

CONTRACT FOR LAND RELATED SERVICES

This Agreement is entered into by **THE CITY OF TOMBALL** (referred to as the “City”), with an office at 501 James Street, Tomball, TX and, **THRESHOLD LAND SERVICES, INC.** (the “Contractor”), a Texas Corporation with an office at 234 Southwest Parkway East, College Station, TX 77840, (together, the “Parties”). City hereby engages the services of Contractor as an independent contract right of way and fee land acquisition company, upon the following terms and conditions:

ARTICLE I SERVICES TO BE PERFORMED

Contractor shall perform the services of an independent contract land service company, with its landmen and land agents, which includes, but is not limited to, conducting title research, title curative, due diligence, curative matters, negotiating the purchase of fee simple land and right of way easements, and all other land-related services as directed by City (the “Services”). The project for which Services are to be provided is more specifically described on Exhibit “B” attached hereto and made a part hereof (the “Project”).

ARTICLE II TERM OF AGREEMENT

This Agreement shall remain in full force and effect from the date of execution until terminated as hereinafter provided.

ARTICLE III TERMS OF PAYMENT

Generally, if the term of this Agreement is less than thirty (30) days in duration, then Contractor shall be entitled to payment upon completion of the Project and submission of appropriate invoices. If the term of this Agreement exceeds thirty (30) days, then Contractor shall receive progress payments, throughout the term of the Agreement, based upon periodic invoices to be submitted by Contractor to City, evidencing that portion of the Project then completed. Additional terms of payment, including the hourly rate and reimbursable expenses are set forth on Exhibit “A”.

Contractor may submit periodic invoices monthly. All invoices submitted by Contractor, whether periodic or lump sum, shall be divided into a separate invoice for each project on which Contractor performed Services during such invoice period and include the project name, a brief description of the Services performed, an itemization of all reasonable expenses incurred for said period and copies of appropriate receipts. The invoice period shall be monthly. Reasonable expenses permitted under this Agreement are more specifically described on Exhibit “A”. It is agreed that all invoice terms shall be **“DUE UPON RECEIPT”**.

The total cost of all professional services provided under this Contract may not exceed **One Hundred Thousand and No/100 Dollars (\$100,000.00)** as further outlined in Exhibit “B”.

ARTICLE IV EQUIPMENT, MATERIALS, SUPPLIES & PERSONNEL

Contractor shall supply, at Contractor’s sole expense, all equipment, tools, materials, and/or supplies necessary to accomplish the Services related to the Project. It is agreed and understood that the City shall not, under any circumstance, directly hire any of the landmen and/or land agents furnished by the Contractor for a period of one year after this contract expires.

ARTICLE V TERMINATION WITHOUT CAUSE

Without cause, either party may terminate this Agreement after giving ten (10) days prior written notice to the other of intent to terminate without cause. Such termination shall not extinguish or terminate the respective rights, liabilities, or obligations of the parties incurred prior to termination.

**ARTICLE VI
NON-WAIVER**

The failure of either party to exercise any of its rights under this Agreement for a breach thereof shall not be deemed a waiver of such rights or waiver of any subsequent breach.

**ARTICLE VII
WRITTEN COMMUNICATION**

Any notice, request, statement, invoice or other communication provided for in this Agreement shall be in writing and shall be considered as duly received when mailed to the following addresses of the Parties:

City: **CITY OF TOMBALL**
501 James Street
Tomball, TX 77375
Attn: David Esquivel

Contractor: **THRESHOLD LAND SERVICES, INC.**
234 Southwest Parkway East
College Station, Texas 77840
Attn: Kimbrough Jeter, President

Either party may, by written notice to the other, change the address to which notices, requests, statements or other communications shall be made.

**ARTICLE VIII
NO AUTHORITY TO BIND CITY**

Other than in connection with the Services to be rendered pursuant to this Agreement, Contractor has no authority to enter into any contracts or agreements on behalf of City. This Agreement does not create a partnership, joint venture, or joint undertaking of any kind between the Parties.

**ARTICLE IX
DECLARATION OF INDEPENDENT CONTRACTOR STATUS**

The Contractor declares that he is engaged in his own independently established business, and as such, he has complied with all federal, state, and local laws regarding business permits, certificates, and licenses that may be required to carry out the Services. City has no authority or right to direct or control Contractor's actions, and Contractor assumes full responsibility and discretion for the methods, techniques, and procedures used to perform the Services. City contracts only for the results of the Services rendered hereunder.

**ARTICLE X
CHOICE OF LAW**

THIS AGREEMENT AND THE RIGHTS AND DUTIES OF THE PARTIES ARISING OUT OF THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, EXCEPT PROVISIONS OF THAT LAW REFERRING GOVERNANCE OR CONSTRUCTION TO THE LAW OF ANOTHER JURISDICTION. Any claim or controversy between Contractor and City arising out of or in connection with this Agreement and the Services performed hereunder shall be settled by mutual agreement. If agreement cannot be reached, any dispute arising out of the terms of this Agreement shall be resolved in accordance with the applicable Commercial Dispute resolution procedures promulgated by the American Arbitration Association. The courts in Bryan, Brazos County, Texas, shall have personal jurisdiction over City and Contractor to hear any litigation arising out of this Agreement and venue shall be proper with such courts to hear such disputes. In the event either City or Contractor is not able to effect service of process upon the other in any litigation brought in such courts with respect to such disputes, it is agreed that the Secretary of State for the State of Texas shall be an agent of City and Contractor to receive service of process.

**ARTICLE XI
GENERAL**

The descriptive headings for the paragraphs or sections contained in this Agreement were constructed and arranged for convenience only and shall not be considered to affect the meaning or interpretation of the provisions herein.

**ARTICLE XII
ENTIRE AGREEMENT**

This is the entire Agreement of the Parties with respect to matters covered thereby and shall be binding on the Parties and their respective heirs, successors and assigns. This Agreement shall supersede any and all prior agreements and understandings, whether verbal or written, between the City and Contractor respecting the subject matter hereof. Representations or statements made by any representative of the City or the Contractor, which are not stated herein, shall not be binding on either party.

**ARTICLE XIII
SEVERABILITY**

If any part of this Agreement shall be held to be invalid or unenforceable, the rest of the Agreement will nevertheless remain in full force and effect.

**ARTICLE XIV
AMENDMENTS**

This Agreement may be supplemented, amended, or revised only by further written agreement signed by both parties.

IN WITNESS WHEREOF, this Agreement is executed and effective the ____ day of _____, 2022.

CITY:

CONTRACTOR:

THE CITY OF TOMBALL

THRESHOLD LAND SERVICES, INC.

By: _____

By: _____

Printed: _____

Printed: Kimbrough Jeter, CPL

Its: _____

Its: President

EXHIBIT A

To that certain Contract for Land Related Services dated effective _____, 2022 between THE CITY OF TOMBALL, as City and THRESHOLD LAND SERVICES, INC., as Contractor.

The following terms and conditions shall be in addition to the terms and conditions contained in the Agreement. The terms and conditions set forth in this Exhibit apply to the services specifically contracted for and described herein.

1. **Project:**

S. Cherry Street Gas Line Relocation

2. **Services:**

Conducting title research, title curative, due diligence, curative matters, negotiating the purchase of fee simple land and right of way easements, and all other land-related services as directed by City

3. **Payment Terms:**

a. **2022 Rates and Fees**

ITEM	UNIT	RATE
Project Manager	Hour	\$85.00
Senior Land Agent	Hour	\$75.00
Land Technician	Hour	\$45.00
Mileage (standard IRS rate)	Mile	\$0.585
In-house copies – black/white	Page	\$0.10
In-house copies – color	Page	\$0.20
Copies (courthouse, online, copy/print store, etc.)		At Cost
Postage		At Cost
Office Supplies		At Cost
Title Ownership Reports		At Cost
Lien Subordination/Release Fees		At Cost
Easement/deed Recording Fees		At Cost

b. Contractor will invoice monthly and payment shall be **DUE UPON RECEIPT**

c. City shall be responsible for and will pay for the following anticipated project expenses:

- a. Landowner consideration and damages for land/easement acquisitions
- b. Project engineering and surveying costs
- c. Title insurance
- d. Appraisal costs
- e. Legal fees
- f. Condemnation proceedings

THE CITY OF TOMBALL

By: _____

Printed: _____

Its: _____

EXHIBIT B

Project Scope and Bid Sheet for Land Services:

S. Cherry Street Gas Line

SCOPE:

- Acquisition of Utility Easements for the S. Cherry Street Gas Line relocation
- Project will require the acquisition of utility easements across 33 different properties
- Threshold will acquire title ownership reports (without warranty) on each tract and perform the necessary curative to clear up title defects, as needed.
- Threshold will obtain Rights of Entry for each parcel, as needed, for the purposes of surveying, appraising, etc.
- Threshold will send project description and initial offer letters based on tax values, sales comparisons, and/or a certified appraisal of the parcel -- all offers to be approved by the City.
- Threshold will negotiate the acquisition terms and consideration amount and secure a signed a Memorandum of Understanding or Purchase and Sale Agreement, also to be approved by City.
- Threshold will acquire executed and notarized easements, and lien subordinations/releases and submit to the City for processing and filing

LAND SERVICES COST PER PARCEL	Quantity	Rate	Subtotal	TOTAL
Project Manager - hourly	15	\$ 85.00	\$ 1,275.00	
Senior Land Agent - hourly	25	\$ 75.00	\$ 1,875.00	
Land Technician - hourly	5	\$ 45.00	\$ 225.00	
Mileage	100	\$ 0.585	\$ 58.50	
Postage	1	\$ 10.00	\$ 10.00	
Copies - courthouse (online), copy center, in-house	50	\$ 1.00	\$ 50.00	
Title Report	1	\$ 500	\$ 500.00	
SUBTOTAL COST PER PARCEL:			\$ 3,993.50	
Miscellaneous costs, office supplies, overhead (1% of total)			\$ 39.94	
TOTAL COST PER PARCEL:			\$ 4,033.44	
	No. of Parcels			
LAND SERVICES COST ALL PARCELS	22	\$4,033.44	\$ 88,735.57	\$ 88,735.57
			<i>Contingency 15%</i>	\$ 11,264.43
TOTAL ANTICIPATED COST OF LAND SERVICES FOR PROJECT:				\$100,000.00

SEPARATE COSTS TO BE ASSUMED BY CITY:

- Title Insurance
- Landowner Consideration for Easements
- Surveying Costs
- Appraisals Costs
- Easement/Deed Recording Fees

THE CITY OF TOMBALL

By: _____

Printed: _____

Its: _____