

ORDINANCE NO. 2014-05

AN ORDINANCE OF THE CITY COUNCIL OF THE TOMBALL, TEXAS, APPROVING THE FIRST AMENDED AND RESTATED SERVICE AND ASSESSMENT PLAN FOR THE CITY OF TOMBALL PUBLIC IMPROVEMENT DISTRICT (PID) NO. 2, FOR THE RALEIGH CREEK SUBDIVISION

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WHEREAS, the City of Tomball ("City") is authorized pursuant to Tex. Local Government Code, Ch. 372, as amended to create public improvement districts for the purposes described therein; and

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WHEREAS, the City has received a petition requesting the creation of the PID Number Two, held a public hearing and created the PID in accordance with the applicable provisions of Chapter 372; and

WHEREAS, in April 2007, the City of Tomball City Council approved Resolution No. 2007-22 establishing the City of Tomball PID Number Two; and

WHEREAS, On September 3, 2013, the City of Tomball City Council approved Ordinance No. 2013-13 approving the Service and Assessment Plan for the City of Tomball PID Number Two; and

WHEREAS, the City Council wishes to adopt a First Amended and Restated 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 hereby found to be true and correct.

Section 2. The First Amended and Restated 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 Act, 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

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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 3RD DAY OF MARCH 2014.

COUNCILMAN HUDGENS	<u>AYE</u>
COUNCILMAN STOLL	<u>AYE</u>
COUNCILMAN DEGGS	<u>AYE</u>
COUNCILMAN TOWNSEND	<u>AYE</u>
COUNCILMAN DODSON	<u>AYE</u>

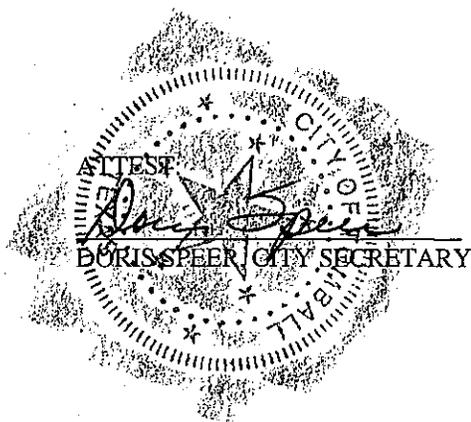
SECOND READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL, HELD ON THE 17TH DAY OF MARCH 2014.

COUNCILMAN HUDGENS	<u>AYE</u>
COUNCILMAN STOLL	<u>AYE</u>
COUNCILMAN DEGGS	<u>AYE</u>
COUNCILMAN TOWNSEND	<u>AYE</u>
COUNCILMAN DODSON	<u>AYE</u>



GRETCHEN FAGAN, MAYOR



AFTER RECORDING, PLEASE RETURN TO:

City of Tomball
401 Market Street
Tomball, Texas 77375

Attn: Betsy Gates, Assistant City Secretary
Phone: 281-290-1019

HP 092-10-2428

EXHIBIT A
First Amended and Restated
Service and assessment Plan
Public Improvement District Number Two
City of Tomball, Texas

1. Introduction

This First Amended and Restated 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 2007-22 creating the Public Improvement District Number Two (“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 PUD under the Development Agreement (“Agreement”) executed between the developer and the City.

Raleigh Creek contains 142 acres and will contain approximately 347 lots within the PID. The public improvements authorized under this Plan for Raleigh Creek and the estimated costs thereof, are described below:

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PUBLIC IMPROVEMENT	ESTIMATED COSTS
Water, sewer, storm sewer, streets, detention, gas, off-site utility extensions, amenities, engineering, design fees, landscaping, PID creation	\$9,090,494
Financing Costs (15 years)	\$5,880,816
Total Improvements	\$14,971,310
Administration (2.5%)	\$374,283
Total Costs (15 years)	\$15,345,593

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 2013. 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 7% 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 lots basis. 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.

	Annual	Financed	Annual	Total
Total	Assessment	Assessment	Administrative	Annual
Assessment	Installment	Term	Cost	Payment
\$ 26,197.39	\$2,876.33	15 years	\$ 71.91	\$ 2,948.24

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

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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



LEGAL DESCRIPTION
Job #35093

Description of a 142.770 acre tract of land in the Joseph Miller Survey, Abstract No. 50 in Harris County, Texas, being a portion of a called 153.45 acre tract described in deed recorded in Harris County Clerk's File No. C-817579 being all of a called 7.3765 acre tract described in deed recorded in Harris County Clerk's File No. S-040074, and being all of a called 8.7325 acre tract described in deed recorded in Harris County Clerk's File No. S-040076, and said 142.770 acre tract being more fully described as follows (with bearings referenced to the Southwesterly right-of-way line of the I. & G.N. Railroad right-of-way as South 56° 30' 48" East):



BEGINNING at a 1/2 inch iron rod set for the Southwest corner of the above referenced 7.3765 acre tract in the North right-of-way line of Zion Road (60 feet wide) and being also the Southeast corner of a called 0.5264 acre tract recorded in Harris County Clerk's File No. V-471789, and from which a found 1/2 inch iron rod bears North 82° 21' 48" East, 15.33 feet and a found 3/4 inch iron pipe bears North 82° 34' 12" East, 15.20 feet;

THENCE North 00° 04' 01" East, along the East line of said 0.5264 acre tract, the East line of a called 2.29 acre tract recorded in Harris County Clerk's File No. R-006483, the East line of a called 1.224 acre tract recorded in Harris County Clerk's File No. R-404456, the East line of a called File No. R-404456, the East line of a called 1.0354 acre tract recorded in Harris County Clerk's File No. S-053503, and the East line of another called 1.0354 acre tract recorded in Harris County Clerk's File No. P-336488, 1777.49 feet to a 1/2 inch iron rod set for the Northwest corner of the aforementioned 8.7325 acre tract in the South line of the aforementioned called 153.45 acre tract, from which a found 3/4 inch iron pipe bears North 15° 01' 09" West, 3.16 feet, and a found 3/4 inch iron pipe bears North 28° 46' 23" West, 0.70 feet;

THENCE South 88° 50' 47" West, along the South line of said 153.45 acre tract and the North line of the aforementioned 1.0354 acre tract, 150.09 feet to a 2 inch iron pipe found for its Northwest corner and an angle point in the upper South line of this tract;

THENCE South 88° 48' 41" West, along the South line of said 153.45 acre tract and the North line of a called 3.4015 acre and a called 0.7718 acre tract, both recorded in Harris County Clerk's File No. S-398301, 623.36 feet to a fence corner found for the upper Southwest corner of this tract in the East line of a called 22.8140 acre tract recorded in Harris County Clerk's File No. U-623541;

THENCE North 00° 27' 22" West, along the East line of said 22.8140 acre tract and the East line of a called 68 acre tract recorded in Harris County Clerk's File No. U-139153, 1805.55 feet to a 1/2 inch iron rod found for the most Westerly Northwest corner of this tract and the Southwest corner of a called 15.6463 acre tract recorded in Harris County Clerk's File No. L-547016, and from which a found 1/2 inch iron rod bears South 00° 23' 12" East, 84.64 feet, and a found 1/2 inch iron rod bears North 00° 19' 15" East, 90.25 feet;

THENCE South 89° 56' 50" East, along the South line of said 15.6463 acre tract, passing a one inch iron rod found for its Southeast corner and the Southwest corner of a called 13.476 acre tract recorded in Harris County Clerk's File No. U-002476 at 403.01 feet and continuing for a total distance of 805.79 feet to a 1/2 inch iron rod found for the Southeast corner of said 13.476 acre tract and an interior corner of this tract;

THENCE North 00° 01' 04" East, along the East line of said 13.476 acre tract, 1263.73 feet to a 1/2 inch iron rod set for the Northwest corner of this tract in the Southwesterly line of the I. & G. N. Railroad right-of-way as recorded in Volume 140, Page 486 of the Harris County Deed Records, and from which a found 1 inch iron rod bears North 00° 01' 04" East, 59.94 feet;

THENCE South 56° 30' 48" East, along the Southwesterly right-of-way line of said I. & G. N. Railroad, 41.04 feet to a 1/2 inch iron rod set for an angle point;

THENCE South 89° 24' 47" East, along the Southwesterly right-of-way line of said I. & G. N. Railroad, 92.05 feet to a 1/2 inch iron rod set for an angle point;

THENCE South 56° 30' 48" East, continuing along the Southwesterly right-of-way line of said I. & G. N. Railroad, 1780.39 feet to a railroad tie fence corner for the Northeast corner of the herein described tract in the West line of a called 44.1 acre tract recorded in Harris County Clerk's File No. U-330857;

THENCE South 01° 39' 12" West, along the West line of said 44.1 acre tract the West line of a called 2.934 acre tract recorded in Harris County Clerk's File No. U-822429, and the West line of a called 2.00 acre tract recorded in Harris County Clerk's File No. U-140795, 2048.02 feet to a fence corner post for the upper Southeast corner of this tract and being a point in the North line of a called 48 acre tract recorded in Volume 915, Page 177 of the Harris County Deed Records;

THENCE North 89° 35' 19" West, along the North line of said 48 acre tract, 1177.80 feet to an axle found for an interior corner of this tract and the Northeast corner of the aforementioned 8.7325 acre tract;

THENCE South 00° 06' 23" West, along the West line of said 48 acre tract and the East line of the aforementioned 8.7325 acre and 7.3765 acre tracts, 1782.90 feet to a 1/2 inch iron rod set for the Southeast corner of the herein described tract in the North right-of-way line of Zion Road, and from which a found 3/4 inch iron rod bears North 47° 50' 10" West, 73.98 feet, and a found 3/4 inch iron rod bears South 89° 35' 31" West, 129.16 feet;

THENCE South 89° 38' 14" West, along the North right-of-way line of Zion Road, 391.58 feet to the POINT OF BEGINNING and containing 142.770 acres of land.

This description is based on a ground survey and plat prepared by Marion R. Clark, R.P.L.S. and dated November 28, 2005.



Marion R. Clark
Marion R. Clark
Registered Professional Land Surveyor
Texas Registration No. 1881
November 29, 2005

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FILED

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Stan Stewart
COUNTY CLERK
HARRIS COUNTY, TEXAS

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ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW.
THE STATE OF TEXAS
COUNTY OF HARRIS

I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me; and was duly RECORDED, in the Official Public Records of Real Property of Harris County, Texas

JUL 10 2014



Stan Stewart
COUNTY CLERK
HARRIS COUNTY, TEXAS