PID by Resolution No. 201941 approved on October 7, 2019 (the “Original Creation Resolution”) and published the Original Creation Resolution as authorized by the Act; and

WHEREAS, on October 7, 2019, the City approved Resolution no. 2019-42 calling a public hearing on the addition of land to the boundaries of the PID; and

WHEREAS, on October 9, 2019, notice of public hearing was mailed to the owners of the Property within the PID and notice of the public hearing was published in a newspaper of general circulation, in the PID on October 23, 2019; and

WHEREAS, the City Council opened and conducted such public hearing on the addition of additional land to the PID and closed such hearing on November 4, 2019 and approved an amended and rested resolution (the “Amended Creation Resolution” creating the PID and adding the additional land to the boundaries of the PID; and

WHEREAS, the City re-published the Amended Creation Resolution in a newspaper of general circulation in the City and the PID; and

WHEREAS, no written protests of the District from an owners of record of property within the District were filed with the City secretary within 20 days after such publication; and

WHEREAS, the District is to be developed in phases and assessments are anticipated to be levied in each development phase (each an “Improvement Area”); and

WHEREAS, pursuant to Sections 372.013, 372.014, and 372.016 of the Act, the City Council directed the preparation of Preliminary Service and Assessment Plans for Authorized Improvements within Improvement Area #1 and Improvement Area #2 of the District (the “Service and Assessment Plan”) and an assessment roll for Improvement Area #1 and Improvement Area #2 of the District (collectively, the “Assessment Roll” that states the assessment against each parcel of land within Improvement Area #1 and Improvement Area #2 of the District (collectively, the “Assessments”); and

WHEREAS, the City called separate public hearings regarding the proposed levy of Assessments pursuant to the Preliminary Plan and the proposed Assessment Roll on property within Improvement Area #1 and Improvement Area #2 of the District, pursuant to Section 372.016 of the Act; and

WHEREAS, the City, pursuant to Section 372.016(b) of the Act, published notice in newspaper of general circulation within the City to consider the proposed Service and Assessment Plans for the District and the levy of the Assessments, as defined in the Service and Assessment Plan, on property in the District; and

WHEREAS, the City Council, pursuant to Section 372.016(c) of the Act, caused the mailing of separate notices of the public hearings to consider the proposed Service and Assessment Plans and the Assessment Roll attached to the Service and Assessment Plans and the levy of Assessments on property in Improvement Area #1 and Improvement Area #2 of the District to the last known address of the owners of the property liable for the Assessments; and

WHEREAS, the City Council convened the separate public hearings at which all persons who appeared, or requested to appear, in person or by their attorney, were given the opportunity to contend for or contest the Service and Assessment Plan, the Assessment Roll, and the proposed Assessments, and to offer testimony pertinent to any issue presented on the amount of the

Assessments, the allocation of the costs of the Authorized Improvements, the purposes of the Assessments, the special benefits of the Assessments, and the penalties and interest on annual installments and on delinquent annual installments of the Assessments; and

WHEREAS, the City Council approved separate Ordinances levying Assessments on property within Improvement Area #1 and Improvement Area #2 of the District; and

WHEREAS, pursuant to the Act, the Service and Assessment Plan and Assessment Roll is required to be reviewed and updated annually as described in Sections 372.013 and 372.014 of the PID Act; and

WHEREAS, the City Council has directed that an update to the Service and Assessment Plan and the Assessment Roll for the District be prepared for 2023 (together, the “2023 Updates”); and

WHEREAS, the City Council now desires to proceed with the adoption of this Ordinance approving the 2023 Updates attached thereto, in conformity with the requirements of the PID Act; and

WHEREAS, the City Council finds the passage of this Ordinance to be in the best interest for the citizens of Tomball, Texas.

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

Section 1. That all matters stated in the preamble are found to be true and correct and are incorporated herein as if copied in their entirety. Defined Terms. Capitalized terms not otherwise defined herein shall have the meaning ascribed to in the Master Indenture or in the First Supplemental Indenture.

Section 2. That the 2023 Updates attached hereto as Exhibit A are hereby approved and accepted as provided.

Section 3. If any portion of this Ordinance shall, for any reason, be declared invalid by any court of competent jurisdiction, such invalidity shall not affect the remaining provisions hereof and the Council hereby determines that it would have adopted this Ordinance without the invalid provision.

Section 4. That this Ordinance shall be cumulative of all other City Ordinances and all other provisions of other Ordinances adopted by the City which are inconsistent with the terms or provisions of this Ordinance are hereby repealed.

Section 5. It is hereby declared to be the intention of the City Council of the City of Tomball, Texas, that sections, paragraphs, clauses and phrases of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared legally invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such legal invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance since the same would have been enacted by the City Council of the City of Tomball without the incorporation in this Ordinance of any such legally invalid or unconstitutional, phrase, sentence, paragraph or section.

Section 6. This ordinance shall take effect immediately from and after its passage as the law in such case provides.

[Signature Page Follows]

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 17th DAY OF JULY 2023.

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

Lori Klein Quinn, Mayor

ATTEST:

Tracylynn Garcia, City Secretary

SECOND READING:

READ, PASSED, APPROVED AND ORDAINED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 7TH DAY OF AUGUST 2023.

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

Lori Klein-Quinn, Mayor

ATTEST:

Tracylynn Garcia, City Secretary