

**NOTICE OF REGULAR CITY COUNCIL MEETING
CITY OF TOMBALL, TEXAS**



MONDAY, FEBRUARY 3, 2020

6:00 P.M.

Notice is hereby given of a meeting of the Tomball City Council, to be held on Monday, February 3, 2020 at 6:00 P.M., 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.

1.0 Call to Order

2.0 Invocation

- Led by Pastor Adam McIntosh – St. David’s Church

3.0 Pledges to U.S. and Texas Flags

4.0 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.]*

5.0 Reports and Announcements

- February 14, 2020 – Last day to apply for Place on Ballot for the May 2, 2020 General City Election

- February 25, 2020 – ***Trail Reception*** – 12 Noon at the Depot
- March 21, 2020 – ***Tomball Honky Tonk Chili Challenge Festival*** at the Depot – 11:00 a.m.-6:00 p.m.
- March 25-26, 2020 – ***“Shattered Lives”*** program – Concordia Lutheran High School
- March 27-29, 2020 – ***Tomball German Sister City Heritage Festival*** at the Depot
- Reports by City staff and members of Council about items of community interest on which no action will be taken:
 - Randy Parr – Steven Fohner, Fire Captain, has been appointed as an ambassador of the Swim Safe Forever Northwest Houston Chapter

6.0 Approve the Minutes of the January 20, 2020 Regular Tomball City Council Meeting

7.0 New Business:

- 7.1 Approve Acceptance of Excess Right-Of-Way from Harris County and Sell to Harris County Additional Right-Of-Way and Drainage Easement Needed for the Construction of Hufsmith Kohrville Road, in the Amount of \$9,181, and Authorize City Manager to Execute Necessary Documents
- 7.2 Approval of Land Lease and Museum Development Agreement between City of Tomball, a Municipal Corporation, and the Texas Railroad Heritage Museum, Inc., for Lease and Development of City-Owned Land into a Regional Railroad Museum, and Authorize City Manager to Execute Necessary Documents
- 7.3 Adopt, on First Reading, Ordinance No. 2020-03, an Ordinance Amending the Code of Ordinances of the City of Tomball, Texas by Adding a New Article VII, Keeping of Dangerous Animals, to Chapter 8, Animals, Defining and Adopting Regulations for Dangerous Animals, and Providing Exceptions to the Regulations; Providing for Severability; Providing for a Penalty of an Amount Not to Exceed \$2,000 for Each Day of Violation of Any Provision Hereof; Making Findings of Fact; and Providing for Other Related Matters
- 7.4 Approve Resolution No. 2020-04, a Resolution of the City Council of the City of Tomball, Texas, Supporting Tomball Village Apartments, LP, for the Acquisition and Rehabilitation of the Multi-Family Housing Development Known as Tomball Square Apartments, Approve a Commitment of In-Kind Support, and Authorize the Mayor to Issue a Letter of Support to the Texas Department of Housing and Community Affairs

8.0 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 28th day of January 2020 by 5:00 p.m., and remained posted for at least 72 continuous hours proceeding the

scheduled time of said meeting.

Doris Speer

Doris Speer
City Secretary, TRMC

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please feel free to contact the City Secretary's office at (281) 290-1002 or FAX (281) 351-6256 for further information.

AGENDAS MAY ALSO BE VIEWED ONLINE AT www.ci.tomball.tx.us.

Regular City Council
Agenda Item
Data Sheet

Meeting Date: February 3, 2020

Topic:

- Led by Pastor Adam McIntosh – St. David’s Church

Background:

Origination:

Recommendation:

Party(ies) responsible for placing this item on agenda:

ACTION TAKEN		
Approval ☐ Yes ☐ No	Readings Passed ☐ 1 st ☐ 2 nd	Other

Regular City Council
Agenda Item
Data Sheet

Meeting Date: February 3, 2020

Topic:

Background:

Origination:

Recommendation:

Party(ies) responsible for placing this item on agenda:

ACTION TAKEN		
Approval ☐ Yes ☐ No	Readings Passed ☐ 1 st ☐ 2 nd	Other

Regular City Council
Agenda Item
Data Sheet

Meeting Date: February 3, 2020

Topic:

Background:

Origination:

Recommendation:

Party(ies) responsible for placing this item on agenda:

ACTION TAKEN		
Approval ☐ Yes ☐ No	Readings Passed ☐ 1 st ☐ 2 nd	Other

Regular City Council
Agenda Item
Data Sheet

Meeting Date: February 3, 2020

Topic:

- February 14, 2020 – Last day to apply for Place on Ballot for the May 2, 2020 General City Election
- February 25, 2020 – *Trail Reception* – 12 Noon at the Depot
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- March 25-26, 2020 – *“Shattered Lives”* program – Concordia Lutheran High School
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- Reports by City staff and members of Council about items of community interest on which no action will be taken:
 - Randy Parr – Steven Foehner, Fire Captain, has been appointed as an ambassador of the Swim Safe Forever Northwest Houston Chapter

Background:

Origination:

Recommendation:

Party(ies) responsible for placing this item on agenda:

ACTION TAKEN		
Approval ☐ Yes ☐ No	Readings Passed ☐ 1 st ☐ 2 nd	Other

ATTACHMENTS:

Trailride Reception

Sam Houston Trail Ride Reception

February 25, 2020

High Noon

201 S. Elm, Tomball TX



Regular City Council
Agenda Item
Data Sheet

Meeting Date: February 3, 2020

Topic:
Approve the Minutes of the January 20, 2020 Regular Tomball City Council Meeting

Background:

Origination:
City Secretary

Recommendation:
Approve

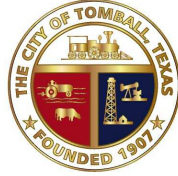
Party(ies) responsible for placing this item on agenda:
City Secretary

ACTION TAKEN		
Approval ☐ Yes ☐ No	Readings Passed ☐ 1 st ☐ 2 nd	Other

ATTACHMENTS:

Draft Minutes of the January 20, 2020 Regular Tomball City Council Meeting

**MINUTES OF REGULAR CITY COUNCIL MEETING
CITY OF TOMBALL, TEXAS**



**MONDAY, JANUARY 20, 2020
6:00 P.M.**

1.0 Meeting was called to order at 6:00 p.m. by Mayor Fagan. Other members present:

Councilman Ford
Councilman Stoll
Councilman Degges
Councilman Townsend
Councilman Klein Quinn

Others present:

City Manager – Robert Hauck
Assistant City Manager – David Esquivel
City Secretary – Doris Speer
City Attorney – Loren B. Smith
Director of Public Works – Beth Jones
Fire Chief – Randy Parr
Finance Director – Glenn Windsor
HR Director – Lisa Coe
Director of Community Development – Craig Meyers
Community Center Manager – Rosalie Dillon
Fire Marshal – Joe Sykora
Assistant City Secretary – Tracy Garcia
Utilities Billing Supervisor – Lauren Sykora
Police Officer-SRO – Jamy Brock
Police Captain – Ricky Doerre
Police Lieutenant – Brandon Patin
Police Officer-Air Support – Keith Bitz
Police Sergeant – Chris Burns
Executive Director-TEDC – Kelly Violette

2.0 The invocation was led by Pastor Brandon Guindon, Real Life Ministries.

3.0 Pledges to U. S. and Texas Flags were led by Joe Sykora.

4.0 The following public comments were received:

Clete Jaeger - Expressed his desire to serve on the Tomball
31402 Helen Lane, 77375 Economic Development Corporation.

5.0 Presentations:

- 2019 Employees of the Year – **Lauren Sykora** and **Jamy Brock**
- Presentation by Bruce Hillegeist, President-GTACC, of the **2019 GTACC Citizen of the Year – Robert Elliot Bradfield, Jr.**
- Mayor’s Proclamation – **“Robert Elliot Bradfield, Jr. – 2019 Greater Tomball Area Chamber of Commerce Citizen of the Year” Day**

6.0 Reports and Announcements:

- February 14, 2020 – Last day to apply for Place on Ballot for the May 2, 2020 General City Election
- February 25, 2020 – **Trailride Reception** – 12 Noon at the Depot
- March 21, 2020 – **Tomball Honky Tonk Chili Challenge Festival** at the Depot – 11:00 a.m.-6:00 p.m.
- March 27-29, 2020 – **Tomball German Sister City Heritage Festival** at the Depot
- Reports by City staff and members of council about items of community interest on which no action will be taken:

7.0 Motion was made by Councilman Degges, second by Councilman Stoll, to approve the Minutes of the January 6, 2020 Regular Tomball City Council Meeting.

Motion carried unanimously.

8.0 New Business:

- 8.1 Motion was made by Councilman Stoll, second by Councilman Degges, to re-appoint Sherrie Meicher as the City of Tomball’s Representative to Southeast Texas Housing Finance Corporation (SETH) Board of Directors, New Term Expiring January 21, 2023

Motion carried unanimously.

- 8.2 Motion was made by Councilman Townsend, second by Councilman Stoll, to appoint Clete Jaeger to the Tomball Economic Development Corporation, to complete a vacancy, the term of which will expire May 31, 2020.

Motion carried unanimously.

- 8.3 Motion was made by Councilman Townsend, second by Councilman Ford, to award the contract for E&P Project 2019-10022, North Star Estates Drainage Improvements, to Gael, Inc. for a total contract amount of \$364,644.00 and to authorize the City Manager to execute the necessary documents.

Motion carried unanimously.

- 8.4 Motion was made by Councilman Klein Quinn, second by Councilman Stoll, to approve Resolution No. 2020-03, amending Administrative Policy 13, entitled "*Investment Policy*".

Motion carried unanimously.

- 8.5 Executive Session: The City Council recessed at 6:33 p.m. to meet in Executive Session as Authorized by Title 5, Chapter 551, Government Code, the Texas Open Meetings Act, for the Following Purpose(s):

- Section 551.074 – Deliberation Regarding the Appointment, Employment, Evaluation, Duties, of an Interim Chief of Police

Upon reconvening into regular session at 7:19 p.m., the following action was taken:

- 8.6 Motion was made by Councilman Townsend, second by Councilman Klein Quinn, to approve a Contract of Employment for Interim Chief of Police, Edward G. "Skip" Oliver.

Motion carried unanimously.

- 9.0 Motion was made by Councilman Ford, second by Councilman Stoll, to adjourn.

Motion carried unanimously.

Meeting adjourned at 7:22 p.m.

PASSED AND APPROVED this the 3rd day of February 2020.

Doris Speer, TRMC, MMC
City Secretary

Gretchen Fagan
Mayor

Regular City Council

Agenda Item

Data Sheet

Meeting Date: February 3, 2020

Topic:

Approve Acceptance of Excess Right-Of-Way from Harris County and Sell to Harris County Additional Right-Of-Way and Drainage Easement Needed for the Construction of Hufsmith Kohrville Road, in the Amount of \$9,181, and Authorize City Manager to Execute Necessary Documents

Background:

The Harris County engineering department has modified the alignment for Hufsmith Krohville Road widening creating excess unused right of way and the need for additional right of way along the new alignment. The modified road alignment requires additional right of way from the City of Tomball but will also have the excess county right of way adjacent to the City property creating an opportunity to swap this acreage for the benefit to both entities. The County requires 0.4696 acres of right of way and 0.1716 acres of drainage easement from the City. The County has 0.3820 surplus right of way adjacent to City property that is proposed to be swapped for the right of way needed from the City. The remainder 0.2592 acres will be paid to the City in the amount of \$9,181. Staff recommends approval.

Origination:

administration

Recommendation:

approval

Party(ies) responsible for placing this item on agenda:

David Esquivel, ACM

ACTION TAKEN

Approval ☐ Yes ☐ No	Readings Passed ☐ 1 st ☐ 2 nd	Other
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ATTACHMENTS:

County offer letter
base Appraisal doc
deed to City
special warranty deed to County
drainage easement

HARRIS COUNTY

ENGINEERING DEPARTMENT REAL PROPERTY DIVISION

10555 Northwest Frwy., Suite 210
Houston, Texas 77092
(713) 274-3700

VIA CERTIFIED MAIL NO. 7002 2030 0003 4590 0531
RETURN RECEIPT REQUESTED

June 13, 2019

City of Tomball
c/o David Esquivel
501 James Street
Tomball, Texas 77375

Re: Offer to Purchase

Project: Hufsmith-Kohrville Road 3, Tracts No.: 31 & PDE01
Partial Acquisition of a 0.2210-acre(s) Roadway Easement

Dear Mr. Esquivel:

Harris County is in the process of securing property required for development of the referenced project. The acquisition of a roadway easement across 0.4696 acre(s) and a Drainage Easement across 0.1716 acre(s) of your property, as described in the enclosed property descriptions, is needed for this project. Your rights as a Texas property owner are explained in the enclosed State of Texas Landowner's Bill of Rights.

At the time Harris County makes an offer to purchase property, it is required by Section 21.0111 of the Texas Property Code to disclose to the property owner any and all appraisal reports produced or acquired by Harris County relating specifically to the owner's property and prepared in the 10 years preceding the date of the offer.

A property owner is likewise required to disclose to Harris County, the entity seeking to acquire property, any and all current and existing appraisal reports produced or acquired by the property owner relating specifically to the owner's property and used in determining the owner's opinion of value. Such disclosure shall take place no later than the earlier of: the 10th day after the date of receipt of an appraisal report or the 3rd business day before the date of a special commissioners hearing if an appraisal report is to be used at the hearing.

An appraisal of your property has been prepared by an independent State Certified Real Estate Appraiser to determine its fair market value. Just compensation, relative to the above referenced acquisition, has been established as \$67,143.00. Just compensation includes the valuation of the land, affected improvements, and damages to the remainder property as a result of the acquisitions.

The Real Property Division is authorized to offer you \$67,143.00 which represents \$67,143.00 as compensation for the land to be acquired, \$0.00 as compensation for affected improvements, and \$0.00 as compensation for damages/cost to cure to the remainder. Should you decide to retain title to or remove any improvements within the acquisition area, the offer stated above will be reduced accordingly. Compensation for improvements also includes the cost to relocate or replace any affected improvements, which will be the responsibility of the property owner.

City of Tomball
c/o David Esquivel
June 13, 2019
Page 2

As stated above, Harris County has obtained an appraisal of your property. If you wish to accept the offer based on this appraisal, please contact me. If you are not willing to accept this offer, you may submit a written counteroffer detailing the requested amount and basis for such amount. You will have 30 days from the date of receipt of this offer before a 2nd and final offer is sent.

You may be entitled to additional benefits under Harris County's relocation program if you are being displaced due to the acquisition. It is emphasized, however, that any relocation benefits to which you may be entitled will be handled separate and apart from this transaction.

You have the right to discuss any offer or agreement regarding Harris County's acquisition of the property with others or keep the offer or agreement confidential, unless the offer or agreement is subject to Chapter 552, Government Code.

You are entitled to repurchase the subject property if the proposed public use is canceled or no actual progress is made toward the public use between the date of the County's acquisition and the 10th anniversary of that date. Your right to repurchase is explained in the attached Property Code Section 21.101.

Please be advised, if your property is encumbered by any liens, then the sale of your property to Harris County will require lender notification and approval.

Please contact me at 713-274-3716 if you have any questions. If you do not receive copies of all of the attachments listed below, please contact me immediately. I've enclosed my business card for your convenience. Your cooperation is greatly appreciated.

Sincerely,



Chuck Southerland
Right of Way Agent

Enclosures: Property Description/Survey
Landowner's Bill of Rights
Appraisal Report dated July 19, 2018
§ 21.101 Right to Repurchase

RPD

MAY 14 2019

APPRAISAL

MARKET VALUE ESTIMATE PRESENTED IN
AN APPRAISAL REPORT

Project: Hufsmith-Kohrville Road 3

Limits: From 500' north of Ezekiel Road to 500' north of Holderrieth Road

Tract: Parcels 31 and PDE01

Property Owner: City of Tomball

Property Location: West line of Hufsmith-Kohrville Road, north of Boudreaux Road

Legal Description: Approximately 0.4696 acre (20,455 square feet) of land (Parcel 31) and 0.1716 acre (7,475 square feet) of land (Parcel PDE01) out of a 3.9798 acre (173,361 square feet) tract of land being Tract 13A-1 situated in the C.M. Pillot Survey, Abstract No. 632, Tomball, Harris County, Texas

Prepared For: Ms. Shannon Watson
Harris County Real Property Division
10555 Northwest Freeway, Suite 210
Houston, Texas 77092

Prepared By: The Ambrose Group
16545 Village Drive, Building A
Jersey Village, Texas 77040

Date of Appraisal: May 8, 2019
Date of Report: May 13, 2019

Proposed Acquisition: Partial

Market Value Estimate: \$444,023.00 (Land Only)

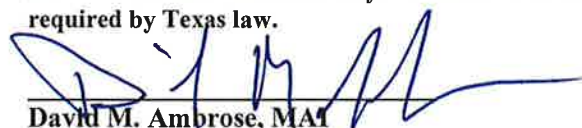
Partial Acquisition:

Parcel 31:	\$48,643.00
PDE01:	\$18,500.00
Remainder After:	\$376,800.00 (Land Only)

Cost-to-Cure: \$0.00

Total Compensation: \$67,143.00

Confidentiality Statement: Our client is Harris County Real Property Division. The findings contained herein shall not be disseminated to anyone other than the client, the client's duly authorize representative, or as may be required by Texas law.



David M. Ambrose, MAI
State Certified General RE Appraiser
Certificate No. TX-1322613-G
File #190373_Tract 31



Clayton L. Morgan, MAI
State Certified General RE Appraiser
Certificate No. TX-1380139-G

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Section II	Subject Property Exhibits and Photographs
Section III	Land Transaction Comparables and Map
Section IV	Professional Qualifications and State Certifications of the Appraisers

Section I
Appraisal Report

May 13, 2019

Ms. Shannon Watson
Harris County Real Property Division
10555 Northwest Freeway, Suite 210
Houston, Texas 77092

RE: Approximately 0.4696 acre (20,455 square feet) of land (Parcel 31) and a 0.1716 acre (7,475 square feet) of land (Parcel PDE01) out of a 3.9798 acre (173,361 square feet) tract of land being Tract 13A-1 situated in the C.M. Pillot Survey, Abstract No. 632, Tomball, Harris County, Texas

Dear Ms. Watson:

At your request, we have estimated the market value of the property as of May 8, 2019.

This is an appraisal report prepared in accordance with the 2018-2019 *Uniform Standards of Professional Appraisal Practice* and the State of Texas. The report presents a summary of our findings. Additional data and supporting documentation is contained within our files.

Identity of the Client and Intended User of the Report:

The client and intended user of this report is the Harris County Real Property Division.

Intended Use of the Appraisal:

The intended use of the appraisal is to assist the client in the valuation of the subject property for the acquisition of the subject to be used in conjunction with the Hufsmith-Kohrville Road 3 Project.

Competency Rule:

The report contained herein was completed by David M. Ambrose, MAI and Clayton L. Morgan, MAI. Mr. Ambrose and Mr. Morgan are state certified general appraisers in the State of Texas. Mr. Ambrose was awarded the MAI designation by the Appraisal Institute in 1991. Mr. Morgan was awarded the MAI designation by the Appraisal Institute in 2014. Both appraisers have the knowledge and experience appraising properties similar as the subject, appraising properties within the subject's market area, and applying the approach to value utilized.

Identity of the Property:

The acquisition area may be legally described as approximately 0.4696 acre (20,455 square feet) of land (Parcel 31) and 0.1716 acre (7,475 square feet) of land (Parcel PDE01) out of a 3.9798 acre (173,361 square feet) tract of land being Tract 13A-1 situated in the C.M. Pillot Survey, Abstract No. 632, Tomball, Harris County, Texas.

Property Rights Appraised:

For the purpose of this assignment, the property rights appraised in this report are the “fee simple estate” and “roadway easement.” Fee simple estate is defined as:

Absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power, and escheat.¹

Easements are defined as:

An interest in real property that transfers use, but not ownership, of a portion of an owner's property. Access or right-of-way easements may be acquired by private parties or public utilities. Governments accept conservation, open space, and preservation easements on private property.

We have not considered any contributory value of personal property in developing our opinion of market value.

Definition of Market Value:

“Market value,” as used herein, is defined as:

...the price which the property would bring when it is offered for sale by one who desires, but is not obliged to sell, and is bought by one who is under no necessity of buying it, taking into consideration all of the uses to which it is reasonably adaptable and for which it either is or in all reasonable probability will become available within the reasonable future.²

The market value estimate set forth herein is stated in terms of cash or financing terms equivalent to cash.

Effective Date of the Appraisal:

The effective date of the appraisal is May 8, 2019.

¹ *The Dictionary of Real Estate Appraisal*, Sixth Edition (Chicago: Appraisal Institute, 2015).

² *City of Austin vs. Cannizzo*, 267 S.W. 2d 808, 815 (Tex. 1954).

Date of the Report:

The date of the report is May 13, 2019.

Scope of Work:

According to The Dictionary of Real Estate Appraisal, Sixth Edition, copyright 2015, by the Appraisal Institute, page 209, "scope of work" is defined as being:

The type and extent of research and analysis in an appraisal or appraisal review assignment.

The scope of work is based upon the purpose of the appraisal and its intended use as previously discussed within this report. The appraisal development process completed by The Ambrose Group consisted of the items listed below.

1. Physically identified and visited the subject property. We reviewed a legal description and acquisition area survey provided by our client. Tax records and a plat map were also obtained from the Harris County Appraisal District.
2. The subject whole consists of a total of 3.9798 acres (173,361 square feet). The partial acquisition consists of a 0.4696 acre (20,455 square foot) tract of land (Parcel 31) and a 0.1716 acre (7,475 square foot) tract of land (Parcel PDE01).
3. Researched and collected data related to market conditions and market activity, and considered those characteristics which have a legal, physical, or economic impact on the subject property. The sources of data used within this report included: public records, real estate brokers, property management companies, national real estate data collection services, and knowledgeable individuals in the real estate market.
4. Determined the Highest and Best use of the subject as vacant, based on the data gathered and considering the legally permissible, physically possible, financially feasible, and most profitable use of the property.
5. Analyzed the data gathered through the use of appropriate and acceptable appraisal methodology in order to develop a value indication from each applicable approach to value.
 - A. Income Capitalization Approach. The subject whole consists of vacant land. Therefore, we have not utilized the Income Capitalization Approach within this report.
 - B. Sales Comparison Approach. The Sales Comparison Approach was utilized to estimate the market value of the land. Developing this approach to value involved the collection of comparable land sales, which have been physically identified by The Ambrose Group. Considering the principle of substitution, the land sales were compared to the subject and

adjusted for the various factors that influence value. An indicated value was developed based on the analysis of the cumulative sales data provided in this report.

C. Cost Approach. The subject whole consists of vacant land. Thus, the Cost Approach was not utilized within this analysis.

6. We valued the area being considered for acquisition by the Harris County Real Property Division (partial acquisition).

7. The total compensation is based upon the value difference from the subject whole and the subject remainder. In addition, damages are awarded if the partial acquisition decreases the value more than the difference from the subject whole to the subject remainder. The market value of the subject whole and the subject remainder after the acquisition consist only of the land component and site improvements within the acquisition area. No contributory value of site improvements on the remainder (if any) have been considered within this report as the partial acquisition is not believed to impact the value of these improvements.

8. Reconciled the results from the applicable approaches to value into a reasonable value conclusion.

9. Estimated a reasonable exposure time and market time associated with the developed opinion of value.

The appraisal of the subject property is presented in the form of an Appraisal Report, and is intended to comply with the reporting requirements set forth under Standards Rule 2-2 of the Uniform Standards of Professional Appraisal Practice.

Jurisdictional Exception Rule:

If any part of the Uniform Standards of Professional Appraisal Practice is contrary to the law or public policy of any jurisdiction, only that part shall be void and of no force or effect in that jurisdiction. We shall disregard any decrease or increase in market value of the real property caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for the project, other than that due to physical deterioration within reasonable control of the owner.

Neighborhood Analysis

A neighborhood is defined in The Dictionary of Real Estate Appraisal, Sixth Edition, copyright 2015, page 156, by the Appraisal Institute as follows:

A group of complementary land uses; a congruous grouping of inhabitants, buildings, or business enterprises.

Neighborhoods may be devoted to such uses as residential, commercial, industrial, agricultural, and civic activities, or a mixture of these uses. Analysis of the neighborhood in which a particular property is located is important due to the fact that the various economic, social, political, and physical forces which affect that neighborhood also directly influence the individual properties within it.

Delineation. The subject property is located in northwest Harris County approximately 24 miles northwest of the Houston Central Business District. The subject neighborhood boundaries are considered to be a three-mile radius around the subject property.

General Characteristics. The subject neighborhood encompasses the southeast portion of the City of Tomball and an unincorporated area of Harris County. The area is predominately industrial and residential in nature. Some of this new development includes Tomball Business & Technology Park, a project of the Tomball Economic Development Corporation located at the northwest corner of Hufsmith-Kohrville Road and Holderrieth Road, within the City of Tomball. The park encompasses 99.5 acres with a light industrial zoning classification. To date, 58.5 acres remain available for prospective development.

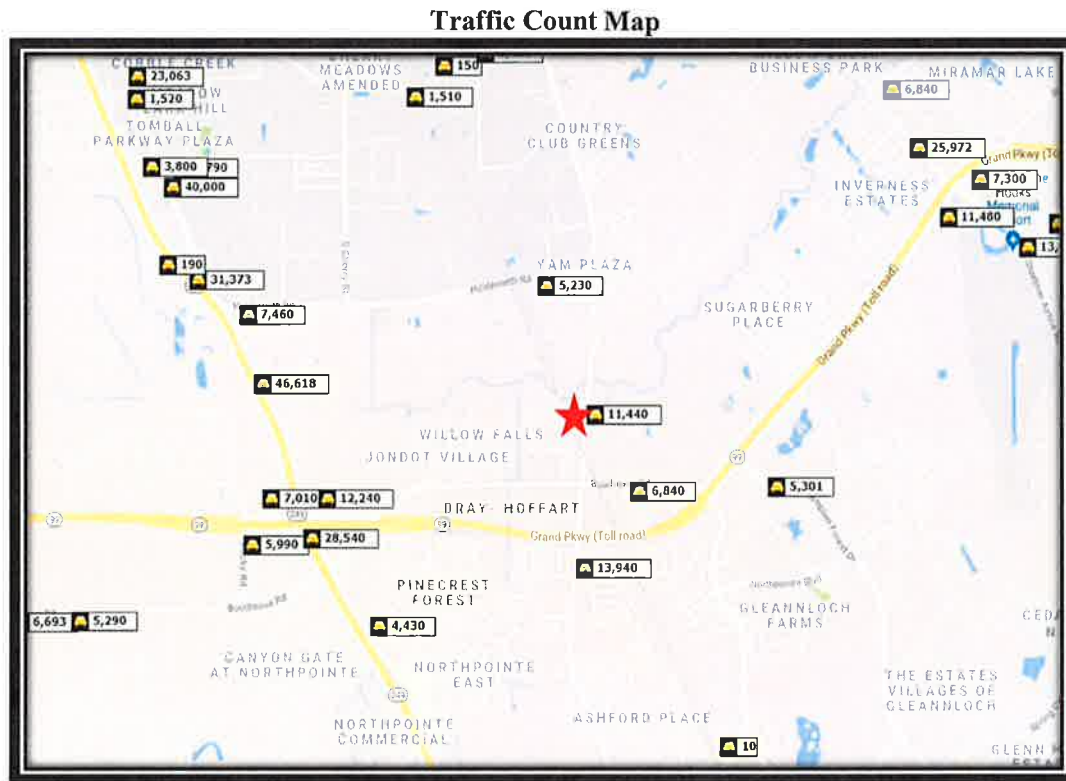
Another slated development project, Alexander Estates, consists of 70 acres of land that was annexed into the city limits in 2014 along Hufsmith-Kohrville Road and Spell Road. Plans for development of this subdivision include 251 single-family homes subject to design regulations and were approved by Tomball City Council in April 2017.

Transportation. Accessibility from major transportation sources is a primary factor in generating market demand. The transportation network surrounding the subject neighborhood is adequate given the proximity of the Grand Parkway and equidistance between State Highway 249 and U.S. Highway 290. The Grand Parkway, located less than one mile south of the subject, is Houston's new tollway outer loop that provides access to Houston's major suburbs such as Katy and Cypress to the southwest and Humble to the northeast. In the area of the subject, Segment F-1 is the 12.0 mile stretch of the roadway extending between U.S. Highway 290 and State Highway 249. This segment is four lanes with controlled access and intermittent frontage roads. This stretch of the Grand Parkway opened in February 2016.

State Highway 249 is a primary highway servicing the subject neighborhood in a northwest/southeast direction, providing access to Magnolia to the northwest to Tomball and Houston to the southeast.

Other major thoroughfares in the area include Waller-Tomball Road/FM 2920 (east to west), Boudreaux Road (east to west), Holderrieth Road (east to west), South Cherry Street (north to south), Hufsmith-Kohrville Road (north to south), Champion Forest Drive (north to south), and

Gleannloch Forest Drive (generally north to south/southeast). The map and table below depict traffic counts and identify primary and secondary thoroughfares in the subject neighborhood.



Source: CoStar

TRAFFIC COUNTS BY STREET NAME			
Collection Street	Cross Street	Cross Street Distance	Average Daily Volume
Huffsmith-Kohrville Road	Boudreaux Road	0.37 South	9,093
Huffsmith-Kohrville Road	Hufsmith Kuykendahl Road	4.07 North	11,440
Boudreaux Road	Huffsmith Kohrville Road	0.26 West	6,840
Holderrieth Road	Holderrieth Road	0.05 West	5,230
FM 2978 Road	Woodland Shore Drive	0.27 South	13,940

Source: CoStar

Demographic Profile. In an effort to gauge the viability of the area's demographic profile, we obtained economic information from *CoStar*. This provides further support for the nature of the local economy and its residents. The following table summarizes additional data utilized within this appraisal to gauge the nature of the local market.

0 HUFSMITH-KOHRVILLE ROAD, TOMBALL, TEXAS 77375			
RELEVANT DEMOGRAPHIC INFORMATION			
	1-Mile Radius	3-Mile Radius	5-Mile Radius
Population:			
2023 Projection	8,867	64,618	191,322
2018 Estimate	8,031	58,403	173,938
2010 Census	5,998	42,784	133,990
Growth 2018 - 2023	10.41%	10.64%	9.99%
Growth 2010 - 2018	33.89%	36.51%	29.81%
Households:			
2023 Projection	2,884	21,620	66,126
2018 Estimate	2,606	19,507	60,008
2010 Census	1,908	14,114	45,639
Growth 2018 - 2023	10.67%	10.83%	10.20%
Growth 2010 - 2018	36.58%	38.21%	31.48%
2018 Average Household Income:	\$109,373	\$112,829	\$118,919
2018 Median Household Income:	\$88,966	\$91,415	\$95,467
Average Household Size	3.1	3.0	2.9

Source: *CoStar*

Based on the foregoing data, the area within a three-mile radius of the subject property has experienced a 36.51 percent increase in population since 2010. This area is expected to report an additional increase of 10.64 percent through 2023. The larger five-mile radius from the subject property experienced a 29.81 percent increase in total population since 2010. The population in the larger five-mile trade-area is expected to report an additional increase of 9.99 percent through 2023.

Summary. The subject neighborhood is positioned in northwest Harris County, approximately 24 miles northwest of the City of Houston's Central Business District and located just outside of City of Tomball's limits. The subject's neighborhood is characterized by new industrial and residential development, spurred by the recent completion and opening of the Grand Parkway. Strengths of the subject neighborhood include proximity to the Grand Parkway and residential growth is expected to continue over the next three to five years.

Site Description:

Property Location, Size and Shape: The subject whole property is irregular in shape and contains a total of 3.9798 acres (173,361 square feet). The property is located along the west line of Hufsmith-Kohrville Road, north of Boudreaux Road in Harris County, Texas. Notably, the property is bisected by a small ravine (known as Willow Creek) which serves as part of a county drainage easement.

Legal Description: The subject whole may be legally described as a 3.9798 acre (173,361 square feet) tract of land being Tract 13A-1 situated in the C.M. Pillot Survey, Abstract No. 632, Tomball, Harris County, Texas.

Property Tax Information: The subject whole is assessed by the Harris County Appraisal District under tax identification number 044-058-001-0128. The property is publicly owned and is therefore tax exempt. However, we note the property is located within the following tax districts: Tomball Independent School District, Harris County, Lone Star College System, City of Tomball, Harris County Emergency Services District No. 16, Harris County Emergency Services District No. 11, and Harris County Emergency Services District No. 8.

Site Access and Frontage: The subject whole has approximately 1,422.90 linear feet of frontage along Hufsmith-Kohrville Road, with a maximum depth of 186.62 feet along the north line of the property.

Flood Plain: According to The Federal Emergency Management Agency (FEMA) map panel number 48201C0230L, dated June 18, 2007, it appears that 50 percent of the subject whole lies within Zone AE, an area within the 100-year floodplain and the remainder of the site lies within the floodway. However, we are not surveyors, and we make no guarantee regarding this determination.

Off-Site Improvements: Hufsmith-Kohrville Road is currently a two-lane, asphalt-paved roadway with open ditch drainage. This roadway runs in a north-south direction. There are plans to expand Hufsmith-Kohrville Road between Mahaffey Road and FM 2920 in Tomball from two asphalt lanes to a four-lane concrete boulevard, with two lanes dedicated for northbound traffic and two lanes dedicated for southbound traffic. Currently, the project is in the design phase. The project is to be funded by Harris County Precinct 4 and is expected to bid out the project in 2019.

Utilities: While the subject whole is assessed by the City of Tomball, the subject whole is not currently tied in to any public utilities.

Easements: A preliminary title report provided by the client and reviewed by the appraisers indicates the property is subject to a 100-foot wide easement for drainage purposes granted to the Harris County Flood Control District. Based on calculations made by the appraisers, the area under this easement is 0.3035 acre, or 13,220 square feet, with a total unencumbered area of or 3.6763 acres, or 160,141 square feet (excluding the utility easement). There is also an electric distribution facilities easement being 10-feet wide with an unobstructed aerial easement 10-feet wide, beginning at a plane 16 feet above the ground level and extending upwards, located on both sides of and adjoining said 10-foot wide easement.

Statement of Environmental Issues: The appraisers made no special effort to discover any adverse environmental conditions and we accept no responsibility for such discovery. No readily apparent, adverse environmental conditions were observed during the normal course of the property visit and it is assumed that none exist. If any adverse environmental conditions are discovered, the appraiser should be notified, as the opinion of market value will likely require modification. As noted in the Assumptions and Limiting Conditions contained within this report, we have no special expertise regarding environmental hazards, and this report must not be considered as an environmental assessment of the property.

Development Restrictions: The subject whole is located within an unincorporated area of Harris County where there are no zoning restrictions. There are no other known significant legal constraints which would restrict development of the subject property.

Statement of Ownership and History: According to information provided by the client, the subject property has been owned by the City of Tomball in excess of five years. No other property history information was provided.

Owner Invitation to Accompany Appraiser: We inspected the subject property on May 8, 2019 and were unaccompanied by the property owner or representative thereof.

Partial Acquisition:

Parcel 31:

This partial acquisition may be described as 0.4696 acre (20,455 square feet) of land out of a 3.9798 acre (173,361 square feet) tract of land being Tract 13A-1 situated in the C.M. Pillot Survey, Abstract No. 632, Tomball, Harris County, Texas and consists of a road easement. Based on the property rights being acquired, 100 percent of the rights are being valued within the easement. The partial acquisition area is irregular in shape with 427.66 feet of frontage along Hufsmith-Kohrville Road. Approximately, 0.0706 acre, or 3,074 square feet, of area with the acquisition is encumbered by the Harris County Flood Control District easement, with a remaining unencumbered area of 0.399 acre, or 17,381 square feet. Uses within the easement area are limited. The partial acquisition consists of vacant land and is unimproved.

Parcel PDE01:

This partial acquisition may be described as a 0.1716 acre (7,475 square feet) of land out of a 3.9798 acre (173,361 square feet) tract of land being Tract 13A-1 situated in the C.M. Pillot Survey, Abstract No. 632, Tomball, Harris County, Texas and consists of a drainage easement. Uses within the easement area are limited. Based on the property rights being acquired, 90 percent of the rights are being valued within the easement. The partial acquisition area is rectangular in shape with 55.0 feet of frontage along Hufsmith-Kohrville Road. The partial acquisition consists of vacant land and is unimproved.

Remainder after the Acquisition (Land): The remainder consists of 3.5102 acres (152,906 square feet) of land 532.86 feet of frontage along Hufsmith-Kohrville Road. The remainder will have similar characteristics as the subject whole and will have the same highest and best use as the subject whole property. The remainder will be partially encumbered by the existing Harris

County Flood Control District easement and the new drainage easement with 0.4045 acre, or 17,621 square feet, of encumbered area and 3.1057 acres, or 135,285 square feet, of unencumbered area (excluding the utility and drainage easements). Therefore, the remainder after the acquisition does not have a loss in value (on a per unit basis) due to the partial acquisition.

Highest and Best Use Analysis:

The subject property must be appraised in terms of its highest and best use. According to The Dictionary of Real Estate Appraisal, Sixth Edition, by the Appraisal Institute, page 109, highest and best use is defined as:

*The reasonably probable use of property that results in the highest value.
The four criteria the highest and best use must meet are legal permissibility, physical possibility, financial feasibility, and maximum productivity.*

Legally Permissible. Private (deed) restrictions, zoning regulations, building codes, historic district controls, and environmental regulations can often preclude many possible highest and best uses.

Physically Possible. Size, terrain, and utility availability are generally considered the most important factors in determining uses to which land may be developed. The size of a tract of land is important for determination of possible uses because some small tracts, due to limited size, can reach their optimum use only as part of an assemblage of several tracts. Large tracts, on the other hand, are not restricted by size and have a much wider range of possible uses.

Financially Feasible. From a financial standpoint, any property use, which is expected to produce a positive rate of return, is regarded as being feasible. Factors dictating which property uses are feasible include those which determine the possible and legal uses as well as other important factors such as: the shape, frontage, and location of the tract; access to the tract; adjacent property uses (in the interest of conformity); and the general neighborhood characteristics.

Maximum Profitable. The maximum profitable use is the judgment about which of the financially feasible uses generates the highest residual land value. The use that generates the highest residual land value is the highest and best use of the site.

In determining the highest and best use of the subject property, careful consideration was given to the economic, legal and social factors which motivate investors to develop, manage, own, buy, sell, and lease real estate. The definition of highest and best use indicates there are two considerations. The first consideration is the highest and best use for a site as though vacant. The second is the highest and best use of a property as improved. The subject site will be analyzed as vacant, followed by an analysis of the property as improved when applicable.

Highest and Best Use - As Vacant. After considering the legal, possible, and feasible uses, it is our opinion that the highest and best use of the subject whole property, as vacant, is for industrial use, upon economic justification. The highest and best use of the partial acquisition is in conjunction with the subject whole. The highest and best use for the Remainder is for industrial use.

Market Value Estimate of the Subject – Whole Property.

As previously referenced in the Scope of Work section, we have estimated the market value of the property by application of the Sales Comparison Approach.

Sales Comparison Approach:

The Sales Comparison Approach is one of the three approaches used to estimate market value. It is explained in *The Appraisal of Real Estate*, Fourteenth Edition, by the Appraisal Institute, page 377, as follows:

The process of deriving a value indication for the subject property by comparing similar properties that have recently sold with the property being appraised, identifying appropriate units of comparison, and making adjustments to the sale prices (or unit prices, as appropriate) of the comparable properties based on relevant, market-derived elements of comparison. The Sales Comparison Approach may be used to value improved properties, vacant land, or land being considered as though vacant when an adequate supply of comparable sales is available.

The comparative analysis in the Sales Comparison Approach focuses on similarities and differences that affect value, which may include variations in property rights, financing terms, market conditions, and physical characteristics, among others. Elements of comparison are tested against market evidence using paired sales, trend analysis, statistics, and other techniques to identify which elements of comparison within the data set of comparable sales are responsible for value differences.

This approach is applied in the following steps (taken from *The Appraisal of Real Estate*, Fourteenth Edition, by the Appraisal Institute, pages 381-382):

- 1. Research the competitive market for information on properties that are similar to the subject property and that have recently sold, are listed for sale, or are under contract. Information on agreements of sale, options, listings, and bona fide offers may also be collected. The characteristics of the properties such as property type, date of sale, size, physical characteristics, location, and land use constraints should be considered. The goal is to find a set of comparable sales or other evidence such as property listings or contracts as similar as possible to the subject property to ensure they reflect the actions of similar buyers.*
- 2. Verify the information by confirming that the data obtained is factually accurate and that the transactions reflect arms'-length, market considerations.*
- 3. Select the most relevant units of comparison used by market participants in the market (e.g.: price per acre, price per square foot, price per front foot, or price per dwelling unit) and develop a comparative analysis for each unit.*
- 4. Look for differences between the comparable sale properties and the subject property using all appropriate elements of comparison. Then adjust the price of each sale*

property, reflecting how it differs, to equate it to the subject property or eliminate that property as a comparable.

5. *Reconcile the various value indications produced from the analysis of comparables into a value conclusion.*

In order to derive the value of the subject property (land only), we have researched recent sales of vacant land in the vicinity of the subject. These were compared to the subject site.

Land Sales Analysis. The land sales located within Section III are considered to be some of the most comparable to the subject of all those occurring in the neighborhood in recent years. The sales are summarized in the following chart:

LAND SALES SUMMARY				
Sale No.	Sale Date	Size/ Acre	Price/ SF	Location
1	08/16	5.50	\$3.25	NWC of Spell Road and Spell Circle
2	10/17	2.00	\$4.30	W/L of Hufsmith Kohrville Road, south of FM 2920
3	04/18	1.76	\$3.99	W/L of Hufsmith Kohrville Road, south of South Persimmon Street
4	04/18	3.12	\$4.79	NEC of Hufsmith-Kohrville Road and Spell Road
5	05/18	6.10	\$2.90	NE end of Spell Circle, north of Spell Road
6	08/18	4.05	\$3.83	SEC of Medical Complex Drive and Calvert Road

When comparing these sales to the subject tract, the factors considered to be the most critical were: market conditions, financing/conditions of sale, location, size, physical characteristics, floodplain, and utilities. Each sale was compared to the subject property and adjusted on that basis.

Given changing market conditions, Sale Nos. 1 and 2 warrant upward adjustments for this element of comparison.

Sale Nos. 1 and 5 are inferior to the subject whole with regards to location warranting an upward adjustment. Sale Nos. 1, 4, and 6 are superior to the subject in terms of being on located on a corner and require downward adjustments. Sale Nos. 2 and 3 are superior to the subject whole with regards to size requiring a downward adjustment. Contrarily, Sale No. 5 is inferior to the subject whole in this regard requiring an upward adjustment. Sale No. 5 is inferior to the subject in terms of physical characteristics and requires an upward adjustment. As previously mentioned, 50 percent of the subject whole lies within Zone AE, an area within the 100-year floodplain and the remainder of the site lies within the floodway. This impacts the overall development potential of the site and a significant adjustment for this element of comparison is warranted. In an effort to determine an appropriate adjustment, we have considered the paired sales presented in the following table.

LAND SALES SUMMARY						
Paired Sale No.	Sale Date	Size/ Acre	Price/ SF	Floodway	Location	Percent Difference
1	01/13	4.82	\$1.29	Yes	N/L of Gulf Bank Road at Breezeway Street	38%
	03/13	4.24	\$1.90	No	S/L of Gulf Bank Road, west of Hardy Toll Road	
2	09/15	3.58	\$2.24	Yes	W/L of Telge Road, north of Daisy Chain Drive	30%
	03/16	2.00	\$3.04	No	NWC of Telge Road and Mary Ann Street	
3	08/16	10.90	\$2.66	No	NEC of Vetereans Memorial Drive and Mitchell Road	18%
	09/16	10.08	\$2.23	Flood Plain	SEC of Langwick and Wayforest Drive	
4	07/17	3.05	\$2.26	Yes	W/L of East Rogers Street, west of Werner Street	46%
	08/16	1.90	\$3.62	No	E/L of Wheatley Street, north of West Tidwell Road	

The paired sales presented show a difference in price ranging from 30 percent to 46 percent for sales located in the floodway as compared to sales located outside of the floodway. The paired sales also indicate a difference of approximately 18 percent for sales in the flood plain versus outside of the flood plain and floodway. All of the sales are superior to the subject site with respect to floodplain and floodway requiring downward adjustments. Finally, given Sale Nos. 1, 2, 3, 4, and 5's access to public utilities, a downward adjustment is necessary to apply considering these properties are superior to the subject whole.

The land sales believed to be the most comparable to the subject have a sales price range of \$2.90 to \$4.79 per square foot. Based on this information, other sales and offerings, and conversations with knowledgeable individuals in the real estate market, it is our opinion that the subject site has a market value of \$2.75 per square foot. As noted earlier within this report, the subject is partially encumbered by a Harris County Flood Control drainage easement. In total, the easement covers approximately 0.3035 acre, or 13,220 square feet, of land on the property. Therefore, the remaining unencumbered land (excluding the utility easement) portion totals 3.6763 acres, or 160,141 square feet. Development within the encumbered area would be limited given its legal restrictions, slope toward the bayou, and overall terrain. As such, the fee simple rights retained in this tract must be discounted. In this case, the appropriate discount is 90 percent of the original per square foot value. Thus, the underlying fee owner retains 10 percent of the fee simple value. Therefore, the value of the subject property is calculated as follows:

Market Value of Subject via Sales Comparison Approach (Land Only)

Unencumbered Area: 160,141 SF (3.6763 Acres) X \$2.75 PSF =	\$440,388.00
Encumbered Area: 13,220 SF (0.3035 Acre) X \$2.75 PSF X 10% =	<u>\$3,635.00</u>
Total	\$444,023.00

The process to estimate the compensation for the partial acquisition of the subject property is a simple mathematical equation whereby the value of "Remainder after the Acquisition" is subtracted from the value of the "Subject Whole Prior to the Partial Acquisition". This amount is then added to the value of the partial acquisition. This compensation includes both the value of the partial acquisition and the damages to the remainder of the property.

Value of Partial Acquisitions.

Parcel 31:

This acquisition area consists of approximately 0.4696 acre (20,455 square feet) of land and consists of a road easement. Based on the property rights being acquired, 100 percent of the rights are being valued with the easement. As previously discussed in the Highest and Best Use section of this report, the partial acquisition (land only), has a highest and best use which is in conjunction with the subject whole or an adjacent parcel. Therefore, it would have the same per unit value as the subject whole. However, the partial acquisition area is partially encumbered by a Harris County Flood Control District (HCFCD) easement with 0.0706 acre, or 3,074 square feet, of encumbered area and 0.399 acre, or 17,381 square feet of unencumbered area. Thus, the encumbered area within the partial acquisition area warrants a 90 percent discount given the severe impact of the HCFCD easement on the surface use of this area. We note the area encumbered by the easements has been estimated based on measurements taken from the survey provided by the client. In the event more accurate calculations related to the total amount of encumbered area is provided, we reserve the right to amend this report. The market value of the subject whole was earlier estimated to be \$2.75 per square foot.

Market Value of Partial Acquisition (Land Only) – Parcel 31

Unencumbered Area: 17,381 SF (0.399 Acre) X \$2.75 PSF =	\$47,798.00
Encumbered Area: 3,074 SF (0.0706 Acre) X \$2.75 PSF X 10% =	<u>\$845.00</u>
Total	\$48,643.00

Parcel PED01:

This acquisition area consists of approximately 0.1716 acre (7,475 square feet) of land and consists of a drainage easement. Based on the property rights being acquired, 90 percent of the rights are being valued with the easement. As previously discussed in the Highest and Best Use section of this report, the partial acquisition (land only), has a highest and best use which is in conjunction with the subject whole or an adjacent parcel. Therefore, it would have the same per unit value as the subject whole. This easement is considered at 90% of fee value due to our opinion that the underlying fee owner will retain 10% of the property's utility. Thus, the area within the partial acquisition area warrants a 90% discount given the severe impact of the drainage easement on the surface use of this area. The market value of the subject whole was earlier estimated to be \$2.75 per square foot.

Market Value of Partial Acquisition (Land Only) – Parcel PDE01

7,475 SF (0.1716 Acre) X \$2.75 PSF X 90% =	\$18,500.00
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Value of Remainder Before Partial Acquisitions. The value of the remainder prior to the acquisition is calculated by subtracting the value of the partial acquisitions (\$48,643.00 for Parcel 31 and \$18,500.00 for Parcel PDE01) from the value of the subject whole (\$444,023.00) as follows:

Value of Subject Whole	\$444,023.00
<u>Less: Value of Partial Acquisition – Parcel 31</u>	<u><\$48,643.00></u>
<u>Less: Value of Partial Acquisition – Parcel PED01</u>	<u><\$18,500.00></u>
Value of Remainder Before Acquisition	\$376,880.00

Value of Remainder After Acquisitions-Land Only. As previously mentioned, the remainder property has the same highest and best use as the subject whole. The remainder property is not damaged as a result of the partial acquisition. Therefore, it is our opinion that the subject site has a market value of \$2.75 per square foot. However, the remainder is also partially encumbered by the HCFCD and drainage easements with 0.4045 acre, or 17,621 square feet, of encumbered area and 3.1057 acres, or 135,285 square feet, of unencumbered area. As previously mentioned, this easement is considered at 90% of fee value due to our opinion that the underlying fee owner will retain 10% of the property's utility. Therefore, the value of the remainder property is calculated as follows.

Market Value of Remainder After the Acquisitions - Land Only

Unencumbered Area: 135,285 SF (3.1057 Acre) X \$2.75 PSF =	\$372,034.00
Encumbered Area: 17,621 SF (0.4045 Acre) X \$2.75 PSF X 10% =	<u>\$4,846.00</u>
Total	\$376,880.00

The total compensation for the subject property, based on the value of the land and site improvements within the partial acquisition, the value of the remainder property, and the cost-to-cure items is shown below.

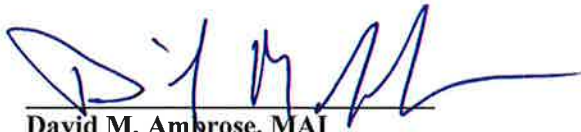
COMPENSATION SUMMARY

Value of Subject Whole	\$444,023.00	
Value of Partial Acquisition – Parcel 31		\$48,643.00
Value of Partial Acquisition – Parcel PDE01		\$18,500.00
Value of Remainder Before Acquisition	\$376,880.00	
Value of Remainder After Acquisition	<u><\$376,880.00></u>	
Damages		- 0 -
Cost-to-Cure		<u>- 0 -</u>
Total Compensation		\$67,143.00

Assuming adequate exposure and normal marketing efforts, the estimated exposure time (i.e., the length of time the subject property would have been exposed for sale in the market had it sold at the market value concluded to in this analysis as of the date of this valuation) would have been within 12 months; the estimated marketing (i.e. the amount of time it would probably take to sell the subject property if exposed in the market beginning on the date of this valuation) is estimated to be within about 12 months. Based on our analysis of the real estate market and discussions with brokers and other knowledgeable individuals in this industry, we believe a reasonable period of time to market the subject property at the previously derived market value is approximately 12 months.

Your attention is invited to the following data and analyses which, in part, form the basis of our conclusions.

Sincerely,


David M. Ambrose, MAI
State Certified General RE Appraiser
Certificate No. TX-1322613-G


Clayton L. Morgan, MAI
State Certified General RE Appraiser
Certificate No. TX-1380139-G

Assumptions and Limiting Conditions:

That the date of value to which the opinions expressed in this report applies is set forth in the Letter of Transmittal. The appraiser assumes no responsibility for economic or physical factors occurring at some later date which may affect the opinions herein stated.

That no opinions are intended to be expressed for legal matters or that would require specialized investigation or knowledge beyond that ordinarily employed by real estate appraisers, although such matters may be discussed in this report.

That no opinion as to title is rendered. Name of ownership and the legal description were obtained from sources generally considered reliable. Title is assumed to be marketable and free and clear of all liens, encumbrances, easements, and restrictions except those specifically discussed in this report. The property is appraised assuming it to be under responsible ownership and competent management and available for its highest and best use.

That no engineering survey has been made by the appraiser. Except as specifically stated, data relative to size and area were taken from sources considered reliable and no encroachment or real property improvement is assumed to exist.

That maps, plats, and exhibits included herein are for illustration only, as an aid in visualizing matters discussed within this report. They should not be considered as surveys or relied upon for any other purpose.

That no detailed soil studies covering the subject property were available to the appraiser. Therefore, premises as to soil qualities employed in this report are not conclusive, but have been considered consistent with information available to the appraiser.

The property is appraised as though free and clear, under responsible ownership, and competent management. All existing liens and encumbrances have been disregarded.

Unless stated otherwise in this report, no presence of hazardous materials on or in the property was observed by the appraiser. The appraiser has no information on the existence of such materials and is not qualified to detect same. The presence of such materials on or in the property could affect the appraiser's opinion of market value. However, the value stated herein is based on the assumption that no hazardous materials are present on or in the property, and the appraiser accepts no responsibility for determining such condition. The client is urged to retain an expert in this field if there is any question as to the existence of hazardous material.

Any information furnished to us by others is believed to be reliable, but we assume no responsibility for its accuracy.

Possession of this report, or a copy thereof, does not carry with it the right to publication, nor may it be used for any purpose, by anyone other the client, without the previous written consent of the appraiser or the client and, in any event, only in its entirety.

This appraisal does not require us to give testimony in court on the client's behalf unless arrangements have been previously made therefore.

The distribution of the total valuation in this report between land and improvements and estimated damages applies only under the reported highest and best use of the property. Such, if applicable, allocations of value for land and improvements must not be used in conjunction with any other appraisal and are invalid if so used.

The value is reported in dollars on the basis of the currency prevailing at the date of this appraisal.

We have no present or contemplated interest in the property appraised.

Our compensation for making this appraisal is in no manner contingent upon the value reported.

That the appraiser assumes no responsibility for determining if the property lies within a flood hazard area and its consequences to the property. It is advised that a Topographic Survey be obtained and local officials be contacted.

This appraisal has been made in accordance with the Code of Professional Ethics of the Appraisal Institute and the Uniform Standards of Professional Appraisal Practice of the Appraisal Institute.

To the best of our understanding, this report conforms to the requirements of the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation and the Appraisal Institute.

The Americans with Disabilities Act (ADA) became effective January 26, 1992. We have not made a specific compliance survey and analysis of this property to determine whether or not it is in conformity with the various detailed requirements of the ADA. It is possible that a compliance survey of the property, together with a detailed analysis of the requirements of the ADA, could reveal that the property is not in compliance with one or more requirements of the act. If so, this fact could have a negative impact upon the value of the property. However, since we have no direct evidence relating to the issue of compliance, we did not consider possible noncompliance with requirements of the ADA in estimating the value of the property.

The specific land area and legal description for the subject whole and partial acquisition was obtained from information provided by the client. It is assumed that this information is accurate and has been utilized within this analysis. In the event more detailed land area figures become available at a later date, the appraisers reserve the right to amend the contents of this report (upon just compensation).

The size of the area under the easement for the subject whole, acquisition area, and remainder has been based off calculations made by the appraisers using the survey provided by the client. It is assumed that this information is accurate and has been utilized within this analysis. However, should more detailed land area figures become available at a later date, the appraisers reserve the right to amend the contents of this report (upon just compensation).

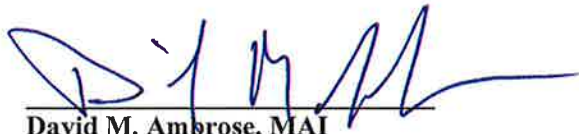
The use of any extraordinary assumptions or hypothetical conditions that may impact the market value determined within this report.

There are no other limiting conditions contained in this report other than the ones listed above.

Certification of the Appraisal:

We certify that, to the best of our knowledge and belief:

1. The statements of fact contained in this report are true and correct.
2. The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are our personal, impartial, and unbiased professional analyses, opinions, and conclusions.
3. We have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.
4. We have no present or prospective interest in the property that is the subject of this report or to the parties involved with this assignment. However, The Ambrose Group provided an appraisal report for the subject property in July 2018 and April 2019.
5. Our engagement in this assignment was not contingent upon developing or reporting predetermined results.
6. Our compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
7. Our analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the *Uniform Standards of Professional Appraisal Practice*.
8. The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
9. Clayton L. Morgan, MAI and David M. Ambrose, MAI, have visited the property that is the subject of this report.
10. No one provided significant real property appraisal assistance to the persons signing this certification.
11. As of the date of this report, David M. Ambrose, MAI and Clayton L. Morgan, MAI have completed the continuing education program for Designated Members of the Appraisal Institute.
12. Our client is the Harris County Real Property Division. The findings contained herein shall not be disseminated to anyone other the client, the client's duly authorize representative, or as may be required by Texas law.



David M. Ambrose, MAI
State Certified General RE Appraiser
Certificate No. TX-1322613-G



Clayton L. Morgan, MAI
State Certified General RE Appraiser
Certificate No. TX-1380139-G

WARRANTY DEED

THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF HARRIS §

That, **CITY OF TOMBALL, TEXAS**, hereinafter known as Grantor, whether one or more, for and in consideration of the sum of TWO THOUSAND EIGHT HUNDRED EIGHTY AND NO/100 DOLLARS **(\$2,880.00)**, to Grantor in hand paid by the County of Harris, receipt of which is hereby acknowledged, have GRANTED, SOLD and CONVEYED, and by these presents do GRANT, SELL and CONVEY unto the said **Harris County**, a body corporate and politic under the laws of the State of Texas, all that certain tract or parcel of land situate in the County of Harris, State of Texas, described as follows, to-wit:

0.4696 acre tract of land situated in the C.M. Pillot Survey, Abstract No. 632, Harris County, Texas, being more particularly described in Exhibit "A" attached hereto and made a part hereof for descriptive purposes (the "land").

TO HAVE AND TO HOLD the above described land, together with all and singular the rights and appurtenances thereto in any wise belonging, unto the said County of Harris, its successors or assigns forever; save and except the following reservations and provisions:

This conveyance is subject to all easements, restrictions and reservations of record in the County Clerk's Official Public Records of Real Property of Harris County, which affect the property herein conveyed, to the extent they are valid and subsisting and are enforceable against a political subdivision of the State of

AFTER RECORDING, HOLD FOR HARRIS
COUNTY REAL PROPERTY DIVISION

Texas.

And the said Grantor does hereby bind itself, its successors and assigns to warrant and forever defend all and singular the said land unto the said County of Harris, its successors and assigns, against every person whomsoever, lawfully claiming or to claim the same, or any part thereof, except as to the reservations from and exceptions to conveyance and warranty.

EXECUTED, this the ____ day of _____, 2020.

Grantor's address:
501 James Street
Tomball, Tx. 77375

CITY OF TOMBALL, TEXAS

Grantee's address:
10555 Northwest Freeway, Suite 210
Houston, Texas 77092

By: _____
Gretchen Fagan, Mayor

ACKNOWLEDGMENT

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on _____, 2020 by Gretchen Fagan, Mayor of City of Tomball, Texas, on behalf of said entity.

Notary Public Signature

EXECUTED, this the ____ day of _____, 2020.

**HARRIS COUNTY, a body corporate and politic under
the laws of the State of Texas**

By: _____
Lina Hidalgo, County Judge

ACKNOWLEDGMENT

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the ____ day of _____,
2020, by Lina Hidalgo, as the County Judge of Harris County, Texas and presiding officer of the
Commissioners Court of Harris County, Texas, as the governing body of Harris County.

Notary Public signature

PARCEL 31

DESCRIPTION OF A 0.4696-ACRE (20,455 SQ. FT.)
TRACT OF LAND SITUATED IN THE C.M. PILLOT
SURVEY, A-632, HARRIS COUNTY, TEXAS

Being a description of a 0.4696-acre (20,455 Sq. Ft.) tract of land situated in the C.M. Pillot Survey, A-632, Harris County, Texas, and being out of a called 3.989-acre tract of land conveyed to City of Tomball, by deed recorded under Harris County Clerk's File No. X787363 (H.C.C.F.), Film Code No. 589-39-2649 of the Official Public Records of Real Property, Harris County, Texas (O.P.R.R.P.H.C.). Said 0.4696-acre tract of land being more particularly described by metes and bounds as follows with the basis of bearings being the Texas State Plane Coordinate System, South Central Zone No. 4204. Coordinates shown are grid coordinates and may be brought to surface by multiplying by the combined scale factor of 1.000069005:

COMMENCING (N=13,949,049.07, E=3,047,029.18) at a point for a northeast corner of a called 10.2532-acre tract of land conveyed to Foster Roy Edmondson, by deed recorded under H.C.C.F. No. 20110522146, Film Code No. 028-75-1007 of the O.P.R.R.P.H.C. and for the northwest corner of calculated 0.7322-acre tract of land conveyed to Zion Primitive Baptist Church, by deed recorded under H.C.C.F. No. J039604 Film Code No. 052-89-2383 of the O.P.R.R.P.H.C.;

THENCE North 87 deg. 28 min. 36 sec. East, with the north line of said calculated 0.7322-acre tract and with the south line of said 3.989-acre tract, a distance of 127.01 feet, to a 5/8-inch iron rod with cap stamped "WEISSER ENG HOUSTON, TX" set for the northwest corner and **POINT OF BEGINNING (N=13,949,054.66, E=3,047,156.05)** of said tract herein described;

THENCE North 01 deg. 48 min. 16 sec. East, over and across said 3.989-acre tract, with a proposed west right-of-way line of Hufsmith-Kohrville Road, with a west line of said tract herein described, a distance of 216.55 feet to a 5/8-inch iron rod with cap stamped "WEISSER ENG HOUSTON, TX" set for an angle point in said tract herein described;

THENCE North 10 deg. 21 min. 10 sec. East, over and across said 3.989-acre tract, with a proposed west right-of-way line of Hufsmith-Kohrville Road and with a west line of said tract herein described, a distance of 200.00 feet to 5/8-inch iron rod with cap stamped "WEISSER ENG HOUSTON, TX" set for an angle point in said tract herein described;

THENCE North 24 deg. 32 min. 17 sec. East, over and across said 3.989-acre tract, with a proposed west right-of-way line of Hufsmith-Kohrville Road and with a west line of said tract herein described, a distance of 122.42 feet to a 5/8-inch iron rod with cap stamped "WEISSER ENG HOUSTON, TX" set in the existing west right-of-way line of said Hufsmith-Kohrville Road (Right-of-Way Varies), as recorded in Volume M, Page 222 of the Harris County Commissioner's Court Minutes, (H.C.C.C.M.), in Volume 42, Page 295 of the H.C.M.R., and under H.C.C.F. Nos. C919585, D078682 and C919589 of the O.P.R.R.P.H.C. for the north corner of said tract herein described;

THENCE South 02 deg. 17 min. 58 sec. West, with an existing west right-of-way line of said Hufsmith-Kohrville Road and with an east line of said tract herein described, a distance of 36.76 feet to a point for the beginning of a tangent curve to the right;

THENCE in a southerly direction, with an existing west right-of-way line of said Hufsmith-Kohrville Road, with an east line of said tract herein described and with the arc of said curve to the right having a radius of 1,413.74 feet, a central angle of 07 deg. 44 min. 24 sec, a chord bearing of South 06 deg. 12 min. 01 sec West, a chord distance of 190.83 feet and an arc length of 190.98 feet to a point of tangency;

THENCE South 10 deg. 06 min. 06 sec. West, with an existing west right-of-way line of said Hufsmith-Kohrville Road, and with an east line of said tract herein described, a distance of 99.63 feet to a point for the beginning of a tangent curve to the left;

THENCE in a southerly direction, with an existing west right-of-way line of said Hufsmith-Kohrville Road, with an east line of said tract herein described and with the arc of said curve to the left having a radius of 1,454.29 feet, a central angle of 07 deg. 33 min. 47 sec, a chord bearing of South 06 deg. 20 min. 27 sec West, a chord distance of 191.83 feet and an arc length of 191.97 feet to a point tangency;

THENCE South 03 deg. 13 min. 07 sec. West, with an existing west right-of-way line of said Hufsmith-Kohrville Road and with an east line of said tract herein described, a distance of 7.95 feet to a point for the northeast corner of said calculated 0.7322-acre tract, for the southeast corner of said 3.989-acre tract and for the southeast corner of said tract herein described;

THENCE South 87 deg. 28 min. 36 sec. West, with the north line of said calculated 0.7322-acre tract, with the south line of said 3.989-acre tract and with the south line of said tract herein described, a distance of 32.44 feet to the **POINT OF BEGINNING** and containing 0.4696 acre (20,455 Sq. Ft.) of land.

Compiled by:
Weisser Engineering Company
19500 Park Row
Houston, Texas 77084
TBPLS Reg. No. 100518-00
TBPE Reg. No.: F-68
Job No. EJ401
Date: 08/09/2017
Revised: 02/04/2019



SPECIAL WARRANTY DEED

THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF HARRIS §

HARRIS COUNTY, TEXAS, a body corporate and politic under the laws of the State of Texas ("Grantor"), for and in consideration of a 0.4696 acre tract of land and a 0.1716 acre drainage easement from Grantee to Grantor plus NINE THOUSAND ONE HUNDRED EIGHTY ONE AND NO/100 (\$9,181.00) DOLLARS from Grantor to Grantee given in exchange for the grant and conveyance to Grantee by Grantor of two tracts of land referred to herein as the Property, the receipt and sufficiency of which consideration is hereby acknowledged and confessed, subject to the exceptions, liens, encumbrances, terms and provisions hereinafter set forth and described, has GRANTED, BARGAINED, and CONVEYED, and by these presents does GRANT, BARGAIN, and CONVEY unto the **CITY OF TOMBALL, TEXAS**, whose address is 501 James Street, Tomball, Texas 77375 ("Grantee"), all of that certain 0.4838 acre tracts of land, combined, in Harris County, Texas, and being more particularly described in Exhibit "A" and Exhibit "B" attached hereto and incorporated herein by this reference for all purposes, together with, all and singular, the rights, benefits, privileges, easements, tenements, hereditaments, appurtenances and interests thereon or in anywise appertaining thereto and with all improvements located thereon (said land, rights, benefits, privileges, easements, tenements, hereditaments, appurtenances, improvements and interests being hereinafter referred to as the "Property").

This conveyance is made and accepted subject to all easements, restrictions, encumbrances, access limitations, covenants, conditions, royalty and mineral reservations affecting the Property or ownership of the Property to the extent they are in effect and relate to the Property (the "Permitted Exceptions").

TO HAVE AND TO HOLD the Property, as aforesaid, unto Grantee, its successors and assigns, forever; and Grantor does hereby bind itself and its successors and assigns, to WARRANT AND FOREVER DEFEND all and singular the Property, subject to the Permitted Exceptions, unto Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same, or any part thereof, by, through or under the Grantor, but not otherwise.

Grantee, by its acceptance hereof, does hereby assume and agree to pay any and all ad valorem taxes and special assessments pertaining to the Property for the calendar year 2020 and subsequent years.

EXECUTED, this the ____ day of _____, 2020.

GRANTOR:

**HARRIS COUNTY, TEXAS, a body corporate and
politic under the laws of the State of Texas**

By: _____
Lina Hidalgo, County Judge

ACKNOWLEDGMENT

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the ____ day of _____,
2020, by Lina Hidalgo, as the County Judge of Harris County, Texas and presiding officer of the
Commissioners Court of Harris County, Texas, as the governing body of Harris County.

Notary Public signature

EXECUTED, this the ____ day of _____, 2020.

Grantor's address:
501 James Street
Tomball, Tx. 77375

CITY OF TOMBALL, TEXAS

Grantee's address:
10555 Northwest Freeway, Suite 210
Houston, Texas 77092

By: _____
Gretchen Fagan, Mayor

ACKNOWLEDGMENT

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on _____, 2020
by Gretchen Fagan, Mayor of City of Tomball, Texas, on behalf of said entity.

Notary Public Signature

EXHIBIT A

PS01 (SURPLUS 0.1018 ACRE)

DESCRIPTION OF A 0.1018-ACRE (4,436 SQ. FT.)
TRACT OF LAND SITUATED IN THE C.M. PILLOT
SURVEY, A-632, HARRIS COUNTY, TEXAS

Being a description of a 0.1018-acre (4,436 Sq. Ft.) tract of land situated in the C.M. Pillot Survey, A-632, Harris County, Texas, and being within the existing right-of-way of Hufsmith-Kohrville Road (Right-of-Way Varies), as recorded in Volume M, Page 222 of the Harris County Commissioner's Court Minutes, (H.C.C.C.M.), in Volume 42, Page 295 of the Harris County Map Records (H.C.M.R.), and under Harris County Clerk's File Nos. C919585, D078682 and C919589 (H.C.C.F.) of the Official Public Records of Real Property, Harris County, Texas (O.P.R.R.P.H.C.). Said 0.1018-acre tract of land being more particularly described by metes and bounds as follows with the basis of bearings being the Texas State Plane Coordinate System, South Central Zone No. 4204. Coordinates shown are grid coordinates and may be brought to surface by multiplying by the combined scale factor of 1.000069005:

COMMENCING (N=13,950,108.21, E=3,047,050.42) at a southwest corner of the residue of a called 16.4724-acre tract of land conveyed to 11311 Holderrieth Limited, L.P., by deed recorded under H.C.C.F. No. W840420, Film Code No. 571-33-1772 of the O.P.R.R.P.H.C. and for the northwest corner of a called 3.989-acre tract of land conveyed to City of Tomball, by deed recorded under H.C.C.F. No. X787363, Film Code No. 589-39-2649 of the O.P.R.R.P.H.C.;

THENCE North 88 deg. 32 min. 27 sec. East, with the south line of the residue of said 16.4724-acre tract and with the north line of said 3.989-acre tract, a distance of 190.68 feet, to a 1/2-inch iron found in the existing west right-of-way line of said Hufsmith-Kohrville Road for the northeast corner of said 3.989-acre tract;

THENCE South 01 deg. 16 min. 20 sec. East, with the existing west right-of-way line of said Hufsmith-Kohrville Road and the east line of said 3.989-acre tract, a distance of 292.63 feet to the northwest corner and **POINT OF BEGINNING (N=13,949,820.53, E=3,047,247.53)** of said tract herein described;

THENCE North 88 deg. 43 min. 40 sec. East, over and across the existing right-of-way line of said Hufsmith-Kohrville Road and with the north line of said tract herein described, a distance of 37.36 feet to a 5/8-inch iron rod with cap stamped "WEISSER ENG HOUSTON, TX" set marking the beginning of a non-tangent curve to the right;

THENCE in a southerly direction, over and across the existing right-of-way line of said Hufsmith-Kohrville Road and with a proposed west right-of-way line of Hufsmith-Kohrville Road, with the east line of said tract herein described and with the arc of said curve to the right having a radius of 5,210.33 feet, a central angle of 02 deg. 41 min. 30 sec, a chord bearing of South 08 deg. 16 min. 32 sec West, a chord distance of 244.75 feet and an arc length of 244.77 to a 5/8-inch iron rod with cap stamped "WEISSER ENG HOUSTON, TX" set in the existing west right-of-way line of said Hufsmith-Kohrville Road and in the east line of said 3.989-acre tract for the south corner of said tract herein described;

THENCE North 02 deg. 17 min. 55 sec. East, with the existing west right-of-way line of said Hufsmith-Kohrville Road and the west line of said tract herein described, a distance of 51.97 feet to a point in the existing west right-of-way line of said Hufsmith-Kohrville Road;

THENCE North 01 deg. 16 min. 20 sec. West, with the existing west right-of-way line of said Hufsmith-Kohrville Road and the west line of said tract herein described, a distance of 189.49 feet to the **POINT OF BEGINNING** and containing 0.1018 acre (4,436 Sq. Ft.) of land.

Compiled by:
Weisser Engineering Company
19500 Park Row
Houston, Texas 77084
TBPLS Reg. No. 100518-00
TBPE Reg. No.: F-68
Job No. EJ401
Date: 08/23/2017



EXHIBIT B

PS02 (SURPLUS 0.3820 ACRE)

DESCRIPTION OF A 0.3820-ACRE (16,641 SQ. FT.)
TRACT OF LAND SITUATED IN THE C.M. PILLOT
SURVEY, A-632 AND THE ELIZABETH SMITH SURVEY, A-70, HARRIS COUNTY,
TEXAS

Being a description of a 0.3820-acre (16,641 Sq. Ft.) tract of land situated in the C.M. Pillot Survey, A-632 and the Elizabeth Smith Survey, A-70, Harris County, Texas, and being within the existing right-of-way of Hufsmith-Kohrville Road (Right-of-Way Varies), as recorded in Volume M, Page 222 of the Harris County Commissioner's Court Minutes, (H.C.C.C.M.), in Volume 42, Page 295 of the Harris County Map Records (H.C.M.R.), and under Harris County Clerk's File Nos. C919585, D078682 and C919589 (H.C.C.F.) of the Official Public Records of Real Property, Harris County, Texas (O.P.R.R.P.H.C.). Said 0.3820-acre tract of land being more particularly described by metes and bounds as follows with the basis of bearings being the Texas State Plane Coordinate System, South Central Zone No. 4204. Coordinates shown are grid coordinates and may be brought to surface by multiplying by the combined scale factor of 1.000069005:

COMMENCING (N=13,950,108.21, E=3,047,050.42) at a southwest corner of the residue of a called 16.4724-acre tract of land conveyed to 11311 Holderrrieth Limited, L.P., by deed recorded under H.C.C.F. No. W840420, Film Code No. 571-33-1772 of the O.P.R.R.P.H.C. and for the northwest corner of a called 3.989-acre tract of land conveyed to City of Tomball, by deed recorded under H.C.C.F. No. X787363, Film Code No. 589-39-2649 of the O.P.R.R.P.H.C.;

THENCE North 88 deg. 32 min. 27 sec. East, with the south line of the residue of said 16.4724-acre tract and with the north line of said 3.989-acre tract, a distance of 190.68 feet, to a 1/2-inch iron found in the existing west right-of-way line of said Hufsmith-Kohrville Road for the northeast corner of said 3.989-acre tract and for the **POINT OF BEGINNING (N=13,950,113.07, E=3,047,241.03)** of said tract herein described;

THENCE North 44 deg. 53 min. 31 sec. East, with a northwest right-of-way line of said Hufsmith-Kohrville Road, with a southeast line of the residue of said 16.4724-acre tract and with the northeast line of said tract herein described, a distance of 106.50 feet to a 5/8-inch iron rod with cap stamped "WEISSER ENG HOUSTON, TX" set for an angle point in the existing west right-of-way line of said Hufsmith-Kohrville Road with said point also marking the beginning of a non-tangent curve to the right;

THENCE in a southerly direction, over and across the existing right-of-way of said Hufsmith-Kohrville Road, with a proposed west right-of-way line of Hufsmith-Kohrville Road, with the east line of said tract herein described and with the arc of said curve to the right having a radius of 5,019.18 feet, a central angle of 03 deg. 34 min. 26 sec, a chord bearing of South 04 deg. 33 min. 55 sec West, a chord distance of 313.02 feet and an arc length of 313.07 to a 5/8-inch iron rod with cap stamped "WEISSER ENG HOUSTON, TX" set for the southeast corner of said tract herein described;

THENCE South 88 deg. 43 min. 40 sec. West, over and across the existing right-of-way of said Hufsmith-Kohrville Road, and with the south line of said tract herein described, a distance of 44.99 feet to a point in the existing west right-of-way line of said Hufsmith-Kohrville Road for the southwest corner of said tract herein described;

THENCE North 01 deg. 16 min. 20 sec. West, with the existing west right-of-way line of said Hufsmith-Kohrville Road and with the west line of said tract herein described, a distance of 237.63 feet to the **POINT OF BEGINNING** and containing 0.3820 acre (16,641 Sq. Ft.) of land.

Compiled by:
Weisser Engineering Company
19500 Park Row
Houston, Texas 77084
TBPLS Reg. No. 100518-00
TBPE Reg. No.: F-68
Job No. EJ401
Date: 08/23/2017



DRAINAGE EASEMENT

THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF HARRIS §

THAT, **CITY OF TOMBALL, TEXAS** of the County of Harris, State of Texas, hereinafter referred to as GRANTOR (whether one or more) for and in consideration of the sum of **SIX THOUSAND THREE HUNDRED ONE AND NO/100 DOLLARS (\$6,301.00)** to GRANTOR in hand paid, the receipt and sufficiency of which is hereby acknowledged, and for which no lien is retained, either expressed or implied, do by these presents GRANT, SELL and CONVEY unto the **County of Harris**, a body corporate and politic under the laws of the State of Texas, an easement for drainage and other related purposes, in, along, upon and across the following described property in the County of Harris, State of Texas, more particularly described as follows, to wit:

0.1716 acres of land situated in the C.M. Pillot Survey, Abstract 632, Harris County, Texas, said 0.1716 acres of land more or less being more particularly described in Exhibit "A" attached hereto and made a part hereof.

TO HAVE AND TO HOLD the said easement, unto the County of Harris to be used for said purpose, forever; and GRANTOR does hereby bind itself, its successors and assigns TO WARRANT AND FOREVER DEFEND all and singular the said premises unto the said Harris County, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same, or any part thereof.

This conveyance is subject to all easements, restrictions and reservations of record in the County Clerk's Official Public Records of Real Property of Harris County, which affect the property herein conveyed, to the extent they are valid and subsisting and are enforceable against a political subdivision of the State of Texas.

EXECUTED this _____ day of _____, 2020.

GRANTOR:

CITY OF TOMBALL, TEXAS

By: _____
Gretchen Fagan, Mayor

ACKNOWLEDGMENT

THE STATE OF TEXAS §

COUNTY OF HARRIS §

This instrument was acknowledged before me on _____, 2020

by Gretchen Fagan, Mayor of City of Tomball, Texas, on behalf of said entity

Notary Public signature

EXECUTED, this the ____ day of _____, 2020.

HARRIS COUNTY, a body corporate and politic under the laws of the State of Texas

By: _____
Lina Hidalgo, County Judge

ACKNOWLEDGMENT

[illegible]

This instrument was acknowledged before me on the ____ day of _____, 2020, by Lina Hidalgo, as the County Judge of Harris County, Texas and presiding officer of the Commissioners Court of Harris County, Texas, as the governing body of Harris County.

Notary Public signature

PDE01 (DRAINAGE EASEMENT)

DESCRIPTION OF A 0.1716-ACRE (7,475 SQ. FT.)
TRACT OF LAND SITUATED IN THE C.M. PILLOT
SURVEY, A-632, HARRIS COUNTY, TEXAS

Being a description of a 0.1716-acre (7,475 Sq. Ft.) tract of land situated in the C.M. Pillot Survey, A-632, Harris County, Texas, and being out of a called 3.989-acre tract of land conveyed to City of Tomball, by deed recorded under Harris County Clerk's File No. X787363 (H.C.C.F.), Film Code No. 589-39-2649 of the Official Public Records of Real Property, Harris County, Texas (O.P.R.R.P.H.C.), said 0.1716-acre tract of land being more particularly described by metes and bounds as follows with the basis of bearings being the Texas State Plane Coordinate System, South Central Zone No. 4204. Coordinates shown are grid coordinates and may be brought to surface by multiplying by the combined scale factor of 1.000069005:

COMMENCING (N=13,950,108.21, E=3,047,050.42) at a point for the southwest corner of the residue of a called 16.4724-acre tract of land conveyed to 11311 Holderrrieth Limited, L.P., by deed recorded under H.C.C.F. No. W840420, Film Code No. 571-33-1772 of the O.P.R.R.P.H.C. and for the northwest corner of said 3.989-acre tract;

THENCE North 88 deg. 32 min. 27 sec. East, with the south line of said residue of the 16.4724-acre tract and with the north line of said 3.989-acre tract, a distance of 190.68 feet, to a 1/2-inch iron found in the existing west right-of-way line of said Hufsmith-Kohrville Road for the northeast corner of said 3.989-acre tract;

THENCE South 01 deg. 16 min. 20 sec. East, with the existing west right-of-way line of said Hufsmith-Kohrville Road and with the east line of said 3.989-acre tract, a distance of 237.63 feet to a 5/8-inch iron rod with cap stamped "WEISSER ENG HOUSTON, TX" set for the northeast corner and **POINT OF BEGINNING (N=13,949,875.51, E=3,047,246.31)** of said tract herein described;

THENCE South 01 deg. 16 min. 20 sec. East, with the existing west right-of-way line of said Hufsmith-Kohrville Road, with the east line of said 3.989-acre tract and with the east line of said tract herein described, a distance of 55.00 feet to a 5/8-inch iron rod with cap stamped "WEISSER ENG HOUSTON, TX" set for the southeast corner of said tract herein described;

THENCE South 88 deg. 43 min. 40 sec. West, over and across said 3.989-acre tract and with the south line of said tract herein described, a distance of 135.90 feet to a 5/8-inch iron rod with cap stamped "WEISSER ENG HOUSTON, TX" set for the southwest corner of said tract herein described;

THENCE North 01 deg. 16 min. 20 sec. West, over and across said 3.989-acre tract and with the west line of said tract herein described, a distance of 55.00 feet to a 5/8-inch iron rod with cap stamped "WEISSER ENG HOUSTON, TX" set for the northwest corner of said tract herein described;

THENCE North 88 deg. 43 min. 40 sec. East, with the north line of said tract herein described, a distance of 135.90 feet to the **POINT OF BEGINNING** and containing 0.1716 acre (7,475 Sq. Ft.) of land.

Compiled by:
Weisser Engineering Company
19500 Park Row
Houston, Texas 77084
TBPLS Reg. No. 100518-00
TBPE Reg. No.: F-68
Job No. EJ401
Date: 08/23/2017
Revised: 08/31/2018
Revised: 03/12/2019



A handwritten signature in black ink, appearing to read "Walter P. Sass", written over a faint horizontal line.

Regular City Council

Agenda Item

Data Sheet

Meeting Date: February 3, 2020

Topic:

Approval of Land Lease and Museum Development Agreement between City of Tomball, a Municipal Corporation, and the Texas Railroad Heritage Museum, Inc., for Lease and Development of City-Owned Land into a Regional Railroad Museum, and Authorize City Manager to Execute Necessary Documents

Background:

On July 10, 2015, the City of Tomball and the Gulf Coast Chapter - National Railway Historical Society, Inc. (Chapter), entered into a land lease agreement to establish a railroad museum. On November 11, 2019, after the Chapter had created a separate entity (Texas Railroad Heritage Museum), the original lease agreement was terminated upon mutual agreement, so that a new agreement could be executed between the City of Tomball and the newly formed Texas Railroad Heritage Museum.

Now that there is no conflicting lease with the Chapter, the City may now execute this new lease with the appropriate entity, the Texas Railroad Heritage Museum.

Origination:

Robert S. Hauck

Recommendation:

Authorize the City Manager to execute lease agreement on behalf of the City.

Party(ies) responsible for placing this item on agenda:

Robert S. Hauck

ACTION TAKEN

Approval ☐ Yes ☐ No	Readings Passed ☐ 1 st ☐ 2 nd	Other
---	---	--------------

ATTACHMENTS:

Land Lease

LAND LEASE AND MUSEUM DEVELOPMENT AGREEMENT
Between
CITY OF TOMBALL, a Municipal Corporation And
THE TEXAS RAILROADING HERITAGE MUSEUM, INC a Texas Domestic Nonprofit
Corporation For
LEASE AND DEVELOPMENT OF CITY-OWNED LAND INTO A REGIONAL
RAILROAD MUSEUM
PRELIMINARY STATEMENTS

The City of Tomball, Texas (hereinafter the "City") and The Texas Railroading Heritage Museum, Inc. (hereinafter the "TRHM") mutually agree that certain City-owned property as defined herein (hereinafter the "Site") should be developed into a regional railroad museum to be named TEXAS RAILROADING HERITAGE MUSEUM (hereinafter the "Museum") for the education and entertainment of all of the citizens of and visitors to Texas. The City has determined that cooperating in the development of a railroad museum is a valid public purpose under its charter and is willing to lease the Site for that exclusive purpose; and the TRHM is willing to display its collection of vintage railcars and other railroading artifacts (hereinafter the "Collection") and develop a comprehensive and safe visitor attraction.

The City and the TRHM now desire to set forth the definitive terms and conditions of the Agreement.

NOW THEREFORE, in consideration of the mutual promises contained in this agreement (hereinafter, the "Agreement") and for other good, valuable and binding consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

1. DEFINITIONS

- 1.1 Execution Date - the date this Agreement is signed by the last of the parties.
- 1.2 Opening Date - the date on which the Museum is first opened to the public.
- 1.3 Site - the City-owned property as described in Attachment A.
- 1.4 Collection - vintage rail cars as described in Attachment B and other railroad-related artifacts and items generally deemed appropriate by the TRHM for display in a public museum whether currently owned by or acquired in the future by the TRHM.
- 1.5 Museum - the collective facility, including the Site, Collection and related infrastructure.

2. LEASE AND USE OF PROPERTY

- 2.1 The City agrees to lease the Site to the TRHM for a term of 25 years beginning on the Execution Date, with automatic renewal for three additional 25 year terms. Such lease shall be exclusive to and for the use of the TRHM.
- 2.2 The TRHM will pay to the City the amount of \$1 on each anniversary of the Execution Date as long as this Agreement is in force.
- 2.3 The TRHM acknowledges that the Site is being made available for the exclusive

WCC
01/14/2020

- development of a railroad museum.
- 2.4 For as long as this Agreement is in force, the TRHM shall have unlimited use of and access to the Site for the development and operation of a railroad museum pursuant to this Agreement.
- 2.5 The Site may be increased in size by mutual agreement of the parties to this Agreement, and if so, the description of the increased Site will replace and become Attachment A to this Agreement.
- 2.6 The TRHM agrees that no part of the Site property will be subleased without written approval from the City.

3. TRHM RESPONSIBILITY

- 3.1 The TRHM agrees that it will cause the Collection to be moved to the Site as soon as practicable and to allow the Collection to be viewed by the public according to the terms of the Agreement and any policies or procedures the TRHM may adopt and implement for the orderly operation of the Museum.
- 3.2 The TRHM agrees that it will bear full financial responsibility of the construction, development and operation of the Museum except for remediation of existing hazards at the Site unless otherwise provided in this document or negotiated with the City.
- 3.3 The TRHM agrees to comply with all City ordinances.
- 3.4 The TRHM agrees to maintain two positions on 'its Board of Directors for individuals nominated by the City and by Harris County, respectively. The City agrees to timely appoint its nominee to the 'TRHM's Board of Directors, and the TRHM will notify the City if any appointment is needed to fill a vacancy in the City's reserved position on the Board. The City will cooperate with the TRHM in obtaining similar cooperation in any appointments needed from Harris County.
- 3.5 The TRHM agrees to provide commercial general liability insurance coverage for the Museum in a General Aggregate amount not to exceed \$2,000,000 during the initial 25 year term. This amount shall be increased by \$2,000,000.00 for each successive 25 year term. The City will be named as an additional insured on all coverage arrangements.
- 3.6 The TRHM agrees to act as lead contact and to work with BNSF Railway and other third-party entities on timing and scheduling for installation and removal of temporary switch and track required for the relocation of the designated railroad cars and locomotives to the Museum site.
- 3.7 The TRHM will enter into an Operating Agreement with the Gulf Coast Chapter of the National Railway Historical Society that reflects the terms and conditions of this lease. This Operating Agreement shall be attached to this Land Lease and Museum Development Agreement as Attachment C.

4. DEVELOPMENT AND OPERATION OF MUSEUM

- 4.1 The TRHM will maintain its status as a Texas Domestic Nonprofit Corporation and as a charitable organization under section 501(c)(3) of the Internal Revenue Code.
- 4.2 The City approved an Architectural Concept Plan for the Museum on the 4th day of March, 2019. A true and correct copy of the Architectural Concept Plan is attached

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hereto as Attachment "D" and incorporated herein by this reference. The TRHM shall implement such Architectural Concept Plan in a timely manner. The City agrees to cooperate in the event that zoning or utility installation is required and to waive fees for any permits or variances related to development of the Site.

- 4.3 During the term of this Agreement, the TRHM agrees to seek City approval on any changes to the major architectural features already approved by the City related to the Museum or the Site, including buildings, fences, signage, and other features generally visible to visitors to the museum and adjacent properties. The TRHM agrees that the Museum will adhere to all applicable requirements of the Americans with Disabilities Act (ADA). (Note that Sec. 12184 of the ADA specifically exempts "historical or antiquated" railroad cars from compliance with certain ADA provisions (including, but perhaps not limited to, ADA barrier removal requirements of Sec. 12184(b)(2)(C) and readily accessibility requirements of Sec. 12184(b)(7)) that would "alter the historic or antiquated character of a historical or antiquated rail passenger car".)
- 4.4 The TRHM agrees to open the Museum to the public no later than three years after the execution date. The TRHM and the City agree that achievement of the short- and long-term goals for the Museum development and operations as outlined in the Master Plan, including the Opening Date, is dependent on the availability of funding, and the opening date and other milestones that may be included in the Master Plan are subject to change by mutual agreement between the City and the TRHM. The City agrees to cooperate with the TRHM on fundraising efforts conducted in support of implementation of the Master Plan as appropriate and allowed under City and State regulations, ordinances and laws.
- 4.5 All revenues generated by and for the Museum will be retained by the TRHM for funding operations and development.
- 4.6 It is understood that the TRHM will not begin any construction or other use of the land until the City approves such construction or use. The City agrees to approve or reject any construction or use plans within 60 days of submission of a proposal for same by the TRHM.
- 4.7 Subsequent to the Opening Date, the TRHM agrees to operate a public museum during the following hours:
 - 4.7.1 For the first full calendar year after the Opening Date, the Museum must be open at least 30 Saturdays per year for a minimum of six hours each day.
 - 4.7.2 After the first full calendar year of the Museum being open to the public, the TRHM and the City or their designated representatives will mutually agree to an operating schedule for each subsequent calendar year that includes at least the number of open days as described in 4.7.1 above.
 - 4.7.3 The TRHM may expand the number of days and/or hours of operation of the Museum at any time the TRHM deems such action appropriate.
- 4.8 The City shall have the right to copy and inspect (at the City's sole expense) all of the TRHM's books and records relating to the Museum and/or this Agreement at any time with at least 10-days written notice to the TRHM. In addition, the TRHM agrees to comply with and to appropriately respond to requests for information made to the TRHM pursuant to the Texas Public Information Act ("TPIA"), in the event the TPIA applies. The City agrees to provide administrative support to the TRHM, including support from the City's Attorney as may be appropriate or necessary, in regard to any

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applicable TPIA requests for information or records maintained by the TRHM in regard to the Museum and/or this Agreement.

5. **CONDITION OF EQUIPMENT; ACCESSIONING AND DE-ACCESSIONING
 AND IMPROVEMENT PLAN**

- 5.1 The TRHM agrees to move the equipment and Collection items listed in Attachment B and other railroad-related artifacts and items to the Site. City and the TRHM agree that the equipment and Collection are now and hereafter governed by the rules of improvement and accessioning and de-accessioning contained in this Section 5 of the Agreement. The City agrees and acknowledges that the TRHM and the Gulf Coast Chapter of the National Railway Historical Society do not relinquish any right, title or interest in or to any of the equipment or Collection items identified on Attachment B or that may be subsequently brought to and/or used at the Site or Museum.
- 5.2 The TRHM retains the unilateral right to accession (i.e. acquire) or de-accession (i.e. remove) the Collection items, rolling stock, equipment or other artifacts and items to enhance the Museum.
- 5.3 The TRHM will, at its sole cost, retain the right to move additional Collection items, rolling stock or other artifacts to the Museum and/or onto the Site and to temporarily remove Collection items, rolling stock or other artifacts from the Museum or the Site for fundraising, display or repair purposes without seeking City approval. For the purposes of this section, “temporarily” will mean a time period not exceeding 180 days.
- 5.4 The TRHM agrees that it will improve and maintain the Collection to present a good external appearance according to an improvement schedule to be developed in conjunction with the Master Plan referenced in Section 4.
- 5.5 Nothing in this section shall be construed as prohibiting the TRHM or the Gulf Coast Chapter of the National Railway Historical Society from removing any equipment or Collection items listed in Attachment B (or that may otherwise or subsequently be placed in the Museum or at the Site) for restoration to operating condition.

6. **CITY RESPONSIBILITIES**

- 6.1 The City has completed a Phase I environmental assessment on the Site property, and affirms that no hazardous conditions exist at the Site based on this assessment. The City agrees that the TRHM has no responsibility (monetary or otherwise) for mitigating or otherwise addressing in any manner, any pre-existing hazards discovered as a result of the Phase I or future assessments.
- 6.2 The City agrees to provide security at the Museum to the same standard that is now applied to the Tomball Depot and other City property in the vicinity of the Site.
- 6.3 The City agrees to provide access by Museum visitors to nearby toilet facilities meeting all applicable city codes, and to clean and maintain the toilet facilities on a regular schedule, including stocking with toilet paper, soap and paper towels or other hand-drying device.
- 6.4 The City agrees to provide and maintain vehicle parking spaces adequate to accommodate Museum visitors and/or meet the requirements of any current or future

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- City parking ordinances.
- 6.5 The City agrees to mow grass at and remove leaves from the Site on a regular basis or make arrangements for such actions to be undertaken by a third party.
- 6.6 The City agrees to provide solid waste collection services and containers appropriate for the Museum operations.
- 6.7 The City agrees to assist the TRHM with promotional support through its marketing/advertising department, although final decisions and responsibility for marketing rest with the TRHM.
- 6.8 The City agrees to assist the TRHM in working with BNSF Railway and other third-party entities on timing and scheduling for installation and removal of temporary switch and track required for the relocation of the designated railroad cars and locomotives to the Museum site.

7. EVENTS OF DEFAULT AND REMEDIES; TERMINATION

- 7.1 The following shall constitute events of default by the TRHM under this Agreement:
- 7.1.1 Failure to open Museum to the public by the designated time.
- 7.1.2 Failure to comply with major provisions of this Agreement including but not limited to the schedules for Museum development and subsequent opening hours.
- 7.1.3 Failure to abide by City ordinances or other applicable laws.
- 7.1.4 Failure to maintain tax-exemption under section 501(c)(3) of the Internal Revenue Code.
- 7.1.5 The TRHM's filing of voluntary petition of bankruptcy or reorganization under the United States Bankruptcy Act.
- 7.2 In the event City believes the TRHM to be in default, the City shall inform the TRHM in writing of the nature of the default, and the TRHM shall have 180 days to cure such default to the satisfaction of the City.
- 7.3 If the default is not cured, the City may unilaterally terminate this Agreement by written notice to the TRHM. In the event of termination, the TRHM shall have two years to remove the Collection from the Site, and the City shall permit the TRHM reasonable access for such removal.
- 7.4 If the TRHM fails to remove the Collection or other of the TRHM's property from the Site within two years of having been notified of the termination of this Agreement, any remaining property on the Site shall be deemed to be owned by the City.
- 7.5 The following shall constitute events of default by the City under this Agreement:
- 7.5.1 Failure to disclose and/or mitigate hazards and/or easements encumbering the site prior to the start of development of the Museum.
- 7.5.2 Designating any part of the Site for use other than as a railroad museum without prior written agreement between the City and the TRHM.
- 7.5.3 Failure to comply with major provisions of this Agreement, including but not limited to the City Responsibilities detailed in Section 6.
- 7.6 In the event the TRHM believes the City to be in default, the TRHM shall inform the City in writing of the nature of the default, and the City shall have 180 days to cure such default to the satisfaction of the TRHM.
- 7.7 If the default is not cured, the TRHM may unilaterally terminate this Agreement by

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written notice to the City. In the event of termination, the TRHM shall have two years to remove the Collection and all other TRHM property from the Site, and the City shall permit the TRHM reasonable access for such removal.

- 7.8 If the TRHM fails to remove the Collection or any property from the Site within two years of having notified the City of the termination of this Agreement, any remaining property on the Site shall be deemed to be owned by the City.

8. MISCELLANEOUS

- 8.1 The parties to this Agreement further agree to use their good faith efforts to carry out the transactions herein.

- 8.2 Any notices or other communications required or desired to be required to be given from one party to the other party to this Agreement shall be given in writing and delivered by courier, overnight delivery, facsimile or certified first-class mail to the following addresses:

To: City of Tomball
Attention: City Manager
401 Market Street
Tomball, TX 77375

To: Texas Railroad Heritage Museum, Inc.
Attention: President
P. O. Box 123
Tomball, TX 7377-0124

- 8.3 This Agreement between the TRHM and the City shall be interpreted and the rights of the parties hereto determined in accordance with the laws of the State of Texas without regard to the conflicts of laws principles thereto and venue for any dispute or legal proceeding arising under or relating to this Agreement shall be held solely and exclusively in State District Court in Harris County, Texas, and the parties expressly consent to such jurisdiction.
- 8.4 The parties hereto shall comply in all material respects with all applicable laws in connection with the development and construction of the Site facilities and Museum improvements.
- 8.5 This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns. This Agreement may not be assigned without the prior written consent of the party hereto.
- 8.6 This Agreement (including the Attachments hereto) shall constitute the full and entire understanding and agreement of the parties hereto with regard to the subject matter hereof and thereof and supersede any prior or contemporaneous agreement or understanding among the parties.
- 8.7 This Agreement may be amended only with the written consent of the parties hereto. In addition to any other provision for termination contained herein, if the TRHM determines that this Agreement and the Museum are no longer financially or programmatically desired, the TRHM may terminate this Agreement with at least 1-

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year written notice of intent to terminate given to the City. In the event of termination of this Agreement, the TRHM shall have two years to remove the Collection and all TRHM property from the Site, and the City shall permit the TRHM reasonable access and create no undue burden for such removal. If the TRHM fails to remove the Collection or other of TRHM's property from the Site within two years of having been notified of the termination of this Agreement, any remaining property on the Site shall be deemed to be owned by the City.

- 8.8 No term or condition of this Agreement shall be deemed to have been waived, nor shall there be any estoppel to enforce any provision of this Agreement, except by written instrument of the party charged with such waiver or estoppel.
- 8.9 If any provision of this Agreement shall be invalid, illegal or unenforceable, such provision shall be reformed to the extent necessary to permit enforcement thereof, and the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.
- 8.10 The parties hereto intend that this Agreement shall not benefit or create any right or cause of action or any third-party beneficiary, or any individual other than the parties hereto and their assigns.
- 8.11 This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument.
- 8.12 This Agreement shall be deemed drafted equally by all parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any party shall not apply.
- 8.13 Neither the City nor the TRHM will be liable for any failure or delay in their respective performance under this Agreement due to causes that are beyond such party's reasonable control ("Force Majeure Event") including, but not limited to, Acts of God, acts of civil or military authority, fires, epidemics, floods, earthquakes, riots, wars, sabotage, labor shortages or disputes, and government actions. A Force Majeure event will not constitute grounds for default under the terms of this Agreement unless otherwise agreed, in writing, by the City and the TRHM.

IN WITNESS WHEREOF, this Agreement has been executed by the undersigned as of the date indicated.

CITY OF TOMBALL, TEXAS

Robert S. Hauck
City Manager

Date

TEXAS RAILROADING HERITAGE MUSEUM, INC.


Willard C. Capdevielle, P.E.
President

01/14/2020
Date

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01/14/2020

**Attachment B: The Collection to be displayed at the Museum
(AS OF AUGUST 31, 2019)**

Locomotives:

Houston Belt & Terminal 14 Alco S-2 Switcher, built 1945
Texas Mexican Railway 510 Baldwin DS44-750 Switcher, built 1949

Passenger, railway mail and express equipment:

Amtrak 3395 Super Chief Lounge Car, built 1950
Atchison, Topeka & Santa Fe 1890 End-door Express Car, built 1928
Atchison, Topeka & Santa Fe 3401 Baggage/Express-Railway Post Office Car,
built 1938 Gulf, Mobile & Ohio Alton Parlor Car, built 1947
Missouri Pacific Eagle Chasm Texas Eagle Sleeping Car, built 1949
Spokane, Portland & Seattle 50 Mail Storage Car (originally Baggage-Railway Post Office),
built 1915 Texas & Pacific 1114 Baggage Car, built ca. 1920

Freight cars:

CSOX 2198 Tank Car, built 1927
MHAX 1237 Helium Car, built 1955 (on permanent loan from Bureau of Land Management)
MKT 6 Cupola Caboose, built 1949
SP 4696 Bay Window Caboose, built 1979
VTTX 92309 TrailerTrain Intermodal Flat Car, built 1967

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Attachment C to TRHM-Tomball Land Lease & Museum Development Agreement

OPERATING AGREEMENT

Between

Gulf Coast Chapter - National Railway Historical Society, Inc., a non-profit corporation

And

Texas Railroading Heritage Museum, Inc., a non-profit corporation

Whereas, Gulf Coast Chapter - National Railway Historical Society, Inc. (hereinafter "Chapter") wishes to delegate to Texas Railroading Heritage Museum, Inc. (hereinafter "TRHM", collectively "Parties"), the management and development of the Texas Railroading Heritage Museum (hereinafter "Museum") now therefore the following Operating Agreement (hereinafter "Agreement") is provided to specify the terms of this arrangement.

1. **Effective Date:** This Agreement will become effective upon the completion of ALL of the following:
 - a. A dated signature by the Chapter
 - b. A dated signature by TRHM
 - c. A fully executed Land Lease and Museum Development Agreement, as required in Paragraph 4 of this Agreement, between TRHM and the City of Tomball
2. **Term:** The term of this agreement will be from the Effective Date for a period of twenty-five calendar years, automatically renewable for any number of additional twenty-five year periods at the terms stated in this Agreement, provided that the Land Lease and Museum Development Agreement between the TRHM and the City of Tomball is in effect (see paragraph 4).
3. **Lease of Collection:** As long as this Agreement is in force, and the terms of this Agreement are met, Chapter will lease to TRHM the Chapter's collection of railroad rolling stock (as described further in Appendix A) and other historic artifacts (collectively the "Leased Assets"). The Lease excludes the railroad rolling stock designated in Appendix A as "Special Rules Cars". Special Rules Cars are governed by the provisions in Paragraph 16 of this Agreement. The Lease also excludes the Chapter's Library and Archives, although this agreement anticipates cooperation between TRHM and Chapter in the future care and storage of the Library and Archives at the Museum site to the mutual benefit of both parties to this agreement.
4. **Land Lease:** TRHM will negotiate and execute a new Land Lease and Museum Development Agreement with the City of Tomball for the 3.2-acre, 930-foot by 150-foot plot of land along the BNSF mainline just south of the existing Tomball Depot and Caboose as described in Appendix B, including the Elm St. Right of Way (hereinafter "Site"). The Land

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Lease and Museum Development Agreement will supersede the Land Lease and Museum Development Agreement previously executed by Chapter and the City of Tomball. This Land Lease will be for a period of 25 calendar years, automatically renewable for up to three additional 25-year terms. Chapter agrees that the new Land Lease and Museum Development Agreement may require that Chapter remove the Leased Assets and other Chapter property from the Site in the event the Museum closes. TRHM will provide Chapter notice in writing in the event that Chapter is required to remove the Leased Assets and other Chapter property from the site. Chapter shall have two years to remove the Leased Assets and other Chapter property from the Museum Site, and TRHM or its successors shall permit Chapter reasonable access for such removal. If Chapter fails to remove the Leased Assets and other Chapter property from the Museum Site within two years of having been notified of the termination of this Agreement, any Leased Assets and Chapter property remaining on the site shall be deemed to be owned by TRHM and/or the City of Tomball pursuant to the Land Lease and Museum Development Agreement referenced in this paragraph.

5. **Delegation of Authority to TRHM:** TRHM will have full authority to develop and operate the Texas Railroad Heritage Museum and will act as agent for the Chapter regarding the Leased Assets, and is authorized to take all actions needed to operate the Museum as a public institution pursuant to the new TRHM Land Lease and Museum Development Agreement with the City of Tomball cited in Paragraph 4 above. Except as otherwise provided for in this agreement, these actions shall include but not be limited to repair, restoration and/or renovation of the railroad cars and other Leased Assets, selection of railroad cars, historic artifacts and other Leased Assets for display at the Museum, museum layout and positioning of equipment, patron security, hiring of staff and organization of volunteers, and soliciting and maintaining funds for the purposes of this Agreement. Unless otherwise agreed in advance and in writing on a case-by-case basis, this Delegation of Authority does not permit TRHM or any other party, organization or government department or agency under any circumstances to make substantial and/or irreversible structural and/or other changes to the interiors and/or exteriors of any of the railroad cars or to the other Leased Assets that alter the historic character or original nature of the cars or other Leased Assets, nor does this agreement give TRHM or any other party, organization or government department or agency under any circumstances except as specified in Paragraph 16 below the authority to sell or otherwise by any means dispose of any of the Leased Assets without the express written permission of Chapter. Chapter retains the unilateral right to accession (i.e. acquire) or de-accession (i.e. remove) rolling stock, equipment and other artifacts and items among the Leased Assets to enhance the Museum and/or support fund raising, display or repair purposes.
6. In the event the Chapter wishes to remove rolling stock, equipment and/or other artifacts and items among the Leased Assets for restoration to operating condition and/or long-term offsite operating charter or operating lease, Chapter will bear all costs of movement to or from Museum unless otherwise agreed by TRHM and Chapter.
7. **Ownership of Assets:** Chapter will continue to be the owner of all railroad cars and historic artifacts, including all of the Leased Assets and the Special Rules Cars identified in Appendix A to this Agreement. Additional assets acquired through purchase by or donation

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to Chapter will be owned by Chapter and will become Leased Assets if selected by TRHM for display. Additional assets acquired by or donated to TRHM will be owned by the Museum exclusively unless otherwise provided in a specific written agreement between TRHM and Chapter.

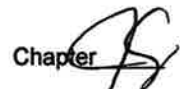
8. **Governance:** The TRHM Board of Directors will adopt a set of bylaws and may modify them from time to time insofar as they do not violate the terms of this Agreement. The TRHM board members initially will consist of no more than nine individuals. Three board members will be appointed by Chapter, one will be appointed by the City of Tomball, one will be appointed by Harris County, and the remainder will be elected by the TRHM Board of Directors in accordance with TRHM's Bylaws. Once the TRHM initiates a fundraising campaign aimed at philanthropic organizations, the TRHM Board of Directors may vote to modify the TRHM Bylaws to increase the number of Board members to no more than 12. After the one-year anniversary of the initial opening of the museum, TRHM Board of Directors may vote to modify the TRHM Bylaws to decrease the number of Chapter-appointed Directors to two. In the event the TRHM Board of Directors votes to place annual donation requirements on Board members, one Chapter-appointed Board member will be exempt from meeting the required annual donation levels. Chapter may elect to pay the required TRHM Board member donations from its operating funds.
9. **Chapter Nominees to Museum Board:** Chapter Board of Directors will through a method of its own choosing appoint the required number of individuals to serve as Directors of the TRHM. Chapter at its sole discretion may change the individuals so appointed using the relevant processes defined in the TRHM's Bylaws.
10. **Dual Board Membership Prohibited After Museum Opening:** No individual may occupy a place on both the Chapter Board of Directors and TRHM Board of Directors after the one-year anniversary of the initial opening of the Museum.
11. **Segregation of Funds:** TRHM Funds and Chapter Funds will be segregated. Chapter Funds shall include all cash, stocks, bonds and any other financial or tangible assets on hand or in possession of Chapter as of the execution date of this agreement plus any subsequent revenue derived from Chapter dues, Chapter events, donations, contributions, grants and any other monies received or collected by any means by Chapter that are specifically allocated to Chapter and not designated for donation or transfer to TRHM. TRHM funds shall include all cash, stocks, bonds and any other financial or tangible assets on hand or in possession of TRHM as of the execution date of this agreement plus any subsequent revenue derived from TRHM events, donations, contributions, grants and any other monies received or collected by any means by TRHM.
12. **Seed Money Funding:** Within 30 days of the date of execution of this agreement, Chapter will transfer the remainder of the \$300,000 of the Chapter Seed Money Funds into the TRHM bank account for the purpose of development and operation of the proposed Museum. Chapter will, by sole action of its Board of Directors, determine the remainder available under the provisions of Section 10 of the original Operating Agreement as executed on October 1, 2015. Upon completion of transfer of Seed Money Funds, unless

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otherwise provided for in this agreement, TRHM becomes solely responsible for all decisions related to disbursement of funds from the TRHM Bank Account for the purposes of development and operation of the proposed Museum. No transferred Chapter funds under any circumstances will be paid or transferred to any member of the TRHM Board of Directors and/or his/her relations. In the event of cancellation of this Agreement or other termination of the operation of TRHM, any transferred Chapter funds remaining after the TRHM meets its legally required financial obligations will be returned to Chapter.

13. **TRHM Financial Obligations to Chapter:** Upon execution of this agreement, TRHM becomes responsible for all obligations related to the Leased Assets, including but not limited to ongoing storage costs, movement of the Leased Assets including railroad cars and historic artifacts to a storage location and/or to the Museum property, commercial general liability insurance providing coverage of at least \$2 million per occurrence with Chapter as named assured and other reasonably incurred costs related to the Leased Assets for the entire period of this Agreement.
14. **Lease Payment to Chapter:** Chapter will receive a payment of \$.50 per paid admission to the museum, plus \$5.00 for each annual patron or other renewable or subscription membership sold through a program established by TRHM in support of the Museum. Such payments shall be made quarterly or otherwise as mutually agreed by Chapter and TRHM. Such payments shall in no way obligate Chapter to extend Chapter membership or related benefits to any participant in TRHM or Museum's annual, patron or other renewable or subscription membership program.
15. **Access to Museum Site:** Chapter members engaged in restoration, maintenance, repair and other similar activities related to the Leased Assets will be granted access to the site and Leased Assets for such purpose at any time other than during public operating hours or while special events are underway at the Museum. Access during public operating hours or special events for the purpose of restoration, maintenance, repair and other similar activities related to the Leased Assets will be agreed in advance by TRHM and Chapter. TRHM will not unduly limit or hinder Chapter access to the Leased Assets. Chapter will make all reasonable and legally-required efforts to ensure that all restoration, maintenance, repair and other similar activities related to the Leased Assets are carried out safely and in accordance with all applicable ordinances and legal requirements. As provided for in Paragraph 13 above, TRHM will maintain general liability insurance with the Chapter and other entities as named insureds as may be required to support restoration, maintenance, repair and other similar activities on the Museum Site. Chapter will have free access to and use of the Museum site for Chapter events. All Chapter events conducted at the Museum must be approved in advance by TRHM.
16. **Special Rules Cars:** Upon the execution date of this Agreement, Chapter anticipates that three railroad passenger cars designated in Appendix A as "Special Rules Cars" will be under long-term charter to a third-party excursion train operator. Notwithstanding any other provision of this Agreement, all decisions concerning the upkeep, repair, maintenance, restoration, de-accession, display, public access, and/or all other matters related to Special Rules Cars will be the sole purview of Chapter. Unless agreed by TRHM and Chapter by

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execution of future written agreements, TRHM will not be required to utilize Museum funds for upkeep, repair, maintenance, restoration, de-accession, delivery to or removal from the Museum of the Special Rules Cars. If Chapter and TRHM agree at a future date that one or all of the Special Rules Cars are to be displayed on the Museum Site, TRHM will be solely responsible for the cost of construction of appropriate access steps, ramps, platforms, railings, exterior lighting, pathways and any other external additions needed or required by ordinance or law to ensure safe access to the car. Nothing in this paragraph will require that TRHM install or cause to have installed a permanent turnout on the BNSF mainline to the Museum site.

17. **Default and Termination:** In the event TRHM believes Chapter to be in default of the terms of this agreement, TRHM shall inform Chapter in writing of the nature of the default, and Chapter shall have 180 days to cure such default to the satisfaction of TRHM. If the default is not cured to the satisfaction of TRHM, TRHM may unilaterally terminate this agreement by written notice to Chapter. In the event of termination, Chapter shall have two years to remove the Leased Assets and other Chapter property from the Museum Site, and TRHM shall permit Chapter reasonable access for such removal. If Chapter fails to remove the Leased Assets and other Chapter property from the Museum Site within two years of having been notified of the termination of this Agreement, any Chapter property remaining on the site shall be deemed to be owned by TRHM and/or the City of Tomball pursuant to the Land Lease and Museum Development Agreement referenced in Paragraph 4 above. In the event Chapter believes TRHM to be in default of the terms of this agreement, Chapter shall inform TRHM in writing of the nature of the default, and TRHM shall have 180 days to cure such default to the satisfaction of Chapter. If the default is not cured to the satisfaction of Chapter, Chapter may unilaterally terminate this agreement by written notice to TRHM. In the event of termination, Chapter shall have two years to remove the Leased Assets and other Chapter property from the Museum Site, and TRHM shall permit Chapter reasonable access for such removal. If Chapter fails to remove the Leased Assets and other Chapter property from the Museum Site within two years of having been notified of the termination of this Agreement, any Chapter property remaining on the site shall be deemed to be owned by TRHM and/or the City of Tomball pursuant to the Land Lease and Museum Development Agreement referenced in Paragraph 4 above. TRHM will not enter into any agreement with any other party, organization or government department or agency under any circumstances that would render the provisions of this paragraph invalid or unenforceable.
18. **Severability:** The invalidity or unenforceability of any provisions of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect.
19. **Previous Agreements:** This agreement replaces and supersedes any agreements executed by the Parties prior to the execution of this new Operating Agreement.
20. **Governing Law and Venue.** This Agreement will be governed by and construed in accordance with the laws of the State of Texas without regard to any conflict of laws rule or principle that might refer the governance or construction of this Agreement to the laws of another jurisdiction. Subject to the sovereign immunity of the State of Texas, any legal

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Attachment C to TRHM-Tomball Land Lease & Museum Development Agreement

proceeding brought in connection with disputes relating to or arising out of this Agreement will be filed and heard in Harris County, Texas, and each party waives any objection that it might raise to such venue and any right it may have to claim that such venue is inconvenient.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective as of the latest date signed by representatives of both Parties.

For Texas Railroading Heritage Museum, Inc.

Printed Name: Willard C. Capdevielle, P.E.

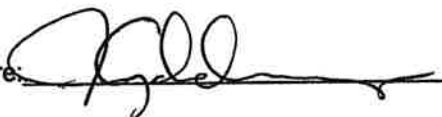
Signature: 

Date: 9/13/2019

Title: President & CEO

For Gulf Coast Chapter - National Railway Historical Society, Inc.

Printed Name: James Goldmeyer

Signature: 

Date: 9/17/19

Title: President / TREASURER

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Chapter 

 9/14/2020

Appendix A: GULF COAST CHAPTER - NRHS RAILROAD ROLLING STOCK ROSTER

(As of August 1, 2019)

LEASED ASSETS

Locomotives:

Houston Belt & Terminal 14 Alco S-2 Switcher, built 1945
Texas Mexican Railway 510 Baldwin DS44-750 Switcher, built 1949

Passenger, railway mail and express equipment:

Amtrak 3395 Super Chief Lounge Car, built 1950
Atchison, Topeka & Santa Fe 1890 End-door Express Car, built 1928
Atchison, Topeka & Santa Fe 3401 Baggage/Express-Railway Post Office Car, built 1938
Gulf, Mobile & Ohio Alton Parlor Car, built 1947
Missouri Pacific Eagle Chasm Texas Eagle Sleeping Car, built 1949
Spokane, Portland & Seattle 50 Mail Storage Car (originally Baggage-Railway Post Office), built 1915
Texas & Pacific 1114 Baggage Car, built ca. 1920

Freight cars:

CSOX 2198 Tank Car, built 1927
MHAX 1237 Helium Car, built 1955 (on permanent loan from Bureau of Land Management)
MKT 6 Cupola Caboose, built 1949
SP 4696 Bay Window Caboose, built 1979
VTTX 92309 TrailerTrain Intermodal Flat Car, built 1967

SPECIAL RULES CARS

Kansas City Southern Good Cheer Southern Belle Tavern-Lounge-Observation Car, built 1940
Missouri-Kansas-Texas New Braunfels Texas Special Chair Car, built 1955
Southern Pacific 10212 Sunset Limited Dining Car, built 1950

NOTE: See Paragraph 16 of the Operating Agreement to which this list is appended.

TRHM 

Page 7 of 8

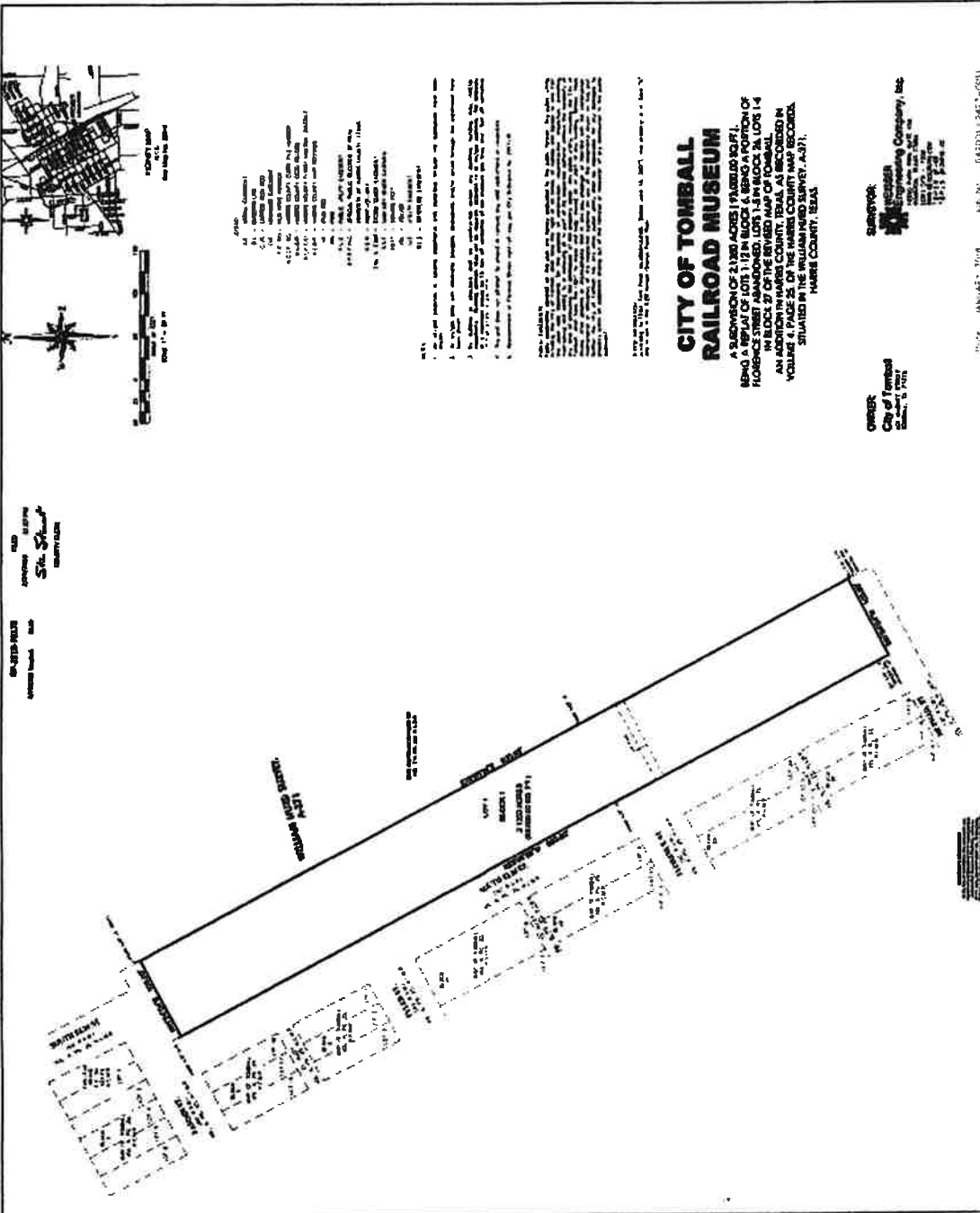
Chapter 

mcw
01/14/2020

APPENDIX B: Site Plan

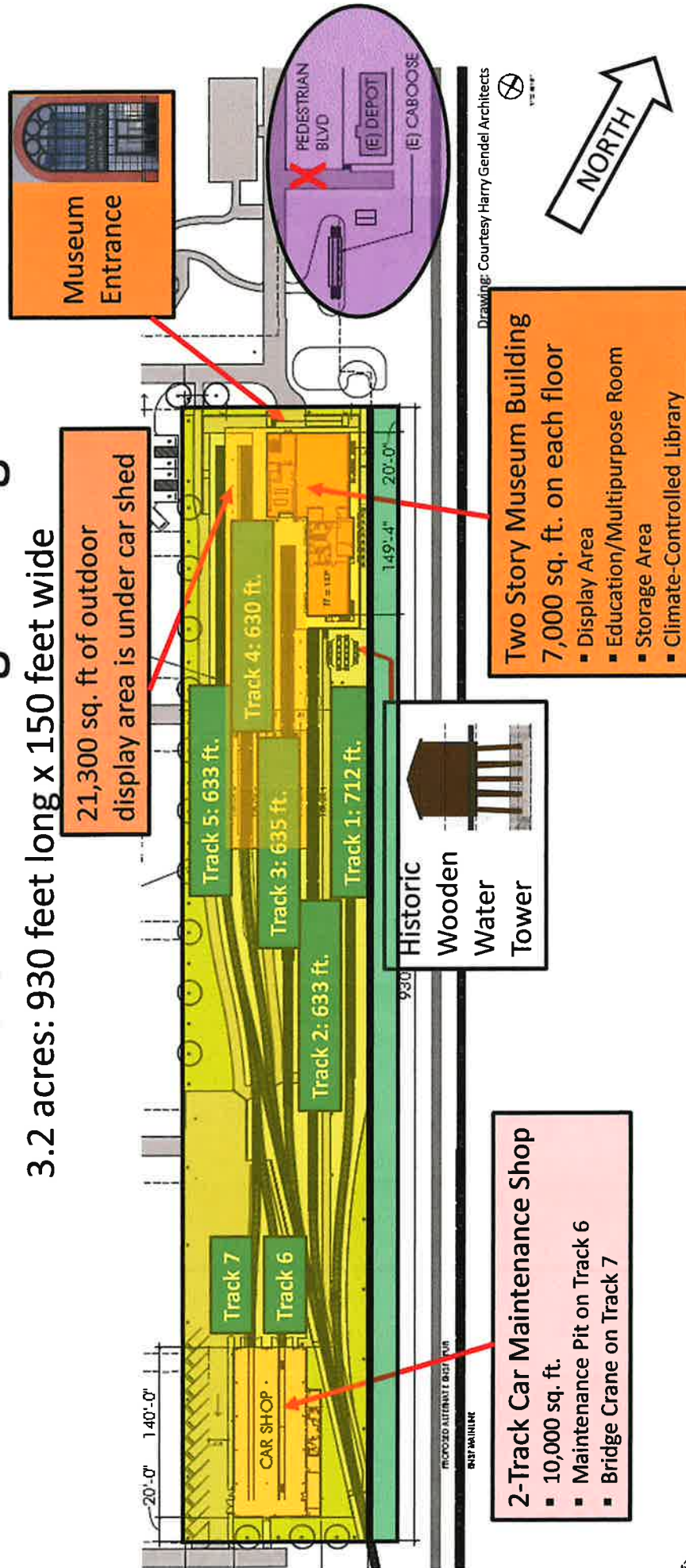
The Museum site shall consist of the 3.2 acres of land south of the Tomball Depot, extending 930 feet along the BNSF Right-of-Way and 100 feet wide. Additionally the site will include use the 50 foot wide South Elm Street Right-of-Way from Fannin Street to McPhail Street – as shown on the plat to the right.

This site is zoned "Old Town & Mixed Use."



Future Home of the Texas Railroad Heritage Museum

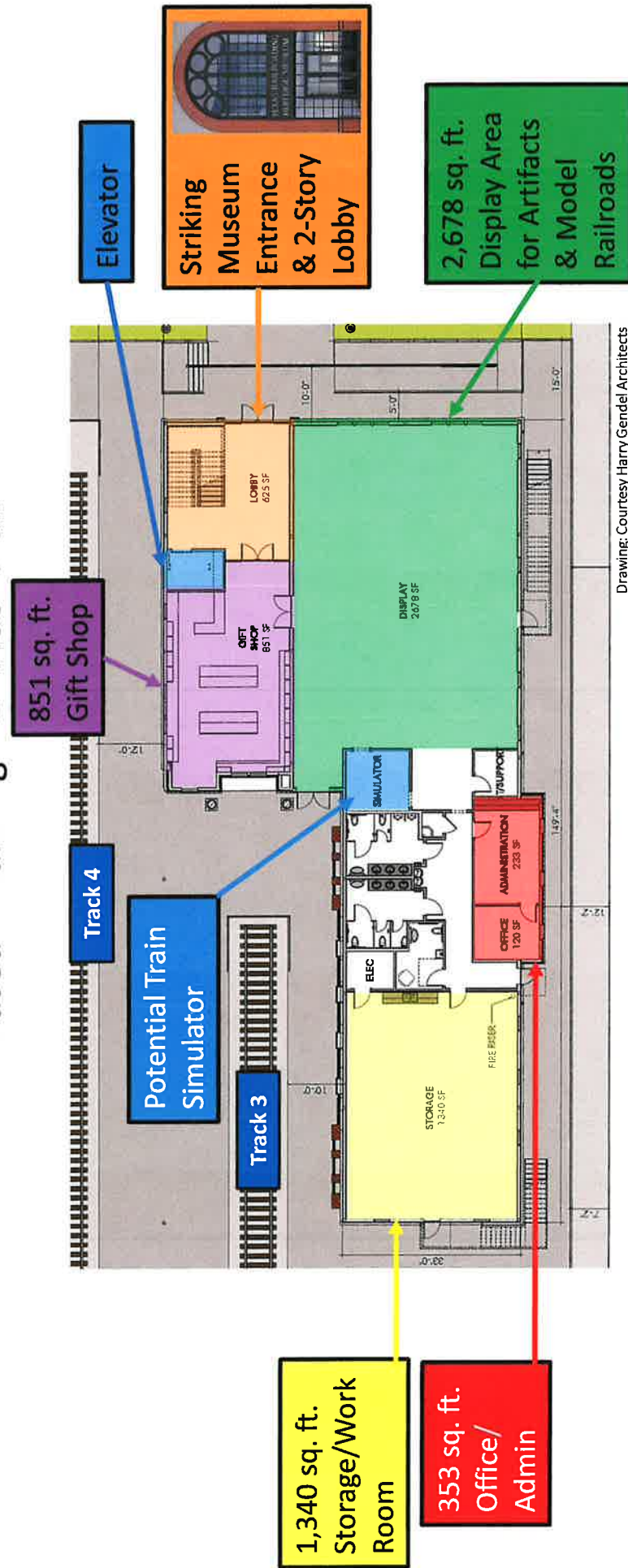
3.2 acres: 930 feet long x 150 feet wide



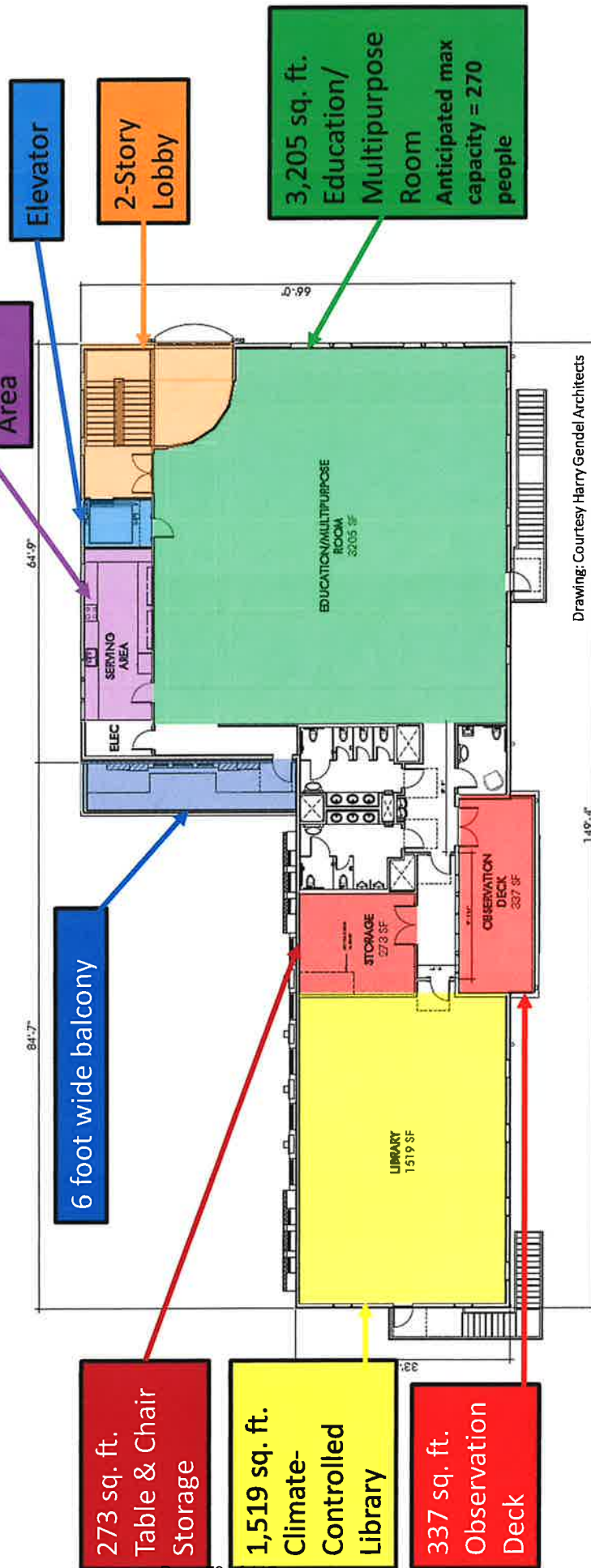
Texas Railroading Heritage Museum at Tomball



Future Home of the Texas Railroad Heritage Museum Museum Building – 1st Floor Plan



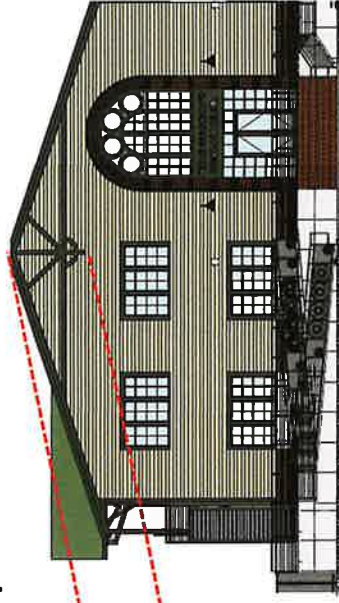
Future Home of the Texas Railroad Heritage Museum Museum Building – 2nd Floor Plan



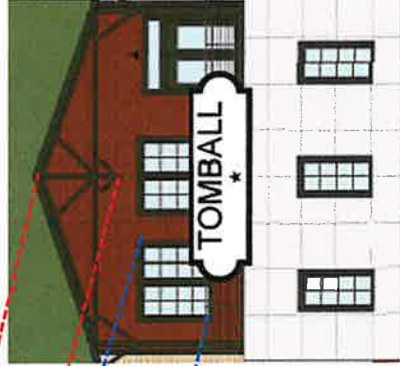
Drawing: Courtesy Harry Gendel Architects

Future Home of the Texas Railroading Heritage Museum Museum Building – Inspirations

#1 – The Tomball Depot



Drawing: Courtesy Harry Gendel Architects



Drawing: Courtesy Harry Gendel Architects

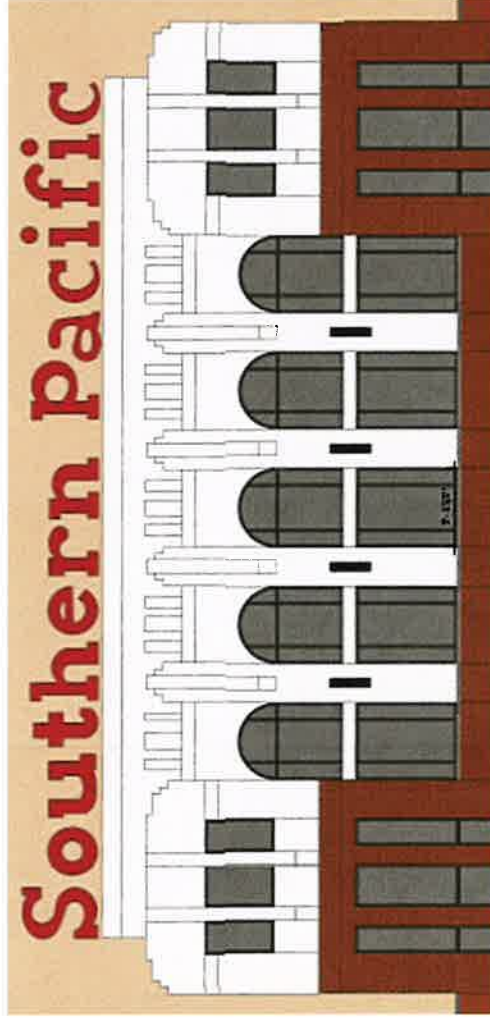
- Opened in 1907 for T&BVRR

Future Home of the Texas Railroading Heritage Museum Museum Building – Inspirations

#2 – Houston Grand Central Station



- Opened in 1934 for Southern Pacific,
- Torn down in 1959; replaced with new Houston main Post Office;
- Distinctive “Art Deco” style



Drawing: Courtesy Harry Gendel Architects

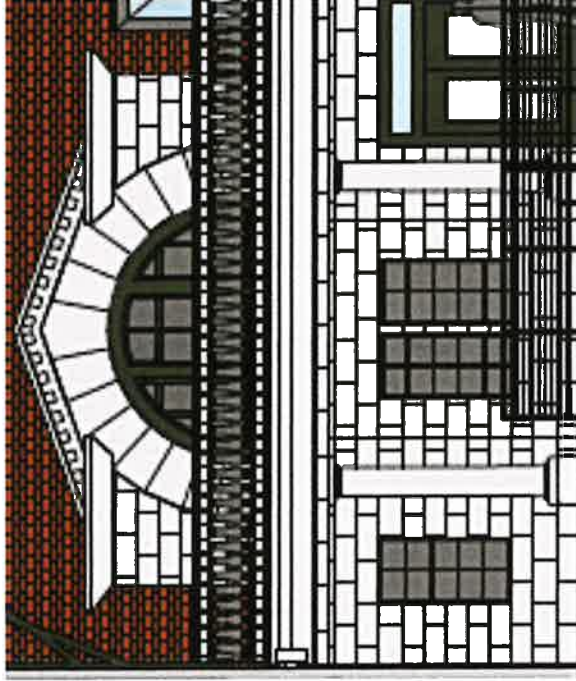
This Feature Wall will display original lighted “Southern Pacific” letters from Houston’s Grand Central Station

Future Home of the Texas Railroad Heritage Museum Museum Building – Inspirations

#3 – Houston Union Station



- Opened in 1911 for various railroads,
- Added to **National Register of Historic Places** in 1977,
- Renovated in 2000 to become lobby in new Minute Maid Park;
- Distinctive Victorian style



Drawing: Courtesy Harry Gendel Architects

This Feature Wall will include a 6-foot wide balcony – perfect for wedding photos.

Texas Railroading Heritage Museum – Car Shop

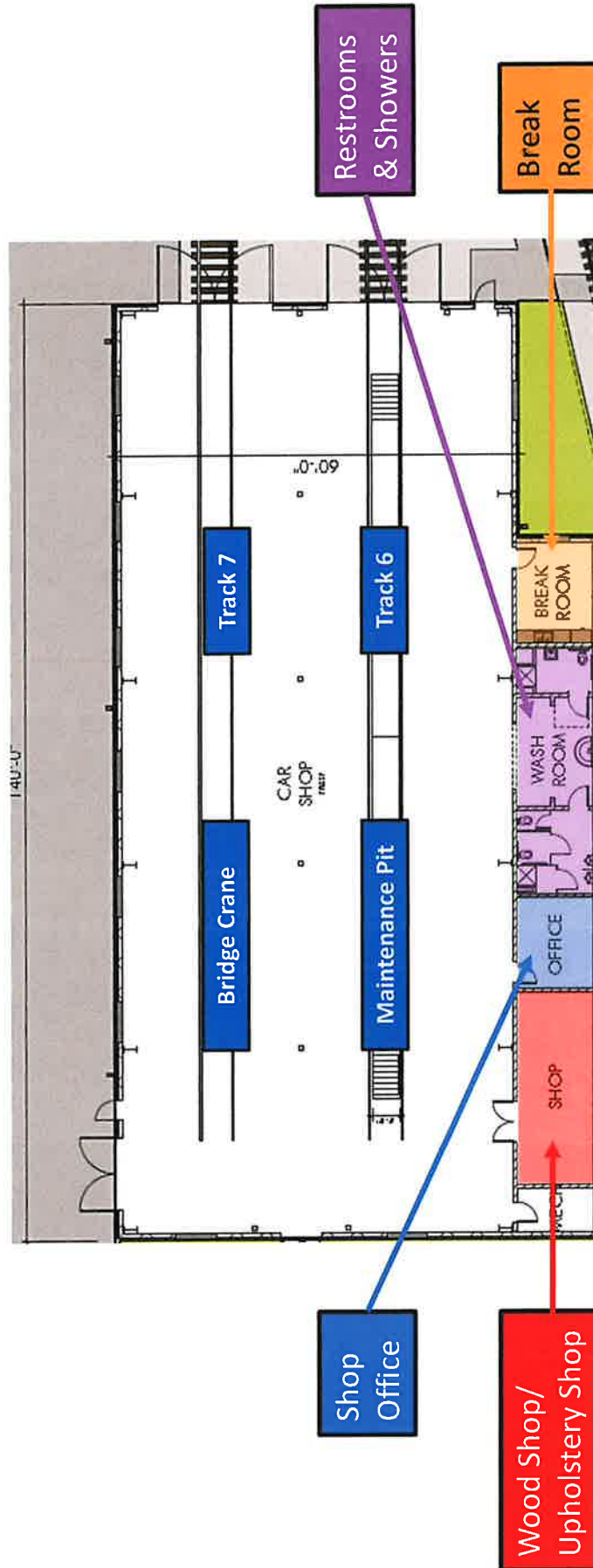
- On south end of site
- Faces McPhail Street
- To be used for maintenance of vintage rail cars.
- 10,000 sq. ft.
- Two 100 ft. tracks
- Maintenance Pit
- Bridge Crane
- Workshop
- Office
- Break Room
- Restrooms/Shower



Drawing: Courtesy Harry Gendel Architects

Future Home of the Texas Railroad Heritage Museum

Car Shop Floor Plan



Drawing: Courtesy Harry Gendel Architects

Regular City Council

Agenda Item

Data Sheet

Meeting Date: February 3, 2020

Topic:

Adopt, on First Reading, Ordinance No. 2020-03, an Ordinance Amending the Code of Ordinances of the City of Tomball, Texas by Adding a New Article VII, Keeping of Dangerous Animals, to Chapter 8, Animals, Defining and Adopting Regulations for Dangerous Animals, and Providing Exceptions to the Regulations; Providing for Severability; Providing for a Penalty of an Amount Not to Exceed \$2,000 for Each Day of Violation of Any Provision Hereof; Making Findings of Fact; and Providing for Other Related Matters

Background:

The City of Tomball has received recent concerns from citizens in regards to the keeping of dangerous animals. Ordinance No. 2020-03 was drafted to address these concerns and prohibits the keeping of dangerous animals within the city limits.

Origination:**Recommendation:**

Approval

Party(ies) responsible for placing this item on agenda:

Craig T. Meyers, Community Development Director

ACTION TAKEN		
Approval ☐ Yes ☐ No	Readings Passed ☐ 1 st ☐ 2 nd	Other

ATTACHMENTS:

Ordinance No. 2020-03

ORDINANCE NO. 2020-03

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF TOMBALL, TEXAS BY ADDING A NEW ARTICLE VII, KEEPING OF DANGEROUS ANIMALS, TO CHAPTER 8, ANIMALS, DEFINING AND ADOPTING REGULATIONS FOR DANGEROUS ANIMALS, AND PROVIDING EXCEPTIONS TO THE REGULATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR A PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF; 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 its citizens to adopt regulations regulating the keeping of dangerous animals; and

WHEREAS, the City Council desires to regulate dangerous animals in the manner set forth in this ordinance; 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 of the City is hereby amended by adding a new Article VII, Keeping of Dangerous Animals, to Chapter 8, Animals, of the City of Tomball Code of Ordinances, the new Article VII, Keeping of Dangerous Animals, to read as follows:

“ARTICLE VII. KEEPING OF DANGEROUS ANIMALS

Section 8-206. – Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Dangerous animal means any mammal, amphibian, reptile or fowl of a species that is dangerous by nature and that, because of its size, vicious nature or other characteristics, is dangerous to human beings. Dangerous animals shall include, but not be limited to, lions, tigers, leopards, panthers, wildcats, domestic cat hybrids, bears, wolves, wolf-dog hybrids, cougars, coyotes, coyote-dog hybrids, raccoons, skunks (whether deodorized or not), apes, gorillas, monkeys of a species whose average adult weight is 20 pounds or more, foxes, elephants, rhinoceroses, alligators, crocodiles, caymans, fowl larger than a macaw, all forms of venomous reptiles and any snake that will grow to a length greater than eight feet. The term dangerous animal shall not include gerbils, hamsters, guinea pigs, mice and domesticated rabbits.”

Section 8-207. – Possession prohibited.

It shall be unlawful for any person to be in possession of a dangerous animal. It is unlawful for the owner or other person in possession or control of any property, residence or business premises to knowingly permit any other person to be in possession of a dangerous animal upon the property, residence or business premises. As used in this section, the term 'to be in possession' includes the harboring or keeping of any dangerous animal, whether on a temporary or permanent basis and includes, without limitation, holding or keeping the dangerous animal for the temporary and/or limited purpose of sale or transfer or offering of sale or transfer to another person.

It is an affirmative defense to prosecution under this section that the dangerous animal is in possession is:

- (1) Being kept for treatment in an animal hospital operated by a veterinarian;
- (2) Being kept at a public zoo that is accredited by a nationally recognized zoological association;
- (3) Being kept at a shelter operated by a state or federally recognized humane agency for the purpose of its transfer to a refuge or sanctuary;
- (4) Being kept for medical research or teaching purposes at a medical school or licensed hospital or by a university or college offering an accredited degree program;
- (5) In the possession of a freight agency or other carrier, and its possession in the city is incidental to transportation, provided that the dangerous animal is secured within a cage or other enclosure that is adequate to prevent its escape;

- (6) The dangerous animal is being transported temporarily for use in film making and other productions under Chapter 6, Article III of this Code.”

Section 3. 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 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 4. 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.

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 3rd DAY OF FEBRUARY 2020.

COUNCILMAN FORD	_____
COUNCILMAN STOLL	_____
COUNCILMAN DEGGES	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN QUINN	_____

SECOND 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 FEBRUARY 2020.

COUNCILMAN FORD	_____
COUNCILMAN STOLL	_____
COUNCILMAN DEGGES	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN QUINN	_____

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary

Regular City Council

Agenda Item

Data Sheet

Meeting Date: February 3, 2020

Topic:

Approve Resolution No. 2020-04, a Resolution of the City Council of the City of Tomball, Texas, Supporting Tomball Village Apartments, LP, for the Acquisition and Rehabilitation of the Multi-Family Housing Development Known as Tomball Square Apartments, Approve a Commitment of In-Kind Support, and Authorize the Mayor to Issue a Letter of Support to the Texas Department of Housing and Community Affairs

Background:

The City has received a request from Rural Housing Developers, on behalf of Tomball Village Apartments, LP, for support of their intended acquisition and rehabilitation of Tomball Square Apartments, located at 611 James Street. Rural Housing Developers, LLC is submitting a request for state funding for this project; following completion of the rehabilitation project, the property will be renamed Tomball Village Apartments.

Resolution No. 2020-04 states the City's support for the acquisition and rehabilitation of Tomball Square Apartments. The developers will make needed upgrades to the property, modernizing the unit interiors and community amenities, and improving the property's exterior.

Resolution No. 2020-04 and the draft letter of support are presented for Council consideration and approval/authorization. Rural Housing Development is also requesting that the letter of commitment include a modest in-kind support/donation of \$250 (such as a fee waiver).

Origination:

Rural Housing Developers, LLC on behalf of Tomball Village Apartments, LP

Recommendation:

Approve Resolution No. 2020-04

Party(ies) responsible for placing this item on agenda:

Doris Speer, City Secretary

ACTION TAKEN

Approval ☐ Yes ☐ No	Readings Passed ☐ 1 st ☐ 2 nd	Other
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ATTACHMENTS:

Resolution No. 2020-04

Letter of Support - draft

Request from Rural Housing Developers

Tomball Village Apartments - Summary

RESOLUTION NO. 2020-04

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TOMBALL,
TEXAS, SUPPORTING TOMBALL VILLAGE APARTMENTS, LP, FOR THE
ACQUISITION AND REHABILITATION OF THE MULTI-FAMILY HOUSING
DEVELOPMENT KNOWN AS TOMBALL SQUARE APARTMENTS**

* * * * *

WHEREAS, Tomball Village Apartments, LP has proposed the acquisition and rehabilitation for affordable rental housing at 611 James St., currently known as Tomball Square Apartments in the City of Tomball; and

WHEREAS, there is a need for affordable housing for the City of Tomball citizens of modest means; and

WHEREAS, following renovation, the property will be renamed **Tomball Village Apartments**; and

WHEREAS, Tomball Village Apartments, LP intends to submit an application to the Texas Department of Housing and Community Affairs (TDHCA) for 2020 Low Income Housing Tax Credit Program funds for Tomball Village;

NOW, THEREFORE, BE IT RESOLVED that the City of Tomball strongly supports the rehabilitation of Tomball Village Apartments; and

FURTHER RESOLVED that as provided for in §11.3(b) of the Qualified Allocation Plan, it is expressly acknowledged and confirmed that the city of Tomball has more than twice the state average of units per capita supported by Housing Tax Credits or Private Activity Bonds; and

FURTHER RESOLVED that the City of Tomball hereby supports the proposed development, Tomball Village Apartments, and confirms that its governing body has voted specifically to approve the rehabilitation of the Development and to authorize an allocation of Housing Tax Credits for the Development pursuant to Tex. Gov't Code §2306.6703(a)(4), and

FURTHER RESOLVED that for and on behalf of the Governing Body, **Gretchen Fagan, Mayor**, is hereby authorized, empowered, and directed to certify these resolutions to the Texas Department of Housing and Community Affairs.

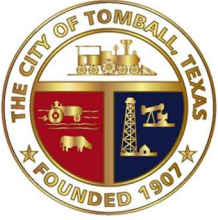
PASSED AND APPROVED ON THIS THE 3RD DAY OF FEBRUARY 2020.

CITY OF TOMBALL

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary



City of Tomball

Gretchen Fagan
Mayor

Robert S. Hauck
City Manager

February 3, 2020

Sharon Gamble
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 78701

RE: TDHCA Application – Tomball Square Apartments, 611 James Street, Tomball, TX

Dear Ms. Gamble:

I am writing this letter to confirm the contribution of development funding by the City of Tomball for the acquisition and rehabilitation of the Tomball Square Apartments development, which will be renamed Tomball Village Apartments.

The City of Tomball will commit to in-kind support, valued at **\$250**, in the form of **<insert here fee waiver, grant, in kind match>**. This support is for the benefit of the development.

Sincerely,

Gretchen Fagan
Mayor



Projects

Summary of Current Projects

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 MURDOCH CONTRACTING, LLC 4

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 PINE HILLS ESTATES 20

 WOODLAND ESTATES 22

About Us

Rural Housing Developers, LLC

Historically, **Rural Housing Developers, L.L.C. (RHD)** and its affiliate companies have developed multifamily housing in six states across the United States. The hallmark of RHD's success has been its early specialization in rural multifamily housing development. This focus has been expanded in recent years to housing in urban and suburban areas, including new construction of both moderate and substantial rehabilitation of existing housing.

Rural Housing Developers has developed nearly three thousand dwelling units in scores of separate housing developments. In each case, RHD affiliates have served as developer – designing, packing, coordinating, funding construction, and managing the development. Principals of RHD have also been involved in projects through separate entities owned by them such as Cardinal Developers, LLC and Rural Housing Developers entities formed in Georgia, Louisiana, Nebraska, Oklahoma and Texas.

Accurate construction cost projections and scheduling of work are essential to the economic viability of a real estate investment, whether it is new construction, rehabilitation, or even existing property, which often has construction related needs. RHD commands this expertise through having completed more than 100 projects in six states. Through its construction projects RHD has realized the effectiveness of its construction methods and management techniques, its size, and its decisiveness. Its construction savvy is valuable to project supervision, scheduling and budgeting.

Pine Hills Estates in Devine and Pearsall, Texas is Rural Housing Developers latest development that was approved through Texas Department of Housing and Community Affairs and Rural Development. This project is a rehabilitation of two 515 rural development properties (68 senior units) that is expected to begin construction in 2020.

FINANCING

Rural Housing Developers, L.L.C. has applied its financing creativity to working with a number of construction and permanent debt financing programs, each secured by a strong inventory of real estate. These include such tools as loans insured by the Federal Housing Administration, loans for the USDA Rural Development, United States Department of Housing and Urban Development, and state housing finance agencies, local housing authorities, as well as conventional sources.

SUMMARY

In each stage of its development Rural Housing Developers, L.L.C. has consistently anticipated new market needs and responded by targeting its wealth of resources to fulfill those needs. Its success in managing risk and rising financial benefits has been demonstrated in all facets of RHD's business.

The highest level of proficiency among principals and staff is sought constantly. It is through these individuals that RHD attains its goals on behalf of its investors. It is also through them that the firm establishes and maintains the excellent working relationships it enjoys with local governments, financial institutions and government agencies.

RHD has worked diligently to become a leader in both the contracting and property management field. Its vast experience and success have been achieved through a long-term commitment to excellence and through integration of many levels of resources provided by results in the assurances sought by astute real estate investors.

Murdoch Contracting, LLC

Murdoch Contracting, L.L.C. and its affiliate companies have developed numerous multifamily housing communities in several Midwestern states. Early on, Murdoch Contracting focused on rural development property extensive repairs and maintenance. This focus has now been expanded toward housing in urban and suburban locations including new housing construction, moderate or substantial rehabilitation of existing housing, and more recently revitalization of industrial buildings and vintage school buildings into outstanding public housing resources. Throughout these projects, our affiliate companies have provided developer-designer services, funding construction, and managing the development projects. Whether new construction, or a major rehabilitation project, accurate cost projections, planning, and scheduling of work are essential to the economic success of any real estate investment project. Our experience in successfully developing in several states has honed our ability to provide this success in all our construction and rehab projects. Our specialties are the development of conventional and affordable tax credit properties in both urban and rural areas. Some of the governmental agencies with whom we have worked to create these developments are the *United States Department of Agriculture, Missouri Housing Development Commission, Nebraska Investment Finance Agency, Kansas Housing Resource Corporation, Oklahoma Housing Finance Agency* and *Texas Department of Housing and Community Affairs*.

We have constructed/rehabilitated apartment communities in, Missouri, Oklahoma, and Texas and our extremely high standards have been recognized by *Rural Development* in the rehabilitation of several apartment units throughout the states we've worked in.

Some of our most recent completed projects have included:

- Rehabilitation of the *Colonial Village Apartments* located in Monett, Missouri
- Rehabilitation of *RoseRock Estates I & II* located in Sallisaw, Oklahoma
- Subcontractor work on *MacArthur Park Apartments* located in Washington, Missouri
- Subcontractor work on *Adams Park Apartments* located in Trenton, Missouri
- Rehabilitation of *Oakmont Estates I & II* located in Tishomingo and Antlers, Oklahoma
- Rehabilitation of *WheatRidge Apartments* located Tonkawa, Newkirk and Kaw City, Oklahoma
- Rehabilitation of *TRM Apartments* located in Troup, Rusk and Mount Pleasant, Texas
- Rehabilitation of *Cardinal Towers* located in Webb City, Missouri
- Subcontractor work on *Stone Meadows Apartments* located in Nixa & Ozark, Missouri

Murdoch Contracting, L.L.C. has been awarded to be the general contractor for:

- Rehabilitation of Pine Hills Estates I & II located in Devine and Pearsall, Texas. This project will consist of 68 units for elderly and disabled households. Construction is estimated to start in early 2020.
- Rehabilitation of Skiatook Village Apartments located in Skiatook, Oklahoma. This project consists of 48 units of family housing. Construction is estimated to start in early 2020.

Of additional note:

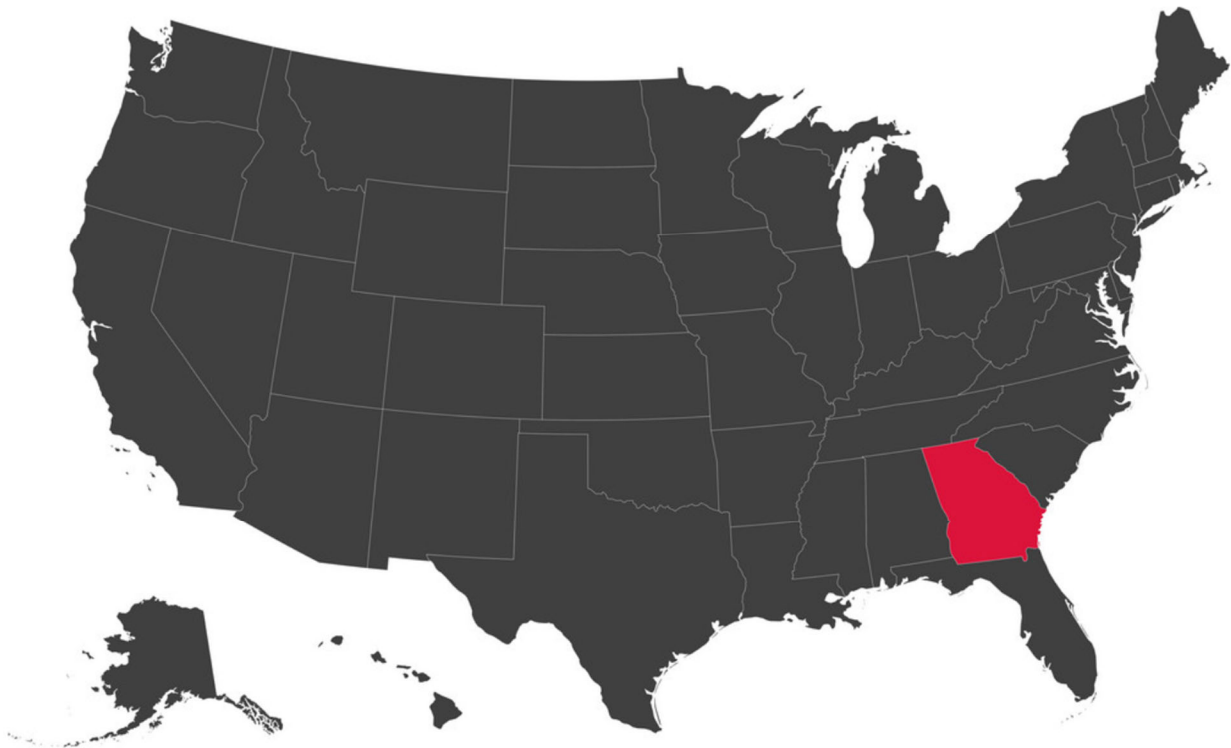
- *Murdoch Contracting, L.L.C.* recently received the *Missouri Preservation Award* for the rehabilitation of historic project, Adam's Park Apartments located in Trenton, Missouri

Rural Housing Developers and Its Affiliates' Past and Current Projects

	City	Units
Georgia		
Trinity Manor Apartments	Augusta	100
Louisiana		
Sherwood Oaks Family Living	Baton Rouge	272
Missouri		
Stone Meadows	Nixa & Ozark	76
Oklahoma		
Chickasha Villa	Chickasha	46
Cushing Place	Cushing	24
Cushing Valley	Cushing	8
Cushing Village	Cushing	24
Lone Terrace	Lone Grove	32
Oakmont Estates	Antlers & Tishomingo	60
RoseRock Estate I & II	Sallisaw	24
Sulphur Terrace	Sulphur	32
Tahlequah Terrace	Tahlequah	118
Tomco Apartments	Skiatook	48
Villas of Hanover	Davis	36
Villas of Benedictine	Guthrie	52
Wagoner Village	Wagoner	29
Wheat Ridge Apartments	Newkirk, Tonkawa & Kaw City	60
Texas		
Mt. Pleasant Senior Apartments	Mt. Pleasant	28
Pine Hills Estates	Devine & Pearsall	68
Rusk Senior Apartments	Rusk	24
Troup Senior Apartments	Troup	36
TX Creekview Austin	Austin	264

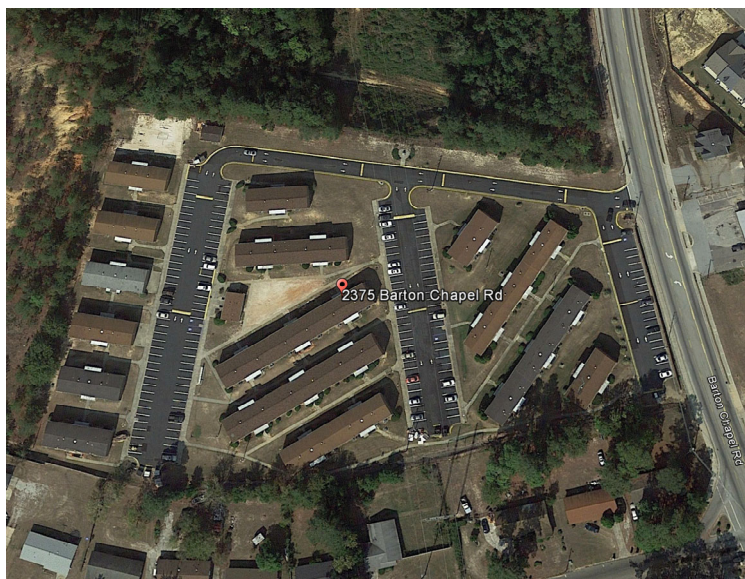
Our Current Projects

Georgia Projects



Trinity Manor Apartments

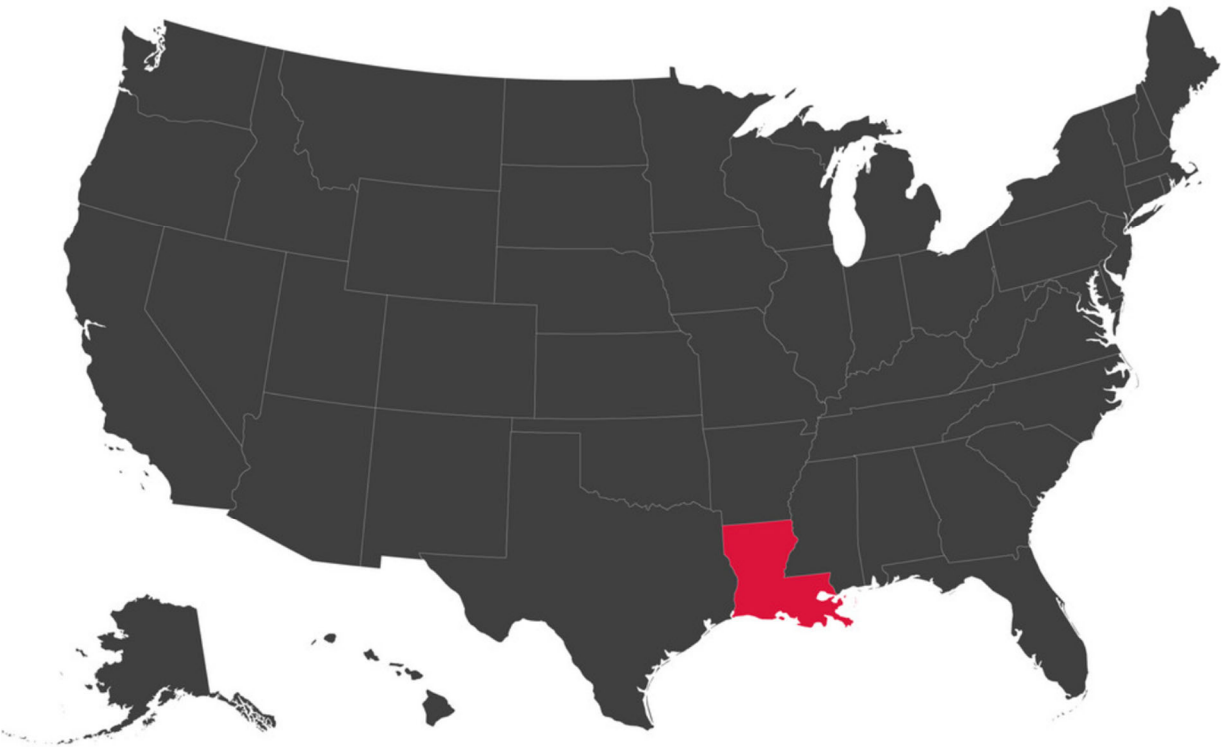
2375 Barton Chapel Road, Augusta, GA



Trinity Manor Apartments is an existing 100-unit, multi-family property that is currently located at 2375 Barton Chapel Rd, Augusta, Georgia, and was originally constructed in 1975. The property consists of (24) 1-bedroom units, (48) 2-bedroom units, and (28) 3-bedroom units of which (80) are under a HAP contract through HUD and the remaining (20) are market rate. The property is currently in need of extensive rehabilitation and has been subject to negative press due to the current condition of the property. The property is under contract by The Banyan Foundation, Inc. (TBF), a North Carolina not for profit corporation, whose stated purpose is to develop low-income housing/affordable housing, and/or acquire and renovate existing low-income housing. TBF is requesting permission to be considered for funding through the Georgia DCA 4% tax credit program. If approved, the property will undergo an extensive renovation of approximately \$55,290 per unit that will include both structural and cosmetic renovations.

Transforming the existing **Trinity Manor** and changing the name of the complex to remove negative connotations, will allow for not only the much-needed preservation of affordable housing in Augusta, but will provide residents with a safe, clean, healthy and modern living environment for years to come. In addition to unit renovations, the funding will allow for construction of a new Property Managers office, Community Room, playground, and maintenance shop. Based on the approved funding, the intended scope of work for the units include: new flooring throughout, new cabinets and countertops, new energy efficient appliances, new lighting, new HVAC units that meet all energy codes, full unit painting, plumbing replacement (where needed), new bathroom vanity and sink, new toilet, tub replacement (where needed). The exterior will receive the following: new roofs, new gutters, removal of existing mansard roofs and replacement with decorative and functional exterior, updated breezeways and updated architecture of exterior, parking lot resurfacing. The new Property Manager's office and Community room will house the Property Manager and Resident Service Coordinator. In addition, the Community room will have a separate computer room, and will provide the following services: after school programs for youth, summer breakfast/lunch programs for youth, financial wellness, family wellness training, health check-up programs, and job training programs.

Louisiana Projects



Sherwood Oaks Apartment

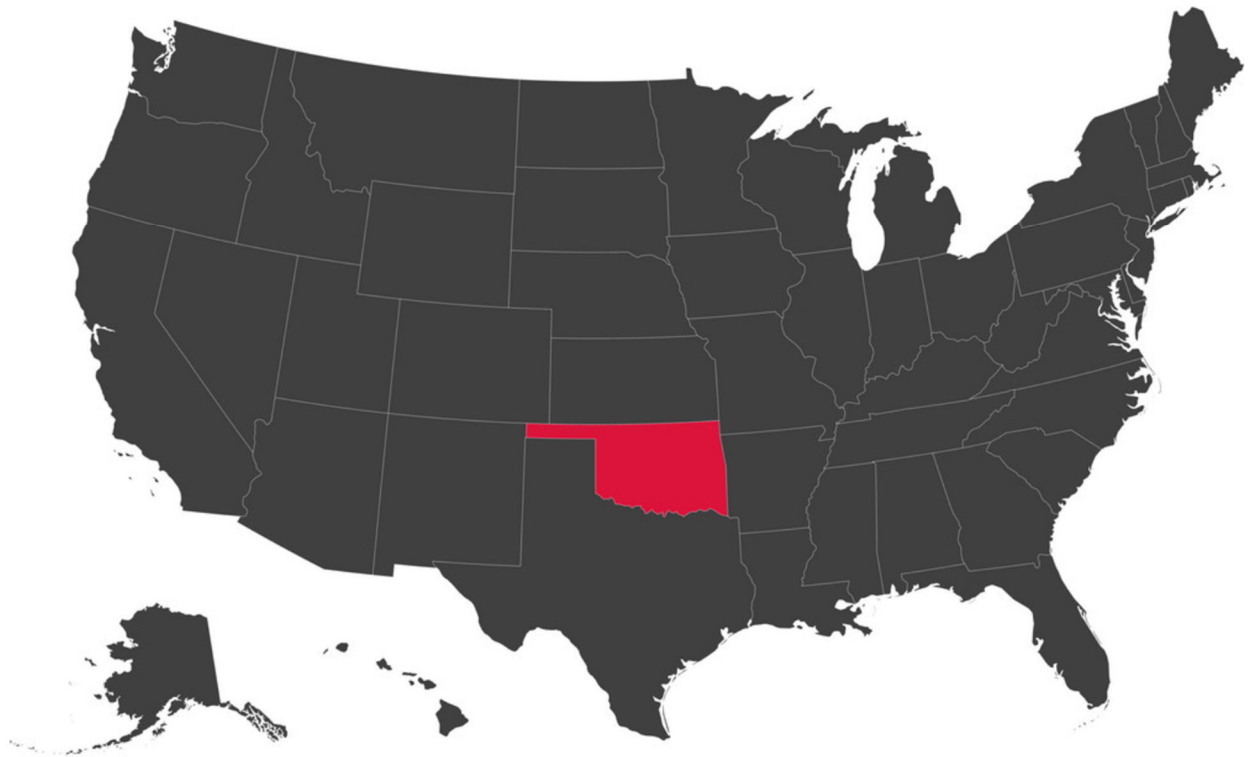
10950 Darryl Drive, Baton Rouge, LA 70815



Sherwood Oaks Family Living will be a mixed income affordable housing community comprised of +/-272 new living units on +/-10.5 useable acres at 10950 Darryl Drive, Baton Rouge, LA. The residential units will be marketed to families earning 20% to 80% of the area median incomes. Overall the income and rents will average 60% of AMFI or less for the Baton Rouge MSA. The development will offer housing convenient to DT Baton Rouge and the LSU campus. The property serves large numbers of special needs households, including a limited number of units targeted for the housing first initiative.

Sherwood Oaks Family Living will offer residents more than a roof over their head. The community provides family supportive services like student achievement reading and homework programs, adult education, homebuyer education, counseling services, credit education classes, health and nutritional courses, latchkey programs for school age children and other appropriate programs, at no additional cost to residents. Residents at the property will also enjoy a +/-6,000 square foot club house with a fitness center, business center with computers and internet access, and a large community room. The developments will also offer a swimming pool, spa, barbecue/picnic areas, and controlled access to the properties.

Oklahoma Projects



Bradford Place Apartments

Oklahoma City, OK 73127



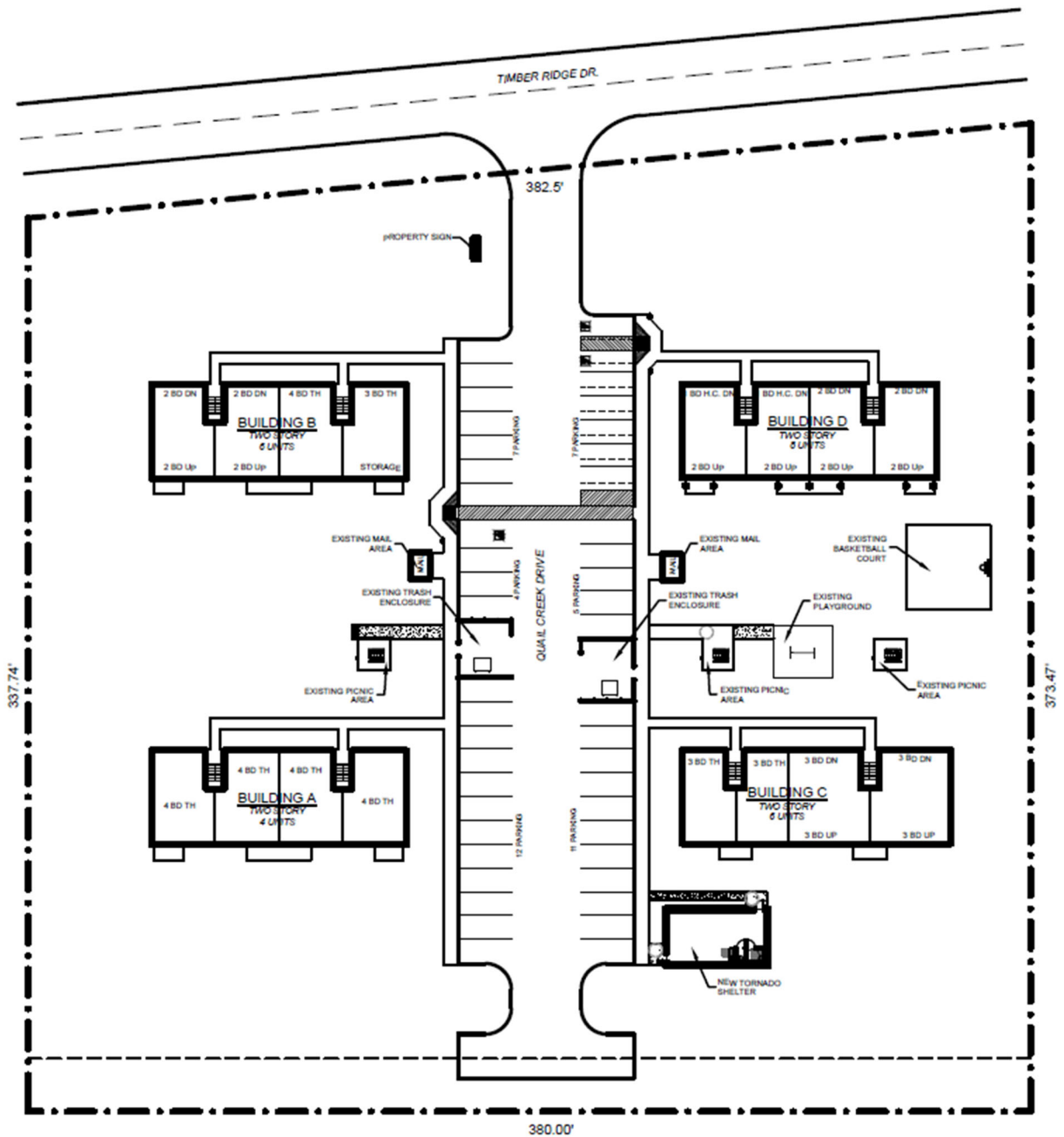
New construction project. Details to follow.



Eagle Crest Apartments

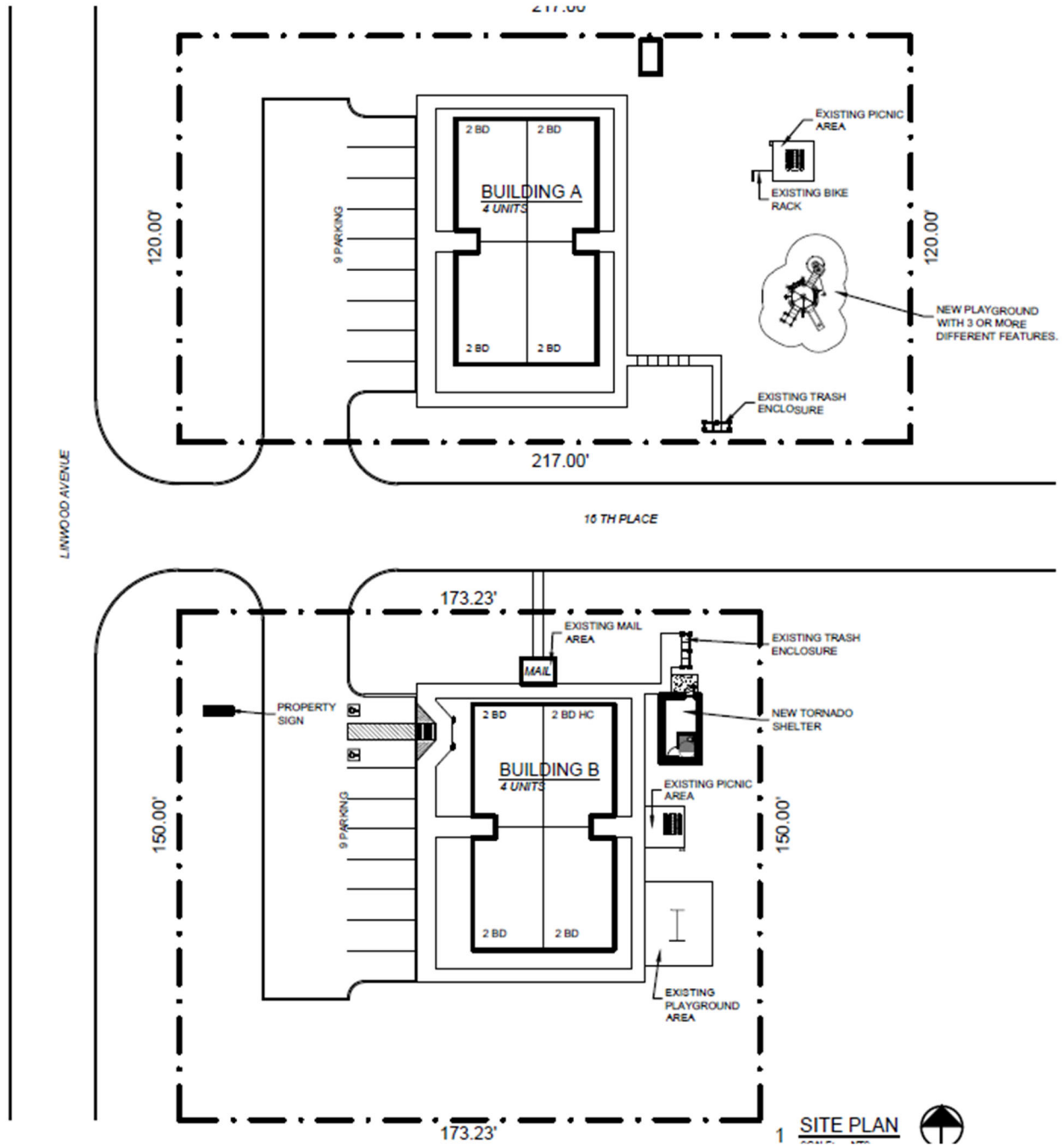
Cushing, OK

Eagle Crest Place



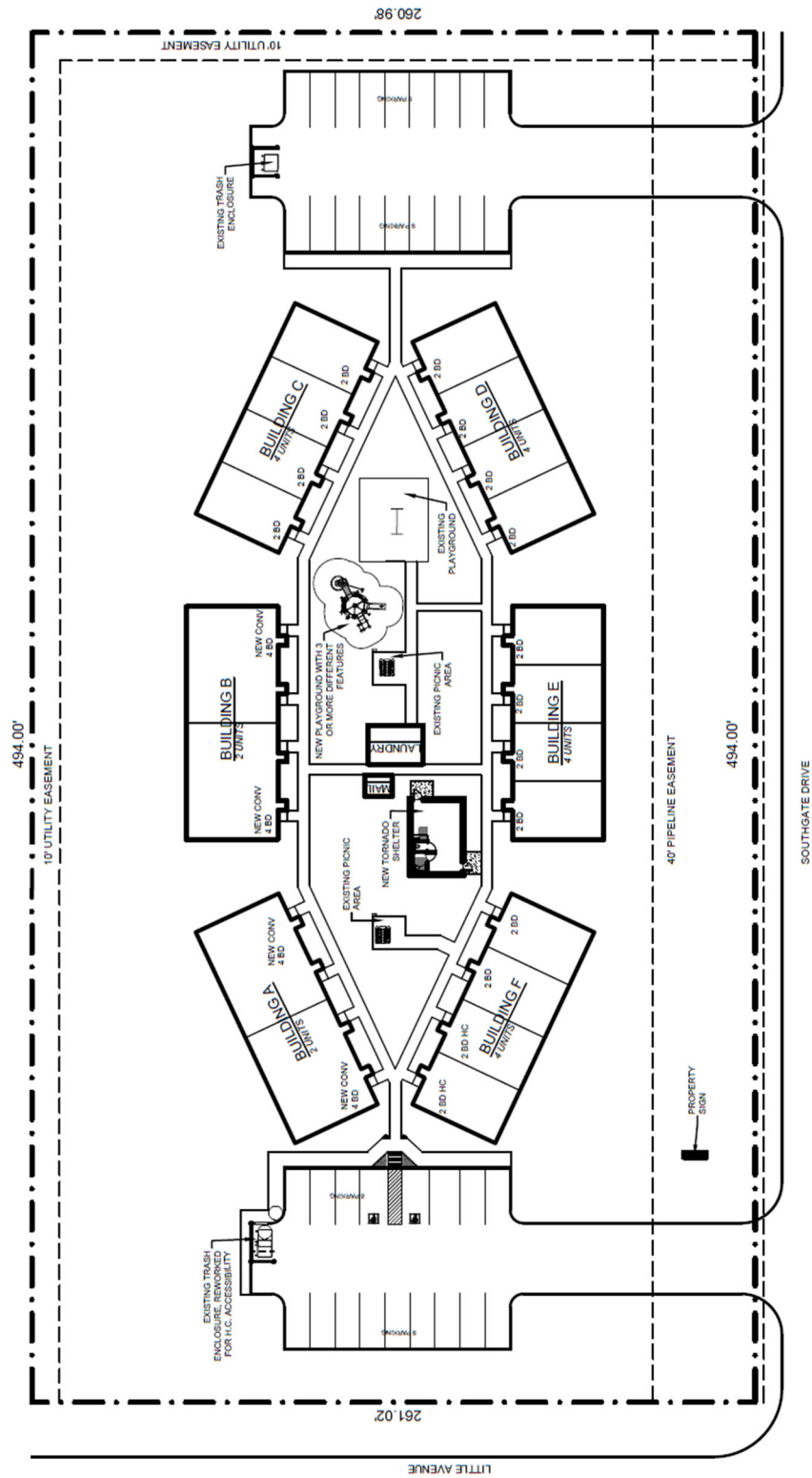
24 units rehabilitation project. Details to follow.

Eagle Crest Valley



8 units rehabilitation project. Details to follow.

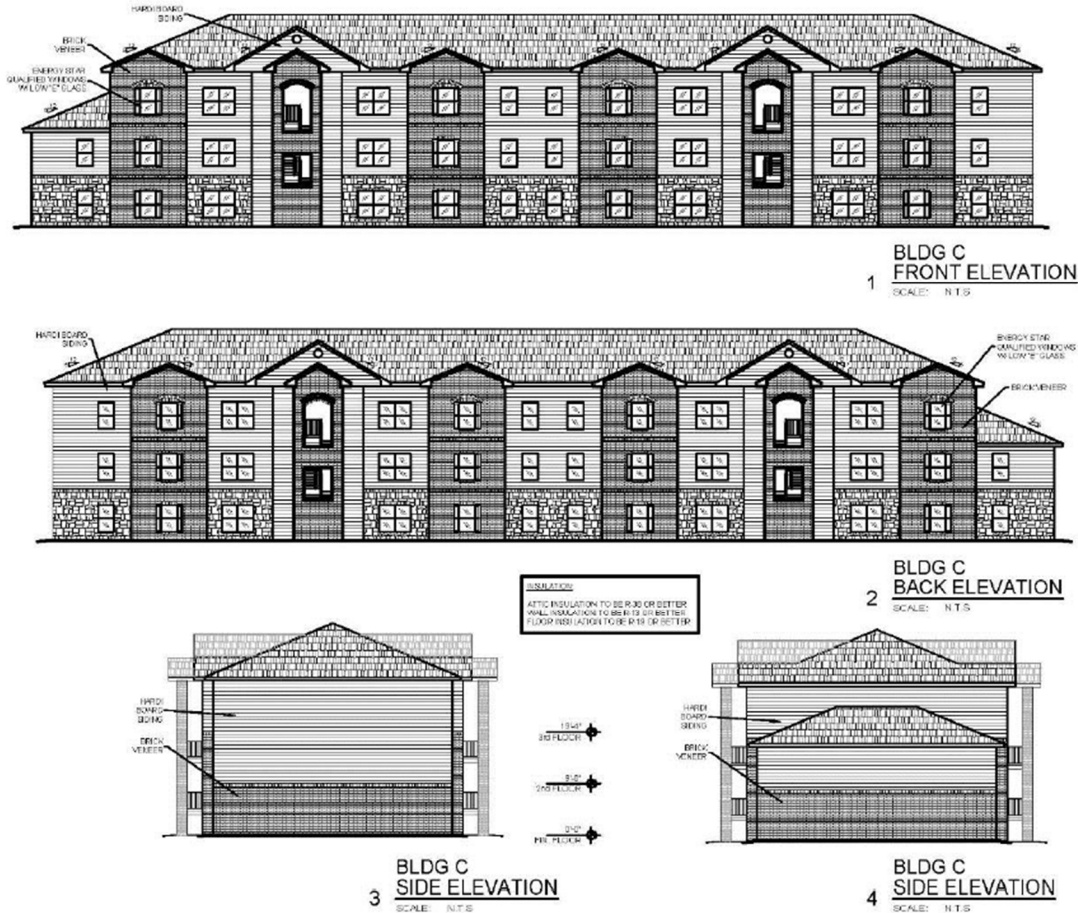
Eagle Crest Village



20 units rehabilitation project. Details to follow.

Eastland Village Apartments

Tulsa, OK 74134



CLARK & ASSOCIATES ARCHITECT
 1000 S. BOKALUO
 TULSA, OK 74106
 TEL: 918.441.1111
 FAX: 918.441.1112
 www.clarkarchitect.com

EASTLAND VILLAGE
 Rural Housing Development - Oklahoma, U.S.
 TULSA, OK 74134
 PROJECT NO. 14-001
 DATE: 01/20/14

Eastland Village Apartments will be a newly constructed mixed-income affordable housing community which will be located at the intersection of S145th East Avenue and S 33rd Street in Tulsa, Tulsa County, Oklahoma. The community will be comprised of 72 units spread over 4 buildings. The 72 units are made up of one-bedroom (28), two-bedroom (22), and three-bedroom apartments and are targeted toward families of incomes at or below 70% of the area media gross income.

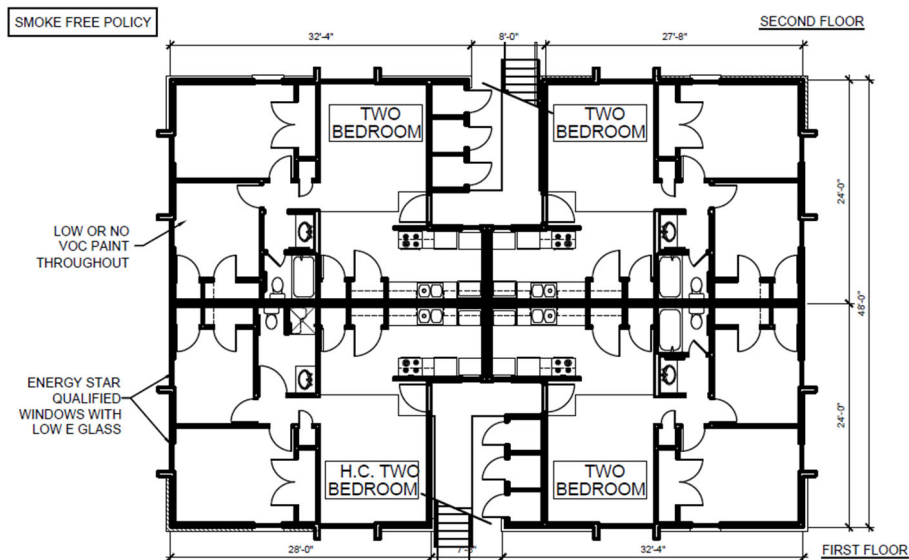
Skiatook Village

1504 W. 4th Street, Skiatook, OK 74070

Skiatook (Prior to Rehabilitation)



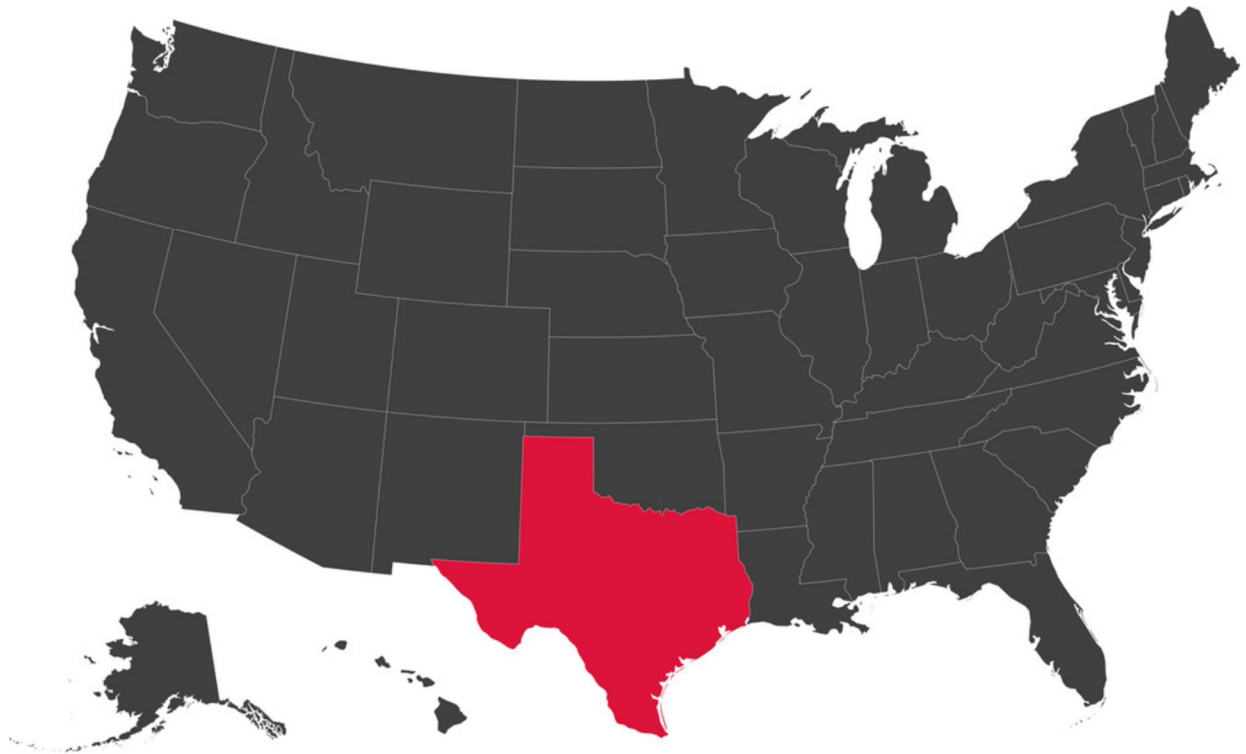
Skiatook Village Apartments includes the acquisition and substantial rehabilitation of an existing low-income housing rental property located at 1504 W. 4th Street, Skiatook, Osage County, Oklahoma. Its 48 units are made up of one-bedroom (12) and two-bedroom (36) apartments. All units are reserved for family households with earnings at or below 60% of the area median gross income.



BUILDING TYPE 6, 7 & 8
BUILDING PLAN
SCALE: N.T.S.

 SKIATOOK VILLA SKIATOOK VILLA, L.P. SKIATOOK, OKLAHOMA		 BLACKLEDGE & ASSOCIATES ARCHITECTS 7416 N. BROADWAY EXTENSION, OKLAHOMA CITY, OKLAHOMA 73116 (405) 843-2855 (405) 843-2852 fax: blackledge@psd.net LARRY K. BLACKLEDGE ARCHITECT	
PROJECT No:	DATE: 12-21-2007	REVISED:	

Texas Projects



Pine Hills Estates

Devine, TX & Pearsall, TX

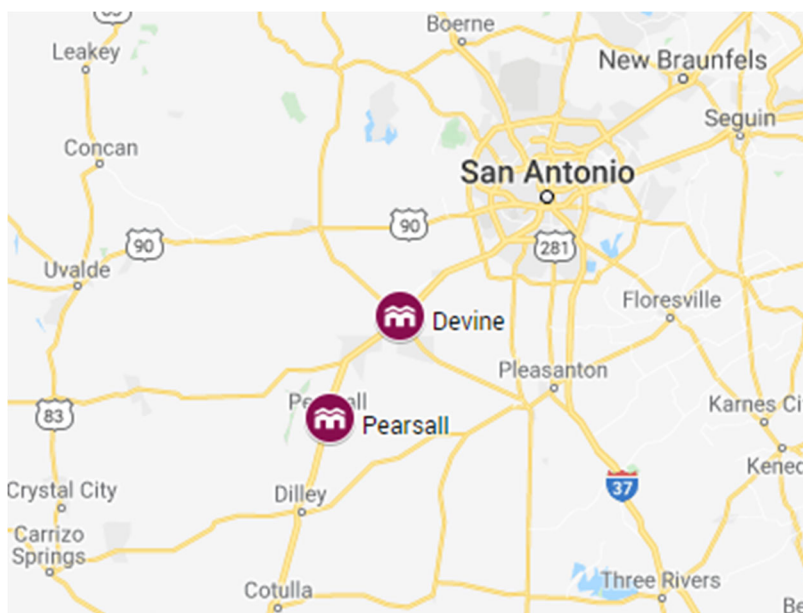
Devine (Prior to Rehabilitation)



Pearsall (Prior to Rehabilitation)



Pine Hills Estates, a project presented by *Rural Housing Developers – Texas, LLC (RHD-TX)*, includes the acquisition and substantial rehabilitation of two existing low-income housing rental properties located just south west of San Antonio, Texas. *Pine Hills Estates I* is located at 112 Dixon Drive in Devine, Medina County, Texas. Its 32 units are made up of one-bedroom (28) and two-bedroom (4) apartments. *Pine Hills Estates II* is located at 600 Berry Ranch Road in Pearsall, Frio County, Texas. Its 36 units are made up of one-bedroom (32) and two-bedroom (4) apartments.

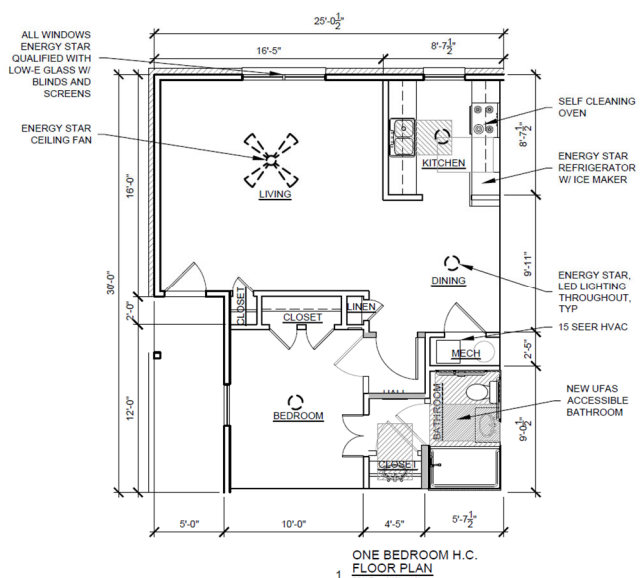
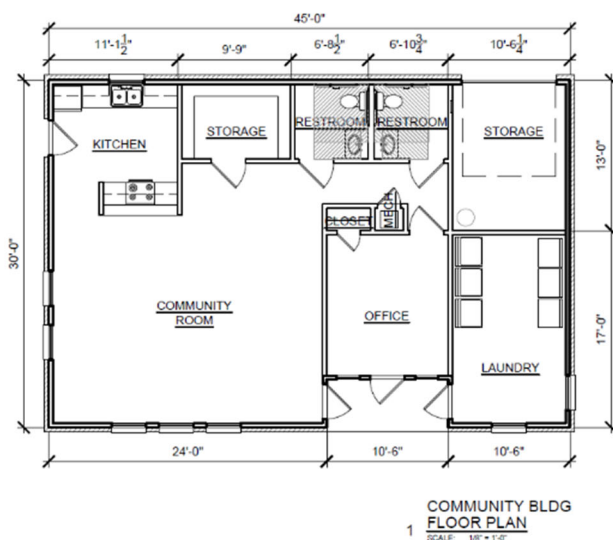


The properties were originally constructed and placed in service in 1992 utilizing USDA Rural Development funds. Each of the developments is in dire need of being rehabilitated and updated to current living and safety standards. Both are designated to provide housing for senior citizens and/or disabled households with income at or below 60% of their respective Area Median Income (AMI).

Pine Hills Estates was successful in its low-income housing tax credits application submitted to the Texas Department of Housing & Community Affairs (TDHCA). So, with the contributions from investors and USDA Rural Development 515 loan program, *Murdoch Contracting, LLC* will begin the rehabilitation of the properties in the early months of 2020. The properties will undergo extensive renovations of approximately \$61,845 per unit that will include both structural and cosmetic improvements.

The full rehabilitation of the properties will elevate the units to a “like-new” standard. *RHD-TX* worked with 3rd party architects and engineers to create an all-encompassing scope of work based on the current and future estimated capital needs for the property. The rehabilitation will address general improvements as well as any structural and/or health and safety concerns including bringing the property in line with all current ADA accessibility standards. This even goes so far as requiring the retrofitting of existing units, as needed, to comply with current regulations. All new energy efficient appliances will be installed in each unit including but not limited to refrigerators, stove/ranges, microwaves, and HVAC units. All flooring in all units will be replaced with new carpeting and/or special long-lasting resilient flooring.

Additionally, each property will have new and improved shared amenities including, but not limited to a new or improved community room for social activities, a new shared fitness area with equipment provided, a new computer workstation area with internet access and printer/scanner capabilities, as well as new outdoor covered seating & gathering area.



Woodland Estates

Hempstead, TX & Sweeny, TX

Hempstead (Prior to Rehabilitation)



Sweeny (Prior to Rehabilitation)



Woodland Estates, a project presented by *Rural Housing Developers – Texas, LLC (RHD-TX)*, includes the acquisition and substantial rehabilitation of two existing low-income housing rental properties located just west of Houston, Texas. *Woodland Estates I* is located at 727 8th Street, Hempstead, Waller County, Texas. Its 50 units are made up of one-bedroom (46) and two-bedroom (4) apartments. *Woodland Estates II* is located at 902 Texas Avenue, Sweeny, Brazoria County, Texas. Its 32 units are made up of one-bedroom (28) and two-bedroom (4) apartments.

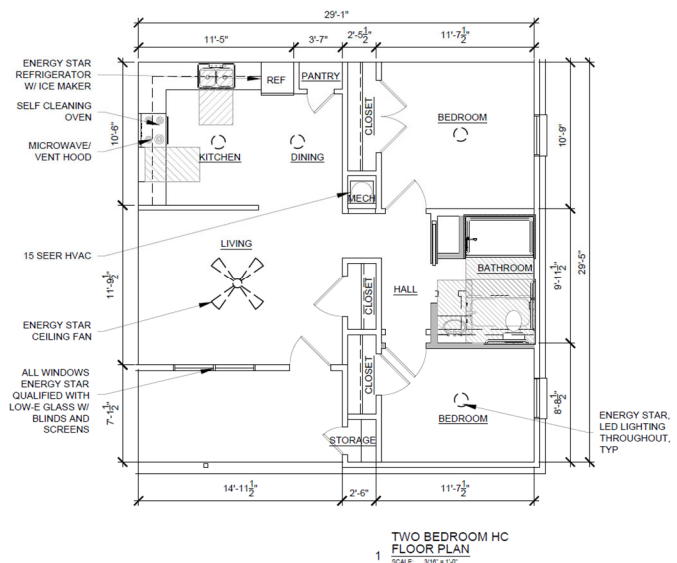
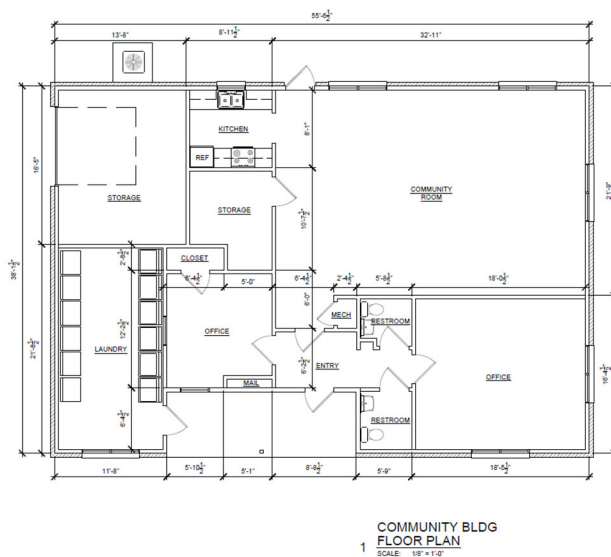


Woodland Estates I was originally constructed and placed in service in 1993 and Woodland Estates II was originally constructed in 1991. Both were completed utilizing USDA Rural Development funds. Each of the developments is in dire need of being rehabilitated and updated to current living and safety standards. Both are designated to provide housing for senior citizens and/or disabled households with income at or below 60% of their respective Area Median Income (AMI).

Woodland Estates was successful in its low-income housing tax credits application submitted to the Texas Department of Housing & Community Affairs (TDHCA). So, with the contributions from investors and USDA Rural Development 515 loan program, *Murdoch Contracting, LLC* will begin the rehabilitation of the properties in the early months of 2020. The properties will undergo extensive renovations of approximately \$61,845 per unit that will include both structural and cosmetic improvements.

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Tomball Village Apartments

Rural Housing Developers, LLC is submitting a request for state funding to rehabilitate an existing apartment community currently known as Tomball Square Apartments and located at 611 James Street, Tomball, TX 77375. Following the proposed \$50k/unit in renovation work, the property will be renamed Tomball Village Apartments.

We respectfully request your assistance in this process by providing the team with two items that will improve our position for the competitive state funding: 1) passing a Resolution of Support at the February 3rd City Council meeting; and 2) providing a letter committing to a modest in-kind donation of \$250 (such as a fee waiver), should TDHCA approve funding for the rehabilitation. A template for both the resolution and letter are attached for your use.

The subject property was originally constructed in 2005 utilizing USDA Rural Housing funds and consists of 24, two-bedroom apartment homes in 3 residential buildings, as well as a small community clubhouse building.

With additional funding from the Texas Department of Housing and Community Affairs (TDHCA), the developers will be able to make needed upgrades to the property. In addition to modernizing the unit interiors and community amenities for residents, the scope of rehabilitation work will benefit the greater community of Tomball by improving the property's exterior.

The extensive scope of rehab will including the following improvements:

- Major interior updates
- Garbage disposals and energy-efficient fixtures
- Replaced sidewalks, parking lots, roofs, and windows
- New, larger community building including laundry room
- Playground equipment

The development team is experienced in developing quality new construction and rehabilitation housing across Texas, with a larger portfolio spanning six states. Please see the provided corporate profile for more.

For questions regarding this proposal or should you require any additional information regarding this proposal, please contact Teresa Bowyer at: citrinedev@gmail.com or 806-543-8645.