

RESOLUTION NO. 2020-43

A SECOND AMENDED AND RESTATED RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS, AUTHORIZING AND CREATING THE RABURN RESERVE PUBLIC IMPROVEMENT DISTRICT IN THE CITY OF TOMBALL, HARRIS COUNTY, TEXAS, IN ACCORDANCE WITH CHAPTER 372 OF THE TEXAS LOCAL GOVERNMENT CODE; PROVIDING FOR RELATED MATTERS; AND PROVIDING AN EFFECTIVE DATE.

* * * * *

WHEREAS, the City of Tomball, Texas (the "*City*"), is authorized under Chapter 372 of the Texas Local Government Code, as amended (the "*Act*"), to create a public improvement district ("*PID*") within its corporate limits; and

WHEREAS, on July 26, 2019, Raburn Commercial Resources, LLC a Texas limited liability company (the "*Petitioner*"), the owner of approximately 103.7 acres within the corporate limits of the City, submitted and filed with the City Secretary of the City a petition (the "*Petition*") requesting the establishment of a PID to be known as the Reserve at Raburn Public Improvement District (the "*District*") within the corporate limits of the City, such District to include the property described by metes and bounds in Exhibit "A" (the "*Property*"), each attached hereto and incorporated herein for all purposes; and

WHEREAS, on July 26, 2019, the City Council of the City (the "*City Council*") received the Petition which was signed by the owners of more than 50% of the appraised value of the taxable real property liable for assessment and the record owners of more than 50% of the area of all taxable real property within the District that is liable for assessment, and as such, the Petition complies with the Act; and

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

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

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

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

WHEREAS, the City Council approved the creation of the PID by Resolution No. 2019-41 approved on October 7, 2019 (the "Original Creation Resolution") and published the Original Creation Resolution as authorized by the Act; and

WHEREAS, subsequent to the approval of the Original Creation Resolution, the City abandoned rights-of-way within the boundaries of the PID and has transferred ownership of approximately two (2) acres of right-of-way property (the "Two Acres") relating to such rights-of-way to the property owners who signed the Petition; and

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

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

WHEREAS, the City Council opened and conducted such public hearing on the addition of the Additional Land to the PID and closed such hearing on November 4, 2019.

WHEREAS, on November 4, 2019, the City Council approved a resolution amending and restating the Original Creation Resolution (the "Amended Creation Resolution") to add the Two Acres to the boundaries of the PID; and

WHEREAS, on November 2, 2020, the City received a petition (the "New Petition") from the landowners (the "Additional Petitioners") of approximately 5.082 acres of land adjacent to the PID (the "Five Acres") requesting that such Five Acres be added to the boundaries of the PID; and

WHEREAS, on November 2, 2020 the City approved Resolution No. 2020-38 calling a public hearing on the addition of the Five Acres to the boundaries of the PID; and

WHEREAS, on November 4, 2020, notice of public hearing was mailed to the owners of the Property within the PID and notice of the public hearing was published in a newspaper of general circulation, in the PID on November 11, 2020; and

WHEREAS, the City Council opened and conducted such public hearing on the addition of the Additional Land to the PID and closed such hearing on December 7, 2020.

WHEREAS, the City Council now desires to approve this Resolution to again amend and restate the Amended Creation Resolution (the "Second Amended Creation Resolution") to add the Five Acres to the boundary of the PID; and

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

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

SECTION 1. That the findings set forth in the recitals of this Resolution are found to be true and correct.

SECTION 2. That the Petition and the New Petition submitted to the City by the Petitioner and the New Petitioner, respectively was filed with the City Secretary and complies with the Act.

SECTION 3. That pursuant to the requirements of the Act, including, without limitation, Sections 372.006, 372.009(a), and 372.009(b), the City Council, after considering the Petition and the evidence and testimony presented at the public hearings on February 4, 2019, November 4, 2019 and December 7, 2020 hereby finds and declares:

- (a) *Advisability of the Proposed Improvements.* It is advisable to create the District to provide the Authorized Improvements (as described below). The Authorized Improvements are feasible and desirable and will promote the interests of the City and will confer a special benefit on the Property.
- (b) *General Nature of the Authorized Improvements.* The general nature of the proposed public improvements (collectively, the "Authorized Improvements") may include: (i) design, construction and other allowed costs related to street and roadway improvements, including related sidewalks, drainage, utility relocation, signalization, landscaping, lighting, signage, off-street parking and right-of-way; (ii) design, construction and other allowed costs related to improvement of parks and open space, together with any ancillary structures, features or amenities such as trails, playgrounds, walkways, lighting and any similar items located therein; (iii) design, construction and other allowed costs related to sidewalks and landscaping and hardscaping, fountains, lighting and signage; (iv) design, construction and other allowed costs related to gas, water, wastewater and drainage (including detention) improvements and facilities; (v) design, construction and other allowed costs related to projects similar to those listed in subsections (i) - (iv) above authorized by the Act, including similar off-site projects that provide a benefit to the property within the District; (vi) special supplemental services for improvement and promotion of the district; (vii) payment of costs associated with operating and maintaining the public improvements listed in subparagraphs (i) - (v) above; and (viii) payment of costs associated with developing and financing the public improvements listed in subparagraphs (i) - (v) above, and costs of establishing, administering and operating the District. These Authorized Improvements shall promote the interests of the City and confer a special benefit upon the Property.
- (c) *Estimated Costs of the Authorized Improvements and Apportionment of Costs.* The estimated cost to design, acquire and construct the Authorized Improvements, together with bond issuance costs, eligible legal and financial fees, eligible credit enhancement costs and eligible costs incurred in the establishment, administration and operation of the PID is \$16,036,000 plus the annual cost of supplemental services and operation and maintenance costs, if any. The City will pay no costs of the Authorized Improvements, supplemental services or operation and maintenance costs from funds other than assessments levied on property within the PID. The remaining

costs of the proposed improvements will be paid from sources other than those described above.

- (d) *Boundaries of the District.* Approximately 110.12 Acres of Land within the City of Tomball, Harris County, Texas, Said Property Being Generally Located on the East Side of South Persimmon Road from Lizzie Lane to Agg Road. The boundaries of the District are set forth in Exhibit "A" attached hereto.
- (e) *Proposed Method of Assessment.* The City shall levy assessments on each parcel within the PID in a manner that results in the imposition of an equal share of the costs of the Authorized Improvements on property similarly benefitted by such Authorized Improvements. The proposed method of assessment shall be based upon (i) an equal apportionment per lot, per front foot, or per square foot of property benefiting from the Authorized Improvements, as determined by the City, (ii) the ad valorem taxable value of the property benefiting from the Authorized Improvements, with or without regard to improvements on the property, or (iii) in any manner that results in imposing equal shares of the cost on property similarly benefitted.
- (f) *Apportionment of Cost Between the District and the City.* The City will not be obligated to provide any funds to finance the Authorized Improvements. All of the costs of the Authorized Improvements will be paid from assessments levied on properties in the PID and from other sources of funds available to the Petitioners.
- (g) *Management of the District.* The District shall be managed by the City, with the assistance of a consultant, who shall, from time to time, advise the City regarding certain operations of the District.
- (h) *Advisory Board.* The District shall be managed without the creation of an advisory body.

SECTION 4. That the Raburn Reserve Public Improvement District is hereby authorized and created as a public improvement district under the Act in accordance with the findings of the City Council as to the advisability of the Authorized Improvements contained in this Resolution, the nature and the estimated costs of the Authorized Improvements, the boundaries of the District, the method of assessment and the apportionment of costs as described herein; and the conclusion that the District is needed to fund such Authorized Improvements.

SECTION 5. That notice of this Resolution authorizing the District shall be given by publishing such notice once in a newspaper of general circulation in the City in which the District is to be located. Effective upon the publication of such notice, the District shall be established.

SECTION 6. That City staff is directed to cause to be prepared a Service and Assessment Plan for the District and to present it to the City Council for review and approval.

SECTION 7. That this Resolution shall take effect immediately from and after its passage and publication as required by law.

DULY RESOLVED by the City Council of the City of Tomball, Texas, on the 7th day of December 2020.

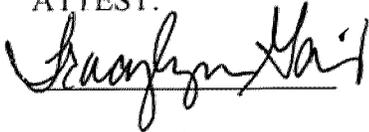
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COUNCILMAN FORD
COUNCILMAN STOLL
COUNCILMAN DEGGES
COUNCILMAN TOWNSEND
COUNCILMAN QUINN



Mayor,
City of Tomball, Texas

ATTEST:



Assistant City Secretary
City of Tomball, Texas

EXHIBIT A

Property Description

Exhibit A

**METES AND BOUNDS DESCRIPTION
BEING 110.12 ACRES
IN THE JESSE PRUETT SURVEY, ABSTRACT NO. 629
CITY OF TOMBALL
HARRIS COUNTY, TEXAS**

A 110.12 ACRE TRACT OF LAND IN THE JESSE PRUETT SURVEY, ABSTRACT NO. 629, CITY OF TOMBALL, HARRIS COUNTY, TEXAS, BEING ALL OF OUTLOT 347 OUT OF THE CORRECTED MAP OF TOMBALL OUTLOTS AS RECORDED UNDER VOLUME (VOL.) 4, PAGE (PG.) 75 OF THE HARRIS COUNTY MAP RECORDS (H.C.M.R.) CONVEYED TO MICHAEL A. OTT IN DOCUMENT RECORDED UNDER HARRIS COUNTY CLERK'S FILE NUMBER (H.C.C.F. NO.) Y659052, AND ALL OF A CALLED 105.0452 ACRE TRACT OF LAND, CONVEYED TO HT RABURN RESERVE DEVELOPMENT LP, AS RECORDED UNDER H.C.C.F. NO. RP-2019-536600, THE SAID 110.12 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS, (WITH BEARINGS BASED ON TEXAS STATE PLANE COORDINATE SYSTEM OF 1983, SOUTH CENTRAL ZONE, AS DETERMINED BY GPS MEASUREMENTS):

BEGINNING at a 1/2" iron rod found on the east Right-of-Way (R.O.W.) line of South Persimmon Street (30-feet-wide) as recorded under Vol. 2, Pg. 65, H.C.M.R., marking the northwest corner of said 105.0452 acre tract and the herein described tract, and the southwest corner of Lot 1, Block 1 of Persimmon Properties, map or plat thereof recorded under Film Code Number (F.C. No.) 679815, H.C.M.R.;

THENCE, North 87°35'04" East, along the common line of said 105.0452 acre tract and said Persimmon Properties, a distance of 1,156.29 feet to a capped 5/8 inch iron rod stamped "Hovis" found on the west R.O.W. line of an unimproved 30-foot-wide R.O.W. as recorded under Vol. 2, Pg. 65, H.C.M.R., marking the northeast corner of said 105.0452 acre tract and the herein described tract;

THENCE, South 02°32'22" East, along the west R.O.W. line of said unimproved R.O.W., a distance of 1,672.68 feet to a capped 5/8 inch iron rod stamped "E.H.R.A. 713-784-4500" set marking an interior corner of said 105.0452 acre tract and the herein described tract;

THENCE, North 87°47'53" East, along a northerly line of said 105.0452 acre tract, a distance of 508.88 feet to a capped 5/8 inch iron rod stamped "LJA" found marking an exterior corner of said 105.0452 acre tract and the herein described tract;

THENCE, South 02°08'45" East, a distance of 375.13 feet to a capped 5/8 inch iron rod stamped "LJA" found marking an exterior corner of said 105.0452 acre tract and the herein described tract;

THENCE, South 87°15'14" West, a distance of 506.29 feet to a capped 5/8 inch iron rod stamped "E.H.R.A. 713-784-4500" set marking an interior corner of said 105.0452 acre tract and the herein described tract;

THENCE, South 02°32'22" East, a distance of 832.20 feet to a capped 5/8 inch iron rod stamped "E.H.R.A. 713-784-4500" set marking an interior corner of said 105.0452 acre tract and the herein described tract;

THENCE, North 87°15'10" East, a distance of 572.96 feet to a capped 5/8 inch iron rod (unable to read) found marking an exterior corner of said 105.0452 acre tract and the herein described tract;

THENCE, South 02°32'04" East, a distance of 397.96 feet to a 5/8 inch iron rod found marking an exterior corner of said 105.0452 acre tract and the herein described tract;

THENCE, South 87°22'37" West, a distance of 572.93 feet to a capped 5/8 inch iron rod stamped "E.H.R.A. 713-784-4500" set marking an interior corner of said 105.0452 acre tract and the herein described tract;

THENCE, South 02°32'22" East, a distance of 496.74 feet to a capped 5/8 inch iron rod stamped "Hovis" found marking the southeast corner of said 105.0452 acre tract and the herein described tract;

THENCE, South 87°51'27" West, a distance of 1,162.57 feet to a Mag Nail found on the East R.O.W. line of said South Persimmon Street, marking the southwest corner of said 105.0452 acre tract and the herein described tract;

THENCE, North 02°26'40" West, along the east R.O.W. line of said South Persimmon Street, a distance of 3,772.74 feet to the **POINT OF BEGINNING** and containing 110.12 acres of land.

EDMINSTER, HINSHAW, RUSS AND ASSOCIATES, INC. dba EHRA, Inc. TBPLS No. 10092300



Kevin M. Reidy, R.P.L.S.
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Date: December 02, 2020

Job No: 181-056-00

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