

ORDINANCE NO. 2020-13

**AN ORDINANCE OF THE CITY COUNCIL OF TOMBALL, TEXAS,
APPROVING THE SERVICE AND ASSESSMENT PLAN FOR THE CITY
OF TOMBALL PUBLIC IMPROVEMENT DISTRICT NUMBER FOUR**

* * * * *

WHEREAS, the City of Tomball (the “City”) is authorized pursuant to TEX. LOCAL GOV’T CODE, ch. 372, as amended (“Chapter 372”) to create public improvement districts for the purposes described therein; and

WHEREAS, the City has received a petition (the “Petition”) requesting the creation of the City of Tomball Public Improvement District Number Four (the “PID”), held a public hearing, and created the PID in accordance with the applicable provisions of Chapter 372; and

WHEREAS, the City passed and adopted Resolution No. Resolution 2019-04 establishing the City of Tomball Public Improvement District Number Four; and

WHEREAS, the City Council wishes to adopt the Service and Assessment Plan with respect to the PID; **NOW THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS, that:

Section 1. The facts recited in the preamble hereto are found to be true and correct.

Section 2. The Service and Assessment Plan attached to this Ordinance as Exhibit A is hereby approved and adopted on behalf of the PID, and the Mayor, City Secretary and any other appropriate officials of the City are hereby authorized to take all necessary actions on behalf of the City to implement the terms thereof in accordance therewith.

Section 3. It is hereby found, determined and declared that a sufficient written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public at the City Hall of the City for the time required by law preceding this meeting, as required by the Open Meetings Law, Chapter 551, Texas Government Code, and that this meeting has been open to the public as required by law at all times during which this Ordinance and the subject matter thereof has been discussed, considered and formally acted upon. City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

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 6th DAY OF JULY 2020.

| | |
|------------------------|------------|
| COUNCILMAN FORD | <u>AYE</u> |
| COUNCILMAN STOLL | <u>AYE</u> |
| COUNCILMAN DEGGES | <u>AYE</u> |
| COUNCILMAN TOWNSEND | <u>AYE</u> |
| COUNCILMAN KLEIN QUINN | <u>AYE</u> |

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 20TH DAY OF JULY 2020.

| | |
|------------------------|------------|
| COUNCILMAN FORD | <u>AYE</u> |
| COUNCILMAN STOLL | <u>AYE</u> |
| COUNCILMAN DEGGES | <u>AYE</u> |
| COUNCILMAN TOWNSEND | <u>AYE</u> |
| COUNCILMAN KLEIN QUINN | <u>AYE</u> |

Gretchen Fagan
Gretchen Fagan, Mayor

ATTEST:

Doris Speer
Doris Speer, City Secretary

EXHIBIT A
Service and assessment Plan
Public Improvement District Number Four
City of Tomball, Texas

1. Introduction

This Service and Assessment Plan is prepared and adopted in conformance with the Public Improvement District Assessment Act, codified as Chapter 372, Texas Local Government Code (“the Act”), and pursuant to Resolution 2019-04 creating the Public Improvement District Number Four (“PID”), City of Tomball, Texas. The creation of the PID was initiated by a petition submitted by property owners within the PID boundaries in compliance with the requirements of the Section 372.005 of the Act.

2. Boundaries

The boundaries of the PID are as indicated in Attachment A.

3. Administration of the District

Administration of the District is the responsibility of the City Council of the City of Tomball, Texas, but to the extent allowed by law, the City may contract with a private sector company to carry out all or part of the City responsibilities as well as the operations and administration of the District.

4. Public Improvements

The public improvements to be financed and constructed serve to promote the construction of single family units. The public improvements will confer a special benefit to properties within the PID and will consist of water, sanitary sewer, storm drainage, detention, gas, streets, erosion control, contingency provisions, engineering, financing costs, and administration and legal services for the PID. The public improvements will be pre-funded by the developer of the subdivision within the PID under the Development Agreement (“Agreement”) executed between the developer and the City.

A. Alexander Estates

Alexander Estates contains 70.36 acres of land and will contain 251 lots within the PID. The public improvements authorized under this Plan for Alexander Estates and the estimated costs thereof, are described below:

| PUBLIC IMPROVEMENT | ESTIMATED COSTS |
|---|-----------------|
| Water, sewer, storm sewer, streets, detention, gas, off-site utility extensions, amenities, engineering, design fees, landscaping, PID creation | \$7,081,171 |
| Financing Costs (15 years @ 4.5%) | \$2,809,020 |
| Total Improvements | \$9,890,191 |
| Administration (4.6%) | \$456,657 |
| Total Costs (15 years) | \$10,346,848 |

5. Construction of Public Improvements

The Plan will be reviewed annually in accordance with the provisions of Chapter 372 of the Local Government Code and will include a review of the expenditures and revenues of the District. Additionally, the Plan will be reviewed for the purposes of establishing the installments for assessment based upon the costs for public improvements for the financial needs of the District.

6. Conveyance of Improvements to the City

Upon completion of the improvements, and final inspection and acceptance of the public improvements by the City, the developer will convey all rights to the improvements to the city or homeowner’s association as applicable, subject to the developers rights of reimbursement described in the Development Agreement executed between the developer and the City.

7. Authorized Improvements

The area within the PID that is covered by the Service and Assessment Plan will be developed as single family residential. This Plan designates the public improvements required for the growth and development of the land within the PID. The goal of this Plan is to provide sufficient certainty for the owners of land within the PID to proceed with the financing and construction of the necessary public improvements, while allowing flexibility to meet the needs of the PID over the life of the development of residential properties within the PID.

The construction of the public improvements authorized herein began in calendar year 2019. The actual costs of the public improvements will be determined by an independent accountant report of the developer's costs.

8. Advance Financing by the Developer

The developer will advance the funds for construction of the public improvements and will be entitled to repayment pursuant the Development Agreement executed between the City and the developer.

9. Apportionment of Costs

Payment of assessments, if any, on property owned by exempt jurisdictions other than the City shall be established by contract.

10. Levy of Assessments

The total assessment for each property shall be an equal apportionment of the total costs divided by the total number of lots. Assessments can be paid by each property in advance or at any time thereafter. Financed assessments paid annually shall be concurrent with the city's tax year and will bear interest at 4.5% for up to 15 years. The principal amount of the assessment is payable at any time by property owners.

The assessments are on a per lot basis with two lot categories. The cost of the public improvements will consist of the costs subject to construct water, sanitary sewer, storm sewer, streets, detention, amenities, landscaping, gas, engineering and design fees, PID creation costs and administration and financing payable to the developer pursuant to the Development Agreement.

50-Foot Lots

| Total Assessment | Annual Assessment Installment | Financed Assessment Term | Annual Administrative Cost | Total Annual Payment |
|------------------|-------------------------------|--------------------------|----------------------------|----------------------|
| \$ 26,052.50 | \$2,425.85 | 15 years | \$ 121.29 | \$ 2,547.14 |

60-Foot Lots

| Total Assessment | Annual Assessment Installment | Financed Assessment Term | Annual Administrative Cost | Total Annual Payment |
|------------------|-------------------------------|--------------------------|----------------------------|----------------------|
| \$ 31,263.00 | \$2,911.02 | 15 years | \$ 121.29 | \$ 3,032.31 |

11. Levy and Collection

Notice of levy of each assessment will be given as provided in Chapter 372 of the Local Government Code. The assessment levy statement will be sent to each property owner in the District, and the payment will be due and payable at the same time property taxes are due and payable to the City.

The first installment of an assessment against a particular property shall be due with respect to the calendar year following the date such property has been improved with a habitable structure as evidenced by the issuance of a certificate of occupancy. The City will invoice each property owner for the installment payment in conjunction with the City's annual property tax bill, and the installments shall be due and payable, and incur penalty and interest for unpaid installments in the same manner as provided for the City's property taxes. Thereafter, subsequent installments shall be due in the same manner in each succeeding calendar year until the assessment has been paid in full. The owner of assessed property may pay at any time the entire assessment then due on each property through the date of final payment. Failure of an owner to receive an invoice shall not relieve the owner of the responsibility for the assessment.

A lien will be established against the property assessed effective as of the date of the ordinance levying the assessment, privileged above all other liens, include prior mortgage liens, to the extent allowed by Section 372 of the Local Government Code. Assessment installments shall be considered delinquent on the same date as the city's property taxes. Delinquent assessments or installments shall incur the costs of collection. If practicable, the assessment shall be included on the City property tax statement. Notwithstanding the above, the assessment shall be perfected immediately as to the entire assessment, but may be executed only with respect to the amounts then due or past due for current or prior installments or final payment. Assessments are personal obligations of the person owning the property assessed in the year an installment payment becomes due, and only to the extent of such installment(s).

The owner of the assessed property may pay at any time the entire assessment then due on each property.

EXHIBIT A

EXHIBIT "A"

Alexander Estates
70.3604 Acres

Elizabeth Smith Survey
Abstract Number 70

STATE OF TEXAS §

COUNTY OF HARRIS §

A **METES AND BOUNDS** description of a 70.3604 acre tract of land situated in the Elizabeth Smith Survey, Abstract Number 70, Harris County, Texas; being a portion of Unrestricted Reserve "C" of Tomball Greens Final Plat as shown on a plat filed for record under Film Code Number 440128 of the Harris County Map Records, being the remainder of a called 78.4754 acre tract conveyed to BCDE, LTD. by Special Warranty Deed With Vendor's Lien dated December 30, 2002 and filed for record under Clerk's File No. W332593 of the Harris County Official Public Records of Real Property and being all of a called 4.882 acres conveyed to Eibsen & Associates, Inc. by Warranty Deed dated March 31, 2014 and filed for record under Clerk's File No. 20140133968 of the Harris County Official Public Records of Real Property; said 70.3604 acres being more particularly described as follows with all bearings based on a call of South 59°56'55" West along the southeast line of said Unrestricted Reserve "C":

BEGINNING at a found 5/8-inch iron rod in the northeast right-of-way of Huffsmith-Kohrville Road (called 60-foot wide), for the south corner of Country Club Greens Partial Replat as shown on a plat filed for record under Film Code No. 519229 of the Harris County Map Records and the northwest corner of said Unrestricted Reserve "C" and the herein described tract;

THENCE, North 45°27'56" East, 399.99 feet, departing said northeast right-of-way of Huffsmith-Kohrville Road, along the southeast line of said Country Club Greens Partial Replat, the northwest line of said Unrestricted Reserve "C" to a set 3/4-inch iron rod (with cap stamped "Cotton Surveying");

THENCE, North 49°06'40" East, 1333.88 feet, continuing along the southeast line of said Country Club Greens Partial Replat, the southeast line of Country Club Greens Partial Replat – Phase Two as shown on a plat filed for record under Film Code No. 540231 of the Harris County Map Records, the southeast line of Final Plat Country Club Greens as shown on a plat filed for record under Film Code No. 453082 of the Harris County Map Records, the northwest line of said Unrestricted Reserve "C" and said 78.4754 acres to a point for the north corner of said Unrestricted Reserve "C", the west corner of Lot 25, Block 3 of said Country Club Greens Partial Replat – Phase Two, same being the north corner of the herein described tract, from which a found 5/8-inch iron rod (with cap stamped "Terra Surveying") bears North 86°46'38" East 0.32 feet;

THENCE, South 40°44'59" East, 1111.89 feet along a northeast line of said 78.4754 acres, said Unrestricted Reserve "C", a southwest line of said Country Club Greens Partial Replat – Phase Two, and a southwest line of said Final Plat Country Club Greens as shown on a plat filed for record under Film Code No. 453082 of the Harris County Map Records to a point in the north line of a called 13.00 acre tract conveyed to J.D. Slaughter by Warranty Deed dated January 28, 2011 and filed for record under Clerk's File No. 20110042996 of the Harris County Official Public Records of Real Property for an interior corner of said Unrestricted Reserve "C" and the south corner of said Country Club Greens Partial Replat – Phase Two, same being the most northerly east corner of the herein described tract, from which a found 5/8-inch iron rod bears South 62°31'41" East, 0.24 feet;

THENCE, South 45°07'42" West, 813.03 feet along the northeast line of said 13.00 acres to a set 3/4-inch iron rod (with cap stamped "Cotton Surveying") for the west corner of said 13.00 acres, same being an interior corner of the herein described tract;

Alexander Estates
70.3604 Acres

Elizabeth Smith Survey
Abstract Number 70

THENCE, South 44°36'57" East, 646.34 feet along the southwest line of said 13.00 acres to a point in the northwest right-of-way of Spell Road (called 60-foot wide) and the southeast line of said Unrestricted Reserve "C", for the south corner of said 13.00 acres and the most southerly east corner of the herein described tract, from which a found 3/4-inch iron rod bears North 09°17'51" East, 0.24 feet;

THENCE, South 37°14'37" West, 452.09 feet along the northwest right-of-way of said Spell Road and the southeast line of said Unrestricted Reserve "C" to a found 5/8-inch iron rod, beginning a non-tangent curve to the right;

THENCE, in a southwest direction, continuing along the northwest right-of-way of said Spell Road and the southeast line of said Unrestricted Reserve "C" and said 4.822 acres, with the arc of said non-tangent curve to the right, passing a found 5/8-inch iron rod (with cap stamped "J.G.T. 1494") at an arc length of 183.48 feet for the east corner of said 4.822 acres, having a radius of 579.03 feet, a central angle of 37°34'11", an arc length of 379.68 feet, and a chord bearing South 56°12'14" West, 372.91 feet to a found 5/8-inch iron rod (with cap stamped "J.G.T. 1494");

THENCE, South 75°09'52" West, continuing along the northwest right-of-way of said Spell Road, the southeast line of said 4.822 acres and said Unrestricted Reserve "C", passing a found 5/8-inch iron rod (with cap stamped "J.G.T. 1494") at a distance of 228.98 feet, continuing for a total distance of 463.49 feet to a found 3/4-inch iron (with cap stamped "Cotton Surveying") for the southwest corner of said 4.882 acres and the most southerly southwest corner of the herein described tract;

THENCE, North 17°58'51" West, 350.00 feet, departing the northwest right-of-way of said Spell Road and the southeast line of said 4.822 acres to a found 3/4-inch iron (with cap stamped "Cotton Surveying") for the northwest corner of said 4.822 acres and an interior corner of the herein described tract;

THENCE, South 75°09'52" West, along the northwest line of the remainder of a called 8.000 acres conveyed to Ruth A. Hughes-Deaton by Warranty Deed with Vendor's Lien dated August 31, 2006 and filed for record under Clerk's File No. 20060029232 of the Harris County Official Public Records of Real Property, passing a found 5/8-inch iron rod (with cap stamped "King 4503") at a distance of 4.83 feet, continuing for a total distance of 388.70 feet to a found 5/8-inch iron rod (with cap stamped "King 4503") in the northeast right-of-way of said Huffsmith-Kohrville Road and the southwest line of said Unrestricted Reserve "C", for the northwest corner of said 8.000 acres and the most westerly southwest corner of said 78.4754 acres and the herein described tract;

THENCE, North 17°59'55" West, 1235.43 feet along northeast right-of-way of said Huffsmith-Kohrville Road, the southwest line of said Unrestricted Reserve "C" to the **POINT OF BEGINNING**, CONTAINING 70.3604 acres of land in Harris County, Texas

Cotton Surveying Company
8701 New Trails Drive, Suite 200
The Woodlands, TX 77381-4241
(281) 363-4039


Acting By/Through Ronald L. Hauck
Registered Professional Land Surveyor
No. 5343
rhauck@jonescarter.com
Texas Board of Professional Land Surveying
Registration No. 10046106



June 24, 2014

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