

## AGREEMENT BETWEEN TOMORROW ENERGY CORP. AND HARRIS COUNTY

THE STATE OF TEXAS     §  
                                      §  
COUNTY OF HARRIS     §

This Agreement ("Agreement") is made and entered into by and between TOMORROW ENERGY CORP., a Nevada corporation doing in business in Texas and with a principal place of business at 3151 Briarpark Drive, Suite 100, Houston, Texas 77042 ("Tomorrow Energy") and HARRIS COUNTY, a body corporate and politic under the laws of the State of Texas (the "County"). Tomorrow Energy and the County may each be referred to herein individually as a "Party" and collectively as the "Parties".

### WITNESSETH:

WHEREAS, the County desires to contract with Tomorrow Energy to assist persons in financial distress ("Customer") with energy related costs; and

WHEREAS, Tomorrow Energy desires to contract with the County to allow the County to do so;

NOW, THEREFORE, Tomorrow Energy and the County, in consideration of the mutual covenants and agreements herein contained, do mutually agree as follows:

#### I.

#### Scope of Agreement

Tomorrow Energy and the County shall have roles, functions and responsibilities in connection with the Parties' assistance to the Customer.

#### II.

#### Roles, Functions and Responsibilities of Tomorrow Energy

Tomorrow Energy shall have the following roles, functions and responsibilities during the term of this Agreement:

- (1) Extend a Customer's energy services for up to five (5) business days while the County determines the Customer's eligibility for assistance;
- (2) Upon accepting a pledge from the County for a Customer, continue or restore energy service to the Customer without any increase in energy charges, service charges, or other charges affecting the total cost of the bill;
- (3) Invoice the Customer in accordance with Tomorrow Energy's normal billing practices;
- (4) Upon verbal or written request from the County, provide at no cost to the County the Customer's billing and usage history for the previous twelve (12) months, or available history plus monthly estimates if less than twelve (12) months of billing history and usage is available. Tomorrow Energy will transmit such billing history via electronic mail or

facsimile no later than forty-eight hours following the request;

- (5) Work with the County and Customer to explore the feasibility of offering flexible payment arrangements that may include, without limitation, waiving security deposits, reconnect fees, application fees and all other fees whenever possible;
- (6) Not discriminate against the Customer in price or services, including the availability of deferred payment plans, level or average payment plans, discounts, budgets, advance payment or other credit plans;
- (7) Not refuse to provide energy service or otherwise discriminate in the marketing and provision of energy service to any Customer because of race, creed, color, national origin, ancestry, sex, marital status, lawful source of income, level of income, disability, financial status, location of customer in an economically distressed geographic area, or qualification for low-income or energy-efficiency services;
- (8) Allow forty-five (45) days from the date of the pledge to forward payment to Tomorrow Energy. Tomorrow Energy agrees not to consider the portion of the Customer's account to be paid by the County delinquent if the payment is received within the above mentioned forty-five (45) day period and Tomorrow Energy is provided with a signed pledge from the County within five days of identifying a Customer and making the pledge; and
- (9) Not interrupt service if the Customer enters into an agreement with Tomorrow Energy concerning how the Customer will pay the balance owed Tomorrow Energy and the Customer is meeting the obligations under the agreement.

### **III.**

#### **Roles, Functions and Responsibilities of the County**

The County shall have the following roles, functions and responsibilities during the term of this Agreement:

- (1) Not provide pledges on behalf of a Customer to Tomorrow Energy without having adequate funds to pay such pledge;
- (2) Pay pledges within forty-five (45) days of making pledge to Tomorrow Energy;
- (3) Determine if a Customer is eligible within five (5) business days of contacting Tomorrow Energy; and
- (4) Provide Tomorrow Energy a list of names, telephone numbers and e-mail addresses of County staff designated to make pledges on behalf of the County and Customers.

### **IV.**

#### **Term and Termination of Agreement**

- A. This Agreement is effective as of the date that it has been approved and executed by all Parties and shall remain in full force and effect for a period of two (2) years from the effective date unless earlier terminated according to the terms herein.
- B. This Agreement may be terminated by either Party, with or without cause, upon 30 days' written notice of termination to the other Party.

**V.**

**Limitation of Appropriation**

Tomorrow Energy understands and agrees, said understanding and agreement also being of the absolute essence of this Agreement, that the County is not certifying funds for its performance of this Agreement and contemplates performing its obligations hereunder out of its current budget, and all obligations for which current revenue is not available will be contingent on the County's appropriating funding for them.

**VI.**

**Miscellaneous**

- A. Non-Assignability. The County and Tomorrow Energy bind themselves and their successors and assigns to the other Party in respect to all covenants of this Agreement. Neither the County nor Tomorrow Energy shall assign, sublet, or transfer its interest in this Agreement without the prior written consent of the other Party.
- B. Notice. Any notice required to be given under this Agreement ("Notice") shall be in writing and shall be duly served when it shall have been personally delivered to the address below, deposited, enclosed in a wrapper with the proper postage prepaid thereon, and duly registered or certified, return receipt requested, in a United States Post Office, addressed to County or Tomorrow Energy at the following addresses:

To the County:           Harris County Community Services Department  
                                  Attention: Executive Director  
                                  8410 Lantern Point  
                                  Houston, Texas 77054

To Tomorrow Energy: Jennifer Li  
                                  Director of Operations  
                                  3151 Briarpark Drive, Suite 100  
                                  Houston, Texas 77042

Any Notice given hereunder is deemed given upon hand delivery or three (3) days after the date of deposit in the United States Mail.

Each Party shall have the right to change its respective address by giving at least fifteen (15) days' written notice of such change to the other Party.



Other communications, except for Notices required under this Agreement, may be sent by electronic means or in the same manner as Notices described herein.

- C. Independent Parties. It is expressly understood and agreed by the Parties that nothing contained in this Agreement shall be construed to constitute or create a joint venture, partnership, association or other affiliation or like relationship between the Parties, it being specifically agreed that their relationship is and shall remain that of independent parties to a contractual relationship as set forth in this Agreement. The County is an independent contractor and neither it, nor its employees or agents shall be considered to be an employee, agent, partner, or representative of Tomorrow Energy for any purpose. Tomorrow Energy, nor its employees, officers, or agents shall be considered to be employees, agents, partners or representatives of the County for any purposes. Neither Party has the authority to bind the other Party.
- D. No Third-Party Beneficiaries. This Agreement shall be for the sole and exclusive benefit of the Parties and their legal successors and assigns. Nothing in the Agreement is intended or shall be deemed or construed to create any additional rights or remedies upon any third party. Further, nothing contained in the Agreement shall be construed to, or operate in any manner whatsoever to, increase the rights of any third party, or the duties or responsibilities of the County with respect to any third party.
- E. Waiver of Breach. No waiver or waivers of any breach or default (or any breaches or defaults) by any Party hereto of any term, covenant, condition, or liability hereunder, or the performance by any Party of any obligation hereunder, shall be deemed or construed to be a waiver of subsequent breaches or defaults of any kind, under any circumstances.
- F. No Personal Liability; No Waiver of Immunity. Nothing in the Agreement is construed as creating any personal liability on the part of any officer, director, employee, or agent of any public body that may be a Party to the Agreement, and the Parties expressly agree that the execution of the Agreement does not create any personal liability on the part of any officer, director, employee, or agent of the County.
- G. The Parties agree that no provision of this Agreement extends the County's liability beyond the liability provided in the Texas Constitution and the laws of the State of Texas.
- H. Neither the execution of this Agreement nor any other conduct of either Party relating to this Agreement shall be considered a waiver by the County of any right, defense, or immunity on behalf of itself, its employees or agents under the Texas Constitution or the laws of the State of Texas.
- I. Applicable Law and Venue. This Agreement shall be governed by the laws of the State of Texas and the forum for any action under or related to the Agreement is exclusively in a state or federal court of competent jurisdiction in Texas. The exclusive venue for any action under or related to the Agreement is in a state or federal court of competent jurisdiction in Houston, Harris County, Texas.

J. No Binding Arbitration; Right to Jury Trial. The County does not agree to binding arbitration, nor does the County waive its right to a jury trial.

K. Contract Construction.

This Agreement shall not be construed against or in favor of any Party hereto based upon the fact that the Party did or did not authorize this Agreement.

The headings in this Agreement are for convenience or reference only and shall not control or affect the meaning or construction of this Agreement.

When terms are used in the singular or plural, the meaning shall apply to both.

When either the male or the female gender is used, the meaning shall apply to both.

L. Recitals. The recitals set forth in this Agreement are, by this reference, incorporated into and deemed a part of this Agreement.

M. Entire Agreement; Modifications. This Agreement contains the entire agreement between the Parties relating to the rights herein granted and the obligations herein assumed. This Agreement supersedes and replaces any prior agreement between the Parties pertaining to the rights granted and the obligations assumed herein. This Agreement shall be subject to change or modification only by a subsequent written modification approved and signed by the governing bodies or authorized signatories of each Party.

N. Severability. The provisions of this Agreement are severable, and if any provision or part of this Agreement or the application thereof to any person, entity, or circumstance shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of such provision or part of this Agreement to other persons, entities, or circumstances shall not be affected thereby.

O. Survival of Terms. Any provision of this Agreement that, by its plain meaning, is intended to survive the expiration or earlier termination of this Agreement shall survive such expiration or earlier termination. If an ambiguity exists as to survival, the provision shall be deemed to survive.

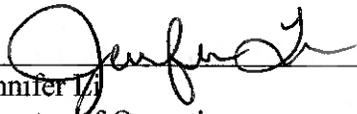
P. Multiple Counterparts/Execution. This Agreement may be executed in several counterparts. Each counterpart is deemed an original and all counterparts together constitute one and the same instrument. In addition, each Party warrants that the undersigned is a duly authorized representative with the power to execute this Agreement.

Q. Warranty. By execution of this Agreement, Tomorrow Energy warrants that the duties accorded to Tomorrow Energy in this Agreement are within the powers and authority of Tomorrow Energy.

**[EXECUTION PAGE FOLLOWS]**

**TOMORROW ENERGY CORP.**

**HARRIS COUNTY**

By:   
Jennifer  
Director of Operations

By: \_\_\_\_\_  
Lina Hidalgo  
County Judge

Date: 7/19/2022

Date: \_\_\_\_\_

APPROVED AS TO FORM:

CHRISTIAN D. MENEFEE  
County Attorney

By: Manasi Tahiliani  
Manasi T. Tahiliani  
Assistant County Attorney  
CAO File No. 22GEN2239

ORDER OF COMMISSIONERS COURT  
Authorizing execution of an Agreement

The Commissioners Court of Harris County, Texas, convened at a meeting of the Court at the Harris County Administration Building in the City of Houston, Texas, on \_\_\_\_\_, 2022 with all members present except \_\_\_\_\_.

A quorum was present. Among other business, the following was transacted:

**ORDER AUTHORIZING EXECUTION OF AGREEMENT BETWEEN HARRIS COUNTY AND TOMORROW ENERGY CORP.**

Commissioner \_\_\_\_\_ introduced an order and made a motion that the same be adopted. Commissioner \_\_\_\_\_ seconded the motion for adoption of the order. The motion, carrying with it the adoption of the order, prevailed by the following vote:

	Yes	No	Abstain
Judge Lina Hidalgo	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Rodney Ellis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Adrian Garcia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Tom Ramsey, P.E.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. R. Jack Cagle	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The County Judge thereupon announced that the motion had duly and lawfully carried and that the order had been duly and lawfully adopted. The order thus adopted follows:

IT IS ORDERED that County Judge is hereby authorized to execute on behalf of Harris County an Agreement with Tomorrow Energy Corp. to assist persons in financial distress with energy related costs. The Agreement is incorporated herein as though fully set forth word for word.

All Harris County officials and employees are authorized to do any and all things necessary or convenient to accomplish the purpose of this Order.

