

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



MONDAY, OCTOBER 5, 2015

6:00 P.M.

Notice is hereby given of a meeting of the Tomball City Council, to be held on Monday, October 5, 2015 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 Edward Matthews, Newness of Life Church of God in Christ

3.0 Pledges to U.S. and Texas Flags

- Led by Madison Pennix, Lucas Phillips and Alexis Gach, Members of the Tomball High School Student Council

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

- October 10, 2015 – ***Sherine’s Stride 5K Run***
- October 10, 2015 – ***“Zomball in Tomball”***
- October 24, 2015 – ***4th Annual Tomball Bluegrass Festival*** – 12:00 Noon-6:00 p.m.
- November 7, 2015 – ***7th Annual 5K Tomball Dash (Woodforest Bank)***
- November 14, 2015 – ***2nd Saturday at the Depot***
- November 20 – ***Lamp Post Decorating Contest and "Lamp Post Stroll"***
- November 21, 2015 – ***50th Annual Holiday Parade***
- November 26-27, 2015 – Thanksgiving Holiday – City Offices Closed
- ***Walk Tomball!*** – Every Saturday at ***9:00 a.m.*** at the Depot (***Note: new time***)
- Reports by City staff and members of Council about items of community interest on which no action will be taken:
 - Mike Baxter – Report on the success of the ***5th Annual Bugs, Brew & Barbeque Festival***
 - Glenn Windsor – Report that the Government Finance Officers Association has again awarded the City of Tomball the Certificate of Achievement for Excellence in Financial Reporting for its Comprehensive Annual Financial Report (CAFR) for the Fiscal Year Ended September 30, 2014 (25th Year)
 - Billy Tidwell – Report on the success of the Drug Take-Back event.

6.0 Approve the Minutes of the September 21, 2015 Regular City Council Meeting and the September 28, 2015 Special Meeting

7.0 Old Business:

- 7.1 Adopt, on Second Reading, Ordinance No. 2015-18, an Ordinance of the City of Tomball, Texas, Setting the Total Tax Levy of \$0.341455/\$100 of taxable value for the Year 2015 on all Real and Personal Property located in the City of Tomball, Texas; Providing for Penalty, Interest, and Additional Penalty on Taxes Not Timely Paid; and Providing Other Matters Relating to the Subject
- 7.2 Adopt, on Second Reading, Ordinance No. 2015-19, an Ordinance Of The City Of Tomball, Texas, Amending Its Zoning Ordinance By Amending Section 50-82 (B) (“Use Charts”) By Allowing A “Museum” With A Conditional Use Permit In The Agricultural, Single-Family Estate Residential-20, Single-Family Residential-9, Single-Family Residential-6, Duplex, Multi-Family, And Manufactured Home Park Districts; 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.

8.0 New Business:

- 8.1 Resolution No. 2015-20, A Resolution of the City Council of the City of Tomball, Texas, Supporting the Eighth Annual Homecoming Parade and Pep Rally, to be held at the Tomball High School Campus and Stadium, Sponsored by the Tomball Independent School District and the Tomball High School Student Council, on Wednesday, October 7, 2015
- 8.2 Approve Resolution No. 2015-21, a Resolution of the City Council of the City of Tomball, Texas for the Designation of a Representative and Alternate for the Houston-Galveston Area Council 2016 General Assembly
- 8.3 Approve Resolution No. 2015-23, a Resolution of the City Council of the City of Tomball, Texas, Supporting the 50th Annual Tomball Holiday Parade, ***“50 Golden Years of Holiday Spirit”***, to be Held in Tomball on Saturday, November 21, 2015 and to Approve Requested Street Closures and In-Kind Services
- 8.4 Approve Extension of Current Contract between the City of Tomball and AOT Public Safety Corporation for False Alarm Billing and Tracking Services for an Additional Year and Authorize the Mayor to Execute the Necessary Documents (Cry Wolf)
- 8.5 Approve the Extension of Current Depository Contract between the City of Tomball and Wells Fargo through March 31, 2016
- 8.6 Award Contract for Bid Number 2015-10 - Janitorial Services to Sparkling Maintenance Service in the Amount of \$61,360.00
- 8.7 Award Contract for Bid Number 2015-11 - Generator Maintenance & Repairs to Loftin Equipment Co. in the Amount of \$15,715.00 per Year
- 8.8 Award Contract for Bid Number 2015-12 - Purchase of Chlorine and Sulfur Dioxide Gas to DXI Industries
- 8.9 Award Contract for Bid Number 2015-13 - Purchase of Liquid Polyphosphate and Zinc Orthophosphate to Water Utility Services
- 8.10 Adopt, on First Reading, Ordinance No. 2015-20, an Ordinance of the City of Tomball, Texas, amending the Code of Ordinances of the City of Tomball, Texas by Removing therefrom Article III, Auto Wreckers and Towers, of Chapter 48, Vehicles for Hire, in its Entirety, and Substituting in its place a New Article III, Tow Trucks and Tows, Regulating the Operation of Tow Trucks, Vehicle Storage Facilities, the City’s Tow Truck Rotation List and Related Regulations; Providing a Penalty in an Amount not to exceed \$2,000 for Each Violation Hereof with Each Day Constituting a Separate Offense; Providing for Severability; and Making Other Findings related Hereto

9.0 Adjournment

CERTIFICATION

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 1st day of October 2015 by 5:00 p.m., and remained posted for at least 72 continuous hours preceding 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: October 5, 2015

Topic:

- Led by Pastor Edward Matthews, Newness of Life Church of God in Christ

Background:

Origination:

Recommendation:

Funding:

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

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

Regular City Council Agenda Item Data Sheet

Meeting Date: October 5, 2015

Topic:

- Led by Madison Pennix, Lucas Phillips and Alexis Gach, Members of the Tomball High School Student Council

Background:

Origination:

Recommendation:

Funding:

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

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

Regular City Council

Agenda Item

Data Sheet

Meeting Date: October 5, 2015

Topic:

- October 10, 2015 – *Sherine's Stride 5K Run*
- October 10, 2015 – *"Zomball in Tomball"*
- October 24, 2015 – *4th Annual Tomball Bluegrass Festival* – 12:00 Noon-6:00 p.m.
- November 7, 2015 – *7th Annual 5K Tomball Dash (Woodforest Bank)*
- November 14, 2015 – *2nd Saturday at the Depot*
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- November 26-27, 2015 – Thanksgiving Holiday – City Offices Closed
- *Walk Tomball!* – Every Saturday at **9:00 a.m.** at the Depot (*Note: new time*)
- Reports by City staff and members of Council about items of community interest on which no action will be taken:
 - Mike Baxter – Report on the success of the **5th Annual Bugs, Brew & Barbeque Festival**
 - Glenn Windsor – Report that the Government Finance Officers Association has again awarded the City of Tomball the Certificate of Achievement for Excellence in Financial Reporting for its Comprehensive Annual Financial Report (CAFR) for the Fiscal Year Ended September 30, 2014 (25th Year)
 - Billy Tidwell – Report on the success of the Drug Take-Back event.

Background:

Origination:

Various

Recommendation:

N/A

Funding:

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

City Secretary

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Sherine's Stride 5K Run

Certificate of Achievement for Excellence in Financial Reporting



Saturday, October 10, 2015

5K Run/Walk at 8:00 A.M. - 1 Mile Run/Walk at 9:00 A.M. | Call 281-351-5484

Location

The Historic Tomball Train Depot Plaza located at 201 S. Elm St.

About This Event

Sherine's Stride was designed to raise awareness of breast cancer and bring families, friends and guests together for support. Sherine Amanollahi was a Tomball Police dispatcher who lost her fight against breast cancer in 2012 at the age of 30.

The Course

USATF-certified 5K course. Flat, major tree-lined streets. No wheels (except wheelchairs) & no pets, please! Baby joggers and carriages OK for 1 MILE WALK ONLY. The 5K race will be professionally managed and utilize timing bib chips.

Awards

Prizes will be awarded to the top three finishers in each age category for the 5K Run. All kids (10 and under) participating in the 1 mile walk will receive a commemorative keepsake.

Packet Pick-up

October 8th and 9th from 5:00 PM – 7:00 PM at the City "Events" Offices – 105 S. Cherry.
Race Day Pick-up & Registration: 7:00 AM – 7:30 AM at the Depot (No t-shirt guarantee)

Registration

- Register online at www.racesonline.com or www.tomballtx.gov by Oct. 2nd.
- Register in person at Tomball City Hall—401 Market Street, Tomball, TX
- To mail or fax registrations, download forms at www.tomballtx.gov and submit to: City of Tomball, Attn: Lisa Coe, 401 Market St., Tomball, TX 77375.
Fax 281-290-1088 or Email lcoe@tomballtx.gov

Event Fees*		
Category	On or Before 9/25/2015	After 9/25/2015
5K Run/Walk	\$25	\$30
1 Mile Run/Walk 11 yrs +	\$20	\$25
1 Mile Run/Walk 10 & under	\$15	\$20

*20% discount on groups of five (5) or more registering at the same time. Discount not available online.

Saturday, October 10, 2015
8:00 A.M. – 5K Run/Walk
9:00 A.M. – 1Mile Run/Walk
Historic Tomball Depot
281-351-5484

Registration Form

****One registration form per participant****

Category: ☐ 5K Run/Walk ☐ 1 Mile Run/Walk ADULT ☐ 1 Mile Run/Walk YOUTH

First Name: _____ Last Name: _____

Street Address: _____

City: _____ State: _____ Zip: _____ Phone: (____) _____

Birth Date: ____/____/____ Age on Run Date: _____ Gender: ☐ F ☐ M

Email Address: _____

Shirt Size: ☐ YS ☐ YM ☐ YL | ☐ S ☐ M ☐ L ☐ XL ☐ XXL ☐ XXXL

Are you participating in honor of or in memory of someone: ☐ Y ☐ N

In Honor of: _____ (please print)

In Memory of: _____ (please print)

Are you a Breast Cancer Survivor: ☐ Y ☐ N TEAM NAME: _____

For Credit Card Payments

Name on Card: _____ Type: ☐ Visa ☐ MasterCard

Card Number: _____ Exp. Date: _____ 3 Digit Sec. Code: _____

Emergency Contact: _____ Phone: (____) _____

Emergency Contact: _____ Phone: (____) _____

Waiver and Release: In consideration of the acceptance of this registration entry, I, the undersigned, assume full & complete responsibility for any injury or accident which may occur during my participation in this race, or while I am on the premises of this event and I hereby release and hold harmless the sponsors, officials and all other persons and entities associated with this event from any and all injury, damages or illness which may directly or indirectly result from participation in this race. I further state that I am in proper physical condition to participate.

Signature of Participant

Date

Signature of Parent/Guardian if Participant is Minor

Date

Event Fees		
Category	On or Before 9/25/2015	After 9/25/2015
5K Run/Walk	\$25	\$30
1 Mile Run/Walk 11 yrs +	\$20	\$25
1 Mile Run/Walk 10 & under	\$15	\$20

Your privacy will be respected and no information will be shared with third parties.



Government Finance Officers Association
203 N. LaSalle Street - Suite 2700
Chicago, IL 60601

Phone (312) 977-9700 Fax (312) 977-4806

September 9, 2015

Glenn Windsor
Finance Director
City of Tomball
501 James Street
Tomball TX 77375

Dear Mr. Windsor:

We are pleased to notify you that your comprehensive annual financial report (CAFR) for the fiscal year ended September 30, 2014, qualifies for a Certificate of Achievement for Excellence in Financial Reporting. The Certificate of Achievement is the highest form of recognition in governmental accounting and financial reporting, and its attainment represents a significant accomplishment by a government and its management.

Each entity submitting a report to the Certificate of Achievement review process is provided with a "Summary of Grading" form and a confidential list of comments and suggestions for possible improvements in its financial reporting techniques. Your list has been enclosed. You are strongly encouraged to implement the recommended improvements into the next report and submit it to the program. If it is unclear what must be done to implement a comment or if there appears to be a discrepancy between the comment and the information in the CAFR, please contact the Technical Services Center (312) 977-9700 and ask to speak with a Certificate of Achievement Program in-house reviewer.

Certificate of Achievement program policy requires that written responses to the comments and suggestions for improvement accompany the next fiscal year's submission. Your written responses should provide detail about how you choose to address each item that is contained within this report. These responses will be provided to those Special Review Committee members participating in the review.

When a Certificate of Achievement is awarded to a government, an Award of Financial Reporting Achievement (AFRA) is also presented to the individual(s) or department designated by the government as primarily responsible for its having earned the Certificate. As a designated individual we have enclosed your AFRA. Since you are only one of the designees, also enclosed are AFRA's for:

Finance Department, City of Tomball

Continuing participants will find a certificate and brass medallion enclosed with these results. First-time recipients will find a certificate enclosed with these results followed by a plaque in about 10 weeks. We hope that you will arrange for a formal presentation of the Certificate and Award of Financial Reporting Achievement, and that appropriate publicity will be given to this notable achievement. A sample news release has been enclosed. We suggest that you provide copies of it to local newspapers, radio stations and television stations. In addition, details of recent recipients of the Certificate of Achievement and other information about Certificate Program results are available in the "Awards Program" area of our website, www.gfoa.org.

A current holder of a Certificate of Achievement may include a reproduction of the award in its immediately subsequent CAFR. A camera ready copy of your Certificate is enclosed for that purpose. If you reproduce your Certificate in your next report, please refer to the enclosed instructions. A Certificate of Achievement is valid for a period of one year. To continue to participate in the Certificate of Achievement Program it will be necessary for you to submit your next CAFR to our review process.

In order to expedite your submission we have enclosed a Certificate of Achievement Program application form to facilitate a timely submission of your next report. This form should be completed and sent (postmarked) with three copies of your report, three copies of your application, three copies of your written responses to the program's comments and suggestions for improvement from the prior year, and any other pertinent material with the appropriate fee by March 31, 2016.

Your continued interest in and support of the Certificate of Achievement Program is most appreciated. If we may be of any further assistance, please contact Delores Smith (dsmith@gfoa.org or (312) 578-5454).

Sincerely,
Government Finance Officers Association

A handwritten signature in black ink that reads "Stephen J. Gauthier". The signature is written in a cursive style with a large, stylized 'S' and 'G'.

Stephen J. Gauthier, Director
Technical Services Center

SJG/ds



Government Finance Officers Association
203 N. LaSalle Street - Suite 2700
Chicago, IL 60601

Phone (312) 977-9700 Fax (312) 977-4806

09/09/2015

NEWS RELEASE

For Information contact:
Stephen Gauthier (312) 977-9700

(Chicago)--The Certificate of Achievement for Excellence in Financial Reporting has been awarded to **City of Tomball** by the Government Finance Officers Association of the United States and Canada (GFOA) for its comprehensive annual financial report (CAFR). The Certificate of Achievement is the highest form of recognition in the area of governmental accounting and financial reporting, and its attainment represents a significant accomplishment by a government and its management.

An Award of Financial Reporting Achievement has been awarded to the individual(s), department or agency designated by the government as primarily responsible for preparing the award-winning CAFR. This has been presented to:

Glenn Windsor, Finance Director

Finance Department, City of Tomball

The CAFR has been judged by an impartial panel to meet the high standards of the program including demonstrating a constructive "spirit of full disclosure" to clearly communicate its financial story and motivate potential users and user groups to read the CAFR.

The GFOA is a nonprofit professional association serving approximately 17,500 government finance professionals with offices in Chicago, IL, and Washington, D.C.

PRESENTATION OF THE CERTIFICATE OF ACHIEVEMENT FOR EXCELLENCE IN FINANCIAL REPORTING

The Certificate of Achievement for Excellence in Financial Reporting is the highest form of recognition in governmental accounting and financial reporting. The Certificate program thereby advocates that recipients be formally recognized for their outstanding accomplishments. If you would like a formal presentation of the Certificate of Achievement plaque, you should contact your GFOA State Representative. The contact information follows:

Ms. Micki A. Rundell
Chief Financial Officer
City of Georgetown
PO Box 409
Georgetown, TX 78627
UNITED STATES

Phone:
(512) 930-3677

Fax:
(512) 930-3681

Email:
Micki.rundell@georgetown.org

Regular City Council Agenda Item Data Sheet

Meeting Date: October 5, 2015

Topic:

Approve the Minutes of the September 21, 2015 Regular City Council Meeting and the September 28, 2015 Special Meeting

Background:**Origination:**

City Secretary

Recommendation:

N/A

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

City Secretary

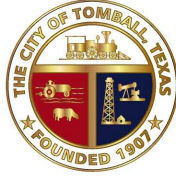
ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Draft Minutes - September 21, 2015 Regular Council Meeting

Draft Minutes - September 28, 2015 Special Council Meeting

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



MONDAY, SEPTEMBER 21, 2015

6:00 P.M.

1.0 Call to Order

The Council meeting was called to order at 6:00 p.m. by Mayor Pro Tem Lori Klein Quinn.

Other members present:

Councilman Hudgens
Councilman Stoll
Councilman Degges
Councilman Townsend

Members absent:

Mayor Gretchen Fagan – Excused

Others present:

City Manager – George Shackelford
City Secretary – Doris Speer
City Attorney – Loren Smith
Police Chief – Billy Tidwell
Marketing Director – Mike Baxter
Finance Director – Glenn Windsor
Public Works Director – David Esquivel
Director of Community Development – Craig Meyers
City Engineer – Lori Lakatos
City Planner – Harold Ellis

2.0 The invocation was led by Music and Youth Pastor, Mike Beasley, ChristBridge Fellowship Church

3.0 The pledges to U. S. and Texas Flags were led by Mayor Pro Tem Klein Quinn.

4.0 No public comments were received.

5.0 Reports and Announcements:

- September 26, 2015 – **5th Annual Bugs, Brew & Barbeque Festival** – 12:00 Noon-6:00 p.m.
- September 28, 2015 – Vote adopting 2015 Tax Rate – 5:00 p.m., Tomball City Hall
- October 5, 2015 – Vote adopting 2015 Tax Rate – 6:00 p.m., Tomball City Hall
- October 10, 2015 – ***Sherine's Stride 5K Run***
- October 10, 2015 – ***"Zomball in Tomball"***
- October 24, 2015 – **4th Annual Tomball Bluegrass Festival** – 12:00 Noon-6:00 p.m.
- ***Walk Tomball!*** – Every Saturday at **8:00 a.m.** at the Depot
- Reports by City staff and members of Council about items of community interest on which no action will be taken.

6.0 Motion was made by Councilman Stoll, second by Councilman Townsend, to approve the Minutes of the September 8, 2015 Regular City Council Meeting and the September 14, 2015 Special City Council Meeting

Motion carried unanimously.

7.0 New Business:

7.1 Mayor Pro Tem Klein Quinn opened the Public Hearing on the Proposed 2015 Tax Rate at 6:05 p.m.

Receiving no public comments, Mayor Pro Tem Klein Quinn closed the Public Hearing at 6:05 p.m.

7.2 Mayor Pro Tem Lori Klein Quinn announced that Voting on the Proposed 2015 Tax Rate will be held at a Special Council Meeting on September 28, 2015 at 5:00 p.m. and at a Regular Council Meeting on October 5, 2015 at 6:00 p.m.

No Action taken.

7.3 Motion was made by Councilman Townsend, second by Councilman Stoll, to approve Resolution No. 2015-15, a Resolution of the City of Tomball, Texas, Amending the Master Fee Schedule for Fiscal Year 2015-2016.

Motion carried unanimously.

7.4 Motion was made by Councilman Townsend, second by Councilman Stoll, to

approve Resolution No. 2015-18, a Resolution of the City Council of the City of Tomball, Texas, Nominating Ed Heathcott as a Candidate for a Position on the Board of Directors of the Harris County Appraisal District.

Motion carried unanimously.

- 7.5 Motion was made by Councilman Townsend, second by Councilman Stoll, to approve Resolution No. 2015-19, a Resolution of the City of Tomball, Texas, Adopting and Ratifying the City of Tomball's Investment Policy, as set forth in the City's Administrative Policy No. 13, entitled "Investment Policy".

Motion carried unanimously.

- 7.6 Consideration to approve **ZONING CASE P15-094**: Request by the City of Tomball to amend Chapter 50-82 (b) ("Use Charts") of the City's Zoning Ordinance to allow a "Museum" with a Conditional Use Permit in the Agricultural, Single-Family Estate Residential-20, Single-Family Residential-9, Single-Family Residential-6, Duplex, Multi-Family, and Manufactured Home Park Districts.

- Mayor Pro Tem Klein Quinn opened the Public Hearing on **ZONING CASE P15-094** at 6:15 p.m.

Receiving no public comments, Mayor Pro Tem Klein Quinn closed the Public Hearing at 6:34 p.m.

- Motion was made by Councilman Townsend, second by Councilman Stoll, to read Ordinance No. 2015-19 by caption only on first reading.

Motion carried unanimously.

- Motion was made by Councilman Townsend, second by Councilman Stoll, to adopt, on First Reading, Ordinance No. 2015-19, an Ordinance Of The City Of Tomball, Texas, Amending Its Zoning Ordinance By Amending Section 50-82 (B) ("Use Charts") By Allowing A "Museum" With A Conditional Use Permit In The Agricultural, Single-Family Estate Residential-20, Single-Family Residential-9, Single-Family Residential-6, Duplex, Multi-Family, And Manufactured Home Park Districts; 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. Vote was as follows:

Councilman Hudgens	<u>Aye</u>
Councilman Stoll	<u>Aye</u>
Councilman Degges	<u>Aye</u>

Councilman Townsend Aye
Councilman Klein Quinn Aye

Motion carried unanimously.

- 7.7 Motion was made by Councilman Hudgens, second by Councilman Townsend, to approve the following plat as recommended by the Planning and Zoning Commission:

- **REPLAT OF THE RESERVE AT SPRING LAKE SECTION TWO:**
41.26 Acres Being a Replat of Section Two Reserve at Spring Lake, Section Two, Recorded Under Filmcode 675047 M.R. H.C.T. Located in the Joseph Miller League, A-50 W.H. Clemens Survey, A-1641 Harris County, Texas, City of Tomball, Texas.

Motion carried unanimously.

- 8.0 Motion was made by Councilman Townsend, second by Councilman Stoll, to adjourn.

Motion carried unanimously.

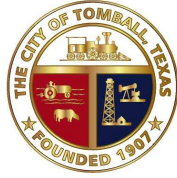
Meeting adjourned.

PASSED AND APPROVED this the 5th day of October 2015.

Doris Speer, TRMC, CMC
City Secretary

Gretchen Fagan
Mayor

MINUTES OF SPECIAL CITY COUNCIL MEETING CITY OF TOMBALL, TEXAS



MONDAY, SEPTEMBER 28, 2015

5:00 P.M.

1.0 Call to Order

The Council meeting was called to order at 5:00 p.m. by Mayor Fagan.

Other members present:

Councilman Hudgens
Councilman Degges
Councilman Townsend

Members absent:

Councilman Stoll - Excused
Councilman Lori Klein Quinn - Excused

Others present:

City Manager – George Shackelford
City Secretary – Doris Speer
Finance Director – Glenn Windsor
Public Works Director – David Esquivel
Director of Community Development – Craig Meyers
City Engineer – Lori Lakatos

2.0 No public comments were received.

3.0 New Business:

- 3.1 Motion was made by Councilman Townsend, second by Councilman Hudgens, to adopt \$0.111455 as the Portion of the Tax Rate to Fund the Maintenance and Operations (M&O) Fund for Fiscal Year 2015-2016.

Motion carried unanimously.

- 3.2 Motion was made by Councilman Townsend, second by Councilman Hudgens, to adopt \$0.230000 as the Portion of the Tax Rate to Fund the Interest and Sinking (Debt Service) Fund for Fiscal Year 2015-2016.

Motion carried unanimously.

- 3.3 Motion was made by Councilman Townsend, second by Councilman Hudgens, to read Ordinance No. 2015-18 by caption only on first reading.

Motion carried unanimously.

Motion was made by Councilman Townsend, second by Councilman Hudgens, to adopt, on First Reading, Ordinance No. 2015-18, an Ordinance of the City of Tomball, Texas, Setting the Total Tax Levy of \$0.341455/\$100 of taxable value for the Year 2015 on all Real and Personal Property located in the City of Tomball, Texas; Providing for Penalty, Interest, and Additional Penalty on Taxes Not Timely Paid; and Providing Other Matters Relating to the Subject. Vote was as follows:

Councilman Hudgens	<u>Aye</u>
Councilman Stoll	<u>Absent</u>
Councilman Degges	<u>Aye</u>
Councilman Townsend	<u>Aye</u>
Councilman Klein Quinn	<u>Absent</u>

Motion carried unanimously.

- 3.4 Mayor Fagan Announced that the Final Vote on the Proposed 2015 Tax Rate will be held at the Regular City Council Meeting on October 5, 2015 at 6:00 p.m.

No action was taken

- 4.0 Motion was made by Councilman Townsend, second by Councilman Hudgens to adjourn.

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this the 5th day of October 2015.

Doris Speer, TRMC, CMC
City Secretary

Gretchen Fagan
Mayor

Regular City Council

Agenda Item

Meeting Date: October 5, 2015

Data Sheet

Topic:

Adopt, on Second Reading, Ordinance No. 2015-18, an Ordinance of the City of Tomball, Texas, Setting the Total Tax Levy of \$0.341455/\$100 of taxable value for the Year 2015 on all Real and Personal Property located in the City of Tomball, Texas; Providing for Penalty, Interest, and Additional Penalty on Taxes Not Timely Paid; and Providing Other Matters Relating to the Subject

Background:

Previous items on the agenda approved the allocation of the proposed tax rate for Fiscal Year 2015-2016 (Tax Year 2015) in the amounts of \$0.230000 for the Interest & Sinking Fund and \$0.111455 for the Maintenance and Operations Fund, for a total tax rate of \$0.341455.

Adoption of Ordinance No. 2015-18 on second reading will adopt the tax rate, meet the 60-day adoption deadline, and provide for the levying of the City's 2015 tax rate.

Origination:

Doris Speer, City Secretary

Recommendation:

Adopt Ordinance No. 2015-18 on Second Reading

Funding:

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

City Secretary

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Ordinance No. 2015-18

Notice of Effective Tax Rate

ORDINANCE NO. 2015-18

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, SETTING THE TAX LEVY OF \$0.341455 FOR THE YEAR 2015 ON ALL TAXABLE REAL AND PERSONAL PROPERTY LOCATED IN THE CITY OF TOMBALL, TEXAS; PROVIDING FOR PENALTY, INTEREST, AND ADDITIONAL PENALTY ON TAXES NOT TIMELY PAID; AND PROVIDING OTHER MATTERS RELATING TO THE SUBJECT.

* * * * *

WHEREAS, pursuant to the provisions of the Constitution and Laws of the State of Texas, the City Council of the City of Tomball, Texas, is vested with the power to levy, assess and collect an annual tax upon all taxable real and personal property located within the City Limits, and said power allowing for the granting of homestead exemptions for all City of Tomball property owners sixty-five years of age and over or who are disabled; and

WHEREAS, pursuant to the Charter of the City of Tomball, this ordinance has been read two (2) times and considered at two (2) sessions of the City Council, and published in the City's official newspaper after the first reading; and

WHEREAS, the Council is required to set a tax rate, expressed as a rate per hundred-dollar valuation of said property, located in the City of Tomball, January 1, 2015; and

WHEREAS, Section 26.05 of the Texas Property Tax Code provides that before the later of September 30th or the 60th day after the date the certified appraisal roll is received by the taxing unit, the governing body of each taxing unit shall adopt a tax rate for the current tax year; and

WHEREAS, such Section further provides that where the tax rate consists of two components (one which will impose the amount of taxes needed to pay the unit's debt service and the other which will impose the amount of taxes needed to fund maintenance and operation expenditures of the unit for the next year), each of the components must be approved separately; and

WHEREAS, the proposed tax rate for the current tax year of the City of Tomball, Texas, consists of two components, a tax rate of \$0.230000 cents per \$100.00 dollars of taxable value for the

purpose of paying the accruing interest and to provide a sinking fund for payment of the indebtedness of the City, and a tax rate of \$0.111455 cents per \$100.00 dollars of taxable value for the purpose of funding the maintenance and operation expenditures of the City for the next fiscal year; and

WHEREAS, City Council has approved, by separate motions, the tax rates heretofore specified for each of said components; and

WHEREAS, all notices and hearings required by law as a prerequisite to the passage, approval, and adoption of this Ordinance have been timely and properly given and held;

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

Section 1. The facts and recitations set forth in the preamble of this Ordinance are found to be true and correct and are hereby adopted, ratified, and confirmed.

Section 2. That said tax levied as aforesaid, based upon valuations established by Harris County Appraisal District, will be sufficient to meet the requirements of the City for the Budget Year 2014-2015.

Section 3. There is hereby levied, for the tax year 2015, to fund the City's fiscal year 2015-2016 municipal budget, an ad valorem tax at the total rate of thirty-four and one thousand four hundred fifty-five ten-thousandths cents (\$0.341455) on each One Hundred Dollars (\$100.00) of assessed valuation on all property, real, personal, and mixed, within the corporate limits of the City, upon which an ad valorem tax is authorized by law to be levied by the City of Tomball, Texas. All such taxes shall be assessed and collected in current money of the United States of America.

Section 4. Of such total tax levied in Section 2 hereof, \$0.111455 is levied to fund maintenance and operation expenditures of the City for the fiscal year 2014-2015. Of the total tax levied in Section 2 hereof, \$0.230000 is levied for the purpose of paying the interest on bonds, warrants,

certificates of obligation, or other lawfully authorized evidence of indebtedness issued by the City of Tomball, Texas, including the various installments of principal due on the serial bonds, warrants, certificates of obligation, or other lawfully authorized evidence of indebtedness issued by the City as such installments shall respectively mature, in the fiscal year 2014-2015.

Section 5. This year's levy to fund maintenance and operations expenditures exceeds last year's maintenance and operations tax levy. **THIS TAX RATE WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR'S TAX RATE.**

GENERAL FUND - TO FUND MAINTENANCE AND OPERATION EXPENDITURES OF THE CITY:	\$0.111455
---	------------

INTEREST & SINKING - FOR DEBT SERVICE:	\$0.230000
--	------------

With reference to the tax rate of \$0.230000 for the Interest and Sinking Fund for bonded indebtedness, this rate, representing 67.3588% of the total \$0.341455 tax, shall apply to the gross amount of current taxes to be collected.

Section 6. All ad valorem taxes levied hereby, in the total amount of \$0.341455 on each One Hundred Dollars (\$100.00) of assessed valuation, as reflected by Sections 2 and 3 hereof, shall be due and payable on or before January 31, 2016. All ad valorem taxes due the City of Tomball, Texas, and not paid on or before January 31st following the year for which they were levied, shall bear penalty and interest, and if not paid before July 1st shall incur an additional penalty of twenty percent (20%), as prescribed in the Texas Property Tax Code.

Section 7. All ordinances and parts of ordinances inconsistent or in conflict herewith are hereby repealed to the extent of such conflict.

Section 8. If any provision of this Ordinance is found to be invalid or unconstitutional by a court of competent jurisdiction, the same shall not invalidate or impair the validity, force, or effect of any other provision of this Ordinance.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL, HELD ON THE 28TH DAY OF SEPTEMBER 2015.

COUNCILMAN HUDGENS	<u>AYE</u>
COUNCILMAN STOLL	<u>ABSENT</u>
COUNCILMAN DEGGES	<u>AYE</u>
COUNCILMAN TOWNSEND	<u>AYE</u>
COUNCILMAN KLEIN QUINN	<u>ABSENT</u>

SECOND READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT A SPECIAL MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL, HELD ON THE 5TH DAY OF OCTOBER 2015.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN DEGGES	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN KLEIN QUINN	_____

GRETCHEN FAGAN, MAYOR
City of Tomball

ATTEST:

DORIS SPEER, City Secretary
City of Tomball

2015 Property Tax Rates in City of Tomball

This notice concerns the 2015 property tax rates for City of Tomball. It presents information about three tax rates. Last year's tax rate is the actual tax rate the taxing unit used to determine property taxes last year. This year's *effective* tax rate would impose the same total taxes as last year if you compare properties taxed in both years. This year's *rollback* tax rate is the highest tax rate the taxing unit can set before taxpayers start rollback procedures. In each case these rates are found by dividing the total amount of taxes by the tax base (the total value of taxable property) with adjustments as required by state law. The rates are given per \$100 of property value.

Last year's tax rate:

Last year's operating taxes	\$1,747,845
Last year's debt taxes	\$3,606,877
Last year's total taxes	\$5,354,722
Last year's tax base	\$1,568,207,231
Last year's total tax rate	\$0.341455/\$100

This year's effective tax rate:

Last year's adjusted taxes (after subtracting taxes on lost property)	\$5,349,142
÷ This year's adjusted tax base (after subtracting value of new property)	\$1,657,088,026
=This year's effective tax rate	\$0.322803/\$100

(Maximum rate unless unit publishes notices and holds hearings.)

This year's rollback tax rate:

Last year's adjusted operating taxes (after subtracting taxes on lost property and adjusting for any transferred function, tax increment financing, state criminal justice mandate, and/or enhanced indigent healthcare expenditures)	\$5,289,463
÷ This year's adjusted tax base	\$1,657,088,026
=This year's effective operating rate	\$0.319202/\$100
x 1.08 =this year's maximum operating rate	\$0.344738/\$100
+ This year's debt rate	\$0.183410/\$100
= This year's total rollback rate	\$0.528148/\$100
-Sales tax adjustment rate	\$0.209809/\$100
=Rollback tax rate	\$0.318339/\$100

Statement of Increase/Decrease

If City of Tomball adopts a 2015 tax rate equal to the effective tax rate of \$0.322803 per \$100 of value, taxes would increase compared to 2014 taxes by \$97,066.

Schedule A - Unencumbered Fund Balance

The following estimated balances will be left in the unit's property tax accounts at the end of the fiscal year. These balances are not encumbered by a corresponding debt obligation.

Type of Property Tax Fund	Balance
General Fund	12,323,147
Special Revenue Funds	1,258,925

Schedule B - 2015 Debt Service

The unit plans to pay the following amounts for long-term debts that are secured by property taxes. These amounts will be paid from property tax revenues (or additional sales tax revenues, if applicable).

Description of Debt	Principal or Contract Payment to be Paid from Property Taxes	Interest to be Paid from Property Taxes	Other Amounts to be Paid	Total Payment
Series 2010 Refunding Bonds	270,000	14,570	0	284,570
Series 2011 Refunding Bonds	501,750	101,683	0	603,433
2015 Lease - Fire Truck	68,858	26,320	0	95,178
Series 2012 Certificates of Obligation	595,000	438,463	0	1,033,463
Series 2013 Refunding Bonds	500,000	52,938	0	552,938
Series 2013 Certificates of	350,000	178,013	0	528,013

Obligation

Total required for 2015 debt service	\$3,097,595
- Amount (if any) paid from Schedule A	\$0
- Amount (if any) paid from other resources	\$0
- Excess collections last year	\$0
= Total to be paid from taxes in 2015	\$3,097,595
+ Amount added in anticipation that the unit will collect only 100.00% of its taxes in 2015	\$0
= Total debt levy	\$3,097,595

Schedule C - Expected Revenue from Additional Sales Tax

In calculating its effective and rollback tax rates, the unit estimated that it will receive \$3,543,439 in additional sales and use tax revenues.

This notice contains a summary of actual effective and rollback tax rates' calculations. You can inspect a copy of the full calculations at 1001 Preston, Houston, TX 77002.

Name of person preparing this notice: Mike Sullivan
Title: Harris County Tax Assessor-Collector
Date Prepared: 09/04/2015

Regular City Council Agenda Item Data Sheet

Meeting Date: October 5, 2015

Topic:

Adopt, on Second Reading, Ordinance No. 2015-19, an Ordinance Of The City Of Tomball, Texas, Amending Its Zoning Ordinance By Amending Section 50-82 (B) ("Use Charts") By Allowing A "Museum" With A Conditional Use Permit In The Agricultural, Single-Family Estate Residential-20, Single-Family Residential-9, Single-Family Residential-6, Duplex, Multi-Family, And Manufactured Home Park Districts; 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:

On Monday, September 14, 2015, the Planning and Zoning Commission voted to recommend approval of Zoning Case P15-094. The motion was 4 votes Aye, and 1 vote Nay.

Origination:

Spring Creek County Historical Association

Recommendation:

Adopt Ordinance No. 2015-19 on second reading.

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

City Secretary

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Ordinance No. 2015-19
P15-094 Staff Report
Notice of Public Hearing

ORDINANCE NO. 2015-19

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING ITS ZONING ORDINANCE BY AMENDING SECTION 50-82 (B) (“USE CHARTS”) BY ALLOWING A “MUSEUM” WITH A CONDITIONAL USE PERMIT IN THE AGRICULTURAL, SINGLE-FAMILY ESTATE RESIDENTIAL-20, SINGLE-FAMILY RESIDENTIAL-9, SINGLE-FAMILY RESIDENTIAL-6, DUPLEX, MULTI-FAMILY, AND MANUFACTURED HOME PARK DISTRICTS; 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 of Tomball has requested that Section 50-82 (b) (“Use Charts”) of the Zoning Ordinance be amended by allowing a “Museum” with a Conditional Use Permit in the Agricultural, Single-Family Estate Residential-20, Single-Family Residential-9, Single-Family Residential-6, Duplex, Multi-Family, and Manufactured Home Park Districts;

WHEREAS, the Planning & Zoning Commission and the City Council of the City of Tomball, Texas, have published notice and conducted hearings regarding the request to amend the City’s Zoning Ordinance;

WHEREAS, all persons desiring to comment on the proposal were given a full and complete opportunity to be heard; and

WHEREAS, the Planning & Zoning Commission recommended in its final report that the City Council approve the proposed amendment to the Zoning Ordinance;

WHEREAS, having considered the recommendation of the Planning & Zoning Commission, the City Council has determined to adopt their recommendation and to amend the City’s Zoning Ordinance as provided herein;

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

Section 1. The City Council finds that the facts and matters set forth in the preamble of this Ordinance are true and correct.

Section 2. Section 50-82 (b) (“Use Charts”) of the Comprehensive Zoning Ordinance is hereby amended by adding the following text:

Types of Land Uses	Residential Zoning Districts							Non-Residential Zoning Districts				OT&MU	Parking Ratio (Also see Section 50-112)
	AG	SF-20-E	SF-9	SF-6	D	MF	MHP	O	GR	C	LI		
Institutional/Governmental													
Museum	C	C	C	C	C	C	C	C	P	P	P	P	See Section 50-112

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 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.

Section 5. This Ordinance shall become effective fourteen days after the final reading and adoption of this Ordinance when the caption hereof is caused to be published once in the official newspaper of the City, by the City Secretary, as required by law. The City Secretary is directed to publish the caption of this Ordinance in the City's official newspaper within 14 days after the passage of the ordinance.

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 21ST DAY OF SEPTEMBER 2015.

COUNCILMAN HUDGENS	<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:

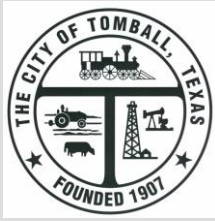
READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 5TH DAY OF OCTOBER 2015.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN DEGGES	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN KLEIN QUINN	_____

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary



Text Amendment Staff Report

Planning & Zoning Commission Hearing Date: September 14, 2015

ZONING CASE P15-094: Request by the City of Tomball to amend Chapter 50-82 (b) (“Use Charts”) of the City’s Zoning Ordinance to allow a “Museum” with a Conditional Use Permit in the Agricultural, Single-Family Estate Residential-20, Single-Family Residential-9, Single-Family Residential-6, Duplex, Multi-Family, and Manufactured Home Park Districts.

PROPOSED AMENDMENTS

Section 50-82 (b) “Use Charts”

Types of Land Uses	Residential Zoning Districts							Non-Residential Zoning Districts				OT&MU	Parking Ratio (Also see Section 50-112)
	AG	SF-20-E	SF-9	SF-6	D	MF	MHP	O	GR	C	LI		
Institutional/Governmental													
Museum	C	C	C	C	C	C	C	C	P	P	P	P	See Section 50-112

BACKGROUND

The Gulf Coast Chapter of the National Railway Historical Society is working with the City of Tomball to open a railroad museum in Tomball’s Depot area. Additionally, Tomball Heritage Museum/Museum Center is interested in making minor additions to their existing site in Tomball. Both of the locations in question are zoned residential, which does not permit museums by-right or with the approval of a Conditional Use Permit (CUP). This request, if approved, would permit “Museums” with the approval of a CUP in all residential districts. This would allow the expansion of existing museums and the construction of new museums with the approval of a CUP.

ANALYSIS

Section 50-82 (b) of the Zoning Ordinance currently allows a “Museum” by right in the Old Town & Mixed Use, Light Industrial, Commercial, and General Retail Districts and by CUP in the Office District. This use is prohibited in the remaining districts which are residential and include: Agricultural; Single-Family Estate Residential-20; Single-Family Residential-9; Single-Family Residential-6; Duplex; Multi-Family; and Manufactured Home Park Districts.

Section 50-82 of the Zoning Ordinance currently allows numerous other uses of equal or greater intensity than “Museum” by right and with a CUP in the City’s residential zoning districts. These uses include, but are not limited to, “Country Club (Private),” “Civic Center (Municipal),” “Community or Social Buildings,” “Governmental Building or Use (County, State, or Federal),” and

“School – College or University.” A “Museum” is not anticipated to have any more negative impact on adjacent residential districts than the uses listed above. Additionally, by limiting the proposed use to be allowed in residential zoning districts but only with the approval of a by CUP, the Planning & Zoning Commission and City Council will be able to determine the impact and feasibility of the project on a case-by-case basis.

PUBLIC COMMENT

A public hearing notice was published in the Tomball Tribune on August 31, 2015. No public comment forms have been received as of September 10, 2015.

RECOMMENDATION

Based on the findings outlined in the analysis section of this staff report, City staff recommends **APPROVAL** of Zoning Case P15-094.

**NOTICE OF PUBLIC HEARING
CITY OF TOMBALL
PLANNING & ZONING COMMISSION (P&Z)
SEPTEMBER 14, 2015
&
CITY COUNCIL
SEPTEMBER 21, 2015**



Notice is Hereby Given that a Public Hearing will be held by the P&Z of the City of Tomball on **Monday, September 14, 2015, at 6:00 P.M.**, at City Hall, 401 Market Street, Tomball, Texas and by the City Council of the City of Tomball on **Monday, September 21, 2015, at 6:00 P.M.** at City Hall, 401 Market Street, Tomball Texas. On such dates, the P&Z and City Council will consider the following:

ZONING CASE P15-094: Request by the City of Tomball to amend Chapter 50-82 (b) (“Use Charts”) of the City’s Zoning Ordinance to allow a “Museum” with a Conditional Use Permit in the Agricultural, Single-Family Estate Residential-20, Single-Family Residential-9, Single-Family Residential-6, Duplex, Multi-Family, and Manufactured Home Park Districts.

At the public hearings, parties of interest and citizens will have the opportunity to be heard. All citizens of the City of Tomball, and any other interested parties, are invited to attend. Applications are available for public inspection Monday through Friday, except holidays, at the Public Works Building, located at 501 James Street, Tomball, TX 77375. Further information may be obtained by contacting the Assistant City Planner, Amelia Vasquez, at (281) 290-1410 or at avasquez@tomballtx.gov.

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 10th day of September 2015 by 5:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Amelia Vasquez

Amelia Vasquez
Secretary of the Board

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.tomballtx.gov.

Regular City Council Agenda Item Data Sheet

Meeting Date: October 5, 2015

Topic:

Resolution No. 2015-20, A Resolution of the City Council of the City of Tomball, Texas, Supporting the Eighth Annual Homecoming Parade and Pep Rally, to be held at the Tomball High School Campus and Stadium, Sponsored by the Tomball Independent School District and the Tomball High School Student Council, on Wednesday, October 7, 2015

Background:

The Tomball High School Student Council requests Council's support for its Eighth Annual Homecoming Parade and Pep Rally, to be held on Wednesday, October 7, 2015 from 6:30 p.m. until 8:00 p.m.

Due to the growth of the event, TISD believes that it would be beneficial to move the parade to form at Tomball High School Campus in the Student Parking Lot at 6:00 p.m.. At 6:30 p.m., the parade will enter Zion Street, proceed to Quinn Road, then turn and proceed on Baker Street to the TISD Ancillary Building, returning to the parking lot leading to the Stadium for the community-wide pep rally.

This new route will not require the use of the Depot, a rolling barricade along FM 2920, or approval from TxDOT. TISD is requesting the support of the City, as a co-sponsor of the event, in supplying City support services (Police and Fire) as needed.

Origination:

Tomball High School Student Council Officers and Mrs. Dio

Recommendation:

Approval of Resolution No. 2015-20

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

City Secretary

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Resolution No. 2015-20

RESOLUTION NO. 2015-20

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
TOMBALL, TEXAS, SUPPORTING THE EIGHTH ANNUAL
HOMECOMING PARADE AND PEP RALLY, TO BE HELD AT
THE TOMBALL HIGH SCHOOL AND STADIUM, SPONSORED
BY THE TOMBALL INDEPENDENT SCHOOL DISTRICT AND
THE TOMBALL HIGH SCHOOL STUDENT COUNCIL, ON
WEDNESDAY, OCTOBER 7, 2015.**

* * * * *

WHEREAS the Tomball Independent School District and the Tomball High School Student Council will undertake the Eighth Annual Homecoming Parade and Pep Rally, to be held in the City of Tomball on Wednesday, October 7, 2015 from 6:30 p.m. until 8:00 p.m.; and

WHEREAS the parade will form at Tomball High School Campus in the Student Parking Lot at 6:00 p.m. and will enter Zion Street at 6:30 p.m., proceeding to Quinn Road, then down Baker Street to the TISD Ancillary Building, and returning to the parking lot leading to the Stadium; and

WHEREAS a community-wide pep rally that will include the Cougar Pride Band, Cougar Charms Drill Team, and Cheerleaders will be held at the Tomball High School Stadium immediately following the parade, during which the Homecoming Court will be announced; and

WHEREAS the Tomball Independent School District and the TISD Student Council desire and request the continued support and endorsement of the City of Tomball in this community-wide effort;

NOW, THEREFORE, BE IT RESOLVED that the City of Tomball and its governing body endorses and supports the efforts of the Tomball Independent School District and the TISD Student Council in promoting and undertaking the Homecoming Parade and Pep Rally and pledge to encourage this effort.

PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL HELD ON THE 5TH DAY OF OCTOBER 2015.

GRETCHEN FAGAN, Mayor

ATTEST:

DORIS SPEER, City Secretary

Regular City Council

Agenda Item

Meeting Date: October 5, 2015

Data Sheet

Topic:

Approve Resolution No. 2015-21, a Resolution of the City Council of the City of Tomball, Texas for the Designation of a Representative and Alternate for the Houston-Galveston Area Council 2016 General Assembly

Background:

The Houston-Galveston Area Council requests this appointment annually. Each member home rule city under 25,000 population as of the most recent Census is entitled to designate one representative and one alternate to the H-GAC General Assembly.

Beginning in 2010, Council has designated Councilman Townsend as the Representative and Councilman Stoll as the Alternate Representative to the H-GAC General Assembly. In making the motion, the Representative and Alternate Representative must be designated.

H-GAC has requested designation of the City's representatives no later than October 10, 2015.

Origination:

Jack Steele, Executive Director, Houston-Galveston Area Council

Recommendation:

Approve Resolution No. 2015-21, Designating Representative and Alternate Representative for H-GAC 2016 General Assembly

Funding:

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

City Secretary

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Resolution No. 2015-21

H-GAC Request

RESOLUTION NO. 2015-21

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF TOMBALL, TEXAS, FOR THE DESIGNATION OF ITS
REPRESENTATIVE AND ALTERNATE FOR THE
HOUSTON-GALVESTON AREA COUNCIL 2016
GENERAL ASSEMBLY**

* * * * *

BE IT RESOLVED, by the Mayor and City Council of Tomball, Texas, that _____
_____, Councilman, Position ____, of the City of Tomball, be, and is hereby designated
as its Representative to the **GENERAL ASSEMBLY** of the Houston-Galveston Area Council
for the year 2016.

FURTHER, that the Official Alternative authorized to serve as the voting representative should
the hereinabove named representative is unable to attend, become ineligible, or should he/she
resign, is _____, Councilman, Position ____, of the City of Tomball.

THAT the Executive Director of the Houston-Galveston Area Council be notified of the
designation of the hereinabove named representative and alternate.

**PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY
COUNCIL HELD ON THE 5TH DAY OF OCTOBER, 2015.**

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN DEGGES	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN KLEIN QUINN	_____

Gretchen Fagan
Mayor

ATTEST:

Doris Speer
City Secretary



September 17, 2015

The Honorable Gretchen Fagan
Mayor, City of Tomball
401 Market St
Tomball, TX 77375

Dear Mayor Fagan:

I am writing regarding the appointment of your city's representative to H-GAC's 2016 General Assembly.

H-GAC's Bylaws provide that each member Home Rule city with a population under 25,000 as of the last (2010) Federal Census is entitled to designate one representative and one alternate to the H-GAC General Assembly, which will meet in early 2016.

I am enclosing the appropriate form for your city's use in officially designating a representative and an alternate. The two designees must be elected official members of your city's governing body. Please return the completed form by fax to 713-993-2414 or email rick.guerrero@h-gac.com.

A dinner meeting of Home Rule city representatives will be scheduled for November. At that meeting, your 2015 Home Rule Cities' H-GAC Board of Directors representatives will report on this year's activities and look ahead to issues and progress in 2016.

We are sending a copy of these designation materials to your city secretary as well. We would appreciate receiving your city's designation form no later than October 10. If you have any questions during the designation process, please call Rick Guerrero at 713-993-4598.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Jack Steele', is positioned above the printed name.

Jack Steele

JS/dw

Enclosure

cc: City Secretary

Regular City Council

Agenda Item

Meeting Date: October 5, 2015

Data Sheet

Topic:

Approve Resolution No. 2015-23, a Resolution of the City Council of the City of Tomball, Texas, Supporting the 50th Annual Tomball Holiday Parade, ***“50 Golden Years of Holiday Spirit”***, to be Held in Tomball on Saturday, November 21, 2015 and to Approve Requested Street Closures and In-Kind Services

Background:

The Chamber of Commerce must request approval from TxDOT to close FM 2920 for the annual Holiday Parade; the request must include a Resolution from the City of Tomball supporting the parade.

This is the City's customary resolution supporting and endorsing the annual Chamber-sponsored Tomball Holiday Parade, scheduled to take place on Saturday, November 21, 2015.

In addition to closing FM 2920 from FM 2978 to Business 249 from 9:15 a.m. until 12:30 p.m. for the parade, the Chamber is requesting closure of the following streets on Saturday, November 21, from 7:00 a.m. until noon:

- North Elm between Main Street and Hufsmith Road
- North Walnut between Main and Epps Streets
- 100 and 200 Blocks of Commerce Street
- 100 and 200 Blocks of Houston Street
- 100 and 200 Blocks of Oxford Street
- South Elm between Main and Market Streets
- South Walnut between Main and Fannin Streets
- 100 and 200 Blocks of Market Street
- Parking lot at the corner of Main and South Walnut.

The Chamber is also requesting the use of Tomball Police, Fire and Public Works personnel; the estimated cost for the use of City personnel/support services is \$6,000-\$6,500.

The annual Holiday Parade is extremely popular with the local community and brings visitors from the surrounding areas who often remain to shop, eat, and enjoy our city's amenities; we anticipate large crowds before, during, and following the event.

Origination:

Greater Tomball Area Chamber of Commerce

Recommendation:

Approve Resolution No. 2015-23

Funding:

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

City Secretary

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Resolution No. 2015-23

GTACC Request Letter

Parade Route

RESOLUTION NO. 2015-23

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS, SUPPORTING THE 50TH ANNUAL TOMBALL HOLIDAY PARADE, “50 GOLDEN YEARS OF HOLIDAY SPIRIT”, TO BE HELD IN TOMBALL ON SATURDAY, NOVEMBER 21, 2015 AND TO APPROVE REQUESTED STREET CLOSURES AND IN-KIND SERVICES.

* * * * *

WHEREAS the Greater Tomball Area Chamber of Commerce will undertake the **50th Annual Tomball Holiday Parade**, to be held in the City of Tomball at 10:00 a.m. on Saturday, November 21, 2015; and

WHEREAS the theme of the **50th Annual Tomball Holiday Parade** is “*50 Golden Years of Holiday Spirit*”, and the purpose of the **50th Annual Tomball Holiday Parade** is to celebrate our quality of life and to create an avenue for others outside to come to our fair City to enjoy fun, food and good cheer; and

WHEREAS it is a chance for Tomball area merchants and business people to gain a new customer base through monies spent by those attending the **50th Annual Tomball Holiday Parade**; and

WHEREAS activities celebrating the **50th Annual Tomball Holiday Parade** will include the annual parade, food, crafts, and hometown merchants selling from their businesses; and

WHEREAS the Greater Tomball Area Chamber of Commerce desires and requests the support and endorsement of the City of Tomball in this community-wide effort;

NOW, THEREFORE, BE IT RESOLVED that the City of Tomball and its governing body endorses and supports the efforts of the Greater Tomball Area Chamber of Commerce in promoting and undertaking the **50th Annual Tomball Holiday Parade** and pledge to encourage this effort to celebrate our heritage and promote our future betterment.

PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL HELD ON THE 19th DAY OF October, 2015.

GRETCHEN FAGAN, Mayor

ATTEST:

DORIS SPEER, City Secretary



October 1, 2015

City of Tomball
Mr. George Shackelford
401 Market Street
Tomball, Texas 77375

RE: Tomball Holiday Parade

Dear Mr. Shackelford,

We are anticipating a fabulous Tomball Holiday Parade at 10 a.m. on Saturday, November 21, 2015 with help from our city, police and fire departments, as well as from numerous volunteers. The popular attraction is a Tomball tradition and is celebrating 50 years. We are looking forward again to the expertise of the Tomball Police Department for crowd control and as visual deterrents from any negative activity.

To insure the safety of the many visitors and Parade participants who will be in Tomball on November 21, we are asking for street closures for the following streets on Saturday morning only from 7:00 a.m. until noon:

- North Elm between Main Street and Hufsmith Rd.
- North Walnut between Main Street and Epps
- 100 & 200 block of Commerce
- 100 & 200 block of Houston
- 100 & 200 block of Oxford
- South Elm between Main Street and Market Street
- South Walnut between Main Street and Fannin
- 100 & 200 block of Market Street
- Parking lot at corner of Main and South Walnut

From 9:15 a.m. until 12:30 p.m.

- FM 2920 from FM 2978 to Business 249

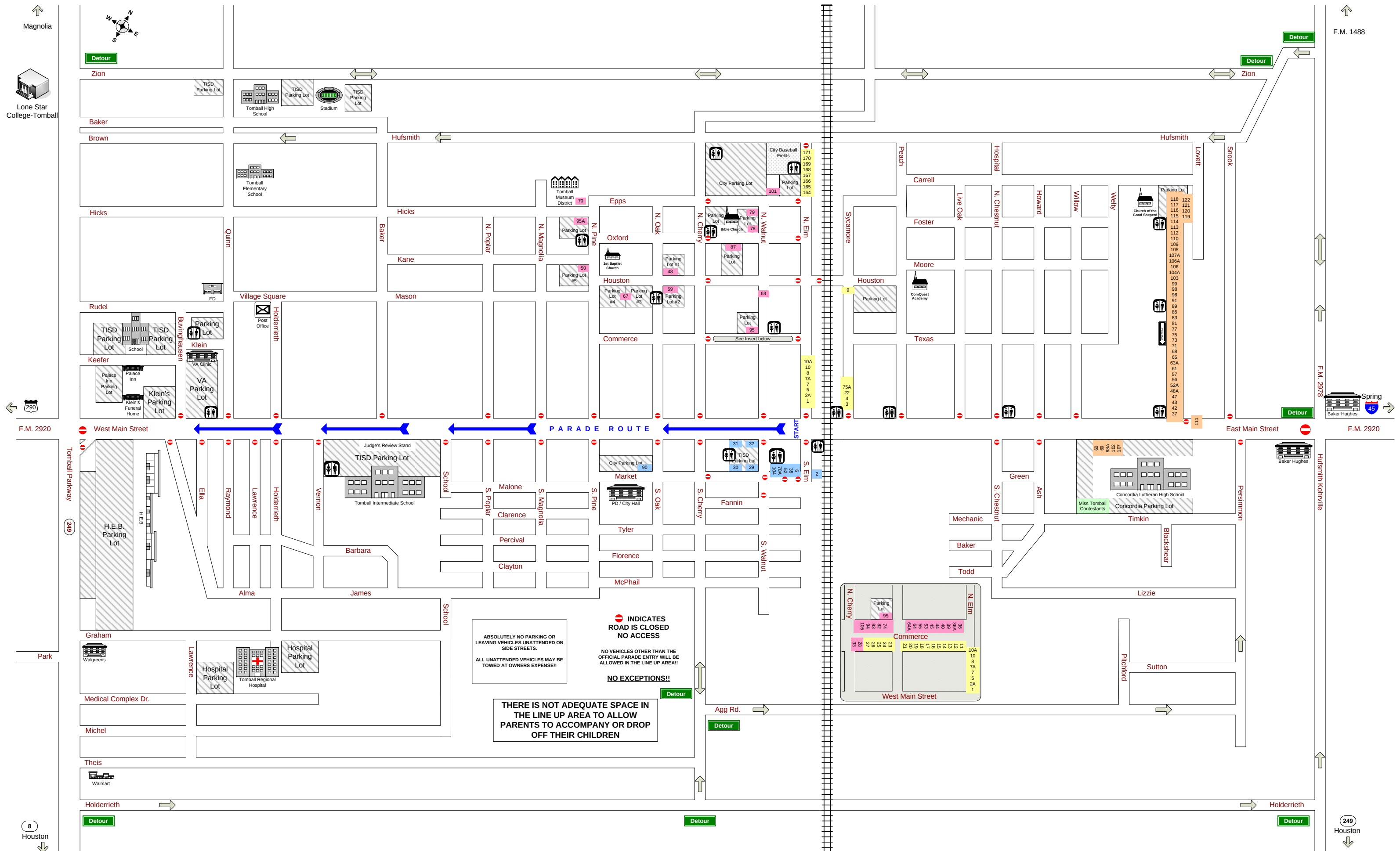
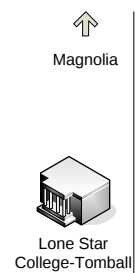
Enclosed is a map for your review. Residents of these streets will still have access to and from their homes.

We appreciate the City of Tomball, its special partnership with the chamber and the assistance always offered for our events. Should you have any questions or concerns, please contact Brandy Beyer or myself at 281-351-7222.

Sincerely,

Bruce Hillegeist
President

Encl: Map



Regular City Council

Agenda Item

Meeting Date: October 5, 2015

Data Sheet

Topic:

Approve Extension of Current Contract between the City of Tomball and AOT Public Safety Corporation for False Alarm Billing and Tracking Services for an Additional Year and Authorize the Mayor to Execute the Necessary Documents (Cry Wolf)

Background:

For the past several years, the City has engaged the services of Cry Wolf to monitor for excessive false alarms from individual property owners. The contract provides for a permit process for fire and intrusion alarms, uploading of dispatch information to monitor the number of service calls due to the alarm actuating and requesting a response from fire or police agencies. Based on service requests, frequent users of the service are sent invoices for the responses to false alarms. The goal and result of the successful program has been to seek cooperation from property owners in maintaining their alarm systems which minimizes the number of responses to faulty alarm activations.

For the past twelve months Crywolf has processed and billed 1,438 instances of a false activation of a intrusion or fire monitoring system. This resulted in billings of \$81,100 and collections, after appeals, of \$69,550. The company processed 1,593 and 1,540 false alarm responses in 2013 and 2014 respectively. It appears that the number will be less than 1,500 in 2015. The goal of the program was to reduce the number of responses that were being made by police and fire units and, if property owners were unwilling to maintain their systems to minimize those alarms, to impose a method of obtaining reimbursement for the costs associated with the responses.

Origination:

Fire/Police

Recommendation:

Staff recommends approval

Funding:

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

Randy Parr, Fire Chief

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Extension Agreement to current contract



September 16, 2015

City of Tomball
Fire Marshal Lance Wilson
401 Market Street
Tomball, Texas 77375

Subject: Contract for False Alarm Billing and Tracking Services (Contract #40738) – Contract Extension

Dear Fire Marshal Wilson:

The City of Tomball entered into a contract for False Alarm Billing and Tracking Services #40738 dated December 6, 2010, and amended and restated on November 1, 2011 with Public Safety Corporation. This amendment restarted the initial three-year Contract term on the date live program operation actually commenced (November 1, 2011). The City and Public Safety Corporation would like to exercise the first one-year extension option offered in the Agreement.

The Agreement is hereby extended to October 31, 2016. In all respects, the Agreement is affirmed and ratified and, except as expressly modified herein, all terms and conditions of the Agreement shall remain in full force and effect.

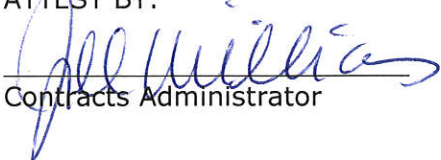
If you have any further questions regarding this notice, please do not hesitate to contact George Wilson, COO at 240-607-1692 or Jill Williams, Contracts Administrator at 240-607-1406.

Public Safety Corporation

By: 
George R. Wilson, COO

Date: 9/16/15

ATTEST BY:


Contracts Administrator

City of Tomball, Texas

By: _____

Date: _____

ATTEST BY:

CRYWOLF®

MEDALLION®

Regular City Council

Agenda Item

Data Sheet

Meeting Date: October 5, 2015

Topic:

Approve the Extension of Current Depository Contract between the City of Tomball and Wells Fargo through March 31, 2016

Background:

This item is to approve the extension of the existing bank depository contract with Wells Fargo through March 31, 2016. The current depository contract with Wells Fargo will expire on November 30, 2015.

Because of the time involved in preparing a Request for Proposals (RFP) for banking services together with the timing of the contract expiration (fiscal year closing), we are requesting approval to extend the existing contract until March 31, 2016. This will give us adequate time to draft an RFP as well as do the "due diligence" work that is inherently required in selecting a custodian of our public funds.

During the FY 2016 budget process, a supplemental appropriation in the amount of \$25,000 was approved for the purpose of hiring a firm to work with us on the preparation of a banking services RFP and the subsequent selection of a depository. We have contacted two firms and the firm of Patterson & Associates will be working with us to prepare the depository RFP. Their proposal includes a "not to exceed" clause in the amount of \$4,500.00.

We are confident that we will be able to work with the consultant in a timely manner to present a very thorough RFP to Council for approval and then recommend the best depository for both the citizens of Tomball and our staff that is charged with the fiduciary duty of managing and accounting for our public funds.

A copy of the existing Wells Fargo contract, the Local Government Code Section 105 as it relates to depositories, and a copy of the proposed contract with Patterson and Associates is attached for your review.

Origination:

Finance

Recommendation:

Approve extension of Wells Fargo contract.

Funding: Yes

Account Number: 100-116-6304

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

Glenn Windsor, CPA Finance Director

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Current Wells Fargo Contract

Local Government Code Regarding Depositories

Patterson & Associates Contract

Cover Letter

We appreciate the City of Tomball's consideration of Wells Fargo Bank, N.A. in this RFP process. As a growing City, now is the perfect time to consider how to meet the changing demands of constituents who are becoming more technologically advanced. Wells Fargo has the capability to offer the City a full range of new technologies to enhance and improve City processes for greater efficiencies, as well as a specialized team with an understanding of the specialized nature of managing public funds. The City currently utilizes our Procurement Card, and we are very interested in strengthening this relationship by becoming your primary depository services bank partner and merchant services provider.

Wells Fargo is prepared to provide the necessary technical support and training for a smooth implementation and outstanding customer service throughout the life of the contract. We will also pay for the cost of replacement supplies required in the transition to Wells Fargo.

Attentive and Responsive Public Funds Specialists

Wells Fargo Bank has a very strong commitment to provide banking services to the Texas public sector through our Government & Institutional Banking Division, with seasoned, experienced personnel that specialize in working exclusively with public entities. We are proud to have over 900 valued clients, made up of counties, cities, school districts, universities, and community colleges throughout Texas, including the City of Humble and the City of Missouri City.

Dixie Kellum, Finance Director
City of Humble
281.446.3912
DKellum@cityofhumble.net

Wes Vela, Finance Director
City of Missouri City
281.403.8610
WVela@missouricitytx.gov

Wells Fargo recognizes the importance of the public sector and the need to not only create products and services geared toward these customers, but also to bring an approach that focuses on the distinct needs and requirements to which they are held accountable.

Our Relationship Managers are tenured professionals who understand the unique needs and challenges facing public funds clients and who have the power of a national practice that combines both specialized relationship banking with capital markets based financial solutions. Our coast-to-coast, national Government & Institutional Banking practice enables your local Relationship Manager to provide you with unparalleled industry intelligence and proven, innovative best practices that meet your unique needs. It also means that our approach to customer service is specific to your unique needs. We believe that our knowledge and experience in the government sector, coupled with our significant local presence and innovative product capabilities, make us an ideal partner to assist you in achieving your goals.

Additionally, Wells Fargo has two convenient stores in the City of Tomball prepared to handle all of your cash management needs, as well as safe deposit boxes and ATMs.

Tomball Town Center
14094 FM 2920
Tomball, TX 377
281.255.6726

Tomball
27702 State Hwy 249
Tomball, TX 77375
281.351.2265

Advanced Technological Platform

The City of Tomball is in need of a depository services provider and merchant card processor who understands your needs and who can help you improve your current processes. You also desire a bank that provides a strong, consultative relationship.

The City recognizes the need to improve its processes, which will drive cost efficiency from your technical investments, further optimizing operating margins and increasing your working capital. Wells Fargo is prepared to help you through this process.

You will find our depository services and merchant processing capabilities included in this proposal address all of your requirements. For the merchant processing especially, further discussion will be required to identify the most cost effective means for



processing payments, but we believe you will find our pricing very competitive as is. We have also included additional services that may be of interest to the City.

Wells Fargo is very pleased to be included in this RFP process. We hope to become the City of Tomball's primary depository bank and thank you for your consideration of Wells Fargo.

Best regards,

Crystal K. Reynolds
Assistant Vice President and Relationship Manager
Wells Fargo Bank, N.A.
512.482.4317

INTRODUCTION

The City of Tomball is seeking proposals from eligible financial institutions to be the Depository of the City. Basic services include receiving deposits, paying items, wiring funds out, receiving funds wired in, automated clearing house items, stop payments, and other normal business banking activities. Detailed banking information is required each day by 8:00 a.m. for the previous business day's activities.

It is the intent of the City that this Application and Fee Schedule signed by the depository bank will become the basic contract for the City. The City reserves the right to negotiate fees with the selected depository. There are several blanks to fill in and questions to be answered. The evaluation of the bidder's proposal will be based on these responses. The Request For Proposal (RFP) also requests certain information to be attached and specifically labeled. Bids must be complete, address all aspects of the RFP, and include all requested information to receive full consideration by the city in the selection process. If a service requirement cannot be supplied, the term "No Proposal" should be entered. Should alternative services be offered, they are to be specifically described and include the costs of such services on the form provided.

The contract period shall be for a minimum of three years, beginning December 1, 2010. The City may exercise the unilateral right to extend the contract two additional one-year terms, if services are performed to satisfaction, and until a successor Depository has been duly selected. The City has the right to terminate the depository contract at any time upon ninety days prior written notice to the depository bank.

Services and fees may be modified by mutual agreement. It is expected the range of services described in this application will be used for the length of the contract; however, the City may discontinue any service after a 30-day notification at that time.

PURPOSE

The Bank Depository is an important component of the treasury and cash management system of the City. While the City is receptive to suggestions and recommendations for improvement, the bids should be submitted to address the services requested. From this perspective, the City is seeking a financial institution with these goals in mind:

- To seek a Depository that is both capable of providing banking services and willing to be attentive to the City's money matters;
- To maximize the total dollars earned by the City on account balances in order to be prudent and effective custodians of the taxpayers' financial resources;
- To maintain collateral pledged to the City of Tomball in order to hold secure all public funds entrusted to the City and held with the Depository Bank;
- To maintain a good working relationship with the Depository Bank;
- To clearly understand the services and cost of services provided; and
- To adequately compensate the Depository Bank for services provided and to allow a reasonable profit to be earned, subject to competitive forces in the market place.

The depository contract will be awarded to the banking institution with the best combination of price and service to the City.

ELIGIBLE FINANCIAL INSTITUTIONS

A bank submitting an application must be a Federal or Texas Chartered bank located within the corporate city limits of Tomball, as provided in Chapter 105, Sections 105.001 through 105.092, inclusive, of the Local Government Code of the Revised Civil Statutes of Texas. If the headquarters of the proposer is not located within the city limits, a branch bank of the proposer located within the City must be able to offer the full range of services required by this RFP.

Institutions submitting an application must be able to adequately provide all services requested by the City. If correspondent banks or other institutions are proposed, the names of all parties to the contract and copies of all agreements and/or contracts must be provided. The institution should provide all costs in the applicant's response.

CRITERIA FOR EVALUATION

The City staff shall review the submitted applications. Recommendation to the Tomball City Council for selection shall be based on the application determined to be in the best interest of the City and the taxpayers. As an indication of what will be considered in the evaluation of the applications, the following areas are listed:

- Ability to perform the requested services efficiently and effectively.
- Best response to RFP clearly specifying all parties to the contracts, sample contracts, and answers to the questionnaire.
- Financial strength and stability of the bank.
- Total cost of banking services including payroll ACH, bank drafting, wires and other costs as deemed necessary by the City staff.
- Total interest earnings and rates on all accounts.

SUBMITTAL INSTRUCTIONS

The application must be submitted in triplicate, in a sealed envelope or package bearing the title **"Project Number 2011-01"** and shall be delivered to:

Theresa Witt, Purchasing Agent
City of Tomball
501 James Street
Tomball, TX 77375

To be eligible for consideration, all applications must be received no later than 9:00 a.m. (local time) on Tuesday, October 26, 2010, at the Purchasing Agent's office, Public Works Administration Building, 501 James St. Applications received after the deadline will not be opened or considered. Although negotiations may be necessary before a contract may be signed, this document is the only application format acceptable to the City. E-mail and faxed applications will not be accepted.

ADDITIONAL QUESTIONS/INTERPRETATION OF SPECIFICATIONS

Additional questions concerning the City's requirements may be submitted in writing to Glenn Windsor, CPA, Finance Director, City of Tomball, 501 James Street, Tomball, Texas 77375 or by fax to 281-351-6256. Copies of the questions and corresponding responses will be forwarded by fax to all requested applicants.

VARIANCES AND SIGNATURES

All variances from these specifications, terms and conditions must be clearly indicated in your application; otherwise, it will be assumed that your application is complete. A list of items and descriptions that are different from those provided should be included in your response so that City staff may adequately understand all proposed changes. The City reserves the right to request additional information or to meet with representatives to discuss or clarify items in the application before or after submission. An officer of the bank that may so bind the bank must sign the application.

RIGHT TO REJECT

The City reserves the right to accept or reject any and all applications, to accept or reject any parts, or to request new applications.

ACCOUNT NEEDS

The City currently operates with four bank accounts, all which need to earn interest on the daily balances:

Consolidated Operating Account: This account will constitute most of the City's banking business. The City will make daily deposits to this account and present checks for payments. All charges for bank services should be debited to this account monthly. Wire transfers for payments of interest and principal, investment purposes, and other debits or credits will be made periodically from and to this account. Deposit amounts will run higher during the tax season of November through February.

Wells Fargo will comply with this request

Insurance Trust Account: This account should be set up for transfers of funds and charges for the payment of the various city related insurance coverage's.

Wells Fargo will comply with this request

Payroll Account: This account should be set up for payroll direct deposit and clearing of all payroll checks of the City. This account is essentially a clearing account and payroll is produced on a bi-weekly basis.

Wells Fargo will comply with this request

Safekeeping Account: This account should be set up so that the bank would provide securities clearance and custodial services for the City's U.S. Treasury and Agency securities and investments undertaken by the City. At the end of each month the City shall be provided a report of all securities held in safekeeping on behalf of the City. This report should include the security description, CUSIP, Par Value, Book Value and stated maturity date.

Wells Fargo will comply with this request

Tomball Economic Development Corporation Account: This account will constitute most of the banking business for the Tomball Industrial Development Corporation, which is a component unit of the City of Tomball. Wire transfers and other debits or credits will be made periodically from and to this account.

Wells Fargo will comply with this request

REPORTING NEEDS

To maximize control and investment opportunities the City requires Daily Balance Reporting for all accounts separately, which should be received or accessible no later than 8:00 a.m. (local time) each day for the previous business day's activity. These reports shall include: the ledger balance, collected balance, one day float amount, two day float amount, total credits, total debits, and a detailed list of all debits and credits.

The City can access the Treasury Information Reporting service within the Commercial Electronic Office to view, print, and download intraday and previous day account information. Reports can be downloaded in a variety of formats, including BAI version 2, Comma Separated Variable (CSV), Excel, HTML, and PDF. Features include:

- *Comprehensive reporting options. Choose from a wide range of previous day and intraday reports that provide comprehensive balance, summary, and transaction detail information, as well as reports on specific types of transactions.*
- *Custom views. Customize any of these reports, narrowing the results to just the data that interests you.*
- *Save time. Treasury Information Reporting provides quicker access to the information you want to see and allows you to create your own report templates that you can save and reuse.*
- *Image availability. Easy access to check images from hyperlinks included in certain reports.*

The Previous Day Composite report is available online at 6:00 a.m. CT and provides comprehensive previous-day balance, transaction summary, and transaction detail information for all your accounts, including sweep accounts. All the required information is available on the report. Please refer to the sample attached in the Appendix.

You may tour a demo of our Commercial Electronic Office Internet portal and view the information reporting capabilities at the following link:
https://wellsoffice.wellsfargo.com/ceo_public/portal_demo/signon.html

Additionally, copies of all sample reports and agreements requested within this proposal are included within the appendix section.

The City requires supporting documentation of any correction made to any of its accounts to be available by 9:00 a.m. of the day following that business day's activity. This shall include, but not be limited to items that have been charged back to the City's account.

Wells Fargo will comply with this request.

Monthly bank statements are required within three (3) working days from the end of the month and cut-off statements as are required as requested, often for audit purposes. Checks and deposit slips should accompany statements, and be arranged in numerical order.

Bank statements are delivered in a variety of ways. Images of checks and deposit slips are available online through Commercial Electronic Office (CEO). We will work with the City's Finance staff to select the options that best fit your needs.

The City will receive a checking account statement that comprehensively details account activity at the end of each statement cycle. Please refer to the sample Standard DDA Statement and sample Account Reconciliation statement and reporting, attached in the Appendix.

The following table lists the mailing dates and online availability of statements and optional reports. The CheXstor check truncation service is standard with all of our Account Reconciliation service options.

Service Option	Mailed	Online
Bank statement, CheXstor, no Account Reconciliation (ARP)	3 days	1 day
Full or Partial ARP with Positive Pay & CheXstor	6 days	4 days
Month-end cutoff	4 days	4 days
Non-month-end cutoff		

Treasury Information Reporting offers a variety of online ARP statements and reports to help you reconcile your accounts. Delivered through the Commercial Electronic Office (CEO) portal, ARP reports provide you with convenient, customizable access to the transaction details you need to know. You can access your ARP statements, get 14 optional ARP reports, and perform intracycle queries on your ARP data. ARP statements and reports can be provided online in PDF, Excel, and CSV formats.

The City requires a monthly analysis statement listing the average ledger balances, average uncollected funds, average collected balances, interest rates and how they were calculated, and activity volume generated, with any and all charges identified. This statement should be submitted to the Finance Director by the 10th day of the month following the activity period and five days prior to any debit to the account for fees.

The City will receive a monthly account analysis statement that will summarize balance computations and service charges. Account analysis statements meet your requirements and may be designed flexibly to meet your account management needs. Printed statements are mailed 6 business days after the end of the activity month. Please refer to the sample client analysis statement attached in the Appendix.

Account analysis statements are also available online via our Internet portal, the Commercial Electronic Office (CEO), and can be delivered in PDF, ANSI 822 text file, CSV, or Excel formats 6 business days after the end of the activity month. You may also receive your statement via secure email in the same formats. Electronic delivery of your analysis statement is free of charge. Statements are also available via fax.

We recently launched Interactive Client Analysis Statements on CEO Statements and Notices. The interactive statement will allow the City to electronically interact with your analysis data and personalize based upon your needs. Wells Fargo is the only bank in the marketplace with this capability. Features of the new service include:

- *Price changes and new charges are clearly identified*
- *New customized views with drill down capability and flexible formatting*
- *Statement data is now available for the current month plus 12 months prior*
- *Customers can compare current to previous month's balances, activity, and charges*
- *Graphic representations of analysis data trends are available*

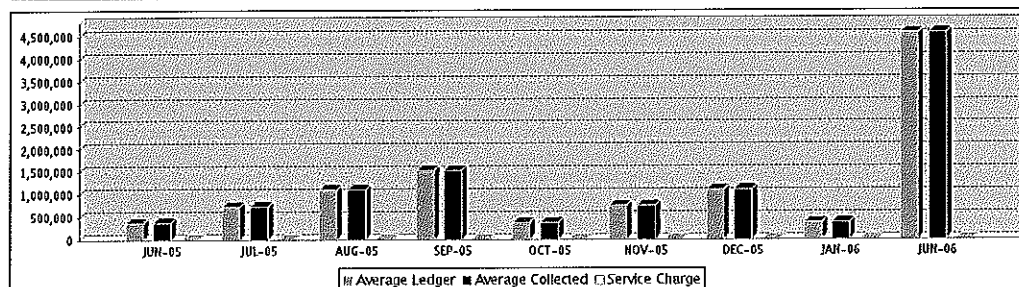


We have shown an example of the balance trend data provided below.

Jump to: 449-6876327 | 451-8069974 | 451-8090485

449-6876327 / HAUER

[Move to Top](#)



Month	Average Ledger	Average Collected	Average Daily Negative Coll	Negative Coll Use of Fund Rate	Service Charge
1. JUN 2005	375,772.23	375,772.23	N/A	N/A	64.45
2. JUL 2005	739,422.78	739,422.78	N/A	N/A	114.97
3. AUG 2005	1,115,195.01	1,115,195.01	N/A	N/A	166.93
4. SEP 2005	1,528,140.40	1,528,140.40	N/A	N/A	223.26
5. OCT 2005	375,772.23	375,772.23	N/A	N/A	64.45
6. NOV 2005	764,070.20	764,070.20	N/A	N/A	117.89

A list of Bank personnel and their job titles, with direct phone numbers, to contact for the various services must be provided. The City is to receive an updated list with any change in personnel or phone numbers without specific request by the City.

The individuals listed below would be specifically assigned to your relationship and responsible for the services outlined in the above question. Crystal Reynolds would serve as the City's dedicated Relationship Manager. She and the rest of the proposed relationship team are very excited at the prospect of working with the City and your finance and treasury officials. We look forward to partnering with you to take advantage of state-of-the-art technology to maximize operating efficiency for the City of Tomball.

Crystal Reynolds
Relationship Manager

crystal.reynolds@wachovia.com
(512) 482-4317
(512) 482-4388 fax

98 San Jacinto Blvd, Ste 850
Austin, TX 78701

As your Relationship Manager, Crystal will coordinate the team of specialists working on your relationship. She will be your advocate within the Wells Fargo organization to ensure that the needs of the City are being met and that exceptional customer service is being provided. Crystal has more than a decade of experience working with government municipalities and managing large accounts, with the last 5 years in Government & Institutional Banking with legacy Wachovia Bank. Crystal's client base and primary focus is the Houston market, with exclusive attention to public and tax-exempt organizations. She earned an MBA from the University of Texas at Austin.

Michael "Mike" Crossley
Vice President
Treasury Management Sales Consultant

michael.crossley@wachovia.com
(214) 624-1740

5080 Spectrum Drive
Addison, TX 75001

Mike will have the primary responsibility for providing treasury management expertise. He will consult with you on issues pertaining to cash management products and services, including vault services.

Mike brings over 12 years of professional treasury management experience and has a Bachelor of Arts degree in Business Administration from Westminster College in Fulton, Missouri.

Sibit Stewart
Senior Relationship Associate

Sibit.stewart@wachovia.com
(512) 482-4381
(512) 482-4388 fax

98 San Jacinto Blvd, Ste 850
Austin, TX 78701

Sibit works with your Relationship Manager to help enhance customer service to her clients. She will serve as the liaison between the City and the various departments of the Bank, including our Tomball stores. Sibit brings over 15 years of banking experience to her current position. She has experience working with the Bank's largest, most complex governmental and corporate relationships. She will assist the City directly with any items pertaining to your account analysis statement and overdrafts in particular, as well as accounting/bookkeeping, deposit discrepancies, wire transfers, and balance reporting.

Monica Tiece
Assistant Vice President
Sales Associate

monica.tiece@wachovia.com
 (704) 715-5510
 (704) 383-1549 fax

301 South Tryon Street
 Charlotte, NC 28288-1008

Monica works in support of your treasury management sales consultant. She can assist on Treasury Management questions when Michael is unavailable.

Monica brings over 15 years of Treasury Management banking experience. She previously worked in Treasury Management Implementation and ACH Implementation.

Monica will assist you directly with any items pertaining to Treasury Management Sales.

COLLATERAL

As security for the deposits of the City of Tomball, the bank, through an independent third party custodian, will pledge to the City of Tomball securities equal to the largest balances the City maintains in the bank plus accrued interest. The bank's pledges will be at market value less applicable FDIC coverage. Securities pledged by the bank as collateral shall be authorized investments according to the City of Tomball Investment Policy and the Public Funds Investment Act (which are both attached). The bank must, not later than five days before commencement of the term of the contract, provide collateral for the City funds to be deposited with the bank.

The depository institution shall provide the City a report of securities pledged at the end of each month or at any time requested by the Finance Director, the Assistant City Manager, or the City Manager, or any other designated city official. The report should reflect the total pledged securities itemized by:

- | | |
|--------------------|--|
| • Name | • Market Value |
| • Type/Description | • Maturity Date |
| • Par Value | • Rating by Moody's or Standard & Poor's |

Collateral may be audited at least annually by the City's independent auditors and may be audited by the City at any time during normal business hours of the bank.

Wells Fargo is able to comply with all of the above collateral requirements. However, our Collateral Analysis statement does not provide securities ratings. Please see the attached sample report.

CITY OF TOMBALL
DEPOSITORY SERVICES PROPOSAL

Name of Applicant:	Wells Fargo Bank		
(hereafter referred to as Bank)			
Mailing Address:	98 San Jacinto Blvd		
	Suite 850		
	Austin, TX 78701		
Physical Address:	98 San Jacinto Blvd		
	Suite 850		
	Austin, TX 78701		
Bank Contact Person (Printed):	Crystal Reynolds		
Bank Contact Person Title:	Relationship Manager		
Bank Contact Person email:	Crystal.k.reynolds@wellsfargo.com		
Contact Phone Number:	512.482.4317	Fax Number:	512.482.4388
Bank Officer's Typed Name:	Crystal Reynolds	Phone Number:	512.482.4317
Bank Officer's Title:	AVP		
Bank Officer's Signature:			

BID TO ACT AS DEPOSITORY FOR THE CITY OF TOMBALL, TEXAS

The above signed bank hereby bids to be selected as Depository for the City of Tomball, Texas, for the three-year term beginning December 1, 2010 whereby the City may exercise the unilateral right to extend the contract two additional one-year terms if services are performed to satisfaction, and until a successor Depository has been duly selected.

The above signed bank also agrees to comply with all laws, ordinances, rules and regulations pertaining thereto, including the furnishing of bonds or the pledge of securities with the Federal Reserve Bank of Houston, or other bank acceptable to the City of Tomball, in an amount equal to 102% in market value at all times to the amount of City funds on deposit plus accrued interest in said Depository.

It is the intent of the City of Tomball that this bid, which includes the Application and Fee Schedule, as signed by the depository bank, will become the basic contract for the City. The City reserves the right to negotiate fees with the selected depository. Services and fees may be modified by mutual agreement.

The City reserves the right to competitively place all of its invested money. Investment transactions are conducted through competitive pricing following the procedures and allowable investments in the City of Tomball Investment Policy and the Public Funds Investment Act.

The bidder shall provide complete and specific answers on the application form and supply all requested reports, statements and documents to receive full consideration by the City in the selection process.

SCHEDULE OF ACTIVITY

Below is a list of the typical monthly activity generated by the City of Tomball accounts:

<u>ACTIVITY DESCRIPTION</u>		<u>MONTHLY ACTIVITY</u>
Operating Account		
Balance on Account		1,509,133.99
High Balance		1,698,069.32
Low Balance		543,635.32
Checks Cleared	271	764,952.97
Deposits Made	405	3,092,193.55
Credit Card Deposits	67	1,421.00
Corrections	1	8.00
Outgoing Wire Transfers	5	113,280.50
Incoming Wire Transfers	3	249,600.64
Return Items Charged Back	4	173.90
ACH Debits	8	29,363.79
ACH Credits	1	36,231.90
ACH Draft Utility Payments	271	35,021.62
Service Charges	4	941.77
Interest	2	12.18
Insurance Trust Account		
Balance on Account		918.61
High Balance		131,652.51
Low Balance		918.61
Deposits	3	132,682.68
Charges	4	131,771.65
Interest	1	3.33
Payroll Account		
Balance on Account		0.00
High Balance		0.00
Low Balance		0.00
Checks Cleared	1	9.23
Incoming Account Transfers	2	386,323.38
Direct Deposits	2	386,323.38
Interest	0	0.00
Safekeeping Account		
Balance on Account		0.00

High Balance		0.00
Low Balance		0.00
Maturities and Sales	3	406,250.00
Interest Earned	3	35,352.22
Purchases	1	417,044.38
Safekeeping Fees	1	50.00
Service Charges	1	69.42
ACH Debits	1	152,379.92
ACH Credits	0	129,070.48
Tomball Economic Development Corporation		
Balance on Account		104,307.16
High Balance		187,263.97
Low Balance		69,656.79
Checks Cleared	13	114,486.89
Deposits Made	1	1,317.85
Incoming Wire Transfers	1	111,666.67
Services Charges	0	27.54
Interest	1	239.22

APPLICATION

The Bank hereby signing this bid for selection as Depository for the City of Tomball, Texas, agrees to comply with all laws, ordinances, rules and regulations pertaining thereto, including the furnishing of bond or the pledge of securities with the Federal Reserve Bank of Houston, or other bank acceptable to the City of Tomball, in an amount equal to 102% in market value at all times to the amount of City funds on deposit in said depository for the designated term of this proposal, on the following terms and conditions:

A. The following required information should be provided by the bidder:

1. Audited financial statement for the most recent fiscal year and quarterly call reports for the last four quarters.

Annual reports may also be found on our website at:

https://www.wellsfargo.com/invest_relations/annual.

Quarterly reports may also be found on our website at:

https://www.wellsfargo.com/invest_relations/earnings.

2. Ratings by Moody's or Standard & Poor's on money market funds and outstanding debts, if any.

We have one of the highest debt ratings of any financial services company.

Wells Fargo & Company (as of June 25, 2010)	Fitch Ratings	Moody's	Standard & Poor's
Long-term Issuer Rating	AA-	A1	AA-
Short-term Issuer Rating	F1+	P-1	A-1+
Senior Unsecured	AA-	A1	AA-
Subordinated	A+	A2	A+
Preferred Stock	A	Ba1	A-
Wells Fargo Bank, N.A. (as of June 25, 2010)	Fitch Ratings	Moody's	Standard & Poor's
Long-term Issuer Rating	AA-	Aa2	AA
Short-term Issuer Rating	F1+	P-1	A-1+
Bank Deposits	AA	Aa2	-
Senior Unsecured	AA-	Aa2	AA
Subordinated	A+	Aa3	AA-

The information provided is found on our Investor Relations site (wellsfargo.com/invest_relations/debt) and is provided for informational purposes only. We do not guarantee the accuracy or completeness of information on or available through this site, and we are not responsible for inaccuracies or omissions in that information or for actions taken in reliance on that information. Please read Legal Disclaimers (wellsfargo.com/invest_relations/legal/) before using or relying on information on or available through this site. Potential investors in our securities should seek professional advice before they invest.

3. All agreements and contracts that would be required to complete the depository agreement; including those with third party banks, depository, safekeeping, direct payroll deposit, bank drafting, stop payment agreements, and any other agreements as needed.

See Attached

4. Repurchase agreements for maturities of 30 days or less; repurchase agreements must be secured by U.S. Government securities and such collateral must be detailed on safekeeping receipts provided to the City for each purchase; substitution of collateral will not be acceptable.

Agreed.

5. Sample bank statement with descriptions of account activities and fees, if any.

See Appendix

6. Availability of funds schedule.

See Appendix

7. Application form signed by appropriate bank official.

Enclosed

INDEMNIFICATION

The Bank must provide an indemnification provision in compliance with the following form:

The bank shall indemnify, defend, and hold the city, its officers, agents, and employees harmless of any losses or damages, resulting from any act of negligence by the bank, its agents or employees or any breach of fiduciary duty; or by or on account of any "negligent" act or omission of bank, its employees, or agents that are applicable to the service or product that the bank is providing to the City. The bank further agrees to indemnify and hold harmless the city against any claims or liability arising from or based on the violation of any federal, state, county, or city laws, or regulation by the bank, its agents or employees that are applicable to the service or product that the bank, its agents, or employees is providing to the City.

The indemnification provided by the bank under the terms of this paragraph shall obligate the bank to defend, at its own expense, any and all claims of liability arising out of the bank's performance, willful or negligent, or non-performance under the terms of the contract between the bank and the City, brought against the City. The provisions of this paragraph shall supersede and replace any other indemnity provision contained in this agreement relating to indemnification of or by either party to this agreement.

Wells Fargo can comply with the above and requests that the word "negligent" be inserted as suggested above.

- B. Investments and Revenues – aid and assistance shall be provided in all investment services required by the City while investing in Treasury securities or other legal instruments:

Wells Fargo will comply with this request.

1. Specify the rate of interest and calculation basis on interest bearing checking accounts for City demand deposits.

Combine the benefits of an earnings credit with an interest rate and you have Government Advantage Interest Checking. With this account—available only to government entities—your organization gains all the features and convenience of a checking account while acquiring the advantage of earning interest on excess balances. Government Advantage Interest Checking also offers you the ability to simplify your operations and help reduce expenses with sophisticated cash management services. You can group your Government Interest Checking accounts and have the interest computed on the aggregate balance.

Rates are as follows:

>\$1MM deposits ECR = 0.35% Int = 0.20%

<\$1MM deposits ECR = 0.15% Int = 0.10%

How You Benefit

- *Convenience: Government Advantage Interest Checking smoothly incorporates the convenience of full-service checking with the opportunity to earn interest on excess funds held in the account. It is fully automated, meaning there is no need to monitor balances. Government Advantage Interest Checking automatically generates interest on all excess funds.*
- *Safety: Funds in Government Advantage Interest Checking are demand deposits, not investments, and when combined with other accounts in the same name are insured by the FDIC for the first \$100,000. Additionally, the bank collateralizes the funds in the account to the extent required by law.*
- *Complete liquidity: Government Advantage Interest Checking is a full-service account, with complete and unlimited access to available funds and transaction capabilities. Funds can be withdrawn at any time, and there is no limit on the number of transactions.*
- *Interest calculated monthly: Monthly interest payments are based upon a tiered interest rate.*

The Wells Fargo Advantage

- *At the end of each month, an earnings credit rate is paid to help offset any service charges incurred to you.*
- *After the earnings credit rate is applied, interest is paid to you based on your average positive*

collected balance.

Average Monthly Balance Summary	Example of Customer with:	
	Positive Net Balance	Negative Net Balance
Average Ledger Balance	\$250,000.00	\$250,000.00
Less Average Float	\$0.00	\$0.00
Average Collected Balance	\$250,000.00	\$250,000.00
Average Positive Collected	\$250,000.00	\$250,000.00
Less Reserve Requirement (10%)	\$25,000.00	\$25,000.00
Less Balances to Offset Services (where \$1 Offset - \$486.67)	\$34,845.57 (based on service charges of \$71.60)	\$265,405.48 (based on service charges of \$543.35)
Net Balance Available	\$190,154.43	-\$40,405.48
Interest Paid (Rate 2.5%)	\$396.15	\$0.00
<i>For illustrative purposes only.</i>		

How Government Advantage Interest Checking Works

Government Advantage Interest Checking is a unique interest-bearing account that uses an earnings credit rate to offset fees for services used—then pays interest on any additional balances.

- At the end of each month, the average positive collected balance is calculated.
- Reserve requirements and the balance needed to offset service charges are subtracted from the average positive collected balance to determine if there are excess funds to earn interest, which is called “net balance available.”
- If the net balance available is positive, interest is calculated and credited to your account. If the net balance available is negative, interest is not paid and a fee is charged to the account.

2. Specify the rate of interest and calculation basis on Time Deposits and provide the maximum dollar amount that the City may hold at any one time for the following (degree of use of time deposits is strictly up to the City of Tomball):

<u>MATURITY</u>	<u>\$100,000 or MORE</u>	<u>Less than \$100,000</u>
30 - 59 days	<u>0.10%</u>	<u>0.10%</u>
60 - 89 days	<u>0.10%</u>	<u>0.10%</u>
90 - 179 days	<u>0.10%</u>	<u>0.10%</u>



180 - 359 days	<u>0.10%</u>	<u>0.10%</u>
1 year or more	<u>0.10%</u>	<u>0.10%</u>

Describe the rate setting process.

Wells Fargo recognizes that the City has the right to seek rates from other banks to obtain the most competitive rate possible. Rates vary depending on market conditions, but the rate is fixed for the term at signing. Interest is paid monthly, quarterly, semi-annually, or annually. Interest can be redeposited to the Wholesale Time Deposit account automatically or credited to a checking account.

Describe the frequency of compounding interest.

Wholesale Time Deposit interest is calculated using the actual days in the month and 365 days for the year (even during leap years).

C. Specify the method of calculating the rate of interest to be charged on loans.

Wells Fargo is able to extend credit to the City of Tomball upon completion of final credit approval. The rate charged on loans will be dependent upon the purpose and term of the loan and will be quoted at that time. Loans can be fixed rate or floating rate, usually based on LIBOR or the Prime Rate.

D. Services and Charges – provide responses to all of the following with the cost listed in the space provided and the method of calculation (if there is no fee please state “No Charge” in the blank or if the bidder does not provide the service, please state “Not Provided” in the blank):

See Enclosed Price Sheet

Service
Requested

Service
Charge

1. Unlimited number of accounts.

See
Enclosed
Price Sheet

- | | |
|--|---|
| 2. Daily access to all account information, either via faxed reports, modem or personal computer by 8:00 a.m. following the business day. Needed are the ledger and collected balances, the float amounts, and detail of debits and credits with their respective totals. | See
Enclosed
<u>Price Sheet</u> |
| 3. Monthly statements on all accounts, with paid checks sorted in numerical sequence, by the third business day following. | See
Enclosed
<u>Price Sheet</u> |
| 4. Account reconciliation services. | See
Enclosed
<u>Price Sheet</u> |
| 5. Safekeeping of investment securities through an acceptable custodial arrangement. | See
Enclosed
<u>Safekeeping
Section</u> |
| 6. Report on market value of pledged securities on the last day of each month, or as requested by the City. Pledged securities must be monitored against City funds in the depository on a daily basis. The bank must be prepared to document that coverage of all City accounts is maintained at all times. | See
Enclosed
<u>Collateral
Section</u> |
| 7. Credit card payments for services. Please specify in detail how merchant fees are calculated. | See
<u>Merchant
Services
Section</u> |

Your pricing is based on Interchange plus pricing. We would need further discussion to better understand your processes and procedures to put together a comprehensive proposal. We had very limited information and the proposal is suggestions of items that could be of interest to you.

Wells Fargo Merchant Services RFP Response Conditions
Wells Fargo Merchant Services is only responding to the merchant processing sections of this Request for Proposal. Wells Fargo Merchant Services would like to clarify that the Merchant Processing Agreement and the Bank Agreement are separate agreements. We are providing a copy of our Program Guide which we request to become the final contract, or have incorporated into the final agreement between Wells Fargo Merchant Services and the City of Tomball with Wells Fargo Merchant Services first in order of precedence. If awarded the bid, we are willing to negotiate mutually acceptable terms and wish to clarify that the remaining terms of the Request for Proposal will not apply to the provisions of our services. In addition, the City of Tomball should be aware that the processing of credit and debit card transactions is subject to the terms, conditions, policies, and procedures of the Visa and MasterCard Associations and the non-bankcard issuers.

All card-processing responses in this document are subject to the Wells Fargo Merchant Services' Merchant Processing Agreement. If there are conflicts with the terms and conditions in the Wells Fargo Merchant Services' Merchant Services Agreement and the terms and conditions in this Request for Proposal, Wells Fargo Merchant Services will negotiate in good faith to resolve. The terms, conditions, policies, and procedures of the Visa and MasterCard Associations and the non-bankcard issuers are independently established and beyond the control of Wells Fargo Merchant Services. Card Association mandated fees and assessments are governed by the Card Associations and are subject to change during the term of the contract. Information contained in this response is valid for 60 days from the date of submittal.

Merchant Services Contact
Paula Foulk-Grossman
281-362-6642
Fax 866-628-9992
21 Waterway Ave, 6th Floor
The Woodlands, TX 77380-2629
paula.j.foulk-grossman@wellsfargo.com

8. On-line transactions

See
 Enclosed
Price Sheet

- | | |
|---|--|
| 9. Same day wire transfer service. Please give deadlines for all wire transfers, which are to be executed within one (1) hour. The City shall receive confirmation of wire transfers or rejections within 30 minutes. | See
Enclosed
<u>Price Sheet</u> |
| 10. Direct deposit of biweekly City payroll checks. | See
Enclosed
<u>Price Sheet</u> |
| 11. ACH Direct Utility Billing to Customers. | See
Enclosed
<u>Price Sheet</u> |
| 12. Stop payment orders. | See
Enclosed
<u>Price Sheet</u> |
| 13. Safe deposit box. <i>\$20 key deposit</i> | 10x10 =
\$100
5x10 = \$65
3x10 = \$40 |
| 14. Returned items. All returned items are to be submitted a second time before returning them to the City. Such items that do not clear the second time shall be available to the City by 9:00 a.m. of the following business day. | See
Enclosed
<u>Price Sheet</u> |
| 15. Automated Clearing House Items. | See
Enclosed
<u>Price Sheet</u> |
| 16. Recyclable Locking deposit bags. <i>Tamper resistant plastic bags are offered instead, go to www.superior-press.com for pricing.</i> | At vendor
cost |
| 17. Printed deposit tickets in duplicate. <i>Price varies by style and quantity; go to www.superior-press.com for pricing</i> | At vendor
cost |
| 18. Cashiers checks | <u>\$8 each</u> |
- E. Detail fees and earnings associated with and availability of a “sweep” account for the City’s excess demand deposit balances on a daily basis.

Wells Fargo does offer a sweep service. The sweep service works by taking remaining collected balances at the end of the day and investing the funds automatically,

eliminating the guesswork of manual investments. Our sweep investment service provides an easy and efficient investment system that eliminates anticipatory, idle balances in your operating depository account. The primary benefit is that the automated system requires no monitoring and maximizes interest income.

In lieu of a sweep account, however, we suggest the City's checking accounts be established as Government Advantage Interest Checking (GAIC) accounts. Government Advantage was developed exclusively for the municipal market and meets the requirements of all applicable Texas statutes relating to public funds deposits.

Incorporating all of the convenience of full-service checking with a compensating balance feature, this solution minimizes your costs and maximizes investable funds. Key features include:

- *A fully integrated checking and investment account, so there are no transfers to and from the investment account, enhancing ease and convenience.*
- *No additional fee for the investment feature – there is not a sweep or investment fee associated with the account.*
- *The compensating balance automatically adjusts monthly based on your activity, services used and interest rate in that month.*

Designed specifically for governments, GAIC uses balances to first offset any service charges, then, all excess collected balances earn interest. All interest rate calculations in GAIC will be based on average daily collected balances after deducting for float. We currently pay both our Earnings Credit Rate and our interest rate on 100% of collected balances with no reserves. Interest will be paid on any balance in excess of this compensating balance. Funds in GAIC are completely liquid.

Traditionally, banks have indexed government deposits to Fed Funds or the 90-day T-Bill. Due to volatile market conditions, these indexes (which historically have allowed banks to pay governments a premium for deposits under contract) are not the best choice Wells Fargo has available for clients today. We would like to suggest the following arrangement until the market stabilizes:

Wells Fargo will pay you our internal bank-managed rate, currently ECR of 50 basis points and interest rate of 25 basis points, on your operating funds. Interest will be earned on 100% of your excess collected balances (with no reserve requirement) after first using balances to offset service charges.

The Government Advantage Interest Checking bank-managed rates and the paying of interest on 100% (versus the traditional 90%) of the collected balances are subject to change on a monthly basis at the bank's discretion.

Should market conditions change during the term of this contract such that we can offer you an indexed rate that pays you more than your contracted rate, we will make

the necessary changes to ensure that you receive Wells Fargo's highest available rate.

>\$1MM deposits ECR = 0.35% Int = 0.20%

<\$1MM deposits ECR = 0.15% Int = 0.10%

- F. For comparison purposes, should the bidder wish to include a detail calculation of an account analysis type system, please state the fees and the credits actually posted to the account based on the analysis.

Because of the importance of the City's relationship, we are offering our preferred Earnings Credit Rate, which is based upon the higher of the 91-day T-Bill Auction Rate discount basis for the prior month, or 0.50%. The Earnings Allowance is calculated on an actual day year basis using the Earnings Credit Rate and is applied to the average collected balance for that month. The formula for calculating the Earnings Allowance is as follows:

Average Collected Balance X # of Calendar Days in Month X ECR
Actual # of Days in the Year

At this time, Wells Fargo does not deduct a reserve requirement, thereby increasing your earnings credit. Therefore, 100% of your collected balances can be applied to offset bank charges. This reserve requirement may change at any time due to future FDIC rulings.



The undersigned bank understands that the City of Tomball may invest funds for a period that may exceed the life of the depository contract and agrees that all investments of the City are made to maximize earnings for the City and that this depository agreement does not in any way guarantee a certain level or percentage of the City funds will be placed at the depository. The City intends to pursue such investments as Treasury Bills, pooled funds, etc., to provide the best safety and return to the City in the City's best estimate.

Should there be a change in the Depository's name or ownership by a merger or take over by another institution, or any such event this contract is not subject to change and shall be upheld throughout the life of the agreement period or until the City of Tomball so chooses to change.

ACCEPTED BY:

SUBMITTED BY:

City Manager

President

ATTEST:

ATTEST:

Date: _____

Date: _____

Item G – Additional Services Available

Detail other services or benefits to be provided under this proposal on a separate document entitled “Item G – Additional Services Available”.

E-Box®

Initiating bill payments through a single, trusted banking site may be convenient, simple, and paperless for your customers, but those electronic payments could ultimately become paper checks delivered to your remittance operation. These check-only payments create exceptions and often have incomplete or inaccurate remittance details, which can result in further processing delays.

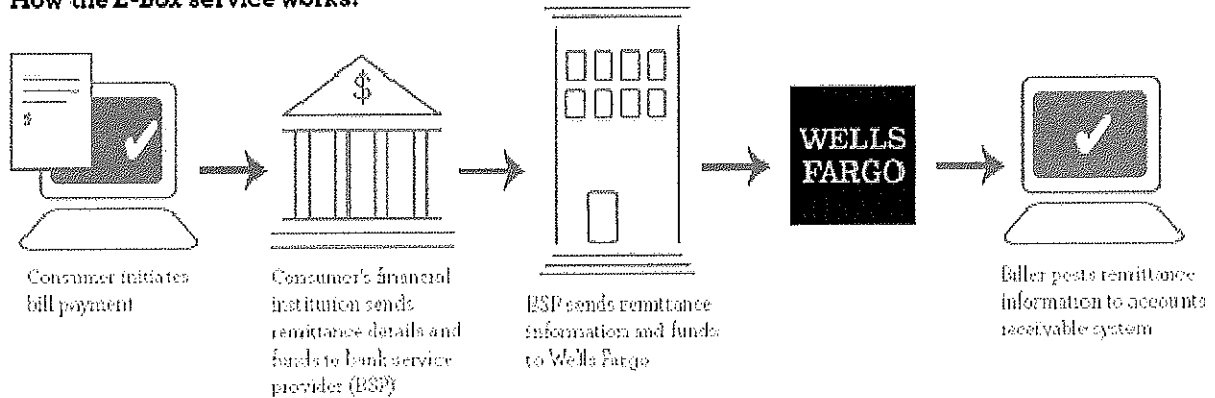
The *E-Box* service from Wells Fargo merges your customers’ online bill payments into a consolidated electronic data stream and applies additional data transformations to increase your straight-through processing rate of receivables and minimize your exceptions. Our *E-Box* solution consolidates payment information from multiple sources, validates the data to ensure your billing accounts are formatted to your specifications, and creates a single file according to your specified format. *E-Box* can also consolidate your paper receivables into one combined file with your electronic transactions.

The E-Box Service Offers:

- **Enhanced financial performance.** Timely and accurate cash application reinforces customer satisfaction by reducing inquiries and avoiding potential accidental service disruptions associated with late posting or misapplied payments. Reduced cycle time lowers ‘days sales outstanding’ to facilitate working capital optimization. Customer retention and optimized working capital help enhance bottom-line performance.
- **Efficient exception management.** Streamline your staff’s workflow around exception items to enhance process efficiency, improve productivity, and minimize costs. Through the *Commercial Electronic Office (CEO)* portal *E-Box* Decisioning, view suspended payments on a same-day basis, make decisions about pending transactions, initiate returns, view and research completed transactions, and gain access to information for purposes of reporting and trend analysis.
- **Extensive connectivity to major originating endpoints.** Wells Fargo’s connectivity to all major originating endpoints—including our extensive network of third-party concentrators—will help you maximize your electronic payment stream. Leverage the experience of our dedicated *E-Box* staff in working with billers from multiple industries, including the public sector, and originators to implement an efficient electronic receivables solution.

- **Faster processing of walk-in bill payments.** Accelerate receivables posting for customer bill payments made in person at walk-in centers. The Expedited *E-Box* service transforms in-person cash payments into automated receivables management that yields cost savings, efficiency gains, and customer satisfaction.

How the *E-Box* service works:



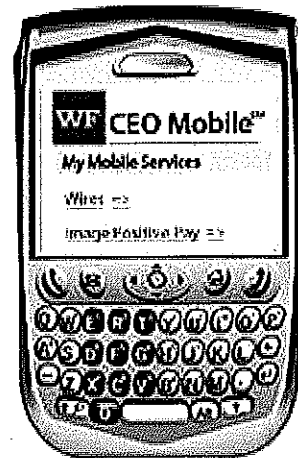
1. Your customers pay their bills with online banking services.
2. Online bill service providers send payments electronically to Wells Fargo.
3. Wells Fargo applies an optional multistep validation process to payments received, as appropriate. The process identifies, filters, and repairs invalid payments or other exceptions.
4. Wells Fargo consolidates your receivables data from multiple sources into a single file, and then translates it into your specific format.
5. You receive a customized remittance file with correct account numbers and settlement. You apply credits to your customers' accounts.
6. Wells Fargo processes a consolidated automated clearing house (ACH) credit to your deposit account.

CEO Mobile®

Wells Fargo is the first major U.S. bank to bring you corporate mobile banking. First introduced in 2007, the *CEO Mobile* service will allow you to stay on top of your accounts from meetings, airports, across town, or around the globe. The *CEO Mobile* service delivers mobile versions of reports and services available on our *Commercial Electronic Office (CEO)* Internet portal to you when you're away from your desk.

From your mobile device browser, you simply go to the secure site and sign on using your *CEO* portal authentication credentials. You will be able to:

- Approve or reject outgoing wires
- View positive pay images and submit pay or return decisions
- View ACH Fraud Filter details and make pay or return decisions
- Monitor intraday account balances and transactions
- View previous day information on closing ledger balances, closing collected balances, opening available balance, one and two day float, and summary information on credits and debits
- View summary information on returned items by account.
- View detailed returned item information, including totals by account and returned item type.
- View transaction level information on specific returned items.
- *CEO Self Administration* Administrators can reset user passwords and enable or disable *CEO* users and Secondary Approvers can review and approve or reject the password reset and enable/disable actions of the primary administrator



- View lockbox information, including totals and details by account. And get status information on your lockboxes, such as deposited amount, item count, available and 1-day and 2-day float amounts.
- View controlled disbursement processing times and information on debit items for prior day holdovers, first and second presentments, and adjustments

Event Messaging

Event Messaging will allow the City to receive critical information when and how you want it without having to log into our *CEO* portal. For example, you may instruct the bank to “send me an e-mail whenever an incoming wire is received over \$99,000 in my operating account.” You will have the flexibility to define what specific transactions or “events” you want to be notified about and whether you want immediate notification when a specific event occurs, or notification at pre-established times (hourly, every other hour, or at other pre-established times) of several events at once. You can also define how you want the information delivered; through e-mail, text message, or fax.

Events available include: ACH Fraud Filter, ACH returns/Notifications of Change (NOC), ARP Register Maintenance, Image Positive Pay exceptions, Statements and Notices, stop payment notices, Controlled Disbursement totals, incoming and outgoing wires, intraday balances, wire transfer events, Returned Item notifications, and ACH received items.

Desktop Deposit®

Wells Fargo was first to market with a proprietary, Internet-based image depository solution, *Desktop Deposit*. We now have over 12,000 customers that have deposited \$970 billion via our remote deposit capture service. *Desktop Deposit* allows you to deposit checks without ever leaving your desk. You’ll improve cash flow and receive information more quickly, while reducing the time, costs, and risks of physically transporting check deposits. *Desktop Deposit* is a proprietary, end-to-end electronic depository solution delivered via our award-winning *CEO* portal.

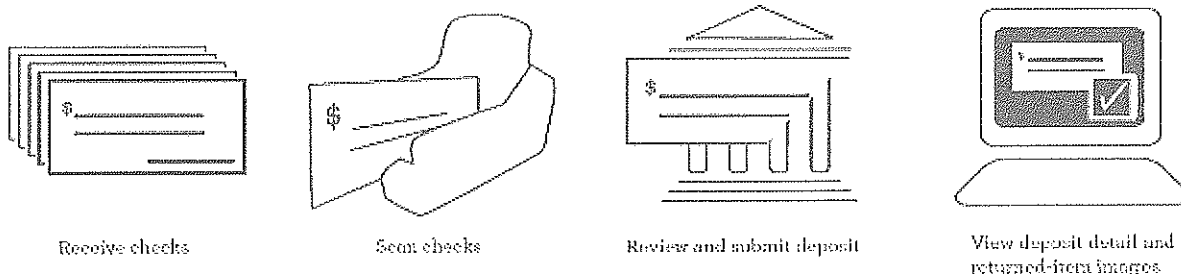
Checks are scanned utilizing a desktop scanner. Images are then reviewed and transmitted to the bank using our *CEO* portal. Checks will be processed either through image replacement or ACH check conversion. Some of the benefits of using *Desktop Deposit* to deposit electronically include:

- **Affordable, simple setup.** The *Desktop Deposit* service requires no software. Wells Fargo was the first bank to offer this solution entirely via the Internet. And because the service is delivered via the *CEO* portal, upgrades and enhancements are delivered instantly.
- **Extend deposit windows and improve cash flow.** Later deposit cut-off times (7:00 p.m. PT) allow you to get additional checks into your day’s deposit and receive ledger credit.
- **Improve speed and accuracy by reducing the number of items manually keyed by your operators.** Using CAR/LAR (Courtesy Amount Recognition/Legal Amount

Recognition) technologies, *Desktop Deposit* predetermines the amount of your checks—allowing your operator to simply review the items.

- **Custom fields.** Fifteen discretionary data fields allow you to enter customized information about the checks you receive. Our quick data feature simplifies the capture process by automatically recalling your previously entered receivables data.
- **Scannable remittance coupons and invoices.** Scan standard-sized payment coupons or full-page invoices, create and balance transactions sets, and retrieve images.

How the *Desktop Deposit* service works:



Smart Decision®

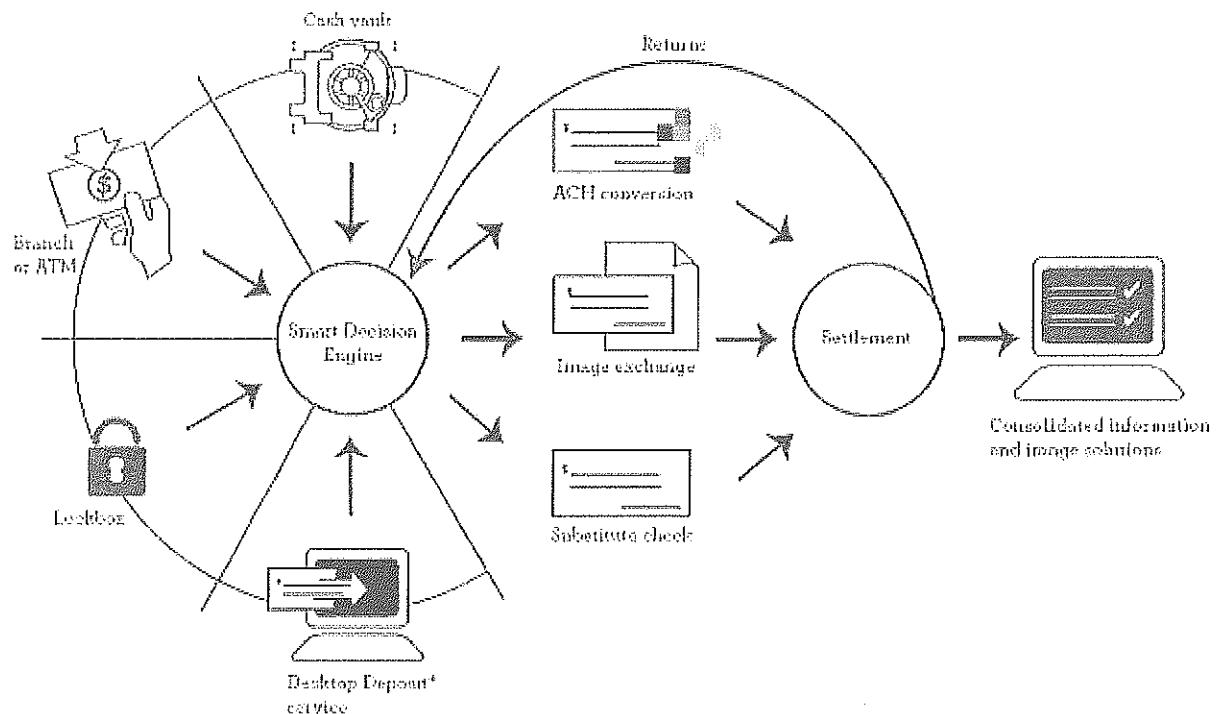
The *Smart Decision* service allows you to deposit your checks through multiple depository channels, including *Desktop Deposit*, Wells Fargo Electronic DepositSM, lockbox, cash vaults, banking stores, and ATMs. The lockbox, cash vault, and store options allow for check conversion without having to utilize scanners. Simply notify your customers through a posted or mailed notice, and after you make a deposit we'll use our industry-leading decision engine to identify eligible checks and do the ACH conversion for you automatically. You'll see faster availability of deposited funds, a second redeposit attempt, accelerated returned item notification, improved collection rates, lower costs, and simpler deposit research and reconciliation.

The *Smart Decision* service identifies which checks are eligible for conversion to ACH and which items will be processed via image exchange or as substitute checks. The *Smart Decision* service uses ACH exclusion and optimized routing rules and "opt out" preferences to determine how checks will be processed.

Eligible checks will be converted to ACH debits, while non-eligible items, including payments from customers who have opted out of the conversion process, will be deposited through Check 21 workflows. The City will receive a single credit per deposit—not one for ACH and one for paper. And, the City's returned item reporting is also consolidated into a single report with a single debit. This greatly simplifies reconciliation.

The City can present an opt-out file through a direct transmission or using the Deposit Maintenance application on the *Commercial Electronic Office* portal. Opt-outs are managed by comparing the MICR data on the check to the items the customer has provided either via direct transmission or online.

The graphic below highlights the *Smart Decision* service process:





Wells Fargo Treasury Management Proposal

City of Tomball

Pricing as of October 2010

<u>AFP Code</u>	<u>Service Description</u>	<u>Charge Basis</u>	<u>Price</u>	<u>Monthly Volume</u>	<u>Activity Charges</u>
ACH					
250120	ACH ORIGINATED - ADDENDA REC	Transaction	0.02500	13	0.33
250302	ACH RET ITEM-INFO REPORTING ADVI	Transaction	3.00000	43	129.00
250000	INTERNET ACH BASE FEE	Company ID	15.00000	5	75.00
250500	INTERNET ACH BATCH RELEASE	Batch/file	5.00000	8	40.00
250102	INTERNET ACH ONE DAY ITEM	Transaction	0.06000	271	16.26
250102	INTERNET ACH TWO DAY ITEM	Transaction	0.06000	732	43.92
Cash Branch/Store Channel					
100015	CASH DEP/\$1 VERIFY IN CASH VAULT	Dollar	0.00080	77,300	61.84
Cash Vault					
100501	CASH VAULT DEPOSIT ADJUSTMENT	Adjustment	8.00000	1	8.00
Domestic UnEncoded Cash Letter					
100220	DEPOSITED CHECKS - ON US	Check deposited	0.05000	247	12.35
100222	DEPOSITED CHECKS - LOCAL CLEARIN	Check deposited	0.06000	542	32.52
100225	DEPOSITED CHECKS - REGIONAL	Check deposited	0.07000	1,010	70.70
100224	DEPOSITED CHECKS - TRANSIT	Check deposited	0.08000	665	53.20
General Account Services					
010000	ACCOUNT MAINTENANCE-CHEXSTOR	Account	5.00000	5	25.00
010021	ZERO BALANCE MONTHLY BASE	Account	15.00000	1	15.00
010100	DEBITS POSTED	Debit	0.07000	37	2.59
010101	CREDITS POSTED	Credit	0.50000	154	77.00
250201	ELECTRONIC CREDITS POSTED	Credit	0.07000	129	9.03
010310	DDA STATEMENT - PAPER	Statement	0.00000	5	0.00
010320	DDA STATEMENT - SPECIAL INSTRUCT	Statement	5.00000	1	5.00
250202	ACH RECEIVED ITEM	Transaction	0.07000	143	10.01
General Disbursement Services					
150412	STOP PAYMENT - AUTO RENEWAL	Stop payment	3.00000	1	3.00
150410	STOP PAYMENT - ONLINE	Stop payment	15.00000	1	15.00
150100	DDA CHECKS PAID	Check paid	0.10000	310	31.00
Information Reporting					
400001	CEO PREV DAY SUBSCRIPTION DETL I	Item loaded	0.06000	753	45.18
400000	CEO PREV DAY SUBSCRIPTION MTHLY	Account	25.00000	5	125.00
Other					
000230	DEP INSURANCE ASSESSMENT MTHLY	\$ pass through	0.12783	1,458	186.38 #
Returned Items					
100400	RETURN ITEM - CHARGEBACK	Item	6.00000	2	12.00
100402	RETURN ITEM REDEPOSITED	Item	5.00000	5	25.00
Wires					
350300	WIRE IN DOMESTIC	Transfer	6.00000	4	24.00
350124	WIRE - BOOK TRANSFER - CEO	Transfer	3.00000	2	6.00
350104	WIRE-OUTGOING DOMESTIC-CEO	Transfer	6.00000	1	6.00
Total Monthly Activity Charges					1,165.30
Setup Charges					
251120	INTERNET ACH SET UP FEE	Setup	50.00000	5	250.00

<u>AFP Code</u>	<u>Service Description</u>	<u>Charge Basis</u>	<u>Price</u>	<u>Monthly Volume</u>	<u>Activity Charges</u>
	Total Setup Charges				250.00

The above pricing estimate is based on certain assumptions drawn from projected volume, scope of services and/or other information you have provided. The pricing is subject to change if the actual volume and/or scope of services differ from the assumptions upon which the pricing estimate was based.

Wells Fargo Bank, N.A. will pass through the FDIC assessment. This assessment is being passed on at the same rate and manner in which Wells Fargo Bank, N.A. is being charged. The FDIC fee is assessed on the Average Ledger Balance in your interest bearing and non-interest bearing accounts.

Wells Fargo Price Schedule

Payment Gateway

Pricing as of June 2010

<u>TMA Code</u>	<u>Service Description</u>	<u>Charge Basis</u>	<u>Price</u>
	Maintenance		
079999	PMT GATEWAY MONTHLY BASE	account	Incremental
	1st 1		200.00000
	2 to 5		150.00000
	Remaining		125.00000
	Setup		
079999	PMT GATEWAY SET UP - BASIC	account	300.00000
079999	PMT GATEWAY SET UP - MEDIUM	account	750.00000
079999	PMT GATEWAY SET UP - COMPLEX	account	1,500.00000
079999	PMT GATEWAY SET UP - CPR REPORT	account	150.00000
079999	PMT GATEWAY MULTI CURRENCY-SET UP	account	250.00000
079999	PMT GATEWAY DECISION MGR STD-SET UP	merchant relationship	Incremental
	1st 1		125.00000
	Remaining		0.00000
079999	PMT GATEWAY DECISION MGR ADV-SET UP	merchant relationship	Incremental
	1st 1		2,000.00000
	Remaining		0.00000
079999	PMT GATEWAY PAYER AUTH-SET UP	account	150.00000
	Transaction Services		
079999	PMT GATEWAY CREDIT CARD TRANS	transaction	Aggregate
	Up to 5000		0.10000
	Up to 10000		0.09500
	Up to 15000		0.09000
	Up to 20000		0.08500
	20001+		0.08000
079999	PMT GATEWAY ELECTRONIC CHECK TRANS	transaction	Aggregate
	Up to 5000		0.35000
	Up to 10000		0.32000
	Up to 15000		0.29000
	Up to 20000		0.26000
	20001+		0.23000
079999	PMT GATEWAY PAYPAL TRANSACTIONS	transaction	Aggregate
	Up to 5000		0.10000
	Up to 10000		0.09500
	Up to 15000		0.09000
	Up to 20000		0.08500
	20001+		0.08000

<u>TMA Code</u>	<u>Service Description</u>	<u>Charge Basis</u>	<u>Price</u>
	Optional Transaction Services		
079999	PMT GATEWAY AMEX DIR CONNECT TRAN	transaction	Aggregate
	Up to 5000		0.10000
	Up to 10000		0.09500
	Up to 15000		0.09000
	Up to 20000		0.08500
	20001+		0.08000
079999	PMT GATEWAY SUBSCRIPTION TRANS	request	0.05000

<u>TMA Code</u>	<u>Service Description</u>	<u>Charge Basis</u>	<u>Price</u>
	Risk Management Services		
079999	PMT GATEWAY DEC MGR STD MTHLY BASE	relationship	Incremental
	1st 1		120.00000
	Remaining		0.00000
079999	PMT GATEWAY DEC MGR ADV MTHLY BASE	relationship	Incremental
	1st 1		125.00000
	Remaining		0.00000
079999	PMT GATEWAY DEC MGR NON VISA TRANS	transaction	Aggregate
	Up to 5000		0.20000
	Up to 10000		0.19000
	Up to 15000		0.18000
	Up to 20000		0.17000
	20001+		0.16000
079999	PMT GATEWAY DEC MGR VISA TRANS	transaction	Aggregate
	Up to 5000		0.17000
	Up to 10000		0.16000
	Up to 15000		0.15000
	Up to 20000		0.14000
	20001+		0.13000
079999	PMT GATEWAY DELIVERY ADDRESS VERIFI	request	Aggregate
	Up to 5000		0.10000
	Up to 10000		0.09500
	Up to 15000		0.09000
	Up to 20000		0.08500
	20001+		0.08000
079999	PMT GATEWAY EXPORT COMPLIANCE TRANS	transaction	Aggregate
	Up to 5000		0.15000
	Up to 10000		0.14500
	Up to 15000		0.14000
	Up to 20000		0.13500
	20001+		0.13000
079999	PMT GATEWAY TAX CALC TRANSACTIONS	transaction	Aggregate
	Up to 5000		0.15000
	Up to 10000		0.14500
	Up to 15000		0.14000
	Up to 20000		0.13500
	20001+		0.13000
079999	PMT GATEWAY PAYER AUTH TRANSACTIONS	request	Aggregate
	Up to 5000		0.15000
	Up to 10000		0.14500
	Up to 15000		0.14000
	Up to 20000		0.13500
	20001+		0.13000

<u>TMA Code</u>	<u>Service Description</u>	<u>Charge Basis</u>	<u>Price</u>
	Other		
079999	PMT GATEWAY MISC SERVICES	request	1.00000
070605	PMT GATEWAY CRD PMT REC N RPT MOBASE	account	25.00000
079999	PMT GATEWAY PREMIER SUPPORT	merchant relationship	Incremental
	1st 1		800.00000
	Remaining		0.00000
	ACH Services		
250000	ACH VENDOR MONTHLY BASE	company ID	65.00000
251000	ACH VENDOR SETUP	setup	75.00000
250501	ACH TRANSMISSION CHARGE	batch/file	25.00000
250102	ACH ON-US ONE DAY	transaction	0.00000
250102	ACH ONE DAY ITEM	transaction	Incremental
	1st 4999		0.15500
	5000 to 14999		0.14500
	Remaining		0.12000
250302	ACH RETURN ITEM-TRANSMISSION ADVICE	transaction	3.00000
250310	ACH RETURN ITEM-REDEPOSITED	transaction	3.50000
250311	ACH RETURN ITEM - DISHONORED	transaction	3.50000
250302	ACH NOC - TRANSMISSION ADVICE	transaction	3.00000
251070	ACH WELLS FARGO NOC - TRANS ADVICE	transaction	3.00000
250620	ACH DELETE - ITEM	delete	30.00000
250642	ACH REVERSAL - ITEM	reversal	35.00000
250620	ACH DELETE/REVERSE - BATCH/FILE	batch/file	40.00000
	Optional ACH Services		
250302	ACH RET ITEM-INFO REPORTING ADVICE	transaction	3.50000
250302	ACH RETURN ITEM - FAX ADVICE	transaction	5.00000
250302	ACH RETURN ITEM - MAIL ADVICE	transaction	8.00000
250302	ACH NOC - INFO REPORTING ADVICE	transaction	3.50000
251070	ACH NOC - FAX ADVICE	transaction	5.00000
250302	ACH NOC - MAIL ADVICE	transaction	8.00000
251070	ACH WELLS FARGO NOC-INFO REPT ADVIC	transaction	3.50000
251070	ACH WELLS FARGO NOC - FAX ADVICE	transaction	5.00000
251070	ACH WELLS FARGO NOC - MAIL ADVICE	transaction	8.00000
250710	ACH FAX SERVICE	page	5.00000
250710	ACH MAIL SERVICE	page	7.00000
250400	ACH CEO RETURN SUBSCRIPTION-ACCOUNT	ACH company ID	Incremental
	1st 1		40.00000
	Remaining		20.00000
250400	ACH CEO RETURN SUBSCRIPTION - ITEM	item accessed	0.25000

Notes:

Prices are subject to change.



Wells Fargo Treasury Management Pricing

City of Tomball

Pricing as of October 2010

	<u>AFP Code</u>	<u>Service Description</u>	<u>Charge Basis</u>	<u>Price</u>
		MERCHANT CARD SERVICES		
41912	079999	PMT GATEWAY CREDIT CARD TRANS	Transaction	Aggregate
		Up to 5000		0.10000
		Up to 10000		0.09500
		Up to 15000		0.09000
		Up to 20000		0.08500
		20001+		0.08000
41913	079999	PMT GATEWAY ELECTRONIC CHECK TR/	Transaction	Aggregate
		Up to 5000		0.35000
		Up to 10000		0.32000
		Up to 15000		0.29000
		Up to 20000		0.26000
		20001+		0.23000
41910	079999	PMT GATEWAY MONTHLY BASE	Account	Incremental
		1st 1		200.00000
		2 to 5		150.00000
		Remaining		125.00000
41914	079999	PMT GATEWAY PAYPAL TRANSACTIONS	Transaction	Aggregate
		Up to 5000		0.10000
		Up to 10000		0.09500
		Up to 15000		0.09000
		Up to 20000		0.08500
		20001+		0.08000
41938	079999	PMT GATEWAY SUBSCRIPTION TRANS	Request	0.05000
		GENERAL ACH SERVICES		
ES283	250000	ACH VENDOR MONTHLY BASE	Company ID	15.00000
ES211	250102	ACH ONE DAY ITEM	Transaction	0.06000
ES362	250311	ACH RETURN ITEM - DISHONORED	Transaction	3.00000
ES323	250501	ACH TRANSMISSION CHARGE	Batch/file	5.00000
ES363	250302	ACH NOC - TRANSMISSION ADVICE	Transaction	3.00000
06230	251070	ACH PERFECT NOC PER ITEM	Transaction	0.02000
		Setup Charges		
41918	079999	PMT GATEWAY SET UP - BASIC	Account	300.00000
ES360	251000	ACH VENDOR SETUP	Setup	75.00000

The above pricing estimate is based on certain assumptions drawn from projected volume, scope of services and/or other information you have provided. The pricing is subject to change if the actual volume and/or scope of services differ from the assumptions which the pricing estimate was based.

Wells Fargo Payment Gateway Disclosure:

**The following disclosure pertains to Payment Gateway pricing only.
It does not apply to non-Payment Gateway pricing in this proposal.**

The proposed Pricing Schedule is guaranteed for 60 days from the date proposed. Your acceptance of the pricing herein is indicated by execution of the agreement to which it is attached. You are responsible for any charges assessed by outside third parties that are not disclosed in the Wells Fargo Payment Gateway Agreement, including this Pricing Schedule. To the extent that this Pricing Schedule includes pricing for third party products and services, Wells Fargo disclaims any and all legal liability and responsibility for said products and services. Your agreement with any third party provider shall govern Your relationship with such third party provider. In the event that Wells Fargo is billed for the third party's services, You agree to reimburse Wells Fargo Bank for such services. Wells Fargo's pricing is based on the information provided by You. Any difference to our stated understanding may affect this pricing. Fees for supplies, shipping, handling and applicable sales tax may apply and are subject to change without notice. Additional information is available upon request.

_____ Merchant Initials

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tions upon

Customer Price Report



Investor Resources Fee Schedule

Wells Fargo Securities customers have the option of selecting Wells Fargo Bank, N.A., for safekeeping services. The following standard fee schedule applies to safekeeping services provided by Wells Fargo Bank.

Bank safekeeping

Monthly Account Maintenance	\$10.00
Monthly Security Holdings per CUSIP	
Asset Backed Securities (CARS/CARDS etc.).....	\$8.00
Mortgage-Backed Securities (FNMA, GNMA, CMOs/REMICs)	\$8.00
Municipal / Corporate Securities	\$2.00
All Other Securities (T-Bills, T-Notes, T-Bonds, Agencies, Commercial Paper (CP), except Wells Fargo CP)	\$1.00
Security Transfers	
Incoming/Outgoing.....	\$7.00
Between Accounts.....	\$7.00
Security Pledges (Initiating, Substituting, & Releasing) ..	\$20.00

Brokerage Services

Securities Registration*	\$50.00
Third Party Trade Clearing**	
Incoming/Outgoing.....	\$35.00
Physical Securities Clearance.....	\$100.00
Miscellaneous Services	
Fees may be charged for any unusual or out of pocket expenses	

Investor Resources

Investment On-Line Reporting	No charge
Portfolio Strategies	
<\$100,000,000 in assets per quarter.....	\$500.00
>\$100,000,000 in assets per quarter.....	\$600.00

Discounts and payment options

All new accounts benefit from waived fees for the first two months. Other discounting or exception pricing may apply.

Fees are generally charged on a monthly basis and you may select one of the following payment options:

- ACH
- Brokerage Account Debit
- Wells Fargo Bank Account Analysis Charge

For more information

For more information, contact your Wells Fargo Securities investment representative.

**Fees are charged on a per receipt basis.*

***The Third Party Trade Clearing applies only to transactions where securities are purchased/sold to/from a third party and delivered to/from Wells Fargo Bank.*

Wells Fargo reserves the right to change the fees on this schedule at any time upon thirty (30) days written notice to customers. A statement of fees charged will be included in customers' brokerage account statement.

FS1034-V2 (Rev 07-10)

Wells Fargo Securities is the trade name for certain capital markets and investment banking services of Wells Fargo & Company and its subsidiaries, including Wells Fargo Securities, LLC, a member of NYSE, FINRA and SIPC, Wells Fargo Institutional Securities, LLC, a member of FINRA and SIPC, and Wells Fargo Bank, National Association. Wells Fargo Securities, LLC carries and provides clearing services for Wells Fargo Institutional Securities, LLC customer accounts.

Investments: NOT FDIC Insured • May Lose Value • No Bank Guarantee

LOCAL GOVERNMENT CODE

TITLE 4. FINANCES

SUBTITLE A. MUNICIPAL FINANCES

CHAPTER 105. DEPOSITORIES FOR MUNICIPAL FUNDS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 105.001. DEFINITIONS. In this chapter:

(1) "Bank" means a state bank or a national bank that has its main office or a branch office in this state.

(2) "Credit union" means a state credit union or federal credit union domiciled in this state.

(3) "Demand deposit" means a deposit of funds that may be withdrawn on the demand of the depositor.

(4) "Depository" means the bank, credit union, or savings association selected by the municipality to provide depository services.

(5) "Time deposit" means a deposit of funds subject to a contract between the depositor and the depository under which the depositor may not withdraw any of the funds by check or by another manner until the expiration of a certain period following written notice of the depositor's intent to withdraw the funds.

(6) "Depository services" means the receipt and disbursement of funds by a depository in accordance with the terms of a depository services contract.

(7) "Depository services contract" means a contract executed by a municipality and a depository containing terms and conditions relating to the depository services to be provided by the depository.

(8) "Designated officer" means the treasurer of a municipality or other officer of the municipality so designated by the governing body of a municipality.

(9) "Federal credit union" means a credit union organized under the Federal Credit Union Act (12 U.S.C. Section 1751 et seq.).

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(10) "Federal savings association" means a savings and loan association or a savings bank organized under federal law.

(11) "National bank" means a banking corporation organized under the provisions of 12 U.S.C. Section 21.

(12) "Savings association" means a savings association or savings bank organized under the laws of this state, another state, or federal law that has its main office or a branch office in this state.

Text of subsec. (13) as amended by Acts 1999, 76th Leg., ch. 62,
Sec. 7.79

(13) "State bank" has the meaning assigned by Section 31.002(a), Finance Code.

Text of subsec. (13) as amended by Acts 1999, 76th Leg., ch. 344,
Sec. 5.008

(13) "State bank" means a bank organized under the laws of this state or another state.

(14) "State credit union" means a credit union organized under Subtitle D, Title 3, Finance Code.

(15) "State savings association" means any savings and loan association or savings bank organized under the laws of this state.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 914, Sec. 9, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 62, Sec. 7.79, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 344, Sec. 5.008, eff. Sept. 1, 1999.

Sec. 105.002. FUNDS AFFECTED. This chapter applies to the funds, including school funds, of any municipality or any department or agency of the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER B. ESTABLISHMENT OF DEPOSITORY

Sec. 105.011. DEPOSITORY AUTHORIZED. (a) Before awarding a depository services contract to a depository, the governing body of a municipality shall receive applications for the performance of depository services from one or more banks, credit unions, or savings associations.

(b) The governing body may consider the application of a bank, credit union, or savings association that is not doing business within the municipality if:

(1) the bank, credit union, or savings association maintains a place of business within the state and offers within the state the services required by the depository services contract; and

(2) the governing body, prior to giving the notice required by Section 105.012, has adopted a written policy expressly permitting the consideration of applications received by the municipality from a bank, credit union, or savings association that is not doing business within the municipality, after taking into consideration what is in the best interest of the municipality in establishing a depository.

(c) The designated officer shall request, receive, and review applications for the performance of depository services. The designated officer shall present the specifications of each application to the governing body who will then select a depository.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 14(a), eff. Aug. 28, 1989; Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

Sec. 105.012. NOTICE. (a) The designated officer shall give notice to banks, credit unions, and savings associations requesting the submission of applications for the performance of depository services.

(b) The notice must contain:

(1) the name and address of the designated officer receiving the applications;

(2) the date and time the applications are to be received by the designated officer; and

The first part of the paper discusses the importance of understanding the underlying structure of the data. This is particularly relevant in the context of machine learning, where the ability to identify patterns and relationships in the data is crucial for making accurate predictions. The second part of the paper focuses on the development of a new algorithm for solving the problem of finding the minimum variance unbiased estimator (MVUE) of the parameters of a normal distribution. This algorithm is based on the use of the Fisher information matrix and the Rao-Blackwell theorem. The third part of the paper discusses the application of this algorithm to the problem of finding the MVUE of the variance of a normal distribution. The fourth part of the paper discusses the application of this algorithm to the problem of finding the MVUE of the mean of a normal distribution. The fifth part of the paper discusses the application of this algorithm to the problem of finding the MVUE of the standard deviation of a normal distribution. The sixth part of the paper discusses the application of this algorithm to the problem of finding the MVUE of the correlation coefficient of a bivariate normal distribution. The seventh part of the paper discusses the application of this algorithm to the problem of finding the MVUE of the regression coefficient of a bivariate normal distribution. The eighth part of the paper discusses the application of this algorithm to the problem of finding the MVUE of the intercept of a bivariate normal distribution. The ninth part of the paper discusses the application of this algorithm to the problem of finding the MVUE of the slope of a bivariate normal distribution. The tenth part of the paper discusses the application of this algorithm to the problem of finding the MVUE of the intercept of a bivariate normal distribution.

(3) the date, time, and place the governing body of the municipality will consider the selection of one or more depositories.

(c) Notice of the request shall be published at least once no later than 21 days prior to the deadline for receipt of applications for depository services contracts (i) in a newspaper of general circulation in the municipality and (ii) in a financial publication of general circulation published within this state; provided, that the notice required by clause (ii) shall not be required if the governing body has not adopted the written policy described in Section 105.011.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

Sec. 105.013. APPLICATION. The designated officer may not consider an application if it is received after the date specified in the notice for receiving applications by the designated officer.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

Sec. 105.014. REVIEW OF APPLICATIONS. In reviewing the applications, the designated officer shall consider the terms and conditions for the performance of depository services, including the type and cost of services to be provided to the municipality, consistent with any policy guidelines adopted by the governing body regarding the selection of one or more depositories.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

Sec. 105.015. SELECTION OF DEPOSITORY. (a) The governing body of a municipality may authorize the designated officer to execute on the municipality's behalf one or more depository services contracts.

(b) The governing body may reject any of the applications and readvertise if all applications are rejected.

(c) The conflict of interests provisions of Section 131.903 apply to the selection of the depositories.

Added by Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 105.014 and amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1993, 73rd Leg., ch. 268, Sec. 25, eff. Sept. 1, 1993.

Sec. 105.016. DESIGNATION OF DEPOSITORY. (a) The governing body shall designate, by an order recorded in its minutes, the bank, credit union, or savings association to serve as a depository for the municipality's funds.

(b) If a bank, credit union, or savings association selected as a municipal depository does not provide security by the deadline prescribed by Section 105.031, the selection of the bank, credit union, or savings association as a depository is void, and the governing body may consider the application it deems to be the next most advantageous depository services application.

Added by Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 105.015 and amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

Sec. 105.017. TERM OF DEPOSITORY CONTRACT. A municipality may approve, execute, and deliver any depository services contract whose term does not exceed five years. The depository services contract may only contain terms and conditions approved by the governing body of the municipality.

Added by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

Sec. 105.018. ADDITIONAL SERVICES. In addition to depository services, a municipality may contract with financial institutions, including banks, credit unions, and savings associations, for additional financial services under a separate contract if the governing body of the municipality determines that additional financial services are necessary in the administration, collection, investment, and transfer of municipal funds.

1. The first part of the paper is devoted to the study of the properties of the function $f(x)$ defined by the equation

$$f(x) = \int_0^x \frac{1}{\sqrt{1-t^2}} dt, \quad x \in (-1, 1).$$

It is shown that the function $f(x)$ is strictly increasing and concave down on the interval $(-1, 1)$. Moreover, the function $f(x)$ is symmetric with respect to the origin, i.e., $f(-x) = -f(x)$.

2. In the second part of the paper, we consider the function $g(x)$ defined by the equation

$$g(x) = \int_0^x \frac{1}{\sqrt{1-t^2}} dt, \quad x \in (-1, 1).$$

It is shown that the function $g(x)$ is strictly increasing and concave down on the interval $(-1, 1)$. Moreover, the function $g(x)$ is symmetric with respect to the origin, i.e., $g(-x) = -g(x)$.

3. In the third part of the paper, we consider the function $h(x)$ defined by the equation

Added by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER C. SECURITY FOR FUNDS HELD BY DEPOSITORY

Sec. 105.031. QUALIFICATION AS DEPOSITORY. (a) The bank or savings association, to qualify as a municipal depository, must, not later than five days before the commencement of the term of the depository services contract, provide security for the municipal funds to be deposited in accordance with the terms of the depository services contract.

(b) Chapter 2257, Government Code governs the type, level, substitution, possession, release, and method of valuation of the security necessary to secure the deposit of municipal funds.

(c) Repealed by Acts 2001, 77th Leg., ch. 402, Sec. 20(a), eff. Sept. 1, 2001.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(12), eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 402, Sec. 20(a), eff. Sept. 1, 2001.

Sec. 105.033. SURETY BOND. (a) One or more bonds issued and executed by one or more solvent surety companies authorized to do business in this state, payable to the municipality and filed with the secretary and the designated officer of the municipality, qualify as security under this subchapter if the bonds are approved by the governing body.

(b) After the governing body approves a surety bond, it shall be filed with the secretary and the designated officer of the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

Sec. 105.034. CONDITIONS TO ACTING AS DEPOSITORY. (a) The depository shall:

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(1) keep the municipal funds covered by the depository services contract;

(2) perform all duties and obligations imposed on the depository by law and under the depository services contract;

(3) pay on presentation all checks drawn and properly payable on a demand deposit account with the depository;

(4) pay all transfers properly payable as directed by a designated officer;

(5) provide and maintain security at the level required by the provisions of Chapter 2257, Government Code; and

(6) account for the municipal funds as required by law.

(b) Any suit brought in connection with a depository services contract must be tried in the county in which the city hall of the municipality is located.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(12), eff. Sept. 1, 1995.

SUBCHAPTER D. MAINTENANCE AND MODIFICATION OF SECURITY

Sec. 105.051. MAINTENANCE OF SECURITY. (a) A depository services contract shall contain terms and conditions relating to the possession, substitution, or release of security, including:

(1) requiring the depository to execute a new bond or pledge additional securities for the deposit of municipal funds;

(2) substituting one security for another;

(3) releasing securities pledged by a depository in excess of the amount required by this chapter;

(4) the time period in which such addition, substitution, or release of security by a depository may occur; and

(5) other matters relating to the possession, substitution, or release of security the municipality considers necessary for its protection.

(b) If a depository fails for any reason to comply with the requirements governing the possession, substitution, or release of security, the governing body may select a new depository in the manner provided in this chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

Sec. 105.053. SOLVENCY OF SURETY COMPANY AND ADEQUACY OF SECURITIES. At any time the governing body of the municipality considers it necessary for the protection of the municipality, the governing body may direct the designated officer to investigate the solvency of a surety company that issues a bond on behalf of a municipal depository or investigate the value of securities pledged by a depository to secure municipal funds.

Added by Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 105.056 and amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

Sec. 105.054. SURRENDER OF INTEREST ON SECURITIES. Except as provided for in the collateral policies of the municipality adopted in accordance with Chapter 2257, Government Code, on request of a municipal depository, the municipality shall surrender, when due, interest coupons or other evidence of interest on securities deposited by the depository with the governing body if the securities remaining pledged by the depository are adequate to meet the requirements of this chapter and of the governing body.

Added by Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 105.057 and amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(12), eff. Sept. 1, 1995.

SUBCHAPTER E. DEPOSITORY ACCOUNTS

Sec. 105.071. CHARACTER AND AMOUNT OF DEPOSITS. (a) The governing body of the municipality may determine and designate in the depository services contract the character and amount of municipal funds that will be demand deposits. However, the municipality has the right to maintain other investments of

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municipal funds in accordance with the investment policy adopted by the municipality.

(b) The designated officer may contract with a depository for interest on time deposits, including, without limitation, certificates of deposit, at any legal rate under federal or state law, rule, or regulation.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

Sec. 105.072. INVESTMENTS. The provisions of Chapter 810, Acts of the 66th Legislature, Regular Session, 1979 (Article 4413 (34c), Vernon's Texas Civil Statutes), and Subchapter A, Chapter 2256, Government Code shall govern the investment of municipal funds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(11), eff. Sept. 1, 1995.

Sec. 105.073. DEPOSIT OF FUNDS. Not later than 60 days from the date the governing body of the municipality designates a depository in accordance with the provisions of Section 105.016, the designated officer of the municipality shall transfer to the depository all the municipal funds covered by the depository services contract under the control of the designated officer. The designated officer of the municipality shall as soon as practicable also deposit in the depository to the credit of the municipality any money covered by the depository services contract received after the depository is designated.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

Sec. 105.074. PAYMENT OF FUNDS. (a) The funds of the municipality may be paid out of a depository only at the direction of a designated officer.

(b) Except as provided in Subsection (g), a designated officer may draw a check on a depository only on a warrant signed by the mayor and attested by the secretary of the municipality.

(c) If there is sufficient money in a fund in a depository against which the proper authority has drawn a warrant, the designated officer on presentation of the warrant shall draw a check on the depository in favor of the legal holder of the warrant, retain the warrant, and charge the warrant against the fund on which it is drawn. The designated officer may not draw a warrant on a fund in a depository unless the fund has sufficient money to pay the warrant.

(d) A designated officer may not draw a check on any funds designated in the depository services contract as time deposits until notice has been given and the notice period has expired under the terms of the contract with the depository.

(e) The mayor and secretary of the municipality may not draw a warrant on a special fund in a depository or under the control of the designated officer that was created to pay the bonded indebtedness of the municipality other than to pay the principal of or interest on the indebtedness or to invest the fund as provided by law.

(f) The designated officer may not pay or draw a check to pay money out of a special fund that was created to pay the bonded indebtedness of the municipality other than to pay the principal of or interest on the indebtedness or to invest the fund as provided by law.

(g) Notwithstanding the provisions of Subsections (b) through (f), the governing body of a municipality may adopt procedures:

(1) governing the method by which the designated officer is authorized to direct payments from the funds of the municipality on deposit with a depository;

(2) governing the method of payment of obligations of the municipality, including payment by check, draft, wire transfer, or other method of payment mutually acceptable to the municipality and the depository; and

(3) the governing body determines are necessary to ensure the safety and integrity of the payment process.

(h) If a municipality adopts procedures in accordance with Subsection (g), a copy of the adopted procedures shall be filed with the depository. The designated officer and the depository shall agree upon record-keeping safeguards and other measures necessary to ensure the safety and integrity of the payment process. The safeguards must be approved by the governing body of the municipality if the governing body finds that the safeguards are consistent with and do not contravene the procedures adopted under Subsection (g).

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

Sec. 105.075. CHECKS PAYABLE AT DEPOSITORY. Checks drawn by the treasurer of the municipality against municipal funds on deposit are payable by the depository at its place of business in the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

Sec. 105.076. DEBTS PAYABLE OTHER THAN AT MUNICIPAL TREASURY. The governing body of the municipality may direct the designated officer to withdraw from a depository and deposit money sufficient to pay a bond, coupon, or other indebtedness of the municipality at a place other than at the municipal treasury if by its terms the indebtedness is payable on maturity or upon redemption prior to maturity at the other location.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER F. LIABILITY AND REPORT OF DESIGNATED OFFICER

Sec. 105.091. LIABILITY OF DESIGNATED OFFICER. (a) The designated officer is not responsible for any loss of municipal funds through the negligence, failure, or wrongful act of a depository. This subsection does not release the designated officer

from responsibility for a loss resulting from the official misconduct of the designated officer, including a misappropriation of the funds, or from responsibility for the funds until a depository is selected and the funds are deposited.

(b) A designated officer who diverts money from an interest and sinking fund or who applies money in that fund for a purpose other than as permitted by Section 105.074(f) is:

(1) subject to a penalty of not less than \$500 or more than \$1,000; and

(2) liable for the amount of money that is diverted.

(c) The state is entitled to recover a penalty imposed under Subsection (b)(1). The amount of diverted money that is recovered under Subsection (b)(2) shall be paid into the municipal treasury to the credit of the fund from which it was diverted.

(d) The attorney general or the district attorney of the district in which the designated officer resides, or the county attorney in a county that is not served by a district attorney, may institute suit against the designated officer and the sureties on the designated officer's official bond to recover the amounts described by Subsection (b).

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 227, Sec. 6, eff. Sept. 1, 1999.

Sec. 105.092. REPORT BY DESIGNATED OFFICER. In conjunction with the publication of the annual financial statement of the municipality, the designated officer shall prepare a report which shall describe in summary form:

(1) the amount of receipts and expenditures of the municipal treasury;

(2) the amount of money on hand in each fund;

(3) the amount of bonds becoming due for redemption that require action;

(4) the amount of interest to be paid during the next fiscal year; and

(5) any other information required by law to be reported by the designated officer.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

**BANK CONSULTING AGREEMENT
BETWEEN
PATTERSON & ASSOCIATES and
THE CITY OF TOMBALL, TEXAS**

This Bank Consulting Agreement dated as of the ____ day of _____, 2015 (the "Agreement") is made and entered into by and between Patterson Capital Management L.P. dba Patterson & Associates ("P&A"), a Texas limited partnership and registered investment advisor and funds manager and the City of Tomball (the "Client").

WHEREAS, the Client has determined to utilize the services of P&A to perform the consulting services described herein,

NOW THEREFORE, for and in consideration of the mutual promises, covenants, and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree with each other as follows:

ARTICLE I. Services

The cash management consulting services for the Client will include examination and evaluation of the following treasury areas:

- Banking arrangement and structure. To determine the efficiency and effectiveness of the current banking structure and possible recommendations for improvement.
- Banking proposal development. To develop a Request for Proposal (RFP) for banking services based on the services required and desired by the Client.
- Banking proposal evaluation. To provide a quantitative and objective written evaluation of banking proposal received in response to the RFP.

ARTICLE II. Expenses and Reports

Section 2.01. Fee and Expenses.

The Client agrees to pay to P&A on an hourly basis for consulting services received at a rate of \$200/hour plus travel expenses (if required by Client) not to exceed \$4,500.00, for services contemplated under this Agreement. It is not anticipated that the services will require on-site consulting time. P&A shall advise the Client from time to time, in writing of the amount of such costs. This itemized invoice shall set forth the services provided and the cost incurred. Payment on the charges shall be made within 10 working days after receipt of invoice.

Section 2.02. Reports.

P&A shall submit draft and final RFP and a final analysis and recommendation report with all supporting documentation to the Client. P&A shall also be available to make any presentation of the findings and recommendations to the Client as deemed necessary by the Client.

ARTICLE III. Miscellaneous

Section 3.01. Notices.

Any notices, requests or demands required or permitted to be given hereunder shall be given in writing and shall be deemed duly given when mailed by registered or certified mail, postage pre-paid, addressed or faxed as follows:

To the Client: _____

Telephone: _____
Telefax: _____
E-mail: _____

To P&A: Linda T. Patterson
Patterson & Associates
Barton Oaks Plaza II
901 S. Mopac, Suite 195
Austin, Texas 78746
Telephone: (512) 320-5042
Telefax: (512) 320-5041
E-mail: linda@patterson.net

Section 3.02. Severability.

If any provision of this Agreement shall be held or deemed to be or in fact shall be illegal, inoperative, or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative, or unenforceable to any extent whatsoever.

Section 3.03. Limitation of Rights.

With the exception of the rights herein expressly conferred, nothing in or to be implied from this Agreement is intended or shall be construed to give any person other than the parties hereto any legal or equitable right, remedy or claim under or in respect to this Agreement or any of the covenants, conditions and provisions herein contained; this Agreement and all of the covenants, conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of the parties hereto and herein provided.

Section 3.04. Execution of Counterparts.

This Agreement may be simultaneously executed in several separate counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 3.05. Applicable Law.

This Agreement shall be governed by and construed in accordance with the laws of the State of Texas and is performable in _____ County, Texas

Section 3.06. Liability.

P&A, or any P&A employee shall not be held liable for any act or omission to act on behalf of herself, her agents, employees or other persons except for negligence or malfeasance, or violation of applicable law. Common law and the federal securities laws impose liabilities under certain circumstances on persons who act in good faith, and therefore nothing herein shall in any way constitute a waiver or limitation of any rights which the Client may have under common law or any federal securities laws.

Section 3.07. Assignment

This Agreement shall not be assignable by either party hereto, by operation of law or otherwise, without the prior written consent of the other party hereto. Any assignment in violation of this Section shall result in the automatic termination of this Agreement.

Section 3.08. Ownership Change.

P&A shall notify the Client in writing of any change in its partnership ownership within a reasonable time after such change.

Section 3.09. Captions.

The captions or headings in this Agreement are for convenience only and in no way define, limit, or describe the scope or intent of any provisions, articles, or sections of this Agreement.

Section 3.10. Amendment.

The Client and P&A may supplement or amend this Agreement only if evidenced in a writing signed by both parties.

Section 3.11. Termination.

This Agreement may be terminated by either party hereto, with or without cause, by tendering ten (10) days prior written notice in the manner set forth in Section 3.01 hereof.

IN WITNESS WHEREOF the parties hereto have cause this Agreement to be executed in multiple counterparts as of the date first set forth above.

CITY OF TOMBALL, TEXAS

Patterson Capital Management L.L.P. dba
PATTERSON & ASSOCIATES

By: _____

By: 
Linda T. Patterson, as General Partner and
President

Date:

Regular City Council

Agenda Item

Data Sheet

Meeting Date: October 5, 2015

Topic:

Award Contract for Bid Number 2015-10 - Janitorial Services to Sparkling Maintenance Service in the Amount of \$61,360.00

Background:

The current facilities cleaning contract expires on October 1, 2015, which is the end of a 1-year extension.

Staff sought and received 7 bids for cleaning services for city facilities. Sparkling Maintenance Service is the low bidder and their references are extremely positive and recommend award of the contract. The annual cost for the services is bid at \$61,360.

Origination:

Public Works

Recommendation:

Approve and award contract to Sparkling Maintenance Services

Funding: Yes

Account Number: 100-157-6311

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

David Esquivel

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Bid Tab

Bid Number 2015-10 - Janitorial Services**Bid Tabulation****Sparkling Maintenance Service**

Annual Contract	Hourly Rate	Minumum	Max Charge
	Sat: \$12.00/ hour	3 hours	\$120.00
\$61,360.00	Sun: \$12.00/ hour	3 hours	\$120.00
	Sat & Sun: \$12.00/ hour	3 hours	\$240.00

Kleen-Tech Services Corporation

Annual Contract	Hourly Rate	Minimum	Max Charge
	Sat: \$18.50/ hour	4 hours	N/A
\$73,132.00	Sun: \$18.50/ hour	4 hours	N/A
	Sat & Sun: \$18.50/ hour	4 hours	N/A

James Janitorial Services

Annual Contract	Hourly Rate	Minimum	Max Charge
	Sat: \$20.00/ hour	4 hours	N/A
\$80,034.00	Sun: \$20.00/ hour	4 hours	N/A
	Sat & Sun: \$40.00/ hour	8 hours	N/A

Ambassador Services, LLC

Annual Contract	Hourly Rate	Minimum	Max Charge
	Sat: \$13.95/ hour	4 hours	N/A
\$87,827.52	Sun: \$13.95/ hour	4 hours	N/A
	Sat & Sun: \$13.95/ hour	4 hours	N/A

Commerical Cleaning Services, LLC

Annual Contract	Hourly Rate	Minimum	Max Charge
	Sat: \$12.61/ hour	4 hours	N/A
\$110,893.88	Sun: \$12.61/ hour	4 hours	N/A
	Sat & Sun: \$12.61/ hour	4 hours	N/A

GFM Enterprises/ Guardian Facility Maintenance

Annual Contract	Hourly Rate	Minimum	Max Charge
	Sat: \$36.25/ hour	4 hours	N/A
\$183,113.80	Sun: \$36.25/ hour	4 hours	N/A
	Sat & Sun: \$36.25/ hour	8 hours	N/A

Member's Building Maintenance

Annual Contract	Hourly Rate	Minimum	Max Charge
N/A	N/A	N/A	N/A

Bid Disqualified - No Bid Form Submitted

Regular City Council

Agenda Item

Meeting Date: October 5, 2015

Data Sheet

Topic:

Award Contract for Bid Number 2015-11 - Generator Maintenance & Repairs to Loftin Equipment Co. in the Amount of \$15,715.00 per Year

Background:

The City has 10 existing sites where generators are used as backup power in the event of power failure. These facilities are critical to operations to maintain and continue the services that the city provides, especially in a major weather event or in case of loss of power.

Staff sought and received bids for an annual contract to provide maintenance and repair services for these generators. Six bids were received and two were disqualified during the bid review period.

Due to the sensitivity of the services where knowledge and response is critical, staff recommends award of the generator bid to Loftin Equipment Co., in the amount of \$15,715.00 per year. Loftin Equipment, Co. has working knowledge of our generator systems and have the ability to quickly respond in emergency situations due to the proximity of their operations and staff believes that it is the best and highest value for the city to award the contract to Loftin Equipment Co.

Loftin Equipment Co.'s facility is a state-of-the-art facility that can handle most repairs in house. Their staff is large and they have locations throughout Texas and other states which is a resource in case of a major storm event. The location serving our area is approximately 30-40 minutes away and has backup generators in the event we are in need of immediate coverage.

Origination:

Public Works

Recommendation:

Award Contract to Loftin Equipment, Co.

Funding: Yes

Account Number: 100-157-6206, 100-142-6204, 600-614-6204

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

David Esquivel

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

bid tab

Bid Number 2015-11 - Generator Maintenance & Repairs**Bid Tabulation****Allegiance Power Systems**

Annual Contract	Scheduled Maintenance Range	Repairs	Minimum
\$13,485.00	\$150.00	Normal Hours: \$85.00	2 hours
		After Hours: \$127.50	2 hours

Clifford Power Systems

Annual Contract	Scheduled Maintenance Range	Repairs	Minimum
\$13,891.00	\$110.00 - \$120.00	Normal Hours: \$110.00	N/A
		After Hours: \$165.00	N/A

Loftin Equipment , Co.

Annual Contract	Scheduled Maintenance Range	Repairs	Minimum
\$15,715.00	\$225.00	Normal Hours: \$130.00	2 hours
		After Hours: \$195.00	2 hours

Evolve

Annual Contract	Scheduled Maintenance Range	Repairs	Minimum
\$12,615.00	\$710 - \$1,625	Normal Hours: \$80.00	N/A
		After Hours: \$120.00	N/A

Kentech, Inc

Annual Contract	Scheduled Maintenance Range	Repairs	Minimum
\$18,237.00	Not Quoted	Not Quoted	N/A
Bid Disqualified - All Services Not Quoted			

Cummins Southern Plains

Annual Contract	Scheduled Maintenance Range	Repairs	Minimum
N/A	N/A	N/A	N/A
Bid Disqualified - Alternate Bid Submitted			

Regular City Council Agenda Item Data Sheet

Meeting Date: October 5, 2015

Topic:

Award Contract for Bid Number 2015-12 - Purchase of Chlorine and Sulfur Dioxide Gas to DXI Industries

Background:

Staff sought and received bids for an annual contract for water and wastewater treatment chemicals of chlorine and sulfur dioxide gas. Chlorine is used as a disinfectant and sulfur dioxide gas is used to de-chlorinate effluent when discharged at the wastewater treatment plants.

One bid was received and the pricing submitted is \$94.50 per 150 pound cylinder of chlorine gas, \$674.00 per 1 ton cylinder of chlorine gas and \$840.00 per 1 ton cylinder of sulfur dioxide gas.

Based on historical usage, the annual value of the proposed contract is approximated at \$47,552.10.

Origination:

Public Works

Recommendation:

Approve and award bid to DXI Industries

Funding: Yes

Account Number: 6110

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

David Esquivel

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Bid Tab

Bid Number 2015-12 - Chlorine & Sulfur Dioxide Gas**Bid Tabulation****DXI Industries**

Chemical	Amount	Price per Cylinder
Chlorine Gas	150 Pounds cylinder	\$94.50/ cylinder
Chlorine Gas	1 Ton Cylinder	\$674.00/ cylinder
Sulfur Dioxide	1 Ton Cylinder	\$840.00/ cylinder

Regular City Council

Agenda Item

Data Sheet

Meeting Date: October 5, 2015

Topic:

Award Contract for Bid Number 2015-13 - Purchase of Liquid Polyphosphate and Zinc Orthophosphate to Water Utility Services

Background:

Staff sought and received bids for an annual contract for water treatment chemicals of liquid polyphosphate and zinc Orthophosphate. These chemicals are used to maintain solubility of certain metals (manganese and iron) to remain dissolved to prevent discoloration.

Staff received 3 bids and the lower bid is \$8.50 per gallon for liquid polyphosphate and \$7.00 per gallon for zinc orthophosphate. Based upon historical usage for these chemicals the value of the proposed contract is \$28,730.

Origination:

Public Works

Recommendation:

Approve and award bid to Water Utility Services.

Funding: Yes

Account Number: 6110

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

David Esquivel

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Bid Tab

Bid Number 2015-13 - Liquid Polyphosphate & Zinc Orthophosphate**Bid Tabulation****Water Utility Services, Inc**

Chemical	Price per Gallon
Liquid Polyphosphate	\$8.50/ gallon
Zinc Orthophosphate	\$7.00/ gallon

Shannon Chemical Corporation

Chemical	Price per Gallon
Liquid Polyphosphate	\$9.14/ gallon
Zinc Orthophosphate	\$7.17/ gallon

NAPCO Chemical Co.

Chemical	Price per Gallon
Liquid Polyphosphate	\$11.00/ gallon
Zinc Orthophosphate	\$10.95/ gallon

Regular City Council

Agenda Item

Meeting Date: October 5, 2015

Data Sheet

Topic:

Adopt, on First Reading, Ordinance No. 2015-20, an Ordinance of the City of Tomball, Texas, amending the Code of Ordinances of the City of Tomball, Texas by Removing therefrom Article III, Auto Wreckers and Towers, of Chapter 48, Vehicles for Hire, in its Entirety, and Substituting in its place a New Article III, Tow Trucks and Tows, Regulating the Operation of Tow Trucks, Vehicle Storage Facilities, the City's Tow Truck Rotation List and Related Regulations; Providing a Penalty in an Amount not to exceed \$2,000 for Each Violation Hereof with Each Day Constituting a Separate Offense; Providing for Severability; and Making Other Findings related Hereto

Background:

Article III, Auto Wreckers and Towers, in Chapter 48 of the City's Code of Ordinance has been amended several times to change fee amounts, prohibit the sharing of storage lots, eliminate the Wrecker Appeals Board, and other changes to remain consistent with State law.

City Staff believes that the proposed amendments to Article III of Chapter 48 constitutes an extensive revision, to such an extent that it would be best to delete the current Article III, Auto Wreckers and Towers, and replace it in its entirety with the attached proposed Article III, Tow Trucks and Tows. The proposed changes remove requirements for private and transfer tow trucks, establish a reduction by attrition in the number of towing companies from the current eleven (11) companies to eight (8) companies, after which time the rotation list will not exceed eight (8) companies, still require separate storage lots, located within the City or the City's ETJ, and incorporate other changes to reflect current State law.

A redline copy of the current Article III is provided for Council review, along with a final draft of the proposed replacement Article III.

Origination:

Doris Speer, City Secretary

Recommendation:

Adopt Ordinance No. 2015-20 on First Reading

Funding:

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

City Secretary

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Ordinance No. 2015-20 - Proposed Amendments to Article III

Current Chapter 48, Article III - Redlined Version

ORDINANCE NO. 2015-20

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF TOMBALL, TEXAS BY REMOVING THEREFROM ARTICLE III, AUTO WRECKERS AND TOWERS, OF CHAPTER 48, VEHICLES FOR HIRE, IN ITS ENTIRETY, AND SUBSTITUTING IN ITS PLACE A NEW ARTICLE III, TOW TRUCKS AND TOWS, REGULATING THE OPERATION OF TOW TRUCKS, VEHICLE STORAGE FACILITIES, THE CITY'S TOW TRUCK ROTATION LIST AND RELATED REGULATIONS; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH VIOLATION HEREOF WITH EACH DAY CONSTITUTING A SEPARATE OFFENSE; PROVIDING FOR SEVERABILITY; AND MAKING OTHER FINDINGS RELATED HERETO.

* * * * *

WHEREAS, the City Council of the City of Tomball, Texas finds it to be in the best interest of the health, safety and welfare of its citizens to regulate the operation of tow trucks responding to accident scenes;

WHEREAS, the City Council further finds that the careful regulation of tow truck response to accident scenes aids in the safe and efficient management of such incidents; 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 is hereby amended by deleting in its entirety Article III, Auto Wreckers and Towers, of Chapter 48, Vehicles for Hire, and substituting in its place a new Article III, Tow Trucks and Tows, such new Article III to read as follows:

“ARTICLE III. – TOW TRUCKS AND TOWS

Division 1 – Generally

Section 136. 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:

Chief of police shall mean the chief of police of the city or his appointed representative, who shall be responsible for administering the provisions of this article.

Consent Tow shall mean any tow of a vehicle in which the tow truck is summoned by the owner or operator of the vehicle or by a person who has possession, custody or control of the vehicle. The term does not include an incident management tow or a private property tow.

Driver shall mean any individual who actually operates and drives a tow truck on the streets of the city, either for his own benefit or as an employee of another.

Drop Fee shall mean a fee that must be offered on a tow where the vehicle is hooked up and is ready for immediate transport. Any vehicle that is not hooked up completely and ready for immediate transport and the owner or operator of the vehicle arrives on the scene the vehicle must be released without a fee.

Incident shall mean an unplanned randomly occurring traffic event that adversely affects normal traffic.

Incident management tow shall mean any tow of a vehicle in which the tow truck is summoned because of a traffic accident or to an incident.

License shall mean permission granted by the city to a tow truck company to tow or operate a tow truck within the city.

Light-duty tow truck shall mean a tow truck with a 15,000 pound gross vehicle weight (GVW) or greater, a boom capacity of 8,000 minimum with dual winches and a wheel lift with at least 4,000 pound capacity and one hundred feet (100') of three eighths inch (3/8") wire rope.

Non-consent tow shall mean any tow of a vehicle that is not a consent tow including:

(1) An incident management tow; and

(2) A private property tow.

Non-owner consent shall mean consent to tow a vehicle when such consent is not given by the registered owner of the vehicle.

Owner shall mean any person engaged in the business of towing motor vehicles for hire or engaged in the business of storing, wrecking or repairing motor vehicles for hire and who owns or is entitled to use any tow truck, and who uses same in the conduct of his business or any part thereof.

Owner consent shall mean permission or a request made to haul or tow a vehicle or motor vehicle to a state-licensed storage lot, to a repair shop, or to any location directed by the owner, which owner consent is given by a registered owner or an authorized person having control of the vehicle or motor vehicle, and which is made prior to the police dispatch for a tow truck in rotation. If conditions permit, the officer at the scene should first inquire if the owner or authorized person has a preference or requests a particular tow truck company that can remove the vehicle promptly; that is, before the conclusion of police activities at the scene, or as safety dictates.

Parking facility shall mean any public or private property used, in whole or in part, for restricted and / or paid parking of vehicles. The term includes a restricted space on a portion of an otherwise unrestricted parking facility, a commercial parking lot, a parking garage, and a parking area serving or adjacent to a business, church, school, home, apartment complex, property governed by a property owner's association, or government owned property leased to a private citizen.

Permit shall mean written permission granted by the City of Tomball to a driver to operate or drive a tow truck on the City's tow truck rotation list.

Person shall mean an individual, a corporation, organization, business trust, estate, trust, partnership, joint venture, association, or other legal entity.

Tow shall mean a vehicle transported or carried, a reasonable distance, by a tow truck, from point A by raising no less than two wheels off the ground and setting all wheels on the ground at point B.

Tow business shall mean the business of towing or removing vehicles for compensation, or the expectation of compensation, regardless of whether the purpose of the towing is to remove, repair, wreck, store, trade, or purchase vehicles.

Tow rotation list shall mean a list prepared and maintained by the city police department of tow companies which have requested and qualified to appear thereon.

Tow truck shall mean any motor vehicle, including a wrecker, equipped with a mechanical device used to tow, winch, or otherwise move another vehicle. The term does not include:

- (1) A motor vehicle owned and operated by a governmental entity, including a public school district
- (2) A motor vehicle towing;
 - (a) A race car;
 - (b) A motor vehicle for exhibition; or
 - (c) An antique motor vehicle.
- (3) A recreational vehicle towing another vehicle;
- (4) A motor vehicle that is used in combination with a tow bar, tow dolly, or other mechanical device if the vehicle is not operated in the furtherance of a commercial enterprise;
- (5) A motor vehicle that is controlled or operated by a farmer or rancher and used for towing a farm vehicle;
- (6) A motor vehicle that:
 - (a) Is owned or operated by an entity that the primary business of which is the rental of motor vehicles; and
 - (b) Only tows vehicles rented by the entity.

Towing company shall mean a person operating a tow truck licensed with TDLR (Texas Department of Licensing and Regulation). The term includes the owner, operator, employee or agent of a towing company but does not include a political subdivision of the state.

Unauthorized vehicle shall mean a vehicle parked, stored, or located on a parking facility without the consent of the parking facility owner.

Vehicle shall mean a device in, on, or by which a person or property may be transported on a public roadway. The term includes an operable or inoperable automobile, truck, motorcycle, recreational vehicle, or trailer, but does not include a device moved by human power or used exclusively on a stationary rail or track.

Vehicle storage facility (VSF) shall mean a facility operated by a person licensed under Chapter 2303 of the Texas Occupations Code.

Vehicle storage facility license shall mean the license issued by TDLR (Texas Department of Licensing and Regulation) authorizing a business to store vehicles.

Sec. 48-137. - Liability and property damage insurance requirements.

(a) Before any permit shall be issued under this article to a tow truck owner, or before any renewal of such permit shall be granted, such owner shall procure and keep in full force and effect and shall keep on file with the chief of police or his designee a policy of public liability and property damage insurance or a certificate of insurance in the name of the owner or company by a casualty insurance company which is authorized to do business in the state and in standard form approved by the state board of insurance commissioners, and the coverage provisions insuring the public from any loss or damage that may arise to any person or property by reason of the operation of a tow truck of such owner and providing that the amount of recovery on each tow truck shall be in limits of not less than the sums as currently established or as hereafter adopted by resolution of the city council from time to time.

(b) The insurance policies mentioned in subsection (a) of this section shall contain an endorsement which provides for 30 days' notice to the chief of police or his designee of any material change or cancellation of the policy.

Sec. 48-138. - Equipment requirements for tow trucks on the City's tow truck rotation list.

(a) All tow trucks on the City of Tomball Tow Truck Rotation List must be equipped for light or heavy duty according to the manufacturer's guidelines.

(b) Each tow truck will be inspected by the chief of police or his designee prior to issuance of new company license or renewal of company license.

(c) **Police Inspection.** Any tow truck performing non-consent tows within the city limits, may be inspected by an official of the Tomball Police Department at any time the tow truck is being operated on the public streets as a tow truck. Such inspections may be conducted to ensure required licenses and compliance with this article and state law. Further, upon the request of the chief of police or his/her designee, a tow company performing non-consent tows within the city shall produce records from the VSFs used for non-consent tows to ensure compliance with the maximum rates established under this article and other requirements of this article and state law.

(d) **Equipment and vehicle inspection.** The chief of police or his representative shall make a physical inspection of the equipment and vehicles

covered by this article as frequently as he shall deem necessary. If such inspection of the equipment and vehicles results in a recommendation that the permit be suspended, the owner shall be informed of the existing deficiencies in writing, and shall have ten days in which to correct the deficiencies.

Sec. 48-139. - Storage lot requirements.

(a) All tow truck license holders under this article shall maintain or have access to a vehicle depository located in the corporate limits of the city or located within the extraterritorial jurisdiction of the city, as that term is defined in V.T.C.A., Local Government Code Ch. 42. The chief of police or the chief's designated representative shall make the determination of the limits of the city's territorial jurisdiction upon written request to do so or in connection with any tow truck permit application. Such vehicle depositories maintained or used by tow truck license holders shall be state licensed vehicle storage lots pursuant to the Vehicle Storage Facility Act (V.T.C.A., Occupations Code Ch. 2303).

(b) Any vehicle hauled or towed without the owner's consent shall be taken to a state-licensed storage facility authorized by this section, or to such other location as directed by the owner or authorized person, with the approval of the police officer at the scene. Additionally, each tow truck license holder shall have its own private storage lot. The sharing of storage lots is prohibited.

Sec. 48-140. - Fees for tow truck service.

(a) **Maximum fees to be charged for non-consent tows.** The maximum fees charged by tow companies for non-consent tows are hereby established by the city and reflect fair value of towing services and are included in the Master Fee Schedule, as approved by the City Council. Itemized receipts shall be provided to owners or operators at the time payment of tow related fees are made. Violations of this provision may result in suspension or removal from the tow rotation list, and criminal penalties against the offender. Towing fees may be reviewed by the City of Tomball bi-annually. A towing fee study shall be performed in conjunction with this review.

(b) **Additional service fees to be charged.** Additional service fees that may be charged are included in the Master Fee Schedule, as approved by the City Council.

(c) **Storage fees.** Storage fees are included in the Master Fee Schedule, approved by the City Council.

(d) **Notification fees.** Notification fees and requirements are included in the Master Fee Schedule, approved by the City Council.

Sec. 48-141. - Administrative Penalties for Violations and Appeal of Sanctions.

(a) In addition to the criminal penalties imposed for violations of state law or this article, any tow company on the tow rotation list that violates this article or state law may be subject to sanctions by the chief of police or his designee, depending upon the nature of infraction, number of infractions, and other circumstances. The sanctions shall range from written notification of violation with warning, to removal from the tow rotation list.

(b) An owner, driver or any person who violates any provision of this article shall be deemed in violation of this Code and guilty of a Class C misdemeanor will be punished by a fine or suspension or removal from the tow truck rotation list.

- (1) If a fine is imposed, the rate will be set by the municipal court and shall not exceed the amount provided in section 1-14 for each count.
- (2) If a suspension or removal from the tow truck rotation list is imposed, the chief of police will set the length of time such suspension or removal shall run.
- (3) A fine may not be imposed if the chief of police imposes a suspension or removal from the tow truck rotation list.

(c) **Appeal of sanctions.**

An individual who has been issued a sanction may appeal the Chief of Police's or designee's decision by submitting a written request to the City Manager no later than the tenth day after the effective date of the decision. The individual must include a statement of the grounds for the appeal. The City Manager or his designee shall schedule a hearing no later than the fifteenth day after receipt of the notice of appeal. The City Manager or his designee shall give notice of the time and place set for the hearing to the chief of police and the appellant not less than five days before the hearing.

(d) **Appeal Procedure.**

- (1) At the appeal hearing the Chief of Police and the appellant may present evidence, testimony, and argument.
- (2) The City Manager's or his designees' decision is final.

Sec. 48-142. - Unlawful to tow without owner's consent except after notification of police.

(a) It shall be unlawful for any tow truck owner or tow truck driver to tow or haul or cause to be towed or hauled any vehicle within the city, except by request of the owner of the vehicle, without having first notified the police department dispatcher within one hour after such tow. Any such vehicle towed or hauled without the owner's permission or knowledge shall be stored in a state-licensed vehicle depository within the corporate limits or extraterritorial jurisdiction of the city, as referenced in section 48-139, until released to the vehicle owner or agent.

(b) In any prosecution charging violation of this section, proof that the owner of the vehicle did not consent to the removal of the vehicle, together with proof that the defendant named in the complaint had possession of the vehicle on the date charged, shall constitute in evidence a prima facie presumption that the possessor of the vehicle was the person or company who towed, hauled, or caused to be towed or hauled the vehicle found in his possession on the date of possession. The defendant shall have the right to introduce evidence to show that the vehicle was not towed or hauled as alleged in the complaint.

Secs. 48-143—48-175. - Reserved.

DIVISION 2. TOW TRUCK COMPANY LICENSE

Sec. 48-176. - Required; transferable; expiration date; trade name registration; location of business.

(a) It shall be unlawful for any person to engage in tow truck company service in the city without first obtaining a tow truck company license from the chief of police. A license is assignable or transferable upon approval by the chief of police. The license issued to a tow truck company authorizes the licensee and his bona fide employees to engage in tow truck company services.

(b) It shall be unlawful for any person to drive or operate any tow truck, or allow, permit or cause any person to drive or operate any tow truck unless the following information is clearly and legibly painted in colors, which contrast with the color of the doors, on the outside of both entrance doors of the vehicle in letters and numbers of at least four-inches in height and one-half inch in stroke width:

(1) The name of the company under which the permit holder is doing business.

(2) The telephone number, which shall be obtainable through directory assistance, and address of the permit holder or his agent where persons can call at

any hour the tow truck is in operation to obtain information as to the storage lot to which a vehicle was towed.

(c) Each tow company will maintain its own office within the city limits or the extraterritorial jurisdiction (ETJ) of the City of Tomball.

(d) Truck Permits Required for Rotation Nonconsent Tows.

(1) **Truck permits.** The permit shall be affixed to the front windshield so that it can be read from the exterior of the vehicle. Permits will be issued by the City upon successful inspection of each vehicle according to prescribed standards and/or equipment listed in the application. Permits may be suspended and/or revoked by the chief of police or the designee.

(2) **Issuance or renewal of truck permits.** Permits, unless suspended or revoked, shall be issued/renewed by September 30th of each year and will expire on September 29th the following year. Permits may be issued for tow trucks added to the tow truck business during the course of the year provided all necessary paperwork is completed.

Sec. 48-177. – Tow truck company application; renewal.

(a) Tow Truck Company Application: Any applicant for a tow truck company permit shall submit, on a form supplied by the City of Tomball, a verified application form containing or accompanied by the following:

(1) The true trade name, true owner's name, address, and telephone number of the tow truck company. The company may be a sole proprietorship, partnership or corporation;

(2) Number and types of tow trucks to be operated;

(3) Name, address and telephone number of the owner of the tow truck company, and if a corporation, the names, addresses, telephone numbers of owners holding more than ten percent of the shares of the corporation.;

(4) An agreement that the applicant will participate in the tow truck rotation list;

(5) Proof of ownership, which shall mean the title with the owner's name, by the applicant of the tow truck to be used. Such ownership shall be verified at the time of application and quarterly thereafter by the police department and upon any renewal of insurance;

(6) A detailed description of each tow truck proposed to be operated, including Texas tow truck license plate number;

(7) A copy of the state issued tow truck license (Cab Card);

(8) The original certificate of insurance that lists public liability, property damage, and any and all other amounts as prescribed by the State of Texas which must show the City of Tomball as certificate holder. The original certificate will be returned to the owner after a photocopy has been made;

(9) A photocopy of the vehicle storage facility license issued by the State of Texas which must include the physical address and phone number of the facility to be used. The VSF must be located within the extraterritorial jurisdiction (ETJ) of the City of Tomball and must be publicly listed with local telephone companies; and

(10) Written proof that the VSF meets Texas Accessibility Standards.

(b) The chief of police shall inquire about the criminal convictions of the applicant or the applicant's drivers involving moral turpitude including burglary, theft, robbery, forgery, and perjury or relevant convictions that would reflect on the ability to operate a tow truck.

(c) Only one license may be issued to each tow truck company, and a person, partnership, or corporation may not own a controlling interest in another tow truck company;

(d) An annual license renewal which is applied for at least 20 days prior to the expiration of the license will be granted upon compliance with the provisions of this division. An applicant who has failed to renew or whose license has been revoked under this division is considered an initial applicant.

(e) The chief of police may, at any time, require additional information of an applicant or licensee to clarify items on the application.

(f) Supplemental permit for additional tow trucks.

(1) Where an owner has obtained a wrecker tow truck permit and thereafter desires to increase the number of wreckers tow trucks to be operated, he shall file a supplemental application with the director chief of police, setting forth his permit number and the fact that he desires to operate additional wreckers tow trucks, giving the make, model, vehicle identification number and state license number of each additional wrecker tow truck. He shall also pay a permit fee as currently established or as hereafter adopted by resolution of the city council from

time to time for each additional wrecker tow truck and file a new insurance policy meeting the requirements of this article, covering the new wrecker tow truck.

(2) The chief of police shall examine such supplemental tow truck application, fee and policy, and if the same are in order, the chief of police shall issue a supplemental permit covering the new tow truck.

(g) Supplemental permit for substitute tow truck. Whenever an owner wishes to discontinue the use of a tow truck during the period covered by his permit and replace it with another, he shall file an affidavit stating that he has discontinued using the tow truck covered by his permit, and desires to use another tow truck in its place. He shall attach a certificate from his insurer that such insurer has been notified thereof and agrees thereto. The chief of police shall then issue the owner a supplemental permit at a cost as currently established or as hereafter adopted by resolution of the city council from time to time, which will cover the new tow truck and cause the description of the old tow truck to be eliminated from the original permit. In the affidavit, certificate from the insurer, and supplemental permit, the old and new tow truck shall be described by make, model, vehicle identification number and state license number.

(h) Driver Records. Each tow company must submit and maintain a list of operator/drivers, who will be operating the tow trucks included on the company's license, along with their address, phone number, Texas driver's license number and a criminal background for each driver. Drug related offenses, theft, assault, or crimes of moral turpitude can be grounds for denial. Each driver must possess a TDLR incident management license and submit to the city a copy of the license.

Sec. 48-178. - Fee.

(a) The annual fee for a tow truck company license for each tow vehicle is as currently established or as hereafter adopted by resolution of the city council from time to time. The fee will be prorated on the basis of whole months. The fee for issuance of a duplicate license if a license is lost, stolen, destroyed or mutilated is as currently established or as hereafter adopted by resolution of the city council from time to time.

(b) Fees are payable to the City of Tomball upon issuance of the license. No refund of fees will be made.

(c) A tow company licensee may operate more than one tow vehicle; however, he is entitled to only one listing on the tow truck rotation list.

Sec. 48-179 – Prerequisites to issuance.

(a) **Inspection of tow trucks.** Every tow truck to be used by the applicant for incident management tows in the tow truck business shall be inspected annually by the Tomball Police Department delegate prior to the issuance of a permit to ascertain if it has met all state requirements along with the following items:

- (1) Current TDLR license (listing all trucks permitted);
 - (2) Current tow truck license plate registration;
 - (3) Current safety inspection certificate;
 - (4) The company name and phone number must be permanently displayed on both sides of the tow truck at least four inches in height;
 - (5) One fire extinguisher, type ABC dry chemical, at least ten pounds or equivalent. Each extinguisher shall have a number permanently affixed that correlates with the truck it belongs on;
 - (6) Light set sufficient to provide rear brake/turn lights and taillights for the towed load (tow lights);
 - (7) Three portable red emergency reflectors or reflective orange safety cones;
 - (8) Broom and scoop along with a container to contain any and all debris removed from a scene. Each shall have a number permanently affixed that correlates with the truck it belongs on; and
 - (9) Amber-colored overhead rotating/flashing lights that are to be used only while under the direction of a law enforcement officer at the scene of an accident or while assisting/hooks up to a disabled vehicle on a roadway.
- (b) Each licensee shall maintain 24-hour tow truck service and communications.
- (c) No vehicles may be towed unless and until the tow truck driver has received a completed police officer tow inventory sheet (POTIS). Such POTIS shall be completed in triplicate, at the scene, by the police officer and signed by the officer in charge and the tow truck driver. The original of such POTIS shall be retained by the police department. The remaining two copies shall be left with the tow truck driver. The tow truck driver, prior to delivering the vehicle to the owner or representative, shall have the owner/representative sign the remaining two

copies and the tow truck driver shall then give one copy to the owner/representative and retain one copy for the tow truck company records.

(d) If issuance of a tow company license is approved, the applicant or licensee shall comply with insurance requirements set forth in section 48-137.

Sec. 48-180. - Refusal to issue or renew.

The chief of police may refuse to issue or renew a tow company license upon notice and hearing, for one or more of the following reasons:

(1) The making of any false statement as to material matters in an application for a license, or license renewal or in a hearing concerning the license;

(2) Revocation of a license, pursuant to this division, of the applicant or any proprietor, partner or corporate officer of the applicant within 18 months preceding the application;

(3) Use by the licensee of a trade name for his tow truck company other than the one registered with the chief of police;

(4) Suspension of the licensee's tow truck company license on three occasions within 12 months for more than two days on each occasion;

(5) Failure to meet the qualifications, service standards, or the rules and regulations established by this article;

(6) A licensee or the owner or holder of more than ten percent of licensee's stock, if the licensee is a corporation, has been convicted of a crime involving moral turpitude including burglary, robbery, perjury, forgery, theft, theft of an automobile or receiving and concealing stolen property, unless five years has lapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date; or

(7) If the holder of the license is a corporation, if such corporation fails to furnish a list of the owners or holders of more than ten percent of the issued and outstanding stock in such corporation at the time of application, transfer or renewal.

Sec. 48-181. Report of Towing of Unauthorized Vehicle to Police Dispatcher by Vehicle Storage Facility.

The VSF that receives a vehicle from a tow truck that removed the vehicle from private or public property within city and on a non-consent basis, except on police-generated tows, shall notify the police department dispatch office within

one hour of receiving the vehicle. The information to be provided in such notification shall include:

- (1) The general description (brand, model, color) of the vehicle towed, including the state and the license plate, if any;
- (2) The tow company name that towed the vehicle;
- (3) The location/address from which the vehicle was towed and reason;
- (4) The date and time the vehicle was removed from the location;
- (5) The date and time the vehicle was accepted at the VSF; and
- (6) The street address and phone number of the VSF where the vehicle is located.

Such reports shall be made by fax, e-mail or in person. A VSF must release vehicles during the time the VSF accepts vehicles. If the VSF accepts vehicles on a 24-hour-a-day basis, it shall release vehicles on the same basis, with one (1) hours' notice.

Secs. 48-182-48-190. - Reserved.

DIVISION 3. - TOW TRUCK DRIVER'S PERMIT

Sec. 48-191. - Required.

(a) No person shall drive or operate any tow truck for the purpose of making rotation non-consent and/or police directed/initiated tows in the City of Tomball unless such a person possesses a current, valid tow truck driver permit issued by the city nor shall any person allow, permit or cause to be operated any tow truck for the purpose of making rotation non-consent and/or police directed/initiated tows, either on his own account or in the employ of another.

(b) A violation of subsection (a) or (b) of this section shall be a Class C misdemeanor and is punishable as provided in section 1-14 or by suspension.

Sec. 48-192. - Application.

(a) No person shall drive or operate any tow truck for the purpose of making rotation non-consent and or police directed/initiated tows in the City of Tomball unless such a person possesses a current, valid tow truck driver permit issued by the city secretary nor shall any person allow, permit or cause to be operated any tow truck for the purpose of making rotation or police initiated tows, either on his

own account or in the employ of another. A violation of subsection of this section shall be a class C misdemeanor and is punishable as provided in section 1-14 of this Code or by suspension.

(b) Each person desiring a tow truck driver permit shall submit an application to the city secretary on a form furnished by the city. On the application the applicant shall set forth:

(1) The name and address of the applicant;

(2) The applicant's date of birth, place of birth, sex and each address where he has resided in the two years immediately preceding his application;

(3) The name and address of each employer of the applicant and any businesses that the applicant has been engaged in during the two years immediately preceding the filing of the application;

(4) Evidence that the applicant has operated a motor vehicle for at least six months immediately prior to the filing of the application;

(5) Whether the applicant has been convicted of any criminal offense in this state or any other state or county preceding his application or has spent any time in jail or prison preceding his application due to a conviction for a criminal offense. If he has been convicted of any such offense or been in jail or prison, he shall set out the offense convicted of, the date of the conviction and the police, court and case numbers of the case. All applicants shall, in their application, authorize the police department to investigate as to whether the applicant has committed any criminal offense;

(6) The applicant shall also show the chief of police evidence that he has a current license valid under state law for vehicles greater than one ton, issued by the state, and shall complete a form allowing the chief of police and the police department to obtain information as to the applicant's driving record from the state and from any state which had issued the applicant a driver's license which was valid at any time within the two years immediately preceding the submission of the application;

(7) Such other information as the chief of police or his designee finds relevant; and

(8) Two current photographs of the applicant.

(b) After the application has been completed, the applicant shall sign the application and shall execute a sworn affidavit that all matters stated in the application are true and correct.

(c) The applicant shall also provide the chief of police or his designee with evidence that he is at least 18 years of age and submit himself to be fingerprinted at a time and place designated by the chief of police or his designee.

Sec. 48-193. - Fee.

Every person desiring a tow truck driver permit shall pay a nonrefundable license fee as currently established or as hereafter adopted by resolution of the city council from time to time at the time he submits his application to the chief of police or his designee.

Sec. 48-194. - Application investigation.

The chief of police or his designee shall issue a tow truck driver permit after submission of an application in accordance with section 48-192, payment of the application fee and completion of the investigation of the criminal and driving records of the applicant, unless he finds that the permit should be denied under section 48-195 or gives notice of a hearing pursuant to section 48-196.

Sec. 48-195. - Application denial; notice.

(a) An application for a tow truck driver permit shall be denied if any information set out in the application was incomplete or false.

(b) If the chief of police or his designee denies the application for a tow truck driver permit, he shall give written notice to the applicant by certified mail, return receipt requested, at the applicant's address as set out in the application. In such notice, the chief of police or his designee shall set out the reason the application was denied.

Sec. 48-196. - Application hearing.

The chief of police or his designee, if considering denial of an application, shall give the applicant notice that a hearing will be held in regard to his application for a tow truck driver permit if:

(1) The police department has informed the chief of police that the applicant has been convicted of or spent any time in jail or prison for any of the following offenses prior to the issuance of the permit:

a. Any offense involving moral turpitude, including:

1. Fraud or theft of any kind;

2. Forgery;
3. Burglary;
4. Robbery; or
5. Any felony conviction.

b. An offense relevant and reflecting on the ability of the applicant to operate as a tow truck driver.

The chief of police or his designee shall not, however, deny a permit on the basis of time in jail or prison where there was no conviction or for any conviction which was set aside as invalid.

(2) The applicant has been convicted of three or more moving violations of the traffic laws of this state or of any other state in the one-year period immediately preceding the date of issuance of the permit or has been convicted of seven or more moving violations in the three-year period immediately preceding the date of issuance of the permit.

(3) A tow truck driver permit issued to the applicant by the city had been revoked at any time within five years immediately preceding the submission of the application, had not been renewed, and grounds existed for the revocation of the permit at the time it expired.

Sec. 48-197. - Refusal to issue or revocation.

The chief of police or his designee may refuse to renew a tow truck driver permit and a tow truck driver permit may be revoked at any time if:

(1) The licensee has committed or been convicted of any of the offenses set forth in section 48-196(1);

(2) The licensee has been convicted of three or more moving violations of the traffic laws of this state or of any other state within one year when any of the convictions occurred after the permit was issued;

(3) The licensee has been convicted of driving while intoxicated or driving while under the influence of drugs after the permit was issued;

(4) The licensee has committed or been convicted of any violation of this article or ordinances of the city regulating tow trucks; or

(5) The licensee has violated any of the rules and regulations issued by the chief of police pursuant to this article.

Sec. 48-198. - Expiration; renewal; replacement.

(a) All tow truck driver permits shall expire one year from the date the permit was issued. To renew such a permit the licensee shall file an application on a form designated by the chief of police or his designee setting out such information as the chief of police or his designee finds is reasonably necessary to determine if the applicant's license should be renewed, and shall pay a renewal fee as currently established or as hereafter adopted by resolution of the city council from time to time.

(b) If a tow truck driver's permit is lost or destroyed, he may obtain a replacement permit under the following conditions:

(1) He files an affidavit, sworn to before a notary, stating that his permit has been lost or stolen and setting out the details of how his permit was lost or stolen, setting out the details of where and when he last saw the permit and when he discovered it as lost;

(2) Submitting two photographs with the affidavit; and

(3) Paying a fee for the replacement permit as currently established or as hereafter adopted by resolution of the city council from time to time. A replacement tow truck driver's permit shall expire on the date of expiration for the permit which was lost or stolen.

Secs. 48-199—48-210. - Reserved.

DIVISION 4. - OPERATION

Sec. 48-211. - Powers and duties of the chief of police with respect to tow truck service.

In addition to the powers and duties elsewhere prescribed in this article, the chief of police or his designee are authorized to:

(1) Administer and enforce all provisions of this article;

(2) Keep records of all licenses and permits issued, suspended or revoked;

(3) Keep records of all authorized tow truck vehicles;

(4) Adopt rules, regulations and penalties after reasonable notice to the permittees and licensees, not inconsistent with the provisions of this article, with respect to the form and content of applications for licenses and permits the receipt thereof, the investigation of applicants, and other matters incidental or appropriate to his power and duties as may be necessary for the proper administration and enforcement of the provisions of this article;

(5) Conduct, when appropriate, periodic investigations of tow truck companies throughout the city; and

(6) Require periodic reports as necessary to evaluate each ~~emergency~~ tow truck company's operations.

Sec. 48-212. - Tow Truck rotation lists to be established; contents; qualifications; use.

(a) **Qualifications.** The city police department shall establish and maintain a tow truck rotation list. Each tow truck company is required to complete any and all applications and provide required information necessary to apply for the tow truck rotation list.

To be eligible for the rotation list, each tow truck company is required to comply with all of the following requirements:

(1) Maintain a 24-hour tow service; have one telephone number which is answered 24 hours a day, seven days a week; and uses a VSF that meets or exceeds the Texas Accessibility Standards ("TAS") accessibility criteria, approved by the United States Department of Justice; and

(2) Certify in writing that the VSF meets or exceeds the criteria set forth by Texas Accessibility Standards, a copy of which will be provided by the city at the time the tow company applies for inclusion on the tow rotation list.

Only those tow trucks that are included on the tow company's tow truck license and are permitted by the city are authorized to respond to incident management rotation calls. A tow company may not substitute a tow truck from a different tow company to respond to an incident management call.

(b) The tow truck rotation list shall contain the names, in alphabetical order, of all qualified license holders requesting to be on such list.

(c) A license holder is qualified to be on such list if:

(1) He meets the requirements of section 48-177;

(2) He maintains 24-hour tow truck service and has no more than one telephone numbers, which is answered 24 hours a day, seven days a week. The use of a telephone answering service shall be permitted, provided that if such service is used, the failure of a license holder to communicate with the police communications center or its authorized agent within five minutes following a call requesting a dispatch of a certified tow truck, confirming that the license holder shall immediately dispatch a certified tow truck to the desired location, will result in a forfeiture by that license holder of that call; and

(3) His tow trucks are equipped with communications equipment compatible with the radio communications equipment used to dispatch tow trucks on the tow truck rotation list.

(d) When the police officer investigating a collision determines that any vehicle involved in a collision is unable to safely proceed under its own power or, when the police officer determines that the driver of any vehicle involved in a collision is physically unable to safely move the vehicle to a location where it will not create a traffic hazard, such officer shall request the driver to designate the tow truck license holder which he desires to remove the vehicle.

(1) When the designation has been properly made, the police officer shall communicate the name of the designated license holder to the police communications center or its authorized agent.

(2) The police communications center or its authorized agent shall cause the designated license holder to be called and directed to send to the scene of the collision a permitted tow truck.

(3) Any police officer investigating an accident or offense within the city may order the non-consent tow to impound of any vehicle involved therein when, in the judgment of such officer, criminal prosecution will be involved as a result of such event, or when it is necessary to impound such vehicle to secure evidence, or when the owner or occupant of the vehicle is unable or fails to have such vehicle removed, or when the vehicle is stopped for a traffic violation, to effect an arrest, or is involved in an accident on a public roadway or public property and the vehicle's owner or operator fails to show proof of financial responsibility as required under V.T.C.A., Texas Transportation Code, Ch. 601 as amended. The fees to be charged for impound tows will not exceed the maximum rates allowed under this article or state law.

(e) If the owner of a vehicle involved in a collision is physically unable to designate the permit holder he desires to remove the vehicle, the police officer shall deem this vehicle a non-owner consent tow and the police officer shall communicate that fact immediately to the police communications center or its authorized agent. The police communications center or its authorized agent shall

then call the license holder next in line on the tow truck rotation list and request the license holder to tow the vehicle from the scene of the collision to a storage lot as specified in section 48-139. After the last license holder on such list has been called, the next such call shall go to the first license holder on the list. If two or more license holders are called to the scene of a collision, with no designation from vehicle operators, the vehicles to be towed may be selected by the permit holders in order of the tow truck rotation list, unless the police officer in charge requests that vehicles be removed prior to arrival of the selected license holder.

(f) If the license holder after arrival at the scene determines, in conjunction with the police officer in charge, that assistance is needed, then the police officer shall communicate that fact immediately to the police communications center, or its authorized agent, which shall proceed under subsection (e) of this section.

(g) **Forfeiture of calls.** Failure of any tow truck to check in route, by radio or phone, to the designated location within ten minutes of dispatch making contact with the listed phone number of the tow company or arriving at the designated location dispatched by the city within 25 minutes of being called will result in the forfeiture of that call and shall be considered a violation of this article. Three such forfeitures within 12 months may result in temporary removal from the rotation list. Repeat offenses may result in permanent removal for the annual cycle.

(h) If a license holder or his driver is towing a vehicle and receives a tow truck rotation call, the license holder or his driver must complete the original tow before accepting the rotation list call. If the license holder or his driver is unable to complete the original tow within the required response time as referenced in subsection (g) of this section, he must forfeit the call.

(i) **Unneeded calls.** If a tow company is called to respond to a scene by a police officer and subsequently is not needed, that tow company will be placed as "next in line" on the tow rotation list. If a tow truck responds and performs minor service that enables the vehicle to be driven, and for which no fee is charged, that Tow Company will be placed as "next in line" on the tow rotation list.

(j) **Temporary removal from list.** Should a tow company wish to be removed from the tow rotation list for a specific period of time, the tow company shall notify the police department dispatch, in writing, fax or e-mail, if the time off requested is 24 hours or longer. It shall be the tow company's responsibility to notify dispatch in writing, fax or e-mail, when the tow company wishes to return to the tow rotation list.

(k) **Method of receiving payment.** Each qualified tow company must be able to accept cash or credit/debit card payments for services rendered.

(l) **Maximum Number of Licenses Issued and Placed on City Rotation List.** The eleven (11) permitted towing companies holding a vehicle tow service rotation license as of September 30, 2014, may apply for renewal so long as they remain qualified under the terms of this chapter. The city will issue no other vehicle tow service licenses until and unless the number of licensed towing companies on the city non-consent towing rotation list is eight or less because of attrition. If at any time there are six or fewer licensed towing companies on the city's non-consent towing list, the city will consider applications from other qualified companies. Those applications will be considered in the order in which they were filed, and the city secretary shall issue a license to any qualified towing company based on their application, until such time as there are sufficient qualified licensed tow truck companies on the city's vehicle tow service rotation list. The maximum number of companies, licensed, and on the city's rotation list will be henceforth determined by the Chief of Police or his designee based on service needs.

Sec. 48-213. - Police officer not to influence selection of tow truck service.

A police officer investigating an accident or present at the scene of any wreck or collision shall not directly or indirectly recommend to any person involved in the wreck or collision the name of any permit holder and shall not directly or indirectly recommend or attempt to influence in any manner the decision of any persons in choosing or selecting a permit holder.

Sec. 48-214. - Soliciting business at the scene of an accident; driving tow trucks to scene of an incident prohibited.

(a) All wrecker drivers, owners or agencies are prohibited from soliciting the business of towing, removing or repairing any wrecked or disabled vehicle at the place where the accident has occurred by words, cards, circulars or gestures. A violation of this section shall be a Class C misdemeanor and upon conviction shall be punishable as provided in section 1-14.

(b) **Driving Tow Trucks to Scene of an Incident Prohibited.** No tow company shall drive, or cause to be driven, a tow truck to or near the scene of an incident on a street within the city unless such tow company has been called to the scene by the city police department. A violation of this section shall be a class C misdemeanor and upon conviction shall be punishable as provided in section 1-14 of this Code.

Sec. 48-215. - Duties of Tow Companies in providing safe and prompt tow truck service.

(a) It shall be the obligation of all license holders under this article to operate tow truck businesses so as to provide safe and prompt removal of wrecked or

disabled vehicles from the public streets of the city when properly called upon to do so in accordance with the provisions of this division.

(b) The duty to provide safe and prompt tow truck service upon call includes, but is not limited to the following specific duties:

(1) Taking direction from investigating officer. Upon arrival at the scene of a collision within the city, tow truck operators shall take directions on when to engage or tow from the police officer investigating the collision;

(2) Removing debris of collision. Tow truck operators that engage and tow any vehicle from the scene of a collision within the city shall remove all debris of the collision from the public street. This duty specifically includes the removal of vehicle parts, glass, and other debris. Such debris shall be disposed of in a lawful manner, which will keep it out of the gutters, storm sewers, streams, public rights-of-way, or property not belonging to the tow company;

(3) **Disengaging.** A tow truck that removes a vehicle from the original location shall not disengage from the vehicle until the vehicle has been deposited with the appropriate VSF except when the vehicle is released to the owner or operator or when the owner or operator specifies the location of disengagement. This restriction is enacted to prohibit tow trucks from engaging an unauthorized vehicle in a parking facility and moving it to a close location, then returning for another unauthorized vehicle, ultimately towing all the relocated vehicles to a VSF;

(4) Any license holder on the tow truck rotation list must tow or have towed the damaged vehicle to a repair shop or to a place designated by the owner, unless the owner of the vehicle is disabled by physical injury and is, therefore, unable to designate a location for the vehicle to be towed. The license holder shall then store the vehicle in a state-licensed depository located in the city until released to the vehicle owner or agent. The selling of such right to tow any disabled vehicle is prohibited. The tow truck operator shall sign the Form 319 provided by the police department prior to leaving the scene and shall accept the responsibility of removing the vehicle until relieved of this responsibility. A violation of this section shall subject a license holder to a Class C misdemeanor and fine as set forth in this article; and

(5) **Drops.** A tow truck that has hooked up to a vehicle for towing shall release the vehicle to its owner or operator upon receiving, a drop fee, payment and will not tow the vehicle, except when the vehicle is being taken into custody by a police officer. A vehicle is hooked up" if it is immediately ready for transport. A vehicle is not hooked up" unless it can be legally towed on a public roadway.

Sec. 48-216. - Emergency wrecker service owner's records.

Each emergency wrecker license holder shall keep full and complete books of accounts and other records normally accepted in sound accounting practices, which records shall indicate a complete and accurate record of all expenses and income in connection with the actual operation of the emergency wrecker license and the maintenance of the equipment. The records must be kept so as to accurately reflect the various items of cost of operation and maintenance and must be made available to the director for audit upon request.

Sec. 48-217. - Parking of tow truck at scene of accident.

Whenever a tow truck arrives at the place where a motor vehicle has been disabled by an accident, the tow truck driver shall park his vehicle as close to the street curb as possible and otherwise dispose of it in such a manner as not to interfere with traffic.

Sec. 48-218. - Removal of vehicles from scene of accident.

(a) No tow truck driver shall remove any wrecked or disabled vehicle from the place where the accident has occurred or attach his tow truck to the wrecked or disabled vehicle until the driver of the vehicle has given permission or until the city police officer investigating the accident has completed his investigation.

(b) The fact that no police officer of the city is present at the scene of an accident when a tow truck which has been summoned to the scene by the vehicle owner arrives shall not constitute an exception to this section. It shall be the duty of any tow truck owner or driver desiring to tow or haul any wrecked or disabled vehicle from the accident scene to notify the police department of the accident and to wait for the police officer to arrive and complete his investigation.

(c) If the driver of a wrecked or disabled vehicle has been rendered unable by the accident to give permission to an tow truck driver to remove the wrecked or disabled vehicle, the investigating police officer shall notify the chief of police or other officer in charge of accident investigation of such fact, and such officer shall give such orders as may be necessary to remove the wrecked or disabled vehicle from the street. In any event, with or without the driver's permission, the investigating police officers are empowered to order any wrecked or disabled vehicle to be moved a distance sufficient to clear the street for traffic or taken to a state-approved storage lot within the city.

Sec. 48-219. – Vehicle storage facility lot requirements-

(a) **Vehicle Storage Facility.** Each tow company performing non-consent tows shall utilize a licensed VSF located in the city limits or within the extra territorial jurisdiction of the city.

(b) **Inspection of Vehicle Storage Facility.** Every VSF to be used by the applicant for vehicle storage shall be inspected annually by the Tomball Police Department delegate prior to the issuance of a permit to ascertain if it has met all state requirements

It shall be unlawful for any permitted tow truck to operate at any time without the required equipment stipulated by state law or this article.

Section 3. 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 \$2000. Each day of violation shall constitute a separate offense.

Section 4. It is the intent of the City that this Ordinance shall comply in all respects with the applicable provisions of the United States Constitution, the Texas Constitution, and the Charter of the City of Tomball. In the event any 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 the City of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

Section 5. This Ordinance shall take effect immediately from and after its passage and the publication of the caption hereof, as provided by law and the City's Home Rule Charter.

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 _____ DAY OF
_____ 2015.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN DEGGS	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN KLEIN 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 _____ DAY OF
_____ 2015.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN DEGGS	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN KLEIN QUINN	_____

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary

**This is the current Ordinance, redlined to indicate the proposed changes.
Red strikes through text means proposed deletions, blue font is the PD changes/additions.
[CURRENT ORDINANCE is in black print]**

ARTICLE III. - AUTO ~~WRECKERS~~ TOW TRUCKS AND TOWERS

FOOTNOTE(S):

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State Law reference— Tow truck regulation by political subdivisions, V.T.C.A., Transportation Code § 643.201; Vehicle Storage Facility Act, V.T.C.A., Occupations Code ch. 2303; automobile wrecking and salvage yards, V.T.C.A., Transportation Code ch. 396; accidents and accident reports, V.T.C.A., Transportation Code ch. 550; authority of governor to have wreckage removed in disasters, V.T.C.A., Government Code § 418.023; interception and use of wire or oral communications, V.T.C.A., Code of Criminal Procedure art. 18.20; unlawful interception, use or disclosure of wire or oral communications, V.T.C.A., Penal Code § 16.02; theft of wrecked motor vehicle, V.T.C.A., Penal Code § 31.03; motor carrier registration, V.T.C.A., Transportation Code ch. 643; salvage vehicle dealers, V.T.C.A., Occupations Code ch. 2302.
[\(Back\)](#)

DIVISION 1. - GENERALLY

Sec. 48-136. - 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:

Chief of police means the chief of police of the city or his appointed representative, **who shall be responsible for administering the provisions of this article.**

Consent Tow means any tow of a vehicle in which the tow truck is summoned by the owner or operator of the vehicle or by a person who has possession, custody or control of the vehicle. The term does not include an incident management tow or a private property tow.

~~*Director* means the director of the traffic and transportation department of the city, or his duly authorized representative, who shall be responsible for administering the provisions of this article.~~

[CHANGE] ~~*Wrecker driver*~~ *Driver* means any individual who actually operates and drives a ~~wrecker~~ tow truck on the streets of the city, either for his own benefit or as an employee of another.

Drop Fee means a fee that must be offered on a tow where the vehicle is hooked up and is ready for immediate transport. Any vehicle that is not hooked up completely and ready for immediate transport and the owner or operator of the vehicle arrives on the scene the vehicle must be released without a fee.

~~*Emergency wrecker* means a wrecker which holds an emergency wrecker permit. Such emergency wrecker permit holders are dispatched by the chief of police or his representative, on~~

~~a rotating basis, to scenes of accidents where vehicles have collided with other vehicles or objects or have been wrecked, in order to tow, remove or haul away the wrecked, disabled or abandoned vehicle from the scene.~~

Incident means an unplanned randomly occurring traffic event that adversely affects normal traffic.

Incident management tow means any tow of a vehicle in which the tow truck is summoned because of a traffic accident or to an incident.

License means permission granted by the city to a ~~wrecker~~ tow truck company to tow or operate a ~~wrecker~~ tow truck within the city.

Light-duty tow truck has a 15,000 pound GVW or greater, a boom capacity of 8,000 minimum with dual winches and a wheel lift with at least 4,000 pound capacity. One hundred feet of three eighths [inch] wire rope.

Non-consent tow means any tow of a vehicle that is not a consent tow including:

- (1) An incident management tow; and
- (2) A private property tow.

[new] A City of Tomball ~~Wrecker~~ Tow Truck Permit is required for a tow truck to perform a non-consent tow initiated by a peace officer, to perform a tow from a traffic incident or accident, or a private property tow within the City.

Non-owner consent means consent to tow a vehicle when such consent is not given by the registered owner of the vehicle. ~~Nonowner consent is sometimes referred to as "private property tow."~~

Owner means any person engaged in the business of towing motor vehicles for hire or engaged in the business of storing, wrecking or repairing motor vehicles for hire and who owns or is entitled to use any ~~wrecker~~ tow truck, and who uses same in the conduct of his business or any part thereof.

Owner consent means permission or a request made to haul or tow a vehicle or motor vehicle to a state-licensed storage lot, to a repair shop, or to any location directed by the owner, which owner consent is given by a registered owner or an authorized person having control of the vehicle or motor vehicle, and which is made prior to the police dispatch for a ~~wrecker~~ tow truck in rotation. If conditions permit, the officer at the scene should first inquire if the owner or authorized person has a preference or requests a particular ~~wrecker~~ tow truck company ~~who or which~~ that can remove the vehicle promptly; that is, before the conclusion of police activities at the scene, or as safety dictates.

Parking facility means any public or private property used, in whole or in part, for restricted and/or paid parking of vehicles. The term includes a restricted space on a portion of an otherwise unrestricted parking facility, a commercial parking lot, a parking garage, and a parking area serving or adjacent to a business, church, school, home, apartment complex, property governed by a property owner's association, or government owned property leased to a private citizen.

Permit means written permission granted **by the City of Tomball** to a ~~wrecker~~ driver to operate or drive a **tow truck** ~~wrecker within the city. on the City's wrecker rotation~~ tow truck rotation **list**.

Person means an individual, a corporation, organization, business trust, estate, trust, partnership, joint venture, association, or other legal entity.

~~*Private wrecker* means a wrecker which is used to tow, carry or transport motor vehicles without the consent of the vehicle owner, but is not used to tow a vehicle from the scene of an accident on any public street where one or more vehicles have collided with another vehicle or other object except as specifically permitted in this article. A private wrecker may also operate as a transfer wrecker.~~

Tow means a vehicle transported or carried, a reasonable distance, by a ~~wrecker~~ tow truck, from point A by raising no less than two wheels off the ground and setting all wheels on the ground at point B.

Tow business means the business of towing or removing vehicles for compensation, or the expectation of compensation, regardless of whether the purpose of the towing is to remove, repair, wreck, store, trade, or purchase vehicles.

Tow rotation list means a list prepared and maintained by the city police department of tow companies, which have requested and qualified to appear thereon.

Tow truck means any motor vehicle, including a ~~wrecker~~ tow truck, equipped with a mechanical device used to tow, winch, or otherwise move another vehicle. (**see note below)
The term does not include:

- (1) A motor vehicle owned and operated by a governmental entity, including a public school district
- (2) A motor vehicle towing;
 - (a) A race car;
 - (b) A motor vehicle for exhibition; or
 - (c) An antique motor vehicle.
- (3) A recreational vehicle towing another vehicle;
- (4) A motor vehicle that is used in combination with a tow bar, tow dolly, or other mechanical device if the vehicle is not operated in the furtherance of a commercial enterprise;
- (5) A motor vehicle that is controlled or operated by a farmer or rancher and used for towing a farm vehicle;
- (6) A motor vehicle that:
 - (a) Is owned or operated by an entity that the primary business of which is the rental of motor vehicles; and
 - (b) Only tows vehicles rented by the entity.

~~*Wrecker Tow Truck*~~ means any truck or other motor vehicle which is used for the purpose of towing, carrying, pushing or otherwise transporting any motor vehicle which has collided with another motor vehicle or other object, or which has been wrecked or disabled in any manner, or which is being towed at the request of a police officer, from one place to another for any purpose, including, but not limited to the purpose of wrecking, storing or repairing the vehicle. The term "~~wrecker~~" "tow truck" shall not be construed to include a service car or other vehicle

not equipped with mechanical devices for transporting wrecked vehicles and not used for such purpose, such as service cars equipped with compressed air containers and tools for performing minor repairs not involving towage or transportation of wrecked or disabled vehicles. This exception shall not authorize evasion of this article, and if any vehicle, although not equipped with devices primarily used for towing wrecked or disabled vehicles, is actually used for such purposes through means of ropes, chains or otherwise, the same shall be considered a ~~wrecker~~ tow truck within the terms of this article.

Towing company means a person operating a tow truck licensed with TDLR (Texas Department of Licensing and Regulation). The term includes the owner, operator, employee or agent of a towing company but does not include a political subdivision of the state. *[suggest adding from 'emergency wrecker' definition: Such emergency wrecker tow truck companies are dispatched by the chief of police or his representative, on a rotating basis, to scenes of accidents where vehicles have collided with other vehicles or objects or have been wrecked, in order to tow, remove or haul away the wrecked, disabled or abandoned vehicle from the scene.]*

~~*Transfer wrecker* means a wrecker which is used only to tow, carry or transport motor vehicles with the consent of the vehicle owner. A transfer wrecker may not tow any motor vehicle with or without the consent of the vehicle owner from the scene of an accident.~~

Unauthorized vehicle means a vehicle parked, stored, or located on a parking facility without the consent of the parking facility owner.

Vehicle means a device in, on, or by which a person or property may be transported on a public roadway. The term includes an operable or inoperable automobile, truck, motorcycle, recreational vehicle, or trailer, but does not include a device moved by human power or used exclusively on a stationary rail or track.

Vehicle storage facility (VSF) means a facility operated by a person licensed under V.T.C.A. Occupations Code, ch. 2303.

Vehicle storage facility license means the license issued by TDLR (Texas Department of Licensing and Regulation) authorizing a business to store vehicles.

~~*Wrecker* means any truck or other motor vehicle which is used for the purpose of towing, carrying, pushing or otherwise transporting any motor vehicle which has collided with another motor vehicle or other object, or which has been wrecked or disabled in any manner, or which is being towed at the request of a police officer, from one place to another for any purpose, including, but not limited to the purpose of wrecking, storing or repairing the vehicle. The term "wrecker" shall not be construed to include a service car or other vehicle not equipped with mechanical devices for transporting wrecked vehicles and not used for such purpose, such as service cars equipped with compressed air containers and tools for performing minor repairs not involving towage or transportation of wrecked or disabled vehicles. This exception shall not authorize evasion of this article, and if any vehicle, although not equipped with devices primarily used for towing wrecked or disabled vehicles, is actually used for such purposes through means of ropes, chains or otherwise, the same shall be considered a wrecker within the terms of this article.~~

~~*Wrecker driver* means any individual who actually operates and drives a wrecker on the streets of the city, either for his own benefit or as an employee of another.~~

(Code 1993, § 86-136; Ord. No. 89-17, § 12-1, 12-4-1989; Ord. No. 97-03, § 2.0, 2-17-1997)

Sec. 48-137. - Liability and property damage insurance requirements.

- (a) Before any permit shall be issued under this article to a ~~transfer, private or emergency wrecker~~ tow truck owner, or before any renewal of such permit shall be granted, such owner shall procure and keep in full force and effect and shall keep on file with the ~~director~~ chief of police or his designee a policy of public liability and property damage insurance or a certificate of insurance in the name of the owner or company by a casualty insurance company which is authorized to do business in the state and in standard form approved by the state board of insurance commissioners, and the coverage provisions insuring the public from any loss or damage that may arise to any person or property by reason of the operation of a ~~wrecker~~ tow truck of such owner and providing that the amount of recovery on each ~~wrecker~~ tow truck shall be in limits of not less than the sums as currently established or as hereafter adopted by resolution of the city council from time to time.
- (b) The insurance policies mentioned in subsection (a) of this section shall contain an endorsement which provides for 30 days' notice to the ~~director~~ chief of police or his designee of any material change or cancellation of the policy.

(Code 1993, § 86-137; Ord. No. 89-17, § 12-11, 12-4-1989; Ord. No. 97-03, § 3.0, 2-17-1997)

Sec. 48-138. - Equipment requirements for ~~transfer and private wreckers~~ [add] tow trucks on the City's tow truck rotation list.

- (a) All ~~wreckers~~ tow trucks on the City of Tomball ~~Wrecker Tow Truck~~ Rotation List must be equipped for light or heavy duty according to the manufacturer's guidelines.
- (b) Each ~~wrecker~~ tow truck will be inspected by the chief of police or his designee prior to issuance of new company license or renewal of company license.
- (c) **Police Inspection.** Any tow truck performing non-consent tows within the city limits, may be inspected by an official of the Tomball Police Department at any time the tow truck is being operated on the public streets as a tow truck. Such inspections may be conducted to ensure required licenses and compliance with this article and state law. Further, upon the request of the chief of police or his/her designee, a tow company performing non-consent tows within the city shall produce records from the VSFs used for non-consent tows to ensure compliance with the maximum rates established under this article and other requirements of this article and state law.
- ~~(a) Generally. All transfer and private wreckers shall be provided with the following equipment, which shall be adequate for the purpose it is designed, shall be carried and kept in usable condition at all times:~~

- ~~(1) *Size and brakes.* Each wrecker shall be not less than three-quarters ton in size, and a dual wheel with a GVW rating of no less than 6,400 pounds equipped with booster brakes.~~
- ~~(2) *Tow bars.* Tow bars, which are a piece of equipment sometimes known as an A-frame, which is a part of the wrecker and is used to hold a vehicle which has been elevated for towing rigid and to prevent swinging of such raised vehicle as it is being towed. When a vehicle is being towed, the tow bar shall be in place to prevent swinging. A wheel lift is the piece of equipment replacing the A-frame system using hydraulic means which enables a wrecker to lift at least two wheels off the ground for towing purposes.~~
- ~~(3) *Fire extinguisher.* One fire extinguisher that is properly filled and located so that it is readily accessible for use. Such fire extinguisher shall meet the requirements of the National Fire Protection Association, for a 10 BC fire extinguisher and shall be so labeled by a national testing laboratory.~~
- ~~(4) *Information.* No person shall drive or operate any transfer or private wrecker, or allow, permit or cause any person to drive or operate any transfer or private wrecker unless the following information is clearly and legibly painted in colors which contrast with the color of the doors, on the outside of both entrance doors of the vehicle in letters of at least three inches in height and one-half inch in stroke width:~~
- ~~a. The name of the company under which the permit holder is doing business.~~
- ~~b. The telephone number, which shall be obtainable through directory assistance, and the address of the permit holder or his agent where persons can call at any hour the wrecker is in operation to obtain information as to the storage lot to which a vehicle was towed.~~
- ~~(b) *Compliance of wrecker.* Each heavy-duty wrecker must comply with the requirements in subsection (a) of this section as well as the following:~~
- ~~(1) Each heavy-duty wrecker must not be less than five tons in size.~~
- ~~(2) Each heavy-duty wrecker shall be equipped with a power-operated winch, winch line and boom, with a factory-rated lifting capacity of not less than 32,000 pounds, single or double line capacity.~~
- ~~(3) Each heavy-duty wrecker shall have one broom of a type designed for pushing with an 18-inch head, and a handle of not less than 36 inches.~~
- ~~(4) Each heavy-duty wrecker shall have a box or bucket to carry any glass and debris cleared from the street when picking up a damaged vehicle.~~
- ~~(5) Each heavy-duty wrecker shall have one flat-edged shovel of at least nine inches, with a handle of not less than 36 inches.~~
- ~~(d) *Equipment and vehicle inspection.* The ~~director~~ **chief of police** or his representative shall make a physical inspection of the equipment and vehicles covered by this article as frequently as he shall deem necessary. If such inspection of the equipment and vehicles results in a recommendation that the permit be suspended, the owner shall be informed of the existing deficiencies in writing, and shall have ten days in which to correct the deficiencies.~~

(Code 1993, § 86-138; Ord. No. 89-17, § 12-12, 12-4-1989)

Sec. 48-139. - Storage lot requirements.

PD recommended deleting (a), but I don't believe Council will go for it.

- (a) All ~~private wrecker~~ tow truck license holders under this article shall maintain or have access to a vehicle depository located in the corporate limits of the city or located within the extraterritorial jurisdiction of the city, as that term is defined in V.T.C.A., Local Government Code ch. 42. The chief of police or the chief's designated representative shall make the determination of the limits of the city's territorial jurisdiction upon written request to do so or in connection with any ~~wrecker~~ tow truck permit application. Such vehicle depositories maintained or used by ~~private wrecker~~ tow truck license holders shall be state licensed vehicle storage lots pursuant to the Vehicle Storage Facility Act (V.T.C.A., Occupations Code ch. 2303).
- (b) Any vehicle hauled or towed without the owner's consent shall be taken to a state-licensed storage facility authorized by this section, or to such other location as directed by the owner or authorized person, with the approval of the police officer at the scene. Additionally, each ~~private wrecker~~ tow truck license holder shall have its own private storage lot. The sharing of storage lots is prohibited.

(Code 1993, § 86-139; Ord. No. 89-17, § 12-13, 12-4-1989; Ord. No. 97-03, § 4.0, 2-17-1997)

Sec. 48-140. - Fees for ~~wrecker~~ tow truck service.

(a) Maximum Fees to be Charged for Non-consent Tows

The maximum fees charged by tow companies for non-consent tows are hereby established by the city ~~as set forth below~~ and reflect fair value of towing services **and are included in the Master Fee Schedule, as approved by the City Council**. Itemized receipts shall be provided to owners or operators at the time payment of tow related fees are made. Violations of this provision may result in suspension or removal from the tow rotation list, and criminal penalties against the offender. Towing fees may be reviewed by the City of Tomball bi-annually. A towing fee study shall be performed in conjunction with this review.

~~{The fees listed below in (b) and (c) should be included in the Master Fee Schedule, not put into the ordinance}~~

(b) Additional Service Fees to be Charged

Additional service fees that may be charged are included in the Master Fee Schedule, as approved by the City Council.

~~In the event that a tow service provider must perform services that are clearly beyond the norm in order to affect a tow, the tow service provider may request that an on scene supervisor authorize an additional fee not to exceed \$75.00 to compensate for the additional time and~~

~~services rendered. To be valid, supervisory authorization must be notated on the Tow Slip of record.~~

~~(Fees listed below are for non-consent tows for towing a vehicle from one location within the city to another within the city or the city's ETJ.)~~

~~Light-Duty Tow Trucks~~

~~Incident Management—\$120.00~~

~~Drop Fee—\$55.00~~

(c) Storage Fees

Storage fees are included in the Master Fee Schedule, approved by the City Council. ~~(need the TDLR Section Reference)~~

~~Daily storage fee. A VSF operator may not charge less than \$5.00 or more than \$20.00 for each day or part of a day for storage of a vehicle that is 25 feet or less in length. A VSF operator shall charge a fee of \$35.00 for each day or part of a day for storage of a vehicle that exceeds 25 feet in length.~~

~~(1) A daily storage fee may be charged for any part of the day, except that a daily storage fee may not be charged for more than one day if the vehicle remains at the VSF less than 12 hours. In this paragraph a day is considered to begin and end at midnight.~~

~~(2) A VSF that has accepted into storage a vehicle registered in this state shall not charge for more than five days of storage fees until a notice, as prescribed in §85.703 of these rules, is mailed or published.~~

~~(3) A VSF operator that has accepted into storage a vehicle not registered in Texas shall not charge for more than five days before the date the request for owner information is sent to the appropriate governmental entity. Such requests shall be correctly addressed, with sufficient postage, and sent by certified mail, or electronic certified mail, return receipt requested, to the governmental entity with which the vehicle is registered requesting information relating to the identity of the last known registered owner and any lien holder of record.~~

~~(4) A VSF operator shall charge a daily storage fee after notice, as prescribed in §85.703, is mailed or published for each day or portion of a day the vehicle is in storage until the vehicle is removed and all accrued charges are paid.~~

(d) Notification Fees

Notification fees and requirements are included in the Master Fee Schedule, approved by the City Council. ~~(need the TDLR Section Reference)~~

~~(1) A VSF may not charge a vehicle owner more than \$50 for notification under these rules. If a notification must be published, and the actual cost of publication exceeds 50% of the notification fee, the VSF operator may recover the additional amount of the cost of publication. The publication fee is in addition to the notification fee.~~

~~(2) If a vehicle is removed by the vehicle owner within 24 hours after the date the VSF receives the vehicle, notification is not required by these rules.~~

~~(3) If a vehicle is removed by the vehicle owner before notification is sent or within 24 hours from the time the VSF receives the vehicle, the VSF operator may not charge a notification fee to the vehicle owner.~~

~~A licensee shall charge the following fees for services rendered to automobiles and trucks without the owner's consent:~~

~~(1) A fee not to exceed \$80.00 for towing a vehicle from one location within the city to another within the city.~~

~~(2) A fee not to exceed \$150.00 per hour, with a two-hour minimum charge for towing a vehicle which requires a heavy-duty wrecker from one location within the city to another, or from a location within the city to a location within the extraterritorial jurisdiction of the city. The charge is calculated from the time a heavy-duty wrecker leaves a licensee's place of business to the time the wrecked or disabled vehicle is delivered to a location designated by the owner. Fees for fractions of an hour above the two-hour minimum charge are based upon quarter-hour increments. The hourly rate shall be inclusive of all services performed by the heavy-duty wrecker.~~

~~(3) The fee for storing a vehicle at a depository maintained by or for a permittee under this article shall not exceed \$15.00 per day. Notice shall be given within the seventh day after taking the motor vehicle into custody, by certified mail, to the last known registered owner of the motor vehicle and all lienholders of record pursuant to the Certificate of Title Act (Vernon's Ann. Civ. St. art. 6687-1 et seq.), that the vehicle has been taken into custody. The notice shall describe the year, make, model and vehicle identification number of the stored vehicle, set forth the location of the facility where the motor vehicle is being held, inform the owner and any lienholders of their right to reclaim the motor vehicle not later than the 20th day after the date of the notice, on payment of all towing and storage charges resulting from placing the vehicle in custody. The notice shall also state that the failure of the owner or lienholders to exercise their right to reclaim the vehicle within the time provided constitutes a waiver by the owner and lienholders of all right, title and interest in the vehicle and their consent to the sale of the abandoned motor vehicle at a public auction. If the garage or storage lot owner fails to notify by certified mail the last known registered owner of the motor vehicle and all lienholders of record within the prescribed time allotted, the garage or storage lot owner shall be guilty of a class C misdemeanor and subject to punishment as provided in section 1-14. The garage owner then may charge storage fees for not more than ten days.~~

~~(4) When the licensee, agent or employee of a storage lot accepts possession of a motor vehicle for a purpose other than repair, the licensee, agent or employee of a storage lot is entitled to a notification fee. The notification fee is compensation for activity including the identification number verification, title research, office cost, certified letters, administration processing, etc. Such fee shall not exceed \$25.00 with an itemized list being furnished to the customer upon request. The notification fee shall~~

~~apply to nonconsent vehicles only. This notification fee shall not commence until the completion of the seventh day of storage.~~

~~(5) Shop rates or service charges at the rate of \$50.00 per hour, with a one-hour minimum, for the following services:~~

~~a.—Use of dollies.~~

~~b.—Winching.~~

~~c.—Overturned vehicle.~~

~~d.—Vehicle in ditch.~~

~~e.—Additional wrecker.~~

~~f.—Changing tires.~~

~~g.—Dropping drive shafts.~~

~~h.—Removal of portions or multiple pieces of vehicles.~~

~~(Code 1993, § 86-140; Ord. No. 89-17, § 12-14, 12-4-1989; Ord. No. 97-03, § 5.0, 2-17-1997; Ord. No. 2002-16, § 1, 6-17-2002)~~

Sec. 48-141. - ~~Penalty.~~ Administrative Penalties for Violations and Appeal of Sanctions

In addition to the criminal penalties imposed for violations of state law or this article, any tow company on the tow rotation list that violates this article or state law may be subject to sanctions by the chief of police or his designee, depending upon the nature of infraction, number of infractions, and other circumstances. The sanctions shall range from written notification of violation with warning, to removal from the tow rotation list.

An owner, driver or any person who violates any provision of this article shall be deemed in violation of this Code and guilty of a Class C misdemeanor will be punished by a fine or suspension or removal from the ~~wrecker rotation~~ tow truck rotation list.

(1) If a fine is imposed, the rate will be set by the municipal court and shall not exceed the amount provided in section 1-14 for each count.

(2) If a suspension or removal from the ~~wrecker rotation~~ tow truck rotation list is imposed, the ~~chief of police wrecker appeals board~~ will set the length of time such suspension or removal shall run.

(3) A fine may not be imposed if the ~~board files for~~ chief of police imposes a suspension or removal from the ~~wrecker rotation~~ tow truck rotation list.

(Code 1993, § 86-141; Ord. No. 89-17, § 12-42, 12-4-1989)

[PD replacement for 48-143 – moved to 48-141 instead – should it remain as 48-143?]

Appeal of sanctions

An individual who has been issued a sanction may appeal the Chief of Police's or designee's decision by submitting a written request to the City Manager no later than the tenth day after the

effective date of the decision. The individual must include a statement of the grounds for the appeal. The City Manager or his designee shall schedule a hearing no later than the fifteenth day after receipt of the notice of appeal. The City Manager or his designee shall give notice of the time and place set for the hearing to the chief of police and the appellant not less than five days before the hearing.

Appeal Procedure

- (a) At the appeal hearing the Chief of Police and the appellant may present evidence, testimony, and argument.
- (b) The City Manager's or his designees' decision is final.

Should part of this be included in "appeal of sanctions" – 48-141 – or can it be deleted?

Sec. ~~48-181~~. - Revocation or suspension.

(a) *Filing of complaint; hearing conducted.* Upon a complaint being filed by any person with the ~~director or~~ chief of police of a violation by the holder of an ~~emergency wrecker~~ tow company license of any of the terms or provisions of this article or the violation of any applicable law of the state, federal government or ordinances of the city, the ~~director or~~ chief of police shall, after ten days' written notice to the ~~wrecker~~ tow company license holder on the grounds of such complaint or his own motion, conduct a hearing or hear evidence with reference to such complaint or motion. Should such hearing reveal a violation of any of the terms of this article, or the laws of the state or the federal government, or ordinances of the city, ~~the director or~~ chief of police may suspend or revoke the ~~emergency wrecker~~ tow company license as follows:

(1) *Reasons for revocation.*

- a. The making of any false statement as to a material matter in an application for a license renewal, or in a hearing concerning a license.
- b. Use by the licensee of a trade name for his ~~wrecker~~ tow truck company other than the one registered with the ~~director~~ chief of police.
- c. Suspension of the licensee's ~~emergency wrecker~~ tow company license on three occasions within 12 months for more than three days on each occasion.
- d. A licensee is convicted for a crime involving theft, theft of an automobile or receiving and concealing stolen property unless five years have elapsed since the date of conviction, or the date of release from confinement imposed for conviction, whichever is the later date.

(2) *Reasons for suspension.*

- a. Failure of the licensee to maintain his ~~wrecker~~ tow truck or equipment in a good and safe working condition.
- b. Violation by the licensee or any employee of the licensee of a provision of this article or of the rules and regulations established for ~~emergency wrecker~~ tow truck service by the chief of police ~~and/or the director~~.

- c. Failure of the licensee's ~~wrecker~~ tow truck to arrive at the location of a wrecked or disabled vehicle or parking violation within the prescribed time after having been notified to do so by the chief of police or his agent.
 - d. Conviction of an ~~emergency wrecker~~ tow truck driver of two or more provisions of the motor vehicle traffic laws of the state or two or more Class C misdemeanor violations within a 12-month period while in the scope of his employment in the ~~emergency wrecker~~ tow truck service.
 - e. Any ~~wrecker~~ tow truck driver or ~~wrecker driver~~ tow company owner, driving or allowing to be driven any licensed ~~wrecker~~ tow truck without a ~~wrecker~~ tow truck driving permit.
- (b) *Findings made to owner; right to appeal.* After the ~~director or~~ chief of police has conducted the hearing and investigation upon the complaint or motion for the suspension or revocation of the license of any owner of an ~~emergency wrecker~~ tow company permit, he shall make his findings and declare the same in writing to the owner or operator of such ~~wrecker-~~ tow company permit within 15 days after such hearing. The owner of such ~~wrecker-tow~~ company license shall have the right to appeal a suspension or revocation which is imposed by the ~~director or~~ chief of police in the manner provided in [section 48-143](#).
- (c) *Fee refund.* Upon the suspension or revocation of an ~~emergency wrecker~~ tow truck permit issued under this division, no portion of the fee paid therefor shall be refunded.
- (Code 1993, § 86-181; Ord. No. 89-17, § 12-20, 12-4-1989)

Sec. 48-142. - Unlawful to tow without owner's consent except after notification of police.

- (a) It shall be unlawful for any ~~wrecker~~ tow truck owner or ~~wrecker~~ tow truck driver to tow or haul or cause to be towed or hauled any vehicle within the city, except by request of the owner of the vehicle, without having first notified the police department dispatcher within one hour after such tow. Any such vehicle towed or hauled without the owner's permission or knowledge shall be stored in a state-licensed vehicle depository within the corporate limits or extraterritorial jurisdiction of the city, as referenced in section 48-139, until released to the vehicle owner or agent.
 - (b) In any prosecution charging violation of this section, proof that the owner of the vehicle did not consent to the removal of the vehicle, together with proof that the defendant named in the complaint had possession of the vehicle on the date charged, shall constitute in evidence a prima facie presumption that the possessor of the vehicle was the person or company who towed, hauled, or caused to be towed or hauled the vehicle found in his possession on the date of possession. The defendant shall have the right to introduce evidence to show that the vehicle was not towed or hauled as alleged in the complaint.
- (Code 1993, § 86-142; Ord. No. 89-17, § 12-2(c), 12-4-1989)

~~Sec. 48-143. - Grievance procedure.~~

- ~~(a) There is hereby created a wrecker appeals board consisting of three members.~~

- ~~(b) There shall be three positions on the board to be filled as follows:~~
- ~~(1) Position one shall be filled by the director of the city traffic and transportation department or his designated representative.~~
 - ~~(2) Position two shall be filled by the chief of police or his designated representative.~~
 - ~~(3) Position three shall be filled by a member of the city community (residency not required) who is selected jointly to serve by the director of the city traffic and transportation department, the chief of police, and the city manager or assistant city manager.~~
- ~~(c) The board shall provide a grievance procedure as hereafter provided from an order of the director or chief of police as follows:~~
- ~~(1) Granting or denying the initial or renewal application for a permit or license under this article;~~
 - ~~(2) Suspending, revoking or canceling a permit or license under this article; or~~
 - ~~(3) Otherwise prohibiting the continued operation of the wrecker business under this article.~~
- ~~(d) No member of the board shall have any interest, distinguishable from the interest of the public at large, in the wrecker permit or business under consideration or have any other apparent conflict, and in the event this limitation results in disqualification, as determined by the city manager or the assistant city manager, then the city manager or the assistant city manager shall select a replacement. Members of the wrecker appeals board shall serve at the pleasure of the city, as provided herein, and they shall have no expectation of continued service in the position.~~
- ~~(e) The procedure for proceedings before the board shall be as follows:~~
- ~~(1) A person desiring a grievance before the board shall file a written notice requesting same with the chief of police within ten days after the action or order complained of.~~
 - ~~(2) The director or chief of police shall thereafter set a grievance hearing by the board within 20 days of the receipt of the request and shall notify in writing the person requesting same of the time and place.~~
 - ~~(3) The board shall:~~
 - ~~a. Conduct the grievance hearing;~~
 - ~~b. Hear the grievance and any matter relevant to the grievance;~~
 - ~~c. Give the person requesting the grievance and all other interested parties or persons an opportunity to be heard; and~~
 - ~~d. Consider applicable laws, ordinances or requirements. The purpose of the grievance procedure is to allow the person requesting it an opportunity to present concerns to the board. It not intended to mean, nor shall it have the effect of requiring, that any written notice, any charges, any witness, or any response, or written reasons for board decisions be presented during or after the grievance process by the city or the board.~~

~~(4) The board shall make a decision by majority vote based upon the grievance presentation. The decision shall be reduced to writing and mailed to the person requesting the hearing within a reasonable time. Such decision is advisory only.~~

~~(Code 1993, § 86-143; Ord. No. 89-17, § 12-41(a), 12-4-1989; Ord. No. 97-03, § 6.0, 2-17-1997)~~

Secs. 48-143—48-175. - Reserved.

~~DIVISION 2. EMERGENCY WRECKER SERVICE LICENSE~~ **DIVISION 2. TOW TRUCK COMPANY LICENSE**

Sec. 48-176. - Required; transferable; expiration date; trade name registration; location of business.

License Required – does (a) below address this?

It shall be unlawful for any person to engage in the tow business and make non-consent tows in the city unless such person possesses a current, valid tow truck license, issued by the State of Texas [should this be ‘issued by the City of Tomball’? Or should we state that the City will not issue a Tow Company permit unless they have a current state license? Is this paragraph necessary?] that lists each tow truck operated by that tow company.

Texas Occupations Code, Chapter 2308 16 Texas Administration Code, Chapter 86

- (a) No person may engage in ~~emergency wrecker~~ tow truck company service in the city without first obtaining ~~an emergency wrecker tow truck company~~ license from the ~~director~~ chief of police. A license is assignable or transferable upon approval by the ~~director~~ chief of police. ~~An emergency wrecker tow truck company license expires on September 30 of each year.~~ The license issued to an ~~emergency wrecker~~ tow truck company company authorizes the licensee and his bona fide employees to engage in ~~emergency wrecker~~ tow truck company services.
- (b) No person shall drive or operate any ~~emergency wrecker~~ tow truck, or allow, permit or cause any person to drive or operate any ~~wrecker~~ tow truck unless the following information is clearly and legibly painted in colors, which contrast with the color of the doors, on the outside of both entrance doors of the vehicle in letters and numbers of at least ~~three~~ four inches in height and one-half inch in stroke width:
 - (1) The name of the company under which the permit holder is doing business.
 - (2) The telephone number, which shall be obtainable through directory assistance, and address of the permit holder or his agent where persons can call at any hour the ~~wrecker~~ tow truck is in operation to obtain information as to the storage lot to which a vehicle was towed.

(c) Each tow company will maintain its own office within the city limits or the extraterritorial jurisdiction (ETJ) of the City of Tomball.

(Code 1993, § 86-176; Ord. No. 89-17, § 12-15, 12-4-1989)

(d) Truck Permits Required for Rotation Nonconsent Tows

- (1) ~~(b)~~ Truck permits. The permit shall be affixed to the front windshield so that it can be read from the exterior of the vehicle. **Permits will be issued by the City** upon successful inspection of each vehicle according to prescribed standards and/or equipment listed in the application. Permits may be suspended and/or revoked by the chief of police or the designee.
- (2) ~~(e)~~ Issuance or renewal of truck permits. Permits, unless suspended or revoked, shall be issued/renewed by September 30th of each year and will expire on September 29th the following year. Permits may be issued for tow trucks added to the tow truck business during the course of the year provided all necessary paperwork is completed.

KEEP: Sec. 48-177. – Tow truck company application; renewal.

~~(a) A person desiring to engage in emergency wrecker service in the city shall file with the director a written application upon a form provided for that purpose, which must be signed by the applicant or his authorized agent. The following information is required in the application:~~

(a) Tow Truck Company Application: Any applicant for a tow truck **company** permit shall submit, on a form supplied by the City of Tomball, a verified application form containing or accompanied by the following:

- (1) The true trade name, true owner's name, address, and telephone number of the tow truck company. The company may be a sole proprietorship, partnership or corporation.
- (2) Number and types of ~~wreckers~~ tow trucks to be operated.
- (3) Name, address and telephone number of the owner of the ~~emergency wrecker~~ tow truck company, and if a corporation, the names, addresses, telephone numbers of owners holding more than ten percent of the shares of the corporation.
- (4) An agreement that the applicant will participate in the ~~wrecker~~ tow truck rotation list.
- (5) Proof of ownership, which shall mean the title with the owner's name, by the applicant of the ~~wrecker~~ tow truck to be used. Such ownership shall be verified at the time of application and quarterly thereafter by the police department and upon any renewal of insurance.
- (6) A detailed description of each tow truck proposed to be operated, including Texas tow truck license plate number.
- (7) A copy of the state issued tow truck license. (Cab Card)
- (8) The original certificate of insurance that lists public liability, property damage, and any and all other amounts as prescribed by the State of Texas. Must show the City of Tomball as

certificate holder. The original certificate will be returned to the owner after a photocopy has been made.

(9) A photocopy of the vehicle storage facility license issued by the State of Texas which must include the physical address and phone number of the facility to be used. The VSF must be located within the extraterritorial jurisdiction (ETJ) of the City of Tomball and must be publicly listed with local telephone companies.

(10) Written proof that the VSF meets Texas Accessibility Standards.

~~(b) A fee as currently established or as hereafter adopted by resolution of the city council from time to time for processing an initial application must be submitted with the application. There shall be a fee as currently established or as hereafter adopted by resolution of the city council from time to time for each additional application. In addition to the requirements in subsection (a) of this section, an initial applicant shall:~~

~~(1) Specify in the application for an emergency wrecker company license whether the applicant intends to operate a light-duty or heavy-duty wrecker service, or both.~~

~~(2) Show proof of insurability in compliance with section 48-137.~~

~~(3) Provide at least one emergency wrecker which meets the requirements of this division unless the applicant intends to operate heavy-duty wrecker service only, in which case the applicant is exempted from the requirements of this section.~~

(c) The ~~director and/or~~ chief of police shall inquire about:

~~(1) The experience in wrecker operation and safety record of the applicant and the applicant's drivers.~~

(2) The criminal convictions of the applicant or the applicant's drivers involving moral turpitude including burglary, theft, robbery, forgery, and perjury or relevant convictions that would reflect on the ability to operate a wrecker tow truck.

(3) Only one license may be issued to each emergency wrecker tow truck company, and a person, partnership, or corporation may not own a controlling interest in another emergency wrecker tow truck company.

(d) An annual license renewal which is applied for at least 20 days prior to the expiration of the license will be granted upon compliance with the provisions of this division and without proof of public necessity. An applicant who has failed to renew or whose license has been revoked under this division is considered an initial applicant.

(e) The ~~director~~ chief of police may, at any time, require additional information of an applicant or licensee to clarify items on the application.

(f) Supplemental permit for additional wreckers tow trucks.

- (1) Where an owner has obtained a wrecker tow truck permit and thereafter desires to increase the number of wreckers tow trucks to be operated, he shall file a supplemental application with the director chief of police, setting forth his permit number and the fact that he desires to operate additional wreckers tow trucks, giving the make, model, vehicle identification number and state license number of each additional wrecker tow truck. He shall also pay a permit fee as currently established or as hereafter adopted by resolution of the city council from time to time for each additional wrecker tow truck and file a new insurance policy meeting the requirements of this article, covering the new wrecker tow truck.
- (2) The director chief of police shall examine such supplemental wrecker tow truck application, fee and policy, and if the same are in order, the director chief of police shall issue a supplemental permit covering the new wrecker tow truck.

(g) Supplemental permit for substitute wrecker tow truck. Whenever an owner wishes to discontinue the use of a wrecker tow truck during the period covered by his permit and replace it with another, he shall file an affidavit stating that he has discontinued using the wrecker tow truck covered by his permit, and desires to use another wrecker tow truck in its place. He shall attach a certificate from his insurer that such insurer has been notified thereof and agrees thereto. The director chief of police shall then issue the owner a supplemental permit at a cost as currently established or as hereafter adopted by resolution of the city council from time to time, which will cover the new wrecker tow truck and cause the description of the old wrecker tow truck to be eliminated from the original permit. In the affidavit, certificate from the insurer, and supplemental permit, the old and new wrecker tow truck shall be described by make, model, vehicle identification number and state license number.

(h) ~~(b)~~ Driver Records. Each tow company must submit and maintain a list of operator/drivers, who will be operating the tow trucks included on the company's license, along with their address, phone number, Texas driver's license number and a criminal background for each driver. Drug related offenses, theft, assault, or crimes of moral turpitude can be grounds for denial. Each driver must possess a TDLR incident management license and submit to the city a copy of the license. [PD will continue performing background checks, just not criminal background checks; per TDLR, incident management and private property operator license holders must have passed a criminal background check (ch. 86)]

(Code 1993, §§ 86-161, 86-162, 86-177; Ord. No. 89-17, §§ 12-8, 12-9, 12-16, 12-4-1989; Ord. No. 97-03, § 8.0, 2-17-1997)

Sec. 48-178. - Fee.

- (a) The annual fee for an emergency wrecker tow truck company license for each emergency wrecker tow vehicle is as currently established or as hereafter adopted by resolution of the city council from time to time. The fee will be prorated on the basis of whole months. The fee for issuance of a duplicate license if a license is lost, stolen, destroyed or mutilated is as

currently established or as hereafter adopted by resolution of the city council from time to time.

- (b) Fees are payable to the ~~director~~ City of Tomball upon issuance of the license. No refund of fees will be made.
- (c) An ~~emergency wrecker~~ tow company licensee may operate more than one ~~emergency wrecker~~ tow vehicle; however, he is entitled to only one listing on the ~~wrecker rotation~~ tow truck rotation list.

(Code 1993, § 86-178; Ord. No. 89-17, § 12-17, 12-4-1989)

Sec. 48-179 – Prerequisites to issuance.

(a) Inspection of tow trucks.

Every tow truck to be used by the applicant for incident management tows in the tow truck business shall be inspected annually by the Tomball Police Department delegate prior to the issuance of a permit to ascertain if it has met all state requirements along with the following items:

- (1) Current TDLR license (listing all trucks permitted).
- (2) Current tow truck license plate registration.
- (3) Current safety inspection certificate.
- (4) The company name and phone number must be permanently displayed on both sides of the tow truck at least four inches in height.
- (5) One fire extinguisher, type ABC dry chemical, at least ten pounds or equivalent. Each extinguisher shall have a number permanently affixed that correlates with the truck it belongs on.
- (6) Light set sufficient to provide rear brake/turn lights and taillights for the towed load (tow lights).
- (7) Three portable red emergency reflectors or reflective orange safety cones.
- (8) Broom and scoop along with a container to contain any and all debris removed from a scene. Each shall have a number permanently affixed that correlates with the truck it belongs on.
- (9) Amber-colored overhead rotating/flashing lights that are to be used only while under the direction of a law enforcement officer at the scene of an accident or while assisting/hooks up to a disabled vehicle on a roadway.

~~Before issuance of an emergency wrecker service license, the following requirements must be met:~~

- ~~(1) An applicant shall submit each emergency wrecker which will be used in the service for inspection in a manner determined by the director, and each wrecker must comply with the following minimum requirements:~~
 - ~~a. Each wrecker shall be not less than one ton (GVW 10,000) in size, have dual wheels, and be equipped with booster brakes.~~
 - ~~b. Each wrecker shall be equipped with a power-operated winch, winch line and boom, with a factory-rated lifting capacity of not less than 6,000 pounds, single-line capacity.~~

- ~~e. Each wrecker shall carry, as standard equipment, the following items, and all of the items listed in [section 48-138\(a\)](#):~~
 - ~~1. Safety chains.~~
 - ~~2. Three flares, each of which shall be capable of being seen and distinguished at a distance of not less than 600 feet under normal atmospheric conditions at nighttime.~~
 - ~~3. No less than five gallons of dry sand or other absorbent which is at least as effective as sand in absorbing liquid.~~
 - ~~4. One wrecking bar of not less than 36 inches in length with a wedge head.~~
 - ~~5. First aid kit.~~
- ~~d. Each wrecker and all of its equipment shall be in safe and good working condition.~~
- ~~e. Each wrecker shall be equipped with two-way radio equipment which is capable of providing two-way communication with the licensee's base station at all times.~~
- ~~(2) Each emergency heavy-duty wrecker must comply with the requirements in subsection (1) of this section unless this subsection specifies a different requirement. In addition:~~
 - ~~a. Each heavy-duty wrecker must not be less than five tons in size.~~
 - ~~b. Each heavy-duty wrecker shall be equipped with a power-operated winch, winch line and boom, with a factory-rated lifting capacity of not less than 32,000 pounds, single or double line capacity.~~
 - ~~c. Towing dollies are not required.~~
 - ~~d. Two-way communications are required.~~
- (b)(3) Each licensee shall maintain 24-hour ~~wrecker~~ tow truck service and communications.
- (c)(4) No vehicles may be towed unless and until the ~~wrecker~~ tow truck driver has received a completed [police officer wrecker \(leave 'wrecker?'\) inventory sheet \(POWIS\)](#). Such POWIS shall be completed in triplicate, at the scene, by the police officer and signed by the officer in charge and the ~~wrecker~~ tow truck driver. The original of such POWIS shall be retained by the police department. The remaining two copies shall be left with the ~~wrecker~~ tow truck driver. The ~~wrecker~~ tow truck driver, prior to delivering the vehicle to the owner or representative, shall have the owner/representative sign the remaining two copies and the ~~wrecker~~ tow truck driver shall then give one copy to the owner/representative and retain one copy for the ~~wrecker~~ tow truck company records.
- (d)(5) If issuance of an ~~emergency wrecker~~ tow company license is approved, the applicant or licensee shall comply with insurance requirements set forth in [section 48-137](#).

(Code 1993, § 86-179; Ord. No. 89-17, § 12-18, 12-4-1989)

Sec. [48-180](#). - Refusal to issue or renew.

The ~~director~~ chief of police may refuse to issue or renew an ~~emergency wrecker~~ tow company license upon notice and hearing, for one or more of the following reasons:

- (1) The making of any false statement as to material matters in an application for a license, or license renewal or in a hearing concerning the license.

- (2) Revocation of a license, pursuant to this division, of the applicant or any proprietor, partner or corporate officer of the applicant within 18 months preceding the application.
 - (3) Use by the licensee of a trade name for his ~~emergency wrecker~~ tow truck company other than the one registered with the ~~director~~ chief of police.
 - (4) Suspension of the licensee's ~~emergency wrecker~~ tow truck company license on three occasions within 12 months for more than two days on each occasion.
 - (5) Failure to meet the qualifications, service standards, or the rules and regulations established by this article.
 - (6) A licensee or the owner or holder of more than ten percent of licensee's stock, if the licensee is a corporation, has been convicted of a crime involving moral turpitude including burglary, robbery, perjury, forgery, theft, theft of an automobile or receiving and concealing stolen property, unless five years has lapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date.
 - (7) If the holder of the license is a corporation, if such corporation fails to furnish a list of the owners or holders of more than ten percent of the issued and outstanding stock in such corporation at the time of application, transfer or renewal.
- (Code 1993, § 86-180; Ord. No. 89-17, § 12-19, 12-4-1989; Ord. No. 97-03, § 9.0, 2-17-1997)

Sec. 48-181 moved to 48-141.

New Sec. 48-181. Report of Towing of Unauthorized Vehicle to Police Dispatcher by Vehicle Storage Facility

The VSF that receives a vehicle from a tow truck that removed the vehicle from private or public property within city and on a non-consent basis, except on police-generated tows, shall notify the police department dispatch office within one hour of receiving the vehicle. The information to be provided in such notification shall include:

- (1) The general description (brand, model, color) of the vehicle towed, including the state and the license plate, if any;
- (2) The tow company name that towed the vehicle;
- (3) The location/address from which the vehicle was towed and reason;
- (4) The date and time the vehicle was removed from the location;
- (5) The date and time the vehicle was accepted at the VSF; and
- (6) The street address and phone number of the VSF where the vehicle is located.

Such reports shall be made by fax, e-mail or in person. A VSF must release vehicles during the time the VSF accepts vehicles. If the VSF accepts vehicles on a 24-hour-a-day basis, it shall release vehicles on the same basis, with one (1) hours' notice.

Secs. 48-182—48-190. - Reserved.

DIVISION 3. - ~~AUTO WRECKER~~ TOW TRUCK DRIVER'S PERMIT

Sec. 48-191. - Required.

- (a) ~~No person shall drive or operate any wrecker for the purpose of making tows on a public street unless he has a current wrecker driver permit issued by the city.~~
- (a) No person shall drive or operate any ~~wrecker~~ tow truck for the purpose of making rotation non-consent and/or police directed/initiated tows in the City of Tomball unless such a person possesses a current, valid ~~wrecker~~ tow truck driver permit issued by the city (~~who will issue or should this be the wrecker's state COMPANY license?~~) nor shall any person allow, permit or cause to be operated any ~~wrecker~~ tow truck for the purpose of making rotation non-consent and/or police directed/initiated tows, either on his own account or in the employ of another.
- (b) ~~No person shall allow, permit, or cause to be operated any wrecker tow truck on a public street for the purpose of making tows unless the person operating or driving the wrecker tow truck has a current wrecker tow truck driver permit issued by the city.~~
- (c)(b) A violation of subsection (a) or (b) of this section shall be a Class C misdemeanor and is punishable as provided in section 1-14 or by suspension.

(Code 1993, § 86-191; Ord. No. 89-17, § 12-21, 12-4-1989)

Sec. 48-192. - Application.

(a) No person shall drive or operate any ~~wrecker~~ tow truck for the purpose of making rotation non-consent and or police directed/initiated tows in the City of Tomball unless such a person possesses a current, valid ~~wrecker~~ tow truck driver permit issued by the city (~~who will issue or should this be the wrecker tow truck's state COMPANY license?~~) nor shall any person allow, permit or cause to be operated any ~~wrecker~~ tow truck for the purpose of making rotation or police initiated tows, either on his own account or in the employ of another.

A violation of subsection of this section shall be a class C misdemeanor and is punishable as provided in section 1-14 of this Code or by suspension. (Ord. No. 89-17, § 12-21, 12-4-89)

- (a) Each person desiring a ~~wrecker~~ tow truck driver permit shall submit an application to the ~~director~~ chief of police? on a form furnished by the city. On the application the applicant shall set forth:
- (1) The name and address of the applicant.
 - (2) The applicant's date of birth, place of birth, sex and each address where he has resided in the two years immediately preceding his application.
 - (3) The name and address of each employer of the applicant and any businesses that the applicant has been engaged in during the two years immediately preceding the filing of the application.

- (4) Evidence that the applicant has operated a motor vehicle for at least six months immediately prior to the filing of the application.
- (5) Whether the applicant has been convicted of any criminal offense in this state or any other state or county preceding his application or has spent any time in jail or prison preceding his application due to a conviction for a criminal offense. If he has been convicted of any such offense or been in jail or prison, he shall set out the offense convicted of, the date of the conviction and the police, court and case numbers of the case. All applicants shall, in their application, authorize the police department to investigate as to whether the applicant has committed any criminal offense. [PD wants to require applicants to bring in their own criminal background check – how can we verify it is legitimate?]
- (6) ~~The number of driver's licenses issued to the applicant for vehicles greater than one ton issued by the state and a list of driver's licenses the applicant has held in the two years immediately preceding the submission of the application showing the state which issued each license and the type of license held.~~ The applicant shall also show the ~~director~~ chief of police evidence that he has a current license valid under state law for vehicles greater than one ton, issued by the state, and shall complete a form allowing the ~~director~~ chief of police and the police department to obtain information as to the applicant's driving record from the state and from any state which had issued the applicant a driver's license which was valid at any time within the two years immediately preceding the submission of the application.
- (7) Such other information as the ~~director~~ chief of police or his designee finds relevant.

Each application submitted shall include two current photographs of the applicant.

- (b) After the application has been completed, the applicant shall sign the application and shall execute a sworn affidavit that all matters stated in the application are true and correct.
- (c) The applicant shall also provide the ~~director~~ chief of police or his designee with evidence that he is at least 18 years of age and submit himself to be fingerprinted at a time and place designated by the ~~director~~ chief of police or his designee.

(Code 1993, § 86-192; Ord. No. 89-17, § 12-22, 12-4-1989)

Sec. 48-193. - Fee.

Every person desiring a ~~wrecker~~ tow truck driver permit shall pay a nonrefundable license fee as currently established or as hereafter adopted by resolution of the city council from time to time at the time he submits his application to the ~~director~~ chief of police or his designee.

(Code 1993, § 86-193; Ord. No. 89-17, § 12-23, 12-4-1989; Ord. No. 2002-16, § 2, 6-17-2002)

Sec. 48-194. - Application investigation.

The ~~director~~ **chief of police or his designee** shall issue a ~~wrecker~~ tow truck driver permit after submission of an application in accordance with section 48-192, payment of the application fee and completion of the investigation of the criminal and driving records of the applicant, unless he finds that the permit should be denied under section 48-195 or gives notice of a hearing pursuant to section 48-196.

(Code 1993, § 86-194; Ord. No. 89-17, § 12-24, 12-4-1989)

Sec. 48-195. - Application denial; notice.

- (a) An application for a ~~wrecker~~ tow truck driver permit shall be denied if any information set out in the application was incomplete or false.
- (b) If the ~~director~~ **chief of police or his designee** denies the application for a ~~wrecker~~ tow truck driver permit, he shall give written notice to the applicant by certified mail, return receipt requested, at the applicant's address as set out in the application. In such notice, the ~~director~~ **chief of police or his designee** shall set out the reason the application was denied.

(Code 1993, § 86-195; Ord. No. 89-17, § 12-25, 12-4-1989)

Sec. 48-196. - Application hearing.

The ~~director~~ **chief of police or his designee**, if considering denial of an application, may ~~shall~~ give the applicant notice that a hearing will be held in regard to his application for a ~~wrecker~~ tow truck driver permit if:

- (1) The police department has informed the ~~director~~ **chief of police** that the applicant has been convicted of or spent any time in jail or prison for any of the following offenses prior to the issuance of the permit:
 - a. Any offense involving moral turpitude, including:
 - 1. Fraud or theft of any kind;
 - 2. Forgery;
 - 3. Burglary;
 - 4. Robbery; or
 - 5. Any felony conviction.
 - b. An offense relevant and reflecting on the ability of the applicant to operate as a ~~wrecker~~ tow truck driver.

The ~~director~~ **chief of police or his designee** shall not, however, deny a permit on the basis of time in jail or prison where there was no conviction or for any conviction which was set aside as invalid.

- (2) The applicant has been convicted of three or more moving violations of the traffic laws of this state or of any other state in the one-year period immediately preceding the date of issuance of the permit or has been convicted of seven or more moving violations in the three-year period immediately preceding the date of issuance of the permit.
- (3) A wrecker tow truck driver permit issued to the applicant by the city had been revoked at any time within five years immediately preceding the submission of the application, had not been renewed, and grounds existed for the revocation of the permit at the time it expired.

(Code 1993, § 86-196; Ord. No. 89-17, § 12-26, 12-4-1989)

Sec. 48-197. - Refusal to issue or revocation.

The ~~director~~ chief of police or his designee may refuse to renew a wrecker tow truck driver permit and a wrecker tow truck driver permit may be revoked at any time if:

- (1) The licensee has committed or been convicted of any of the offenses set forth in section 48-196(1).
- (2) The licensee has been convicted of three or more moving violations of the traffic laws of this state or of any other state within one year when any of the convictions occurred after the permit was issued.
- (3) The licensee has been convicted of driving while intoxicated or driving while under the influence of drugs after the permit was issued.
- (4) The licensee has committed or been convicted of any violation of this article or ordinances of the city regulating wreckers tow trucks.
- (5) The licensee has violated any of the rules and regulations issued by the ~~director or~~ chief of police pursuant to this article.

(Code 1993, § 86-197; Ord. No. 89-17, § 12-29, 12-4-1989)

Sec. 48-198. - Expiration; renewal; replacement.

- (a) All wrecker tow truck driver permits shall expire one year from the date the permit was issued. To renew such a permit the licensee shall file an application on a form designated by the ~~director~~ chief of police or his designee setting out such information as the ~~director~~ chief of police or his designee finds is reasonably necessary to determine if the applicant's license should be renewed, and shall pay a renewal fee as currently established or as hereafter adopted by resolution of the city council from time to time.
- (b) If a wrecker tow truck driver's permit is lost or destroyed, he may obtain a replacement permit under the following conditions:
 - (1) He files an affidavit, sworn to before a notary, stating that his permit has been lost or stolen and setting out the details of how his permit was lost or stolen, setting out the details of where and when he last saw the permit and when he discovered it as lost;

- (2) Submitting two photographs with the affidavit; and
- (3) Paying a fee for the replacement permit as currently established or as hereafter adopted by resolution of the city council from time to time. A replacement ~~wrecker~~ tow truck driver's permit shall expire on the date of expiration for the permit which was lost or stolen.

(Code 1993, § 86-198; Ord. No. 89-17, § 12-27, 12-4-1989)

Secs. 48-199—48-210. - Reserved.

DIVISION 4. - OPERATION

Sec. 48-211. - Powers and duties of the ~~director and~~ chief of police with respect to tow truck emergency wrecker service.

In addition to the powers and duties elsewhere prescribed in this article, the ~~director and~~ chief of police ~~or his designee~~ are authorized to:

- (1) Administer and enforce all provisions of this article;
- (2) Keep records of all licenses and permits issued, suspended or revoked;
- (3) Keep records of all authorized emergency tow truck vehicles;
- (4) Adopt rules, regulations and penalties after reasonable notice to the permittees and licensees, not inconsistent with the provisions of this article, with respect to the form and content of applications for licenses and permits the receipt thereof, the investigation of applicants, and other matters incidental or appropriate to his power and duties as may be necessary for the proper administration and enforcement of the provisions of this article;
- (5) Conduct, when appropriate, periodic investigations of emergency tow truck wrecker companies throughout the city; and
- (6) Require periodic reports as necessary to evaluate each emergency tow truck wrecker company's operations.

(Code 1993, § 86-211; Ord. No. 89-17, § 12-29, 12-4-1989)

Sec. 48-212. - ~~Wrecker~~ Tow Truck rotation lists to be established; contents; qualifications; use.

- ~~(a) The director shall establish and maintain a list of emergency wrecker license holders which shall be known as the wrecker rotation list. This list shall be certified to the chief of police by the director and kept current at all times.~~
- ~~(b) The wrecker rotation list shall contain the names, in alphabetical order, of all qualified license holders requesting to be on such list.~~

(a) Qualifications. The city police department shall establish and maintain a tow truck rotation list. Each tow truck company is required to complete any and all applications and provide required information necessary to apply for the tow truck rotation list.

To be eligible for the rotation list, each tow truck company is required to comply with all of the following requirements:

To qualify, a company must maintain a 24-hour tow service; have one telephone number which is answered 24 hours a day, seven days a week; and uses a VSF that meets or exceeds the Texas Accessibility Standards ("TAS") accessibility criteria, approved by the United States Department of Justice.

To be eligible to be placed on the tow rotation list, a tow company shall certify in writing that the VSF meets or exceeds the criteria set forth by Texas Accessibility Standards, a copy of which will be provided by the city at the time the tow company applies for inclusion on the tow rotation list.

Only those tow trucks that are included on the tow company's tow truck license and are permitted by the city are authorized to respond to incident management rotation calls. A tow company may not substitute a tow truck from a different tow company to respond to an incident management call.

(b) The ~~wrecker~~ tow truck rotation list shall contain the names, in alphabetical order, of all qualified license holders requesting to be on such list.

(c) A license holder is qualified to be on such list if:

(1) He meets the requirements of section 48-177;

(2) He maintains 24-hour ~~wrecker~~ tow truck service and has no more than ~~two~~ one telephone numbers, which ~~numbers are~~ is answered 24 hours a day, seven days a week. The use of a telephone answering service shall be permitted, provided that if such service is used, the failure of a license holder to communicate with the police communications center or its authorized agent within five minutes following a call requesting a dispatch of a certified ~~wrecker~~ tow truck, confirming that the license holder shall immediately dispatch a certified ~~wrecker~~ tow truck to the desired location, will result in a forfeiture by that license holder of that call; and

(3) His ~~wreckers~~ tow trucks are equipped with communications equipment compatible with the radio communications equipment used to dispatch ~~wrecker~~ tow trucks on the ~~wrecker rotation~~ tow truck rotation list.

(d) When the police officer investigating a collision determines that any vehicle involved in a collision is unable to safely proceed under its own power or, when the police officer determines that the driver of any vehicle involved in a collision is physically unable to safely move the vehicle to a location where it will not create a traffic hazard, such officer shall request the driver to designate the ~~emergency~~ tow truck license holder which he desires to remove the vehicle.

(1) When the designation has been properly made, the police officer shall communicate the name of the designated license holder to the police communications center or its authorized agent.

- (2) The police communications center or its authorized agent shall cause the designated license holder to be called and directed to send to the scene of the collision a permitted wrecker tow truck.
- (3) Any police officer investigating an accident or offense within the city may order the impoundment non-consent tow to impound of any vehicle involved therein when, in the judgment of such officer, criminal prosecution will be involved as a result of such event, or when it is necessary to impound such vehicle to secure evidence, or when the owner or occupant of the vehicle is unable or fails to have such vehicle removed, or when the vehicle is stopped for a traffic violation, to effect an arrest, or is involved in an accident on a public roadway or public property and the vehicle's owner or operator fails to show proof of financial responsibility as required under V.T.C.A., Texas Transportation Code, Ch. 601 as amended. The fees to be charged for impound tows will not exceed the maximum rates allowed under this article or state law.
- (e) If the owner of a vehicle involved in a collision is physically unable to designate the permit holder he desires to remove the vehicle, the police officer shall deem this vehicle a nonowner consent tow and the police officer shall communicate that fact immediately to the police communications center or its authorized agent. The police communications center or its authorized agent shall then call the license holder next in line on the wrecker-rotation tow truck rotation list and request the license holder to tow the vehicle from the scene of the collision to a storage lot as specified in section 48-139. After the last license holder on such list has been called, the next such call shall go to the first license holder on the list. If two or more license holders are called to the scene of a collision, with no designation from vehicle operators, the vehicles to be towed may be selected by the permit holders in order of the wrecker-rotation tow truck rotation list, unless the police officer in charge requests that vehicles be removed prior to arrival of the selected license holder.
- (f) If the license holder after arrival at the scene determines, in conjunction with the police officer in charge, that assistance is needed, then the police officer shall communicate that fact immediately to the police communications center, or its authorized agent, which shall proceed under subsection (e) of this section.
- ~~(g) Failure of any license holder selected under subsection (d) or (e) of this section to deliver a wrecker to the scene within 15 minutes of notification, without justification acceptable to the police communications center or its authorized agent, shall cause the license holder to forfeit that call. If selection of the license holder occurred under subsection (d) of this section, then the police communications center or its authorized agent shall proceed as it would under subsection (e) of this section, so notifying the requesting police officer.~~
- (g) ~~(e)~~ Forfeiture of calls. Failure of any tow truck to check in route, by radio or phone, to the designated location within ten minutes of dispatch making contact with the listed phone number of the tow company or arriving at the designated location dispatched by the city within 25 minutes of being called will result in the forfeiture of that call and shall be considered a violation of this article. Three such forfeitures within 12 months may result in temporary removal from the rotation list. Repeat offenses may result in permanent removal for the annual cycle.
- (h) If a license holder or his driver is towing a vehicle and receives a wrecker-rotation tow truck rotation call, the license holder or his driver must complete the original tow before accepting

the rotation list call. If the license holder or his driver is unable to complete the original tow within the required response time as referenced in subsection (g) of this section, he must forfeit the call.

- (i) ~~(f)~~ Unneeded calls. If a tow company is called to respond to a scene by a police officer and subsequently is not needed, that tow company will be placed as "next in line" on the tow rotation list. If a tow truck responds and performs minor service that enables the vehicle to be driven, and for which no fee is charged, that Tow Company will be placed as "next in line" on the tow rotation list.
- (j) ~~(e)~~ Temporary removal from list. Should a tow company wish to be removed from the tow rotation list for a specific period of time, the tow company shall notify the police department dispatch, in writing, fax or e-mail, if the time off requested is 24 hours or longer. It shall be the tow company's responsibility to notify dispatch in writing, fax or e-mail, when the tow company wishes to return to the tow rotation list.
- (k) ~~(g)~~ Method of receiving payment. Each qualified tow company must be able to accept cash or credit/debit card payments for services rendered.

[MOVE TO 48-138. EQUIPMENT?] ~~All conventional tow trucks must be equipped with hydraulic recovery boom and wheel lifts.~~

[MOVE TO 48-176?] ~~(c) License. Each tow company, requesting placement on the tow rotation list must possess a tow truck license, issued by the State of Texas that lists each tow truck operated by that tow company.~~

[PD wants to restrict this to 9 companies; we currently have 10, 1 in the application process, and 1 inquiring about the process]

(m) [NEW REQUIREMENT:] Maximum Number of Licenses Issued and Placed on City Rotation List

The **nine** [eleven] permitted towing companies holding a vehicle tow service rotation license as of September 30, 2014, may apply for renewal so long as they remain qualified under the terms of this chapter. The city will issue no other vehicle tow service licenses until and unless the number of licensed towing companies on the city non-consent towing rotation list is eight or less because of attrition. If at any time there are six or fewer licensed towing companies on the city's non-consent towing list, the city will consider applications from other qualified companies. Those applications will be considered in the order in which they were filed, and the **city shall issue a license to any qualified towing company based on their application (who will issue?)**, until such time as there are sufficient qualified licensed tow truck companies on the city's vehicle tow service rotation list. The maximum number of companies, licensed, and on the city's rotation list will be henceforth determined by the Chief of Police or his designee based on service needs.

- ~~(i) A heavy-duty wrecker shall be called to the scene under the following circumstances:
 - ~~(1) The incident involves a tandem-axle drive tractor or other heavy-duty vehicle.~~~~

- ~~(2) A safety officer or other appropriate official of a damaged vehicle's company requests a heavy-duty wrecker, unless honoring the request would result in unreasonable delay in clearing the street.~~
- ~~(3) The investigating police officer determines that a heavy-duty wrecker is required. The rotation procedure in this division applies to heavy-duty wreckers as well as all other emergency wreckers.~~
- ~~(4) A heavy-duty wrecker service shall comply with the storage lot requirements as referenced in section 48-139~~
- ~~(Code 1993, § 86-212; Ord. No. 89-17, § 12-30, 12-4-1989)~~

Sec. 48-213. - Police officer not to influence selection of wrecker tow truck service.

A police officer investigating an accident or present at the scene of any wreck or collision shall not directly or indirectly recommend to any person involved in the wreck or collision the name of any permit holder and shall not directly or indirectly recommend or attempt to influence in any manner the decision of any persons in choosing or selecting a permit holder.

(Code 1993, § 86-213; Ord. No. 89-17, § 12-31, 12-4-1989)

Sec. 48-214. - Soliciting business at the scene of an accident; add: driving tow trucks to scene of an incident prohibited.

~~(a) Soliciting Towing Business on a City Street Prohibited~~

~~No tow company shall solicit in any manner, directly or indirectly, a person owning/operating any vehicle which is involved in an incident on a public street. This prohibition applies regardless of whether the solicitation is for the purpose of soliciting the business of towing, repairing, selling, or purchasing such vehicle. A violation of this section shall be a class C misdemeanor and upon conviction shall be punishable as provided in section 1-14 of this Code. (Ord. No. 89-17, § 12-32, 12-4-89)~~

(a) All wrecker drivers, owners or agencies are prohibited from soliciting the business of towing, removing or repairing any wrecked or disabled vehicle at the place where the accident has occurred by words, cards, circulars or gestures. A violation of this section shall be a Class C misdemeanor and upon conviction shall be punishable as provided in section 1-14.

(b) Driving Tow Trucks to Scene of an Incident Prohibited **[better way to word this?]**. No tow company shall drive, or cause to be driven, a tow truck to or near the scene of an incident on a street within the city unless such tow company has been called to the scene by the city police department. A violation of this section shall be a Class C misdemeanor and upon conviction shall be punishable as provided in section 1-14.

(Code 1993, § 86-214; Ord. No. 89-17, § 12-32, 12-4-1989)

Sec. 48-215. - Duties of Tow Companies ~~emergency license holders~~ in providing safe and prompt ~~wrecker~~ tow truck service.

- (a) It shall be the obligation of all license holders under this article to operate ~~wrecker~~ tow truck businesses so as to provide safe and prompt removal of wrecked or disabled vehicles from the public streets of the city when properly called upon to do so in accordance with the provisions of this division.
- (b) The duty to provide safe and prompt ~~wrecker~~ tow truck service upon call includes, but is not limited to the following specific duties:

~~Duties of Tow Companies~~

~~It shall be the obligation of all tow companies under this section to operate the tow business in a safe manner, to include, but not be limited to, the following:~~

- (1) Taking direction from investigating officer. Upon arrival at the scene of a collision within the city, tow truck operators shall take directions on when to engage or tow from the police officer investigating the collision.
- (2) Removing debris of collision. Tow truck operators that engage and tow any vehicle from the scene of a collision within the city shall remove all debris of the collision from the public street. This duty specifically includes the removal of vehicle parts, glass, and other debris. Such debris shall be disposed of in a lawful manner, which will keep it out of the gutters, storm sewers, streams, public rights-of-way, or property not belonging to the tow company.
 - ~~-(1) Upon receiving a call from the police communications center or its authorized agent, the license holder shall, in accordance with the provisions of this division, dispatch the requested wrecker to the desired location, or if the requested wrecker is not then available for service, the license holder shall immediately so inform the police communications center or its authorized agent.~~
 - ~~-(2) Upon arriving at the scene of a collision within the incorporated limits of the city, wrecker company personnel shall take directions from the police officer investigating that collision and shall obey all lawful orders given them by any police officer investigating such accident.~~
- (3) Disengaging. A tow truck that removes a vehicle from the original location shall not disengage from the vehicle until the vehicle has been deposited with the appropriate VSF except when the vehicle is released to the owner or operator or when the owner or operator specifies the location of disengagement. This restriction is enacted to prohibit tow trucks from engaging an unauthorized vehicle in a parking facility and moving it to a close location, then returning for another unauthorized vehicle, ultimately towing all the relocated vehicles to a VSF.
 - ~~-(3) Wrecker company personnel of the license holder which hauls any vehicle from the scene of a collision within the incorporated limits of the city shall remove the debris of the collision from the public street. This duty specifically includes removal of broken glass and metal fragments from the street, and the removal of any load of any vehicle from the travelled portion of the street, so as to eliminate any hazard to vehicular traffic.~~

~~This does not include the responsibility to unload cargo from the wrecked vehicle in order to permit hauling. Such debris should be disposed of in a manner which will keep it out of gutters, storm sewers, streams, public rights-of-way and off of property not belonging to the wrecker company.~~

[keep?](4) Any license holder on the ~~wrecker~~ tow truck rotation list must tow or have towed the damaged vehicle to a repair shop or to a place designated by the owner, unless the owner of the vehicle is disabled by physical injury and is, therefore, unable to designate a location for the vehicle to be towed. The license holder shall then store the vehicle in a state-licensed depository located in the city until released to the vehicle owner or agent. The selling of such right to tow any disabled vehicle is prohibited. The ~~wrecker~~ tow truck operator shall sign the Form 319 provided by the police department prior to leaving the scene and shall accept the responsibility of removing the vehicle until relieved of this responsibility. A violation of this section shall subject a license holder to a Class C misdemeanor and fine as set forth in this article.

~~(5) No license holder shall store any vehicles or wreckers on the public streets or rights-of-way. License holders will use reasonable care in the storage of property not belonging to such license holders, so as to minimize the risk of theft or damage.~~

~~(6) All license holders shall comply with all ordinances of the city, including but not limited to the fire prevention code, traffic ordinances, and criminal ordinances. Failure to do so will subject a license holder to administrative penalties as set out in this article, in addition to other civil remedies or penal provisions of the statutes or ordinances in question.~~

(5) (4) Drops. A tow truck that has hooked up to a vehicle for towing shall release the vehicle to its owner or operator upon receiving, a drop fee, payment and will not tow the vehicle, except when the vehicle is being taken into custody by a police officer. A vehicle is hooked up" if it is immediately ready for transport. A vehicle is not hooked up" unless it can be legally towed on a public roadway.

(Code 1993, § 86-215; Ord. No. 89-17, § 12-33, 12-4-1989)

[no suggestion from PD; should we keep this or delete?] Sec. 48-216. - Emergency wrecker service owner's records.

Each emergency wrecker license holder shall keep full and complete books of accounts and other records normally accepted in sound accounting practices, which records shall indicate a complete and accurate record of all expenses and income in connection with the actual operation of the emergency wrecker license and the maintenance of the equipment. The records must be kept so as to accurately reflect the various items of cost of operation and maintenance and must be made available to the director for audit upon request.

(Code 1993, § 86-216; Ord. No. 89-17, § 12-34, 12-4-1989)

Sec. 48-217. - Parking of ~~wrecker~~ tow truck at scene of accident.

Whenever an ~~emergency wrecker~~ tow truck arrives at the place where a motor vehicle has been disabled by an accident, the ~~emergency wrecker~~ tow truck driver shall park his vehicle as close to the street curb as possible and otherwise dispose of it in such a manner as not to interfere with traffic.

(Code 1993, § 86-218; Ord. No. 89-17, § 12-36, 12-4-1989)

Sec. 48-218. - Removal of vehicles from scene of accident.

- (a) No ~~wrecker or emergency wrecker~~ tow truck driver shall remove any wrecked or disabled vehicle from the place where the accident has occurred or attach his ~~wrecker~~ tow truck to the wrecked or disabled vehicle until the driver of the vehicle has given permission or until the city police officer investigating the accident has completed his investigation.
- (b) The fact that no police officer of the city is present at the scene of an accident when an ~~emergency wrecker or a wrecker~~ tow truck which has been summoned to the scene by the vehicle owner arrives shall not constitute an exception to this section. It shall be the duty of any ~~wrecker~~ tow truck owner or driver desiring to tow or haul any wrecked or disabled vehicle from the accident scene to notify the police department of the accident and to wait for the police officer to arrive and complete his investigation.
- (c) If the driver of a wrecked or disabled vehicle has been rendered unable by the accident to give permission to an ~~emergency wrecker~~ tow truck driver to remove the wrecked or disabled vehicle, the investigating police officer shall notify the chief of police or other officer in charge of accident investigation of such fact, and such officer shall give such orders as may be necessary to remove the wrecked or disabled vehicle from the street. In any event, with or without the driver's permission, the investigating police officers are empowered to order any wrecked or disabled vehicle to be moved a distance sufficient to clear the street for traffic or taken to a state-approved storage lot within the city.

(Code 1993, § 86-219; Ord. No. 89-17, § 12-37, 12-4-1989)

~~Sec. 48-219. — Supplemental permit for additional emergency wrecker.~~

~~Where an owner has obtained an emergency wrecker permit and thereafter desires to increase the number of wreckers to be operated, he shall follow the procedure set forth in section 48-177, except that the fee shall be as currently established or as hereafter adopted by resolution of the city council from time to time.~~

~~(Code 1993, § 86-220; Ord. No. 89-17, § 12-38, 12-4-1989)~~

~~Sec. 48-220. — Supplemental permit for substitute emergency wrecker.~~

~~Whenever an owner wishes to discontinue the use of an emergency wrecker during the period covered by his permit and replace it with another, he shall follow the procedure set forth in section 48-177.~~

~~(Code 1993, § 86-221; Ord. No. 89-17, § 12-39, 12-4-1989)~~

(Sec. 48-219) Sec. 48-221. – Vehicle storage facility lot requirements~~for emergency wreckers.~~

~~All emergency wrecker license holders under this article must be licensed by the state department of licensing and regulation and comply with its regulations. Operating without a state license or the violation of any of the requirements regulating storage facilities shall constitute a violation and will result in the removal of the wrecker service from the wrecker rotation list until such service complies with The Storage Facility Act, V.T.C.A., Occupations Code ch. 2303.~~

~~(Code 1993, § 86-222; Ord. No. 89-17, § 12-40, 12-4-1989)~~

Vehicle Storage Facility

Each tow company performing non-consent tows shall utilize a licensed VSF located in the city limits or within the extra territorial jurisdiction of the city.

(g) Inspection of Vehicle Storage Facility: Every VSF to be used by the applicant for vehicle storage shall be inspected annually by the Tomball Police Department delegate prior to the issuance of a permit to ascertain if it has met all state requirements

It shall be unlawful for any permitted tow truck to operate at any time without the required equipment stipulated by state law or this article.