

**ORDINANCE NO. 2023-27**

**AN ORDINANCE APPROVING AND AUTHORIZING THE ISSUANCE AND SALE OF THE CITY OF TOMBALL SPECIAL ASSESSMENT REVENUE BONDS, (RABURN RESERVE PUBLIC IMPROVEMENT DISTRICT IMPROVEMENT AREA #3); APPROVING AND AUTHORIZING A MASTER INDENTURE OF TRUST AND FIRST SUPPLEMENTAL INDENTURE OF TRUST AND OTHER AGREEMENTS AND DOCUMENTS IN CONNECTION THEREWITH; MAKING FINDINGS WITH RESPECT TO THE ISSUANCE OF SUCH BONDS; AND PROVIDING AN EFFECTIVE DATE**

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**WHEREAS**, the City of Tomball, Texas (the “City”), pursuant to and in accordance with the terms, provisions and requirements of the Public Improvement District Assessment Act, Chapter 372, Texas Local Government Code (the “PID Act”), has previously established the Raburn Reserve Public Improvement District (the “District”), pursuant to ”), pursuant to Resolution adopted by the City Council of the City (the “City Council”) on October 7, 2019 as amended on November 4, 2019 and December 7, 2020; and

**WHEREAS**, pursuant to the PID Act, the City Council published notice and held a public hearing on August 21, 2023, regarding the levy of special assessments on property within Improvement Area #3 of the District, and after the conduct of such public hearing has adopted an Ordinance (the “Assessment Ordinance”); and

**WHEREAS**, in the Assessment Ordinance, the City Council approved and accepted the Service and Assessment Plan (as defined and described in the Assessment Ordinance, the “Service and Assessment Plan”) relating to the District and levied the assessments (the “Assessments”) against property within Improvement Area #3 of the District (the “Assessed Property”), as set forth in the Improvement Area #3 Assessment Roll. Capitalized terms used in this preamble and not otherwise defined shall have the meaning assigned thereto in the Service and Assessment Plan; and

**WHEREAS**, the City is authorized by the PID Act to issue its revenue bonds payable from the Assessments on Assessed Property in Improvement Area #3 of the District (the “Improvement Area #3 Bonds”) for the purposes of (i) paying a portion of the Improvement Area #3 Costs identified in the Service and Assessment Plan, (ii) paying capitalized interest on Improvement Area #3 Bonds, (iii) funding a reserve fund for payment of principal and interest on Improvement Area #3 Bonds, (iv) funding a portion of the Delinquency and Prepayment Reserve Account, (v) paying a portion of the costs incidental to the organization of the District, and (vi) paying the costs of issuing Improvement Area #3 Bonds; and

**WHEREAS**, the City Council has found and determined to (i) approve the issuance of the Improvement Area #3 Bonds to finance the Improvement Area #3 Costs identified in the Service and Assessment Plan on the terms described herein, (ii) approve the form, terms and provisions of the Master Indenture (as defined herein) and First Supplemental Indenture (as defined herein); and

**WHEREAS**, the meeting at which this Ordinance is considered is open to the public as required by law, and the public notice of the time, place and purpose of said meeting was given as required by Chapter 551, Texas Government Code, as amended;

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

Section 1. Findings. The findings and determinations set forth in the preamble hereof are hereby incorporated by reference for all purposes as if set forth in full herein. Terms not otherwise defined in Sections 2 through 6 herein shall have the definitions as set forth in the Indenture (defined herein).

Section 2. 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 3. Approval of Second Supplemental Indenture and Series 2023 Bonds. The issuance of Improvement Area #3 Bonds for the purpose of providing funds for (i) paying a portion of the Improvement Area #3 Costs, (ii) paying capitalized interest on the Bonds, (iii) funding the Bond Reserve Account of the Reserve Fund, (iv) funding a portion of the Delinquency and Prepayment Reserve Account, (v) paying a portion of the costs incidental to the organization of the District, and (vi) paying the costs of issuance of each series of Improvement Area #3 Bonds, are hereby authorized and approved.

- (a) The Improvement Area #3 Bonds shall be issued and secured under that certain Master Indenture of Trust dated August 15, 2023 by and between the City and The Bank of New York Mellon Trust Company, National Association, as trustee (the “Master Indenture”), and pursuant to supplemental indentures for each series as authorized by the Master Indenture. Such Master Indenture is hereby approved in the substantially final form presented at this meeting, with such changes as may be necessary or desirable to carry out the intent of this Ordinance and as approved by the Mayor of the City, such approval to be evidenced by the execution and delivery of the Master Indenture. The Mayor of the City is hereby authorized and directed to execute the Master Indenture and the City Secretary is hereby authorized and directed to attest such signature of the Mayor.
- (b) The Improvement Area #3 Bonds issued pursuant to the Master Indenture shall be dated, shall mature on the date or dates and in the principal amounts, shall bear interest, shall be subject to redemption and shall have such other terms and provisions as set forth in a supplemental indenture. The Improvement Area #3 Bonds shall be in substantially the form set forth in the Master Indenture and in a supplemental indenture with such insertions, omissions and modifications as may be required to conform the form of bond to the actual terms of the Improvement Area #3 Bonds. The Improvement Area #3 Bonds shall be payable from and secured solely by the Assessments levied on the Assessed Property for the Improvement Area #3 Costs, as set forth in the Service and Assessment Plan and other assets of the “Trust Estate” (as defined in the Indentures) pledged to such Improvement Area #3 Bonds, and shall never be payable from ad valorem taxes.

Section 4. Approval of First Supplemental Indenture and Series 2023 Bonds. The City of Tomball, Texas Special Assessment Revenue Bonds, Series 2023 (Raburn Reserve Public Improvement District Improvement Area #3 Project)(the “Series 2023 Bonds”) shall be issued and secured under the Master Indenture and under that certain first supplemental indenture of trust dated August 15, 2023 by and between the City and The Bank of New York Mellon Trust Company, National Association, as trustee (the “First Supplemental Indenture” and together with the Master Indenture, the “Indentures”). The First Supplemental Indenture is hereby approved in the substantially final form presented at this meeting, with such changes as may be necessary or desirable to carry out the intent of this Ordinance and as approved by the Mayor of the City, such approval to be evidenced by the execution and delivery of the First Supplemental Indenture. The Mayor of the City is hereby authorized and directed to execute the First Supplemental Indenture and the City Secretary is hereby authorized and directed to attest such signature of the Mayor.

Section 5. Sale of Bonds. Improvement Area #3 Bonds shall be sold pursuant to the provisions of the Master Indenture and supplemental indentures. The Series 2023 Bonds shall be sold as set forth in the First Supplemental Indenture.

Section 6. Limited Offering Memorandum. The form and substance of the Preliminary Limited Offering Memorandum for the Series 2023 Bonds and any addenda, supplement or amendment thereto presented to and considered by the City Council are hereby in all respects approved and adopted. The City hereby authorizes the preparation of a final Limited Offering Memorandum reflecting the terms of the Bond Purchase Agreement and other relevant information. The Limited Offering Memorandum as thus approved and delivered, with such appropriate variations as shall be approved by the City Manager and the Underwriter, may be used by the Underwriter in the offering and sale of the Bonds, and the Preliminary Limited Offering Memorandum is hereby deemed final as of its date (except for the omission of pricing and related information) within the meaning and for the purposes of paragraph (b)(1) of Rule 15c2-12 under the Securities Exchange Act of 1934, as amended. The City Secretary is hereby authorized and directed to include and maintain a copy of the Preliminary Limited Offering Memorandum and Limited Offering Memorandum and any addenda, supplement or amendment thereto thus approved among the permanent records of this meeting. The use and distribution of the Preliminary Limited Offering Memorandum in the offering of the Bonds is hereby ratified, approved and continued. Notwithstanding the execution, approval and delivery of such Preliminary Limited Offering Memorandum and Limited Offering Memorandum by the Mayor, the Mayor and this City Council are not responsible for and proclaim no specific knowledge of the information contained in the Preliminary Limited Offering Memorandum and Limited Offering Memorandum pertaining to development, the construction of the Improvement Area #3 Improvements, the Developer (as defined in the Limited Offering Memorandum) or its financial ability, the homebuilders, or the landowners.

Section 7. Continuing Disclosure Agreement. The City shall provide continuing disclosure for the Series 2023 Bonds as set forth in the First Supplemental Indenture. Continuing disclosure agreements for additional series of Improvement Area #3 Bonds issued pursuant to the Master Indenture shall be approved in a Supplemental Indenture. In connection with its continuing disclosure obligations for the Series 2023 Bonds, the City hereby approves that certain Master Agreement for Dissemination Agent Services (the “Master Agreement”) by and between the City

and HTS Continuing Disclosure Services, a Division of Hilltop Securities, Inc., as presented at the meeting. The City Manager or the Mayor are hereby authorized to execute such Master Agreement.

Section 8. Additional Actions. The Mayor, the City Manager and each other officer, employee and agent of the City are hereby authorized and directed to take any and all actions on behalf of the City necessary or desirable to carry out the intent and purposes of this Ordinance and to issue the Bonds in accordance with the terms of this Ordinance, including the making of modifications to this Ordinance and the Indenture as necessary to obtain approval of the Bonds by the Attorney General of the State, the Mayor, the City Manager and each other officer, employee and agent of the City are hereby authorized and directed to execute and deliver any and all certificates, agreements, notices, instruction letters, requisitions, and other documents which may be necessary or advisable in connection with the sale, issuance and delivery of the Bonds and the carrying out of the purposes and intent of this Ordinance, including any required consents relating to land transfers. Further, in connection with the submission of the record of proceedings for the Bonds to the Attorney General of the State of Texas for examination and approval of such Bonds, the appropriate officer of the City is hereby authorized and directed to issue a check of the City payable to the Attorney General of the State of Texas as a nonrefundable examination fee in the amount required by Chapter 1202, Texas Government Code (such amount not to exceed \$9,500).

Section 9. Effective Date. This Ordinance shall take effect immediately upon its adoption by the City Council of the City.

FIRST AND ONLY READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 21ST DAY OF AUGUST 2023.

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

\_\_\_\_\_  
Lori Klein Quinn, Mayor

ATTEST:

\_\_\_\_\_  
Tracylynn Garcia, City Secretary