

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



MONDAY, OCTOBER 6, 2014

6:00 P.M.

Notice is hereby given of a meeting of the Tomball City Council, to be held on Monday, October 6, 2014 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 and Founder, Elder Edward V. Mathews, Newness of Life Church of God in Christ

3.0 Pledges to U.S. and Texas Flags

- Led by Kamryn Grice, National American Miss Texas Jr. Pre-Teen 2014, and Ashtyn Grice, Miss Mini Bay Area 2014

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 Presentations:

- Proclamation – “***Marine Lance Corporal Chris Masters***” Day
- Presentation by Roger Matheson and Members of the Jerry Matheson Family (Judy Matheson Evans and husband, John; Kyle and Joy Matheson; Lance and Michelle Matheson; and Deana [nee Matheson] and Carl Phillpott) of a Donation to City Council for the Purchase of New Picnic Tables and BBQ Grills for the New Pavilion at Jerry Matheson Park
- Presentation of 2013 Comptroller’s Transparency Award – Platinum Level Award for Financial Transparency
- Presentation of 2013 Comprehensive Annual Financial Report Award

6.0 Reports and Announcements

- October 7, 2014 – **Mayor's Coffee, Cisco's Salsa, Sol de Luna** - 5:30 p.m.-7:00 p.m.
- October 7, 2014 – ***National Night Out at the Depot*** – 6:00 p.m.-8:00 p.m.
- October 11, 2014 – ***2nd Annual “Sherine’s Stride” 5K Run and 1-Mile Kids Run for Breast Cancer Awareness***
- October 11, 2014 – “***Zomball in Tomball***” – a 2nd Saturday at the Depot Event for Kids
- October 20-24 and October 27-31, 2014 – Early Voting for **November 4, 2014 Local Option Election**
- October 25, 2014 – **3rd Annual Tomball Bluegrass Festival**
- **November 4, 2014 (Tuesday) – Local Option Election, City Hall, 7:00 a.m.-7:00 p.m.**
- November 8, 2014 – ***6th Annual 5K Tomball Dash (Woodforest Bank)***
- ***Walk Tomball!*** – Every Saturday at **9:00 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:
 - Mike Baxter - **4th Annual Bugs, Brew & Barbeque Festival**
 - Craig Meyers -
 - Introduce City Planner, Harold Ellis
 - Introduce Community Development Coordinator, Amelia Vasquez

7.0 Approve the Minute of the September 15, 2014 Regular City Council Meeting

8.0 Old Business:

- 8.1 Adopt, on Second Reading, Ordinance No. 2014-30, an Ordinance of the City of Tomball, Texas, Setting the Total Tax Levy of \$0.341455/\$100 of taxable value for the Year 2014 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.

- 8.2 Adopt, on Second Reading, Ordinance No. 2014-31, an Ordinance of the City of Tomball, Texas, Adopting and Enacting a New Code for the City of Tomball, Texas; Providing for the Repeal of Certain Ordinances not included Therein; Providing a Penalty for the Violation Thereof; Providing for the Manner of Amending Such Code; Providing when Such Code and This Ordinance shall become Effective; Directing Publication of the Caption of This Ordinance; Finding that the Meetings at which This Ordinance is Considered are Open to the Public; Providing for Severability and the Repeal of Conflicting Ordinances; and Providing Other Details Relating to the Passage of This Ordinance (Link to Code: <http://www.ci.tomball.tx.us/Archive.aspx?AMID=48>).
- 8.3 Adopt, on Second Reading, Ordinance No. 2014-33, an Ordinance Of The City Of Tomball, Texas, Amending Its Comprehensive Plan by Changing the Future Land Use Classification of Approximately 4.31 Acres of Land, Legally Described as Tract 2, Howe Tract, Within The City Of Tomball, Harris County, Texas, from High Density Residential to Employment/Office; Said Property Being Generally Located Between Michel Road and Theis Lane, West of Johnson Road; Providing for the Amendment Of The Comprehensive Plan of The City; Providing for Severability; 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.
- 8.4 Adopt, on Second Reading, Ordinance No. 2014-34, an Ordinance of The City of Tomball, Texas, Amending Its Zoning Ordinance by Changing the Zoning District Classification of Approximately 4.31 Acres of Land, Legally Described as Tract 2, Howe Tract, Within The City of Tomball, Harris County, Texas, from The Duplex District to The Commercial District; Said Property Being Generally Located Between Michel Road and Theis Lane, West of Johnson Road; Providing for The Amendment of The Official Zoning Map of The City; Providing for Severability; 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.
- 8.5 Adopt, on Second Reading, Ordinance No. 2014-35, an Ordinance of The City of Tomball, Texas, Amending Its Zoning Ordinance by Amending Section 38.2 (“Use Charts”) by Allowing a “Dance/Drama/Music Schools (Performing Arts, Martial Arts)” 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.

9.0 New Business:

- 9.1 Approve Land Donation Agreement between BD Broussard Real Estate Partnership, Ltd. and the City of Tomball for Broussard Community Park

- 9.2 Set a Date and Time for City Council Workshop to Discuss the City of Tomball Community Development Department Development Review Process Evaluation
- 9.3 Approve the Appointment of Brett Peabody as Presiding Municipal Court Judge
- 9.4 Approve Resolution No. 2014-22, a Resolution of the City of Tomball, Texas, Adopting a Master Fee Schedule for Fiscal Year 2014-2015.
- 9.5 Approve Resolution No. 2014-23, 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 2015 General Assembly
- 9.6 Approve Resolution No. 2014-24, a Resolution of the City of Tomball, Texas, Replacing the City of Tomball's Current Human Resources Policies and Employee Handbook in Its Entirety with the "Human Resources Handbook" and Repealing all other Resolutions or Parts of Resolutions Inconsistent or in Conflict Herewith; and Providing for Severability
- 9.7 Consideration of a Revision to Section 40-76 of the Tomball Code of Ordinances:
- Adopt of First Reading, Ordinance No. 2014-36, an Ordinance Amending the Code of Ordinances of the City of Tomball, Texas by Amending Section 40-76, Utilities, of Article III, Design Standards, of Chapter 40, Subdivisions, to Require all Utility Lines, Other than Electric Lines, to be Located Underground; to Require all Electric Distribution Lines to be Underground if the Customer Elects Such Pursuant to the Utility's Distribution Tariff; and to Require All Aboveground Electric Distribution Lines be Located Along the Perimeter of the Overall Subdivision Unless the Utility Determines Different Placement is Needed to Provide Safe and Reliable Electric Service; Providing a Penalty in an Amount Not to Exceed \$2,000 for Each Violation Hereof; and Providing for Severability; and Making Other Provisions and Findings Related Thereto.
- 9.8 Executive Session: The City Council will meet in Executive Session as Authorized by Title 5, Chapter 551, Government Code, the Texas Open Meetings Act, for the Following Purpose(s):
- Sec. 551.072 – Deliberations Regarding Real Property
 - Sec. 551.074 - Personnel Matters: Deliberation of the Appointment, Employment, and Duties of a Public Officer or Employee – Chief of Police
 - Sec. 551.074 – Personnel Matters: Deliberation of the Evaluation of a Public Officer or Employee – City Manager

9.9 Consideration and Possible Action on the Employment and Appointment of Billy Tidwell as Chief of Police by the City Manager, Pursuant to Section 7.03 of the City Charter

9.10 Consideration and Possible Action regarding Amendments to and Extension of the Employment Contract for George Shackelford, City Manager

10.0 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 2nd day of October 2014 by 6:00 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 6, 2014

Topic:

- Led by Pastor and Founder, Elder Edward V. Mathews, Newness of Life Church of God in Christ

Background:

Origination:

Recommendation:

Funding:

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

City Secretary

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

Regular City Council Agenda Item Data Sheet

Meeting Date: October 6, 2014

Topic:

- Led by Kamryn Grice, National American Miss Texas Jr. Pre-Teen 2014, and Ashtyn Grice, Miss Mini Bay Area 2014

Background:

Origination:

Council

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	

Regular City Council Agenda Item Data Sheet

Meeting Date: October 6, 2014

Topic:

- Proclamation – “*Marine Lance Corporal Chris Masters*” Day
- Presentation by Roger Matheson and Members of the Jerry Matheson Family (Judy Matheson Evans and husband, John; Kyle and Joy Matheson; Lance and Michelle Matheson; and Deana [nee Matheson] and Carl Phillpott) of a Donation to City Council for the Purchase of New Picnic Tables and BBQ Grills for the New Pavilion at Jerry Matheson Park
- Presentation of 2013 Comptroller’s Transparency Award – Platinum Level Award for Financial Transparency
- Presentation of 2013 Comprehensive Annual Financial Report Award

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:

2013 Comptroller's Transparency Award

August 14, 2014

Mr. George Shackelford
City Manager
City of Tomball
401 Market St.
Tomball, Texas 77375-4645

Dear Mr. Shackelford:

I am pleased to inform you that the city of Tomball has earned a 2014 Platinum Leadership Circle Award. Your application scored 20 points of 22 possible on our ratings criteria to earn this award.

Your listing on our "Texas Transparency" website now displays the Platinum seal to indicate that you have received this award. Enclosed is your copy of a Leadership Circle Award Certificate. You will also receive a digital seal that you may post on your website.

Congratulations on your success in moving forward on financial transparency and joining our Leadership Circle.

Sincerely,



Susan Combs

Enclosure





Texas Comptroller Leadership Circle Platinum Member

awarded to

City of Tomball

For continued progress toward achieving financial transparency. The Texas Comptroller's Leadership Circle program recognizes local governments across Texas that are striving to meet a high standard for financial transparency online. Your efforts to provide citizens with clear, consistent pictures of spending and share information in a user-friendly format have paved the way for achieving greater financial transparency.

August 11, 2014

Regular City Council

Agenda Item

Data Sheet

Meeting Date: October 6, 2014

Topic:

- October 7, 2014 – **Mayor's Coffee, Cisco's Salsa, Sol de Luna** - 5:30 p.m.-7:00 p.m.
- October 7, 2014 – **National Night Out at the Depot** – 6:00 p.m.-8:00 p.m.
- October 11, 2014 – **2nd Annual “Sherine’s Stride” 5K Run and 1-Mile Kids Run for Breast Cancer Awareness**
- October 11, 2014 – **“Zomball in Tomball”** – a 2nd Saturday at the Depot Event for Kids
- October 20-24 and October 27-31, 2014 – Early Voting for **November 4, 2014 Local Option Election**
- October 25, 2014 – **3rd Annual Tomball Bluegrass Festival**
- **November 4, 2014 (Tuesday) – Local Option Election, City Hall, 7:00 a.m.-7:00 p.m.**
- November 8, 2014 – **6th Annual 5K Tomball Dash (Woodforest Bank)**
- **Walk Tomball!** – Every Saturday at **9:00 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:
 - Mike Baxter - **4th Annual Bugs, Brew & Barbeque Festival**
 - Craig Meyers -
 - Introduce City Planner, Harold Ellis
 - Introduce Community Development Coordinator, Amelia Vasquez

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:

Mayor's Coffee - October 7, 2014

2nd Annual Sherine's Stride

“Zomball in Tomball”

Tuesday, October 7, 2014
Start Time 5:30 P.M.
Sol de Luna
(Cisco's Banquet Room)
207 Commerce

Mayor's Coffee

Stop by to get in
touch



Gretchen Fagan
Mayor

For more information call 281-290-1002 or visit ci.tomball.tx.us



Saturday, October 11, 2014

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 for Awareness 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 shoe 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 run will receive a medal.

Packet Pick-up

October 9th and 10th 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
- 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: Rosalie Dillon, 401 Market St., Tomball, TX 77375.
Fax 281-290-1088 or Email rdillon@tomballtx.gov

Event Fees*		
Category	On or Before 9/26/2014	After 9/26/2014
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 11, 2014
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 9/26/2014	After 9/26/2014
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.

"ZOMBALL IN TOMBALL"

A 2ND SATURDAY EVENT FOR KIDS
OCTOBER 11 AT THE DEPOT
STARTING AT 5 PM

- WATCH "HOTEL TRANSYLVANIA" ON THE MONSTER-SIZED SCREEN AND "TRUNK-OR-TREAT" FOR GOODIES
- COME IN COSTUME FOR A SPECIAL GIFT WHILE SUPPLIES LAST
- VISIT THE GOTCHA GAZEBO, THE CREEPY CABOOSE AND THE MENACING MAZE **PRESENTED BY UNIVERSAL FENCE**
- MUSIC, FUN ACTIVITIES, GOTCHAS AND MORE, TOO!

THE DEPOT IS AT 201 S. ELM STREET IN DOWNTOWN TOMBALL.



CALL 281-351-5484 OR VISIT TOMBALLTX.GOV FOR MORE INFORMATION. THEN "LIKE" US ON FACEBOOK AT WWW.FACEBOOK.COM/TOMBALLTEXANFORFUN

Regular City Council Agenda Item Data Sheet

Meeting Date: October 6, 2014

Topic:

Approve the Minute of the September 15, 2014 Regular City Council 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 of the September 15, 2014 Regular City Council Meeting

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



MONDAY, SEPTEMBER 15, 2014

6:00 P.M.

1.0 Call to Order

The Council meeting was called to order at 6:00 p.m. by Mayor Fagan. Other members present:

Councilman Hudgens
Councilman Stoll
Councilman Degges
Councilman Townsend
Councilman Klein Quinn

Others present:

Assistant City Manager/Police Chief – Robert Hauck
City Secretary – Doris Speer
City Attorney – Loren Smith
Fire Chief – Randy Parr
Finance Director – Glenn Windsor
Marketing Director – Mike Baxter
Community Development Director – Craig Meyers
City Engineer – Lori Lakatos
Community Events Coordinator – Rosalie Dillon
Community Development Coordinator – Amelia Vasquez
Executive Director-TEDC – Kelly Violette

2.0 Invocation was led by Bruce Hillegeist, President, Greater Tomball Area Chamber of Commerce.

3.0 Pledges to U. S. and Texas Flags were led by members of Boy Scout Troop #1493 and Alan Hernandez and Gabriel Gach, members of the Tomball High School Student Council.

4.0 The following public comments were received:

Alan Hernandez and Gabriel Gach THS Student Council	- Expressed the Tomball High School Student Council's appreciation of the City's support for the 2014 Homecoming Parade and Pep Rally
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Bruce Hillegeist
GTACC

- Expressed his appreciation, on behalf of the Greater Tomball Area Chamber of Commerce, for the successful partnerships of the City of Tomball, GTACC, and TEDC in working together for the success of the City and community. Reminded Council that George Shackelford and he have been invited to participate again on a statewide panel regarding the cooperation between the City of Tomball and the GTACC and expressed his appreciation for Mike Baxter's participation with Bruce at Rockport-Fulton's chamber luncheon regarding Tomball's becoming a destination location within the past three years.

5.0 Reports and Announcements:

- September 27, 2014 – **4th Annual Bugs, Brew & Barbeque Festival**
- October 7, 2014 – **Mayor's Coffee, Cisco's Salsa, Sol de Luna** – 5:30 p.m.-7:00 p.m.
- October 11, 2014 - **2nd Annual "Sherine's Stride" 5K Run and 1-Mile Kids Run for Breast Cancer Awareness**
- October 20-31, 2014 – Early Voting for **November 4, 2014 Local Option Election**
- October 25, 2014 – **3rd Annual Tomball Bluegrass Festival**
- **November 4, 2014 (Tuesday) – Local Option Election, City Hall, 7:00 a.m.-7:00 p.m.**
- November 8, 2014 – **6th Annual 5K Tomball Dash (Woodforest Bank)**
- **Walk Tomball!** – Every Saturday at **9:00 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 2, 2014 Regular City Council Meeting.

Motion carried unanimously.

7.0 Old Business:

- 7.1 Motion was made by Councilman Townsend, second by Councilman Klein Quinn, to adopt, on Second Reading, Ordinance No. 2014-26, an Ordinance of the City of Tomball, Texas, Establishing Rates and Charges for Potable Water, Sanitary Sewer, Natural Gas, and Garbage Collection and Disposal Services; Repealing Ordinance No. 2013-12 and All Other Ordinances or Parts of Ordinances Inconsistent or in Conflict Herewith; Providing for an Effective Date; Providing Other Matters Relating to the Subject; and Providing for Severability. Vote was as follows:

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>

Motion carried unanimously.

8.0 New Business:

- 8.1 Council received a report from Lynn LeBouef regarding the Tomball Regional Health Foundation's operations.

No action taken.

- 8.2 Motion was made by Councilman Klein Quinn, second by Councilman Stoll, to reappoint Ralph Foxworthy to Position 1 and Ellen Stutts to Position 5, and to appoint Steven Vaughan to Position 3 on the Tomball Regional Health Foundation Board of Directors, with new terms expiring September 1, 2016.

Motion carried unanimously.

- 8.3 Motion was made by Councilman Stoll, second by Councilman Townsend, to adopt \$0.230000 as the Portion of the Tax Rate to Fund the Interest and Sinking (Debt Service) Fund for Fiscal Year 2014-2015.

Motion carried unanimously.

- 8.4 Motion was made by Councilman Townsend, second by Councilman Stoll, to adopt \$0.111455 as the Portion of the Tax Rate to Fund the Maintenance and Operations (M&O) Fund for Fiscal Year 2014-2015.

Motion carried unanimously.

- 8.5 Motion was made by Councilman Townsend, second by Councilman Stoll, to read Ordinance No. 2014-30 by Caption only.

Motion carried unanimously.

Motion was made by Councilman Townsend, second by Councilman Stoll, to adopt, on First Reading, Ordinance No. 2014-30, an Ordinance of the City of Tomball, Texas, Setting the Tax Levy of \$0.341455/\$100 Value Assessed for the Year 2014 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. Vote was as follows:

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>

Motion carried unanimously.

- 8.6 Motion was made by Councilman Hudgens, second by Councilman Degges, to read Ordinance No. 2014-31 by Caption only.

Motion carried unanimously.

Motion was made by Councilman Stoll, second by Councilman Townsend, to adopt, on First Reading, Ordinance No. 2014-31, an Ordinance of the City of Tomball, Texas, Adopting and Enacting a New Code for the City of Tomball, Texas; Providing for the Repeal of Certain Ordinances not included Therein; Providing a Penalty for the Violation Thereof; Providing for the Manner of Amending Such Code; Providing when Such Code and This Ordinance shall become Effective; Directing Publication of the Caption of This Ordinance; Finding that the Meetings at which This Ordinance is Considered are Open to the Public; Providing for Severability and the Repeal of Conflicting Ordinances; and Providing Other Details Relating to the Passage of This Ordinance (Link to Code: <http://www.ci.tomball.tx.us/Archive.aspx?AMID=48>). Vote was as follows:

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>

Motion carried unanimously.

- 8.7 Request was made by John Sellers, representative for TNRG, to withdraw the item for consideration of **ZONING CASE P14-145**: Request by TNRG Development LLC, on behalf of Frank P. Fontana, to amend the City's Zoning Ordinance by rezoning approximately 20.64 acres of land, legally described as Tracts 4H-1 and 4L-2, Abstract 632, C.N. Pillot, within the City of Tomball, Harris County, Texas, generally located west of South Cherry Street, north of Holderrieth Road, from the General Retail District to the Light Industrial District.

- No public hearing on **ZONING CASE P14-145** was conducted.
- No action was taken regarding Ordinance No. 2014-32, an Ordinance of the City of Tomball, Texas, Amending its Zoning Ordinance by Changing the Zoning District Classification of Approximately 20.64 Acres of Land, Legally Described as Tracts 4H-1 and 4L-2, Abstract 632, C.N. Pillot, Within the City of Tomball, Harris County, Texas, From the General Retail District to the Light Industrial District; Said Property Being Generally Located West of South Cherry Street, North of Holderrieth Road; Providing for the Amendment of the Official Zoning Map of the City; Providing for Severability; 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.

No action taken.

- 8.8 Consideration was given to **COMPREHENSIVE PLAN CASE P14-153**: Request by Southern Knights Inc. to amend the City's Comprehensive Plan by altering the Future Land Use of approximately 4.31 acres of land, legally described as Tract 2, Howe Tract, within the City of Tomball, Harris County, Texas, generally located between Michel Road and Theis Lane, west of Johnson Road, from High Density Residential to Employment/Office

- Mayor Fagan called the public hearing on **COMPREHENSIVE PLAN CASE P14-153** to order at 7:04 p.m.

Receiving no public comments, Mayor Fagan closed the public hearing at 7:04 p.m.

- Motion was made by Councilman Hudgens, second by Councilman Townsend, to read Ordinance No. 2014-33 by Caption only.

Motion carried unanimously.

- Motion was made by Councilman Hudgens, second by Councilman Townsend, to adopt, on First Reading, Ordinance No. 2014-33, an Ordinance Of The City Of Tomball, Texas, Amending Its Comprehensive Plan by Changing the Future Land Use Classification of Approximately 4.31 Acres of Land, Legally Described as Tract 2, Howe Tract, Within The City Of Tomball, Harris County, Texas, from High Density Residential to Employment/Office; Said Property Being Generally Located Between Michel Road and Theis Lane, West of Johnson Road; Providing for the Amendment Of The Comprehensive Plan of The City; Providing for Severability; 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	<u>Aye</u>
Councilman Klein Quinn	<u>Aye</u>

Motion carried unanimously.

- 8.9 Consideration was given to **ZONING CASE P14-154**: Request by Southern Knights Inc. to amend the City's Zoning Ordinance by rezoning approximately 4.31 acres of land, legally described as Tract 2, Howe Tract, within the City of Tomball, Harris County, Texas, generally located between Michel Road and Theis Lane, west of Johnson Road, from the Duplex District to the Commercial District

- Mayor Fagan called the public hearing on **ZONING CASE P14-154** to order at 7:08 p.m.

Receiving no public comments, Mayor Fagan closed the public hearing at 7:08 p.m.

- Motion was made by Councilman Townsend, second by Councilman Stoll, to read Ordinance No. 2014-34 by Caption only.

Motion carried unanimously.

Motion was made by Councilman Townsend, second by Councilman Klein Quinn, to adopt, on First Reading, Ordinance No. 2014-34, an Ordinance of The City of Tomball, Texas, Amending Its Zoning Ordinance by Changing the Zoning District Classification of Approximately 4.31 Acres of Land, Legally Described as Tract 2, Howe Tract, Within The City of Tomball, Harris County, Texas, from The Duplex District to The Commercial District; Said Property Being Generally Located Between Michel Road and Theis Lane, West of Johnson Road; Providing for The Amendment of The Official Zoning Map of The City; Providing for Severability; 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	<u>Aye</u>
Councilman Klein Quinn	<u>Aye</u>

Motion carried unanimously.

- 8.10 Consideration was given to **ZONING CASE P14-159**: Request by the City of Tomball to amend Section 38.2 (“Use Charts”) of the City’s Zoning Ordinance to allow “Dance/Drama/Music Schools (Performing Arts, Martial Arts)” 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 Fagan called the public hearing on **ZONING CASE P14-159** to order at 7:11 p.m. Public comment was received:

Marilyn Higgins Salon Owner 714 Barbara Street, 77375	-	Expressed her concern regarding the possibility of a hair salon being constructed on her residential street, should the text amendment be approved.
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Receiving no further public comments, Mayor Fagan closed the public hearing at 7:15 p.m.

- Motion was made by Councilman Townsend, second by Councilman Stoll, to read Ordinance No. 2014-35 by Caption only.

Motion carried unanimously.

Motion was made by Councilman Townsend, second by Councilman Stoll, to adopt, on First Reading, Ordinance No. 2014-35, an Ordinance of The City of Tomball, Texas, Amending Its Zoning Ordinance by Amending Section 38.2 (“Use Charts”) by Allowing a “Dance/Drama/Music Schools (Performing Arts, Martial Arts)” 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>Nay</u>
Councilman Stoll	<u>Aye</u>
Councilman Degges	<u>Aye</u>
Councilman Townsend	<u>Aye</u>
Councilman Klein Quinn	<u>Nay</u>

Motion carried, 3 votes Aye, 2 votes Nay.

- 8.11 Motion was made by Councilman Townsend, second by Councilman Klein Quinn, to approve an Interlocal Agreement between Harris County and the City of Tomball to Provide a Contingency Plan for Assistance with Removing Debris in the City of Tomball Resulting from a Natural or Manmade Incident.

Motion carried unanimously.

- 8.12 Motion was made by Councilman Klein Quinn, second by Councilman Townsend, to approve Resolution No. 2014-17, a Resolution of the City of Tomball, Texas, adopting the City of Tomball's Investment Policy, as set forth in the City's Administrative Policy No. 13, entitled "Investment Policy"

Motion carried unanimously.

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

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this the _____ day of _____ 2014.

Doris Speer, TRMC, CMC
City Secretary

Gretchen Fagan
Mayor

Regular City Council

Agenda Item

Data Sheet

Meeting Date: October 6, 2014

Topic:

Adopt, on Second Reading, Ordinance No. 2014-30, an Ordinance of the City of Tomball, Texas, Setting the Total Tax Levy of \$0.341455/\$100 of taxable value for the Year 2014 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:

The previous two items on the agenda approved the allocation of the proposed tax rate for Fiscal Year 2014-2015 (Tax Year 2014) as \$0.230000 for the Interest & Sinking Fund and \$0.111455 to Maintenance and Operations, for a total tax rate of \$0.341455.

Adoption of Ordinance No. 2014-30 on second reading will adopt the tax rate and provide for the levying of the 2014 tax rate.

Origination:

Glenn Windsor, CPA Finance Director

Recommendation:

Adopt Ordinance No. 2014-30 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. 2014-30

Notice of Effective Tax Rate

ORDINANCE NO. 2014-30

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, SETTING THE TAX LEVY OF \$0.341455 FOR THE YEAR 2014 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, 2014; 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 2014, to fund the City's fiscal year 2014-2015 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
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INTEREST & SINKING - FOR DEBT SERVICE:	\$0.230000
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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, 2015. 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 15TH DAY OF SEPTEMBER 2014.

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 A SPECIAL MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL, HELD ON THE 6TH DAY OF OCTOBER 2014.

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

2014 Property Tax Rates in City of Tomball

This notice concerns the 2014 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	\$1,662,244
Last year's debt taxes	\$3,430,229
Last year's total taxes	\$5,092,473
Last year's tax base	\$1,491,403,845
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)	\$5,082,886
÷ This year's adjusted tax base (after subtracting value of new property)	\$1,478,882,427
=This year's effective tax rate	\$0.343697/\$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)	\$5,064,955
÷ This year's adjusted tax base	\$1,478,882,427
=This year's effective operating rate	\$0.342485/\$100
x 1.08=this year's maximum operating rate	\$0.369883/\$100
+ This year's debt rate	\$0.230055/\$100
= This year's total rollback rate	\$0.599938/\$100
-Sales tax adjustment rate	\$0.225668/\$100
=Rollback tax rate	\$0.374270/\$100

Statement of Increase/Decrease

If City of Tomball adopts a 2014 tax rate equal to the effective tax rate of \$0.343697 per \$100 of value, taxes would increase compared to 2013 taxes by \$94,692.

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	12,281,443
Special Revenue Funds	929,881

Schedule B - 2014 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	19,970	0	289,970
Series 2011 Refunding Bonds	513,000	113,085	0	626,085
2011 Lease - Fire Truck	535,464	20,615	0	556,079
2015 Lease - Fire Truck	68,104	27,200	0	95,304
Series 2012 Certificates of Obligation	585,000	459,819	0	1,044,819
Series 2013 Refunding Bonds	490,000	57,888	0	547,888
Series 2013 Certificates of Obligation	340,000	184,913	0	524,913
Total required for 2014 debt service				\$3,685,058
- Amount (if any) paid from Schedule A				\$213,000
- Amount (if any) paid from other resources				\$0
- Excess collections last year				\$0
= Total to be paid from taxes in 2014				\$3,472,058
+ Amount added in anticipation that the unit will collect only 100.00% of its taxes in 2014				\$0
= Total debt levy				\$3,472,058

Schedule C - Expected Revenue from Additional Sales Tax

In calculating its effective and rollback tax rates, the unit estimated that it will receive \$3,405,840 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: 08/28/2014

Regular City Council

Agenda Item

Meeting Date: October 6, 2014

Data Sheet

Topic:

Adopt, on Second Reading, Ordinance No. 2014-31, an Ordinance of the City of Tomball, Texas, Adopting and Enacting a New Code for the City of Tomball, Texas; Providing for the Repeal of Certain Ordinances not included Therein; Providing a Penalty for the Violation Thereof; Providing for the Manner of Amending Such Code; Providing when Such Code and This Ordinance shall become Effective; Directing Publication of the Caption of This Ordinance; Finding that the Meetings at which This Ordinance is Considered are Open to the Public; Providing for Severability and the Repeal of Conflicting Ordinances; and Providing Other Details Relating to the Passage of This Ordinance (Link to Code: <http://www.ci.tomball.tx.us/Archive.aspx?AMID=48>).

Background:

Municipal Code Corporation has completed the recodification of the City of Tomball's Code of Ordinances through June 16, 2014.

Ordinance No. 2014-31 adopts the New Code of Ordinances for the City and includes the zoning ordinance and updates through Ordinance No. 2014-13, amending the Home Rule Charter as a result of the May 10, 2014 Special Election.

Ordinances adopted after passage of Ordinance No. 2014-13 will be included in Supplement No. 1. Tomball is currently scheduled for semi-annual supplements, but this schedule can be adjusted as desired.

Due to the volume of the recodified Code of Ordinances (816 pages), a link is provided to the City's website to view the Code in its entirety - <http://www.ci.tomball.tx.us/Archive.aspx?AMID=48>.

Origination:

Doris Speer, City Secretary

Recommendation:

Adopt Ordinance No. 2014-31 on Second Reading

Funding:

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

Doris Speer, City Secretary

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

ATTACHMENTS:

Ordinance No. 2014-31

ORDINANCE NO. 2014-31

**AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS,
ADOPTING AND ENACTING A NEW CODE FOR THE
CITY OF TOMBALL, TEXAS; PROVIDING FOR THE
REPEAL OF CERTAIN ORDINANCES NOT INCLUDED
THEREIN; PROVIDING A PENALTY FOR THE
VIOLATION THEREOF; PROVIDING FOR THE MANNER
OF AMENDING SUCH CODE; PROVIDING WHEN SUCH
CODE AND THIS ORDINANCE SHALL BECOME
EFFECTIVE; DIRECTING PUBLICATION OF THE
CAPTION OF THIS ORDINANCE; FINDING THAT THE
MEETINGS AT WHICH THIS ORDINANCE IS
CONSIDERED ARE OPEN TO THE PUBLIC; PROVIDING
FOR SEVERABILITY AND THE REPEAL OF
CONFLICTING ORDINANCES; AND PROVIDING OTHER
DETAILS RELATING TO THE PASSAGE OF THIS
ORDINANCE.**

* * * * *

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TOMBALL:

Section 1. The Code entitled "Code of Ordinances, City of Tomball, Texas," published by Municipal Code Corporation, consisting of chapters 1 through 50, each inclusive, is adopted.

Section 2. All ordinances of a general and permanent nature enacted on or before June 16, 2014, and not included in the Code or recognized and continued in force by reference therein, are repealed.

Section 3. The repeal provided for in section 2 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance that is repealed by this ordinance.

Section 4. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a fine not exceeding five hundred dollars (\$500.00), except for:

- (1) violations of municipal ordinances that govern fire, safety, zoning, public health and sanitation, including dumping of refuse, vegetation and litter violations, in which the maximum fine shall be two thousand dollars (\$2,000.00) for each offense; and
- (2) violations of traffic laws which are punishable as a Class C misdemeanor shall be punished by a fine not to exceed two hundred dollars (\$200.00).

However, no penalty shall be greater or less than the penalty provided for the same or similar offense under the laws of the state.

Each act of violation and each day upon which any such violation shall continue or occur shall constitute a separate offense. The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any Code section, whether or not such penalty is reenacted in the amendatory ordinance. In addition to the penalty prescribed above, the City may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

Section 5. Additions or amendments to the Code when passed in such form as to indicate the intention of the City Council to make the same a part of the Code shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

Section 6. Ordinances adopted after June 16, 2014 that amend or refer to ordinances that have been codified in the Code shall be construed as if they amend or refer to like provisions of the Code.

Section 7. 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 of 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, or whether there be one or more parts.

Section 8. The City Secretary of the City of Tomball, Texas, is hereby directed to publish this Ordinance in the official newspaper of the City of Tomball, Texas, in compliance with the provisions of Section 6.14(a) of the City Charter, which publication shall be sufficient if it contains the title of this Ordinance and the penalty provided for violation thereof.

Section 9. It is hereby found and determined that the meetings at which this Ordinance was passed were open to the public, as required by Article 6252-17, V.A.T.C.S., and that advance public notice of time, place, and purpose of said meeting was given.

Section 10. All rights and remedies which have accrued in favor of the City under this chapter and amendments thereto shall be and are preserved for the benefit of the City.

All ordinances in force when this Ordinance becomes effective and which ordinances are inconsistent herewith or in conflict with this Ordinance are hereby repealed, insofar as said ordinances are inconsistent or in conflict with this Ordinance.

The provisions of this Ordinance shall be included and incorporated in the Code of Ordinances of the City of Tomball, Texas, as an amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Code.

Section 11. This ordinance shall become effective October 15, 2014.

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 15TH DAY OF
SEPTEMBER 2014.

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 6TH DAY OF OCTOBER
2014.

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

Regular City Council

Agenda Item

Meeting Date: October 6, 2014

Data Sheet

Topic:

Adopt, on Second Reading, Ordinance No. 2014-33, an Ordinance Of The City Of Tomball, Texas, Amending Its Comprehensive Plan by Changing the Future Land Use Classification of Approximately 4.31 Acres of Land, Legally Described as Tract 2, Howe Tract, Within The City Of Tomball, Harris County, Texas, from High Density Residential to Employment/Office; Said Property Being Generally Located Between Michel Road and Theis Lane, West of Johnson Road; Providing for the Amendment Of The Comprehensive Plan of The City; Providing for Severability; 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 July 2, 2014, City staff met with Elizabeth Howe, owner of Southern Knights Assisted Living Center, to discuss the possible expansion of the existing assisted living facility along Johnson Road. Ms. Howe indicated that she wished to construct assisted living “cottages” and a memory impairment section.

On July 23, 2014, the applicant submitted a Comprehensive Plan Amendment Application requesting that the property's designation be changed from High Density Residential to Employment/Office.

On September 8, 2014, the Planning and Zoning Commission, after conducting a public hearing, unanimously recommended approval of Comprehensive Plan Amendment Case P14-153.

Origination:

Southern Knights Inc.

Recommendation:

Adopt Ordinance No. 2014-33 on Second Reading

Funding:

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

Community Development Department

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

ATTACHMENTS:

Ordinance No. 2014-33

Notice of Public Hearing

P14-153 Property Owner Notification Letter

P14-153 Staff Report

ORDINANCE NO. 2014-33

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING ITS COMPREHENSIVE PLAN BY CHANGING THE FUTURE LAND USE CLASSIFICATION OF APPROXIMATELY 4.31 ACRES OF LAND, LEGALLY DESCRIBED AS TRACT 2, HOWE TRACT, WITHIN THE CITY OF TOMBALL, HARRIS COUNTY, TEXAS, FROM HIGH DENSITY RESIDENTIAL TO EMPLOYMENT/OFFICE; SAID PROPERTY BEING GENERALLY LOCATED BETWEEN MICHEL ROAD AND THEIS LANE, WEST OF JOHNSON ROAD; PROVIDING FOR THE AMENDMENT OF THE COMPREHENSIVE PLAN OF THE CITY; PROVIDING FOR SEVERABILITY; 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 owner of approximately 4.31 acres of land, legally described as Tract 2, Howe Tract, generally located between Michel Road and Theis Lane, west of Johnson Road, in the City of Tomball, Harris County, Texas, (the "Property"), has requested that the Property have its Comprehensive Plan future land use classification changed;

Whereas, at least fifteen (15) days after publication in the official newspaper of the City of the time and place of a public hearing and at least ten (10) days written notice of that hearing to the owners of land within two hundred feet of the Property in the manner required by law, the Planning & Zoning Commission held a public hearing on the proposal to change the Comprehensive Plan future land use classification for the Property from High Density Residential to Commercial;

Whereas, the public hearing was held at least forty (40) calendar days after the City's receipt of the request to change the Comprehensive Plan future land use classification for the Property;

Whereas, the Planning & Zoning Commission recommended in its final report that City Council approve such proposed change to the Comprehensive Plan future land use classification for the Property;

Whereas, at least fifteen (15) days after publication in the official newspaper of the City of the time and place of a public hearing on the proposal to change the Comprehensive Plan future land use classification for the Property from High Density Residential to Employment/Office, the City Council held the public hearing on the proposal to change the Comprehensive Plan future land use classification for the Property and the City Council considered the final report of the Planning & Zoning Commission regarding the change of Comprehensive Plan future land use classification; and

Whereas, the City Council deems it appropriate to grant such proposed change in the Comprehensive Plan future land use classification for the Property.

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. The Comprehensive Plan future land use classification of the Property is hereby changed from High Density Residential to Employment/Office subject to the regulations, restrictions, and conditions hereafter set forth.

Section 3. The Comprehensive Plan of the City of Tomball, Texas-Ordinance 2009-33, ("Tomball Comprehensive Plan – Vision 2030"), shall be revised and amended to show the designation of the Property as Employment/Office.

Section 4. This Ordinance shall in no manner amend, change, supplement, or revise any provision of any ordinance of the City of Tomball, save and except the change in Comprehensive Plan future land use classification of the Property to Employment/Office.

Section 5. 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 6. 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 7. City Council finds and determines that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Texas Open Meetings Act, Tex.Gov't. Code ch. 551.

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 15TH DAY OF SEPTEMBER 2014.

COUNCILMAN HUDGENS	<u>AYE</u>
COUNCILMAN STOLL	<u>AYE</u>
COUNCILMAN DEGGES	<u>AYE</u>
COUNCILMAN TOWNSEND	<u>AYE</u>
COUNCILMAN 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 6TH DAY OF OCTOBER 2014.

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

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary

**NOTICE OF PUBLIC HEARING
CITY OF TOMBALL
PLANNING & ZONING COMMISSION
SEPTEMBER 8, 2014
&
CITY COUNCIL
SEPTEMBER 15, 2014**



Notice is Hereby Given that a Public Hearing will be held by the Planning & Zoning Commission of the City of Tomball on **Monday, September 8, 2014, at 6:00 P.M.**, and by the City Council of the City of Tomball on **Monday, September 15, 2014, at 6:00 P.M.** at Regular Meetings, in the City Council Chambers of the City of Tomball at City Hall, 401 Market Street, Tomball, Texas. On such dates, the Planning & Zoning Commission and City Council will consider the following:

ZONING CASE P14-145: Request by TNRG Development LLC, on behalf of Frank P. Fontana, to amend the City's Zoning Ordinance by rezoning approximately 20.64 acres of land, legally described as Tracts 4H-1 and 4L-2, Abstract 632, C.N. Pillot, within the City of Tomball, Harris County, Texas, generally located west of South Cherry Street, north of Holderrieth Road, from the General Retail District to the Light Industrial District.

COMPREHENSIVE PLAN CASE P14-153: Request by Southern Knights Inc. to amend the City's Comprehensive Plan by altering the Future Land Use of approximately 4.31 acres of land, legally described as Tract 2, Howe Tract, within the City of Tomball, Harris County, Texas, generally located between Michel Road and Theis Lane, west of Johnson Road, from High Density Residential to Employment/Office.

ZONING CASE P14-154: Request by Southern Knights Inc. to amend the City's Zoning Ordinance by rezoning approximately 4.31 acres of land, legally described as Tract 2, Howe Tract, within the City of Tomball, Harris County, Texas, generally located between Michel Road and Theis Lane, west of Johnson Road, from the Duplex District to the Commercial District.

ZONING CASE P14-159: Request by the City of Tomball to amend Section 38.2 ("Use Charts") of the City's Zoning Ordinance to allow "Dance/Drama/Music Schools (Performing Arts, Martial Arts)" 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.

Persons interested in these cases will be given an opportunity to be heard. Action by the Planning & Zoning Commission serves as a recommendation to the City Council and is not a final action on the requests. Should the Planning & Zoning Commission vote to table a decision/recommendation on these cases, the date and time of a future meeting will be specified and the City Council will not review the subject cases until such a decision/recommendation is forwarded to the City Council by the Planning & Zoning Commission. The applications are available for public inspection Monday through Friday, holidays excepted, at the Public Works Building, located at 501 James Street, Tomball, TX 77375. Further information may be obtained by contacting the Assistant City Planner, Rodney Schmidt, at (281) 290-1410, rschmidt@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 3rd day of September 2014 by 5:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Craig Meyers

Craig Meyers

Director of Community Development

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.



Notice of Public Hearing

YOU ARE INVITED TO ATTEND Public Hearings before the **PLANNING & ZONING COMMISSION** and **CITY COUNCIL** of the City of Tomball regarding the following item:

CASE NUMBER: P14-153

APPLICANT: Southern Knights Inc.

LOCATION: Between Michel Road and Theis Lane, west of Johnson Road

PROPOSAL: Request to amend the City's Comprehensive Plan by altering the Future Land Use of approximately 4.31 acres of land, legally described as Tract 2, Howe Tract, within the City of Tomball, Harris County, Texas, from High Density Residential to Employment/Office.

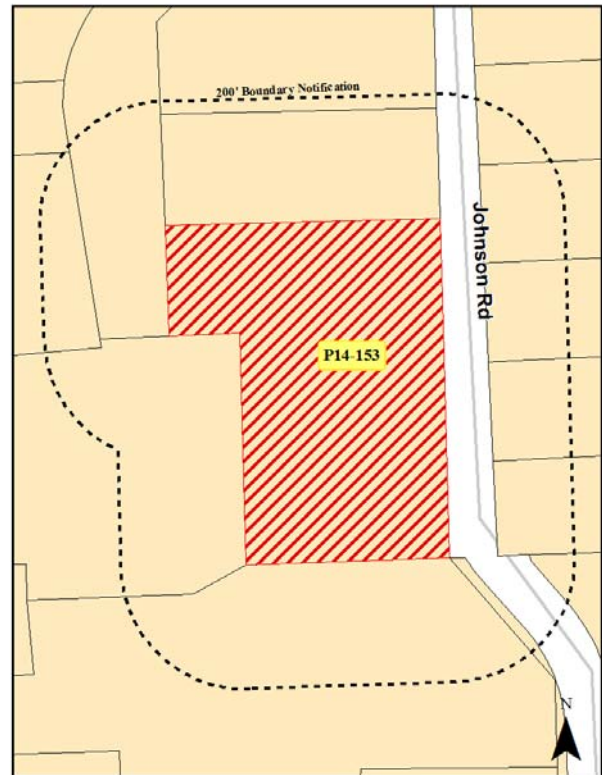
CONTACT: Rodney Schmidt

PHONE: (281) 290-1410

E-MAIL: rschmidt@tomballtx.gov

Interested parties may contact the City of Tomball between 8:00 a.m. and 5:00 p.m. Monday through Friday for further information. The application is available for public inspection Monday through Friday, holidays excepted, between the hours of 8:00 a.m. and 5:00 p.m. in the Community Development Department office, located at 501 James Street, Tomball, TX 77375. The staff report will be available no later than 4:00 p.m. on the Friday preceding the meeting.

This notice is being mailed to all owners of real property within 200 feet of the request as such ownership appears on the last approved Harris County Appraisal District tax roll. Interested parties may appear and speak on the project or the staff recommendation at the meeting. Written comments may also be submitted for consideration.

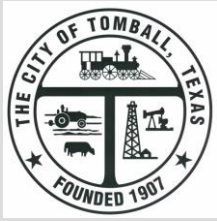


**Planning & Zoning Commission
Public Hearing:
Monday, September 8, 2014, 6:00 PM**

**City Council Public Hearing:
*Monday, September 15, 2014, 6:00 PM**

**The Public Hearings will be held in the
City Council Chambers, City Hall
401 Market Street, Tomball, Texas**

*Should the Planning & Zoning Commission vote to table the recommendation on the case, the date and time of a future meeting will be specified and the City Council will not review the subject case until such a recommendation is forwarded to the City Council by the Planning & Zoning Commission.



Comprehensive Plan (CP) Amendment Staff Report

Planning and Zoning Commission Public Hearing Date: September 8, 2014

CP Amendment Case: P14-153

Property Owner(s): Southern Knights Inc.

Applicant(s): Southern Knights Inc.

Legal Description: Tract 2, Howe Tract

Location: Between Michel Road and Theis Lane, west of Johnson Road (Exhibit "A")

Area: 4.31 acres

Present Zoning & Use: Duplex District (Exhibit "B") / Assisted living facility (Southern Knights Assisted Living Center) (Exhibit "C")

Present CP Designation: High Density Residential (Exhibit "D")

Proposed CP Designation: Employment/Office

Adjacent CP Designation & Land Usage:

North: High Density Residential / Apartment complex

South: Employment/Office / Shopping center

West: Employment/Office and High Density Residential / Shopping centers and Harris County Flood Control drainage

East: Employment/Office / Johnson Road right-of-way (ROW), single-family residence, vacant land, and City of Tomball drainage

BACKGROUND

On July 2, 2014, City staff met with Elizabeth Howe, owner of Southern Knights Assisted Living Center, to discuss the possible expansion of the existing assisted living facility at the subject site. Ms. Howe indicated that she wished to construct assisted living "cottages" and a memory impairment section (Exhibit "E"). City staff informed Ms. Howe of the following:

- The property is currently zoned Duplex District which does not allow for the expansion of an assisted living facility and that if she wanted to expand the facility she would first need to have the property rezoned to a district that permits this use. Ms. Howe indicated her desire to rezone the property to the Commercial District which permits this use by right.
- The property currently has a CP designation of High Density Residential which is not consistent with her proposed Commercial District rezoning request. Ms. Howe was informed that she could request an amendment to the CP changing the classification to one

that is more in line with the area and her proposed project. She indicated her desire to reclassify the property as Employment/Office.

On July 23, 2014, the applicant turned in a CP amendment application (Exhibit “F”) requesting the property’s designation be changed from High Density Residential to Employment/Office. Accompanying the CP amendment application was a rezoning application requesting the property be rezoned from the Duplex District to the Commercial District. The CP amendment is being heard as Case P14-153 and the rezoning application is being heard as Case P14-154. Both cases are being submitted to allow for the expansion of the existing assisted living facility.

ANALYSIS

The proposed FLU designation for this site is Employment/Office. The CP states, “Employment/Office indicates where employment uses that are not industrially focused should occur. These uses include corporate headquarters, regional offices, professional offices, light enclosed manufacturing or assembly facilities, office/showrooms, and small business office suites. Some retail activities are permitted in this land use to support offices and employment operations.”

There are several land uses in the vicinity of the subject site. To the north is an apartment complex; to the south is a shopping center; to the west are shopping centers and a Harris County Flood Control drainage ditch; and to the east are Johnson Road right-of-way (ROW), single-family residence, vacant land, and City of Tomball drainage. The Employment/Office designation appears to be compatible with the apartment complex to the north and the shopping centers to the south and west. The prima facie incompatibility of the request with the existing single-family residence to the east appears to be minimized because of the separation created by Johnson Road.

The Duplex and Commercial Districts are the predominant zoning classifications in the vicinity of the subject site. The Duplex District is to the north with the Commercial District to the south, west, and east. The Employment/Office designation appears to be compatible with the adjacent Commercial District. The prima facie incompatibility of the request with the Duplex District to the north will be minimized by the Zoning Ordinance’s building setback, landscaping, screening, and buffering requirements.

High Density Residential and Employment/Office are the predominant CP designations in the vicinity of the subject site. High Density Residential is to the north and west with Employment/Office to the south, west, and east. According to the CP, “High Density Residential provides areas for many different types of housing products including patio homes, townhomes, lofts, duplexes, condominiums, and apartments. Ranging from 7.26 to 26 gross dwelling units per acre, this designation may also include such supporting land uses as neighborhood shops and services, parks and recreational amenities, religious institutions, and schools to serve local residents.” The request is not anticipated to be incompatible with the High Density Residential properties to the north and west because High Density Residential is intended to accommodate a number of low-intensity, non-residential uses and because it is often located near non-residential, transitional, and high-traffic areas.

City staff recommends **APPROVAL** of this requested based on the following:

1. The request appears to be consistent with many of the surrounding land uses, zoning districts, and CP designations as explained above.

2. The request appears to enhance the City economically by adding assisted living care capacity and increasing property tax revenue through additional building construction and land improvements.
3. The request appears to be consistent with the following CP goals, objectives, and actions:
 - a. Objective LUD 1.2: Promote a cohesive land use pattern by minimizing incompatible land uses.
 - i. The request appears to be consistent and compatible with the existing residential land uses to the north and east.
 - b. Action LUD 1.1.5: Ensure that new developments invest in and contribute to the community's quality of life and amenities.
 - i. Southern Knights is in the business of caring for the elderly and infirm of our community. This request will allow the business to expand which will in turn provide more end of life care for those most in need.
 - c. Goal EO 1: Grow, diversify, and evolve Tomball's economy to raise the standard of living, create new employment opportunities, and generate revenue so the City can provide quality public services and amenities.
 - i. This request will allow a local business to grow which will in turn grow Tomball's economy and the City of Tomball's ability to provide public services.
4. The request appears to be a better use of land than what is recommended by the CP.
 - a. In 2009, the CP designated this property as High Density Residential which is not what it was before or at the time of adoption. This request is an attempt to ensure the CP is in line with the past, current, and future use of the property as an assisted living facility.
5. The request is not anticipated to negatively impact adjacent residential areas.
6. The request appears to have adequate access and roadway capacity.

PUBLIC COMMENT

Property owners within 200 feet of the project site were mailed notification of this proposal on August 26, 2014. No public comment forms have been received as of August 29, 2014.

RECOMMENDATION

Based on the findings outlined in the analysis section of this staff report, City staff recommends **APPROVAL** of CP amendment case P14-153.

EXHIBITS

- A. Aerial Photo
- B. Zoning Map
- C. Site Photos
- D. Future Land Use Map
- E. Proposed Site Layout
- F. CP Amendment Application

Exhibit "A"
Aerial Photo

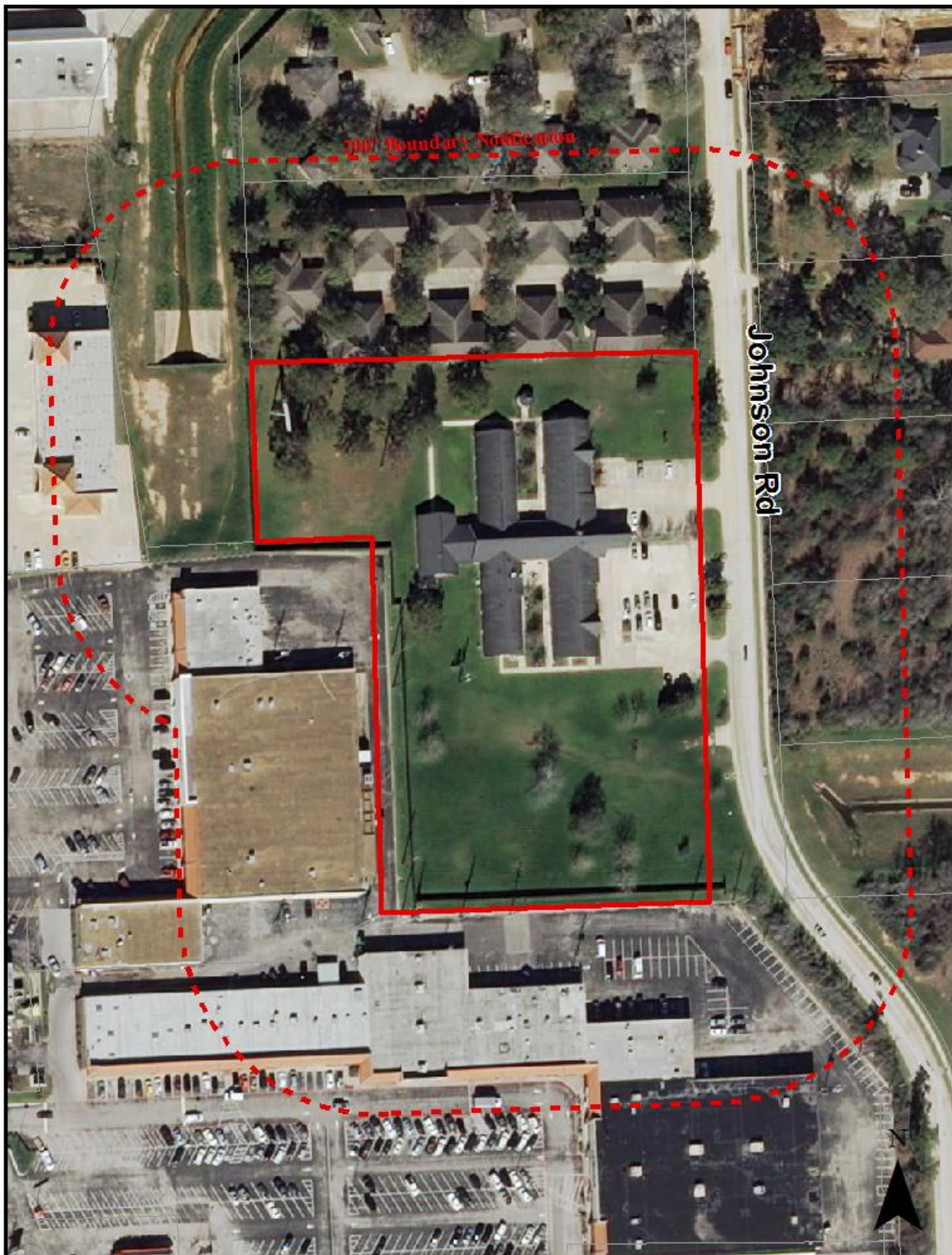
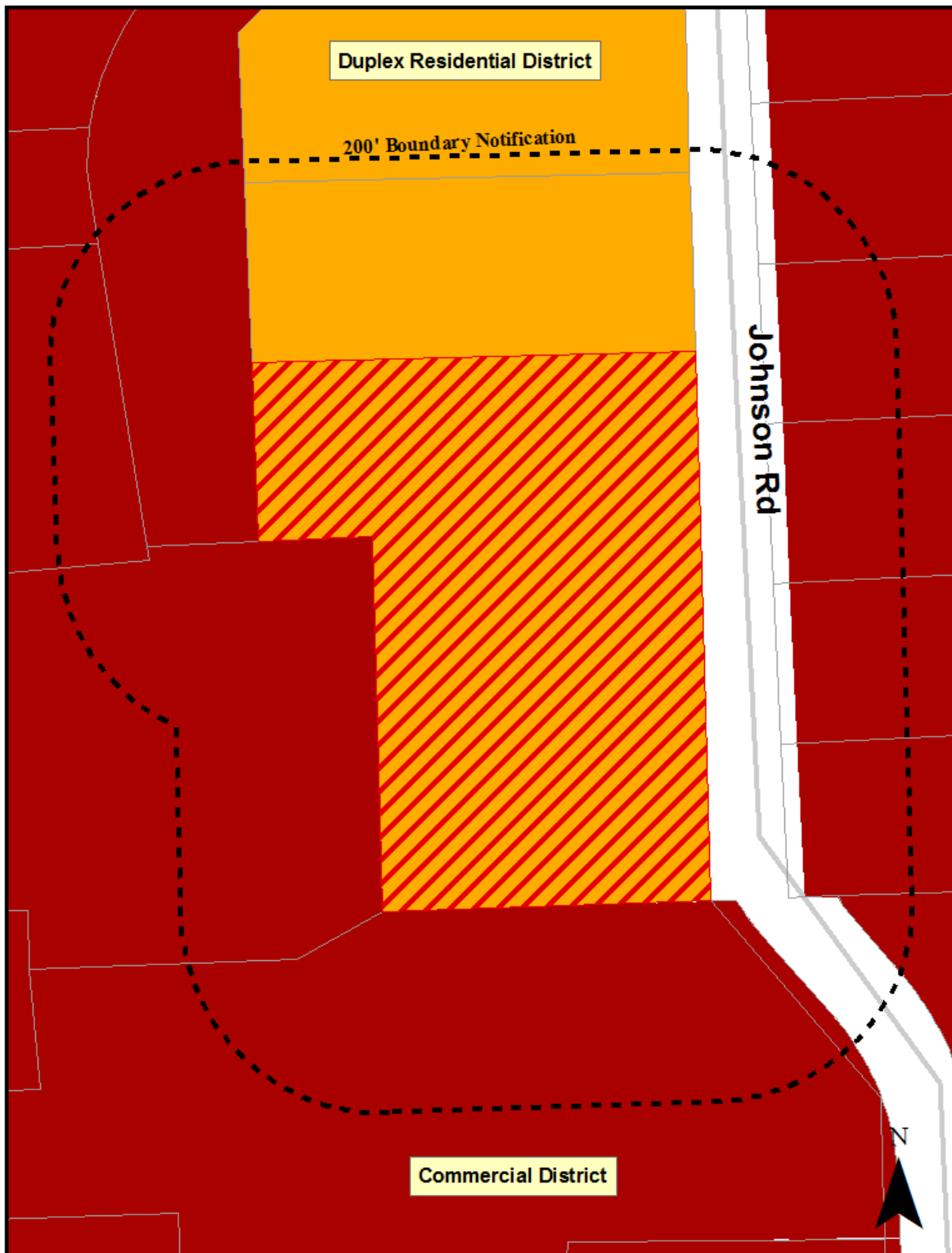


Exhibit "B"
Zoning Map



**Exhibit “C”
Site Photos**



Figure 1: Subject site.

Source: Google Earth



Figure 2: Subject site.

Source: Google Earth

Exhibit "D"
Future Land Use Map

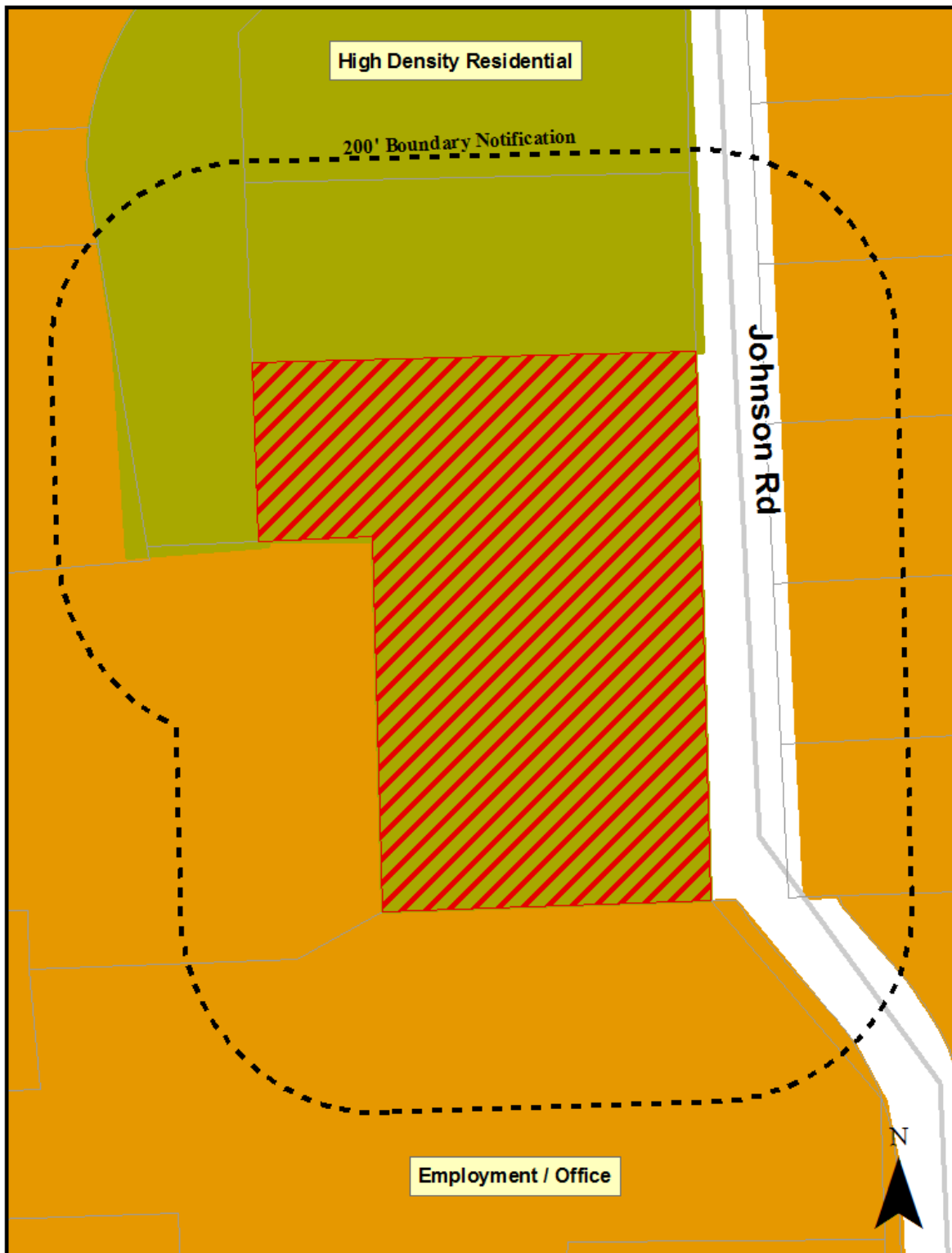
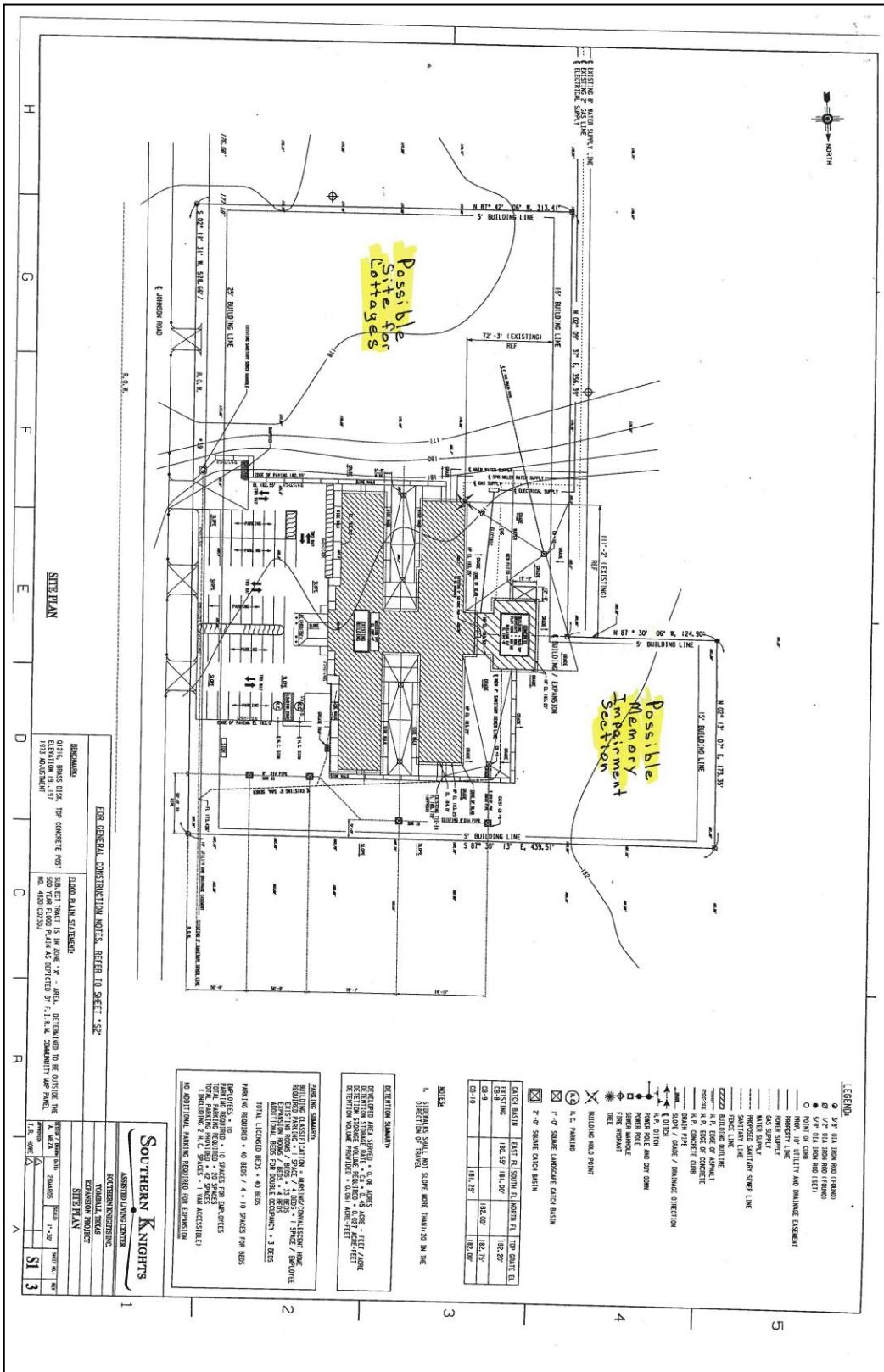
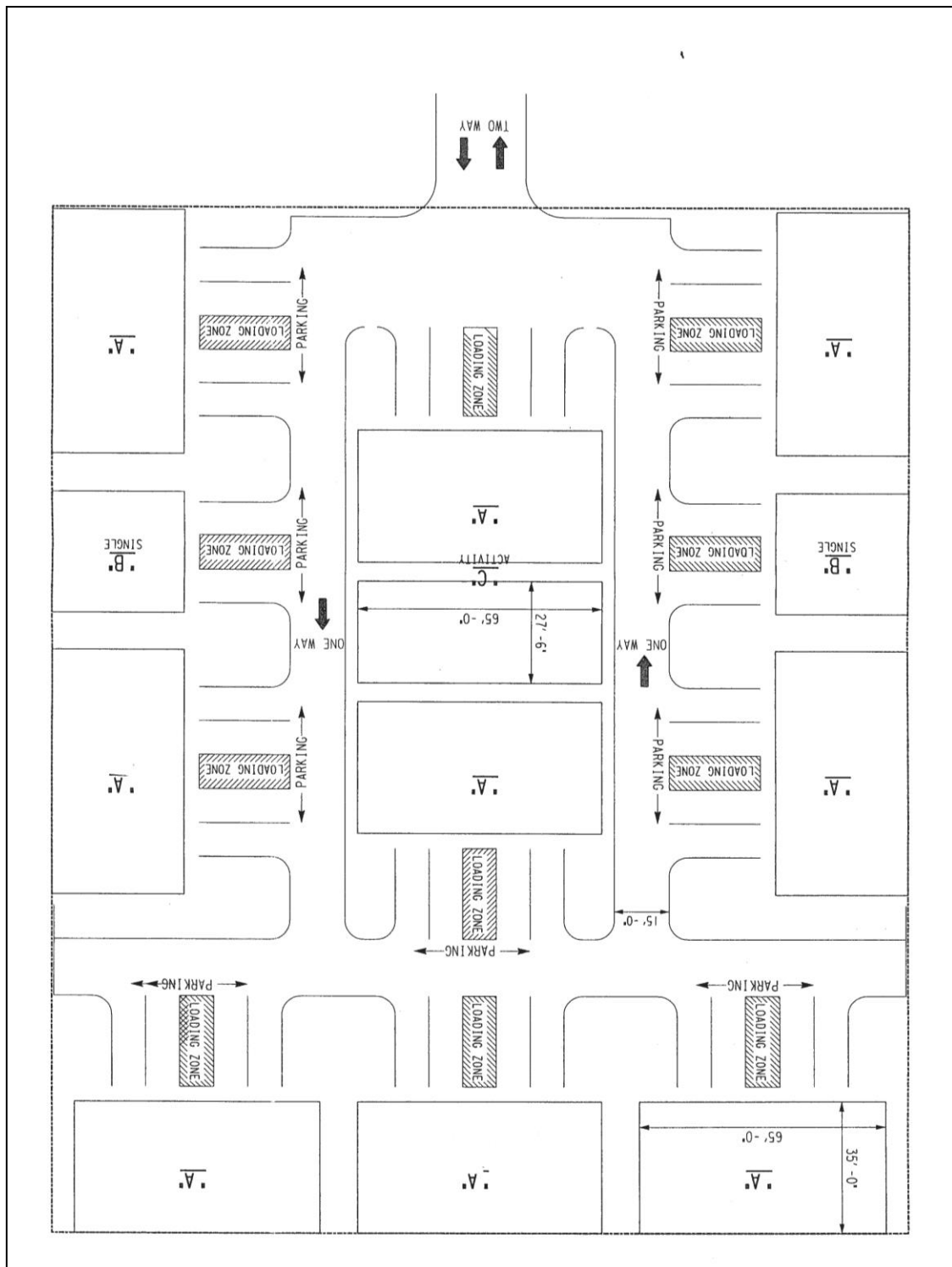


Exhibit “E”

Proposed Site Layout





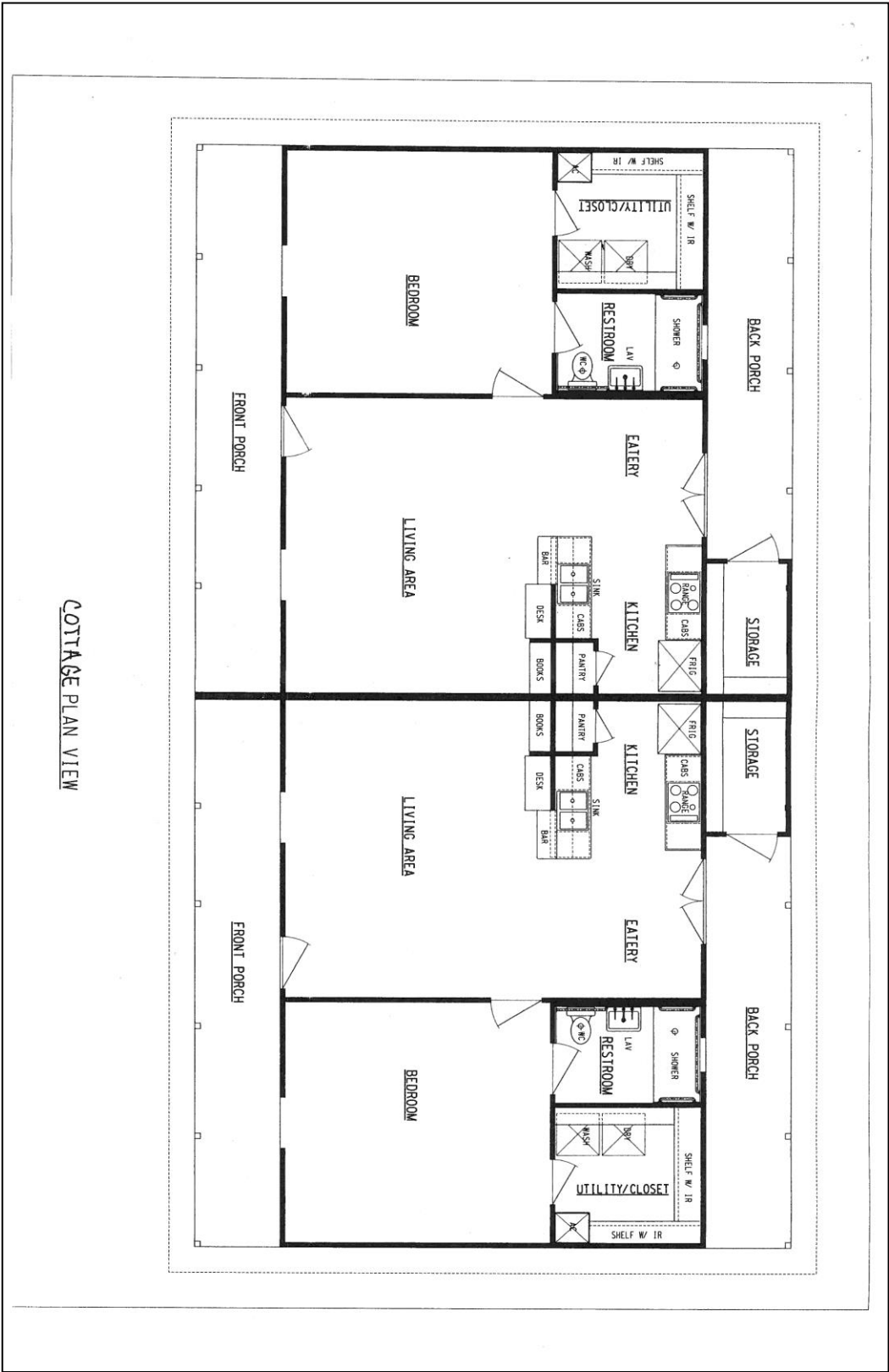


Exhibit "F"
CP Amendment Application

P14-153

Revised 1/26/10



**COMPREHENSIVE PLAN
AMENDMENT APPLICATION**
Engineering & Planning Department

APPLICATION SUBMITTAL

The Comprehensive Plan serves as the City's long-range development guide. Local Government Code Section 213.003 authorizes and specifies procedures for amendments and modifications to the City's Comprehensive Plan. The process requires a public hearing and review by the City's Planning and Zoning Commission and final review and approval by the City Council.

Plan amendments for parcels of real property within Tomball may be initiated by property owners or by agents of property owners by written consent. Plan amendment(s) involving textual changes may be initiated by any interested party including the Tomball City Council, Planning & Zoning Commission, staff, or private citizens. It shall be the burden of the party requesting the amendment, not the City of Tomball, to prove that the change constitutes an improvement to the Tomball Comprehensive Plan.

Applications will be *conditionally* accepted on the presumption that the information, materials, and signatures are complete and accurate. If the application is incomplete or inaccurate, your request may be delayed until corrections or additions are received.

CONTACT INFORMATION:

Applicant

Name: Southern Knights, Inc. Title: Elizabeth L. Howe
President
Mailing Address: 27919 Johnson Road City: Tomball State: TX
Zip: 77375
Phone: (281) 351-8575 Fax: (281) 351-1129
Email: liz.howe@Comcast.net

Owner

Name: Southern Knights, Inc. Title: Elizabeth L. Howe
President
Mailing Address: 27919 Johnson Road City: Tomball State: TX
Zip: 77375
Phone: (281) 351-8575 Fax: (281) 351-1129
Email: liz.howe@Comcast.net

COMPREHENSIVE PLAN AMENDMENT REQUEST:

Amendment Type (check all that apply): Text _____ Map ☒

Text Amendment(s)

Text to be modified:

Proposed Text Amendment (exact wording):

Questions to be answered in Comprehensive Plan Amendment Request Letter:

- Will the proposed text amendment enhance the City economically?
- Will the proposed text amendment enhance the City aesthetically?
- Is the proposed text amendment consistent with the City's Goals, Objectives, and Actions?
- Does the proposed text amendment encourage a better use of land/property, both for the owner/developer and the City, than that currently recommended by the Plan?
- Will the proposed text amendment impact adjacent residential areas in a positive or negative manner?
- How will the proposed text amendment impact vehicular and pedestrian access, roadway capacity, ingress and egress, and traffic?
- Will the proposed text amendment encourage land use compatibility?
- Does the proposed text amendment present a significant benefit to the public health, safety and welfare of the community?

Map Amendment(s)

Current Comprehensive Plan Designation: High Density Residential
Proposed Comprehensive Plan Designation: Employment - Related Land Uses
Proposed Use of Property: Licensed Assisted Living Center
Physical Location of Property: 27919 Johnson Road
[General Location – approximate distance to nearest existing street corner]
Legal Description of Property: TR HOWE TRACT
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]
Current Zoning District: Duplex District
Current Use of Property: Licensed Assisted Living Center
HCAD Identification Number: 1201070000001
Property Acreage: 4.3118

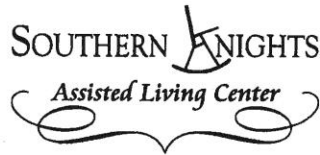
Questions to be answered in Comprehensive Plan Amendment Request Letter:

- ✓ Will the proposed map amendment enhance the City economically?
- ✓ Will the proposed map amendment enhance the City aesthetically?
- ✓ Is the proposed map amendment consistent with the City's Goals, Objectives, and Actions?
- ✓ Is the proposed map amendment a better use of land/property, both for the owner/developer and the City, than that recommended by the Plan?
- ✓ Will the proposed map amendment impact adjacent residential areas in a positive or negative manner?
- ✓ Will the proposed map amendment have adequate access; have considerations been made for roadway capacity, ingress and egress, traffic impact?
- ✓ Are uses adjacent to the proposed map amendment similar in nature in terms of appearance, hours of operation, and other general aspects of compatibility?
- ✓ Does the proposed map amendment present a significant benefit to the public health, safety and welfare of the community?

This is to certify that the information on this form is COMPLETE, TRUE, and CORRECT and the under signed is authorized to make this application. I understand that submitting this application does not constitute approval, and incomplete applications will result in delays and possible denial.

X Elizabeth L. Howe 7-21-14
Signature of Applicant Date

X Elizabeth L. Howe 7-21-14
Signature of Owner Date



July 23, 2014

City of Tomball
Attn: Engineering & Planning Department
Attn: Planning & Zoning Commission
Attn: Tomball City Council
501 James Street
Tomball, Texas 77375

Ref: APPLICATION FOR REZONING &
COMPREHENSIVE PLAN AMENDMENT APPLICATION

To whom it may concern:

Southern Knights, Inc. has enclosed an application for rezoning and an amendment to the comprehensive plan in Tomball.

Southern Knights, Inc. is evaluating the expansion of our facility. We are considering an addition of detached assisted living cottages on our southern most property and expanding our 500 wing which is our most northwest wing to include a memory impairment section.

Upon, starting this project evaluation, I discovered that our property was not zoned nor in the comprehensive plan to undertake this project.

APPLICATION FOR REZONING:

After reviewing your zoning map and the zoning districts, Southern Knights, Inc. is requesting to be rezoned to the C, Commercial, district that is intended to provide a location for service-related establishments. Please review your current zoning map, the subject property is surrounded by the commercial district with the exception of our northern border. North of our property on Johnson Road are three parcels of land. The first parcel adjacent to us on the northern border was built approximately one year after our center was completed. The next parcel was a well established duplex community before we built and the third parcel has never been built on since we have owned our property.

Additionally, it appears that aspects of our expansion project would fall under this designation, one section would be detached and the other section would be attached assisted living.

COMPREHENSIVE PLAN AMENDMENT APPLICATION:

I have put together the following information to help you evaluate the amendment to the comprehensive plan.

27919 Johnson Road • Tomball, Texas 77375 • 281-351-8575

1) Economically - Southern Knights, Inc. currently employs approximately 30 employees and I would anticipate this would increase our employment base to approximately 40 employees.

Additionally - We pay City of Tomball, Tomball Independent School District, Harris County property taxes, and Federal Income taxes that would increase and would bring in additional tax revenues to the city.

2) Aesthetically - Southern Knights, Inc. has already contributed to the aesthetics of the area and would continue to do the same. Southern Knights took two undeveloped eye sore dump sites (we removed 85 car/truck tires) and replatted them and developed them into a beautiful, caring and compassion licensed assisted living center for the elderly and disabled.

In May 2001, the City of Tomball Parks, Recreation and Beautification Advisory Board selected us for the City's Beautification Award.

When we originally built Southern Knights in 1999, we designed, constructed, handled getting utility easement from all four owners, secured all owners donating this easement to the City of Tomball for the sewer line down the west side of Johnson Road. This enabled three existing properties to tap into the sewer line we installed and eliminated unsightly septic issues.

3) City's Goals, Objectives, and Actions - After reviewing the zoning map and the comprehensive plan for Tomball, I believe that would be the appropriate designation for the land and best use for Southern Knights, Inc. and the City of Tomball. The majority of land that the property is surrounded by is Commercial District zoned and under the comprehensive plan as Employment - Related Land Uses.

4) Impact Adjacent Residential Areas in a positive or negative manner - I believe it will impact the adjacent residential areas in a positive manner. There will be more jobs in the area, and a greater tax base.

Additionally, we have been adjacent to the duplex on our northern border for 15 years and we have "NEVER" had any problem issues. We have had two duplex residents that have moved into our center and one employee that lived in the duplexes and walked to work. We have donated two easements to the duplexes in an effort to make the quality of their living arrangement better. 1) We gave them an easement across the back of our property so that they could get city water and eliminate there well water. 2) We gave them an easement on the northern property line enabling them to build closer to our property line. Both of these easement were given free of charge to the developer.

Cobble Creek Apartment is approximately one block away and we do offer a lot of job opportunities to individuals that have no transportation.

5) Adequate access, roadway capacity, ingress and egress, traffic impact - Most of our resident do not own vehicles and/or do not drive any longer and we would only be increasing our employees by approximately 10. Considering that approximately 10 years ago the city improve Johnson Road by putting it though to Theiss, I do not foresee any traffic impact on the area.

6) Adjacent properties similar in nature, appearance, hours of operation and other general aspects of compatibility - Yes.

The Heights Nursing Home and Rehabilitation Center is diagonally across the street and it is similar in all the above aspects. The medical center that was recently built on the corner of Johnson Road and Michel Street is similar in all the above aspects except for the height. Even the Dogwood Investment Duplexes to the northern border are similar to all the above aspects. Two parcels of property diagonal across the street have recently been rezoned commercial, one parcel across the street is commercial, vacant and for sale, and one parcel is commercial owned by the city and is a retention pond. It appears to me that all properties in this area are similar in nature, appearance, hours of operation and other general aspects of compatibility. We have all worked well together for the 16 years I have owned the property.

7) Does the amendment present significant benefit to the public health, safety and welfare of the community - Generally, I would say that this would have no change because it would be used in a similar application. But, anytime you increase employment, tax base, and offer an outstanding facility for your community to age in there is going to be significant benefit to the public health, safety and welfare of the community.

Southern Knights, Inc. has a long history of benefiting the Tomball Community.

- 1) Active member of the Tomball Chamber of Commerce since 1999
- 2) Nominated in 2001 as North Harris Montgomery Community College's Small Business of the Year (1st Runner Up)
- 3) City of Tomball - Parks, Recreation and Beautification Advisory Board
City's - Beautification - Award May 2001
- 4) Awarded 2002 North Harris Montgomery Community College's Small Business of the Year
- 5) Assisted Tomball Fire Department with accepting 6 Galveston Nursing Home Evacuees from Katrina in 2005
- 6) Cypress Creek Mirror & The Potpourri
Best of the Northwest 2012 (1st Runner Up)
Only Tomball Care Facility Nominated
- 7) Cypress Creek Mirror & The Potpourri
Best of the Northwest 2013 (1st Runner Up)
Only Tomball Care Facility Nominated

After reviewing all our applications and all the attached documentation, I hope you will agree that it is in the best interest of the City of Tomball and Southern Knights, Inc. to approve our application for rezoning and application for comprehensive plan amendment.

Sincerely,



Elizabeth L. Howe
President

Regular City Council

Agenda Item

Meeting Date: October 6, 2014

Data Sheet

Topic:

Adopt, on Second Reading, Ordinance No. 2014-34, an Ordinance of The City of Tomball, Texas, Amending Its Zoning Ordinance by Changing the Zoning District Classification of Approximately 4.31 Acres of Land, Legally Described as Tract 2, Howe Tract, Within The City of Tomball, Harris County, Texas, from The Duplex District to The Commercial District; Said Property Being Generally Located Between Michel Road and Theis Lane, West of Johnson Road; Providing for The Amendment of The Official Zoning Map of The City; Providing for Severability; 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 July 2, 2014, City staff met with Elizabeth Howe, owner of Southern Knights Assisted Living Center, to discuss the possible expansion of the existing assisted living facility at the subject site. Ms. Howe indicated that she wished to construct assisted living “cottages” and a memory impairment section.

On July 23, 2014, Ms. Howe turned in a rezoning application (Exhibit “F”) requesting the property be rezoned from the Duplex District to the Commercial District. Accompanying this application was a CP amendment application requesting the property’s designation be changed from High Density Residential to Employment/Office. The CP amendment is being heard as Case P14-153 and the rezoning application is being heard as Case P14-154. Both cases are being submitted to allow for the expansion of the existing assisted living facility.

On September 8, 2014, the Planning and Zoning Commission, after conducting a public hearing, unanimously recommended approval of Zoning Case P14-154.

Origination:

Southern Knights, Inc.

Recommendation:

Adopt Ordinance No. 2014-34 on Second Reading

Funding:

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

Community Development Department

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

ATTACHMENTS:

Ordinance No. 2014-34

Notice of Public Hearing

Property Owner Notification Letter

P14-154 Staff Report

ORDINANCE NO. 2014-34

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING ITS ZONING ORDINANCE BY CHANGING THE ZONING DISTRICT CLASSIFICATION OF APPROXIMATELY 4.31 ACRES OF LAND, LEGALLY DESCRIBED AS TRACT 2, HOWE TRACT, WITHIN THE CITY OF TOMBALL, HARRIS COUNTY, TEXAS, FROM THE DUPLEX DISTRICT TO THE COMMERCIAL DISTRICT; SAID PROPERTY BEING GENERALLY LOCATED BETWEEN MICHEL ROAD AND THEIS LANE, WEST OF JOHNSON ROAD; PROVIDING FOR THE AMENDMENT OF THE OFFICIAL ZONING MAP OF THE CITY; PROVIDING FOR SEVERABILITY; 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 owner of approximately 4.31 acres of land, legally described as Tract 2, Howe Tract, generally located between Michel Road and Theis Lane, west of Johnson Road, in the City of Tomball, Harris County, Texas, (the "Property"), have requested that the Property be rezoned; and

Whereas, at least fifteen (15) days after publication in the official newspaper of the City of the time and place of a public hearing and at least ten (10) days written notice of that hearing to the owners of land within two hundred feet of the Property in the manner required by law, the Planning & Zoning Commission held a public hearing on the proposal to change the zoning for the Property from the Duplex District to the Commercial District; and

Whereas, the public hearing was held at least forty (40) calendar days after the City's receipt of the request for rezoning; and

Whereas, the Planning & Zoning Commission recommended in its final report that City Council approve such proposed change in the zoning district classification of the Property; and

Whereas, at least fifteen (15) days after publication in the official newspaper of the City of the time and place of a public hearing on the proposal to change the zoning district classification for the Property from the Duplex District to the Commercial District, the City Council held the public hearing on the proposal to change the zoning for the Property and the City Council considered the final report of the Planning & Zoning Commission regarding the change of zoning district classification; and

Whereas, the City Council deems it appropriate to grant such proposed change in the zoning district classification of the Property.

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. The zoning classification of the Property is hereby changed from the Duplex District to the Commercial District subject to the regulations, restrictions, and conditions hereafter set forth.

Section 3. The Official Zoning Map of the City of Tomball, Texas shall be revised and amended to show the designation of the Property as Commercial District, with the appropriate reference thereon to the number and effective date of this Ordinance and a brief description of the nature of the change.

Section 4. This Ordinance shall in no manner amend, change, supplement, or revise any provision of any ordinance of the City of Tomball, save and except the change in zoning classification for the Property to the Commercial District as described above.

Section 5. 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 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 6. 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 7. City Council finds and determines that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Texas Open Meetings Act, Tex.Gov't. Code ch. 551.

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 15TH DAY OF SEPTEMBER 2014.

COUNCILMAN HUDGENS	<u>AYE</u>
COUNCILMAN STOLL	<u>AYE</u>
COUNCILMAN DEGGES	<u>AYE</u>
COUNCILMAN TOWNSEND	<u>AYE</u>
COUNCILMAN 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 6TH DAY OF OCTOBER 2014.

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

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary

**NOTICE OF PUBLIC HEARING
CITY OF TOMBALL
PLANNING & ZONING COMMISSION
SEPTEMBER 8, 2014
&
CITY COUNCIL
SEPTEMBER 15, 2014**



Notice is Hereby Given that a Public Hearing will be held by the Planning & Zoning Commission of the City of Tomball on **Monday, September 8, 2014, at 6:00 P.M.**, and by the City Council of the City of Tomball on **Monday, September 15, 2014, at 6:00 P.M.** at Regular Meetings, in the City Council Chambers of the City of Tomball at City Hall, 401 Market Street, Tomball, Texas. On such dates, the Planning & Zoning Commission and City Council will consider the following:

ZONING CASE P14-145: Request by TNRG Development LLC, on behalf of Frank P. Fontana, to amend the City's Zoning Ordinance by rezoning approximately 20.64 acres of land, legally described as Tracts 4H-1 and 4L-2, Abstract 632, C.N. Pillot, within the City of Tomball, Harris County, Texas, generally located west of South Cherry Street, north of Holderrieth Road, from the General Retail District to the Light Industrial District.

COMPREHENSIVE PLAN CASE P14-153: Request by Southern Knights Inc. to amend the City's Comprehensive Plan by altering the Future Land Use of approximately 4.31 acres of land, legally described as Tract 2, Howe Tract, within the City of Tomball, Harris County, Texas, generally located between Michel Road and Theis Lane, west of Johnson Road, from High Density Residential to Employment/Office.

ZONING CASE P14-154: Request by Southern Knights Inc. to amend the City's Zoning Ordinance by rezoning approximately 4.31 acres of land, legally described as Tract 2, Howe Tract, within the City of Tomball, Harris County, Texas, generally located between Michel Road and Theis Lane, west of Johnson Road, from the Duplex District to the Commercial District.

ZONING CASE P14-159: Request by the City of Tomball to amend Section 38.2 ("Use Charts") of the City's Zoning Ordinance to allow "Dance/Drama/Music Schools (Performing Arts, Martial Arts)" 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.

Persons interested in these cases will be given an opportunity to be heard. Action by the Planning & Zoning Commission serves as a recommendation to the City Council and is not a final action on the requests. Should the Planning & Zoning Commission vote to table a decision/recommendation on these cases, the date and time of a future meeting will be specified and the City Council will not review the subject cases until such a decision/recommendation is forwarded to the City Council by the Planning & Zoning Commission. The applications are available for public inspection Monday through Friday, holidays excepted, at the Public Works Building, located at 501 James Street, Tomball, TX 77375. Further information may be obtained by contacting the Assistant City Planner, Rodney Schmidt, at (281) 290-1410, rschmidt@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 3rd day of September 2014 by 5:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Craig Meyers

Craig Meyers

Director of Community Development

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.



Notice of Public Hearing

YOU ARE INVITED TO ATTEND Public Hearings before the **PLANNING & ZONING COMMISSION** and **CITY COUNCIL** of the City of Tomball regarding the following item:

CASE NUMBER: P14-154

APPLICANT: Southern Knights Inc.

LOCATION: Between Michel Road and Theis Lane, west of Johnson Road

PROPOSAL: Request to amend the City's Zoning Ordinance by rezoning approximately 4.31 acres of land, legally described as Tract 2, Howe Tract, within the City of Tomball, Harris County, Texas, from the Duplex District to the Commercial District.

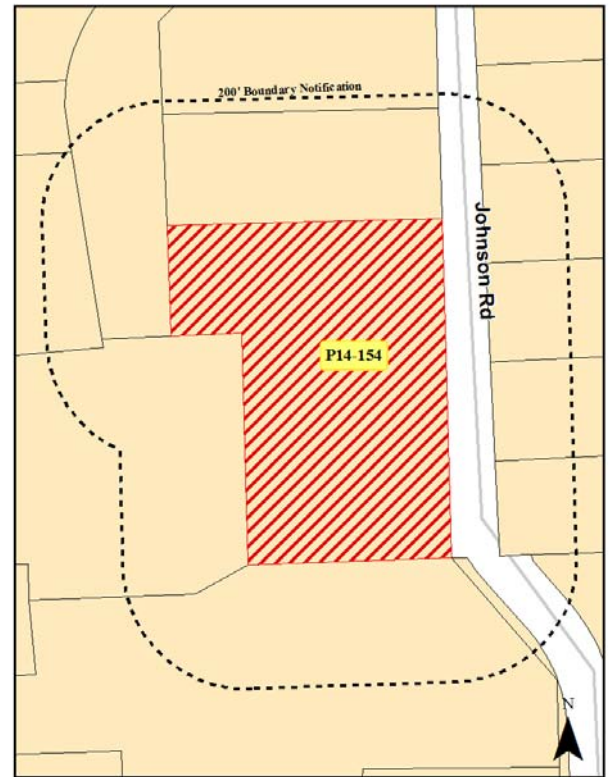
CONTACT: Rodney Schmidt

PHONE: (281) 290-1410

E-MAIL: rschmidt@tomballtx.gov

Interested parties may contact the City of Tomball between 8:00 a.m. and 5:00 p.m. Monday through Friday for further information. The application is available for public inspection Monday through Friday, holidays excepted, between the hours of 8:00 a.m. and 5:00 p.m. in the Community Development Department office, located at 501 James Street, Tomball, TX 77375. The staff report will be available no later than 4:00 p.m. on the Friday preceding the meeting.

This notice is being mailed to all owners of real property within 200 feet of the request as such ownership appears on the last approved Harris County Appraisal District tax roll. Interested parties may appear and speak on the project or the staff recommendation at the meeting. Written comments may also be submitted for consideration.

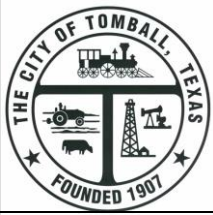


**Planning & Zoning Commission
Public Hearing:
Monday, September 8, 2014, 6:00 PM**

**City Council Public Hearing:
*Monday, September 15, 2014, 6:00 PM**

**The Public Hearings will be held in the
City Council Chambers, City Hall
401 Market Street, Tomball, Texas**

*Should the Planning & Zoning Commission vote to table the recommendation on the case, the date and time of a future meeting will be specified and the City Council will not review the subject case until such a recommendation is forwarded to the City Council by the Planning & Zoning Commission.



Rezoning Staff Report

Planning & Zoning Commission Public Hearing Date: September 8, 2014

Rezoning Case: P14-154

Property Owner(s): Southern Knights Inc.

Applicant(s): Southern Knights Inc.

Legal Description: Tract 2, Howe Tract

Location: Between Michel Road and Theis Lane, west of Johnson Road (Exhibit "A")

Area: 4.31 acres

Present Zoning & Use: Duplex District (Exhibit "B") / Assisted living facility (Southern Knights Assisted Living Center) (Exhibit "C")

Comp Plan Designation: High Density Residential (Exhibit "D")¹

Proposed Zoning and Use: Commercial District² / Assisted living facility

Adjacent Zoning & Use:

- North:** Duplex District / Apartment complex
- South:** Commercial District/ Shopping center
- West:** Commercial District / Shopping centers and Harris County Flood Control drainage
- East:** Commercial District / Johnson Road right-of-way (ROW), single-family residence, vacant land, and City of Tomball drainage

BACKGROUND

On July 2, 2014, City staff met with Elizabeth Howe, owner of Southern Knights Assisted Living Center, to discuss the possible expansion of the existing assisted living facility at the subject site. Ms. Howe indicated that she wished to construct assisted living "cottages" and a memory impairment section (Exhibit "E"). City staff informed Ms. Howe of the following:

¹ The applicant is requesting the Comprehensive Plan designation be changed to Employment/Office in Comprehensive Plan Amendment Case P14-153.

² Any use permitted in the proposed district would be allowed at this location if the zoning is changed. Furthermore, the Planning & Zoning Commission and City Council may consider zoning classifications other than that sought by the applicant for this property.

- The property is currently zoned Duplex District which does not allow for the expansion of an assisted living facility and that if she wanted to expand the facility she would first need to have the property rezoned to a district that permits this use. Ms. Howe indicated her desire to rezone the property to the Commercial District which permits this use by right.
- The property currently has a Comprehensive Plan (CP) designation of High Density Residential which is not consistent with her proposed Commercial District rezoning request. Ms. Howe was informed that she could request an amendment to the CP changing the classification to one that is more in line with the area and her proposed project. She indicated her desire to reclassify the property as Employment/Office.

On July 23, 2014, Ms. Howe turned in a rezoning application (Exhibit “F”) requesting the property be rezoned from the Duplex District to the Commercial District. Accompanying this application was a CP amendment application requesting the property’s designation be changed from High Density Residential to Employment/Office. The CP amendment is being heard as Case P14-153 and the rezoning application is being heard as Case P14-154. Both cases are being submitted to allow for the expansion of the existing assisted living facility.

ANALYSIS

The applicant is requesting that the property be rezoned from the Duplex District to the Commercial District. According to Section 30.1 of the Zoning Ordinance, the Commercial District “is intended to provide a location for commercial and service-related establishments, such as wholesale product sales, welding/contractors shops, automotive repair services, upholstery shops, and other similar commercial uses.”

There are several land uses in the vicinity of the subject site. To the north is an apartment complex; to the south is a shopping center; to the west are shopping centers and a Harris County Flood Control drainage ditch; and to the east are Johnson Road right-of-way (ROW), single-family residence, vacant land, and City of Tomball drainage. The proposed Commercial District appears to be compatible with the shopping centers to the south and west. The prima facie incompatibility of the request with the existing apartment complex to the north and the single-family residence to the east appears to be minimized because of the separation created by Johnson Road and will be further minimized by the Zoning Ordinance’s building setback, landscaping, screening, and buffering requirements for the Commercial District. Additionally, many of the properties near the apartment complex and single-family residences have been used for non-residential purposes for many years without any known complaints regarding incompatibility, noise, or nuisance being filed with the City of Tomball.

The Duplex and Commercial Districts are the predominant zoning classifications in the vicinity of the subject site. The Duplex District is to the north with the Commercial District to the south, west, and east. According to Section 20.1 of the Zoning Ordinance, the Duplex District “is intended to promote stable, quality multiple-occupancy residential development at slightly increased densities.” The prima facie incompatibility of the request with the Duplex District to the north will be minimized by the Zoning Ordinance’s building setback, landscaping, screening, and buffering requirements. Additionally, the assisted living facility, which is a use permitted by right in the Commercial District, has been established

adjacent to the Duplex District to the north for several years without any known complaints regarding incompatibility, noise, or nuisance being filed with the City of Tomball.

The CP designates the subject site as High Density Residential. According to the CP, “High Density Residential provides areas for many different types of housing products including patio homes, townhomes, lofts, duplexes, condominiums, and apartments. Ranging from 7.26 to 26 gross dwelling units per acre, this designation may also include such supporting land uses as neighborhood shops and services, parks and recreational amenities, religious institutions, and schools to serve local residents.” The proposed Commercial District appears to be inconsistent with the High Density Residential classification. However, if P14-153 is approved and the CP is amended to reclassify this property as Employment/Office, this rezoning request will no longer be inconsistent with the CP designation.

ZONING CONSIDERATIONS

In making its recommendation regarding a proposed zoning change, the Planning & Zoning Commission shall consider the following factors:

A. Whether the uses permitted by the proposed change will be appropriate in the immediate area concerned, and their relationship to the general area and to the City as a whole.

The proposed Commercial District appears to be compatible with the shopping centers to the south and west. The prima facie incompatibility of the request with the existing apartment complex to the north and the single-family residence to the east appears to be minimized because of the separation created by Johnson Road and will be further minimized by the Zoning Ordinance’s building setback, landscaping, screening, and buffering requirements for the Commercial District. Additionally, many of the properties near the apartment complex and single-family residences have been used for non-residential purposes for many years without any known complaints regarding incompatibility, noise, or nuisance being filed with the City of Tomball.

B. Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other utilities to the area.

The proposed rezoning is not anticipated to negatively impact any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other utilities to the area.

C. The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the City, and any special circumstances which may make a substantial part of such vacant land unavailable for development.

There are numerous vacant properties in the vicinity and elsewhere in the City zoned Commercial District.

D. The recent rate at which land is being developed in the same zoning classification as the request, particularly in the vicinity of the proposed change.

There has been steady development City-wide in the Commercial District.

E. How other areas designated for similar development will be, or are likely to be, affected if the proposed amendment is approved.

If the proposed rezoning is approved, few, if any affects on other areas designated for similar developments are anticipated.

F. Any other factors that will substantially affect the public health, safety, morals, or general welfare.

The proposed rezoning does not appear to negatively affect the public health, safety, morals, or general welfare.

G. Whether the request is consistent with the Comprehensive Plan.

The proposed Commercial District appears to be inconsistent with the High Density Residential classification. However, if P14-153 is approved and the CP is amended to classify this property as Employment/Office, this rezoning request will no longer be inconsistent with the CP designation.

PUBLIC COMMENT

Property owners within 200 feet of the project site were mailed notification of this proposal on August 26, 2014. No public comment forms have been received as of August 29, 2014.

RECOMMENDATION

Based on the findings outlined in the analysis and zoning considerations sections of this staff report, City staff recommends **APPROVAL** of Rezoning Case P14-154 if CP Amendment Case P14-153 is first approved.

EXHIBITS

- A. Aerial Photo
- B. Zoning Map
- C. Site Photos
- D. Future Land Use Map
- E. Proposed Site Layout
- F. Rezoning Application

Exhibit "A"
Aerial Photo

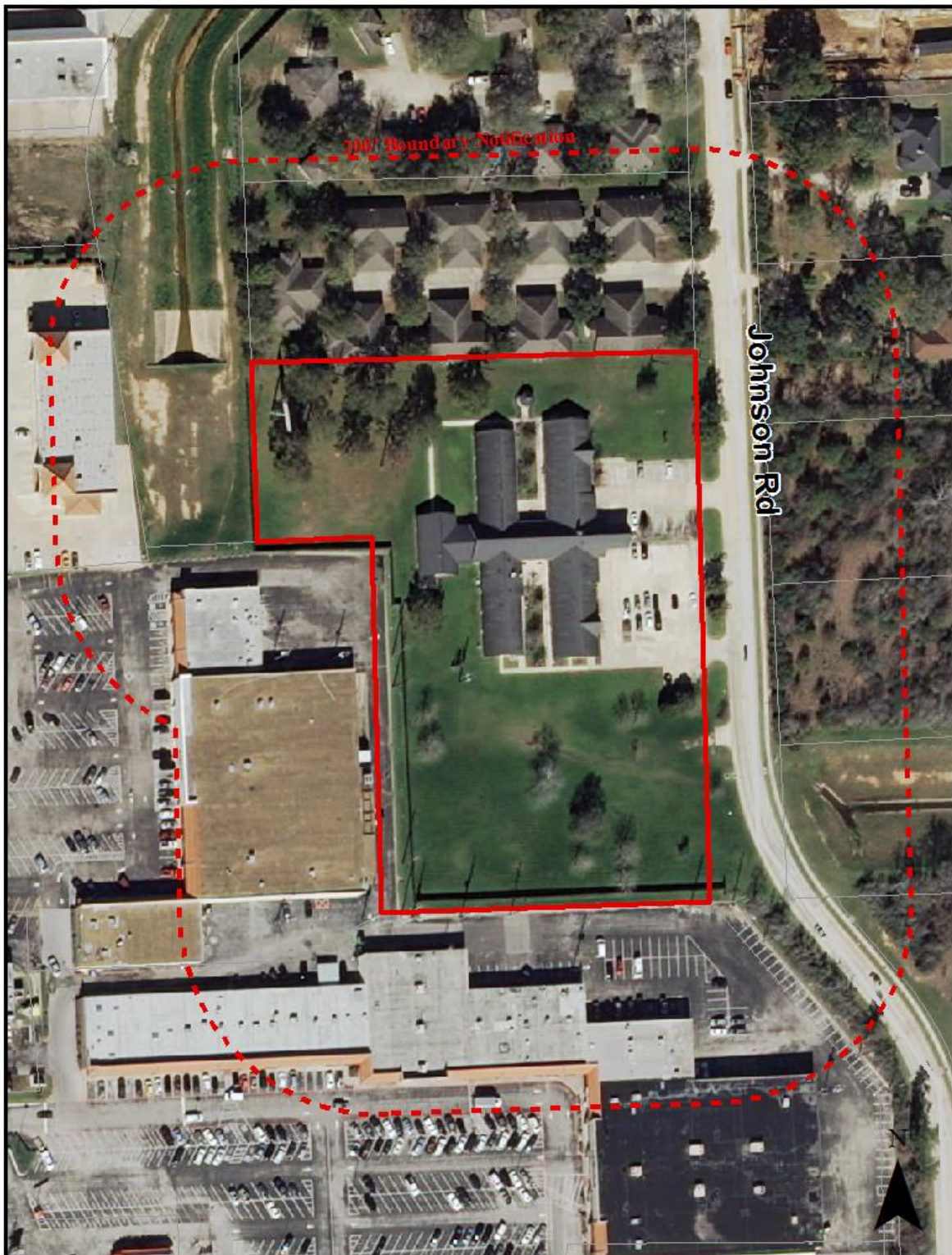
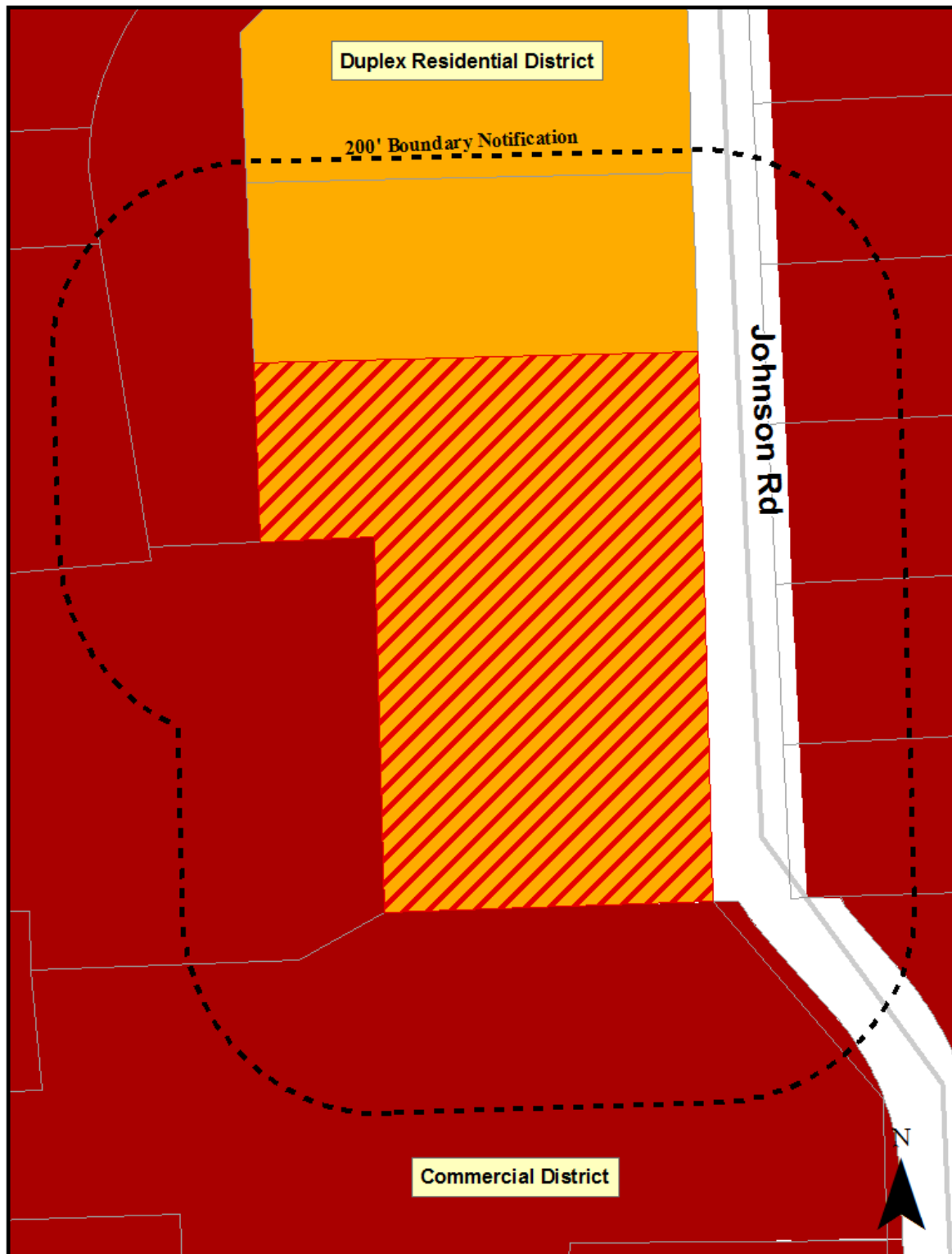


Exhibit "B"
Zoning Map



**Exhibit “C”
Site Photos**

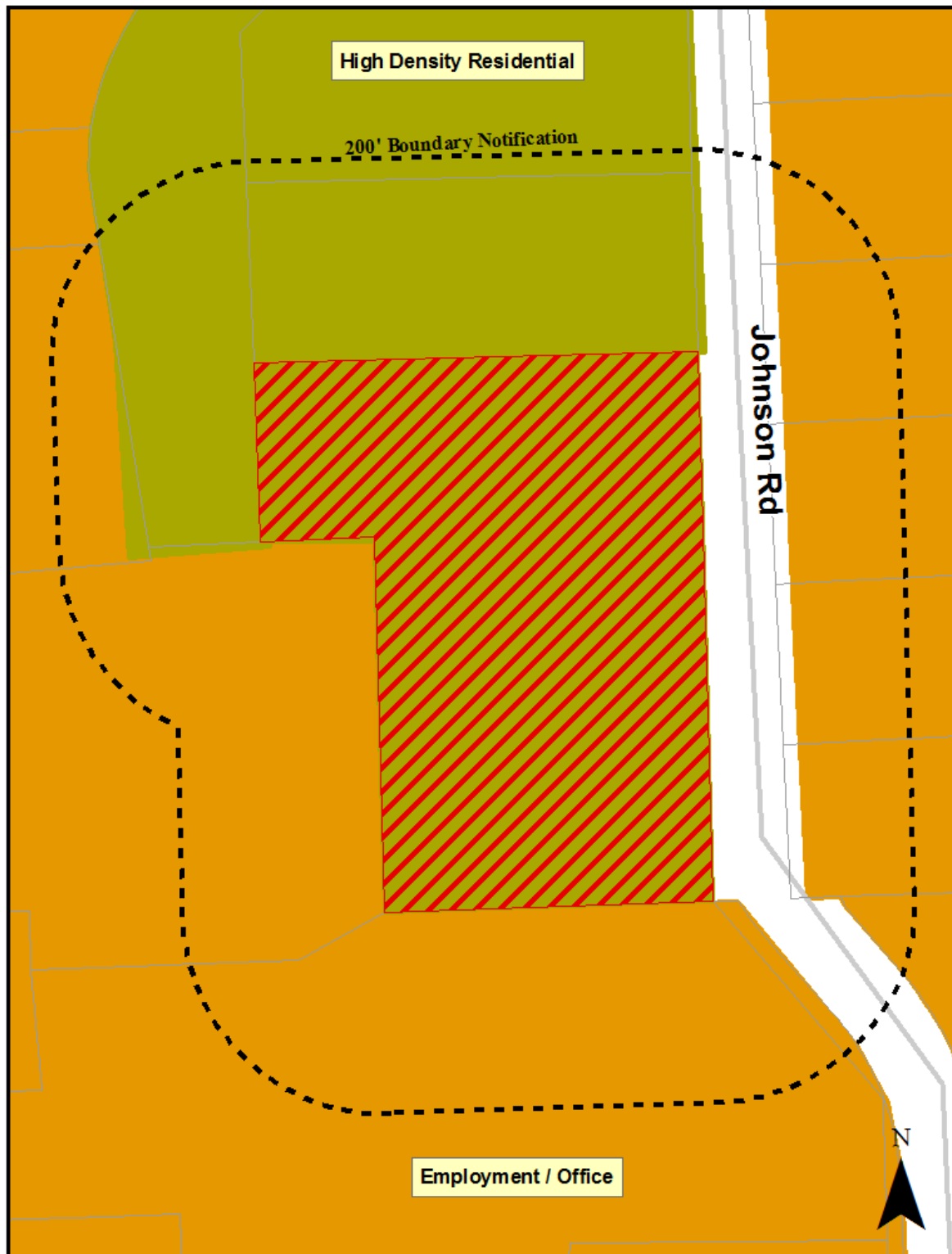


Figure 1: Subject site.
Source: Google Earth

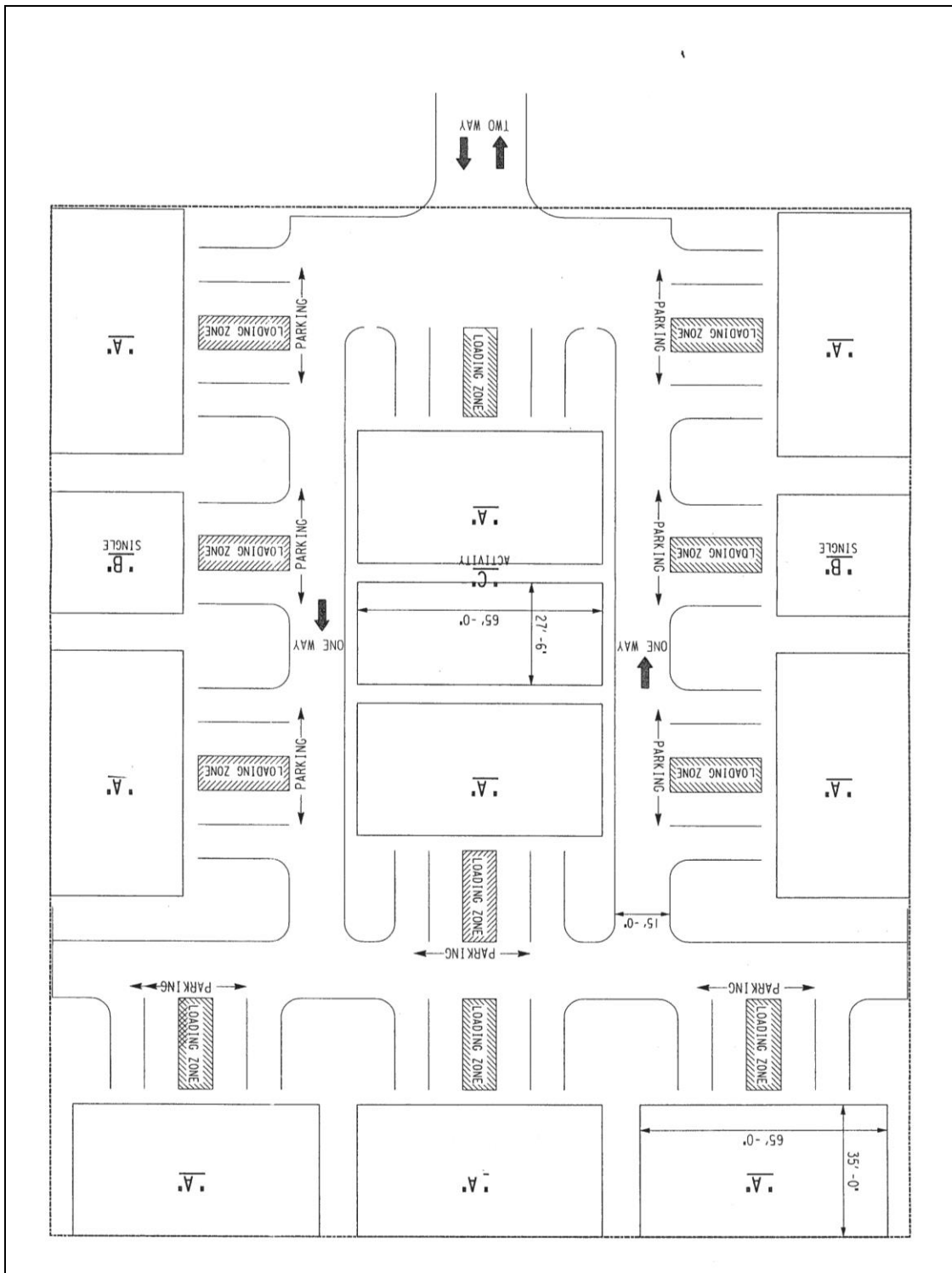


Figure 2: Subject site.
Source: Google Earth

Exhibit "D"
Future Land Use Map



[illegible]



COTTAGE PLAN VIEW

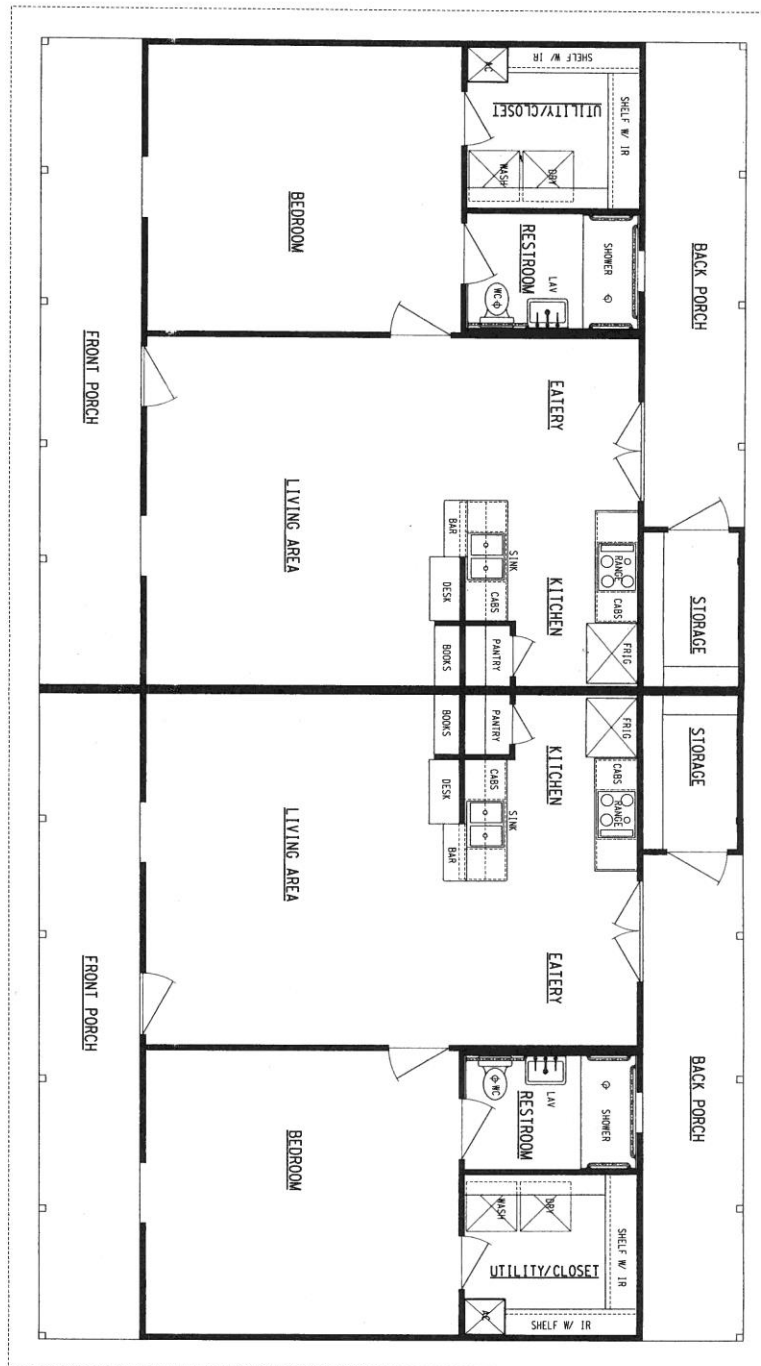
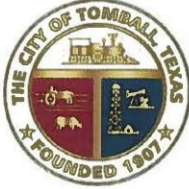


Exhibit "F"
Rezoning Application

P14-154

Revised 1/20/09



APPLICATION FOR REZONING
Engineering & Planning Department

APPLICATION SUBMITTAL: Applications will be *conditionally* accepted on the presumption that the information, materials and signatures are complete and accurate. If the application is incomplete or inaccurate, your project may be delayed until corrections or additions are received.

Applicant

Name: Southern Knights, Inc. Title: Elizabeth L. Howe
President
Mailing Address: 27919 Johnson Road City: Tomball State: Tx
Zip: 77375
Phone: (281) 351-8575 Fax: (281) 351-1129 Email: liz.howe@comcast.net

Owner

Name: Southern Knights, Inc. Title: Elizabeth L. Howe
President
Mailing Address: 27919 Johnson Road City: Tomball State: Tx
Zip: 77375
Phone: (281) 351-8575 Fax: (281) 351-1129 Email: liz.howe@comcast.net

Engineer/Surveyor (if applicable)

Name: _____ Title: _____
Mailing Address: _____ City: _____ State: _____
Zip: _____
Phone: () _____ Fax: () _____ Email: _____

Description of Proposed Project: Future Expansion

Physical Location of Property: 27919 Johnson Road

[General Location – approximate distance to nearest existing street corner]

Legal Description of Property: TR 2 HOWE TRACT

[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]

Current Zoning District: Duplex Residential District

Current Use of Property: Licensed Assisted Living Center

Proposed Zoning District: Commercial District

Proposed Use of Property: Licensed Assisted Living Center

City of Tomball, Texas 501 James Street, Tomball, Texas 77375 Phone: 281-290-1405

www.ci.tomball.tx.us

HCAD Identification Number: 1201070000001 Acreage: 4.3118

Please note: A courtesy notification sign will be placed on the subject property during the public hearing process and will be removed when the case has been processed.

This is to certify that the information on this form is **COMPLETE, TRUE, and CORRECT** and the under signed is authorized to make this application. I understand that submitting this application does not constitute approval, and incomplete applications will result in delays and possible denial.

X Elizabeth L. Howe, President 7-21-14
Signature of Applicant Date

X Elizabeth L. Howe, President 7-21-14
Signature of Owner Date

SOUTHERN KNIGHTS
Assisted Living Center

July 23, 2014

City of Tomball
Attn: Engineering & Planning Department
Attn: Planning & Zoning Commission
Attn: Tomball City Council
501 James Street
Tomball, Texas 77375

Ref: APPLICATION FOR REZONING &
COMPREHENSIVE PLAN AMENDMENT APPLICATION

To whom it may concern:

Southern Knights, Inc. has enclosed an application for rezoning and an amendment to the comprehensive plan in Tomball.

Southern Knights, Inc. is evaluating the expansion of our facility. We are considering an addition of detached assisted living cottages on our southern most property and expanding our 500 wing which is our most northwest wing to include a memory impairment section.

Upon, starting this project evaluation, I discovered that our property was not zoned nor in the comprehensive plan to undertake this project.

APPLICATION FOR REZONING:

After reviewing your zoning map and the zoning districts, Southern Knights, Inc. is requesting to be rezoned to the C, Commercial, district that is intended to provide a location for service-related establishments. Please review your current zoning map, the subject property is surrounded by the commercial district with the exception of our northern border. North of our property on Johnson Road are three parcels of land. The first parcel adjacent to us on the northern border was built approximately one year after our center was completed. The next parcel was a well established duplex community before we built and the third parcel has never been built on since we have owned our property.

Additionally, it appears that aspects of our expansion project would fall under this designation, one section would be detached and the other section would be attached assisted living.

COMPREHENSIVE PLAN AMENDMENT APPLICATION:

I have put together the following information to help you evaluate the amendment to the comprehensive plan.

27919 Johnson Road • Tomball, Texas 77375 • 281-351-8575

1) Economically - Southern Knights, Inc. currently employs approximately 30 employees and I would anticipate this would increase our employment base to approximately 40 employees.

Additionally - We pay City of Tomball, Tomball Independent School District, Harris County property taxes, and Federal Income taxes that would increase and would bring in additional tax revenues to the city.

2) Aesthetically - Southern Knights, Inc. has already contributed to the aesthetics of the area and would continue to do the same. Southern Knights took two undeveloped eye sore dump sites (we removed 85 car/truck tires) and replatted them and developed them into a beautiful, caring and compassion licensed assisted living center for the elderly and disabled.

In May 2001, the City of Tomball Parks, Recreation and Beautification Advisory Board selected us for the City's Beautification Award.

When we originally built Southern Knights in 1999, we designed, constructed, handled getting utility easement from all four owners, secured all owners donating this easement to the City of Tomball for the sewer line down the west side of Johnson Road. This enabled three existing properties to tap into the sewer line we installed and eliminated unsightly septic issues.

3) City's Goals, Objectives, and Actions - After reviewing the zoning map and the comprehensive plan for Tomball, I believe that would be the appropriate designation for the land and best use for Southern Knights, Inc. and the City of Tomball. The majority of land that the property is surrounded by is Commercial District zoned and under the comprehensive plan as Employment - Related Land Uses.

4) Impact Adjacent Residential Areas in a positive or negative manner - I believe it will impact the adjacent residential areas in a positive manner. There will be more jobs in the area, and a greater tax base.

Additionally, we have been adjacent to the duplex on our northern border for 15 years and we have "NEVER" had any problem issues. We have had two duplex residents that have moved into our center and one employee that lived in the duplexes and walked to work. We have donated two easements to the duplexes in an effort to make the quality of their living arrangement better. 1) We gave them an easement across the back of our property so that they could get city water and eliminate there well water. 2) We gave them an easement on the northern property line enabling them to build closer to our property line. Both of these easement were given free of charge to the developer.

Cobble Creek Apartment is approximately one block away and we do offer a lot of job opportunities to individuals that have no transportation.

5) Adequate access, roadway capacity, ingress and egress, traffic impact - Most of our resident do not own vehicles and/or do not drive any longer and we would only be increasing our employees by approximately 10. Considering that approximately 10 years ago the city improve Johnson Road by putting it though to Theiss, I do not foresee any traffic impact on the area.

6) Adjacent properties similar in nature, appearance, hours of operation and other general aspects of compatibility - Yes.

The Heights Nursing Home and Rehabilitation Center is diagonally across the street and it is similar in all the above aspects. The medical center that was recently built on the corner of Johnson Road and Michel Street is similar in all the above aspects except for the height. Even the Dogwood Investment Duplexes to the northern border are similar to all the above aspects. Two parcels of property diagonal across the street have recently been rezoned commercial, one parcel across the street is commercial, vacant and for sale, and one parcel is commercial owned by the city and is a retention pond. It appears to me that all properties in this area are similar in nature, appearance, hours of operation and other general aspects of compatibility. We have all worked well together for the 16 years I have owned the property.

7) Does the amendment present significant benefit to the public health, safety and welfare of the community - Generally, I would say that this would have no change because it would be used in a similar application. But, anytime you increase employment, tax base, and offer an outstanding facility for your community to age in there is going to be significant benefit to the public health, safety and welfare of the community.

Southern Knights, Inc. has a long history of benefiting the Tomball Community.

- 1) Active member of the Tomball Chamber of Commerce since 1999
- 2) Nominated in 2001 as North Harris Montgomery Community College's Small Business of the Year (1st Runner Up)
- 3) City of Tomball - Parks, Recreation and Beautification Advisory Board
City's - Beautification - Award May 2001
- 4) Awarded 2002 North Harris Montgomery Community College's Small Business of the Year
- 5) Assisted Tomball Fire Department with accepting 6 Galveston Nursing Home Evacuees from Katrina in 2005
- 6) Cypress Creek Mirror & The Potpourri
Best of the Northwest 2012 (1st Runner Up)
Only Tomball Care Facility Nominated
- 7) Cypress Creek Mirror & The Potpourri
Best of the Northwest 2013 (1st Runner Up)
Only Tomball Care Facility Nominated

After reviewing all our applications and all the attached documentation, I hope you will agree that it is in the best interest of the City of Tomball and Southern Knights, Inc. to approve our application for rezoning and application for comprehensive plan amendment.

Sincerely,



Elizabeth L. Howe
President

Regular City Council Agenda Item Data Sheet

Meeting Date: October 6, 2014

Topic:

Adopt, on Second Reading, Ordinance No. 2014-35, an Ordinance of The City of Tomball, Texas, Amending Its Zoning Ordinance by Amending Section 38.2 (“Use Charts”) by Allowing a “Dance/Drama/Music Schools (Performing Arts, Martial Arts)” 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 July 21, 2014, City Council directed City staff to bring forward an amendment to the Zoning Ordinance allowing “Dance/Drama/Music Schools (Performing Arts, Martial Arts)” with a conditional use permit (CUP) in the Agricultural, Single-Family Estate Residential-20, Single-Family Residential-9, Single-Family Residential-6, Duplex, Multi-Family, and Manufactured Home Park Districts.

On September 8, 2014, the Planning and Zoning Commission, after a public hearing, recommended approval of Zoning Case P14-159 with a 4-1 vote.

Origination:

Community Development Department

Recommendation:

Adopt Ordinance No. 2014-35 on Second Reading

Funding:

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

Community Development Department

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

ATTACHMENTS:

Ordinance No. 2014-35
Notice of Public Hearing
P14-159 Staff Report

ORDINANCE NO. 2014-35

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING ITS ZONING ORDINANCE BY AMENDING SECTION 38.2 (“USE CHARTS”) BY ALLOWING A “DANCE/DRAMA/MUSIC SCHOOLS (PERFORMING ARTS, MARTIAL ARTS)” 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 38.2 (“Use Charts”) of the Zoning Ordinance be amended by allowing a “Dance/Drama/Music Schools (Performing Arts, Martial Arts)” 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 38.2 (“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 39)
	AG	SF-20-E	SF-9	SF-6	D	MF	MHP	O	GR	C	LI		
Personal & Business													
Dance/Drama/Music Schools (Performing Arts, Martial Arts)	C	C	C	C	C	C	C	C	P	P	P	P	1 space: 100 sf

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 15TH DAY OF SEPTEMBER 2014.

COUNCILMAN HUDGENS	<u>NAY</u>
COUNCILMAN STOLL	<u>AYE</u>
COUNCILMAN DEGGES	<u>AYE</u>
COUNCILMAN TOWNSEND	<u>AYE</u>
COUNCILMAN QUINN	<u>NAY</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 6TH DAY OF OCTOBER 2014.

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

ATTEST:

Gretchen Fagan, Mayor

Doris Speer, City Secretary

**NOTICE OF PUBLIC HEARING
CITY OF TOMBALL
PLANNING & ZONING COMMISSION
SEPTEMBER 8, 2014
&
CITY COUNCIL
SEPTEMBER 15, 2014**



Notice is Hereby Given that a Public Hearing will be held by the Planning & Zoning Commission of the City of Tomball on **Monday, September 8, 2014, at 6:00 P.M.**, and by the City Council of the City of Tomball on **Monday, September 15, 2014, at 6:00 P.M.** at Regular Meetings, in the City Council Chambers of the City of Tomball at City Hall, 401 Market Street, Tomball, Texas. On such dates, the Planning & Zoning Commission and City Council will consider the following:

ZONING CASE P14-145: Request by TNRG Development LLC, on behalf of Frank P. Fontana, to amend the City's Zoning Ordinance by rezoning approximately 20.64 acres of land, legally described as Tracts 4H-1 and 4L-2, Abstract 632, C.N. Pillot, within the City of Tomball, Harris County, Texas, generally located west of South Cherry Street, north of Holderrieth Road, from the General Retail District to the Light Industrial District.

COMPREHENSIVE PLAN CASE P14-153: Request by Southern Knights Inc. to amend the City's Comprehensive Plan by altering the Future Land Use of approximately 4.31 acres of land, legally described as Tract 2, Howe Tract, within the City of Tomball, Harris County, Texas, generally located between Michel Road and Theis Lane, west of Johnson Road, from High Density Residential to Employment/Office.

ZONING CASE P14-154: Request by Southern Knights Inc. to amend the City's Zoning Ordinance by rezoning approximately 4.31 acres of land, legally described as Tract 2, Howe Tract, within the City of Tomball, Harris County, Texas, generally located between Michel Road and Theis Lane, west of Johnson Road, from the Duplex District to the Commercial District.

ZONING CASE P14-159: Request by the City of Tomball to amend Section 38.2 ("Use Charts") of the City's Zoning Ordinance to allow "Dance/Drama/Music Schools (Performing Arts, Martial Arts)" 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.

Persons interested in these cases will be given an opportunity to be heard. Action by the Planning & Zoning Commission serves as a recommendation to the City Council and is not a final action on the requests. Should the Planning & Zoning Commission vote to table a decision/recommendation on these cases, the date and time of a future meeting will be specified and the City Council will not review the subject cases until such a decision/recommendation is forwarded to the City Council by the Planning & Zoning Commission. The applications are available for public inspection Monday through Friday, holidays excepted, at the Public Works Building, located at 501 James Street, Tomball, TX 77375. Further information may be obtained by contacting the Assistant City Planner, Rodney Schmidt, at (281) 290-1410, rschmidt@tomballtx.gov.

C E R T I F I C A T I O N

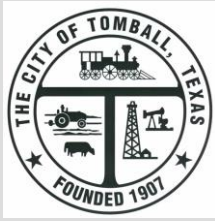
I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall; City of Tomball, Texas, a place readily accessible to the general public at all times, on the 3rd day of September 2014 by 5:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Craig Meyers

Craig Meyers

Director of Community Development

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.



Text Amendment Staff Report

Planning & Zoning Commission Hearing Date: September 8, 2014

ZONING CASE P14-159: Request by the City of Tomball to amend Section 38.2 (“Use Charts”) of the City’s Zoning Ordinance to allow “Dance/Drama/Music Schools (Performing Arts, Martial Arts)” 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 38.2 “Use Charts”

Types of Land Uses	Residential Zoning Districts							Non-Residential Zoning Districts				OT&MU	Parking Ratio (Also see Section 39)
	AG	SF-20-E	SF-9	SF-6	D	MF	MHP	O	GR	C	LI		
Personal & Business													
Dance/Drama/Music Schools (Performing Arts, Martial Arts)	C	C	C	C	C	C	C	C	P	P	P	P	1 space: 100 sf

BACKGROUND

On July 21, 2014, City Council directed City staff to bring forward an amendment to the Zoning Ordinance allowing “Dance/Drama/Music Schools (Performing Arts, Martial Arts)” with a conditional use permit (CUP) in the Agricultural, Single-Family Estate Residential-20, Single-Family Residential-9, Single-Family Residential-6, Duplex, Multi-Family, and Manufactured Home Park Districts.

ANALYSIS

Section 38.2 of the Zoning Ordinance currently allows a “Dance/Drama/Music Schools (Performing Arts, Martial Arts)” 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 Agricultural, Single-Family Estate Residential-20, Single-Family Residential-9, Single-Family Residential-6, Duplex, Multi-Family, and Manufactured Home Park Districts.

Section 38.2 of the Zoning Ordinance currently allows numerous other uses of equal or greater intensity than a “Dance/Drama/Music Schools (Performing Arts, Martial Arts)” by right and with a CUP in the Agricultural, Single-Family Estate Residential-20, Single-Family Residential-9, Single-Family Residential-6, Duplex, Multi-Family, and Manufactured Home Park Districts. These uses

include, but are not limited to, “Golf Course (Private),” “Civic Center (Municipal),” “Community or Social Buildings,” “Governmental Building or Use (County, State, or Federal),” and “School – College or University.” A “Dance/Drama/Music Schools (Performing Arts, Martial Arts)” is not anticipated to have any more negative impact on adjacent residential districts than the uses listed above. Additionally, by limiting this use by CUP in the Agricultural, Single-Family Estate Residential-20, Single-Family Residential-9, Single-Family Residential-6, Duplex, Multi-Family, and Manufactured Home Park Districts, 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 25, 2014. No public comment forms have been received as of August 29, 2014.

RECOMMENDATION

Based on the findings outlined in the analysis section of this staff report, City staff recommends **APPROVAL** of Zoning Case P14-159.

Regular City Council Agenda Item Data Sheet

Meeting Date: October 6, 2014

Topic:

Approve Land Donation Agreement between BD Broussard Real Estate Partnership, Ltd. and the City of Tomball for Broussard Community Park

Background:

Attached is the final agreement between BD Broussard Real Estate Partnership, Ltd. and the City of Tomball for the donation of 14.6372 acres of land for the proposed development of Broussard Community Park.

Origination:

Bruce D. Broussard

Recommendation:

Approval of Land Donation Agreement

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:

Land Development Agreement

Appraisal - 16.6372 Acres

Preliminary Plat

LAND DONATION AGREEMENT

This Land Donation Agreement (this "**Agreement**") is entered into by and between **BD Broussard Real Estate Partnership, Ltd.**, a Texas limited partnership, Texas Filing #800104055 ("**Donor**") and the **CITY OF TOMBALL, TEXAS**, a Texas home rule municipality ("**City**") (collectively and alternatively "**the parties**" "**either party**" or "**a party**").

In consideration of the mutual covenants set forth herein and in consideration of the earnest money deposit herein called for, the receipt and sufficiency of which are acknowledged by City and Donor, the parties agree as follows:

Section 1. **Donation.**

a) Donor shall transfer, convey, and assign to City, subject to the terms and conditions herein set forth, a parcel of real property situated in Harris County, Texas, which parcel also contains approximately 14.3506 acres of land area as more particularly described on Exhibit "A" attached hereto and made a part hereof, together with any and all improvements thereon and all rights and interests appurtenant thereto (the "**Donor Property**"). The Donor Property shall be conveyed to City at Closing (defined below) "AS IS, WHERE IS AND WITH ALL FAULTS" by Special Warranty Deed in the form of Exhibit B attached hereto ("**Donor Deed**"). The parties understand that the Donor Property is currently part of a larger approximately 16.6372 acre tract of land with a current street address of 1414 E. Huffsmith Road, Tomball, Texas 77375 ("**Donor's Original Property**").

b) Donor and the City agree that the Donor Property shall be used by the City as a City park, provided however, the City agrees that the Donor shall have the right to name the park. This paragraph shall survive the Closing.

c) The City agrees, at its sole cost and expense, to provide access to the Donor Property by the extension of Zion Road along the north boundary line of the Donor Property and the north boundary line of the adjacent approximately two (2) acre tract of land which is being retained by the Donor out of the Donor's Original Property (the "**Retained Property**"). This paragraph shall survive the Closing

Section 2. **Consideration.** For the purposes of establishing an agreed value for title insurance purposes, City and Donor agree that the Donor Property shall have a value of One Million One Hundred Thousand Dollars (\$1,100,000.00).

Section 3. **Earnest Money.** At the time of the execution hereof, City shall deliver to Stewart Title Company located at 14080 FM 2920, Suite E, Tomball, Texas 77377, Attn: Jane Matthews ("**Title Company**"), a check in the amount of \$10.00, which Title Company shall immediately deposit for collection. As used in this Agreement, the term "**Earnest Money**" shall mean the amounts so delivered by City.

Section 4. **Delivery of Information**

a) Donor, at its expense, has previously delivered or caused to be delivered to City the following:

(1) commitments for Title Insurance (the "**Title Commitment**") from the Title Donor setting forth the status of the title of the Donor Property and showing all liens, claims, encumbrances, easements, rights-of-way, encroachments, reservations, restrictions, and all other matters of record affecting the Donor Property; and

(2) true, complete, and legible copies of all documents referred to in the Title Commitment, including tax certificates showing the current outstanding ad valorem taxes due on the Donor Property.

b) Donor will provide to the City, a survey of the Donor Property and the Retained Property consisting of a plat and field notes prepared by a licensed surveyor reasonably acceptable to City and Title Donor (the "**Survey**"); and deliver a copy to City and Title Company. The Survey shall (i) reflect the actual dimensions of, and the gross area within, the Donor Property, the location of any easements, rights-of-way, setback lines, encroachments, or overlaps thereon or thereover, and the outside boundary lines of any improvements, (ii) identify by recording reference all easements, rights-of-way, setback lines, and other matters referred to in the Title Commitment, (iii) include the surveyor's registered number and seal, the date the Survey was performed, and certificates addressed to City, Donor and Title Company, reasonably satisfactory to City and Title Company, (iv) is sufficient to cause the Title Company to delete (except for "shortages in area") the printed exception for "discrepancies, conflicts or shortages in area or boundary lines, or encroachments, or any overlapping of improvements"; (v) reflects any area within the Donor Property that has been designated by the Federal Insurance Administration, the Army Corps of Engineers, or any other governmental agency or body as being subject to special or increased flooding hazards, and (vi) in general, complies with the requirements of the Texas Society of Professional Surveyors for Category 1 A Condition II surveys. The field notes set forth on such approved Survey shall be deemed to be substituted for Exhibit A and the same shall be deemed to be incorporated herein by this reference. The field notes set forth on such Survey shall be used to describe the Donor Property for all purposes related to this Agreement. The cost of the Survey will be split proportionately between the Donor Property and the Retained Property with the City being responsible for the proportionate cost of the Survey for the Donor Property and the Donor being responsible for the proportionate cost of the Survey for the Retained Property.

Section 5. **Intentionally Deleted.**

Section 6. **Intentionally Deleted.**

Section 7. **Representations, Warranties and Covenants.** Donor represents and warrants to and covenants with City that to Donor's actual, current knowledge, without duty to inquire or investigate:

(1) Donor has full right, power, and authority to execute and deliver this Agreement and, subject to the terms of this Agreement, to consummate the transactions

provided for herein (including, without limitation, full right, power and authority to execute and deliver the Donor Deed;

(2) Donor has good and indefeasible title in fee simple to the Donor Property subject to the Donor Permitted Exceptions, and no party has or shall have on the Closing Date any rights in, or to acquire, the Donor Property;

(3) There are no actions, suits, claims, assessments, or proceedings pending or, to the knowledge of Donor, threatened that could adversely affect the ownership, operation, or maintenance of the Donor Property or Donor's ability to perform hereunder;

(4) All bills and other payments due with respect to the ownership, operation, and maintenance of the Donor Property incurred by Donor have been paid or will be paid prior to Closing in the ordinary course of business; and

(5) From the date hereof until the Closing Date, Donor shall not enter into any agreement or instrument or take any action that would encumber the Donor Property after Closing, that would bind the Donor Property after Closing, or that would be outside the normal scope of maintaining and operating the Donor Property.

If (i) any of Donor's representations and warranties set forth in this Section 7 are untrue in any material respect, or (ii) at any time at or before Closing there is any material change with respect to the matters represented and warranted by Donor pursuant to this Section 7, then Donor shall give City prompt written notice thereof, and City shall have the right to terminate this Agreement in accordance with Section 10(a) by delivering notice to Donor at any time at or before the Closing. All of Donor's representations and warranties shall survive the Closing; provided, however, that City may not maintain an action for breach of such representations and warranties unless it shall have given Donor written notice of such breach in reasonable detail not later than a date which is one (1) year from the Closing Date. When reference is made in this Section to Donor's "knowledge" or "belief," such terms shall include only the actual, current knowledge and belief of Donor and shall not be deemed to be constructive knowledge of Donor or to imply that Donor has conducted any inquiry or investigation with respect to the subject matter of any representation or warranty. Except for the representations and warranties of Donor set forth in this Section 7, City will rely on its own due diligence in closing the purchase and sale of the Donor Property pursuant to this Agreement.

Section 8. **Closing.** Provided that this Agreement has not been terminated by City pursuant to Section 10 (a), the closing of the Donor Property the "**Closing**") shall occur on or before _____ (the "**Closing Date**"). The Closing will take place in the offices of the Title Company or at such other location agreed to by City and Donor. At the Closing the following, which are mutually concurrent conditions, shall occur:

a) Donor shall deliver or cause to be delivered to City or Title Donor, as applicable, the following:

(1) The Donor Deed in the form of Exhibit B fully executed by Donor and acknowledged, conveying the Donor Property to City "AS IS, WHERE IS AND WITH ALL FAULTS";

(2) An Owner Policy of Title Insurance, at City's expense, in the amount of agreed value of the Donor Property issued by Title Company insuring that City is the owner of the Donor Property subject only to the Donor Permitted Exceptions and the standard printed exceptions included in a Texas standard form owner's policy of title insurance (the "**City Policy**"); **provided**, however, that (i) the standard exception for discrepancies, conflicts, or shortages in area shall, if the City desires, at its expense, to obtain such deletion, be deleted except for "shortages in area," (ii) no exception shall be made for "rights of parties in possession," and (iii) the standard exception for taxes shall be limited to the year in which the Closing occurs, and subsequent years and subsequent assessments for prior years due to change in land usage or ownership;

(3) Evidence reasonably satisfactory to City and the Title Donor that the persons executing and delivering the Closing documents on behalf of City have full right, power and authority to do so;

(4) A certificate meeting the requirements of Section 1445 of the Internal Revenue Code of 1986, executed and sworn to by Donor; and

(5) Such other instruments as are customarily executed in Texas to effectuate the conveyance of property similar to the Donor Property, with the effect that, after the Closing, City will have succeeded to all of the rights, titles, and interests of Donor related to the Donor Property and Donor will no longer have any rights, titles, or interests in and to the Donor Property.

(6) Release of lien instruments in a form acceptable to the City's attorney, to the end that, after the Closing, City will have succeeded to all of the rights, titles, and interests of any and all lien-holders related to the Donor Property and said lien-holders, if any, will no longer have any rights, titles, or interests in and to the Donor Property.

b) All normal and customarily proratable items, including without limitation real estate and personal property taxes, utility bills, and insurance premiums, if applicable, with respect to the Donor Property shall be prorated as of the Closing Date, with the acquiring party being charged and credited for all of same up to such date and the disposing party being charged and credited for all of same on and after such date. If the actual amounts to be prorated are not known as of the Closing Date, the prorations shall be made on the basis of the best evidence then available, and thereafter, when actual figures are received, a cash settlement will be made between City and Donor.

c) Each party shall be responsible for its own attorney's fees in connection with this transaction. Donor's expense shall be the cost of releasing liens and recording fees thereon, tax statements or certificates, preparation of deed, one-half of any escrow fee, and other expenses stipulated to be paid by Donor under this Agreement. City expenses shall be one-half of any escrow fee, recording fees for the deed and other expenses stipulated to be paid by City under this Agreement.

Section 9. Commissions. Neither City nor Donor has engaged an agent or broker or otherwise agreed to pay a brokerage commission, finders or other fee to any person or entity in

connection with the sale of the Property upon the consummation of the Closing. As provided for in the Texas Real Estate License Act, City is advised to have an abstract of title for the Donor Property examined by an attorney of its choice, or to obtain a policy of title insurance.

Section 10. **Termination and Remedies.**

a) If City terminates this Agreement pursuant to Section 7, then Title Company shall return the Earnest Money deposited by City and neither party hereto shall have any further rights or obligations hereunder.

b) If either Donor or City (the "**Failing Party**") fails to consummate the exchange transaction contemplated by this Agreement for any reason other than the termination of the Agreement by City as provided in Section 10(a), then the party who is not the Failing Party (the "**Non-Failing Party**") shall have the right, as its sole and exclusive remedy, to terminate this Agreement by notifying the Failing Party thereof, in which case Title Company shall return the Earnest Money to Non-Failing Party and neither party hereto shall have any further rights or obligations hereunder.

Section 11. **Notices.** All notices provided or permitted to be given under this Agreement must be in writing and may be served by depositing same in the United States mail, addressed to the party to be notified, postage prepaid and registered or certified with return receipt requested; by delivering the same by recognized overnight courier, by delivering the same in person to such party; or by facsimile copy transmission. Notice given in accordance herewith (i) if hand delivered, delivered by recognized overnight courier or by facsimile copy transmission shall be effective upon receipt at the address of the addressee; and (ii) if delivered by United States mail in accordance with this Section 9 shall be effective two (2) business days after deposit in the United States mail receptacle. For purposes of notice, the addresses of the parties shall be as follows:

If to City, to: City of Tomball, Texas
401 Market Street
Tomball, TX 77375
Attn: City Manager

If to Donor, to: BD Broussard Real Estate
Partnership, Ltd.
1604 Cherokee Road Unit 4
Louisville, KY 40205
Attn: Bruce D. Broussard

With Copy to: John Robert Weatherly, Jr.
Weatherly & Weatherly, P.L.L.C.
908 Town & Country Blvd., Suite 120
Houston, Texas 77024

Either party hereto may change its address for notice by giving three days' prior written notice thereof to the other party.

Section 12. **Governing Law.** This Agreement shall be governed and construed in accordance with the laws of the State of Texas.

Section 13. **Entire Agreement.** This Agreement represents the entire agreement between City and Donor concerning the Donor Property, and no modification thereof or subsequent agreement relative to the subject matter thereof shall be binding on either party unless reduced to writing and signed by the party to be bound. All Exhibits attached hereto are incorporated herein by this reference for all purposes.

Section 14. **Time of Essence.** Time is of the essence of this Agreement.

Section 15. **Severability.** In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

Section 16. **Construction.** The parties acknowledge that their attorneys have reviewed and negotiated the provisions of this Agreement; therefore, the rule of construction that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments or exhibits hereto.

Section 17. **Omissions.** If any punctuation, word, clause, sentence or provision necessary to give meaning, validity or effect to any other word, clause, sentence or provision appearing in this Agreement shall be omitted herefrom, then it is hereby declared that such omission was unintentional and that the omitted punctuation, word, clause, sentence or provision shall be supplied by inference.

Section 18. **Calculation of Time Periods.** Unless otherwise specified, in computing any period of time described in this Agreement, the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included, unless such last day is a Saturday, Sunday or legal holiday under the laws of the State of Texas, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday. The final day of any such period shall be deemed to end at 5:00 p.m.

Section 19. **Waiver of Trial by Jury.** THE CITY AND THE DONOR UNCONDITIONALLY AND IRREVOCABLY, EACH WAIVES, RELINQUISHES, AND FOREVER FORGOES THE RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED UPON, ARISING OUT OF, OR IN ANY WAY RELATING TO THIS AGREEMENT AND/OR ANY ACTION TAKEN IN CONNECTION THEREWITH, INCLUDING THOSE BASED ON OR ARISING FROM AN ALLEGED CONTRACT CLAIM, TORT, STATUTE, CONSTITUTION, OR OTHER. THE CITY AND THE DONOR ACKNOWLEDGE THAT THIS WAIVER IS MADE VOLUNTARILY, KNOWINGLY, AND WITH FULL AWARENESS OF THE LEGAL CONSEQUENCES.

Section 20. **Immunity.** By executing this Agreement, City is waiving its immunity from suit and from liability for damages solely 'for the purpose of allowing enforcement of this Agreement, if necessary. No other waiver of immunity is provided by this Agreement.

Section 21. **Attorneys' Fees and Costs.** In the event the City and Donor become parties to any lawsuit, action, or other proceeding concerning this Agreement, the prevailing party shall be entitled to recover from the other party, in addition to all other remedies or damages herein or otherwise provided or allowed, reasonable attorneys' fees and costs incurred in such lawsuit, action or proceeding.

Section 22. **Effective Date.** The date of this Agreement (the "**Effective Date**") is the date the Title Company acknowledges receipt of (i) a fully executed original of this Agreement and (ii) the Earnest Money.

Section 23. **Counterparts.** To facilitate execution, this Agreement may be executed in as many counterparts as may be convenient or required. It shall not be necessary that the signature of or on behalf of each party or that the signature of all persons required to bind any party, appear on each counterpart. All counterparts shall collectively constitute a single Agreement. It shall not be necessary in making proof of this Agreement to produce or account for more than a single counterpart containing the respective signatures of, or on behalf of, each of the parties hereto. Any signature page to any counterpart may be detached from such counterpart without impairing the legal effect of the signatures thereon and thereafter attached to another counterpart identical thereto except having attached to it additional signature pages.

Section 24. **Rollback Taxes.** Ad valorem taxes on the Donor Property for the year 2014 have been prorated as of the Closing Date, and the City, by its acceptance of the Donor Deed at Closing assumes payment of and agrees to pay the same, taxes for subsequent years and subsequent assessments for prior years due to change in the ownership or usage of the Donor Property. This paragraph shall survive the Closing.

Section 25. **Addendum for Seller's Disclosure of Information on Lead-Based Paint.** City acknowledges and agrees to accept the house located on the Donor Property which was built in 1870 according to the Harris County Appraisal District. City also acknowledges receipt of the Addendum for Seller's Disclosure of Information on Lead-Based Paint attached hereto as Exhibit "C".

DONOR:

BD Broussard Real Estate Partnership, Ltd.
By BD Broussard Management Company LLC

By: _____
Name: _____
Title: _____

CITY:

CITY OF TOMBALL, TEXAS a Texas home rule
municipality

By: _____
Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary

TITLE COMPANY RECEIPT

The Title Company acknowledges receipt of this fully executed Agreement and the Earnest Money on the _____ day of _____ 2014.

Title Company

By: _____

Name: _____

Title: _____

EXHIBIT A
Donor Property Description

[Metes and Bounds Description from Survey to be inserted]

EXHIBIT B

Form of Donor Deed

SPECIAL WARRANTY DEED

THE STATE OF TEXAS

COUNTY OF HARRIS

BD Broussard Real Estate Partnership, Ltd. (hereinafter referred to as "Grantor"), for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration to the undersigned in hand paid by the CITY OF TOMBALL, TEXAS, a Texas home rule municipality (hereinafter referred to as "Grantee"), whose address is 401 Market Street, Tomball, Texas 77375, the receipt and sufficiency of which consideration are hereby acknowledged, has GRANTED, DONATED and CONVEYED, and by these presents does GRANT, DONATE and CONVEY, unto the Grantee, the tract or parcel of land more particularly described in Exhibit A attached hereto and by this reference made a part hereof for all purposes, together with any and all of the rights, privileges, titles, entitlements, licenses and interests in and to any and all appurtenances benefiting and pertaining to the land and any and all buildings, structures, fixtures and improvements located on or attached to the land (collectively, the "Property").

For the same consideration, Grantor has GRANTED, DONATED AND CONVEYED, and by these presents does hereby GRANT, DONATE AND CONVEY unto Grantee all interest of Grantor, if any, in (1) strips and gores, if any, between the Property and abutting properties, whether owned or claimed by deed, limitations or otherwise, and whether located inside or outside the Property; and (2) any land lying in or under the bed of any creek, stream or waterway or any highway, avenue, street, road, alley, easement or right of way, open or proposed, in or across, abutting or adjacent to the Property; provided, however, the conveyance pursuant to this paragraph is made subject to all existing reservations from and exceptions to title and is made without express or implied warranty, and all warranties that might arise by common law and the warranties in §5.023 of the Texas Property Code (or its successor) are expressly excluded.

This conveyance is made by Grantor and accepted by Grantee subject to visible easements, encroachments and overlapping of improvements, whether of record or not, and to those matters set forth on Exhibit B attached hereto and made a part hereof (herein called the "Permitted Exceptions").

TO HAVE AND TO HOLD the Property, together with all and singular the rights and appurtenances thereto in anywise belonging, unto Grantee, its successors and assigns forever, and Grantor does hereby bind itself, its successors and assigns, to Warrant and Forever Defend all and singular the Property unto the Grantee, its successors and assigns, against every person whomsoever, lawfully claiming or to claim the same, or any part thereof by, through or under Grantor, but not otherwise, subject only to the Permitted Exceptions and Grantee's assumption and agreement to pay ad valorem taxes on the Property as provided below.

Ad valorem taxes on the Property for the year 2014 have been prorated as of the date hereof, and Grantee, by its acceptance of this Special Warranty Deed assumes the payment of and agrees to pay the same, taxes for subsequent years and subsequent assessments for prior years due to change in the ownership or usage of the Property.

EXCEPT FOR THE SPECIAL WARRANTY OF TITLE SET FORTH IN THIS DEED, IT IS UNDERSTOOD AND AGREED THAT GRANTOR IS NOT MAKING ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT TO THE PROPERTY, INCLUDING BUT NOT LIMITED TO, WARRANTIES OR REPRESENTATIONS AS TO HABITABILITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE (OTHER THAN GRANTOR'S WARRANTY OF TITLE SET FORTH HEREIN), ZONING, TAX CONSEQUENCES, PHYSICAL OR ENVIRONMENTAL CONDITION (INCLUDING THE PRESENCE OF ASBESTOS), UTILITIES, OPERATING HISTORY OR PROJECTIONS, VALUATION, GOVERNMENTAL APPROVALS, THE COMPLIANCE OF THE PROPERTY WITH GOVERNMENTAL LAWS, THE TRUTH, ACCURACY OR COMPLETENESS OF ANY INFORMATION PROVIDED BY OR ON BEHALF OF GRANTOR TO GRANTEE, OR ANY OTHER MATTER OR THING REGARDING THE PROPERTY. GRANTEE ACKNOWLEDGES AND AGREES THAT GRANTOR HEREBY SELLS AND CONVEYS TO GRANTEE AND GRANTEE ACCEPTS THE PROPERTY "AS IS, WHERE IS, WITH ALL FAULTS." GRANTEE WILL NOT RELY ON, AND GRANTOR IS NOT LIABLE FOR OR BOUND BY, ANY EXPRESS OR IMPLIED WARRANTIES, GUARANTIES, STATEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE PROPERTY OR RELATING THERETO MADE OR FURNISHED BY GRANTOR, THE MANAGER OF THE PROPERTY, OR ANY REAL ESTATE BROKER OR AGENT REPRESENTING OR PURPORTING TO REPRESENT GRANTOR, TO WHOMEVER MADE OR GIVEN, DIRECTLY OR INDIRECTLY, VERBALLY OR IN WRITING. GRANTEE REPRESENTS TO GRANTOR THAT GRANTEE HAS CONDUCTED, SUCH INVESTIGATIONS OF THE PROPERTY, INCLUDING BUT NOT LIMITED TO, THE PHYSICAL AND ENVIRONMENTAL CONDITIONS THEREOF, AS GRANTEE DEEMS NECESSARY TO SATISFY ITSELF AS TO THE CONDITION OF THE PROPERTY AND THE EXISTENCE OR NONEXISTENCE OF CURATIVE ACTION TO BE TAKEN WITH RESPECT TO ANY HAZARDOUS OR TOXIC SUBSTANCES ON OR DISCHARGED FROM THE PROPERTY, AND WILL RELY SOLELY UPON SAME AND NOT UPON ANY INFORMATION PROVIDED BY OR ON BEHALF OF GRANTOR OR ITS AGENTS OR EMPLOYEES WITH RESPECT THERETO. GRANTEE HEREBY ACCEPTS THE RISK THAT ADVERSE MATTERS, INCLUDING BUT NOT LIMITED TO, CONSTRUCTION DEFECTS AND ADVERSE PHYSICAL AND ENVIRONMENTAL CONDITIONS, MAY NOT HAVE BEEN REVEALED BY GRANTEE'S INVESTIGATIONS, AND GRANTEE HEREBY WAIVES, RELINQUISHES AND RELEASES GRANTOR FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION (INCLUDING CAUSES OF ACTION IN TORT), LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES (INCLUDING ATTORNEYS' FEES AND COURT COSTS) OF ANY AND EVERY KIND OR CHARACTER, KNOWN OR UNKNOWN, WHICH GRANTEE MIGHT HAVE ASSERTED OR ALLEGED AGAINST GRANTOR AT ANY TIME BY REASON OF OR ARISING OUT OF ANY CONSTRUCTION DEFECTS, PHYSICAL CONDITIONS, VIOLATIONS OF ANY

APPLICABLE LAWS (INCLUDING ANY ENVIRONMENTAL LAWS) AND ANY AND ALL OTHER ACTS, OMISSIONS, EVENTS, CIRCUMSTANCES OR MATTERS REGARDING THE PROPERTY. GRANTEE ACKNOWLEDGES THAT THE PURPOSE OF THIS PARAGRAPH IS FOR GRANTEE, TO THE FULLEST EXTENT POSSIBLE AT LAW, TO WAIVE, RELINQUISH, RELEASE AND DISCLAIM, ANY CLAIM OR LIABILITY OF OR AGAINST GRANTOR AS THE RESULT OF ANY CONDITION OR STATE OF FACTS RELATING OR PERTAINING TO THE PROPERTY AS OF THE DATE HEREOF. THE AGREEMENTS AND ACKNOWLEDGMENTS OF GRANTEE SET FORTH IN THIS PARAGRAPH ARE EFFECTIVE UPON GRANTEE'S ACCEPTANCE OF THIS SPECIAL WARRANTY DEED AND SURVIVE THE DELIVERY OF THIS SPECIAL WARRANTY DEED.

EXECUTED to be effective this the ____ day of _____, 2014.

"GRANTOR"

BD Broussard Real Estate Partnership, Ltd.
By BD Broussard Management Company LLC

By: _____
Name: _____
Title: _____

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the ____ day of _____ 2014, by _____ of BD Broussard Real Estate Partnership, Ltd. on behalf of said partnership.

Notary Public in and for the State of Texas

Typed/Printed Name of Notary Public

My Commission Expires: _____

"GRANTEE"

CITY OF TOMBALL, TEXAS a Texas
home rule municipality

By: _____
Gretchen Fagan, Mayor

ATTEST:

City Secretary

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the ____ day of 2014, by Gretchen Fagan, Mayor of the City of Tomball, Texas, a Texas home rule municipality, on behalf of said municipality.

Notary Public in and for the State of Texas

Typed/Printed Name of Notary Public

My Commission Expires: _____

After Recording, Return To:

Doris Speer, City Secretary
City of Tomball, Texas
401 Market Street
Tomball, TX 77375

EXHIBIT A TO SPECIAL WARRANTY DEED
[Metes and Bounds Description from Survey to be inserted]

EXHIBIT B TO SPECIAL WARRANTY DEED
Permitted Exceptions

EXHIBIT C

TO LAND DONATION AGREEMENT

Addendum for Seller's Disclosure of Information on Lead-Based Paint

SEE ATTACHED



Appraisal

Broussard Ranch
1414 E Hufsmith Road
Tomball, Texas 77375

Appraisal Order: Broussard Ranch

Prepared By:
APEX APPRAISALS, Inc.
As of August 22, 2014

Effective as of August 16, 2014

Prepared For:

Mr. Bruce Broussard
1414 E Hufsmith Road
Tomball, Texas 77375

Bradley Page
Principal
Apex Appraisals, Inc.
16876 Royal Crest Drive
Houston, Texas 77058
281.286.0663 Office
832.643.2723 Mobile
apexappraisals@yahoo.com

August 22, 2014

Mr. Bruce Broussard
1414 E Hufsmith Road
Tomball, Texas 77375

RE: Appraisal of the Broussard Ranch property located at 1414 E Hufsmith Road,
Tomball, Texas 77375.

Dear Mr. Broussard:

In fulfillment of our agreement as outlined in the Letter of Engagement, Apex Appraisals is pleased to transmit our appraisal report developing an opinion of the Market Value of the Fee Simple estate in the above referenced real property as of August 16, 2014 on an "As Is" basis. The opinion of value reported below is qualified by certain assumptions, limiting conditions, certifications, and definitions, which are set forth in the report.

The appraisal will be used by the owner to establish market value for lending decisions. It may not be distributed to or relied upon by other persons or entities without written permission of Apex Appraisals. However, the client may provide only complete, final copies of the appraisal report in its entirety (but not component parts) to third parties who shall review such reports in connection with the purpose of this appraisal. The appraisers are not required to explain or testify as to appraisal results other than to respond to the client for routine and customary questions.

Please note that our consent to allow an appraisal report prepared by Apex Appraisals, or portions of such report, to become part of or be referenced in any public offering, the granting of such consent will be at our sole discretion and, if given, will be on condition that we will be provided with an Indemnification Agreement and/or Non-Reliance letter, in a form and content satisfactory to us, by a party satisfactory to us. We do consent to your submission of the reports to rating agencies, loan participants or your auditors in its entirety (but not component parts) without the need to provide us with an Indemnification Agreement and/or Non-Reliance letter.

Mr. Broussard
August 22, 2014

The following appraisal sets forth the most pertinent data gathered, the techniques employed and the reasoning leading to the opinion of value. The analysis, opinions and conclusions were developed based on, and this complete summary report has been prepared in conformance with, our interpretation of the guidelines and recommendations set forth in part 323 of the FDIC regulations, the *Uniform Standards of Professional Appraisal Practice* (USPAP), the requirements of the *Code of Professional Ethics and Standards of Professional Appraisal Practice* of the Appraisal Institute, The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), Title XI Regulations and Apex Appraisals, Inc.'s appraisal standards.

Based on the analysis contained in the following report, the Market Value of the subject property is concluded as follows:

MARKET VALUE CONCLUSION – “AS IS”

Appraisal Premise	Interest Appraised	Effective Date	Value Conclusion
As Is	Fee Simple	August 16, 2014	\$ 1,100,000

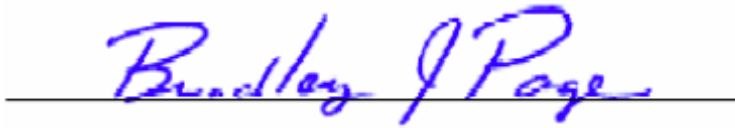
The analysis contained in this appraisal is based upon assumptions and estimates that are subject to uncertainty and variation. These estimates are often based on data obtained in interviews with third parties, and such data are not always completely reliable. In addition, we make assumptions as to future behavior of consumers, and the general economy, which are highly uncertain. It is, however, inevitable that some assumptions will not materialize and that unanticipated events may occur which will cause actual achieved operating results to differ from the financial analyses contained in this report, and these differences may be material. Therefore, while our analysis was conscientiously prepared on the basis of our experience, and the data available, we make no warranty of any kind that the conclusions presented will, in fact, be achieved. Additionally, we have not been engaged to evaluate the effectiveness of management, and we are not responsible for future marketing efforts, and other management actions upon which actual results may depend.

We believe, based on the assumptions employed the value conclusion represents a market price achievable within 12 months. We take no responsibility for any events, conditions, or circumstances affecting the market that exists subsequent to the effective date of this appraisal. This letter is invalid as an opinion of value if detached from the report, which contains the text, exhibits, and addenda.

Mr. Broussard
August 22, 2014

It has been a pleasure to assist you in this assignment. If you have any questions concerning the analysis or if Apex Appraisals can be of further service, please contact us.

Respectfully Submitted,



Bradley J. Page
Principal
apexappraisals@yahoo.com
Licensed in the State of Texas
License #TX-1326374-G

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Summary of Salient Facts

Subject Property:	Broussard Ranch 1414 E Hufsmith Road Tomball, Texas 77375
Location Description:	The property is located along the east line of E. Hufsmith Road at Zion Road
Property Type:	Existing ranch with single family residence
Report Type:	Appraisal
Interest Appraised:	Fee Simple Interest
Appraisal Date:	August 22, 2014
Value Date:	August 16, 2014
Inspection Date:	August 16, 2014
Highest & Best Use As Vacant:	Single Family Residential
Highest & Best Use As Improved:	Ranch with residence
Zoning:	Agricultural
Legal Description:	16.6372 Acres out of the John S Smith Survey, Abstract No. 730, City of Tomball, Harris County, Texas
Tax ID/APN:	045-034-001-0067 045-034-001-0175
Current Occupancy:	100%
Building Area:	1,634 Square Feet – Residence 300 Square Feet – Garage Apartment 3,500 Square Feet – Horse Barn 800 Square Feet – Pasture Barns 500 Square Feet – Grandstand Building
Year Built:	Residence - 1870 with renovation in 2008; Barns, Grandstand, and fencing built since 2008
Property Condition at Time of Inspection:	Good
Value Descriptions:	A complete sales approach was applied to value the subject as vacant land, with a cost approach examined for the contributory value of the improvements.
Cost Approach Value:	\$ 1,100,000
Income Approach Value:	Not Applicable
Sales Comparison Approach Value:	Not Applicable
Reconciliation – “As Is” Value:	\$ 1,100,000

Purpose of the Appraisal

The purpose of this appraisal is to determine the market value of the subject property.

Interest Appraised

The property rights being appraised in this report consist of the fee simple estate for the subject. Fee Simple Estate is defined by The Dictionary of Real Estate Appraisal, Fifth Edition, copyright 2010, page 78, by the Appraisal Institute as being:

"Absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power, and escheat."

Intended Use

The intended use of this appraisal is to establish a value for the donation of the property to the City of Tomball.

Intended User(s)

This appraisal is for the intended use of the Client only.

Market Value Definition

"Market Value," as used in this report, is defined as:

... the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

- Buyer and Seller are typically motivated;
- Both parties are well informed or well advised, and acting in what they consider their best interests;
- A reasonable time is allowed for exposure in the open market;
- Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and

- The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

Source: "(12 C.F.R. Part 34.42(g); 55 Federal Register 34696, August 24, 1990, as amended at 57 Federal Register 12202, April 9, 1992; 59 Federal Register 29499, June 7, 1994); Appraisal Institute, The Dictionary of Real Estate Appraisal, Fifth Edition, (Chicago, 2002) Page 177"

The appraisal considers the valuation of the subject property as of the effective date referenced herein. In determining the valuation of the property, we will consider the market value under conditions prevalent at that time. Establishing the effective date of the appraisal is standard appraisal practice, and it is important to consider because value is subject to change over time. Aside from possible physical changes to the property, the value of real estate is also subject to changing economic conditions, under which value may remain static, increase, or decrease. Additionally, changing policies of governing authorities may impede or encourage development over time.

These limitations are implicit in the definition of "market value." For further discussion on this subject, refer to the section of this report entitled "Valuation Procedures and Methodology." Note that the valuation makes no reduction for commission on sale, unpaid taxes, or liens against the property.

Current Ownership

The property is currently under the ownership of BD Broussard Real Estate Partnership LLC. The property is currently improved with an operating ranch with a 1,634 square foot residence and various barns and fencing.

Three-Year Sale History

The residence on the property was originally constructed in 1870, with Mr. Broussard obtaining ownership in 2002. Mr. Broussard built the various barns and outbuildings, as well as fenced the property since the purchase, and completely renovated the residence in 2008. There have been no known sales transactions during the past three years on the property. The property is not known to currently be under contract to sell or to be listed for sale. Mr. Broussard is in the process of donating the property to the City of Tomball, who plans to utilize the property as a park.

Scope of Work

According to the Uniform Standards of Professional Appraisal Practice, it is the appraiser's responsibility to determine the appropriate scope of work. USPAP defines the scope of work as:

The amount and type of information researched and the analysis applied in an assignment. Scope of work includes, but is not limited to, the following:

- the degree to which the property is inspected or identified;
- the extent of research into physical or economic factors that could affect the property;
- the extent of data research; and
- the type and extent of analysis applied to arrive at opinions or conclusions.

The following information defines the Scope of Work taken by the appraiser(s):

Report Type:	Appraisal
Inspection:	The inspection date was August 16, 2014.
Market Analysis and Market Conditions:	Stable
Data Collection Process:	Due to the built out nature of the secondary structures such as barns, the property is somewhat unique. As such, we were unable to confirm any comparable sales or rentals that did not require such large adjustments as to render them unreliable. Therefore, we have valued the property via the sales comparison approach (as vacant), with contributory value from the improvements. Our data sources were the local Realtors, county deed records and appraisal district records, MLS, LoopNet, and CoStar. Our search for data concentrated on the immediate market area. Our search for data extended back to January 1, 2012. We supplemented these sources with information from knowledgeable brokers, particularly those with listings in the immediate area.
Highest and Best Use:	<i>As Vacant</i> – Residential Development <i>As Improved</i> – The existing improvements do represent one of the highest and best uses for the subject site.
Cost Approach Analysis:	A complete cost approach was applied.
Income Approach Analysis:	Not Applicable.
Sales Comparison Approach Analysis:	Not Applicable.

Competency Statement

Prior to accepting this assignment, the appraisers concluded that they have the necessary experience and/or knowledge to competently complete the appraisal, and during the preparation of the appraisal, the appraisers have not discovered any areas in the assignment requiring appraisal expertise which they were lacking.

Marketing Period

Given the existing market information from an historic perspective, as well as the anticipated supply line of directly competing product, the appraisers believe that the subject property, **at the concluded value of this appraisal**, would require a marketing time of approximately 12 months.

Exposure Time

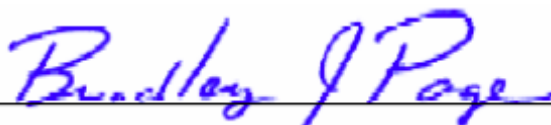
According to the PwC *Real Estate Investor Survey* (1st Quarter 2014), the average exposure period for the single tenant market is ranging from 6 to 18 months, with an average of about 10 months nationwide. Further the appraisers have examined the average length of time for similar properties were exposed to the market in the Houston MSA, and have determined that the average time period in which these properties were exposed to the market was 10 to 15 months.

Based on the indicated exposure periods, the value conclusion represents a market price achievable within 12 months exposure prior to the effective date.

Certification Statement

We certify that, to the best of our knowledge and belief:

- The statements of fact contained in this report are true and correct.
- The reported analyses, opinions and conclusions are limited only by the reported assumptions and limiting conditions, and is our personal, unbiased professional analyses, opinions and conclusions.
- We have no present or contemplated future interest in the property that is the subject of this report, and we have no personal interest or bias with respect to the parties involved.
- Our compensation is not contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event.
- Our analyses, opinions and conclusions were developed, and this report has been prepared, in conformity with: the Uniform Standards of Professional Appraisal Practice (effective date January 1, 2006); and the Code of Professional Ethics and the Standards of Professional Practice of the Appraisal Institute.
- Bradley J. Page made a personal inspection of the property that is the subject of this report.
- No other person provided significant professional assistance in the development of the conclusions contained in this report.
- The Appraiser has established sufficient competence to appraise this property through education and experience, in addition to the internal resources of the appraisal firm.
- As of the date of this report, Bradley J. Page is a Texas State Certified General Real Estate Appraiser under the authority of the Texas Appraiser Licensing and Certification Board.
- Our value conclusion and other opinions expressed herein are not based on a requested minimum value, a specific valuation, or the approval of a loan.
- This has office has not performed an appraisal of the subject property prior to this assignment.



Bradley J. Page
Licensed in the State of Texas
License #TX-1326374-G

Limiting Conditions and Assumptions

Acceptance of and/or use of this report constitutes acceptance of the following limiting conditions and assumptions; these can only be modified by written documents executed by both parties.

This appraisal is to be used only for the purpose stated herein. While distribution of this appraisal in its entirety is at the discretion of the client, individual sections shall not be distributed; this report is intended to be used in whole and not in part.

No part of this appraisal, its value estimates or the identity of the firm or the appraiser(s) may be communicated to the public through advertising, public relations, media sales, or other media.

All files, work papers and documents developed in connection with this assignment are the property of Apex Appraisals, Inc. Information, estimates and opinions are verified where possible, but cannot be guaranteed. Plans provided are intended to assist the client in visualizing the property; no other use of these plans is intended or permitted.

No hidden or unapparent conditions of the property, subsoil or structure, which would make the property more or less valuable, were discovered by the appraiser(s) or made known to the appraiser(s). No responsibility is assumed for such conditions or engineering necessary to discover them. Unless otherwise stated, this appraisal assumes there is no existence of hazardous materials or conditions, in any form, on or near the subject property.

Unless stated herein, the property is assumed to be outside of areas where flood hazard insurance is mandatory. Maps used by public and private agencies to determine these areas are limited with respect to accuracy. Due diligence has been exercised in interpreting these maps, but no responsibility is assumed for misinterpretation.

Good title, free of liens, encumbrances and special assessments is assumed. No responsibility is assumed for matters of a legal nature.

Necessary licenses, permits, consents, legislative or administrative authority from any local, state or Federal government or private entity are assumed to be in place or reasonably obtainable.

It is assumed there are no zoning violations, encroachments, easements or other restrictions which would affect the subject property, unless otherwise stated.

The appraiser(s) are not required to give testimony in Court in connection with this limited appraisal. If the appraisers are subpoenaed pursuant to a court order, the client agrees to pay the appraiser(s) our regular per diem rate plus expenses.

Appraisals are based on the data available at the time the assignment is completed. Amendments/modifications to appraisals based on new information made available after the appraisal was completed will be made, as soon as reasonably possible, for an additional fee.

If any such allocation is made, the allocation of value between land and building for the subject property applies only under the present program of utilization, and does not apply under any other premise. The allocations of value for land and building must not be used in conjunction with any other appraisal and are invalid if so used.

We do not authorize the out-of-context quoting from or partial reprinting of this appraisal report. Further, neither all nor any part of this appraisal report shall be disseminated to the general public by the use of media for public communication without the prior written consent of the appraisers signing this appraisal report, particularly as to valuation conclusions, the identity of the appraisers or firm with which they are connected, or any reference to the Appraisal Institute.

There are no hidden or unapparent conditions or defects of the subject property, which would render it more or less valuable than the value opinion rendered, which is based on the property's readily apparent condition. Hidden defects are not the responsibility of the appraisers.

Unless otherwise stated in this report, the existence of hazardous material, which may or may not be present on the property, was not observed by the appraisers. However, the appraisers are not trained or qualified to detect hazardous waste and/or toxic materials. Any comment by the appraisers suggesting the possibility of the presence of such substances should not be taken as confirmation of the presence of hazardous waste and/or toxic materials. The presence, if any, of potentially hazardous materials may affect the value of the property. The value estimate is predicated on the assumption there is no such material on or in the subject property which would cause a loss in value. No responsibility is assumed for any such conditions, or for any expertise or engineering knowledge required to discover them. The appraisers' descriptions and resulting comments are the result of the routine observations made during the appraisal process. The appraisers recommend that the client should retain the services of a qualified independent engineer or contractor to determine the existence and extent of any hazardous materials, if the existence of hazardous waste substances on the property is a concern.

The writers of the report will not be required to give testimony or appear in court because of having made this appraisal, with reference to the property in question, unless arrangements have been previously made.

Full compliance with all applicable federal, state, and local environmental regulations and laws, and with all applicable zoning and use regulations, is assumed unless non-compliance or non-conformity is stated, defined, and considered in the appraisal report.

Responsible ownership and competent management exists for the property.

The owner of the subject property may be subject to additional financial expenditures in accordance with the Americans With Disabilities Act (ADA), a federal law codified at 42 USC Section 12101 ET SEQ. While numerous requirements of the ADA could affect the subject property, Title III of ADA requires owners and tenants of public accommodations to remove barriers to access by disabled persons and provide auxiliary aids and services for hearing, vision or speech impaired persons by January 26, 1992. The regulations under Title III of ADA are codified at 28 CFR Part 36. The appraisers, however, are not qualified experts as to the subject's compliance or noncompliance under ADA. In recognition of this laws recent enactment, some of the requirements may be subject to interpretation by the legal system. The client/reader is strongly urged to retain the services of a qualified independent expert and, if necessary, receive legal assistance in understanding its contents and in determining the subject's compliance, if this is a cause of concern. The value estimates reported herein are subject to revision should it be determined additional expenditures are required for conformance to ADA.

This is an Appraisal Report which is intended to comply with the reporting requirements set forth under Standard Rule 2-2(a) of the Uniform Standards of Professional Appraisal Practice. As such, it might not include full discussions of the data, reasoning, and analyses that were used in the appraisal process to develop the appraisers' opinion of value. Supporting documentation concerning data, reasoning, and analyses is retained in the appraisers' file. The information contained in this report is specific to the needs of the client and for the intended use stated in this report. The appraisers are not responsible for unauthorized use of this report.

Regional Overview

Location

The subject property is located in northern Harris County, within the city limits of Tomball. This location is approximately 40 miles north of the Houston Central Business District. The property is located within the Houston Metropolitan Statistical Area. Houston is located on the flat coastal plains of southeast Texas (the upper Gulf Coast prairie), approximately 50 miles northwest of the Gulf of Mexico.

Geography/Climate

Houston is located on the flat coastal plains of southeast Texas (the upper Gulf Coast prairie), approximately 50 miles northwest of the Gulf of Mexico. The climate is mild and rainfall is abundant due to Houston's proximity to the Gulf. The topography of the area is basically flat and level, consisting of both wooded and open land. The average growing season is 300 days with a normally frost free period extending from February 14 until December 11.

Population

Houston, the county seat of Harris County, is the nation's fourth most populous city and is the largest in the South and Southwest, covering approximately 617.34 square miles. Houston was the fastest growing city in the United States in the 20th century, according to American City Business Journals. More than five million people live in the metropolitan area with Houston's 2010 population being 2,099,451. Below is the 2010 population of various counties in the metropolitan area and the percentage of increase from 2000 to 2010.

County	2010 Population	2000 Population	Percent Increase 2000 to 2010
Austin	28,417	23,590	20.46%
Brazoria	313,166	241,767	29.53%
Chambers	35,096	26,031	34.82%
Fort Bend	585,375	354,452	65.15%
Galveston	291,309	250,158	16.45%
Harris	4,092,459	3,400,578	20.35%
Liberty	75,643	70,154	7.82%
Montgomery	455,746	293,768	55.14%
San Jacinto	26,384	22,246	18.60%
Waller	43,205	32,663	32.28%

Source - U.S. Census Bureau

Since the 2000 population of 1,953,631, Houston has had a population growth of 7.5%. Houston is among the nation's fastest-growing metropolitan areas. The area grew 25.2% between the 1990 and 2000 censuses, adding more than 950,000 people, while the nation's population increased 13.2% over the same period. From 2000 to 2030, the metropolitan area is projected by Woods & Poole Economics to rank sixth in the nation in population growth, adding 2.66 million people.

From 2005 to 2035, The Perryman Group sees population growth averaging 1.95% annually in the Houston region. Over the same period, the Texas-based economic forecasting firm expects employment to rise at a 1.59% annual rate.

The Houston–Sugar Land–Baytown Metro Area will lead the state in population growth, adding 3.53 million residents, between 2009 and 2035, according to The Perryman Group. Perryman also forecasts that Houston will add an additional 1.325 million jobs and account for almost one-fourth of Texas job growth during that time frame. That reflects a 1.57% annual growth rate. "The long-term forecast for the state is positive and a return to steady, healthy growth is anticipated," the report states.

HOUSTON PMSA POPULATION	
Year	Population
1990	3,321,911
2000	4,177,646
2008	5,694,586
2010	5,946,800

Source: U.S. Census Bureau

Economic Base

In addition to its strong population growth and educated residents, Houston is well-positioned to compete in today's global markets with its diverse future-growth industries and solid job growth rates continuing to exceed both Texas and the U.S. Long recognized as the energy capital of the world with every major energy company holding a significant local presence, Houston now stands as a global example of economic diversity. The area is home to a thriving base of industries including medical and biomedical technology, global trade (particularly airborne and waterborne domestic and international cargo), aeronautics, plastics manufacturing, electronics computers, software design and integrated power.

Houston has twenty-five (25) Fortune 500 companies headquartered locally, with many other companies maintaining U.S. administrative headquarters in the metro area. In 2010, Houston ranked third among U.S. cities with the most Fortune 500 headquarters, following by only New York (70) and Chicago (28), and surpassing Dallas/Fort Worth (24), Los Angeles (21) and Minneapolis/St. Paul (20).

According to Greater Houston Partnership, December 2010 publication, Houston' economy will continue to grow in 2011 and 2012, adding more jobs in than in 2010. By December, Houston will have replaced many of the jobs lost during the recession and be closer to a full recovery. Growth will be fueled by the ongoing U.S. recovery, growth in the developing world, a weak U.S. dollar and rising oil prices. However, several factors will temper that growth, the drilling moratorium in the Gulf of Mexico, weak natural gas prices, a soft real estate market, and government budget woes. For Houston, the recovery began in April 2009, the first month the Houston Purchasing Managers Index registered an uptick after trending downward for more than a year. Two months later, the North American rotary rig count rebounded. Passenger traffic at the Houston Airport System picked up in August. Cargo shipments through the Houston- Galveston Customs District began to improve in November. Employment, a lagging indicator, began to grow again in February of 2011.

From the start of Houston's recession in September 2008 to the bottom in January 2010, the region lost 135,400 jobs, one in every 19 in the region. Those are seasonally unadjusted numbers. On a seasonally adjusted basis, Houston lost 115,900 jobs or one in every 23 in the region. Even so, Houston fared better than most other metros. During the recession, Atlanta lost 210,000 jobs, one in every 11; Phoenix lost 235,000 jobs, one in every eight; Miami lost 250,000 jobs, one in every 10; and Los Angeles lost 541,000 jobs, also one in every 10. In fact, of the nation's 20 most populous metro areas, only Washington, D.C. lost a smaller share of jobs than Houston. (All metro comparisons are based on seasonally adjusted data prepared by the U.S. Bureau of Labor Statistics.) This recession also was not as significant as the one Houston experienced in the mid- '80s. That recession dragged on for nearly five years and saw 221,000 jobs, one in every seven, slashed from local payrolls. The 2008-2009 recession lasted 17 months and saw a third fewer jobs lost. The region has already recovered some of those losses. In the 12 months ending October 2010, Houston posted a net gain of 6,200 jobs. While that's far off Houston's normal pace of adding 50,000 to 60,000 jobs per year, it is an improvement over the job losses suffered in 2009.

More jobs would have been created this year if not for several factors affecting local business and consumer confidence. In January, the Obama administration proposed a NASA budget that was drastically reduced with emphasis shifted to the private sector for the future of the space program. Further, the White House initiated the Health Care Reform Act, compelling the local health care community to begin rethinking its business model. In May, the administration placed a moratorium on deepwater drilling in the Gulf of Mexico, idling rigs and workers. The possibility of Congress imposing a cap-and-trade system to reduce greenhouse emissions lingered throughout the year. And Continental Airlines announced it would merge with United Airlines, locating its new headquarters in Chicago. Those factors impacted Johnson Space Center, the Texas Medical Center, the oil and gas industry, the Gulf Coast chemicals and refining complex, and the transportation sector. In light of all the turmoil, Houston's job growth in 2010 wasn't nearly as trivial as it might seem. The recovery that began this year in manufacturing, transportation, wholesale and retail trade, professional services, personal services, hotels and dining services should continue in 2011. Energy employment will rise as growth in exploration and production more than offsets shrinkage in oilfield services. Health care employment will continue to grow. Construction will continue to shed jobs. State and local government, including area school districts, will also suffer job losses. Regardless of the weak real estate market, the de facto moratorium in the Gulf, and government budget woes, Houston will continue to grow for the second consecutive year.

GHP's forecast calls for the region to add 23,300 private sector jobs in 2011, but the improvement will be tempered by the loss of 5,100 public sector jobs. The net gain will be 18,200 jobs. The greatest gains will be in health care and social assistance, 5,700 jobs; professional and business services, 4,300 jobs; accommodation and food services, 3,400 jobs; retail trade, 2,200 jobs; oil and gas extraction, 2,100 jobs; and manufacturing, 2,000 jobs. The greatest losses will be in government, 5,100 jobs; construction, 3,500 jobs; and oil field services, 1,100 jobs. It should be noted that the value of this forecast lies not in the accuracy of the numbers, but in understanding the trends driving the data.

Employment. The following tables illustrate the top Houston area employers for 2013.

TOP TWENTY EMPLOYERS		
Employer	Industry	Employees
Exxon Mobil & Exxon Mobil Chemical Co.	Oil and Gas	19,500
Memorial Hermann Healthcare System	Health Care	19,500
U of Texas M.D. Anderson Cancer Center	Health Care	17,000
United Continental Holdings	Airline	17,000
Schlumberger Limited & Schlumberger Integrated Productivity & Conveyance	Oil and Gas	15,500
Shell Oil Company	Oil and Gas	13,000
The Methodist Hospital System	Health Care	13,000
United Space Alliance	Space Operations	10,185
National Oilwell Varco	Oil and Gas	10,000
BP America	Oil and Gas	9,537
University of Texas Medical Branch Health	Education	9,318
Baylor College of Medicine	Education	9,232
HP	Computers	9,000
St. Luke's Episcopal Health System	Health Care	9,000
ARAMARK Corp.	Professional Services	8,500
Chevron	Oil and Gas	8,000
Pappas Restaurants, Inc.	Food Service	8,000
HCA	Health Care	7,855
AT&T	Communications	6,900
The Dow Chemical Company, Freeport	Chemicals	6,100

Source: Greater Houston Partnership Database

The following table summarizes employment by trade:

MARCH 2014 EMPLOYED			
Industry	Houston MSA	Mo/% Change	Annual % Change
Total Nonagricultural	2,847,200	0.7%	2.9%
Mining & Logging	109,300	1.2%	5.0%
Construction	194,500	-1.6%	3.1%
Manufacturing	256,400	0.2%	2.8%
Trade, Transportation & Utilities	575,700	1.5%	3.7%
Information	32,700	0.3%	2.8%
Financial Activities	142,200	1.1%	1.1%
Professional & Business Services	432,600	0.9%	2.0%
Education & Health Services	341,500	0.4%	2.1%
Leisure & Hospitality	277,800	0.8%	3.9%
Other Services	100,600	0.6%	2.6%
Government	363,900	0.5%	3.0%

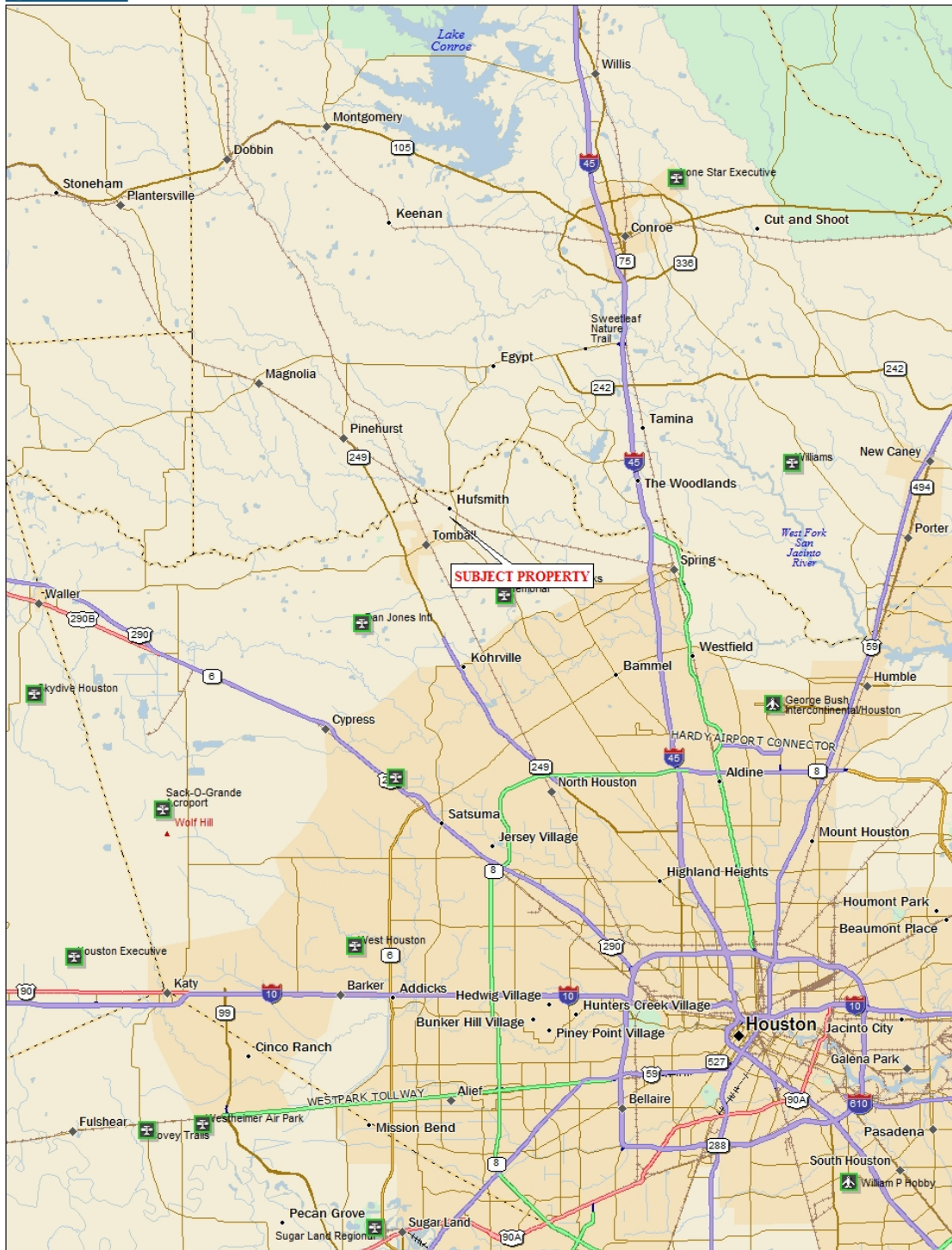
Source: Texas Workforce Commission/Greater Houston Partnership

Unemployment. According to a report published by Texas Workforce Commission, total nonagricultural employment for the Houston/Sugar Land/Baytown MSA gained 18,900 jobs in March and added 80,100 over the year. The national unemployment rate was 6.8% in March 2014, down from the 7.0% rate in February 2014, and down from the 7.6% rate in March 2013, the Texas unemployment rate was 5.3% in March 2014, down from the rate of 5.9% in February 2014, and down from the rate of 6.3% in March 2013. The Houston/Sugar Land/Baytown MSA unemployment rate was 5.2% in March 2014, down from the 5.7% rate in February 2014, and down from the 6.1% rate in March 2013

Summary

A contributing factor to the strengthening of the real estate market has been diversification of the economic base. One of Houston's strengths is that the city has historically encouraged entrepreneurial activity and risk taking. In a downturn such as the one from which Houston has recently emerged, the market is less forgiving of ill-advised decisions, weeding out the less efficient and overly optimistic. This cleansing action creates more opportunities for the more efficient to take advantage of the new opportunities when the recovery comes.

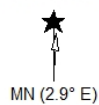
Though Houston faces some challenges in the near term, the long-term outlook is bright. From 2005 to 2035, The Perryman Group sees Houston leading the state in population growth, adding 3.53 million residents and 1.325 million jobs and accounting for almost one-fourth of Texas job growth. The long-term outlook for the Houston metro area is positive.



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Neighborhood Information

A neighborhood is defined in The Dictionary of Real Estate Appraisal, Fifth Edition, copyright 2010, page 73 by the Appraisal Institute as follows:

"A group of complimentary land uses; a congruous grouping of inhabitants, buildings, or business enterprises."

Neighborhoods may be devoted to such uses as residential, commercial, industrial, agricultural, and civic activities, or a mixture of these uses. Analysis of the neighborhood in which a particular property is located is important due to the fact that the various economic, social, political, and physical forces which affect that neighborhood also directly influence the individual properties within it.

Subject's Neighborhood Defined

The subject neighborhood is located in northwest Harris County in the Tomball area. For the purposes of this report, the neighborhood is defined as being bound on the north by the Harris County line, on the east by IH 45, on the south by SH 6/FM 1960, and on the west by Katy Hockley Road. This area is generally referred to as Tomball. The neighborhood is located approximately 40 miles northwest of Houston's Central Business District.

Major Traffic Carriers

General access to the area is provided by Interstate Highway 45, SH 249, FM 2920, and SH 6, and numerous interior collector streets.

Topography

The subject neighborhood is relatively level with some semi-rolling terrain along streams, creeks and bayous. Portions of the neighborhood lie within the 500-year and 100-year flood hazard areas.

Neighborhood Development

The subject area is mixed use in nature, with both single family and multi-family dwellings. There are retail/commercial properties along the major roadways. The single family homes are located in the interior areas in typical platted subdivisions. Single family detached homes have varying values and age ranges, depending on location. There are also apartment complexes scattered throughout the area, with many being located on the major streets in the area. The commercial usage ranges from small, freestanding retail and office facilities to neighborhood shopping centers. There are generally utilities to most points in the sector of the neighborhood. The area is not zoned, but it is typically restricted by deed in the platted residential subdivisions.

The major population center in the immediate area is the city of Tomball. This city had a population of approximately 11,000 in 2012, with a median income of \$40,605. Although the town has shown growth in the past several decades, it remains a rural town at heart.

The subject property is located on Hufsmith Road in a stretch of rural residential and light industrial properties. Due to the age of the neighborhood and the large amount of residential development in the area that has taken place in the past 10 years, there has been a lot of new commercial development.

Stage of Development

The subject's neighborhood is in the mature stage of the neighborhood life cycle with $\pm 50\%$ of the area built-up. The real estate market in the Houston area, including the subject's neighborhood, has enjoyed stability and good growth over the past several years, although recent economic difficulties have impacted property values in many parts of the area. The stability of the neighborhood is primarily attributable to the local economy, fueled by low inflation and relatively low unemployment.

It appears that commercial and industrial properties, including single and multi-tenant facilities, are experiencing good demand. In most instances, rental rates and occupancy levels have increased over the past decade, near future projections are for stability in both rental rate and occupancy levels for most property types.

Given the characteristics of the subject's neighborhood (including its development composition, adequate recreational, educational, and cultural facilities, and access to major transportation routes), the outlook for the area is stable.

Availability of Financing

The most probable source of financing in the neighborhood comes from mortgage companies, banks, insurance companies or government programs. There appears to be no shortage of financing options to fund purchases of homes or commercial properties.

Political Jurisdiction and Public Services

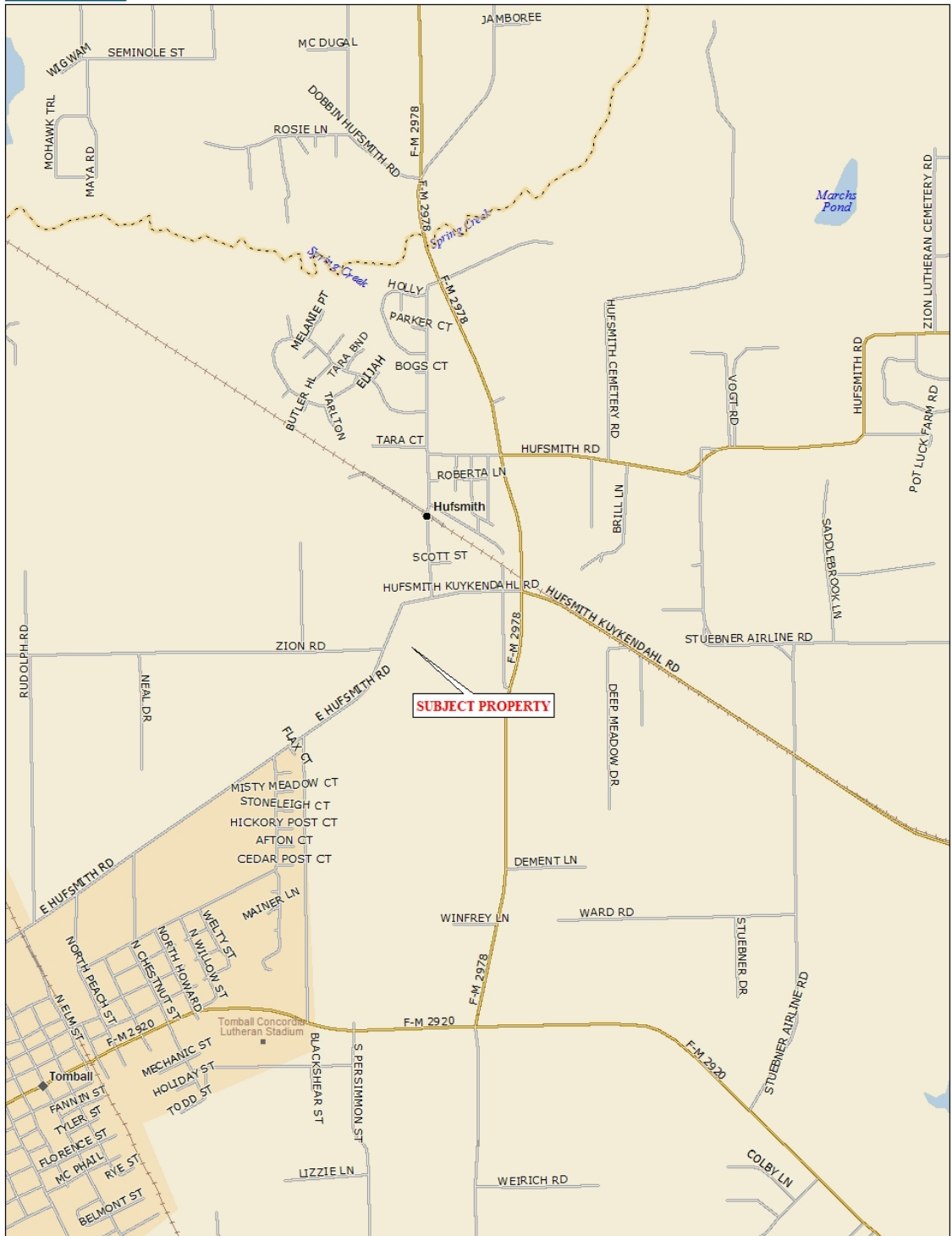
The subject neighborhood lies within the city limits of Tomball and Harris County. Fire and police protection are provided by the city and county. The neighborhood lies within the educational jurisdiction of the Tomball Independent School Districts, with public schools of all levels located throughout the neighborhood.

Utilities

Water is provided by the City of Tomball, as well as a number of local MUDs (municipal water districts) and sewer services are generally provided by septic sewer systems or treatment plants owned and operated by the various subdivisions. Electricity is provided by Reliant Energy and other retail providers over CenterPoint Energy transmission facilities, natural gas is provided by CenterPoint Energy and telephone service is provided by AT&T.

Summary

Tomball's location in relation to several transportation corridors coupled with the lack of city controls on development presents a demand by light industrial users and homeowners wanting the freedom of country living. The area has shown signs of growth with a good supply-demand balance. The overall near and long term is predicted to include stability with moderate growth in the future as the national and area economies improve.



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Subject Property Identification

Location Information	
Property:	Broussard Ranch 1414 E Hufsmith Road Tomball, Texas 77375
Market Area Type:	Suburban
Key Map:	249 W
Traffic Count:	500 (estimate)
Location Description:	The property is located along the east line of E. Hufsmith Road at Zion Road.
Legal Description:	16.6372 Acres out of the John S Smith Survey, Abstract No. 730, City of Tomball, Harris County, Texas

Assessment Information				
Year	Tax ID/APN	Land Value	Improved Value	Total Value
2014	045-034-001-0067	\$292,852	\$100,611	\$393,463
	045-034-001-0175		Tax Liability	\$9,851.50

Building Size – As Existing	
Gross Building Area(SF):	1,634 – House 300 – Garage Apartment 3,500 – Stables Barn 800 – Pasture Barns (4) 500 – Grandstand
	Source: Site Visit & Client

Zoning	
Zoning Designation:	Agricultural
Deed Restrictions:	None
Comments:	The subject is located in the city of Tomball and is zoned agriculture, which allows rural single family residential. Further, it does not appear that the site is subject to deed restrictions.
Conforming Use:	Based on this information, the existing improvements are considered to be a conforming use.

Construction Information			
Year Built:	1870 - SFR	Property Condition:	Good
	One SFR		
No. of Buildings:	One Garage Apt	No. of Stories:	One plus partial 2 nd floor
	Five Barns		
Effective Age:	12.5 years	Economic Life:	50 years
Actual Age:	144 years		
Building Class:	D		
Roof Type:	Pitched composite shingles over wood deck and rafters for the SFR and pitched metal roof deck and support joists for the barns		
Electrical:	Centerpoint transmission lines		
Type of A/C/Heating:	Central HVAC system.		
Construction Description:	Wood siding on the SFR, metallic siding on the barns		
Construction Quality:	The buildings are considered good construction quality and materials based on the site visit.		
Comments:	The subject is a ranch operation with a house that was originally constructed in 1870 and extensively renovated most recently in 2008. There are a number of barns on the property, including a large barn with built in storage and horse stables. Additional improvements include a number of metallic pasture barns, a grandstand area, metal pipe perimeter fencing, a built out garage apartment, and a lake with fountains.		

Land Information			
Gross Land Area:	14.3506 acres	625,112 square feet	
Description:	The property is located along the east line of E. Hufsmith Road at Zion Road.		
Shape:	Irregular	Topography:	Level
Frontage:	297' – E Hufsmith	Depth:	1,100'
In Flood Plain:	No	Area in Flood Plain:	None
Encumbrance/Easement	There are no known adverse encumbrances or easements affecting the marketing of the property. A pipeline extending through the center of the site in a north/south direction is typical for the area.		
Surplus Land Area(SF):	None		
Excess Land Area(SF):	None		
Environmental Issues:	There are no known environmental issues affecting the marketability of the property.		

At Site Utilities		
Water:	Tomball	Adequate
Sewer:	Tomball	Adequate
Electricity:	Centerpoint	Available
Gas:	Centerpoint	Available
Telephone:	AT&T	Available

Other Comments	
Comments:	The property is irregular in shape. The property has water and sewer on site. The property is currently improved with a single family residence and several barns. Site improvements include parking and drives, a lake, perimeter fencing, and landscaping.

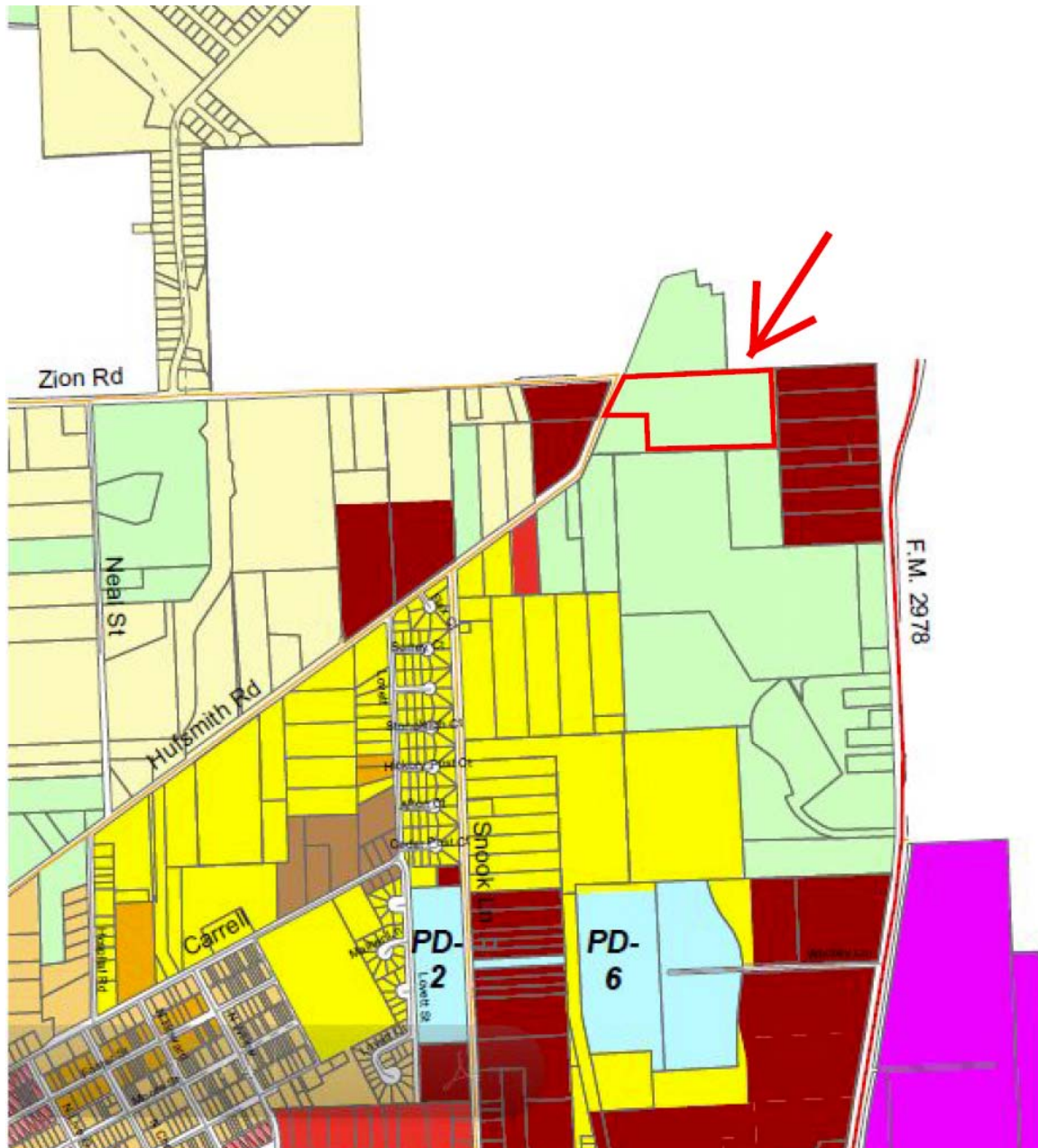
Other Pertinent Information	
Quality & Structural Condition:	The overall quality of the facility is considered average for the neighborhood and age. Apex Appraisals did not observe any evidence of structural fatigue and the improvements appear structurally sound for occupancy. However, Apex Appraisals is not qualified to determine structural integrity and it is recommended that the client retain the services of a qualified, independent engineer or contractor to determine the structural integrity of the improvements prior to making a business decision.
Functional Utility:	The overall layout of the property is considered functional in utility and provides adequate accessibility.
ADA Compliance:	The client/reader's attention is directed to the specific limiting conditions regarding ADA compliance.
Environmental Issues:	Apex Appraisals has not observed, and is not qualified to detect, the existence of any potentially hazardous materials such as lead paint, asbestos, urea formaldehyde foam insulation, or other potentially hazardous construction materials on or in the improvements. The existence of such substances may have an impact on the value of the property. For the purpose of this assignment, we have specifically assumed that any hazardous materials that would cause a loss in value do not affect the subject.
Economic Life:	We have estimated the economic life of the property based on estimates provided by Marshall Valuation Services and our experience in valuing similar property types. It should be noted that the effective age of the property as estimated assumes that the property will be well maintained through routine maintenance.

Aerial





Subject Property Zoning Map



Highest and Best Use Analysis

Four criteria are examined in order to determine the highest and best use of the subject property. The criteria and their applicability to the subject, both “as vacant” and “as improved” are as follows:

- **Legally Permissible:** *a legally permissible use is determined primarily by current zoning regulations. However, other considerations such as long-term leases, deed restrictions, and environmental regulations may preclude some possible highest and best use.*
- **Physically Possible:** *the size, shape and topography affect the uses to which land may be developed. The utility of a parcel is dependent on its frontage and depth. Sites with irregular shapes may be more expensive to develop, and topography or subsoil conditions may make utilization too costly or restrictive. Highest and best use as improved also depends on physical characteristics such as condition and utility.*
- **Financially Feasible:** *the use of the property is analyzed to make a determination as to the likelihood that the property is capable of producing a return which is greater than the combined income needed to satisfy operation expenses, debt service, and capital amortization. Any use that is expected to produce a positive return is classified as financially feasible.*
- **Maximally Productive:** *the use that provides the highest rate of return among financially feasible uses is the highest and best use. The use of the land must yield a profitable net return, and the quantity of land devoted to any specific use must be limited to that quantity which will yield a maximum return to each owner.*

Highest and Best as Vacant	
Legally Permissible:	The subject is located in the city of Tomball in northern Harris County and is zoned agriculture. Further, it does not appear to be subject to deed restrictions.
Physically Possible:	The size, shape, and terrain are conducive for many types of development. The utilities serving the subject site are adequate for commercial use. The property has good visibility from fronting roadways. The subject's size of 14.3506 acres is sufficient to allow development of residential or smaller commercial uses and most allowed uses may be physically placed on the site without any unreasonable hindrance. The subject site physical aspects do not impose physical limitations on development for the above legally permissible uses. Within the immediate area there is primarily residential development and light industrial development.
Financially Feasible:	Financially feasible refers to legal uses which are physically possible and have a sufficient demand to produce a positive return. Once the physically possible and legally permissible potential land uses have been determined, the next step in estimating the highest and best use is to determine which uses are economically feasible. The primary type of development in the immediate area is residential, including both mobile homes and brick veneer homes on concrete slabs. Based upon these observations, these uses would reflect one of the highest and best uses.
Maximally Productive:	With consideration to the highest legal use as allowed by the development regulations, consideration must be given to the financial consequences of building other uses on the site. The returns to the investor can be tested to establish which would return the most to the site. The financial return is tested and an analysis is made of a cash-on-cash return of the legal uses. The cost of operations of the possible property types is approximately the same on a percentage basis.
Additional Considerations:	An additional use which must be considered as a part of the "highest and best as if vacant" is the possibility of the improvements being razed and the land being sold for redevelopment. This would only be the choice of uses if there were no present demand for the use that meets the other test. This is not the case in the present real estate market where the subject property is well situated in a good submarket. As stated in the market analysis, the development of the area continues to be stable, and this is likely to continue.

Highest and Best as Improved	
Legally Permissible:	The existing improvements are considered a conforming use.
Physically Possible:	The physical characteristics of the subject improvements were discussed in detail within the Subject Property Identification section of this report. Overall, the construction quality of the subject improvements is considered to be average. The overall design and functionality of the improvements are considered good for their intended use. While it would be physically possible for the property to handle a wide variety of uses, based on the design of the improvements, the most functional use of the property would be for rural residential/ranch.
Financially Feasible:	Financially feasible refers to legal uses which are physically possible and have a sufficient demand to produce a positive return. Once the physically possible and legally permissible potential uses have been determined, the next step in estimating the highest and best use is to determine which uses are economically feasible. As existing, the subject is generally of average design and quality compared to competing properties in the subject's competitive market area. The design of the improvements and layout of the project are acceptable in the market and represent maximum utilization of the site as improved. Traffic counts continue to increase. Land prices are stable in the immediate area. Therefore, the use as a ranch does reflect one of the highest and best uses of the site as improved.
Maximally Productive:	With consideration to the highest legal use as allowed by the development regulations, consideration must be given to the financial consequences of building other uses on the site. The returns to the investor can be tested to establish which would return the most to the site. The financial return is tested and an analysis is made of a cash-on-cash return of the legal uses. The cost of operations of the possible property types is approximately the same on a percentage basis. The current operating income of the subject property is sufficient to provide a positive return of investment.

Highest and Best Use Summary	
Summary:	The subject neighborhood is a stable area of the Houston MSA and Harris County. The property size is sufficient for many uses and access is good. As vacant, the highest and best use of the property is residential. Since the property provides revenue from the existing business, the highest and best use of the site as existing is for use as the Broussard Ranch.

Valuation Procedures and Methodologies

Current appraisal standards recognize three basic approaches to real estate value. These are identified as the Cost, Income, and Sales Comparison Approaches.

Cost Approach

The Cost Approach to value is developed by two fundamental opinions: the value of the land and the value of the improvements to the land. Initially, the current fair market value of the land is estimated as if unimproved and capable of being put to its highest and best use. The reproduction or replacement cost new of the improvements, less any depreciation, is then added, along with any contributory value of the site improvements. The validity of the resulting value estimate is impacted to varying degrees by the accuracy of the cost estimates and the depreciation estimate. In this instance, the cost approach was believed to be a factor to determine value.

Income Approach

The Income Approach measures value by capitalization of the net income from the real estate. The potential gross income is first estimated based on data derived directly from the market. Deductions are then made for vacancy and collection loss, and normal operating expenses. The resulting net income figure is then converted to a value estimate by any one of several capitalization methods. In this instance, the income approach was not believed to be a factor to determine value.

Sales Comparison Approach

The Sales Comparison Approach is based on comparison between the subject property and similar properties which sold within a reasonable period prior to the date of appraisal, and which are capable of providing insight into the valuation of the subject property. Units of comparison are examined and developed and after making the appropriate adjustment for differences such as location and physical characteristics, are then applied to the subject to derive an indication of value. Critical in this valuation methodology, is the availability of sufficient market comparables with which to make valid comparisons.

The Cost Approach

The Cost Approach is widely used by many appraisers because its application is relatively uniform. Its proper use can provide appropriate support to the sales comparison and income approaches to value.

The inherent difficulty within the cost approach is the estimate of depreciation to be deducted from the replacement cost new. The key to proper application of the cost approach is to derive physical depreciation adjustments from the market and correctly derive external obsolescence in an overbuilt or depressed market.

The application of the cost approach begins with a determination of the site value, calculates a replacement cost for the improvements, calculates and deducts the impact of all forms of depreciation, resulting in a depreciated replacement cost. This depreciated figure is added to the site value, for a concluded cost value determination.

The most reliable methodology determined to be applicable for the subject property is the market data or comparative approach. Sales of comparable vacant parcels are analyzed and weighed relative to the characteristics of the land being appraised. The comparison includes selection of similar sites with similar highest and best uses.

Land Value Analysis

To develop an opinion of value for the subject site, "as vacant," the appraisers have undertaken a sales comparison analysis. We have analyzed vacant land sales similar to the subject. The utilized basis is price per square foot of net land. In some cases, analysis on a price per square foot of to-be-built building area is appropriate as noted.

The following selection criteria were used:

Sale Period:	A sale period of January 2012 to the effective date of this appraisal was examined.
Location / Neighborhood:	Sales were taken from the north Harris County area focusing on vacant land with similar characteristics as the subject.
Physical Attributes:	The survey of comparable sales was limited to sites of similar size and acreage.
Highest and Best Use:	All of the sales had allowed similar uses as the subject.

Sale Collection Results

Of the sales reviewed, based on the above criteria, the following sales represent the best available from the market to determine the subject's market potential under this valuation approach. While some are more ideal than others, the appraisers believe that they represent a sufficient sample of the data reviewed to illustrate a sound market-based conclusion for the subject.

The selected comparable sales are presented on the following pages.

LAND SALE 1

Location

East line of Lovette Street, south of E Hufsmith Road
Tomball

Market Type: Suburban
Property Type: Vacant

Sale Data

Sales Price: \$225,000
Sale Status: Closed
Recording Date: 1/28/2013
Legal Description: Tracts 98B, 103, & 104A, Tomball Outlots
Rights Conveyed: Fee Simple
Grantor: Woodforest National Bank
Grantee: 23730 Lovett LLC
Financing: Cash Equivalent

Sales Price / Acre: \$22,500
Document No: 2013-038683

Property Data

Gross Land Area (Acres): 10
Gross Land Area (Sq. Ft.): 435,600
Frontage: Lovett
Zoning: Agriculture

Topography: Level
Utilities: Available
Proposed Use: Residential
Key Map: 289 A

Additional Comments

This sale was an REO sale. The purchaser will build a single family residential subdivision on the site.

LAND SALE 2

Location

515 E Hufsmith
Tomball

Market Type: Suburban
Property Type: Vacant

Sale Data

Sales Price: \$240,000
Sale Status: Closed
Recording Date: 12/4/2013
Legal Description: Tract 4, McCraw Tract II Ammendment
Rights Conveyed: Fee Simple
Grantor: Rafael F Diaz
Grantee: Deborah Caraballo
Financing: Cash Equivalent

Sales Price / Acre: \$31,704
Document No: 2012-0171139

Property Data

Gross Land Area (Acres) 7.57
Gross Land Area (Sq. Ft.): 329,749
Frontage: E Hufsmith
Zoning: Agriculture

Topography: Level
Utilities: Available
Proposed Use: Residential
Key Map: 288 D

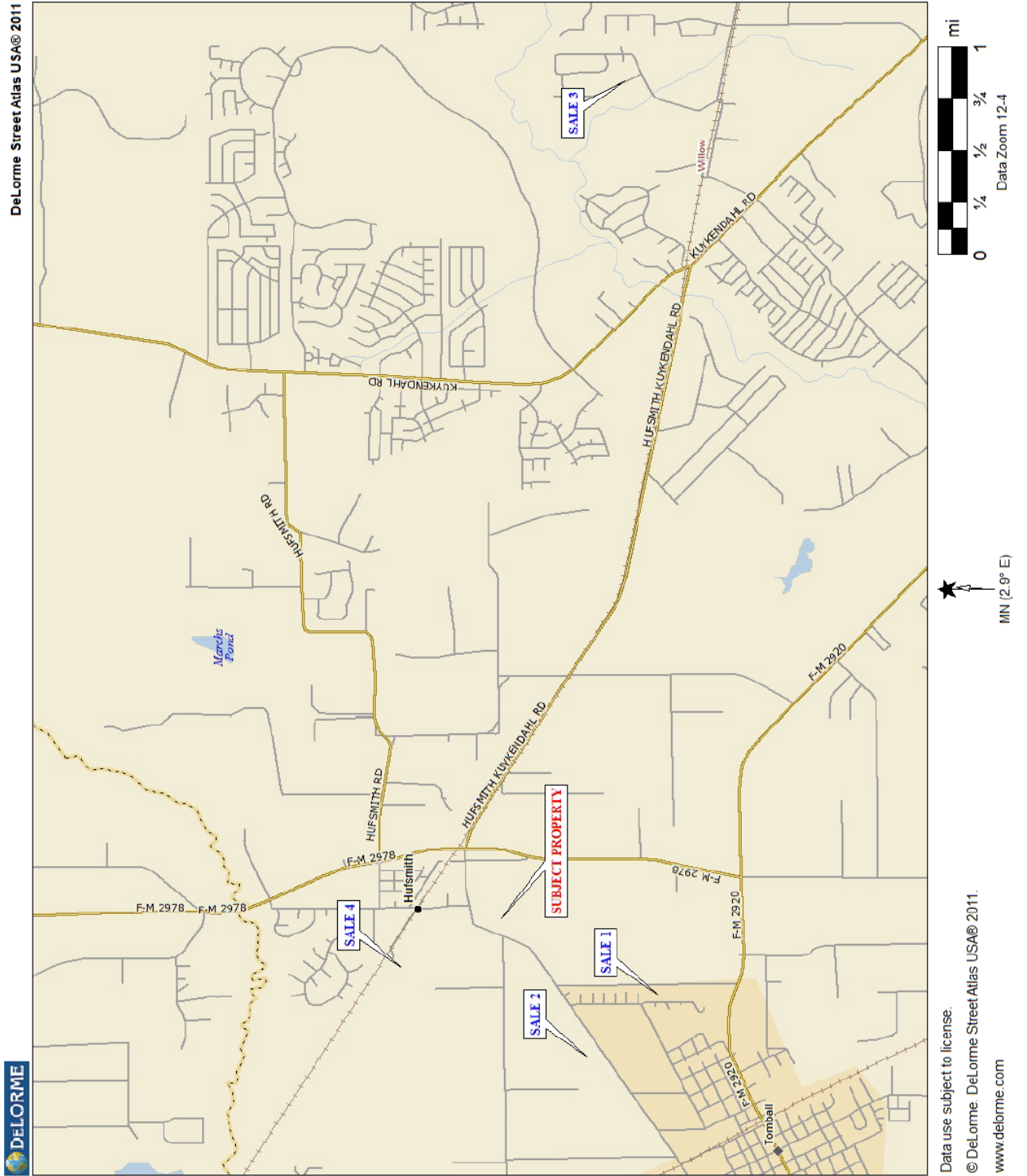
Additional Comments

This property borders a drainage ditch on its western border. Further, directly across the ditch is a sewer treatment plant. A large pole barn is located on the property.

LAND SALE 3	
Location	
West line of Lenze Road, south of Falling Oaks Spring	Market Type: Suburban Property Type: Vacant
Sale Data	
Sales Price: \$150,000 Sale Status: Closed Recording Date: 12/13/2013 Legal Description: Tract 1G, JW McGee Survey, Abstract 554 Rights Conveyed: Fee Simple Grantor: Maxine W Witre Grantee: Gabriel Dabdub Financing: Cash Equivalent	Sales Price / Acre: \$23,184 Document No: 2013-0624741
Property Data	
Gross Land Area (Acres) 6.47 Gross Land Area (Sq. Ft.): 281,833 Frontage: Lenze Zoning: None	Topography: Level Utilities: Available Proposed Use: Residential Key Map: 290 B
Additional Comments	
Property was purchased for the owners residential use. The tract is wooded and in close proximity to a creek, with some flood plain issues on part of the land.	

LAND SALE 4	
Location	
24759 Stanolind Tomball	Market Type: Suburban Property Type: Vacant
Sale Data	
Sales Price: \$750,000 Sale Status: Closed Recording Date: 3/24/2014 Legal Description: Part of Tract 33, J Miller Survey, Abstract 50 Rights Conveyed: Fee Simple Grantor: Charles & Melody Weirich Grantee: Kenneth & Sonja Wilson Financing: Cash Equivalent	Sales Price / Acre: \$16,668 Document No: 2014-0116724
Property Data	
Gross Land Area (Acres) 44.9954 Gross Land Area (Sq. Ft.): 1,960,000 Frontage: Darby Lane Zoning: None	Topography: Level Utilities: Available Proposed Use: Residential Key Map: 249W
Additional Comments	
This property is located at the end of Stanolind Road, with a railroad crossing for access to the site from the road frontage. The sale includes an old residence that was given no value by the seller.	

LAND SALES MAP



LAND SALES ANALYSIS

We compared each sale to the subject and adjust its price per square foot to compensate for all significant differences that affect value.

The first four elements of comparison are applied individually in a compounded progressive order. Thereafter, qualitative comparisons will be discussed for factors including location and physical characteristics, as each compares to the subject property, followed by cumulative adjustments which recognize the overall superiority or inferiority of the comparable in relation to the subject property.

Real Property Rights Conveyed

The subject is being appraised in fee simple interest. Each of the comparables was comparable with respect to this factor. Therefore, no adjustments are required.

Financing Terms

The market value estimate for the subject property is based on the assumption of cash to seller transaction. Therefore, adjustments must be made for atypical or favorable financing to facilitate the transactions. Each of the comparables involved cash to seller transactions. No adjustments were required.

Conditions of Sale

An adjustment for conditions of sale is used to reflect the motivations of buyers and sellers in sales that are not arms-length transactions, due to duress, special relationships, or unusual circumstances. All of the comparables are considered an arms-length, typically motivated transaction, with no unusual circumstances reported. No adjustments were required to most of the sales. However, Sale 1 was from a bank who had obtained ownership through foreclosure. We have adjusted this sale upward by 10% for this factor.

Date of Sale

Sales and re-sales of the same or highly similar properties often provide the best indication of changing market conditions over time. The market area has been in a slight upswing as the Houston economic conditions have improved. As such, land values have been increasing slightly. Sale 1, with a January of 2013 sales date, has been adjusted upward by 5% to reflect the improving market conditions. The remaining sales are generally considered to represent current market conditions, with no adjustments made for this factor.

Physical Characteristics

Adjustments are considered for location, size, corner/frontage, on-sites/off-sites, and topography/configuration.

Location

This factor takes into account traffic counts, quality of surrounding development and amount of development and population density in the area. The subject is located in the interior of a rural residential neighborhood along a minor neighborhood roadway. The sales were adjusted based on the general differences in the demographics and density/type of surrounding development.

Size

In most areas of the Houston MSA, smaller tracts of land sell for a higher price per unit than larger properties. This is due to the fact that purchases of large acreage tracts entail a much greater capital outlay. This restricts the number of possible buyers as compared to the relatively larger market for smaller tracts, which tends to disproportionately "bid up" the smaller tract's per unit prices. This generalization, as a whole, is considered to be true in the subject neighborhood.

Corner/Frontage

Properties which enjoy a corner location or have frontage along more than one roadway typically sell at a higher per unit value due to increased exposure and accessibility.

Off Site Utilities

The availability of utilities is a major factor in the development of any property. If a site has no access to utility service and cannot acquire access, it is virtually impossible to develop. Therefore, the price paid for such a site would be affected due to its lack of utilities. In this case, an owner must make up the expense for acquiring the services and enhancing the site's value.

On Site Improvements

The subject has a number of on-site improvements that significantly add to its value to a typical buyer, including the various barns, perimeter fencing, pond, and garage apartment.

Topography/Configuration/Flood Plain

Properties which have very irregular shapes, are located in flood hazard areas with undevelopable portions, or have undesirable topography tend to have lower values.

Entitlements/Zoning/Use

The subject is zoned agriculture by the City of Tomball. The comparables all have similar zoning designations. No adjustments are warranted for zoning.

The following land sales adjustment grid shows our adjustments as they pertain to the subject property.

Land Sales Analysis with Adjustments

Subject		Sale 1	Sale 2	Sale 3	Sale 4
Location	1414 E Hufsmith Road	East line of Lovette Street, south of E Hufsmith Road	515 E Hufsmith	West line of Lenze Road, south of Falling Oaks	24759 Stanolind
City, State, Zip	Tomball, Texas 77375	Tomball	Tomball	Spring	Tomball
Recording Date		January-13	December-13	December-13	March-14
Sale Price		\$225,000	\$240,000	\$150,000	\$750,000
Zoning	None	Agriculture	Agriculture	None	None
Land Area (Acres)	14.3506	10.0000	7.5700	6.4700	44.9954
Land Area (SF)	625,112	435,600	329,749	281,833	1,960,000
Price Per Acre		\$22,500	\$31,704	\$23,184	\$16,668
Property Rights Conveyed		Comparable	Comparable	Comparable	Comparable
Percent Adjustment		0.0%	0.0%	0.0%	0.0%
Dollar Adjustment		\$0	\$0	\$0	\$0
Adjusted Price		\$22,500	\$31,704	\$23,184	\$16,668
Financing Terms		Comparable	Comparable	Comparable	Comparable
Percent Adjustment		0.0%	0.0%	0.0%	0.0%
Dollar Adjustment		\$0	\$0	\$0	\$0
Adjusted Price		\$22,500	\$31,704	\$23,184	\$16,668
Conditions of Sale		Comparable	Comparable	Comparable	Comparable
Percent Adjustment		10.0%	0.0%	0.0%	0.0%
Dollar Adjustment		\$2,250	\$0	\$0	\$0
Adjusted Price		\$24,750	\$31,704	\$23,184	\$16,668
Time/Market Conditions		Inferior	Comparable	Comparable	Comparable
Percent Adjustment		5.0%	0.0%	0.0%	0.0%
Dollar Adjustment		\$1,238	\$0	\$0	\$0
Adjusted Price		\$25,988	\$31,704	\$23,184	\$16,668
Location		Comparable	Inferior	Comparable	Inferior
Percent Adjustment		0.0%	5.0%	0.0%	20.0%
Dollar Adjustment		\$0	\$1,585	\$0	\$3,334
Adjusted Price		\$25,988	\$33,289	\$23,184	\$20,002
Size/Physical Characteristics		Inferior	Comparable	Inferior	Inferior
Percent Adjustment		10.0%	0.0%	10.0%	25.0%
Dollar Adjustment		\$2,598.75	\$0.00	\$2,318.39	\$5,000.51
Adjusted Price		\$28,586	\$33,289	\$25,502	\$25,003
Net Percent Adjustment		25.0%	5.0%	10.0%	45.0%
Net Adjustment		\$6,086	\$1,585	\$2,318	\$8,334
Adjusted Price		\$28,586	\$33,289	\$25,502	\$25,003

Price/SF Comparison

# of Comps.....	4
Maximum.....	\$ 33,289
Mean (avg.).....	\$ 28,095
Minimum.....	\$ 25,003

Indicated Subject Value

Total Acres.....	14.3506
Indicated Subject Value Per Acre.....	\$ 28,000
Indicated Subject Value.....	\$ 401,817
Indicated Value Rounded To.....	\$ 400,000

Conclusion

The subject property as vacant was compared to four recent sales of vacant land sites and a close proximity listing having similar characteristics and located in comparable alternative locations. The sales were chosen based upon similarity of use, timeliness of sales activity, zoning and location. In addition to these sales, we have examined a number of listings in the area. These listings range in asking price for as low as \$20,000 per acre to more than \$50,000 per acre. Based on the prior analysis, our conclusion of land value per the Sales Comparison Approach is as follows:

Sales Comparison Approach – Land Only.....\$ 400,000

Improvement Analysis

In estimating replacement costs we have utilized data from Marshall Valuation Service, a national cost estimating service. This system has been refined to reflect the local market through actual reported construction costs. However, it is important to note that these costs could differ from actual costs under a bid situation. There is a justification in using standardized cost data in that the appraisal considers value from the perspective of the typical investor; thus, the costs derived from Marshall Valuation reflect the "typical" cost in the area.

The Cost Approach methodology known as the "Calculator Method" (where value is estimated by building type costing rather than component costing) is relied on for this report. The data is based on typical costs for the specific building type, reproduced utilizing currently available materials and technologies (as opposed to exact replication). Further note that although certain features of the existing improvements may not contribute to the overall value, this approach reproduces the subject as it sits at the time of viewing.

Developer's Incentive

The costs indicated via the national cost source bid data lack one element that is perhaps the most tentative aspect of the cost approach – entrepreneurial incentive. The application of developer's profit to the cost of reproduction or replacement real estate recognizes not only that profit is generally the primary motive in the creation of real property in a free market system, but also that the developer should expect to be rewarded for his entrepreneurial efforts in producing and marketing the improvement package. Developers active in the creation of a wide-range of properties in the local market indicate that minimal profit margins necessary to attract a given developer or investor would be in the range of 5% to over 25%. Given the type of improvements, a 5% profit margin is considered.

Depreciation Analysis

Depreciation is defined as the difference between the replacement cost new, as of the date of the appraisal, and the value assigned to the improvements. Depreciation occurs in three forms: physical deterioration, functional obsolescence, and economic obsolescence. The first two categories can be either curable or incurable, while the later is external to the property, and is generally thought of as incurable.

Physical Deterioration

This type of depreciation is treated in two categories. A curable depreciation item is one of rehabilitation, which if immediately accomplished, would place the buildings in optimum condition. The balance of physical deterioration is treated as incurable, because it would not be economically feasible or profitable to replace or cure the condition on the date of the appraisal. Determining the effective age of the subject, and comparing it against the remaining economic life of the improvements best accomplish the measure of this form of depreciation. This ratio is then deducted from the replacement cost new. The subject property's residence was originally constructed in 1870, with the most recent renovation taking place in 2008. Due to the age of the

structure, we have estimated an effective age of 12.5 years, resulting in a physical depreciation of this part of the overall property of 25%. The barns and fencing have all been constructed since 2002, and have an estimated effective age of 5 years, resulting in a depreciation of 10%. The profit and soft costs have been given a weighted average depreciation of 15%.

Functional Obsolescence

This type of depreciation involves impairment of function, capacity or efficiency and reflects the loss in value brought about by deficiencies or over-capacity. The appraisers noted that the subject's overall configuration reflects a design that is typical of similar properties. No functional obsolescence was noted.

Economic (External) Obsolescence

This type of depreciation is thought of as incurable, and impairs desirability or useful life of a property arising from forces acting from outside the property. These are economic forces, such as changes in highest and best use, legislative enactments, changes in supply and demand, and changes in the character of the population or economic environment. Of the economic forces affecting obsolescence, the supply and demand for similar properties in general were examined to determine if the demand for such uses had decreased within the constraints of the existing market. It does not appear that the subject is impacted by economic obsolescence.

A calculation and summary of the cost approach, "as is", is outlined below.

COST APPROACH SCHEDULE							
Replacement Cost							
House		1,634	Sq.Ft. x	\$98.37	=		\$160,737
Garage Apartment		300	Sq.Ft. x	\$98.37	=		\$29,511
Stables Barn		3,500	Sq.Ft. x	\$85.00	=		\$297,500
Pasture Barns	4 @	200	Sq.Ft. x	\$65.00	=		\$52,000
Grandstand		500	Sq.Ft. x	\$80.00	=		\$40,000
Perimeter Fencing		6,000	Ft. x	\$17.50	=		\$105,000
Total Cost of All Improvements							\$684,748
Plus: Soft Costs (Legal, Points, Appraisal, Survey)				10%			\$68,475
Plus: Entrepreneurial Profit				5%			\$34,237
Total Improvement New							\$787,460
Depreciation							
Physical Curable						\$0	
Physical Incurable - House		25.0%				\$47,562	
Physical Incurable - Barnes and Fencing		10.0%				\$19,700	
Physical Incurable - Soft Costs and Profit		15.0%				\$15,407	
Functional Obsolescence						\$0	
External Obsolescence						\$0	
Total Depreciation							(\$82,669)
Contributory Value of Improvements							\$704,791
Contributory Land Value (Rounded)		14.3506 Acres	x	\$ 28,000	Acre =		\$400,000
Indicated Value by the Cost Approach							\$1,104,791
Rounded to:							\$1,100,000

Conclusion

Therefore, after evaluating the replacement costs for the subject via Marshall Valuation Service estimates, and adding the value of the vacant land, our value per the Cost Approach is as follows:

Cost Approach Valuation

AS IS

\$ 1,100,000 (R)

Reconciliation

Reconciliation and Final Concluded Value

The pertinent approaches to value have been summarized in this appraisal analysis. A summary of the value conclusions of each of these individual approaches indicates the following:

Cost Approach - <i>The cost of reproducing or replacing the subject property, less depreciation from all sources, plus the land value as determined through market comparison.</i>	\$ 1,100,000
Income Approach - <i>The value which can be supported by the property's net earning capacity, based upon capitalization of the net income imputable to the property.</i>	N/A
Direct Sales Comparison Approach - <i>The value as indicated by recent sales of comparable properties, as adjusted to account for all differences in physical, location and economic characteristics.</i>	N/A

Based on the foregoing we have placed all emphasis on the Cost Approach to Value due to the nature of the improvements. Therefore, the market value of the subject has been concluded as follows:

MARKET VALUE CONCLUSION – AS IS

Appraisal Premise	Interest Appraised	Effective Date	Value Conclusion
As Is	Fee Simple	August 16, 2014	\$ 1,100,000

ADDENDA

QUALIFICATIONS

QUALIFICATIONS OF BRADLEY J. PAGE

APEX Appraisals, Inc.
16876 Royal Crest Drive
Houston, Texas 77058
phone: 281-286-0663
fax: 281-286-1442
email: apexappraisals@sbcglobal.net

REAL ESTATE EXPERIENCE

- Experienced in all types of commercial and residential real estate appraisals including offices, retail buildings, apartments, mobile home parks, subdivisions, churches, medical facilities, full service car dealerships, restaurants, light and heavy industrial properties, commercial land, residential lots, single-family residences, duplexes, condominiums, and town-homes.
- Assignments have ranged from condemnation proceedings and litigation, to loan purposes, management advice, feasibility studies, business acquisitions, estate planning, and tax appeals. The following is a summary of appraisal work performed within the past fifteen years:
 - Office Buildings, Retail, Apartments, Land, Subdivisions, Industrial, Miscellaneous & Special Purpose, Business, Mobile Home Parks, Litigation & Condemnation, Residential, and Machinery & Equipment.
 - Additional appraisal experience obtained in business valuations of closely held companies, goodwill, leasehold interests, and machinery and equipment.
 - Actively involved in Real Estate Brokerage, Investing and Management

PROFESSIONAL LICENSES & AFFILIATIONS

- State Certified - General Real Estate Appraiser - Certification #1326374-G
- Associate Member of the Appraisal Institute (Advanced MAI Candidate)
- Real Estate Broker License #0441000

REAL ESTATE WORK HISTORY

- August, 1995-Present - **President, APEX Appraisals, Inc.**
- January, 2005-Present - **Vice President, Bear Raider Properties, LLP**
- March, 1996-Present - **Real Estate Brokerage, Investments, & Mngt**
- May, 1992-August, 1995 - **Fee Appraiser, Tarin & Coon Appraisers**

EDUCATION

- Received Bachelor of Business Administration in Finance from Texas Tech University
 - **Degree Specialties** include 18 hours Finance, 12 hours Economics, 15 hours Management, 9 hours Real Estate, and 15 hours Accounting
- Graduated Odessa Permian High School

Bradley J. Page Qualifications
Page Two

APPRAISAL INSTITUTE COURSES & CONTINUING EDUCATION

Course Date	Course Number	Course Name	Provider Name	Total Hours	Legal Hours
02/26/2006	4008	BRANDING YOUR BUSINESS	123MCE.COM REAL ESTATE	4	0
02/26/2006	4011	A CONTRACT UPDATE	123MCE.COM REAL ESTATE	4	0
02/25/2006	4293	TREC ETHICS (E)	123MCE.COM REAL ESTATE	3	3
02/22/2006	4294	TREC LEGAL UPDATE (L)	123MCE.COM REAL ESTATE	3	3
02/21/2006	4010	AN UPDATE: TEXAS AGENCY	123MCE.COM REAL ESTATE	1	0
08/23/2004	23041	NATIONAL USPAP UPDATE	MCKISSOCK REAL ESTATE	7	7
08/22/2004	30301	DEVELOPING AN APPRAISAL BUSINESS	MCKISSOCK REAL ESTATE	10	0
08/20/2004	21548	CONSTRUCTION DETAILS & TRENDS	MCKISSOCK REAL ESTATE	7	0
08/20/2004	11036	FAIR HOUSING	MCKISSOCK REAL ESTATE	4	4
02/28/2004	2953	ENVIRONMENTAL HAZARDS	AUSTIN INSTITUTE	3	3
02/27/2004	2951	ASSET MANAGEMENT	AUSTIN INSTITUTE	3	0
02/26/2004	2954	FAIR HOUSING	AUSTIN INSTITUTE	3	3
02/22/2004	2955	REAL ESTATE FINANCE	AUSTIN INSTITUTE	3	0
02/02/2004	2952	REAL ESTATE ETHICS & CONDUCT	AUSTIN INSTITUTE	3	3
08/24/2002	USPAP	USPAP	MCKISSOCK REAL ESTATE	7	7
08/24/2002	FHA	FHA APPRAISING TODAY	MCKISSOCK REAL ESTATE	8	3
08/24/2002	TECH	INFO TECHNOLOGY & THE APPRAISER	MCKISSOCK REAL ESTATE	7	0
08/24/2002	INC	INCOME CAPITALIZATION	MCKISSOCK REAL ESTATE	7	0
08/27/2000	1562	USPAP UPDATE	ROBINSON REAL ESTATE	8	6
08/24/2000	0211	REAL ESTATE APPRAISAL I	TEXAS TECH UNIVERSITY	30	6
02/23/2000	RE	REAL ESTATE FINANCE & CONTRACTS	TEXAS TECH UNIVERSITY	15	12
08/23/1998	USPAP	USPAP	STEWART REAL ESTATE	8	8
06/20/1998	II540	REPORT WRITING & VALUATION ANALYSIS	THE APPRAISAL INSTITUTE	40	0
09/10/1996	II550	ADVANCED APPLICATIONS	THE APPRAISAL INSTITUTE	40	0
07/28/1996	AU	APPRAISAL UPDATE W/ USPAP	STEWART REAL ESTATE	20	7
03/27/1996	0622	CONTRACTS AND MEDIATION	SPENCER REAL ESTATE	7	6
03/26/1996	0515	REAL ESTATE PRACTICE IN THE 90'S	SPENCER REAL ESTATE	8	6
01/31/1995	1111	LAW OF AGENCY	SPENCER	30	6
09/29/1994	310	BASIC INCOME CAPITALIZATION	THE APPRAISAL INSTITUTE	3	0
05/22/1994	410	STANDARDS OF PROF. PRACTICE, PART B	THE APPRAISAL INSTITUTE	10	3
05/20/1994	420	STANDARDS OF PROF. PRACTICE, PART A	THE APPRAISAL INSTITUTE	15	3
03/31/1994	0221	APPRAISAL RESIDENTIAL	REAL ESTATE SCHOOL	30	6
02/27/1994	110	APPRAISAL PRINCIPLES	THE APPRAISAL INSTITUTE	39	0
10/31/03	USPAP	USPAP	EAST TEXAS BAPTIST	15	7
01/31/1993	II510	ADVANCED INCOME CAPITALIZATION	THE APPRAISAL INSTITUTE	40	0
01/31/1993	0212	REAL ESTATE APPRAISAL II	REAL ESTATE SCHOOL	30	6
09/30/1992	0211	REAL ESTATE APPRAISAL I	REAL ESTATE SCHOOL	30	6
09/20/1992	1A2	BASIC VALUATION PROCEDURES	THE APPRAISAL INSTITUTE	36	0
05/31/1992	0211	REAL ESTATE APPRAISAL I	TEXAS TECH UNIVERSITY	45	6
12/31/1991	0411	REAL ESTATE FINANCE I	TEXAS TECH UNIVERSITY	45	6
07/31/1991	0111	REAL ESTATE PRINCIPLES I	TEXAS TECH UNIVERSITY	45	6

Bradley J. Page Qualifications

Page Three

MISCELLANEOUS & COMMUNITY INVOLVEMENT

- Vice President of the Greater Houston Business Council
- Guest Speaker for Real Estate Appraisal Course, College of the Mainland
- Friendswood Chamber of Commerce member for over 10 years
- Member Houston Association of Realtors
- MAI Review Panel credit for specialized appraisal experience

Texas Appraiser Licensing and Certification Board

P.O. Box 12188 Austin, Texas 78711-2188

Certified General Real Estate Appraiser

Number: **TX 1326374 G**

Issued: **08/29/2012**

Expires: **08/31/2014**

Appraiser: **BRADLEY JAMES PAGE**

Having provided satisfactory evidence of the qualifications required by the Texas Appraiser Licensing and Certification Act, Texas Occupations Code, Chapter 1103, is authorized to use this title, Certified General Real Estate Appraiser.


Douglas E. Oldmixon
Commissioner

SUBJECT PHOTOGRAPHS

Typical View of the Property



Typical View of the Property



Typical View of the Property



Typical View of the Property



Typical View of the Property



Typical View of the Property



Typical View of the Property



Typical View of the Property



Typical View of the Property



Typical View of the Property



View Facing Northeast Along Hufsmith



View Facing Southwest Along Hufsmith



View of Entry Gate From Hufsmith

PROPERTY DESCRIPTION

A 16.6372 acre (724,718.60 square foot) tract of land being all of a called 16.637 acre tract of land described in a deed from Rivera Assisted Living, LLC, to BD Broussard Real Estate Partnership, LLC, as recorded under Harris County Clerk's File Number W130528, in the John S. Smith Survey, Abstract Number 730, City of Tomball, Harris County, Texas, said 16.6372 acre tract being more particularly described as follows (bearings based on the Texas State Plane Coordinate System, South Central Zone, NAD83):

BEGINNING at a 5/8-inch iron rod found in the north line of the John S. Smith Survey, Abstract Number 730, common with the south line of the Joseph Miller Survey, Abstract Number 50, in the west line of a called 3.563 acre tract of land described in a deed recorded in Volume 5295, Page 424, of the Harris County Deed Records, for the southeast corner of a called 6.000 acre tract of land described in a deed from John C. Foley, et ux, to Harris County, as recorded under Harris County Clerk's File Number G917446, and for the northeast corner hereof;

THENCE, South 02 degrees 29 minutes 42 seconds East, a distance of 602.37 feet, with the west line of said called 3.563 acre tract and the west line of a called 8.6232 acre tract of land described in a deed from TXI Operations, LP, to Cemex Construction Materials South, LLC, as recorded under Harris County Clerk's File Number 20110321048, to a 5/8-inch iron rod found in the west line of said called 8.6232 acre tract, for the northeast corner of a called 6.383 acre tract of land described in a deed from John C. Foley, et al, to Dewey Adkison, Jr., as recorded under Harris County Clerk's File Number V581316, and for the southeast corner hereof;

THENCE, North 89 degrees 18 minutes 11 seconds West, a distance of 390.29 feet to a 5/8-inch iron rod found for the northwest corner of said called 6.383 acre tract and the northeast corner of a called 43.52 acre tract of land described in a deed from FB Holdings, LLC, to RMDMG, LTD, as recorded under Harris County Clerk's File Number 20100169651, and being an angle point in the south line hereof;

THENCE, South 87 degrees 58 minutes 59 seconds West, a distance of 985.71 feet, with the north line of said called 43.52 acre tract and the north line of a called 5 3/4 acre tract of land described in a deed from Jerry Allen Stokley, et ux, to Melvin Lee Stokley, as recorded under Harris county Clerk's File Number P056582, to a 5/8-inch iron rod found in the easterly right-of-way line of Huffsmith Road (width varies), for the northwest corner of said called 5 3/4 acre tract, and the southwest corner hereof;

THENCE, with the easterly right-of-way line of said Huffsmith Road, North 21 degrees 28 minutes 55 seconds East, a distance of 624.16 feet to a 5/8-inch iron rod with "CLR" cap set for the southwest corner of a called 9.663 acre tract of land described in a deed from John C. Foley, et ux, to Lone Oaks Holdings, LLC, as recorded under Harris County Clerk's File Number W039500, and for the northwest corner hereof;

THENCE, North 87 degrees 23 minutes 50 seconds East, a distance of 1121.71 feet, with the south line of said called 9.663 acre tract and the south line of the aforementioned called 6.000 acre tract, to the **POINT OF BEGINNING** and containing a computed area of 16.6372 acres (724,718.60 square feet) of land.

NOTES:

- To the best knowledge and belief of the Surveyor, all oil/gas pipelines or pipeline easements with ownership through the subdivision have been shown.
- To the best knowledge and belief of the Surveyor, all oil/gas wells with ownership (plugged, abandoned, and/or active) through the subdivision have been shown.
- No building or structure shall be constructed across any pipelines, building lines, and / or easements. Building setback lines will be required adjacent to oil/gas pipelines. The setbacks at a minimum should be 15 feet off centerline of low pressure gas lines, and 30 feet off centerline of high pressure gas lines.
- This plat does not attempt to remove any valid restrictions or covenants.
- The building lines shown on this plat shall be in addition to, and shall not limit or replace, any building lines required by the City of Tomball Code of Ordinances at the time of the development of the property.
- All visible easements and easements of record as reflected on title commitment from Stewart Title Guaranty Company, File No.: 1420182840, issued June 11, 2014, are shown hereon.
- Bearings shown hereon are based on the Texas State Plane Coordinate System South Central Zone NAD 83.
- This plat requires compliance with landscaping requirements prior to occupancy of structures as mandated in Regulations of Harris County, Texas for the Approval and Acceptance of Infrastructure.
- The areas shown hereon have been carried to the number of decimal places required by the City of Tomball, which exceeds the precision prescribed by the Texas Board of Professional Land Surveying.

STATE OF TEXAS §
COUNTY OF HARRIS §

We, **BD BROUSSARD REAL ESTATE PARTNERSHIP, LLC**, owner, hereinafter referred to as owners of the 27.703 acre tract described in the above and foregoing plat of **HUFSMITH PARK**, do hereby make and establish said subdivision of said property according to all liens, dedications, restrictions and notations on said plat and hereby dedicate to the use of the public forever, all streets, alleys, parks, watercourses, drains, easements, and public places shown thereon for the purposes and considerations therein express; and do hereby bind ourselves our heirs, successors and assigns to warrant and forever defend the title to the land so dedicated.

FURTHER, owners have dedicated and by these presents do dedicate to the use of the public for public utility purposes forever an unobstructed aerial easement five feet in width from a plane twenty feet (20') above the ground level upward, located adjacent to all public utility easements shown hereon.

FURTHER, owners do hereby covenant and agree that all of the property with the boundaries of this plat shall be restricted to provide that drainage structures under private driveways shall have a net drainage opening area of sufficient size to permit the free flow of water without backwater and in no instance have a drainage opening of less than one and three quarters square feet (18-inch diameter) with culverts or bridges to be provided for all private driveways or walkways crossing such drainage facilities.

FURTHER, Owners do hereby dedicate to the public a strip of land fifteen (15) feet wide on each side of the center line of any and all bayous, creeks, gullies, ravines, draws, sloughs or other natural drainage courses located in said plat, as easements for drainage purposes, giving the City of Tomball, Harris County, or any other governmental agency, the right to enter upon said easement at any and all times for the purpose of construction and maintenance of drainage facilities and structures.

FURTHER, Owners do hereby covenant and agree that all of the property within the boundaries of this plat and adjacent to any drainage easement, ditch, gully, creek or natural drainage way shall hereby be restricted to keep such drainage ways and easements clear of fences, buildings, planting and other obstructions to the operations and maintenance of the drainage facility and that such abutting property shall not be permitted to drain directly into this easement except by means of an approved drainage structure.

FURTHER, Owners certify and covenant that they have complied with or will comply with existing Harris County Road Law, Section 31-C as amended by Chapter 614, Acts of 1973, 63rd Legislature and all other regulations heretofore on file with the Harris County Engineer and adopted by the Commissioners' Court of Harris County.

IN TESTIMONY WHEREOF, **BD BROUSSARD REAL ESTATE PARTNERSHIP, LLC**, has caused these presents to be signed by _____ and its thereunto authorized, attested by _____, and its common seal hereunto affixed this _____ day of _____, 2014.

BD BROUSSARD REAL ESTATE PARTNERSHIP, LLC

BY: _____

ATTEST:

BY: _____

NAME: _____

TITLE: _____

STATE OF TEXAS §
COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared _____ known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and considerations therein expressed and in the capacity therein and herein stated, and as the act and deed of said **BD BROUSSARD REAL ESTATE PARTNERSHIP, LLC**.

Notary Public in and for the State of Texas
My commission expires _____

Flood Information:

The subject property lies within Zone "X" (unshaded), Zone "X" (shaded), and Zone "AE" as per F.E.M.A. Flood Insurance Rate Map No. 48201C0230L, dated June 18, 2007. Zone "X" (unshaded) is defined in this case as "Areas determined to be outside the 0.2% annual chance floodplain". Zone "X" (shaded) is defined in this case as "Areas of 0.2% annual chance flood; areas of 1% chance flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; and areas protected by levees from 1% annual chance flood". Zone "AE" is defined in this case as "Special flood hazard areas subject to inundation by the 1% annual chance flood event", and the base flood elevation has been determined to be 172.5'. This flood statement does not imply that the property and/or structures thereon will be free from flooding or flood damage. The flood hazard area is subject to change as detailed studies occur and/or as watershed or channel conditions change. This flood statement shall not create liability on the part of this surveyor.

Public Easements:

Public easements denoted on this plat are hereby dedicated to the public forever. Any public utility, including the City of Tomball, shall have the right at all times, of ingress and egress to and from and upon said easements for the purpose of construction, reconstruction, inspection, patrolling, maintaining and adding to or removing all or part of its respective systems without the necessity of any time of procuring the permission of the property owner. Any public utility, including the City of Tomball, shall have the right to move and keep moved all or part of any building, fences, trees, shrubs, other growths or improvements that in any way endanger or interfere with the construction, maintenance or efficiency of it's respective systems on any of the easements shown on this plat. Neither the City of Tomball nor any public utility shall be responsible for the replacing or reimbursing the property owner due to removal or relocation of any obstruction on the public easements.

This is to certify that the Planning and Zoning Commission of the City of Tomball, Texas has approved this plat and subdivision of **HUFSMITH PARK** in conformance with the laws of the State of Texas and the ordinances of the City of Tomball as shown hereon and authorize the recording of this plat this _____ day of _____, 2014.

By: _____ Barbara Tague, Chairman
By: _____ Darrell Roquemore, Vice Chairman

We, the City Manager and City Engineer for the City of Tomball, Texas, do hereby certify that the plat of **HUFSMITH PARK** is in conformance with the City of Tomball ordinances.

George Shackelford
City Manager
Lori Lakatos, PE
City Engineer

This is to certify that the City accepts the Planning and Zoning Commission's authorized approval and acceptance of all the dedicated public easements and conformance with the laws of the State of Texas and the ordinances of the City of Tomball as shown hereon and authorized the recording of this plat this _____ day of _____, 2014.

Gretchen Fagan
Mayor
Doris Speer
City Secretary

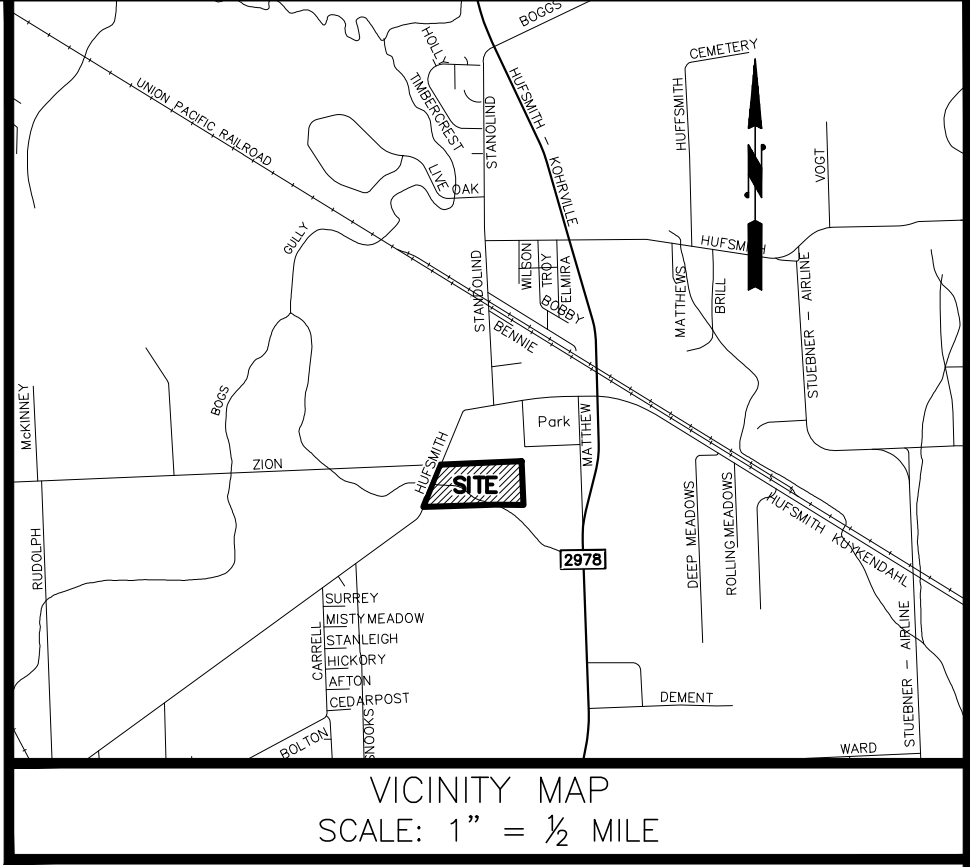
I, Arthur L. Storey, Jr., County Engineer of Harris County, hereby certify that the plat of this subdivision complies with all the existing rules and regulations of this office as adopted by the Harris County Commissioners' Court and that it complies or will comply with all applicable provisions of the Harris County Road Law as amended and all other Court adopted drainage requirements.

Arthur L. Storey, Jr., P.E.
County Engineer

I, Stan Stanart, County Clerk of Harris County and ex officio clerk of the Harris County Commissioners' Court, do hereby certify that the within instrument was approved at a legally convened meeting of the Harris County Commissioners' Court held on _____, 2014 by an order entered into the minutes of the court.

Stan Stanart
County Clerk of Harris County, Texas

By: _____
Deputy



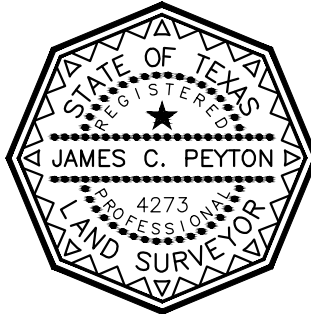
I, Stan Stanart, County Clerk of Harris County, do hereby certify that the within instrument with its certificate of authentication was filed for registration in my office on _____, 2014, at _____ o'clock ____ M., and duly recorded on _____, 2014, at _____ o'clock ____ M., and at Film Code No. _____ of the Map Records of Harris County for said county.

Witness my hand and seal of office, at Houston, the day and date last above written.

Stan Stanart
County Clerk
Harris County, Texas

By: _____
Deputy

I, James C. Peyton, am authorized by the State of Texas to practice the profession of surveying and hereby certify that the above subdivision is true and correct; was prepared from an actual survey of the property made under my supervision on the ground; that all boundary corners, angle points, points of curvature, and other points of reference have been marked with iron rods having an outside diameter of not less than five-eighths (5/8) inch and a length of not less than three (3) feet; and that the plat boundary corners have been tied to the nearest survey corner.



James C. Peyton, RPLS
Registered Professional Land Surveyor No. 4273

PRELIMINARY PLAT
HUFSMITH PARK

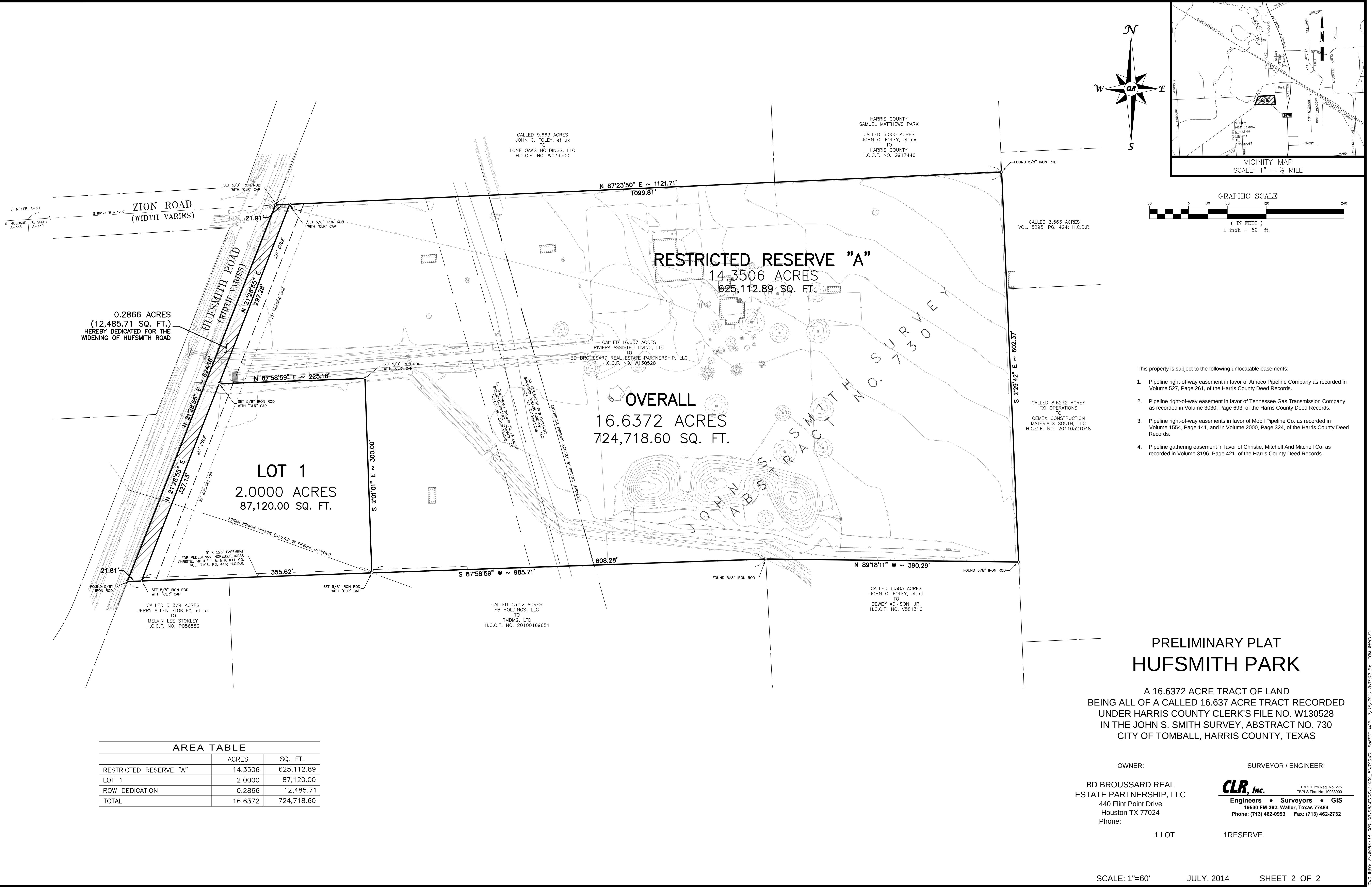
A 16.6372 ACRE TRACT OF LAND
BEING ALL OF A CALLED 16.637 ACRE TRACT RECORDED
UNDER HARRIS COUNTY CLERK'S FILE NO. W130528
IN THE JOHN S. SMITH SURVEY, ABSTRACT NO. 730
CITY OF TOMBALL, HARRIS COUNTY, TEXAS

OWNER: SURVEYOR / ENGINEER:

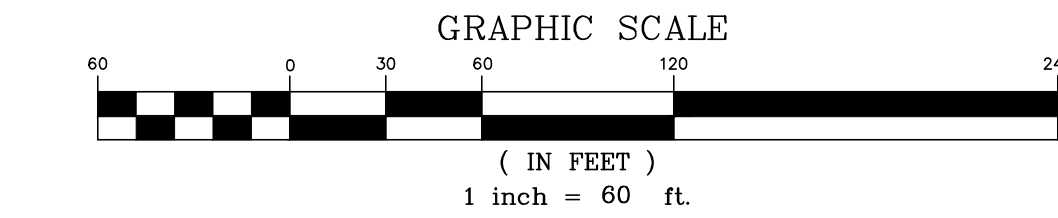
BD BROUSSARD REAL
ESTATE PARTNERSHIP, LLC
440 Flint Point Drive
Houston TX 77024
Phone:

CLR, Inc.
Engineers • Surveyors • GIS
19530 FM-362, Waller, Texas 77484
Phone: (713) 462-0993 Fax: (713) 462-2732

1 LOT 1RESERVE



AREA TABLE		
	ACRES	SQ. FT.
RESTRICTED RESERVE "A"	14.3506	625,112.89
LOT 1	2.0000	87,120.00
ROW DEDICATION	0.2866	12,485.71
TOTAL	16.6372	724,718.60



- This property is subject to the following unlocatable easements:
- Pipeline right-of-way easement in favor of Amoco Pipeline Company as recorded in Volume 527, Page 261, of the Harris County Deed Records.
 - Pipeline right-of-way easement in favor of Tennessee Gas Transmission Company as recorded in Volume 3030, Page 693, of the Harris County Deed Records.
 - Pipeline right-of-way easements in favor of Mobil Pipeline Co. as recorded in Volume 1554, Page 141, and in Volume 2000, Page 324, of the Harris County Deed Records.
 - Pipeline gathering easement in favor of Christie, Mitchell And Mitchell Co. as recorded in Volume 3196, Page 421, of the Harris County Deed Records.

PRELIMINARY PLAT
HUFSMITH PARK

A 16.6372 ACRE TRACT OF LAND
BEING ALL OF A CALLED 16.637 ACRE TRACT RECORDED
UNDER HARRIS COUNTY CLERK'S FILE NO. W130528
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OWNER: BD BROUSSARD REAL ESTATE PARTNERSHIP, LLC
440 Flint Point Drive
Houston TX 77024
Phone: (713) 462-0993

SURVEYOR / ENGINEER: **CLR, Inc.**
Engineers • Surveyors • GIS
19530 FM-362, Waller, Texas 77484
Phone: (713) 462-0993 Fax: (713) 462-2732

1 LOT 1RESERVE

Regular City Council Agenda Item Data Sheet

Meeting Date: October 6, 2014

Topic:

Set a Date and Time for City Council Workshop to Discuss the City of Tomball Community Development Department Development Review Process Evaluation

Background:

The City of Tomball retained Marsh Darcy Partners to perform an evaluation of the City's development review process. The primary goal of the review was to develop recommendations aimed at increasing plan and permit review and issuance efficiency, enhancing customer service interfaces and user-friendliness and positioning the department to adapt to anticipated increases in service demand levels.

Origination:

City Manager

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

Community Development Director

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

Regular City Council

Agenda Item

Data Sheet

Meeting Date: October 6, 2014

Topic:

Approve the Appointment of Brett Peabody as Presiding Municipal Court Judge

Background:

Andrea Walker, Tomball's Presiding Municipal Court Judge has resigned, effective October 17, 2014.

Because this Court position has a significant learning curve, City staff advertised the position publicly and among the current Alternate Municipal Court Judges, who already have the experience and training for the position. Of the three Alternate Judges, Blair Bruce wishes to continue as an Alternate Judge and Laryssa Korduba was recently elected to the position of Justice of the Peace, Precinct 4, Place 2, Harris County. Brett Peabody has applied for the position of Presiding Municipal Court Judge and has received an excellent recommendation from Judge Walker and the City's Court staff. We received two applications from the public posting.

Council appointed Judge Peabody to serve as an Alternate Municipal Court Judge on February 17, 2014. Judge Walker and City staff recommend the appointment of Brett Peabody as Presiding Municipal Court Judge, to fill the remaining term of Judge Walker, with a beginning date of October 18, 2014.

Origination:

Doris Speer, City Secretary/Interim Court Department Head

Recommendation:

Appointment of Brett Peabody as Presiding Municipal Court Judge.

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

Doris Speer, City Secretary/Interim Court Department Head

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

ATTACHMENTS:

A. J. Walker Resignation Letter
Brett Peabody Resume

Andrea Walker
Attorney at Law
936-522-6116
1105 McKay Park, Conroe, Texas 77304
ajrwalk@gmail.com
TBN: 16887500

September 3, 2014

Honorable Gretchen Fagan
Mayor, City of Tomball, Texas
401 Market Street
Tomball, Texas 77375

Dear Mayor Fagan:

It is with no small measure of regret that I must inform you of my intention to resign my position as Presiding Judge for the City of Tomball, effective October 17, 2014. I realize that this news is unexpected, especially given my reappointment by the City Council last month. I had hoped to stay in the area a while longer but a unique set of circumstances has resulted in my husband and I deciding the best course for us at this time is to move closer to my parents.

To say that I have enjoyed serving in this capacity for the last four years would be a gross understatement. The level of professionalism, courtesy and camaraderie displayed by everyone in the Court Clerk's Office, the Police Department and City Hall has made my time with the city truly enriching. I shall miss each and every one of these wonderful people.

Thank you, Mayor, for entrusting me with this important position and I wish nothing but the best for Tomball Municipal Court moving forward.

Sincerely,



Andrea Walker

EXPERIENCE

BRETT PEABODY, ATTORNEY AT LAW

Private Practice Attorney, December 2013 - Present

Sole practitioner focused on Juvenile Law, Criminal Law, Family Law, and Business Law matters.

COUNTY ATTORNEY, MONTGOMERY COUNTY, TEXAS

Assistant County Attorney, September 2009 - November 2013

Chief Prosecutor of the Juvenile Justice Division, managing a staff consisting of two other attorneys, two paralegals, a police investigator, and a victim-witness coordinator. Oversaw all juvenile delinquency prosecutions and appellate matters for busy mid-size county. Worked closely with the juvenile probation department, various social services providers, and numerous law enforcement agencies to seek justice on behalf of victims and also rehabilitate juvenile offenders. Helped increase prosecutorial success indicators, reduce juvenile crime rates, lower the average juvenile detention population, and minimize taxpayer expenses. Implemented the County's first 24 hour/ 7 day a week intake and field response coverage. Initiated a program to identify and track criminal youth gang members. Led statewide efforts to prosecute possession and distribution of new synthetic designer drugs under Texas controlled substance analogue statutes. Undertook new training initiatives for juvenile probation officers and police officers.

DISTRICT ATTORNEY, MONTGOMERY COUNTY, TEXAS

Assistant District Attorney, January 2001 - September 2009

Very successful trial attorney representing the State of Texas in a mid-size state prosecutor's office. Ultimately assigned to the multiple District Courts, managing very large dockets that included felony criminal cases of all types. Served as Chief Prosecutor in several Montgomery County Courts at Law. Other assignments: Intake Attorney overseeing a Grand Jury and Courtroom Prosecutor attached to various Justice of the Peace courts. Oversaw several extensive investigations which ultimately led to the convictions of corrupt public officials.

DISTRICT ATTORNEY, HARRIS COUNTY, TEXAS

Legal Intern, May 1999 - January 2001

Full-time assistant to appellate attorneys in a large state prosecutor's office. Handled *pro se* applications for writ of habeas corpus.

DISTRICT ATTORNEY GENERAL FOR KNOX COUNTY, TENNESSEE

Acting Assistant Attorney General, May 1998 - August 1998

Represented the State of Tennessee in Felony Sessions Court under the supervision of prosecutors in Knoxville. Negotiated pleas, conducted preliminary hearings, and helped prepare cases for trial in District Criminal Courts.

U. S. DISTRICT COURT, EASTERN DISTRICT OF TENNESSEE

Law Clerk, May 1997 - August 1997

Summer assistant to United States Magistrate Judge Thomas Phillips in Knoxville. Researched and wrote judicial correspondence and orders. Courtroom law clerk.

RURAL LEGAL SERVICES OF TENNESSEE

Intern, August 1995 - August 1996

Assistant to five public interest attorneys in Oak Ridge, Tennessee, performing investigations, research, and administrative duties.

PRE-LAW PROFESSIONAL SUMMARY

INTERNATIONAL THOMSON PUBLISHING, CAREER EDUCATION GROUP

Marketing Representative, June 1991 - May 1995

Award-winning sales and field editorial development for leading education textbook publishers in large Central Texas territory. Recruited authors and reviewers for college texts.

INTERNATIONAL THOMSON PUBLISHING, DELMAR PUBLISHING, INC.

Field Representative, June 1986 – June 1991

Facilitated state and local textbook adoptions in Texas, Louisiana, and Mississippi.

Successfully negotiated with large proprietary school chains. National Top Producer.

LUCAS DURALITH CORPORATION

Technical Representative, July 1983 – June 1986

Sold custom engineered electronic assemblies to Texas manufacturers, primarily in the oil field, computer, and machine tool industries.

WRIGHT LINE, INC.

Outside Salesman, May 1982 – July 1983

Dealt with major industrial and governmental accounts in San Antonio, selling computer media storage and filing equipment.

RADIO SHACK

Retail Salesman, 1980 – 1982

Worked while attending University. Other part-time jobs while attending school: auto mechanic, football referee, lifeguard.

THE SOUTHWESTERN COMPANY

Salesman, 1978 – 1980

Sold books door-to-door for two summers in Kentucky, Indiana, and Michigan. Helped manage and motivate a large sales team. Trained new sales-people during the school year. Century Club award for outstanding performance.

EDUCATION

UNIVERSITY OF TENNESSEE COLLEGE OF LAW

Knoxville, Tennessee

JD, May 2000

- GPA: 3.16 (top 35%)
- Dean's List
- Ranked #1 Criminal Law student
- Certificate for Academic Excellence in Criminal Law
- Certificate for Academic Excellence in Trial Practice
- Phi Delta Phi

TEXAS A&M UNIVERSITY

College Station, Texas

BBA, Industrial Marketing, 1978 – 1982

JOHN FOSTER DULLES HIGH SCHOOL

Stafford, Texas

Diploma, 1974 - 1978

Regional Speech and Debate Champion

Regular City Council

Agenda Item

Meeting Date: October 6, 2014

Data Sheet

Topic:

Approve Resolution No. 2014-22, a Resolution of the City of Tomball, Texas, Adopting a Master Fee Schedule for Fiscal Year 2014-2015.

Background:

Resolution No. 2014-22 is presented for Council consideration and approval to adopt a Master Fee Schedule for Fiscal Year 2014-2015.

In order to provide greater transparency and improved communications with our citizens and customers, City staff has assembled the various fees that have been adopted by Council into a single schedule. This document will make it easier for City employees in any department to answer citizens' and customers' questions regarding City fees; we will also post the Master Fee Schedule on the City's website.

Per the City Attorney, the fees reflected in Exhibit "A", attached to Resolution No. 2014-22, are authorized either by separate ordinance or City policy adopted by Council.

City Staff will continue to review the Master Fee Schedule annually and submit requests for changes in the fee schedule to Council each year following the budget process.

Strategic Initiative: Improve and expand public finance communication and education; improve service and communication throughout the organization.

Origination:

City Secretary

Recommendation:

Approve Resolution No. 2014-22, adopting a Master Fee Schedule for FY 2014-2015.

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. 2014-22

Proposed 2014-2015 Master Fee Schedule_rev

RESOLUTION NO. 2014-22

**A RESOLUTION OF THE CITY OF TOMBALL, TEXAS,
ADOPTING A MASTER FEE SCHEDULE FOR FISCAL YEAR
2014-2015.**

* * * * *

WHEREAS, the Tomball City Council desires to enhance government transparency through the adoption of a Master Fee Schedule for the convenience of the public; and

WHEREAS, the Tomball City Council finds it advantageous to adopt a Master Fee Schedule for Fiscal Year 2014-2015, to provide easier access for Tomball residents and commercial interests; **NOW, THEREFORE**

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

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. A Master Fee Schedule for the City of Tomball, Texas for Fiscal Year 2014-2015 is hereby adopted, a copy of which is attached hereto as Exhibit "A" and incorporated herein.

Section 3. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Resolution 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 Resolution 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.

PASSED, APPROVED, AND RESOLVED this ____ day of _____, 2014.

Gretchen Fagan
Mayor

ATTEST:

Doris Speer
City Secretary

EXHIBIT “A”

CITY OF TOMBALL MASTER FEE SCHEDULE FY 2014-2015

GENERAL PENALTY FOR VIOLATIONS OF CODE (CHAPTER 1)

- I. Violation of Ordinances shall be punished by a fine not exceeding \$500.00
- II. Violations of ordinances that govern fire, safety, zoning, public health and sanitation shall be punished by a fine not exceeding \$2,000.00
- III. Violations of traffic laws which are punishable as a Class C misdemeanor shall be punished by a fine not exceeding \$200.00

ACCOUNTS RECEIVABLE FEES

(Sec. 2-240, Code of Ordinances)

In accordance with V.T.C.A., Code of Criminal Procedure art. 103.0031, there shall be imposed an additional fee of 30 percent (30%) on all debts and accounts receivable, i.e.: fines, fees, restitution, other debts, and costs that are more than 60 days past due and have been referred to a private firm for collection.

BINGO PRIZE FEE
(Sec. 42-59, Code of Ordinances)

One percent gross receipts tax on the conduct of bingo games within the city.

ALARM PERMIT APPLICATION FEE

(Sec. 16-49, Code of Ordinances)

Nonresidential areas of an apartment complex equipped with a burglary alarm, hold up, panic, duress alarm system, or fire alarm system \$50.00

Commercial alarm sites equipped with a burglary alarm, hold up, panic alarm, or fire alarm system \$50.00

FALSE ALARM NOTIFICATION (CHAPTER 16)

(Sec. 16-59, Code of Ordinances)

If an alarm system transmits more than three false burglar alarms or fire alarm notification within a 12-month period, the permittee shall pay a service fee for the fourth and each subsequent false burglar alarm notification.

Residential Alarms

For each response after the third through the fifth--\$25.00

For each response after the fifth through the eighth--\$50.00

For each response after the eighth--\$100.00

Commercial Alarms

For each response after the third through the fifth--\$50.00

For each response after the fifth through the eighth--\$75.00

For each response after the eighth--\$100.00

If an alarm system transmits more than two false panic alarm notifications within a 12-month period, the permittee shall pay the maximum service fee permitted by state law, but not more than \$100.00, for the third and each subsequent false panic alarm notification.

Operating an Alarm System without Permit or that Automatically Dials 911

(Sec. 16.77, Code of Ordinances)

Class C Misdemeanor – Punishable by a fine of not more than \$500.00, plus fee for each Police or Fire Department response to the activation of an unpermitted alarm system.

AMBULANCE PERMIT FEES

ANNUAL COMPANY PERMIT FEE: \$500.00 per year

VEHICLE INSPECTION FEE: \$100.00 per vehicle

VEHICLE RE-INSPECTION FEE: \$100.00 per vehicle

Chapter 16, Article III. (Ord. 2012-47)

BANNER DISPLAY FEES

Application to display a banner must be made at Public Works, 501 James Street at least one (1) month in advance.

Banners will be displayed in the 700 block of W. Main Street. Only one (1) banner will be displayed at a time. A banner may hang for a maximum of two (2) weeks.

APPLICATION FEE

The application fee is **\$75.00 per week**; payment is required when the application is presented.

Application must be made at least one (1) month in advance but not more than twelve (12) months advance. Applications are on a “first come-first served” basis. A TxDOT application for “Use of State of Texas Right-of-Way for Temporary Signs for Special Events” must be filled out and submitted along with City of Tomball reservation application and fees.

STORAGE FEE

Banner shall be picked up within one (1) week after expiration date. Owner will be assessed **\$2.00/day storage fee** if not picked up within the one (1) week period.

Rev. 11-26-2012

BUILDING STANDARDS COMMISSION FEE TO APPEAL DECISION

(Sec. 10-473, Code of Ordinances)

Fee to Appeal Decision, accompanied by written request
to the City Secretary within 10 days of the date of the
Building Standards Commission Hearing

- \$10.00*

*Appeal is by City Council and shall be by a trial de novo.

BUILDING PERMIT FEES

Ordinary fees for work commencing before permit issuance or after the work has been partially completed or concealed shall be double the fee set forth in the fee schedule adopted by the City. (Chapter 10, Code of Ordinances).

TOTAL VALUATION

FEE

\$1,000.00 and less

No fee, unless inspection is required, in which case, a \$15.00 fee for each inspection shall be charged.

\$1,001.00 to \$50,000.00

\$15.00 for the first \$1,000.00 plus \$5.00 for each additional thousand or fraction thereof, to and including \$50,000.00.

\$50,001.00 to \$100,000.00

\$260.00 for the first \$50,000.00 plus \$4.00 for each additional thousand or fraction thereof, to and including \$100,000.00.

\$100,001.00 to \$500,000.00

\$460.00 for the first \$100,000.00 plus \$3.00 for each additional thousand or fraction thereof, to and including \$500,000.00.

\$500,001.00 and up

\$1,660.00 for the first \$500,000.00 plus \$2.00 for each additional thousand or fraction thereof.

MOVING FEE

For the moving of any building or structure, the fee shall be \$110.00.

DEMOLITION FEE

For the demolition of any building or structures, the fee shall be:

0 - 100,000 cu. ft.

\$60.00

100,000 cu. ft. and over

\$0.50/1,000 cu. ft.

PENALTIES

Where work for which a permit is required by this Code is started or proceeded prior to obtaining said permit, the fees herein specified shall be doubled, but the payment of such double fee shall not relieve any persons from fully complying with the requirements of this Code in the execution of the work nor from any other penalties prescribed herein.

A Certificate of Occupancy must be issued before moving in or a \$250.00 penalty, payable by the permit holder, and disconnection of all City utilities will apply.

PLAN-CHECKING FEES

When the valuation of the proposed construction exceeds \$1,000.00 and a plan is required to be submitted, a plan-checking fee shall be paid equal to one-half of the building permit fee. Such plan-checking fee is in addition to the building permit fee.

FEE FOR RE-INSPECTION

The re-inspection fee shall be \$25.00.

BUILDING PERMIT FEES

MECHANICAL PERMIT FEES

INITIAL FEE

For issuing each permit..... \$15.00

ADDITIONAL FEES

Fee for inspecting heating, ventilating, ductwork, air-conditioning and refrigeration systems shall be \$20.00 for the first \$1,000.00, or fraction thereof, of valuation of the installation plus \$6.00 for each additional \$1,000.00 or fraction thereof.

Fee for inspecting repairs, alterations and additions to an existing system shall be \$6.00 plus \$3.00 for each \$1,000.00 or fraction thereof.

Fee for inspecting boilers (based upon Btu input):

33,000 Btu (1 Bhp) to 165,000 (5 Bhp)	\$ 7.00
165,001 Btu (5 Bhp) to 330,000 (10 Bhp)	\$12.00
330,001 Btu (10 Bhp) to 1,165,000 (52 Bhp)	\$17.00
1,165,001 Btu (52 Bhp) to 3,300,000 (98 Bhp)	\$27.00
Over 3,300,000 Btu.....	\$37.00

FEE FOR REINSPECTION

In case it becomes necessary to make a re-inspection of a heating, ventilation, air conditioning or refrigeration system, or boiler installation, the installer of such equipment shall pay a re-inspection fee of \$25.00.

TEMPORARY OPERATION INSPECTION FEE

When preliminary inspection is requested for purposes of permitting temporary operation of a heating, ventilating, refrigeration or air conditioning system, or portion thereof, a fee of \$45.00 shall be paid by the contractor requesting such preliminary inspection. If the system is not approved for temporary operation on the first preliminary inspection, the usual re-inspection fee shall be charged for each subsequent preliminary inspection for such purpose.

SELF-CONTAINED UNITS LESS THAN TWO TONS

In all buildings, except one and two family dwellings, where self-contained air conditioning units of less than two tons are to be installed, the fee charged shall be that for the total cost of all units combined (see Additional Fees, above, for rate).

BUILDING PERMIT FEES

PLUMBING PERMIT FEES

PERMIT FEES:

For issuing each permit..... \$15.00

PLUS THE FOLLOWING WHEN PROVIDED:

For each Plumbing Fixture, Floor Drain or Trap
(Including Water and Drainage Piping)..... \$ 3.00
For each House Sewer \$ 6.00
For each House Sewer having to be replaced or repaired..... \$ 6.00
For each Water Heater and/or Vent \$ 3.00
For installation, alteration or repair of water piping
and/or water treating equipment \$ 6.00
For repair or alteration of Drainage or Vent Piping..... \$ 6.00
For Vacuum Breakers or backflow protective devices
installed subsequent to the installation of the piping
or equipment served —
One to Five..... \$ 3.00
Over Five, each \$ 2.00

PERMITS/MISCELLANEOUS

Driveway - Residential \$ 25.00
Driveway - Commercial..... \$ 25.00
Construction..... 2% of Construction Cost
Roofing Permits \$ 50.00
(Asphalt or metal, under 5 squares is exempt from permit requirement)

PLUMBING AND GAS BOND

\$1,000.00

(Chapter 10)

FEE FOR PLUMBING RE-INSPECTION

The re-inspection fee shall be \$25.00.

IRRIGATION PERMIT FEES

Residential - \$ 50.00 fixed fee

Commercial - \$100.00 base fee plus \$10.00 per zone

BUILDING PERMIT FEES

DOMESTIC AND COMMERCIAL WATER TAP FEES

Residential and Commercial Water Meter Connection Fees. The following connection fee shall be due and paid to the City before any water meter is provided, installed, inspected, and activated for use by the City. The fee for providing water service shall be based upon the meter required, and shall be as follows:

<u>Meter Size, Ins.</u>	<u>TOTAL COST**</u>
0.75	\$ 505.00
1.0	\$ 565.00
1.5	\$ 925.00
2.0	\$ 1,735.00
3.0	\$ 3,100.00
4.0	\$ 3,660.00
6.0	\$ 8,985.00 (Includes \$3,500 for vault)*

* Any other vaults requested will be at customer's expense.

**** FOR CONNECTIONS ON STATE RIGHTS-OF-WAY**

- For meter sizes 0.625" through 2", add \$190.00 to connection fee schedule.
- For meter sizes 3" through 6", add \$315.00 to connection fee schedule.
- If a bore is required, a \$35.00 per foot of right-of-way width boring fee will be required up to a 2" service lead. Service leads larger than 2" will be \$70.00 per foot of right-of-way width.

RECONNECTION FEE

Water Service Reconnection Fee	-	\$25.00
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BULK WATER SALES

\$75.19 Base Fee; then \$4.17 per 1,000 additional gallons. This charge includes the current fee for each 1,000 gallons used surcharge that the City collects on **behalf of NHCRWA and will be adjusted as the surcharge increases** Additionally, if a meter is desired, the deposit will be \$1,000.00

BUILDING PERMIT FEES

DOMESTIC AND COMMERCIAL SEWER TAP FEES

Residential and Commercial Sanitary Sewerage Connection Fees. The following connection fee shall be due and paid to the City before any sewer connection is provided, installed, inspected, and activated into the City's wastewater collection system. The connection fee for such services shall be based upon the size of the sewer connection required, and shall be as follows:

<u>Connection Size</u>	<u>TOTAL COST**</u>
4"	\$555.00
6"	\$610.00
8" and above	\$625.00+

- * If manhole is required, add \$2,000.00.

** **FOR CONNECTIONS ON STATE RIGHTS-OF-WAY**

- For connections on state right-of-way, add \$250.00 to connection fee schedule.
- If a bore is required, a \$70.00 per foot of right-of-way width boring fee will be required up to a 6" service lead.
- For 8" service lead, a \$75.00 per foot of right-of-way width boring fee will be charged.

SEWER LINE MAINTENANCE AND CONSTRUCTION **(CHAPTER 46)**

Reconnection fee (as requested by the department of public works) \$200.00

DOMESTIC AND COMMERCIAL GAS TAP FEES

Residential and Commercial Gas Meter Connection Fees. The following connection fee shall be due and paid to the City before any gas meter is provided, installed, inspected, and activated for use by the City. The fee for providing gas service shall be based upon the meter and regulator required (meter and regulator, four ounce [4 oz.*] only), and shall be as follows:

<u>BTUs</u>	<u>TOTAL COST **</u>	<u>METER SIZE</u>
0 to 345,000	\$ 665.00	250-275
345,001 to 450,000	\$ 800.00	415-450
450,001 to 1,760,000*	\$1,460.00	750-880
2,420,001 to 5,500,000*	\$3,740.00	3,000
5,500,001 to 11,000,000*	\$4,945.00	5,000

- If pounds (lbs.) Are needed, must add an emcorector to total cost (total cost +\$1,175.00 = total price for pounds).

** **FOR CONNECTIONS ON STATE RIGHTS-OF-WAY**

- For connections on state right-of-way, add \$250.00 to connection fee schedule for BTUs 0-450,000 BTUs. Requirements above 450,001 BTUs, add \$350.00 to connection fee schedule.
- For a service lead under a state right-of-way, add \$35.00/foot of right-of-way width.

BUILDING PERMIT FEES

CAPITAL RECOVERY FEES **PER CITY OF TOMBALL ORDINANCE 2014-22**

Effective August 18, 2014 – August 17, 2015*

<u>LUE'S</u>	<u>WATER METER SIZE</u>	<u>WATER</u>	<u>SEWER</u>	<u>TOTAL</u>
1.0	3/4"	\$ 1,528.49	\$ 1,901.21	\$ 3,429.70
2.5	1"	\$ 3,821.23	\$ 4,753.03	\$ 8,574.25
5.0	1 1/2"	\$ 7,642.45	\$ 9,506.05	\$ 17,148.50
8.0	2"	\$ 12,227.92	\$ 15,209.68	\$ 27,437.60
10.0	2" TURBINE	\$ 15,284.90	\$ 19,012.10	\$ 34,297.00
16.0	3"	\$ 24,455.84	\$ 30,419.36	\$ 54,875.20
24.0	3" TURBINE	\$ 36,683.76	\$ 45,629.04	\$ 82,312.80
25.0	4"	\$ 38,212.25	\$ 47,530.25	\$ 85,742.50
42.0	4" TURBINE	\$ 64,196.58	\$ 79,850.82	\$ 144,047.40
50.0	6"	\$ 76,424.50	\$ 95,060.50	\$ 171,485.00
92.0	6" TURBINE	\$140,621.08	\$174,911.32	\$ 315,532.40
80.0	8"	\$122,279.20	\$152,096.80	\$ 274,376.00
160.0	8" TURBINE	\$244,558.40	\$304,193.60	\$ 548,752.00
115.0	10"	\$175,776.35	\$218,639.15	\$ 394,415.50
250.0	10" TURBINE	\$382,122.50	\$475,302.50	\$ 857,425.00
330.0	12" TURBINE	\$504,401.70	\$627,399.30	\$1,131,801.00

NOTE: ALL NEW DEVELOPMENT OR CHANGE IN USE WILL BE REQUIRED TO CALCULATE THE LIVING UNIT EQUIVALENT (LUE) AND PAY THE GREATER VALUE BETWEEN THE MINIMUM METER SIZE IMPACT FEE OR THE CALCULATED LUES.

* REFER TO SCHEDULE OF MAXIMUM CAPITAL RECOVERY FEES FOR INCREASE IN FEES BASED ON EFFECTIVE DATE.

SCHEDULE OF MAXIMUM CAPITAL RECOVERY FEES

	Effective:	Effective:	Effective:	Effective:	Effective:
Per LUE	Aug. 18, 2014	Aug 18, 2015	Aug. 18, 2016	Aug. 18, 2017	Aug. 18, 2018
Water:	\$1,528.49	\$1,727.86	\$1,927.22	\$2,126.59	\$2,325.96
Wastewater:	\$1,901.21	\$2,100.58	\$2,299.95	\$2,322.57	\$2,322.57

Drainage effective August 18, 2014:

M118 per acre	\$5,757.81
M121E per acre	\$7,886.69
M121W per acre	\$6,692.00
M125 per acre	\$ 436.88

BUILDING PERMIT FEES

OIL AND GAS FEES

Drilling Permit	\$1,000.00
Supplemental Filing Fee	\$ 500.00
Pipeline Permit	\$ 500.00

MANUFACTURED HOME FEES

Application fee for mobile home park construction or enlargement shall be \$100.00 plus \$10.00 per unit in excess of 25 units/spaces.
Copy of Receipt must be attached to Application

BUILDING PERMIT FEES

BUILDING INSPECTIONS WHICH MUST BE CALLED IN ***(281) 290-1480***

BUILDING INSPECTIONS

1. STORM SEWER
2. PARKING LOT
3. FOUNDATION
4. FRAME
5. CEILING COVER
6. FINAL

PLUMBING INSPECTIONS

1. GROUND
2. TOP OUT
3. WATER LINE
4. SEWER
5. GAS TEST
6. FINAL
7. ROOF DRAIN
8. GAS LINE

DRIVEWAY INSPECTIONS

1. CULVERT
2. LOCATION FORM
3. APPROACH
4. FINAL

ELECTRICAL INSPECTIONS

1. T-POLE
2. TCI
3. CEILING COVER
4. DITCH COVER
5. WALL COVER
6. SLAB
7. ROUGH IN
8. FINAL
9. SERVICE

MECHANICAL INSPECTIONS

1. ROUGH IN
2. WALL COVER
3. CEILING COVER
4. FINAL

MOVING INSPECTIONS

1. FINAL
2. UTILITIES CUT OFF
3. SITE

CONSTRUCTION INSPECTION (PUBLIC R.O.W.)

1. PUBLIC WORKS

IRRIGATION INSPECTIONS

1. SITE
2. FINAL

POOL INSPECTIONS

1. STEEL
2. DECK
3. FINAL

SIGN INSPECTIONS

1. SIGN INSTALLATION
2. FINAL

ROOF INSPECTIONS

1. COVER UP
2. FINAL

CHAUFFEUR'S DRIVER FEES

ANNUAL FEE:

City of Tomball Chauffeur's License Fee: None

10/2012

COMMUNITY CENTER FEES

Reservation Fee Guidelines

A. Meeting Room Fee Schedule (Based on availability)

Residents:	Tomball Residents:		Non	Tomball
	Individuals, For-profit Businesses/ Non-profit Clubs/ Organizations	Individuals, For-profit Businesses/ Non-profit Organizations	Individuals, For-profit Businesses, Non-profit	
Organizations	Organizations*	which charge for service	which	charge for
service				

Monday thru 3:00 pm Friday (2 Hour Minimum)

Room A	\$50.00/hr.	\$75.00/hr.	\$100.00/hr.
Room B	\$30.00/hr.	\$50.00/hr.	\$75.00/hr.
Room C	\$15.00/hr.	\$20.00/hr.	\$30.00/hr.

After 3:00 pm Friday (2 Hour Minimum)

Room A	\$75.00/hr.	\$100.00/hr.	\$125.00/hr.
Room B	\$50.00/hr.	\$75.00/hr.	\$100.00/hr.
Room C	\$15.00/hr.	\$50.00/hr.	\$75.00/hr.

B. Kitchen Fee Schedule

1. The rental fee for Banquet Room A includes the use of the kitchen.
2. No other room is allowed the use of the kitchen with a rental.

Special Notes

A refundable deposit will be paid by each applicant prior to the confirmation of a reservation. Refund of this deposit is contingent upon satisfying any payment for damages to the facility by the Contracting Party.

Waiver of Fees

1. The following groups shall have their fees waived:
 - a. Tomball-based Non-profit youth organizations who provide proof of qualification
2. Tomball-based groups and organizations may request a waiver of fees from City staff. The guidelines for staff to follow when considering requests for waivers are as follows:
 - a. Applicant generates sales tax dollars for Tomball
 - b. Applicant supports City functions, events or programs
 - c. Applicant is a non-profit group or organization benefitting the City of Tomball in some manner.

CORRECTIONAL FACILITY PERMIT APPLICATION FEE

(Sec. 14-357, Code of Ordinances)

Original Application Fee	\$350.00
Renewal Application Fee	\$100.00
Transfer Application Fee upon Change of Owner/Operator Of Correctional Facility	\$100.00

(Code of Ordinances, Chapter 14, Section 14-357)

DONATION CONTAINER PERMIT FEES

Annual Donation Container Permit Fee (Sec. 22-194)	\$ 25.00
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Permit is valid for 12 months from the date first issued.

Impounded Donation Container Fee	\$200.00
Daily Storage Fee (Sec. 22-195)	\$ 25.00

EMERGENCY WRECKER DRIVER FEES

ANNUAL FEE:

City of Tomball Drivers License Fee:	\$15.00/year
Renewal Fee:	\$10.00/year
Replacement Drivers License Fee:	\$ 5.00

(Code of Ordinances, Chapter 48)

Rev. 11-7-2012

EMERGENCY WRECKER COMPANY FEES

INITIAL APPLICATION FEE -- \$100.00

ADDITIONAL APPLICATION FEE - \$75.00

ANNUAL FEE – All Emergency Wrecker company vehicles are charged a yearly fee of \$100.00 per vehicle to operate within the City of Tomball. All City Emergency Wrecker Company licenses expire on September 30th of each year.

SUPPLEMENTAL FEE – All Supplemental Emergency Company vehicles that are added during the year are charged \$75.00 until the annual renewal date of September 30th.

DUPLICATE LICENSE FOR EW VEHICLE - \$25.00

FEES FOR TOWING:

Towing a vehicle from one location within The City of Tomball to another location within the City Cannot Exceed \$80.00.

Towing a vehicle which requires a heavy-duty wrecker from one location within the City of Tomball to another, or from a location within the City of Tomball to a location within the extra-territorial jurisdiction of the City Cannot Exceed \$150.00 per hour, with a two-hour minimum*

* Hourly rate shall be inclusive of all services performed by the heavy-duty Wrecker. Charge is calculated from the time the heavy-duty wrecker leaves a licensee's place of business to the time the wrecked/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.

VEHICLE STORAGE FEES:

The storage fee for a vehicle at a depository shall not exceed \$15.00 per day.

NOTIFICATION FEE for accepting possession of vehicle for purpose other than repair after 7th day of storage (itemized list furnished to customer upon request) – non-consent vehicles only – Not to Exceed \$25.00

For the following services, with one-hour minimum – Not to Exceed \$50.00/Hr

- 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.

FILMING APPLICATION FEES

(Sec. 6-86, Code of Ordinances)

Application Processing Fee - \$25.00*

Fee for Use of City Property and City Equipment: Rates, as established by City Manager, that are adequate to compensate the City for the use of that property or equipment if the standard rate schedule in inapplicable or inappropriate for the specific use proposed.

*Fee may be waived by City Manager for nonprofit organizations.

FIRE MARSHAL'S OFFICE FEES

Life Safety Plan Review

1 - 2,500 sq.ft.	\$25.00
2,501 - 5,000 sq.ft.	\$50.00
5,001 - 10,000 sq.ft.	\$75.00
10,000 - more sq.ft.	\$100.00

Fire Sprinkler Systems

Review Fee	\$200.00
Riser	\$10.00 ea.
Fire Department Connection	\$10.00 ea.
Per Each Sprinkler Head	\$1.00 ea.

Fire Alarm Systems

Review Fee	\$200.00
Signal / Notification Device	\$2.00 ea.

Paint Booth / Mixing Room

Review Fee	\$200.00
Nozzle	\$1.00 ea.

Cooking Suppression System

Review Fee	\$200.00
Nozzle	\$1.00 ea.

Fuel Storage Tank Removal / Installation

For 1 Tank per site	\$150.00
For 2 Tanks per site	\$200.00
For 3 or more Tanks per site	\$250.00

Installation Penalty - No Permit Fee

2 x the cost of total plan review fee	
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Special Services - *to be paid before 3:45pm*

Special Handling / Same Day Service - Plans	\$100.00
After Hours Inspection - up to 4 hours	\$275.00
Each additional hour - rounded up to the next hour	\$75.00

Acceptance Testing / Fire Final Inspections

Inspection	No Fee
1st Re-Inspection	\$25.00
2nd Re-Inspection	\$50.00
3rd Re-Inspection	\$75.00
4th Re-Inspection and Each After	\$100.00

FIRE MARSHAL'S OFFICE FEES

State Licensed Facility Inspection - Group I Occupancy

Inspection	\$50.00
1st Re-Inspection	\$25.00
2nd Re-Inspection	\$50.00
3rd Re-Inspection	\$75.00
4th Re-Inspection and Each After	\$100.00

Life Safety Inspection - Annual

Inspection	No Fee
1st Re-Inspection	No Fee
2nd Re-Inspection	\$25.00
3rd Re-Inspection	\$50.00
4th Re-Inspection and Each After	\$75.00

FIRE MARSHAL'S OFFICE FEES

Permit Description	Permit Reference Number	Renewable or One-Time Permit	Cost
Aerosol Products	105.6.1	R	\$100.00
Amusement Buildings	105.6.2	R	\$100.00
Aviation Facilities	105.6.3	R	\$150.00
Carnivals & Fairs	105.6.4	R	\$150.00
Battery Systems	105.6.5	R	\$100.00
Cellulose Nitrate Film	105.6.6	R	\$100.00
Combustible Dust Producing Operations	105.6.7	R	\$100.00
Combustible Fibers	105.6.8	R	\$125.00
Compressed Gases	105.6.9	R	\$100.00
Covered Mall Buildings	105.6.10	R	\$50.00
Cryogenic Fuels	105.6.11	R	\$100.00
Cutting & Welding	105.6.12	R	\$75.00
Dry Cleaning Plants	105.6.13	R	\$100.00
Exhibits & Trade Shows	105.6.14	R	\$75.00
Explosives, including Fireworks	105.6.15	R	\$150.00
RESERVED	105.6.16		
Flammable and Combustible Liquids	105.6.17	R	\$75.00
Floor Finishing, including Bowling Lanes	105.6.18	R	\$100.00
RESERVED	105.6.19		
Fumigation and Insecticide Fogging	105.6.20	R	\$50.00
Hazardous Materials	105.6.21	R	\$150.00
RESERVED	105.6.22		
High Pile Storage	105.6.23	R	\$75.00
Hot work Operations	105.6.24	R	\$75.00
Industrial Ovens	105.6.25	R	\$100.00
RESERVED	105.6.26		
Liquid or Gas Fueled vehicles in Assembly Buildings	105.6.27	R	\$100.00
LP Gas	105.6.28	R	\$100.00
Magnesium Working	105.6.29	R	\$150.00
Miscellaneous Combustible Storage	105.6.30	R	\$100.00
Open burning (commercial-trench)	105.6.31	R	\$150.00
Open Flames and Candles	105.6.32	R	\$50.00
Organic Coating	105.6.33	R	\$100.00
Places of Assembly	105.6.34		
50-100		R	\$75.00
101-299		R	\$100.00
300 or More Occupants		R	\$125.00
RESERVED	105.6.35		
Pyrotechnic Special Effects Material	105.6.36	R	\$150.00
RESERVED	105.6.37-40		
Spraying & Dipping	105.6.41	R	\$150.00
Tire Storage	105.6.42	R	\$100.00
Temporary Structures, Tents & Canopies	105.6.43	R	\$75.00
RESERVED	105.6.44-46		
Fire Flow Test	105.6.50	O-T	\$150.00

FALSE ALARM PROGRAM FEES

Registration of Alarm System

Residential Properties	No Fee
Commercial Properties	\$50.00
Individual Apartment Units	\$50.00

False Alarm Fee Schedule - Residential

False Alarm 1st - 3rd	No Fee
False Alarm 4th & 5th	\$25.00 each
False Alarm 6th - 8th	\$50.00 each
False Alarm 9 or More	\$100.00 each

False Alarm Fee Schedule - Commercial

False Alarm 1st - 3rd	No Fee
False Alarm 4th & 5th	\$25.00 each
False Alarms 6th - 8th	\$75.00 each
False Alarm 9 or More	\$100.00 each

Panic Alarm Transmission

False Alarm 1st & 2nd	No Fee
False Alarm 3 or More	\$100.00 each

All Registration and Penalties are based on a 12-month period from the registration date.

GARBAGE BAG FEES

The City of Tomball furnishes two (2) rolls of fifty (50) bags to each residence annually.

For additional purchases of garbage bags, the fee is \$12.00 per 50-bag roll.

Rev. 11-7-2012

KENNEL LICENSE FEES and IMPOUNDED ANIMAL FEES

(Code of Ordinances, Chapter 8)

ANNUAL KENNEL LICENSE FEE:

\$ 10.00

RECOVERY OF IMPOUNDED ANIMALS FEE - As established by Harris County Animal Control (Sec. 8-67, Code of Ordinances), the following fees shall be recovered prior to release of impounded animal:

\$25.00 impounding fee

\$5.00 per day board fee

Cost of vaccination*

Second: \$40.00 impounding fee

\$5.00 per day board fee

Cost of vaccination*

Third and Subsequent: \$75.00 impounding fee

\$5.00 per day board fee

Cost of vaccination*

The owner of impounded animal(s) shall have the right to redeem the animal(s) upon the payment of any and all fees which may be due and payable for the impoundment of such animal, including any fines imposed, within three days after notice of impoundment has been posted, published or delivered (Sec. 8-178, Code of Ordinances).

REDEEMING IMPOUNDED ANIMALS SOLD BY

COUNTY HEALTH OFFICE OR CITY HUMANE OFFICER: Within 30 days, the original owner may redeem such animal upon paying purchaser double the amount paid by him for the animal, plus an amount equal to \$3.00 for each calendar day or fraction thereof for the care and feeding of such dog/cat and all veterinary expenses incurred by the purchaser. After 30 days, the animal shall become the absolute property of the purchaser (Sec. 8-69, Code of Ordinances).

IMPOUNDMENT FEES FOR HORSES, COWS, CATTLE OR OTHER LIVESTOCK:

\$25.00 plus \$5.00 for feeding and care per day for each horse, cow or cattle
\$15.00 plus \$2.00 for feeding and care per day for each head of other livestock
(Sec. 8-180, Code of Ordinances)

*Unless owner presents proof that the animal has been vaccinated within three months immediately preceding the impoundment (Section 8-67):

Rev. 9-15-14

LIQUOR LICENSE/PERMIT FEES

(Sec. 4-24, Code of Ordinances)

The Texas Alcoholic Beverage Code provides that cities may levy and collect a fee not to exceed one-half the State fee for each permit issued for premises located within a city or town. Only the Mixed Beverage Permit and a Mixed Beverage Late Hours Permit have a three-year waiting period before fees may be collected by the City of Tomball. The process of Liquor related fees begin with the signature of the City Secretary or her Assistant on all applications made to TABC. Before any license is issued, the applicant shall pay to the city such fees as are authorized by state law.

The Permits listed below, along with their yearly rates, go into effect at the time the business begins operation, or shortly thereafter.

Two-Year Fee Chart

License Type	Description of License		T.A.B.C. 2-Year Fee	Tomball 2-Year Fee
BF	Beer Retailer's Off Premise		\$120.00	\$60.00
BG	Wine & Beer Retailer's	Years 1 and 2	\$2,000.00	\$1,000.00
		Year 3 and Subsequent	\$1,500.00	\$750.00
BQ	Wine & Beer Retailer's Off Premise		\$120.00	\$60.00
P	Package Store		\$1,000.00	\$500.00
Q	Wine-Only Package Store		\$150.00	\$75.00
MB	Mixed Beverage	Years 1 and 2	\$6,000.00	\$0.00
	1 st Renewal	Years 3 and 4	\$4,500.00	\$1,125.00
	2 nd Renewal	Years 5 and 6	\$3,000.00	\$1,150.00
	3 rd Renewal	Subsequent Years	\$1,500.00	\$750.00
LB	Late Hours Mixed Beverage		\$300.00	\$150.00

Revised 11-7-2012

**MANUFACTURED HOME PARK
OR RECREATIONAL VEHICLE PARK
CONSTRUCTION OR ENLARGEMENT FEES**
(Sec. 26-24, Code of Ordinances)

APPLICATION FEE: \$100.00 plus \$10.00 per unit in excess of 25 units (spaces)

(COPY OF RECEIPT MUST BE ATTACHED TO APPLICATION)

**MANUFACTURED HOME PARK OR
RECREATIONAL VEHICLE
PARK OPERATIONS LICENSE FEES**
(Chapter 26, Code of Ordinances)

NOTE: Operations License expire December 31

OPERATIONS LICENSE FEE: *(Copy of Receipt must be attached to Application)*

(Fees are based on the number of spaces in the park)

<u>BASE FEE</u>	+	<u>NUMBER OF SPACES</u>	=	<u>TOTAL FEE</u>
\$100.00/year	plus	\$3.00 for each space within the park		

Example:

If Park has 20 spaces, the fee would be:	Base Fee	=	\$ 100.00
	20 Spaces x \$3.00	=	<u>\$ 60.00</u>
	Total Fee Due	=	\$ 160.00

MUNICIPAL COURT BUILDING SECURITY FUND (CHAPTER 28)

\$3.00 against all defendants convicted in a trial of a misdemeanor offense by the municipal court.

MUNICIPAL COURT TECHNOLOGY FUND (CHAPTER 28)

\$4.00 against all defendants convicted in a trial of a misdemeanor offense by the municipal court.

MUNICIPAL COURT JUVENILE CASE MANAGER FUND (CHAPTER 28)

\$5.00 against all defendants upon conviction for a fine-only misdemeanor offense by the municipal court.

The municipal court judge is authorized to waive the fee in case of financial hardship.

MUNICIPAL COURT FINES/FEES

CONSTRUCTION ZONE SPEED FINES/FEES

MILES OVER	FINE AMOUNT	COURT COSTS	2014 FINES/FEE	DOUBLED FINE	CZ COURT COST/FINE
1	\$80.90	\$104.10	\$185.00	\$161.80	\$265.90
2	\$80.90	\$104.10	\$185.00	\$161.80	\$265.90
3	\$80.90	\$104.10	\$185.00	\$161.80	\$265.90
4	\$80.90	\$104.10	\$185.00	\$161.80	\$265.90
5	\$80.90	\$104.10	\$185.00	\$161.80	\$265.90
6	\$80.90	\$104.10	\$185.00	\$161.80	\$265.90
7	\$80.90	\$104.10	\$185.00	\$161.80	\$265.90
8	\$80.90	\$104.10	\$185.00	\$161.80	\$265.90
9	\$80.90	\$104.10	\$185.00	\$161.80	\$265.90
10	\$80.90	\$104.10	\$185.00	\$161.80	\$265.90
11	\$80.90	\$104.10	\$185.00	\$161.80	\$265.90
12	\$80.90	\$104.10	\$185.00	\$161.80	\$265.90
13	\$80.90	\$104.10	\$185.00	\$161.80	\$265.90
14	\$80.90	\$104.10	\$185.00	\$161.80	\$265.90
15	\$80.90	\$104.10	\$185.00	\$161.80	\$265.90
16	\$83.90	\$104.10	\$188.00	\$167.80	\$271.90
17	\$86.90	\$104.10	\$191.00	\$173.80	\$277.90
18	\$89.90	\$104.10	\$194.00	\$179.80	\$283.90
19	\$92.90	\$104.10	\$197.00	\$185.80	\$289.90
20	\$95.90	\$104.10	\$200.00	\$191.80	\$295.90
21	\$98.90	\$104.10	\$203.00	\$197.80	\$301.90
22	\$101.90	\$104.10	\$206.00	\$203.80	\$307.90
23	\$104.90	\$104.10	\$209.00	\$209.80	\$313.90
24	\$107.90	\$104.10	\$212.00	\$215.80	\$319.90
25	\$110.90	\$104.10	\$215.00	\$221.80	\$325.90
26	\$113.90	\$104.10	\$218.00	\$227.80	\$331.90
27	\$116.90	\$104.10	\$221.00	\$233.80	\$337.90
28	\$119.90	\$104.10	\$224.00	\$239.80	\$343.90
29	\$122.90	\$104.10	\$227.00	\$245.80	\$349.90
30	\$125.90	\$104.10	\$230.00	\$251.80	\$355.90
31	\$128.90	\$104.10	\$233.00	\$257.80	\$361.90
32	\$131.90	\$104.10	\$236.00	\$263.80	\$367.90
33	\$134.90	\$104.10	\$239.00	\$269.80	\$373.90
34	\$137.90	\$104.10	\$242.00	\$275.80	\$379.90
35	\$104.90	\$104.10	\$209.00	\$209.80	\$313.90
36	\$143.90	\$104.10	\$248.00	\$287.80	\$391.90
37	\$146.90	\$104.10	\$251.00	\$293.80	\$397.90
38	\$149.90	\$104.10	\$254.00	\$299.80	\$403.90
39	\$152.90	\$104.10	\$257.00	\$305.80	\$409.90
40	\$155.90	\$104.10	\$260.00	\$311.80	\$415.90
41	\$158.90	\$104.10	\$263.00	\$317.80	\$421.90
42	\$161.90	\$104.10	\$266.00	\$323.80	\$427.90
43	\$164.90	\$104.10	\$269.00	\$329.80	\$433.90
44	\$167.90	\$104.10	\$272.00	\$335.80	\$439.90
45	\$170.90	\$104.10	\$275.00	\$341.80	\$445.90
46	\$173.90	\$104.10	\$278.00	\$347.80	\$451.90
47	\$176.90	\$104.10	\$281.00	\$353.80	\$457.90
48	\$179.90	\$104.10	\$284.00	\$359.80	\$463.90
49	\$182.90	\$104.10	\$287.00	\$365.80	\$469.90
50	\$185.90	\$104.10	\$290.00	\$371.80	\$475.90
51	\$188.90	\$104.10	\$293.00	\$377.80	\$481.90
52	\$191.90	\$104.10	\$296.00	\$383.80	\$487.90
53	\$194.90	\$104.10	\$299.00	\$389.80	\$493.90
54	\$197.90	\$104.10	\$302.00	\$395.80	\$499.90

MUNICIPAL COURT FINES/FEES

SPEEDING TABLE OF FEES

SPEEDING CHART EFFECTIVE 1/31/14 NOT IN SCHOOL ZONE

\$7 fee eff 1/31/14

1-15 MILES		\$	185.00
16	1	\$	188.00
17	2	\$	191.00
18	3	\$	194.00
19	4	\$	197.00
20	5	\$	200.00
21	6	\$	203.00
22	7	\$	206.00
23	8	\$	209.00
24	9	\$	212.00
25	10	\$	215.00
26	11	\$	218.00
27	12	\$	221.00
28	13	\$	224.00
29	14	\$	227.00
30	15	\$	230.00
31	16	\$	233.00
32	17	\$	236.00
33	18	\$	239.00
34	19	\$	242.00
35	20	\$	245.00
36	21	\$	248.00
37	22	\$	251.00
38	23	\$	254.00
39	24	\$	257.00
40	25	\$	260.00
41	26	\$	263.00
42	27	\$	266.00
43	28	\$	269.00
44	29	\$	272.00
45	30	\$	275.00
46	31	\$	278.00
47	32	\$	281.00

MUNICIPAL COURT FINES/FEES

SPEEDING TABLE OF FEES

SPEEDING IN SCHOOL ZONE

		\$7 fee eff 1/31/14	
Miles Over		Fine	
1-15 MILES		\$	210.00
16	1	\$	213.00
17	2	\$	216.00
18	3	\$	219.00
19	4	\$	222.00
20	5	\$	225.00
21	6	\$	228.00
22	7	\$	231.00
23	8	\$	234.00
24	9	\$	237.00
25	10	\$	240.00
26	11	\$	243.00
27	12	\$	246.00
28	13	\$	249.00
29	14	\$	252.00
30	15	\$	255.00
31	16	\$	258.00
32	17	\$	261.00
33	18	\$	264.00
34	19	\$	267.00
35	20	\$	270.00
36	21	\$	273.00
37	22	\$	276.00
38	23	\$	279.00
39	24	\$	282.00
40	25	\$	285.00
41	26	\$	288.00
42	27	\$	291.00
43	28	\$	294.00
44	29	\$	297.00
45	30	\$	300.00
46	31	\$	303.00
47	32	\$	306.00

MUNICIPAL COURT FINES/FEES

TOMBALL MUNICIPAL COURT FEE

281-351-7894

Below are listed minimum fines for most offenses. You may pay the fine any time before the due date, otherwise you must appear in Court on the date and time shown on your citation. If you do not, a warrant may be issued immediately. If you have any questions, please call the above number.

FINE SCHEDULE 2014

777	ACCESS TO ELECTRICAL PANELS	\$ 271.00	\$ 71.00	\$ 200.00
816	ASSAULT BY PHYSICAL CONTACT	\$ 306.00	\$ 71.00	\$ 235.00
815	ASSAULT BY THREAT	\$ 306.00	\$ 71.00	\$ 235.00
	BACKED UPON SHOULDER (OR ROADWAY) OF			
3316	CONTROLLED ACCESS HIGHWAY/ ILLEGAL BACKING	\$ 224.00	\$ 104.10	\$ 119.90
505	BACKING NOT IN SAFETY	\$ 224.00	\$ 104.00	\$ 120.00
696	BICYCLE FAIL TO YIELD ROW LEFT	\$ 104.00	\$ 71.00	\$ 33.00
695	BICYCLE NOT EQUIPPED WITH LIGHTS	\$ 134.00	\$ 104.00	\$ 30.00
3550	BLOCKING HANDICAP ACCESS	\$ 571.00	\$ 71.00	\$ 500.00
517	BLOCKING MOVING LANE OF TRAFFIC	\$ 175.00	\$ 104.10	\$ 70.90
	C.O ABANDONMENT OF NONCONFORMING USE AND			
791	STRUCTURES&CESSATION OF USE OF	\$ 271.00	\$ 71.00	\$ 200.00
773	C/C MAINT FIRE ALARM SYSTEM	\$ 271.00	\$ 71.00	\$ 200.00
772	C/C MAINT SPRINKLER SYSTEM	\$ 271.00	\$ 71.00	\$ 200.00
3313	CARELESS DRIVING	\$ 224.00	\$ 104.00	\$ 120.00
	CHANGE NAME/ MAILING ADDRESS LATER THAN 30			
3302	DAYS (CDL)	\$ 159.00	\$ 71.00	\$ 88.00
3009	CHANGED LANE WHEN UNSAFE	\$ 224.00	\$ 104.10	\$ 119.90
	CHILD (UNDER 8 YEAR) NOT RESTRAINED IN SAFETY			
3037	SEAT	\$ 144.00	\$ 104.00	\$ 40.00
3034	CHILD (8-14) NOT SECURE BY SAFETY BELT	\$ 144.00	\$ 104.00	\$ 40.00
766	CITY ORDINACNE COLLRCTION BY CITY ONLY	\$ 571.00	\$ 71.00	\$ 500.00
	CITY ORDINANCE ALARM SYSTEM INSTALLATION W/O			
742	PERMIT	\$ 507.00	\$ 71.00	\$ 436.00
754	CITY ORDINANCE ANIMAL QUARANTINE	\$ 104.00	\$ 71.00	\$ 33.00
793	CITY ORDINANCE ATTENTION GETTING DEVICE	\$ 271.00	\$ 71.00	\$ 200.00
767	CITY ORDINANCE CERTIFICATE OF OCCUPANCY	\$ 271.00	\$ 71.00	\$ 200.00
868	CITY ORDINANCE CURFEW DAYTIME	\$ 184.00	\$ 71.00	\$ 113.00
867	CITY ORDINANCE CURFEW NIGHTTIME	\$ 184.00	\$ 71.00	\$ 113.00
750	CITY ORDINANCE DIGGING OUT	\$ 174.00	\$ 104.00	\$ 70.00
756	CITY ORDINANCE DISCHARGE WASTE IN PUBLIC SEWER	\$ 271.00	\$ 71.00	\$ 200.00
781	CITY ORDINANCE DISCHARGE WASTEWATER	\$ 271.00	\$ 71.00	\$ 200.00
804	CITY ORDINANCE DISCHG FIREARM IN CITY LIMITS	\$ 271.00	\$ 71.00	\$ 200.00
707	CITY ORDINANCE DOG/CAT/VACCINATION AND LICENSING	\$ 104.00	\$ 71.00	\$ 33.00
713	CITY ORDINANCE DRIVEWAY ORDINACNE SEC 14-4 E	\$ 271.00	\$ 71.00	\$ 200.00
730	CITY ORDINANCE DRIVEWAY SEC.14-4	\$ 271.00	\$ 71.00	\$ 200.00
779	CITY ORDINANCE DRIVEWAY SURFACE	\$ 271.00	\$ 71.00	\$ 200.00
	CITY ORDINANCE FAIL TO HAVE CURRENT REG FOR			
753	ANIMALS	\$ 104.00	\$ 71.00	\$ 33.00
755	CITY ORDINANCE FIRE CODE LOCKED EXISTS	\$ 271.00	\$ 71.00	\$ 200.00
765	CITY ORDINANCE FIREWORKS	\$ 271.00	\$ 71.00	\$ 200.00
751	CITY ORDINANCE HORN VEHICLE SOUNDING	\$ 271.00	\$ 71.00	\$ 200.00
759	CITY ORDINANCE ILLEGAL DUMPING	\$ 271.00	\$ 71.00	\$ 200.00
761	CITY ORDINANCE JUNK VEHICLE	\$ 271.00	\$ 71.00	\$ 200.00
760	CITY ORDINANCE JUNK VEHICLE PARTS	\$ 271.00	\$ 71.00	\$ 200.00
726	CITY ORDINANCE LIVESTOCK IN RESIDENTAL AREA	\$ 271.00	\$ 71.00	\$ 200.00

MUNICIPAL COURT FINES/FEES

792	CITY ORDINANCE NO BUILDING PERMIT	\$ 271.00	\$ 71.00	\$ 200.00
775	CITY ORDINANCE NO DEVELOPMENT PERMIT	\$ 271.00	\$ 71.00	\$ 200.00
758	CITY ORDINANCE NOISY VEHICLES	\$ 271.00	\$ 71.00	\$ 200.00
715	CITY ORDINANCE NUISANCES NOISE CITY ORDINANCE OBSTRUCTION	\$ 271.00	\$ 71.00	\$ 200.00
762	SIDEWALK/EASEMENT/STREET	\$ 571.00	\$ 71.00	\$ 500.00
708	CITY ORDINANCE PLUMBING AND GAS ORDINANCE	\$ 271.00	\$ 71.00	\$ 200.00
710	CITY ORDINANCE PROHIBITED SIGNS	\$ 271.00	\$ 71.00	\$ 200.00
711	CITY ORDINANCE PROHIBITED SMOKING PRODUCT CITY ORDINANCE PROHIBITED USE OF WIRELESS	\$ 271.00	\$ 71.00	\$ 200.00
719	COMM DEVICE WHILE DRIVING	\$ 174.00	\$ 104.00	\$ 70.00
776	CITY ORDINANCE SOLICITING W/ NO PERMIT	\$ 271.00	\$ 71.00	\$ 200.00
757	CITY ORDINANCE TIRE STORAGE AND MOSQUITO CONTRO	\$ 271.00	\$ 71.00	\$ 200.00
780	CITY ORDINANCE UNLAWFUL COLLECTION GARBAGE	\$ 271.00	\$ 71.00	\$ 200.00
790	CITY ORDINANCE UNLICENSED WREARER DRIVER	\$ 271.00	\$ 71.00	\$ 200.00
789	CITY ORDINANCE UNLICENSED WREAKER	\$ 271.00	\$ 71.00	\$ 200.00
712	CITY ORDINANCE WASTE MATERIAL CONTAINERS COLLECT	\$ 271.00	\$ 71.00	\$ 200.00
763	CITY ORDINANCE WATER EMERGENCY RATIONING	\$ 271.00	\$ 71.00	\$ 200.00
11	CITY ORDINANCE-BURNING W/O PERMIT	\$ 271.00	\$ 71.00	\$ 200.00
12	CITY ORDINANCE-BURNING, DELBERATE OR NEGLIGENT	\$ 271.00	\$ 71.00	\$ 200.00
17	CITY ORDINANCE-ELECTRICAL	\$ 271.00	\$ 71.00	\$ 200.00
534	CITY ORDINANCE-HITCHHIKING-SOLICITATION	\$ 174.00	\$ 104.00	\$ 70.00
3553	CITY ORDINANCE-ILLEGAL PARKING HANDICAP AREA	\$ 309.00	\$ 59.00	\$ 250.00
532	CITY ORDINANCE-ILLEGAL PARKING OVER 24HRS CITY ORDINANCE-INSTALL FIRE EXTINGUISHING	\$ 74.00	\$ 59.00	\$ 15.00
16	SYSTEM W/O PERMIT	\$ 271.00	\$ 71.00	\$ 200.00
15	CITY ORDINANCE-NO TAXI DRIVER PERMIT	\$ 271.00	\$ 71.00	\$ 200.00
14	CITY ORDINANCE-NOISE	\$ 271.00	\$ 71.00	\$ 200.00
706	CITY ORDINANCE-NUISANCE ALL TYPE OF NOISE	\$ 271.00	\$ 71.00	\$ 200.00
704	CITY ORDINANCE-NUISANCE ODORS	\$ 271.00	\$ 71.00	\$ 200.00
603	CITY ORDINANCE-TRASH DISPOSAL	\$ 271.00	\$ 71.00	\$ 200.00
700	CITY ORDINANCE-UNLEASDED DOG/CAT RUNNING AT LARC	\$ 104.00	\$ 71.00	\$ 33.00
10	CITY ORDINANCE-VIOLATE CITY ORDINANCE NUISANCE	\$ 271.00	\$ 71.00	\$ 200.00
702	CITY ORDINANCE-WEEDS EXCESSIVE GROWTH	\$ 271.00	\$ 71.00	\$ 200.00
3194	COASTING	\$ 224.00	\$ 104.10	\$ 119.90
771	COMBUSTIBLE WASTE DUMPSTER PERMIT-IFC	\$ 271.00	\$ 71.00	\$ 200.00
863	CONSUME ALCOHOL DURING PROHIBITED HOURS CONSUME ALCOHOLIC BEVERAGE ON OFF PREMISED	\$ 271.00	\$ 71.00	\$ 200.00
2000	LICENSE ACCOUNT	\$ 271.00	\$ 71.00	\$ 200.00
2010	CONSUMPTION OF ALCOHOLIC BEVERAGE NEAR A SCHOO	\$ 271.00	\$ 71.00	\$ 200.00
864	CONTEMPT FOR DISOBEYING COURT ORDER	\$ 71.00	\$ 71.00	\$ -
865	CONTEMPT OF COURT CO-USE OF CERTAIN WIRELESS COMMUNICATION	\$ 271.00	\$ 71.00	\$ 200.00
18	DEVICE WHILE DRIVING PROHIBITED	\$ 271.00	\$ 71.00	\$ 200.00
875	CRIMINAL TRESPASS	\$ 306.00	\$ 71.00	\$ 235.00
1000	CRIMINAL MISCHIEF/ CLASS C	\$ 306.00	\$ 71.00	\$ 235.00
3589	CROSSED FIRE HOSE WITHOUT PERMISSION	\$ 224.00	\$ 104.10	\$ 119.90
3081	CROSSING PROPERTY (CUT CORNER)	\$ 224.00	\$ 104.10	\$ 119.90
591	CUT ACROSS PARKING LOT	\$ 174.00	\$ 104.00	\$ 70.00
3013	CUT CORNER LEFT TURN	\$ 224.00	\$ 104.10	\$ 119.90
3092	CUT IN AFTER PASSING	\$ 224.00	\$ 104.10	\$ 119.90
1173	D.O.C ABUSE OR THREATEN(OFFENSIVE MANNER)	\$ 271.00	\$ 71.00	\$ 200.00
1175	D.O.C FIGHTING WITH ANOTHER	\$ 306.00	\$ 71.00	\$ 235.00
1172	D.O.C NOXIOUS/ UNREASONABLE ODOR(CHEMICAL)	\$ 306.00	\$ 71.00	\$ 235.00
1174	D.O.C UNREASONABLE NOISE	\$ 306.00	\$ 71.00	\$ 235.00

MUNICIPAL COURT FINES/FEES

1178	D.O.C. DISCHARGES FIREARM/PUBLIC ROADWAY	\$ 306.00	\$ 71.00	\$ 235.00
1170	D.O.C. OBSCENE LANGUAGE	\$ 306.00	\$ 71.00	\$ 235.00
1171	D.O.C. OFFENSIVE GESTURE/ DISPLAY	\$ 306.00	\$ 71.00	\$ 235.00
812	D.O.C. PUBLIC EXPOSURE	\$ 306.00	\$ 71.00	\$ 235.00
1176	D.O.C. WINDOW PEEPING DWELLING	\$ 306.00	\$ 71.00	\$ 235.00
1177	D.O.C. WINDOW PEEPING HOTEL OR MOTEL	\$ 306.00	\$ 71.00	\$ 235.00
3213E	DEFECTIVE BRAKES	\$ 159.00	\$ 104.00	\$ 55.00
3229	DEFECTIVE EXHAUST EMISSION SYSTEM	\$ 159.00	\$ 104.00	\$ 55.00
3162	DEFECTIVE HEAD LAMP	\$ 159.00	\$ 104.00	\$ 55.00
3162A	DEFECTIVE HEAD LAMP (MOTORCYCLE)	\$ 159.00	\$ 104.00	\$ 55.00
3174	DEFECTIVE PARKING LAMP(S)	\$ 159.00	\$ 104.00	\$ 55.00
3170	DEFECTIVE STOP LAMP(S)	\$ 159.00	\$ 104.00	\$ 55.00
3167	DEFECTIVE TAIL LAMP(S)	\$ 159.00	\$ 104.00	\$ 55.00
3172	DEFECTIVE TURN SIGNAL LAMP(S)	\$ 159.00	\$ 104.00	\$ 55.00
3233	DEFECTIVE WINDSHIELD WIPER	\$ 159.00	\$ 104.00	\$ 55.00
3140	DISPLAY ALTERED DRIVER'S LICENSE	\$ 271.00	\$ 71.00	\$ 200.00
444	DISPLAY ALTERNATING LIGHTS TO REAR	\$ 104.00	\$ 71.00	\$ 33.00
3656	DISPLAY EXPIRED REGISTRATION	\$ 147.00	\$ 71.00	\$ 76.00
3658	DISPLAY UNCLEAN LICENSE PLATES	\$ 147.00	\$ 71.00	\$ 76.00
3008	DISREGARD FLASHING YELLOW SIGNAL	\$ 224.00	\$ 104.10	\$ 119.90
3067	DISREGARD FLASJING RED SIGNAL(AT STOP SIGN ,ETC)	\$ 224.00	\$ 104.10	\$ 119.90
3069	DISREGARD LANE CONTROL SIGNAL	\$ 224.00	\$ 104.10	\$ 119.90
3071	DISREGARD NO LANE CHANGE SIGN	\$ 224.00	\$ 104.10	\$ 119.90
3019	DISREGARD NO PASSING ZONE	\$ 224.00	\$ 104.10	\$ 119.90
3059	DISREGARD OFFICAL TRAFFIC CONTROL DEVICE	\$ 224.00	\$ 104.10	\$ 119.90
3582	DISREGARD PEDESTRIAN CONTROL SIGNAL	\$ 64.00	\$ 49.00	\$ 15.00
3121	DISREGARD POLICE OFFICER	\$ 224.00	\$ 104.10	\$ 119.90
3073	DISREGARD RR CROSSING GATE OR FLAGMAN	\$ 224.00	\$ 104.10	\$ 119.90
3072	DISREGARD SIGNAL AT RR CROSSING	\$ 224.00	\$ 104.10	\$ 119.90
3065	DISREGARD WARNING SIGN AT CONSTRUCTION	\$ 224.00	\$ 104.10	\$ 119.90
874	DISRUPTION OF CLASSES	\$ 271.00	\$ 71.00	\$ 200.00
878	DISRUPTION OF SCHOOL ACTIVITIES	\$ 271.00	\$ 71.00	\$ 200.00
873	DISRUPTION OF TRANSPORTATION	\$ 271.00	\$ 71.00	\$ 200.00
373	DRIVING LEFT OF CENTER	\$ 174.00	\$ 104.00	\$ 70.00
374	DRIVING LEFT OF DOUBLE YELLOW STRIPE	\$ 174.00	\$ 104.00	\$ 70.00
596	DRIVING ON SHOULDER OF ROADWAY	\$ 174.00	\$ 104.00	\$ 70.00
3101	DRIVING WHILE LICENSE SUSPENDED/ INVALID	\$ 371.00	\$ 71.00	\$ 300.00
3089	DROVE CENTER LANE (NOT PASSING/ NOT TURNING LEFT)	\$ 224.00	\$ 104.10	\$ 119.90
3590	DROVE INTO BLOCKWHERE FIRE ENGINE STOPPED	\$ 224.00	\$ 104.10	\$ 119.90
3315	DROVE ON SIDEWALK	\$ 224.00	\$ 104.10	\$ 119.90
3088	DROVE ON WRONG SIDE OF DIVIDED HIGHWAY	\$ 224.00	\$ 104.10	\$ 119.90
3015B	DROVE ON WRONG SIDE OF ROAD / INTERSECTION	\$ 224.00	\$ 104.10	\$ 119.90
3015A	DROVE ON WRONG SIDE OF ROAD /BRIDGE	\$ 224.00	\$ 104.10	\$ 119.90
3015C	DROVE ON WRONG SIDE OF ROAD/ RR GRADE	\$ 224.00	\$ 104.10	\$ 119.90
3015	DROVE ON WRONG SIDE OR ROAD	\$ 224.00	\$ 104.10	\$ 119.90
3066	DROVE THROUGH SAFETY ZONE	\$ 224.00	\$ 104.10	\$ 119.90
3198	DROVE WITHOUT LIGHTS (WHEN REQUIRED)	\$ 224.00	\$ 104.10	\$ 119.90
3090	DROVE WRONG WAY IN DESIGNATED LANE	\$ 224.00	\$ 104.10	\$ 119.90
3016	DROVE WRONG WAY ON ONE WAY ROAD	\$ 224.00	\$ 104.10	\$ 119.90
	DROVE ONTO(FROM) CONTROLLED ACCESS HIGHWAY			
3127	WHERE PROHIBITED	\$ 224.00	\$ 104.10	\$ 119.90
3273	DUTIES UPON STRIKING A FIXED OBJECT	\$ 191.00	\$ 71.00	\$ 120.00
871	ELECTRICAL HAZARDS	\$ 271.00	\$ 71.00	\$ 200.00
3305	ENDORSEMENT VIOLATION ON CDL	\$ 184.10	\$ 104.10	\$ 80.00
778	EXIT SIGN MUST BE LIGHTED	\$ 271.00	\$ 71.00	\$ 200.00

MUNICIPAL COURT FINES/FEES

872	EXIT SIGNS FIRE CODE	\$ 271.00	\$ 71.00	\$ 200.00
3260	EXPIRED COMMERIAL DRIVER'S LICENSE	\$ 159.00	\$ 71.00	\$ 88.00
289	EXPIRED DEALER PAPER PLATES	\$ 147.00	\$ 71.00	\$ 76.00
3259	EXPIRED DRIVER'S LICENSE	\$ 159.00	\$ 71.00	\$ 88.00
3205	EXPIRED MOTOR VEHICLE INSPECTION	\$ 147.00	\$ 71.00	\$ 76.00
462	FAIL TO SET PARK BRAKE	\$ 104.00	\$ 71.00	\$ 33.00
	FAIL TO ATTEND SCHOOL (NO LONGER FILLED HERE			
869	JP COURT)	\$ 215.00	\$ 104.00	\$ 111.00
3050	FAIL TO CONTROL SPEED	\$ 224.00	\$ 104.10	\$ 119.90
600	FAIL TO COVER LOAD	\$ 104.00	\$ 71.00	\$ 33.00
3104	FAIL TO FLAG PROJECTION	\$ 134.00	\$ 104.00	\$ 30.00
3045	FAIL TO GIVE INFORMATION/ RENDER AID	\$ 191.00	\$ 71.10	\$ 119.90
3049	FAIL TO MAINTAIN FINANCIAL RESPONSIBILITY	\$ 286.00	\$ 71.00	\$ 215.00
3025	FAIL TO MAINTAIN FINANCIAL RESPONSIBILITY 2ND OFF	\$ 571.00	\$ 71.00	\$ 500.00
3103A	FAIL TO OBTAIN TX DL WITHIN 90 DAYS	\$ 159.00	\$ 71.00	\$ 88.00
604	FAIL TO PROPERLY SECURE TRAILER	\$ 114.00	\$ 71.00	\$ 43.00
548	FAIL TO REPORT ACCIDENT- PEDESTRIAN	\$ 174.00	\$ 104.00	\$ 70.00
550	FAIL TO REPORT ACCIDENT TO POLICE DEPT	\$ 154.00	\$ 104.00	\$ 50.00
606	FAIL TO SECURE LOAD	\$ 104.00	\$ 71.00	\$ 33.00
605	FAIL TO SECURE VEHICLE	\$ 114.00	\$ 71.00	\$ 43.00
2200	FAIL TO SET PARK BRAKE	\$ 104.00	\$ 71.00	\$ 33.00
3084	FAIL TO SIGNAL LANE CHANGE	\$ 224.00	\$ 104.10	\$ 119.90
503	FAIL TO SIGNAL STOP	\$ 174.00	\$ 104.00	\$ 70.00
563	FAIL TO STO AND GIVE INFO-OBJECT TRAFFIC AREA	\$ 144.00	\$ 71.00	\$ 73.00
560	FAIL TO STOP AND RENDER AID	\$ 271.00	\$ 71.00	\$ 200.00
3061	FAIL TO STOP- DESIGNATED POINT AT YIELD SIGN	\$ 224.00	\$ 104.10	\$ 119.90
549	FAIL TO USE DUE -CARE HIT PEDESTRIAN	\$ 174.00	\$ 104.00	\$ 70.00
3053	FAIL TO YIELD AT YEILD INTERSECTION	\$ 224.00	\$ 104.10	\$ 119.90
3057	FAIL TO YIELD R- O -W TO EMERGENCY VEHICLE	\$ 224.00	\$ 104.10	\$ 119.90
3005	FAIL TO YIELD R-O-W	\$ 224.00	\$ 104.10	\$ 119.90
3054	FAIL TO YIELD R-O-W AT OPEN INTERSECTION	\$ 224.00	\$ 104.10	\$ 119.90
3288	FAIL TO YIELD R-O-W- CHANGING LANES	\$ 224.00	\$ 104.10	\$ 119.90
327	FAIL TO YIELD R-O-W FROM PARKED POSITION	\$ 174.00	\$ 104.00	\$ 70.00
	FAIL TO YIELD R-O-W INTERSECTION W/ TRAFFIC			
3005C	CONTROL DEVICE	\$ 224.00	\$ 104.10	\$ 119.90
3058	FAIL TO YIELD R-O-W ON GREEN ARROWM SIGNAL	\$ 224.00	\$ 104.00	\$ 120.00
319	FAIL TO YIELD R-O-W R.R CROSSING	\$ 223.90	\$ 104.00	\$ 119.90
3005A	FAIL TO YIELD R-O-W TO VEHICLE ENTERING FROM HIGHW.	\$ 224.00	\$ 104.10	\$ 119.90
3052	FAIL TO YIELD R-O-W TO VEHICLE IN INTERESECTION	\$ 224.00	\$ 104.10	\$ 119.90
3005B	FAIL TO YIELD R-O-W TO VEHICLE LEAVING HIGHWAY	\$ 224.00	\$ 104.10	\$ 119.90
3056	FAIL TO YIELD R-O-W(PRIVATE DRIVR/ ALLEY/BUILDING)	\$ 224.00	\$ 104.10	\$ 119.90
3116A	FAIL TO YIELD TO PEDESTRIAN IN CROSSWALK(NO SIGNAL	\$ 224.00	\$ 104.10	\$ 119.90
3264	FAILED TO CHANGE ADDRESS DRIVER'S LICENSE	\$ 159.00	\$ 71.00	\$ 88.00
	FAILED TO COMPLY WITH REQUIREMENTS IN STRIKING			
3272	UNATTENDED VEHICLE	\$ 224.00	\$ 104.00	\$ 120.00
3156	FAILED TO DIM HEADLIGHT FOLLOWING	\$ 135.00	\$ 104.10	\$ 30.90
3155	FAILED TO DIM HEADLIGHTS- MEETING	\$ 135.00	\$ 104.10	\$ 30.90
3263	FAILED TO DISPLAY DRIVER'S LICENSE	\$ 159.00	\$ 71.00	\$ 88.00
	FAILED TO GET A TX CDL AFTER 30 DAYS OF			
3303	RESIDENCE IN THE STATE	\$ 159.00	\$ 71.00	\$ 88.00
3085	FAILED TO GIVE ONE-HALF OF ROADWAY	\$ 224.00	\$ 104.10	\$ 119.90
3124	FAILED TO GIVE WAY WHEN OVERTAKEN	\$ 224.00	\$ 104.10	\$ 119.90
3070	FAILED TO MAINTAIN SINGLE LANE	\$ 224.00	\$ 104.10	\$ 119.90
3022	FAILED TO PASS TO RIGHT SAFELY/ IMPROPER PASSING	\$ 224.00	\$ 104.10	\$ 119.90
3097	FAILED TO SIGNAL INTENT PRIOR TO 100 FT	\$ 224.00	\$ 104.10	\$ 119.90

MUNICIPAL COURT FINES/FEES

3096	FAILED TO SIGNAL TURN	\$ 224.00	\$ 104.00	\$ 120.00
3096A	FAILED TO SIGNAL TURN	\$ 224.00	\$ 104.10	\$ 119.90
3138	FAILED TO STOP (ALLEY, DRIVEWAY, BLDING)	\$ 224.00	\$ 104.10	\$ 119.90
3060	FAILED TO STOP AT DESIGNATED POINT	\$ 224.00	\$ 104.10	\$ 119.90
3074	FAILED TO STOP AT MARKED RR CROSSING	\$ 224.00	\$ 104.10	\$ 119.90
3068	FAILED TO STOP AT PROPER PLACE (FLASHING RED SIGNAL)	\$ -		
3063	FAILED TO STOP AT PROPER PLACE (TRAFFIC LIGHT)	\$ 224.00	\$ 104.10	\$ 119.90
3131	FAILED TO STOP FOR APPROACHING TRAIN	\$ 224.00	\$ 104.10	\$ 119.90
3021	FAILED TO STOP FOR SCHOOL BUS (OR REMAIN STOPPED)	\$ 224.00	\$ 104.10	\$ 119.90
3052A	FAILED TO YIELD AT STOP INTERSECTION	\$ 224.00	\$ 104.10	\$ 119.90
3287	FAILED TO YIELD R-O-W TURNING ON RED SIGNAL	\$ 224.00	\$ 104.10	\$ 119.90
3116	FAILED TO YIELD TO PEDESTRIAN IN CROSSWALK	\$ 224.00	\$ 104.10	\$ 119.90
3115	FAILED TO YIELD TO PEDESTRIAN ON SIDEWALK	\$ 224.00	\$ 104.10	\$ 119.90
3337	FAILURE TO APPEAR/ BAIL JUMPING	\$ 196.00	\$ 71.00	\$ 125.00
3337 W	FAILURE TO APPEAR/ BAIL JUMPING W/ WARRANT AND OMN	\$ 276.00	\$ 151.00	\$ 125.00
3337 W	FAILURE TO APPEAR/ BAIL JUMPING W/ WARRANT NO OMN	\$ 276.00	\$ 151.00	\$ 125.00
1130	FAILURE TO IDENTIFY	\$ 306.00	\$ 71.00	\$ 235.00
3304	FALSE STATEMENT ON CDL APPLICATION OR CERTIFICATE	\$ 159.00	\$ 71.00	\$ 88.00
	FICTITIOUS INSPECTION STICKER -NO LONGER USED			
273E	COUNTY CHARGE	\$ 271.00	\$ 71.00	\$ 200.00
	FINE SCHEDULE 2014			
3591	FOLLOWING AMBULANCE	\$ 224.00	\$ 104.10	\$ 119.90
3591A	FOLLOWING FIRE APPARATUS	\$ 224.00	\$ 104.10	\$ 119.90
3017	FOLLOWING TOO CLOSELY	\$ 224.00	\$ 104.10	\$ 119.90
803	FURNISH ALCOHOL TO MINOR	\$ 271.00	\$ 71.00	\$ 200.00
451	HEADLIGHT (DROVE)	\$ 174.00	\$ 104.00	\$ 70.00
460	HUBCAPS OVEREXTENDED TO THE LEFT 8" SPIKED	\$ 104.00	\$ 71.00	\$ 33.00
3020	ILLEGAL PASS ON RIGHT	\$ 224.00	\$ 104.10	\$ 119.90
318	ILLEGAL RIGHT TURN FROM INSIDE LEFT LANE	\$ 223.90	\$ 104.00	\$ 119.90
525	ILLEGALLY PARKED-PROHIBITED BY SIGNS	\$ 74.00	\$ 59.00	\$ 15.00
3003	IMPEDING TRAFFIC	\$ 224.00	\$ 104.10	\$ 119.90
3077	IMPROPER RT TURN TOO WIDE	\$ 224.00	\$ 104.10	\$ 119.90
285	IMPROPER START FROM STOP/PARKED POSITION	\$ 223.90	\$ 104.00	\$ 119.90
448	IMPROPER TURN DEPTH	\$ 104.00	\$ 71.00	\$ 33.00
3014	IMPROPER TURN	\$ 224.00	\$ 104.10	\$ 119.90
3099	IMPROPER TURN OR HAND SIGNAL	\$ 224.00	\$ 104.10	\$ 119.90
3175	IMPROPER USE OF BACK-UP LAMPS	\$ 159.00	\$ 104.00	\$ 55.00
3622	IMPROPERLY SECURED TAILGATE	\$ 159.00	\$ 104.00	\$ 55.00
3125	INCREASE SPEED WHILE BEING OVERTAKEN	\$ 224.00	\$ 104.10	\$ 119.90
3314	INTERFERE WITH FUNERAL PROCESSION	\$ 339.00	\$ 104.00	\$ 235.00
511	LEAVING CHILD UNATTENDED IN VEHICLE	\$ 306.00	\$ 71.00	\$ 235.00
855	LITTERING	\$ 271.00	\$ 71.00	\$ 200.00
1180	MAKE FIREARM ACCESSIBLE TO A CHILD	\$ 306.00	\$ 71.00	\$ 235.00
3908	MASSAGE THERAPIST ADVERTISING UNREGISTERED	\$ 571.00	\$ 71.00	\$ 500.00
3907	MASSAGE THERAPIST NO REGISTRATION	\$ 571.00	\$ 71.00	\$ 500.00
3801	MINOR ATTEMPT TO PURCHASE ALCOHOL	\$ 271.00	\$ 71.00	\$ 200.00
3803	MINOR CONSUMPTION OF ALCOHOL	\$ 271.00	\$ 71.00	\$ 200.00
3806	MINOR DRIVING UNDER THE INFLUENCE	\$ 271.00	\$ 71.00	\$ 200.00
3800	MINOR IN POSSESSION ALCOHOL	\$ 271.00	\$ 71.00	\$ 200.00
3805	MINOR PUBLIC INTOXICATION	\$ 271.00	\$ 71.00	\$ 200.00
3802	MINOR PURCHASE ALCOHOL	\$ 271.00	\$ 71.00	\$ 200.00
746	MINOR TOB/CIG PROD/POSS/PUR/CONSUME	\$ 271.00	\$ 71.00	\$ 200.00
3300	MORE THAN ON ONE LICENSE (CDL)	\$ 159.00	\$ 71.00	\$ 88.00
3144	MORE THAN ON VALID DL/ID IN POSSESSION	\$ 124.00	\$ 71.00	\$ 53.00
3112	MOTORCYCLE NO ENDORSEMENT	\$ 159.10	\$ 71.10	\$ 88.00

MUNICIPAL COURT FINES/FEES

3210	MOTORCYCLE OPER W/ PASS W/O APPROVED HEADGEAR	\$ 120.00	\$ 71.00	\$ 49.00
3207	MOTORCYCLE OPERATOR WITHOUT APPROVED HEADGEAR	\$ 120.00	\$ 71.00	\$ 49.00
3120	MOTORCYCLE PASSENGER WITHOUT APPROVED HEADGEAR	\$ 111.00	\$ 71.00	\$ 40.00
3227	MUFFLER VIOLATION	\$ 159.00	\$ 104.00	\$ 55.00
3312	NEGLIGENT COLLISION	\$ 224.00	\$ 104.00	\$ 120.00
452	NO BRAKE LIGHTS	\$ 104.00	\$ 71.00	\$ 33.00
3301	NO COMMERCIAL DRIVER'S LICENSE (CDL)	\$ 159.10	\$ 71.10	\$ 88.00
3103	NO DRIVER'S LICENSE	\$ 159.00	\$ 71.00	\$ 88.00
3251	NO FRONT SEAT BELTS (REQUIRED)	\$ 144.00	\$ 104.00	\$ 40.00
3274	NO LICENSE PLATE LIGHT	\$ 159.00	\$ 104.00	\$ 55.00
367	NO PARKING LIGHTS WHEN NEEDED	\$ 104.00	\$ 71.00	\$ 33.00
455	NO REAR VIEW MIRROR	\$ 104.00	\$ 71.00	\$ 33.00
641	NO SAFETY CHAIN TRAILER	\$ 134.00	\$ 104.00	\$ 30.00
3032	NO SEAT BELT-DRIVER	\$ 144.00	\$ 104.00	\$ 40.00
3033	NO SEAT BELT- PASSENGER	\$ 144.00	\$ 104.00	\$ 40.00
701	NO SIGN PERMIT	\$ 104.00	\$ 71.00	\$ 33.00
721	NO STOPPING/STANDING/PK IN ROADWAY CO #78-135	\$ 271.00	\$ 71.00	\$ 200.00
3166	NO TAIL LAMP(S) NOT EQUIPPED	\$ 159.00	\$ 104.00	\$ 55.00
428	NO THRU TRUCKS OVER 2 AXLES	\$ 174.00	\$ 104.00	\$ 70.00
454	NO TOW LIGHTS ON TOWED VEHICLE	\$ 134.00	\$ 104.00	\$ 30.00
272	NO VALID CLASS A DRIVER'S LICENSE	\$ 159.00	\$ 71.00	\$ 88.00
271	NO VALID CLASS B DRIVER LICENSE	\$ 159.00	\$ 71.00	\$ 88.00
275	NO VALID CLASS M DRIVER'S LICENSE	\$ 159.00	\$ 71.00	\$ 88.00
273	NO VALID INSPECTION STICKER	\$ 147.00	\$ 71.00	\$ 76.00
3365	NON GUARDIAN PERMITTED UNLICENSE DRIVERS TO DRIVE	\$ 124.00	\$ 71.00	\$ 53.00
725	NUISANCE RUBBISH, STRUCTURE,ETC	\$ 271.00	\$ 71.00	\$ 200.00
1181	OBSCENE DISPLAY	\$ 306.00	\$ 71.00	\$ 235.00
249	OBSOLETE LICENSE PLATES	\$ 271.00	\$ 71.00	\$ 200.00
3594	OBSTRUCTING FIRE APPARATUS	\$ 271.00	\$ 71.00	\$ 200.00
705	OBSTRUCTING FIRE HYDRANT	\$ 271.00	\$ 71.00	\$ 200.00
3320	OBSTRUCTING TRAFFIC	\$ 224.00	\$ 104.10	\$ 119.90
770	OCCUPANCY PROHIB BEFORE APPROVAL -IFC	\$ 271.00	\$ 71.00	\$ 200.00
3323	OPEN CONTAINER PASSENGER	\$ 306.10	\$ 71.10	\$ 235.00
536	OPEN DOOR INTO LANE OF TRAFFIC	\$ 104.00	\$ 71.00	\$ 33.00
3667	OPER MTR VEH W/OUT LICENSE PLT OR W/ONE LIC PLT	\$ 147.00	\$ 71.00	\$ 76.00
3668	OPER UNREG MOTOR VEHICLE	\$ 147.00	\$ 71.00	\$ 76.00
3038	OPERATE VEHICLE WITH CHILD IN OPEN BED	\$ 239.10	\$ 104.10	\$ 135.00
3722	OVER ALLOWABLE GROSS WEIGHT PERMIT VIOLATION	\$ 204.00	\$ 104.00	\$ 100.00
718	PAINT SPRAY BOOTH IFC	\$ 271.00	\$ 71.00	\$ 200.00
3364	PARENT/ GUARDIAN PERMITTED UNLICENSED MINOR TO DRIVE	\$ 124.00	\$ 71.00	\$ 53.00
3555	PARK BICYCLE ON SIDEWALK/IMPEDING TRAFFIC	\$ 64.00	\$ 49.00	\$ 15.00
251	PARK IN MAIN TRAVELED WAY	\$ 147.00	\$ 71.00	\$ 76.00
3572	PARK OR STAND WITH 30 FT OF TRAFFIC CONTROL DEVICE	\$ 64.00	\$ 49.00	\$ 15.00
	PARK OR STAND WITHIN 20 FEET OF CROSSWALK AT			
3570	INTERSECTION	\$ 64.00	\$ 49.00	\$ 15.00
	PARK OR STAND WITHIN 20 FEET OF DRIVEWAY TO			
3571	FIRE STATION	\$ 64.00	\$ 49.00	\$ 15.00
3552	PARK/STAND IN FRONT OF PUBLIC/ PRIVATE DRIVE	\$ 167.00	\$ 49.00	\$ 118.00
3551	PARK/STAND/STOP BETWEEN SAFETY ZONE AND CURB	\$ 64.00	\$ 49.00	\$ 15.00
3284	PARKED DOUBLE	\$ 64.00	\$ 49.00	\$ 15.00
3561	PARKED FACING TRAFFIC	\$ 64.00	\$ 49.00	\$ 15.00
3554F	PARKED IN FIRE LANE	\$ 191.00	\$ 71.00	\$ 120.00
3253	PARKED ON A CROSSWALK	\$ 64.00	\$ 49.00	\$ 15.00
3252	PARKED WITHIN INTERSECTION	\$ 64.00	\$ 49.00	\$ 15.00

MUNICIPAL COURT FINES/FEES

	PARKED WITH WHEELS OVER 18 INCHES FROM CURB			
3564	OR EDGE OF ROADWAY	\$ 64.00	\$ 49.00	\$ 15.00
3565	PARKED WITHIN 50 FEET OR RR CROSSING	\$ 64.00	\$ 49.00	\$ 15.00
3026	PARKIN ON ROADWAY	\$ 64.00	\$ 49.00	\$ 15.00
3569	PARKING/ STANDING WITHIN 15 FEET OF A FIRE HYDRANT	\$ 64.00	\$ 49.00	\$ 15.00
3556	PARKING/STOPPING/ STANDING ON A SIDEWALK	\$ 64.00	\$ 49.00	\$ 15.00
3557	PARKING/STOPPING/ STANDING ON RR TRACK	\$ 64.00	\$ 49.00	\$ 15.00
483	PASS WITH 100 FT OF RR CROSSING	\$ 174.00	\$ 104.00	\$ 70.00
475	PASS WITH INSUFFICIENT CLEARANCE	\$ 174.00	\$ 104.00	\$ 70.00
482	PASS WITHIN 100 FT OF INTERSECTION	\$ 174.00	\$ 104.00	\$ 70.00
3018	PASSED INSUFFICIENT CLEARNACE	\$ 224.00	\$ 104.10	\$ 119.90
3204	PASSING EMERGENCY VEHICLE	\$ 224.00	\$ 104.10	\$ 119.90
477	PASSING ON RIGHT NOT IN SAFETY	\$ 175.00	\$ 104.10	\$ 70.90
595	PASSING ON SHOULDER OF ROAD	\$ 174.00	\$ 104.00	\$ 70.00
474	PASSING ON UNIMPROVED SHOULDER OF ROAD	\$ 174.00	\$ 104.00	\$ 70.00
480	PASSING SCHOOL BUS -LOADING	\$ 174.00	\$ 104.00	\$ 70.00
479	PASSING SCHOOL BUS UNLOADING	\$ 174.00	\$ 104.00	\$ 70.00
473	PASSING WITHIN INTERSECTION	\$ 174.00	\$ 104.00	\$ 70.00
3107	PERMIT UNLAWFUL USE OF DL	\$ 159.00	\$ 71.00	\$ 88.00
832	POSSESS INTOXICANTS ON SCHOOL PROPERTY	\$ 271.00	\$ 71.00	\$ 200.00
3035	POSSESS/ ACOHOL BEVERAGE IN MOTOR VEHICLE	\$ 273.00	\$ 104.10	\$ 168.90
2100	POSSESSION OF DRUG PARAPHERNALIA	\$ 271.00	\$ 71.00	\$ 200.00
	POSSESSION/ CONSUMPTION OF ALCOHOL IN MOTOR			
1230	VEHICLE	\$ 306.00	\$ 71.00	\$ 235.00
1220	PUBLIC INTOXICATION	\$ 306.00	\$ 71.00	\$ 235.00
	RACING / DRAG RACING/ ACCELERATION CONTEST			
3004	FOR SPEED	\$ 175.00	\$ 104.10	\$ 70.90
3007	RAN RED LIGHT	\$ 224.00	\$ 104.10	\$ 119.90
3006	RAN STOP SIGN	\$ 224.00	\$ 104.10	\$ 119.90
1010	RECKLESS DAMAGE OR DESTRUCTION	\$ 306.00	\$ 71.00	\$ 235.00
3306	RESTRICTION VIOLATION CDL	\$ 151.10	\$ 71.10	\$ 80.00
830	SALE OF ALCOHOL TO CERTAIN PERSONS	\$ 271.00	\$ 71.00	\$ 200.00
	SALE OF TOBACCO PRODUCTS TO A MINOR			
2090	HEALTH&SAFETY CODE	\$ 271.00	\$ 71.00	\$ 200.00
2001	SALE TO CERTAIN PERSONS	\$ 271.00	\$ 71.00	\$ 200.00
2091	SELL CIG/TOB PRODUCTS W/O PERMIT	\$ 271.00	\$ 71.00	\$ 200.00
1210	SMOKING TOBACCO PROHIBITED AREAS	\$ 306.00	\$ 71.00	\$ 235.00
342	SOLICITATION BY PEDESTRIANS	\$ 271.00	\$ 71.00	\$ 200.00
3001	SPEEDING (SEE CHART)	\$ -		
489	STOPPED WITHIN INTERSECTION	\$ 174.00	\$ 104.00	\$ 70.00
769	STORAGE/USE HAZARDOUS MATERIAL -FIRECODE	\$ 271.00	\$ 71.00	\$ 200.00
340	STRAIGHT FROM TURN ONLY LANE	\$ 174.00	\$ 104.00	\$ 70.00
3168	TAIL LAMP(S) IMPROPERLY LOCATED	\$ 159.00	\$ 104.00	\$ 55.00
537	TAMPER WITH BARRICADES	\$ 124.00	\$ 71.00	\$ 53.00
1020	THEFT	\$ 306.00	\$ 71.00	\$ 235.00
847	THEFT OF SERVICE	\$ 306.00	\$ 71.00	\$ 235.00
731	TRAIN OBSTRUCTING CROSSING	\$ 124.00	\$ 71.00	\$ 53.00
876	TRESPASS SCHOOL GROUND	\$ 271.00	\$ 71.00	\$ 200.00
3011	TURNUED LEFT FROM WRONG LANE	\$ 224.00	\$ 104.10	\$ 119.90
3012	TURNUED RIGHT FROM WRONG LANE	\$ 224.00	\$ 104.10	\$ 119.90
3080	TURNUED WHEN UNSAFE	\$ 224.00	\$ 104.10	\$ 119.90
345	U TURN NOT SAFETY	\$ 174.00	\$ 104.00	\$ 70.00
445	UNAPPROVED LIGHTING EQUIPMENT	\$ 104.00	\$ 71.00	\$ 33.00
510	UNATTENDED VEHICLE	\$ 174.00	\$ 104.00	\$ 70.00
3277	UNAUTHORIZED RED, WHITE OR BLUE FLASHING LIGHT	\$ 126.00	\$ 71.00	\$ 55.00

MUNICIPAL COURT FINES/FEES

4162	UNLAWFUL TRANSPORT OR USE OF DIESAL FUEL	\$ 271.00	\$ 71.00	\$ 200.00
3225	UNNECESSARY USE OF HORN	\$ 159.00	\$ 104.00	\$ 55.00
3002	UNSAFE SPEED/ TOO FAST FOR CONDITIONS	\$ 224.00	\$ 104.10	\$ 119.90
1105	USE WIRELESS COMMUNICATION DEVICE IN SCHOOL ZONE	\$ 329.00	\$ 129.10	\$ 199.90
3627	VEHICLE W/O REQUIRED EQUIP OR IN UNSAFE CONDITION	\$ 126.00	\$ 71.00	\$ 55.00
3106	VIOLATE DL RESTRICTION	\$ 159.10	\$ 71.10	\$ 88.00
3202	VIOLATE OPERATING HOURS -MINORS	\$ 159.00	\$ 71.00	\$ 88.00
3333	VIOLATE PROMISE TO APPEAR	\$ 196.00	\$ 71.00	\$ 125.00
3333	VIOLATE PROMISE TO APPEAR W/ WARRANT AND VIOLATE PROMISE TO APPEAR W/ WARRANTAN NO	\$ 276.00	\$ 151.00	\$ 125.00
3333	W OMNII FEE	\$ 246.00	\$ 121.00	\$ 125.00
CODE	VIOLATION	TOTAL	CC	FINE
535	WALKING IN ROADWAY	\$ 174.00	\$ 104.00	\$ 70.00
3186	WHITW LIGHTS SHOWING TO REAR	\$ 126.00	\$ 71.00	\$ 55.00
3231	WINDOW TINTING	\$ 159.10	\$ 104.10	\$ 55.00
3149	WRONG MVR-ASSIGNED TO OTHER VEHICLE	\$ 147.00	\$ 71.00	\$ 76.00
3091	WRONG SIDE OF ROAD- NOT PASSING	\$ 224.00	\$ 104.10	\$ 119.90
3163	HEADLAMP(S) GLARING, NOT ADJUSTED	\$ 159.00	\$ 104.00	\$ 55.00

INSUFFICIENT CHECK (NSF) CHARGE FEES

(Sec. 2-239, Code of Ordinances)

When a check has been returned to the City account insufficient funds (NSF), the City/Utility Clerk will notify the issuer of the check that cash payment plus a \$30.00 insufficient check charge is due and payable immediately.

If customer does not redeem the NSF check and pay the insufficient check charge, the City/Utility Clerk may arrange for services to be canceled immediately.

OUTDOOR SOUND AMPLIFICATION EQUIPMENT (CHAPTER 18)

(Sec. 18-194, Code of Ordinances)

Permit Fee for Amplification of Music or Human Speech	\$10.00
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PARK RESERVATION FEES

(Railroad Depot Gazebo, Railroad Depot Plaza, Juergens Park,
Jerry Matheson Park, Theis Attaway Nature Park)

Railroad Depot Plaza & Gazebo @ 201 S. Elm

- No restrooms provided; must have city permission at time of request to provide portable toilet at renter's expense.
- Renters must provide their own tables, chairs, etc.

☐*RESIDENT ☐1/2 DAY \$50.00 (8am-2pm) or (4pm-10pm) ☐ALL DAY
\$100.00(8am-10pm) DEPOSIT \$100.00

☐NON-RESIDENT ☐1/2 DAY \$100.00 (8am-2pm) or (4pm-10pm) ☐ALL DAY
\$125.00(8am-10pm) DEPOSIT \$100.00

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Juergens Park@ 1331 Ulrich

- Keys to the interior of the park are available, but are to be used for temporary access to set up or clean up. No vehicles should remain on the park site interior.
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☐*RESIDENT ☐1/2 DAY \$50.00 (8am-2pm) or (4pm-10pm) ☐ALL DAY
\$100.00(8am-10pm) DEPOSIT \$100.00

☐NON-RESIDENT ☐1/2 DAY \$100.00 (8am-2pm) or (4pm-10pm) ☐ALL DAY
\$125.00(8am-10pm) DEPOSIT \$100.00

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Jerry Matheson Park @ 1240 Ulrich

☐*RESIDENT ☐1/2 DAY \$50.00 (8am-2pm) or (4pm-10pm) ☐ALL DAY
\$100.00(8am-10pm) DEPOSIT \$100.00

☐NON-RESIDENT ☐1/2 DAY \$100.00 (8am-2pm) or (4pm-10pm) ☐ALL DAY
\$125.00(8am-10pm) DEPOSIT \$100.00

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Theis Attaway Nature Park @ 13509 Theis Lane

- Catch and release grass carps.
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☐*RESIDENT ☐1/2 DAY \$50.00 (8am-2pm) or (4pm-10pm) ☐ALL DAY
\$100.00(8am-10pm) DEPOSIT \$100.00

☐NON-RESIDENT ☐1/2 DAY \$100.00 (8am-2pm) or (4pm-10pm) ☐ALL DAY \$125.00
(8am-10pm) DEPOSIT \$100.00

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Rev 11-26-12

POLICE DEPARTMENT FEES

<u>DESCRIPTION</u>	<u>FEE</u>
Offense Report (Public Page)	\$2.00 Each
Local Arrest Record Checks/Letters	\$2.00 Each
Accident Report	\$6.00 Each
Fingerprint Cards - All Other Purposes	\$5.00 per Card

IMPOUNDED VEHICLES

(Chapter 44, Code of Ordinances)

Impounding fee - not in excess \$10.00

RED LIGHT CAMERAS-APPEAL FEE

(Chapter 44, Code of Ordinances)

Late Payment of Civil Penalty or Contest Penalty - \$25.00

Filing Fee for Appeal of Civil Penalty - \$50.00

SEXUALLY ORIENTED BUSINESS FEES

(Sec. 6-26, Code of Ordinances)

Annual Fee for Sexually Oriented Business License - \$750.00

Annual Fee for Employee of Sexually Oriented Business - \$50.00

TAXICAB FEES (Chapter 48)

Annual Fee for Each Taxicab	—	\$ 50.00
Annual Fee for Each Taxicab Driver Permit	—	\$ 0.00

TELECOMMUNICATIONS SERVICES

(Sec. 38-203, Code of Ordinances)

Monthly Charge per Access Line (Subscriber/Customer) - \$2.10

TENNIS COURT FEES
MATHESON PARK AT 1240 ULRICH

**The general public may reserve Jerry Matheson Park tennis courts.
Reserving tennis courts will guarantee availability and priority use of tennis courts.
Individuals may not utilize city facilities for profit making endeavors.**

RENTAL FEES:

Tomball Resident – Per Court:	\$ 5.00/2 Hours
Non-Resident – Per Court:	\$ 10.00/2 Hours
Tomball Resident League Fees:	\$150.00/league-per season (4 mos.)
Non-Resident League Fees:	\$170.00/league- per season (4 mos.)

Spring Season: February through May
Fall Season: September through December

Reservations may be made by contacting Public Works. The tennis courts must be cleaned up by reserving party immediately after function is over. There will be a charge if the City has to clean the tennis courts.

UTILITY FEES

UTILITY DEPOSIT COMPUTATION

- Residential Accounts - Average 12 months of previous billing and multiply by 2 (Round result).
If result is under \$100, minimum deposit will be \$100.00.
- Commercial Accounts - Average 12 months of previous billing and multiply by 2 (Round result).
If result is under \$125, minimum deposit will be \$125.00.

WATER RATES

The monthly rates and charges for potable water provided by the City shall be as follows:

- a. **Small Residential.** A base rate of \$10.90, plus a consumption charge of \$2.85 for each 1,000 gallons used. "Small Residential" shall mean residential customers using 10,000 gallons or less during the billing month.
- b. **Medium Residential.** A base rate of \$12.54, plus a consumption charge of \$3.56 for each 1,000 gallons used. "Medium Residential" shall mean residential customers using 10,001 gallons or more up to 15,000 gallons during the billing month.
- c. **Large Residential.** A base rate of \$14.42, plus a consumption charge of \$4.45 for each 1,000 gallons used. "Large Residential" shall mean residential customers using 15,001 gallons or more during the billing month.
- d. **Small Commercial.** A base rate of \$18.45, plus a consumption charge of \$3.45 for each 1,000 gallons used. "Small Commercial" shall mean commercial customers using up to 5,000 gallons during the billing month.
- e. **Medium Commercial.** A base rate of \$29.70, plus a consumption charge of \$4.32 for each 1,000 gallons used. "Medium Commercial" shall mean commercial customers using 5,001 gallons or more up to 51,000 gallons during a billing month.
- f. **Large Commercial.** A base rate of \$51.99, plus a consumption charge of \$5.40 for each 1,000 gallons used. "Large Commercial" shall mean commercial customers using 51,001 gallons or more during a billing month.

Bulk Sales. A base rate of \$87.05, plus a consumption charge of \$4.83 for each 1,000 gallons used. Additionally, if a meter is desired, the deposit will be \$1,000.00.

The City collects additional surcharges, based on rates established by the **North Harris County Regional Water Authority**, for each 1,000 gallons used on behalf of NHCRWA, which will be adjusted as the surcharge increases.

SANITARY SEWER RATES (WITH POTABLE WATER SERVICE)

The monthly rates and charges for sanitary sewer services provided by the City for customers who receive potable water services from the City shall be as follows:

- a. **Residential - Winter Rates (November-February):** A base rate of \$8.51, plus a charge of \$2.98 for each 1,000 gallons of potable water used.
- b. **Residential - Summer Rates (March-October):** Rates for summer months are calculated at the same rate as winter rates and may be based upon the previous winter months' average monthly water consumption. The rate charged shall be the lesser of actual water consumption or the previous winter month's average consumption.
 - c. **Small Commercial.** A base rate of \$13.69, plus a consumption charge of \$3.78 for each 1,000 gallons of potable water used. "Small Commercial" shall mean commercial customers using up to 5,000 gallons of potable water during the billing month.
 - d. **Medium Commercial.** A base rate of \$20.76, plus a consumption charge of \$4.72 for each 1,000 gallons of potable water used. "Medium Commercial" shall mean commercial customers using 5,001 gallons or more up to 51,000 gallons in the billing month.
 - e. **Large Commercial.** A base rate \$43.06, plus a charge of \$5.90 for each 1,000 gallons of potable water used. "Large Commercial" shall mean commercial customers using 51,001 gallons or more of potable water during a billing month.

SANITARY SEWER RATES (WITHOUT POTABLE WATER SERVICE)

The monthly rates and charges for sanitary sewer services provided by the City for customers who do not receive potable water services from the City shall be as follows:

- a. **Residential.** A base rate of \$35.01, plus a charge of \$2.29 for each drain in excess of ten (10) drains within such residence.
- b. **Commercial.** A base rate of \$58.26, plus a charge of \$2.32 for each drain in excess of fifteen (15) drains within such commercial unit.

GARBAGE AND TRASH COLLECTION/DISPOSAL SERVICE RATES

The monthly rates and charges for garbage and trash collection and disposal services provided by the City, excluding applicable sales tax, shall be as follows:

- a. **Residential.** \$14.74
- c. **Commercial**
 - (1) **Hand Loaded.** For once a week pickup, \$24.00 for the first container, \$21.00 for each additional container. For twice a week pickup, \$29.00 for the first container, \$24.00 for each additional container. Each collection of excess garbage and refuse (i.e. - garbage and refuse in volume which exceeds the capacity of the approved container(s) for which the customer's regular billing is determined) shall be assessed a \$5.00 excess collection fee and can only be collected on Monday and Thursday collection days.

(2) Roll-Off Container:

	Size Container, Cubic Yards		
	20	30	40
Delivery Fee	\$ 115.46	\$ 115.46	\$ 115.46
Monthly Rental	141.36	141.36	141.36
Daily Rental	4.71	4.71	4.71
Haul and Disposal Rate	266.00	307.77	348.87

(3) Compactor/Equipment:

Monthly Rental	(As quoted)
Haul Rate	\$250.00
Disposal Fee/Ton	25.00

(4) Monthly Rate for Dumpsters:

Size	Extra Pickup Rate	Services Per Week					
		1	2	3	4	5	6
3 Yd – 1 st Container	\$30.00	\$75.00	\$119.00	\$178.00	\$224.00	\$279.00	\$335.00
Each add'l container		71.00	105.00	159.00	198.00	247.00	298.00
4 Yd – 1 st Container	\$35.00	81.00	128.00	192.00	241.00	299.00	361.00
Each add'l container		72.00	115.00	173.00	216.00	270.00	323.00
6 Yd – 1 st Container	\$40.00	105.00	164.00	247.00	309.00	386.00	462.00
Each add'l container		93.00	148.00	222.00	278.00	336.00	416.00
8 Yd – 1 st Container	\$50.00	126.00	202.00	300.00	377.00	463.00	565.00
Each add'l container		114.00	178.00	271.00	339.00	394.00	510.00

(5) <u>Locking Dumpsters</u> -	Gravity Lock System	\$55.00
	Front Panel Padlock System	\$40.00

(6) Exchange Charge - \$45.00

NATURAL GAS RATES

The monthly rates and charges for natural gas provided by the City shall be as follows:

- a. All Customers. A base rate of \$11.75, plus \$11.75 for each thousand cubic feet (MCF) after the first thousand cubic feet (MCF).

CONNECTION AND DISCONNECTION FEES

The charges for connections and disconnections of utility services provided by the City, including those provided at customer request or convenience, or as a result of delinquent accounts, shall be as follows:

- a. During Normal Scheduled Service Periods (7:00 a.m.-4:45 p.m. weekdays), a Service Call-Out Fee of \$50.00, as a result of a delinquent account, or at a customer's request, excluding new service.
- b. During Unscheduled Service Periods (after hours and weekends), a Service Call-Out Fee of \$100.00, at a customer's request, including new service.

DAMAGES TO UTILITY FUNCTIONS/TAMPERING FEES

The charge for damage to utility facilities from (i) customer's tampering with valves, or (ii) customer's damaging meter in any manner, shall be \$200.00.

DELINQUENT ACCOUNT FEES

Delinquent Accounts.

- a. All utility bills, both residential and commercial, shall be due and payable on the close of the last business day of the month. If the month ends on a Saturday, Sunday, or holiday, the bill is due on the prior business day (the last workday of the City at closing time on that day).
- b. Residential customers who are age 65 and over or considered disabled by Social Security may be exempt from penalty fees for late payment upon application accompanied by verifying documentation to the Utilities Supervisor. This exemption may not exceed the final date of benefits designated by the Social Security Administration
- c. Within two (2) work days following the "Due Date" a "Cut-off Notice" shall be mailed to customer giving notice that following the expiration of seven (7) days following such notice service will be discontinued unless the customer requests a hearing before the Utilities Supervisor regarding such proposed disconnection prior to the expiration of such seven (7) day period.
- c. Upon the showing of good cause and arrangement for prompt payment by a customer, the Utilities Supervisor shall be authorized to withdraw a disconnection order. Any such action by the Utilities Supervisor shall be evidence in writing, outlining the basis for the decision and, if applicable, the required payment schedule for the customer. The Utilities Supervisor shall cause a copy of such order to be delivered to the appropriate billing personnel of the City.

DOMESTIC AND COMMERCIAL WATER TAP FEES

Residential and Commercial Water Meter Connection Fees. The following connection fee shall be due and paid to the City before any water meter is provided, installed, inspected, and activated for use by the City. The fee for providing water service shall be based upon the meter required, and shall be as follows:

<u>Meter Size, Ins.</u>	<u>TOTAL COST**</u>
0.75	\$ 505.00
1.0	\$ 565.00
1.5	\$ 925.00
2.0	\$ 1,735.00
3.0	\$ 3,100.00
4.0	\$ 3,660.00
6.0	\$ 8,985.00 (Includes \$3,500 for vault)*

* Any other vaults requested will be at customer's expense.

**** FOR CONNECTIONS ON STATE RIGHTS-OF-WAY**

- For meter sizes 0.625" through 2", add \$190.00 to connection fee schedule.
- For meter sizes 3" through 6", add \$315.00 to connection fee schedule.
- If a bore is required, a \$35.00 per foot of right-of-way width boring fee will be required up to a 2" service lead. Service leads larger than 2" will be \$70.00 per foot of right-of-way width.

DOMESTIC AND COMMERCIAL SEWER TAP FEES

Residential and Commercial Sanitary Sewerage Connection Fees. The following connection fee shall be due and paid to the City before any sewer connection is provided, installed, inspected, and activated into the City's wastewater collection system. The connection fee for a such services shall be based upon the size of the sewer connection required, and shall be as follows:

<u>Connection Size</u>	<u>TOTAL COST**</u>
4"	\$555.00
6"	\$610.00
8" and above	\$625.00+

* If manhole is required, add \$2,000.00.

**** FOR CONNECTIONS ON STATE RIGHTS-OF-WAY**

- **For connections on state right-of-way, add \$250.00 to connection fee schedule.**
- **If a bore is required, a \$70.00 per foot of right-of-way width boring fee will be required up to a 6" service lead.**
- **For 8" service lead, a \$75.00 per foot of right-of-way width boring fee will be charged.**

DOMESTIC AND COMMERCIAL GAS TAP FEES

Residential and Commercial Gas Meter Connection Fees. The following connection fee shall be due and paid to the City before any gas meter is provided, installed, inspected, and activated for use by the City. The fee for providing gas service shall be based upon the meter and regulator required (meter and regulator, four ounce [4 oz.*] only), and shall be as follows:

<u>BTUs</u>	<u>TOTAL COST **</u>	<u>METER SIZE</u>
0 to 345,000	\$ 665.00	250-275
345,001 to 450,000	\$ 800.00	415-450
450,001 to 1,760,000*	\$1,460.00	750-880
2,420,001 to 5,500,000*	\$3,740.00	3,000
5,500,001 to 11,000,000*	\$4,945.00	5,000

- * If pounds (lbs.) are needed, must add an emcorector to total cost
(total cost +\$1,175.00 = total price for pounds).

**** FOR CONNECTIONS ON STATE RIGHTS-OF-WAY**

- * For connections on state right-of-way, add \$250.00 to connection fee schedule for BTUs 0-450,000 BTUs. Requirements above 450,001 BTUs, add \$350.00 to connection fee schedule.
- * For a service lead under a state right-of-way, add \$35.00/foot of right-of-way width.

VENDOR/PEDDLER PERMIT FEES

FEE SCHEDULE:

Per Day	- \$ 10.00
Per Week	- \$ 25.00
Per Month	- \$ 50.00
Per 3 Months	- \$100.00
Per 6 Months	- \$150.00
Special Event	- \$ 25.00 Per Day
Interstate Permit	- No Fee, Registration Only

Bond Requirement - \$1,000.00

Special Event Permit - \$ 25.00/Day as Rental for the Use of Public Property

VITAL STATISTICS RECORDS (BIRTH AND DEATH) FEES

BIRTH CERTIFICATES

Charge is **\$23.00** for each original and each copy (3 copies would be \$69.00).

DEATH CERTIFICATES

Charge is **\$21.00** for the first original and **\$4.00** for each original thereafter (3 copies would be \$29.00).

FEE FOR CERTIFIED MAIL SERVICE

Certified Mail Service is required for delivery of birth and death certificates requested by mail. The actual cost of the certified mail service will be passed through to the requestor as part of providing the service.

WELL AND SEISMIC ACTIVITIES PERMITS (CHAPTER 18)

Original Application Fee (Section 18-54)	\$10,000.00
Expediting Application Fee (Section 18-55)	\$15,000.00
Renewal Application Fee (Section 18-57)	\$ 500.00
Bond Requirement (Section 18-58)	\$1,000,000.00

PIPELINE PERMITS (CHAPTER 18)

Bond	\$500,000.00
Filing Fee (Section 18-104)	\$ 1,000.00

NONCONFORMING WELLS (Sec. 18-28, Code of Ordinances)

Filing Fee for each Well Registration	-	\$100.00
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WIRED TELECOMMUNICAIONS SERVICES - PROVIDER LICENSE FEES
(CHAPTER 38)

Monthly charge per access line	\$2.10
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ZONING AND PLATTING CASE TYPE FEES (RESOLUTION 2008-05)

<u>ZONING FEES</u>	
Rezoning	\$400.00 + \$10.00/acre
Conditional Use Permit	\$600.00
Planned Development (w/Concept or Site Plan)	\$1,000.00
Site Plan Review	\$250.00 <=2,000 SF of building area \$300.00 + \$10.00/acre >2,000 SF of building area
Single Family Site Plan/Building Elevation Review	\$50.00
Parking / Landscape Plan Review	\$100.00
Variance/Special Exception (Board of Adjustments)	\$100.00 Residential (Except Multi-Family) \$250.00 Non-Residential & Multi-Family
Zoning Ordinance/Text Amendment	\$500.00
Appeals	\$100.00
Zoning Verification Request	\$25.00
Copy of Zoning Ordinance (Spiral Bound Paper Copy)	\$15.85
Color Maps – 11 x 17	\$ 1.50
Comprehensive Plan Map Amendment	\$500.00
Comprehensive Plan Text Amendment	\$500.00
Rezoning and Comprehensive Map Amendment	\$650.00 + \$10.00/acre
Rezoning and Comprehensive Text Amendment	\$650.00 + \$10.00/acre

PLATTING FEES

Preliminary Plat:

\$200.00 Base Fee
\$ 1.00 Per Lot
\$ 5.00 Per Acre (Includes reserves within a subdivision that do not include single-family lots)

Final, Replat, & Minor Plats:

\$200.00 Base Fee
\$ 0.50 Per Lot
\$ 2.00 Per Acre (Includes reserves within a subdivision that do not include single-family lots)

Recording & Filing Fees:

\$150.00 For the first sheet
\$ 50.00 For each additional sheet.

Joinder Lot

\$100.00 For Each Joinder Lot. (Resolution 2011-20)

Floodplain Review Fee \$25.00

Construction Permit Fee 2% of the Cost of Construction

Right-of-Way Abandonment \$300.00 (Administrative Policy 65 March 11, 2011)

Rev. 11-7-2012

Regular City Council Agenda Item Data Sheet

Meeting Date: October 6, 2014

Topic:

Approve Resolution No. 2014-23, 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 2015 General Assembly

Background:

This is an annual appointment; 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.

Traditionally, Council has designated the Mayor as the representative and the Mayor Pro-Tem as the alternate; beginning in 2010, Council has designated Councilman Townsend as the Representative and Councilman Stoll as the Alternate Representative to the H-GAC General Assembly.

H-GAC has requested designation of the City's representatives no later than October 10, 2014.

Origination:

Jack Steele, Executive Director, Houston-Galveston Area Council

Recommendation:

Approve Resolution No. 2014-23, Designating Representative and Alternate Representative for H-GAC 2015 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. 2014-23

H-GAC Request

RESOLUTION NO. 2014-23

**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 2015
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 2015.

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 6TH DAY OF OCTOBER, 2014.**

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

Gretchen Fagan
Mayor

ATTEST:

Doris Speer
City Secretary



September 10, 2014

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 2015 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 2015.

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.

A dinner meeting of Home Rule city representatives will be scheduled for November. At that meeting, your 2014 Home Rule Cities' H-GAC Board of Directors representatives will report on this year's activities and look ahead to issues and progress in 2015.

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 black ink, appearing to read 'Jack Steele'.

Jack Steele

JS/kam

Enclosure

cc: City Secretary

Regular City Council

Agenda Item

Meeting Date: October 6, 2014

Data Sheet

Topic:

Approve Resolution No. 2014-24, a Resolution of the City of Tomball, Texas, Replacing the City of Tomball's Current Human Resources Policies and Employee Handbook in Its Entirety with the "Human Resources Handbook" and Repealing all other Resolutions or Parts of Resolutions Inconsistent or in Conflict Herewith; and Providing for Severability

Background:

The City of Tomball's personnel policies were last updated and approved by City Council in 2009. Due to changes in several federal laws, an update was needed to bring the City's policies into agreement with the new amendments to FMLA, ADA and Department of Labor regulations. The City's Executive Team, made up of all department directors, reviewed current policies with their departments, made recommendations for changes and updates, and have agreed to the recommended policy attached.

In addition to updates for legal compliance, changes are also being recommended to compensatory time and sick time calculations. We are also making changes to health insurance for retirees.

The City faces an increasing liability for compensatory time, due to the fact it is earned at the pay rate in effect at the time of the work but it must be paid at the rate in effect when the time is used. Due to the increasing liability to the City of carrying large compensatory time balances, it is recommended that the limits be lowered from the current 240 hours for police officers and 120 hours for all other employees to 160 hours for police officers and 80 hours for all other employees.

Changes to sick leave calculations were done to extend the time an employee must work before they are entitled to a payout of sick time if they leave. Current policy allows the payout to begin at 5 years and that has been moved to 10 years of service. For future employees, we are removing the pre-65 retiree subsidized health insurance offering. Due to the accessibility of insurance through various exchanges, we felt this option should be removed.

Attached you will find the new policy and a summary of the changes.

Once adopted, the Human Resources Department will conduct a series of employee meetings to educate City employees on the policy changes and answer any questions they may have.

Origination:

HR Department

Recommendation:

Staff recommends approval

Funding:

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

Lisa Coe-HR Director

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

ATTACHMENTS:

Resolution 2014-24

HR Handbook

RESOLUTION NO. 2014-24

A RESOLUTION OF THE CITY OF TOMBALL, TEXAS, REPLACING THE CITY OF TOMBALL'S PERSONNEL POLICY IN ITS ENTIRETY WITH THE "HUMAN RESOURCES POLICIES AND EMPLOYEE HANDBOOK AND REPEALING ALL OTHER RESOLUTIONS OR PARTS OF RESOLUTIONS INCONSISTENT OR IN CONFLICT HERewith; AND PROVIDING FOR SEVERABILITY.

* * * * *

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

Section 1. City of Tomball, Texas Resolution No. 2009-19, passed and approved the 19th day of August, 2009 and being a resolution PROVIDING FOR THE ADOPTION OF PERSONNEL POLICIES FOR THE CITY, is hereby amended by deleting the personnel policies adopted thereby in their entirety and substituting therefor the "Human Resources Policies and Employee Handbook", attached hereto as Exhibit "A" and made a part thereof.

Section 2. All resolutions or parts of resolutions inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

Section 3. In the event any clause phrase, provision, sentence, or part of this Resolution or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Resolution 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.

PASSED, APPROVED, AND RESOLVED this the ____ day of October, 2014.

GRETCHEN FAGAN, Mayor
City of Tomball

ATTEST:

DORIS SPEER, City Secretary
City of Tomball

City of Tomball 2014 Handbook

Summary of Changes

Section 3.09 Social Media Policy

The Information Technology section of the handbook was updated and expanded to include a social media policy.

Section 4.04-B Compensatory Time

The maximum accrual amount for compensatory time for hours worked has decreased from 240 to 160 hours for Police Officers and has decreased from 120 hours to 80 hours for non-exempt personnel.

Section 5.08 Retirement and Benefits

Employees hired on or after October 1, 2014, will no longer have any portion of their retirement health benefits paid by the City. A retiree may be eligible for continued health insurance coverage through COBRA according to regulatory requirements and will be responsible for all costs.

Section 7 Accruals and Leave

Vacation buyback was removed from the handbook.

Section 7.02-G Reimbursement for Unused Sick Leave

Sick hours reimbursed to employees who separate employment from the City of Tomball, have changed. The City has increased the Lengths of Service requirements for Employees hired on or after October 1, 2014.

Section 7.12 Military Leave

Weekends will now be included in the 120 hours (168 hours for shift firefighters), of military pay that employees are entitled to receive for military training leave or military active duty.

Section 9 Privacy and Records Management

A section on privacy rules was added.

City of Tomball

Human Resources Handbook

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INTRODUCTION

The City of Tomball welcomes you to our staff. We want to make your first days on the job as pleasant and comfortable as possible.

As a new employee you may have questions about City policies, procedures and expectations of you as an employee. This handbook will answer most of those questions. For additional information or clarification, please speak to your direct supervisor, department head, or the Human Resources Department.

I-1.1 PURPOSE

The purpose of the City of Tomball Employee Policy Manual is to provide a consistent guide to personnel interaction involving City employees. It is not intended to create contractual rights regarding employment. It also is not intended to give specific guidelines for every conceivable personnel interaction, but rather to be a guide to thinking. These policies are sufficiently broad to provide the latitude of discretion, which may be needed in individual situations. However, this degree of discretion shall not be permitted to violate a policy's intent. This Manual should be referred to regularly when making decisions affecting City personnel. It will help to ensure that decisions are objective, fair, consistent, and in accordance with the expectations of City management. It is your responsibility to ask questions if you do not understand any policy or procedure. The more you know about working at the City of Tomball, the easier it will be for you to understand your role in relation to other positions.

The City of Tomball is an At-Will employer (see Section 4.01). This handbook does not create, reflect or imply any contractual or vested right. Either you or the City may terminate this relationship at any time with or without cause.

I-1.2 USE OF THIS HANDBOOK

The City Manager or his/her designee is authorized and directed to administer this handbook, including the right to establish whatever detailed regulations and procedures may be necessary to further explain and clarify the provisions of this handbook, except with respect to those employees appointed directly by the City Council, unless further delegated to do so by the City Council.

In addition to the policies outlined in this manual, it is the prerogative of each department head to develop and implement standard operating procedures, guidelines or general orders, which are separate from or in addition to the policies contained in this handbook. Department procedures must be consistent with City policies and in no case will departmental policies supersede those contained in this handbook. The City Manager or his/her designee will resolve any conflicts between department policies and city wide policies. In order to be in effect, all policies and commitments regarding your employment must be in writing and on file with Human Resources.

Many of these policies and descriptions in this handbook are summarized from laws, rules, plans, insurance policies and other official documents which actually control specific matters. These official documents take precedence over this handbook in all cases. The Human Resources representative is responsible for providing access to the official document during normal working hours.

References to benefits, insurance coverage, leave accruals and holiday pay are applicable to regular full-time employees.

It is your responsibility as an employee to read, understand and comply with all policies, procedures, guidelines and practices of both the City and individual departments.

I-1.3 AMENDMENTS

Due to ongoing changes in Federal and State laws and or budgetary limitations, the City retains the right to change, modify, suspend or cancel any of the benefits, policies and procedures at the sole discretion of the City Council, after providing notice to employees. Any employee who continues to work after receiving notice that a policy has been revised and implemented, is deemed to have accepted the change in policy. This handbook is subject to the City Charter as well as the constitution and laws of the State of Texas and the United States.

This version of the City of Tomball Human Resources Handbook supersedes all prior versions issued by the City. This handbook was approved by the City of Tomball City Council by Resolution Number **1** and became effective on **10-6-2014**.

SECTION 1 – UNLAWFUL HARASSMENT AND DISCRIMINATORY PRACTICES

1.01 EQUAL EMPLOYMENT OPPORTUNITY

The City of Tomball is an equal opportunity employer. The City does not discriminate against qualified applicants or its employees in its employment policies, practices and access to its services.

Title VII of the Civil Rights Act of 1964, as amended, and other state and federal civil rights laws prohibits discrimination against or preference for any person in recruitment, hiring, promotion, discharge, pay, fringe benefits, membership, job training, classification, appointment, referral, retention, discipline and other aspects of employment on the basis of race, color, national origin, sex, age, marital status, disability or religion.

The Equal Pay Act of 1963 (EPA), as amended, prohibits discrimination in payment of wages to women and men performing substantially equal work in the same establishment; recognizing that not all employees perform at the same level, employee salaries may be different based on factors other than gender, including individual performance evaluations.

The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits discrimination in health coverage (Title I) and employment (Title II) based on genetic information. The law prohibits employers from using genetic information for hiring, firing, promotion decisions, and for any other decision regarding the terms of employment.

The City will adhere to and abide by all fair employment laws, acts, and their amendments that apply to municipal entities.

The City will not allow illegal discrimination in the workplace, and conduct found to violate the City's policies relating to discrimination and harassment may lead to discipline, up to and including termination.

1.02 DISABILITIES

The City does not discriminate on the basis of disability in its employment policies or in its admission to or access to its services and programs. The Rehabilitation Act of 1973, as amended, the Americans with Disabilities Act of 1990 (ADA), the ADA Amendments Act of 2008 (ADAAA), and the Texas Commission on Human Rights Act (TCHRA) protect qualified applicants and employees with disabilities from discrimination in hiring, promotion, discharge, pay, job training, fringe benefits, classification, referral, and other aspects of employment on the basis of disability. These laws also require that the City provide applicants and employees with disabilities with reasonable accommodation that does not impose undue hardship on the City. Requests for accommodation and complaints about accessibility should be directed to the Human Resources Department.

1.03 UNLAWFUL HARASSMENT

It is the right of all employees to perform their jobs in an environment free from all forms of harassment. The City prohibits and will not tolerate unwelcome conduct by any person, including City employees, vendors, customers, and any other person who enters the workplace, if the conduct is based on race, color, sex (including sexual harassment), religion, national origin, disability, or age, and if:

1. Submitting to the conduct or being subjected to the conduct is made either explicitly or implicitly a term or condition of employment, including hiring, promotion, pay, fringe benefits, job training, classification, referral, and other aspects of employment; or
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
3. The conduct has the purpose or effect of unreasonably interfering with an individual's performance on the job or it creates a hostile, offensive or intimidating work environment.

Harassment may include offensive jokes, slurs, epithets or name calling, other derogatory ethnic/racial/sexual remarks, physical assaults or threats, attempted assaults, stalking, and other inappropriate or harassing physical conduct. While supervisors are responsible for creating and maintaining an atmosphere free of harassment, employees are responsible for respecting the rights of co-workers. The City will not tolerate discriminatory conduct or the display of discriminatory materials in the workplace that are offensive to a reasonable employee.

Sexual harassment may include unwelcome sexual advances, innuendo, requests for sexual favors, sexually demeaning conduct, or other physical, verbal or visual conduct based on sex. Sexual harassment does not depend on the harasser's motives or intentions, but on whether the behavior is unwelcome.

Any employee found in violation of this policy will be subject to disciplinary action, up to and including termination.

1.04 REPORTING AND INVESTIGATING DISCRIMINATION OR HARASSMENT

Any employee that is subject to, is a witness to, or becomes aware of any conduct that might be considered a violation of the protections in this section must report in a timely manner the incident to the Human Resources Department. If the Human Resources employee is the person engaging in the alleged conduct, the employee should report the conduct to the City Manager. Confidentiality of the report will be maintained as much as possible. However, absolute confidentiality cannot be promised as the report may be disclosed to persons who need the information to conduct an investigation, or to take corrective action, or both.

After an incident described by this section has been reported, the Human Resources Department will conduct an investigation, and when appropriate, local law enforcement officials will be involved to ensure the safety of employees. If it is determined that discrimination or harassment prohibited by this section did occur, the City will take prompt corrective action to END the harassment or discrimination, RETURN lost benefits or opportunities to the employee, RESTORE a proper work place environment, and DISCIPLINE the harasser. An employee who is found to have engaged in conduct in violation of this section is subject to appropriate disciplinary action, including termination.

1.05 RETALIATION

Title VII, the ADAAA, the ADEA, and the TCHRA prohibit retaliation against an individual for filing a charge of discrimination, participating in an investigation of a discrimination claim, or opposing discriminatory practices.

Retaliation is an adverse employment action that occurs as a result of an employee reporting a violation of this section, refusing to participate in a violation of this section, or participating as a witness to an investigation conducted under this section. Adverse employment action includes decisions related to hiring, firing, pay, job assignments, promotions, layoffs, training or fringe benefits.

The City will not tolerate retaliation of any kind or in any manner. This protection extends not only to individuals who complain about unlawful harassment and/or activities, but also those who serve as witnesses in investigations.

In accordance with the Texas Whistleblower Act, the City prohibits suspending, terminating or taking other adverse personnel action against a City employee who in good faith, reports a violation of the law by the City or its employee to an appropriate law enforcement authority. Acts of retaliation must be immediately reported to the Human Resources Department.

A report of a violation of this section that is made in good faith will not be held against an employee. However, the misuse of the complaint process, such as knowingly make false statements, may result in appropriate disciplinary action, up to and including termination.

SECTION 2 – EMPLOYMENT

2.01 RECRUITING PROCEDURES

The Human Resources Department will advertise as necessary to recruit prospective applicants for vacant positions, communicate with appropriate agencies, contact possible sources for applicants, and maintain applicant files.

The Human Resources Department is responsible for:

1. Placing advertising on the City's website, in publications, and any other appropriate advertising site.
2. Accepting all applications. Applications are only accepted at the time of an active recruitment.

A. REQUEST TO RECRUIT

Recruitments can be conducted in the following manner:

1. Public – Applications will be accepted from external and internal candidates. Job postings are available on the City's website, emailed to all City employees and posted in common areas.
2. Internal Only – Applications will be accepted only from internal candidates. Job postings are emailed to all City employees and posted in common areas.

B. JOB POSTINGS

The Human Resources Department will develop a job posting to describe the particular requirements for vacant positions. The job posting will reference the minimum requirements for the position, as this will provide the basis on which applicant qualifications will be evaluated.

Highly complex or difficult to fill positions may be posted as "open until filled" at the request of the Department Head and with the consent of the Director of Human Resources. An open-ended search will not have a fixed deadline for the receipt of applications. The job posting and related advertisements will specify the date when the review of applications will begin. This will allow Human Resources to continue to accept applications until an ideal candidate is identified.

C. APPLICATIONS

Applications will only be accepted by the Human Resources Department during the specified open period of the job posting. Applications that have not been processed and routed by the Human Resources Department during the posting period are not eligible for consideration. Resumes submitted without a completed City of Tomball application will not be considered for employment, with the exception of certain executive positions.

Current City employees who wish to be considered for opportunities within the City must complete a Transfer application. Internal applicants must discuss their intent to compete for a different position with their current Supervisor/Manager or Director before submitting an application.

D. SHARING OF APPLICANT POOLS

Once a final candidate is selected from a pool of applications, the pool will remain viable for a period of 3 months. During this period, if a vacancy occurs with the same job title, the Hiring Department may choose to review applications from the pool rather than re-recruit.

E. INTERVIEWS

The Department Director shall review the applications and schedule interviews for those candidates selected for further consideration. Consideration must be given to all applications received; however, interviews need not be provided to all applicants.

The Human Resources Department can assist the Department Director in structuring interview questions, seating interviewing panels, devising scoring mechanisms and for other assistance in the interview process. Interview questions must be relevant and related to the position and the skills required. In addition, all candidates must be asked the same core group of questions to provide a fair and equal opportunity process.

F. SKILLS TESTING

The Hiring Department will contact the Human Resources Department to arrange for skill testing. Skills such as, but not limited to, typing, word processing, spreadsheets, databases, job knowledge, and other current systems and applications may be measured.

G. REFERENCE CHECKS

All efforts shall be made to determine the applicant's past work history. The best reference is someone who is in a position to evaluate the applicant's work performance. Personal references should be avoided unless they are the only references available.

The Department Director or Hiring Manager shall conduct reference checks prior to communicating a conditional offer of employment to a candidate. If an internal candidate is being considered, reference checks must include at least one person from the current supervisory chain of command.

H. SELECTION

The Hiring Department will be responsible for selecting from among the referred candidates to fill vacancies. Selection(s) must be defensible and documented.

The Hiring Department is responsible for sending letters or emails to applicants, regardless of whether or not they were interviewed, notifying unsuccessful applicants that another candidate was selected.

I. PRE-EMPLOYMENT MEDICAL SCREENING

1. Drug and Alcohol

Any external applicant for employment who has been made a conditional offer of employment will be required to undergo a drug test for the presence of drugs in their system. The Human Resources Department must receive a negative test result before the applicant may be made a final offer of employment. A job applicant who refuses to consent to a drug test as a condition of employment will be denied employment with the City of Tomball.

After a conditional offer of employment is made, the Department Head is responsible for making an appointment for a pre-employment physical (if required for the position), and instructing the applicant to report to the Human Resources Department for the pre-employment drug test. The applicant must report to the Human Resources Department within 24 hours of being notified of the drug test.

The Human Resources Department will provide the paperwork for the applicant to take to the Testing Site. The applicant must show picture identification to a representative at the testing site. The applicant must provide the sample as required or lose the opportunity for employment.

The testing site will provide Human Resources with the result of each drug test. The original result will be kept on file with the Human Resources Department, where it will be retained for a minimum of two years.

If the applicant receives a positive result on the drug test, the Human Resources Department will inform the Hiring Department. The conditional job offer will be rescinded by the Human Resources Department. The Hiring Department can choose another applicant from the same applicant pool or reopen the position for recruitment.

Any applicant who has tested positive for a controlled substance during the application process may be considered for employment with the City of Tomball, following a period of one year and a documented drug rehabilitation program. Upon reapplication, the applicant must also agree to at least one year of random drug tests (6 tests during the one year period) paid for by the City.

2. Physical Examinations – Non-Public Safety

Physical examinations will be required for those applicants being considered to fill a position that is highly physical in nature and/or where there will be frequent exposure to sun, heat, cold, humidity, and rain. Applicants in labor intensive positions, whether full-time, part-time or seasonal/temporary, must successfully complete a physical examination. These jobs often require heavy lifting and/or physical stamina. Both external and internal applicants must first be informed of a conditional offer for the positions and then be sent for a physical examination arranged by the Human Resources Department. Reasonable accommodations will be made for persons with disabilities, in accordance with the Americans with Disabilities Act.

3. Physical Examinations – Public Safety

All public safety police applicants who are being considered to fill a position will undergo a thorough physical examination and will also be required to pass a psychological screening process which includes a written psychological test and an oral interview with a psychologist. A document called an L-2 is signed by the physician stating the applicant is able to perform the essential duties of a police officer. The psychologist signs an L-3 stating there is no mental reason that an applicant could not perform the duties of a police officer. Both the L-2 and the L-3 forms are required by the State of Texas licensing agency for police officers and are sent to the state once an applicant has been employed by the City of Tomball Police Department.

After a conditional employment offer is made, firefighter applicants are required to complete a pre-employment physical and must be deemed able to perform the essential duties of a firefighter by the City's contracted physician. Firefighter applicants must meet the standards of the National Fire Protection Association.

J. BACKGROUND INVESTIGATIONS

Background investigations will be done in accordance with the requirements for filling the vacant position.

1. Background Check – Non-public Safety

The background information will be used to ensure that the City does not place an applicant in a position that may create liability for the City. An applicant will not be disqualified from hire merely by having a criminal conviction. The nature of the offense, how much time has passed, and the job the applicant has applied for will be taken into consideration. Because of confidentiality issues, the Human Resources Department is responsible for receiving and evaluating all applicant background information.

2. Background Investigations - Public Safety

A thorough and comprehensive background investigation is completed on each police officer, public service officer, dispatcher, and firefighter candidate. Background investigations are completed internally by a City approved background investigator and maintained in accordance with department protocol.

K. DRIVER'S LICENSE VERIFICATION AND HISTORY CHECK (MVR), IF APPLICABLE

Applicants that are considered for a position that requires the operation of a City vehicle must possess a valid Texas Driver's License. The applicant will have a Driver's License Verification and History Check before a final offer for employment will be made.

An applicant whose position requires driving a city vehicle or driving on City business may not have more than 2 moving violations in a previous 3-year period, not including drug or alcohol related violations, or any drug or alcohol related motor vehicle violation. An applicant with any drug or alcohol convictions within the last 10 years from date of application will not be considered for employment.

Public safety police applicants are required to comply with the police department's rejection criteria, which include but are not limited to frequency of driving violations and frequency of both at-fault and not at-fault accidents.

If the personal driving record requirements are not met, the Human Resources Department will notify the Department Head, as well as call or meet with the applicant to discuss the applicant's driving record and reason for no longer considering the applicant for employment.

L. CREDIT HISTORY CHECK, IF APPLICABLE

The pre-employment credit report can provide insight into an applicant's financial responsibility. The report will be requested for those individuals being employed in a financial/accounting position and/or having significant fiscal responsibilities. The same process for "Notice of Intent to take Adverse Employment Action" described under the MVR section of this manual, will be used to notify the applicant.

Once all pre-employment activities are successfully completed, the Human Resources Department will contact the Department Head to proceed with the applicant. The Department Head will confirm the job offer with the applicant.

2.02 MINIMUM AGE REQUIREMENTS

Age limits are imposed for certain positions on the basis of a bona fide occupational qualification or statutory requirement. The City will comply with all specific State laws or any federally imposed age requirements. No person under the age of 16 will be employed in any position in the City.

When the City employs an individual under 18, the employee may not begin working until the parent(s) or legal guardian(s) grant permission in writing. No person under 18 years of age will be employed in any regular position, or any temporary or part-time position requiring the operation of a motorized vehicle owned by the City.

2.03 NEPOTISM (Employment of Relatives)

A. Family Member

The City of Tomball defines a family member as:

1. A relationship created by marriage includes: spouse, spouse's child, spouse's parent, spouse's brother, spouse's sister, spouse's nephew, spouse's niece, spouse's grandchild, spouse's grandparent, spouse's first cousin, spouse's aunt, and spouse's uncle.
2. A relationship created by birth (blood) includes: parent, brother, sister, child, grandparent, grandchild, aunt, uncle, niece, nephew, first cousin, great-grandparent, great-grandchild, great-aunt, great-uncle, great-niece, and great-nephew.
3. Significant others who live in the same household.

B. Applicants

An applicant may not be hired as an employee if that department already employs a person who is a family member of the applicant.

C. Employees within the same department

If an employee becomes a family member of another employee who works in the same department, and neither employee voluntarily resigns or is able to transfer to another position in another department within 60 days of the date the employees become family members, then the person with the least amount of consecutive service time with the City immediately prior to the date the employees become family members, is considered to have automatically resigned their position of employment on the 61st day following the date the employees become family members. This passage does not apply to volunteers with the fire and police departments.

D. Elected Officials

No person related within the second degree by affinity* or third degree of consanguinity** to the mayor, any member of the City Council, any officer of the City or officer of any City Board shall be appointed, voted upon or confirmed by that relative to any office, position, clerkship, employment or duty of the City. This prohibition shall not apply, however, to any person who shall have been continuously employed by the City for a period of six (6) months prior to the election of the Mayor or Council member so related to him/her. The person must have been continuously employed by the City for a period of thirty (30) days prior to the appointment of a related officer of a City Board or officer of the City to retain employment.

* "Affinity" is relationship created by marriage and within the second degree includes spouses, mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law, grandparent-in-law and grandchildren-in-law.

**"Consanguinity" is a relationship created by birth and within the first and second degree includes grandparents, parents, brothers, sisters, children and grandchildren, and within the third degree includes aunts, uncles, nieces, nephews, great-grandchildren and great-grandparents.

2.04 RE-EMPLOYMENT

An employee who resigned from City service and submitted a written notice of resignation stating the date of departure and the reason for resignation is considered to have left in "good standing". The notice of resignation must have been submitted a minimum of fourteen calendar days prior to the effective date. Employees who did not leave in "good standing" will not be re-employed with the City unless the City Manager grants approval.

If a former employee is re-employed by the City of Tomball within any time frame, the original hire date will not be used to restore vacation, sick, holiday, personal days and longevity accrual rates. All accrual rates will be based on the new hire date, any previous time will not be merged together. Prior service will not count for eligibility for any paid time off, and there will be no restoration of any accrued time that was unpaid at the time of separation of employment with the City of Tomball.

2.5 EMPLOYMENT AND ELECTED OFFICES

An employee must notify the City Manager of his or her intention to file as a candidate for any publicly elected office prior to filing as a candidate. The determination will then be made, on a case by case basis as to whether there is any conflict with the employee's position with the City.

An employee may not serve on any city council appointed board or commission, except as authorized by ordinance, the City Manager, or as specified in the employee's job duties.

Employees who are elected or appointed to a public office are required to resign from City employment, if the candidacy or position creates a conflict of interest with their City position, or the position provides for remuneration.

2.6 ORIENTATION

The Department Head and supervisors shall orient all new employees. Such orientation training includes the duties of the position, hours of work, relationship to the other employees, safety precautions, the rights and obligations of an employee, and information about the units and department. The new employee should be made welcome and be encouraged to ask questions, especially during the first weeks at work. Employees shall also be given a set of these rules.

SECTION 3 - STANDARDS OF CONDUCT

3.01 EMPLOYEE CONDUCT

A. STANDARDS OF CONDUCT

1. Employees shall not:

- a. Contract with the City with any type of personal business unless authorized by the City Manager.
- b. Accept or solicit, for personal financial gain, any benefit that might reasonably tend to influence them to act improperly in the discharge of official duties.
- c. Use their official positions improperly to secure unwarranted privileges or exemptions for themselves, relatives or others. This includes suggestion or influence that the City transacts business with any entity of which they or their relatives are officers, agents or members or in which they or their relatives have a financial interest.
- d. Lie to their supervisor or provide deceitful information.
- e. Participate in making or influencing any City governmental decision or action in which they know that they have any financial interest.
- f. Use or disclose, other than in the performance of their official duties or as may be required by law, confidential information gained in the course of or by reasons of their positions.
- g. Transact any business (other than ministerial acts) or render any decisions on matters under the City's jurisdiction on behalf of the City with any entity of which they or their relatives are officers, employees, agents or members or in which they or their relatives have a financial interest. In the event such a circumstance arises, then they shall then make known their interest, and in the case of an employee, disclose the matter to their Department Head so that reassignment or other suitable action may be taken. Purchasing must also be notified.
- h. Accept other employment, in addition to their City position, or engage in outside activities incompatible with the full and proper discharge of their duties and responsibilities with the City, or which might impair their independent judgment in the performance of their public duty.
- i. Participate in a decision regarding a matter under the jurisdiction of the City, if the employee or a relative of the employee is negotiating or has negotiated employment with a person or organization that has a financial interest. The employee shall immediately notify their Department Head that a conflict of interest exists and follow their instructions with regard to further involvement in the matter.
- j. Receive any fee or compensation for their services as employees of the City from any source other than the City, except as may be otherwise provided by law. This shall not prohibit their performing the same or other services for a public or private organization that they perform for the City if there is no conflict with their City duties and responsibilities.

- k. Knowingly perform or refuse to perform any act in order to deliberately thwart the execution of the City ordinances, rules or regulations or the achievement of official City programs.
 - l. Personally represent or appear on behalf of the private interest of another before the City Council or any City board or department; or if the represented person's interest is adverse to that of the City, represent any person:
 - i. in any quasi-judicial proceeding involving the City; or
 - ii. in any judicial proceeding to which the City is a party
2. Provided, nothing in subsection (1) above shall preclude:
- a. Any employee from performing the duties of his or her employment;
 - b. Any employee from appearing before the City Council or any City board or department, in a manner consistent with other City policies and rules, to discuss any general City policies or public issues; or
 - c. An employee from testifying as a witness under subpoena in a judicial or quasi-judicial proceeding.
- B. EXCEPTIONS
- Exceptions made to any item in Policy 3.01 must be approved by the City Manager and kept on file by the Finance Department or Human Resources Department, as appropriate.
- C. NOTIFICATION OF FRAUDULENT INCIDENT OR PRACTICES
- In the event that an employee observes a fraudulent act or suspects that a fraudulent act has occurred, notification of the act must be made in accordance with the Interdepartmental Policy and Procedures.

3.02 ATTENDANCE

Employees shall be required to be at their places of work in accordance with work schedules established by their department. Employees are expected to be at their work place or on official duty during City business hours or be officially excused by their supervisors. Any employee who fails to report, is habitually tardy, leaves the workplace without proper authorization or misuses leave may be subject to disciplinary action. All departments shall maintain accurate attendance records.

Whenever an employee is unable to report to work because of illness, injury or an emergency, the employee must call their supervisor as far in advance as possible prior to their scheduled shift time, and each subsequent day thereafter. Such notification should include when the employee can be expected to report to work. Leave time is subject to the approval of the supervisor. The absent employee is responsible for ensuring that proper advance notice of absence or late arrival is given to their supervisor, in accordance with the department rules. If a voice mail is left, it is the employee's responsibility to call back to ensure that the message was received. Messages left with non-supervisory personnel will not be accepted. Failure to provide proper notification of an absence or lateness, unexcused absences, late arrivals or early departures from work may result in disciplinary action, up to and including termination.

Any employee who fails to report to work for 3 consecutive workdays, and fails to notify their supervisor in advance of the reason for the failure to report to work, will be considered to have voluntarily and irrevocably resigned from their position at the end of the 3rd day unless the City determines that the employee has a sufficient excuse for not giving notice.

3.03 MEAL AND BREAK PERIODS

Supervisors shall implement work schedules, including work hours and lunch schedules, to meet the general requirements of their departments and divisions. Break/rest periods are not required by the Fair Labor Standards Act however, the City of Tomball may allow two 15 minute rest periods, which may be provided each day and are to be taken within the work area. The meal period should be 45 minutes or one hour in length and should normally be taken between 11:00 a.m. and 2:00 p.m. for those employees working a standard eight-hour shift. Rest periods and lunch breaks are to be taken as assigned and cannot be stored or banked. Schedules for Police and Fire Department personnel will be established by the respective Chief. Break periods may be delayed in order to maintain production or services.

3.04 EMERGENCY CONDITIONS

The citizens of Tomball depend on City employees before, during and after an emergency or disaster to provide or restore essential public services for the health, safety and quality of life for our community. In the event of a wide scale emergency that could impact our community, all employees must be ready to assist in managing the crisis and will be considered essential for the continuity of governmental operations until he/she are specifically relieved by the Department Director or their designee. This policy applies to all non-exempt and exempt employees, and it recognizes that some emergencies will provide no advanced warning.

A. EMPLOYEE GROUPS

In a large scale emergency, City employees will be required to fulfill their individual responsibilities and function as a team to protect the City's vital assets, and maintain and restore essential City services. While the fire and police departments typically provide emergency services, other City departments may also be called upon to participate in response efforts.

B. PAY PROVISIONS

In the event of a Disaster Declaration, State of Emergency or a long term emergency, all non-exempt that are declared "Essential personnel" and are required to work the duration of the event, will be eligible for overtime at the rate of one and one half (1 1/2) times their regular hourly rate of pay for actual hours worked. Exempt employees may receive time off for extensive hours worked during an emergency situation, as defined by the City Manager.

C. ABSENT EMPLOYEES

Once a State of Emergency is declared, employees who are absent, employees who leave early and employees who do not report to work without the appropriate authorization are subject to the appropriate disciplinary action, up to and including termination.

3.05 APPROPRIATE APPEARANCE

The personal appearance and grooming of our employees plays an important role in the perception that the public and citizens have of the City of Tomball. Employees are expected to dress appropriately and professionally and present a clean and neat appearance while at work and while representing the City or conducting City business. Employees are expected to maintain minimum standards of dress, grooming and personal hygiene appropriate for the position and job duties and as necessary to protect the safety of the employees. This policy establishes the foundation for the City's dress code policy. In order to maintain a positive public image and to assist employees in determining what is appropriate, the following guidelines are established.

A. DAY-TO-DAY ATTIRE

Business attire or a required uniform is to be worn on a daily basis. Police and Fire Department employees are covered under Departmental policies regarding appropriate dress and appearance.

B. PROHIBITED ATTIRE

In order to maintain a positive public image and to assist employees in determining what is appropriate, the following items are prohibited or restricted:

- Shirts that allow a bare midriff
- Beach type flip-flops
- Sweat-shirts, sweat pants, wind suits, overalls or shorts (Department Heads may make exceptions for uniformed seasonal wear)
- Ripped Jeans
- T-shirts and/or ball caps with advertisements, political messages, or slogans (unless provided by the City for a specific City/Public event)
- Clothing with obscene messages or that endorse alcohol, tobacco products, drugs, pornography, or offensive material of any kind
- Revealing, sheer, suggestive, see-through blouses or sweaters (unless worn over or under another shirt)
- Provocative or revealing, low cut attire including body-hugging, see-through, or excessively tight fabrics
- Lip, nose and eyebrow rings/studs, tongue studs or similar type facial jewelry (excluding ear lobes)
- Clothing that is dirty, soiled, stained, wrinkled, ripped or tattered
- Visible tattoos which could be deemed offensive
- Clothing that is better suited for the beach, yard work, dance clubs, exercise sessions, and sports contests
- Hair should not be worn in a manner to create a safety hazard. Hair styles and hair colors must be appropriate to the employee's position and extremes of any type are unacceptable. For

example, green hair, mohawk style haircuts, and severely spiked hair are not allowed. Hair, including facial hair, must be clean and neatly groomed at all times.

Employees in violation of this policy may be sent home. Under such circumstances, employees may not be paid for work time missed. Employees whose grooming or personal appearance violates this policy may be disciplined up to and including termination of employment.

The Director, with approval of the City Manager, may make departmental exceptions to this policy when deemed necessary for business reasons or implement a more restrictive dress and appearance policy.

Directors, Managers and Supervisors are responsible for enforcing this policy in their respective departments in order to maintain acceptable dress and appearance.

3.06 USE OF CITY PROPERTY

City facilities, equipment, supplies, and other City resources are made available to help the employees perform their job duties and not for their personal use. The City, however, recognizes that under certain circumstances the employee's limited use of City telephones, computers, facsimile, e-mail, copiers, internet, and similar resources for personal use may be necessary or beneficial to the City. The City may establish separate policies governing the use of specific equipment. An employee that violates this policy, with excessive use of City equipment for private use, shall be subject to disciplinary action up to and including termination. Excessive use is defined as any use that could generate additional expense to the City, or decrease customer service internally or externally, or otherwise lower productivity of employees.

A. TELEPHONE LONG DISTANCE

All employees are restricted from making non-business long distance telephone calls via the City's long distance provider, except in emergency situations. Calls placed through personal calling cards, pre-paid cards, and/or credit cards are not prohibited, other than the general prohibition on employees unreasonably using work time for personal business. Calls made to an 800, 877, or 888, are acceptable. Calls to 900 numbers or numbers that will switch to a 900 call are not acceptable and shall be subject to disciplinary action.

B. CITY NON-TAKE-HOME VEHICLES

It is the policy of the City of Tomball to provide for transportation needs, as necessary, for its employees. City-owned vehicles may be used only for City business, except as otherwise specifically authorized by department policy approved by the City Manager.

Employees assigned a City vehicle will be required to sign a statement indicating that they have read and will comply with the rules and provisions of this policy. Employees who do not comply with the provisions of this policy shall be subject to disciplinary action up to, and including, termination.

All operators of City vehicles and equipment must possess a valid Texas Driver's License. Personal driving records can impact employees who must drive City vehicles or equipment to perform their jobs. At no time will city employees drive a city vehicle without a valid Texas Driver's License in their possession. All employees who drive City vehicles or receive vehicle allowances from the City will be subject to random motor vehicle records (MVR) checks.

B. TAKE HOME VEHICLES

Take-home vehicles are vehicles owned, leased, or otherwise under care and control of the City of Tomball and are taken home by the employee after regular working hours in order to respond to City emergencies, posing threats to life and/or property. Any non-compliance with this administrative procedure may result in immediate suspension from the take-home vehicle program or disciplinary action up to and including termination.

1. Authorization

Authorization for the use of a City take-home vehicle is the responsibility of the City Manager or his designee. A Department Director may authorize the temporary use of a City take-home vehicle for a special assignment or event. Department Directors, acting as designees or while authorizing exceptions as provided for in this directive, must be able to articulate just cause for any deviation.

2. Maintenance

To prolong the life and properly maintain City vehicles, employees will ensure that their assigned vehicles have sufficient gas, oil, and other fluids to prevent premature failure, and that all tires are kept properly inflated. The employee to whom a vehicle is assigned, is responsible for the condition of the vehicle and for insuring that it continues on its scheduled maintenance program as set up by the Fleet Services Department. Any problems with the operation of the vehicle should be promptly reported to the Fleet Maintenance department. Said vehicles should be removed from service until the problem can be evaluated and/or corrected. Careless, abusive, negligent, or reckless handling or operation of any City vehicle by any employee may result in disciplinary action up to and including termination.

3. Accidents

All vehicle accidents shall be reported to the vehicle maintenance department. All city-owned vehicles and equipment involved in an accident shall be examined by the vehicle maintenance department prior to returning to service. The vehicle maintenance department shall determine if further examination or repairs by a specialized technician are necessary before returning a damaged unit to service.

4. Liability

Depending on the circumstances, the City of Tomball reserves the right to limit its liability for personal losses of the employee in the event of theft of belongings from a city-owned vehicle. Employees are responsible for taking prudent steps to ensure the reasonable security of the vehicle and its contents.

The City of Tomball also reserves the right to limit its liability in the event of an accident that is caused by the employee, depending on the time and the circumstances of the accident. Any tickets or fines received by the employee during their operation of a city-owned vehicle will be the responsibility of the employee.

5. Personal Use

It is understood that use of a City take-home vehicle for City purposes is unavoidably commingled with a small amount of personal use. However, using a City take-home vehicle for the sole purpose of conducting personal business is prohibited. Take-home vehicles shall

not normally be used for personal business. Use of the vehicle for personal stops while en route between work and home are allowed if they do not significantly alter the normal route taken.

C. ALL VEHICLES

The following information is applicable to both City take-home vehicles and City non-take-home vehicles. All vehicles must be operated in a lawful manner and appropriately maintained under the care and control of the assigned employee. Any non-compliance of this administrative procedure may result in immediate suspension from the take-home vehicle program or disciplinary action up to and including termination.

- All employees who drive City vehicles or receive allowances from the City must immediately inform their Department Head in writing, of any past convictions or pending charges from Driving While Intoxicated, Driving under the Influence of Drugs and/or moving traffic violations.
- Employees will not use City vehicles to haul or tow anything other than City equipment needed in the performance of their job assignment.
- Employees will not possess, purchase, or be under the influence of drugs or alcoholic beverages while operating City vehicles or equipment, or a private vehicle while performing City duties. Tobacco use is not allowed in any City vehicle at any time.
- An employee licensed to carry a concealed handgun under Texas law may not carry the concealed handgun in a City vehicle unless the employee is a licensed peace officer of the City and has the approval of their Department Head.
- Generally, non-city employees are not authorized to be passengers. Exceptions may be authorized by the appropriate Department Head.
- In no case shall a person other than a City employee be allowed to drive a City vehicle unless approved by the Department Head for an authorized use.
- All operators of City vehicles shall possess a valid Texas driver's license and maintain a satisfactory driving record and the appropriate license at all times. Driving records will periodically be examined.
- Employees who operate City vehicles in the course and scope of their employment must notify their supervisor if and when their driver's license becomes invalid or suspended for any reason.
- City employees, while operating City vehicles, are required to remain within the City limits unless conducting official business or commuting to and from work. Any other exception requires the approval of the Department Head.
- All employees, if involved in any vehicular collision in a City vehicle or in a private vehicle while performing City duties, shall call the appropriate law enforcement agency and contact their Department Head or appropriate supervisor. The Human Resources Department will be notified by the supervisor so that an accident report can be completed and an insurance claim can be filed. The employee is also subject to post accident drug testing.
- Employees are not permitted under any circumstances to operate a City vehicle or private vehicle while performing City duties in situations where the employee is temporarily unable to operate a vehicle safely or legally, because of illness, medication or intoxication.

- Employees whose position require the operation of a motor vehicle must exercise due diligence to drive safely, wear seat belts, follow all traffic laws, and avoid distractions while driving, such as using cellular telephones or entering data on a Mobile Data Terminal (MDT) except as provided by state law for emergency response.
- Some city-owned vehicles are equipped with GPS tracking devices. Tampering with and/or disengaging such equipment is grounds for disciplinary action up to and including termination.

D. CELLULAR PHONES

The City will own and provide cellular phones and services to qualified and approved employees. The City will maintain a single service provider contract from authorized state, local or federal cooperative contracts that offer discounted pricing and a wide range of service plans. Use of any other services provider or contract for City owned cellular phones and/or services must be justified and approved.

As an alternative to a City owned and provided cellular phone and service, the City Manager may authorize the issuance of a monthly stipend to those employees deemed to be Critical Decision Makers. These payments are intended to pay only for City related costs incurred on personal cellular phone accounts, and eliminate the need for those employees to carry and maintain a separate phone for City business. This stipend is considered taxable income to the employee.

3.07 INFORMATION TECHNOLOGY SYSTEM USE

The City provides technology and communications systems to employees. This includes internet and e-mail, as well as any system or part of a system owned or leased by the City that is used for sending, receiving, or accessing information by electronic means and transported on wired or wireless networks.

This policy provides guidelines for the general use of the City computers, electronic mail, and Internet access. It applies to both internal and external email sent and received, all Internet access, and any software or hardware installed on a City computer. These guidelines do not supersede any state or federal laws, or any other agency's policies regarding confidentiality, information dissemination, or standards of conduct. This policy is not intended to cover every possible situation. Instead, it is designed to express the City of Tomball's philosophy and set forth general principles when using electronic media and services.

The City will review alleged violations of this policy on a case-by-case basis. Any violation of this policy could result in disciplinary actions, up to and including termination. Additionally, violations of this policy, when appropriate, may be referred for criminal prosecution.

A. ACCEPTABLE USE

Permissible use of the System is to carry forward City business. Use is encouraged when it results in the most efficient and effective means of communication. It is the responsibility of the employee to use the System, including internet and e-mail to assist in carrying out the business purposes of the City. This includes, but is not limited to:

1. Perform job functions,
2. Communicate information in a timely manner,
3. Coordinate meetings of individuals, locations, and City resources,

4. Communicate with departments throughout the City, and
5. Communicate with outside organizations as required performing an employee's job functions.

Generally, email and Internet should be used only for official City business however, brief and occasional email messages of a personal nature may be sent and received and occasional surfing and browsing for non-business reasons. Personal email and use of the internet should not impede the conduct of City business or violate policy restrictions. Personal email Internet use should not cause the City to incur a direct cost in addition to the general overhead of email. Consequently, employees upon receiving personal email should read it and delete it. Personal use must not interfere with performance of job duties.

B. UNACCEPTABLE USE

Unless the use is related to the employee's job duties or authorized by a supervisor, employees may not use the System for any of the following purposes:

1. Under no circumstances is an employee of City of Tomball authorized to engage in any activity that is illegal under local, state, federal or international law while utilizing City of Tomball-owned resources.
2. Sending unsolicited email messages, including the sending of "junk mail" or other advertising material to individuals who did not specifically request such material (email spam) or creating or forwarding chain letters.
3. Sending, forwarding, creating, downloading, viewing, storing, or copying e-mails or information that violates any City policy and especially racial, offensive, or sexual, or contain other derogatory content that violates any City policy. Employees who receive inappropriate e-mails with content not within the City's policies from any City employee must report the matter to their supervisor or Human Resources Department immediately.
4. Surfing internet websites that are offensive, sexually explicit, abusive, threatening, or otherwise inappropriate for the workplace.
5. Spending excessive amounts of time on personal e-mail, surfing of the internet, or participating in chat rooms. Excessive use is defined as any use that could generate additional expense to the City, or decrease customer service internally or externally, or otherwise lower productivity of employees.
6. Copying or transmitting any documents, software or other information protected by the copyright laws, without proper authorization by the copyright owner. Copyright protection applies to any document, photo, software, or information unless it is specifically marked as public, not copyrighted, or freeware. In the absence of any specific copyright markings, material or information should be considered copyright protected.
7. Breaking into the System or unauthorized use of a password.
8. Intentionally and maliciously misrepresenting the originator of any type of electronic information.
9. Intercepting, eavesdropping, recording or altering another person's email, except as authorized the appropriate Department Head.
10. Attempting to send e-mail anonymously.

11. Soliciting, advertising or otherwise marketing for outside business ventures, personal parties, social meetings, and charities, membership in an organization or other matters not connected to the City or the community.
12. Installing copies of any software onto City of Tomball computers, or copying software from the City's computer to install on any other computer.
13. Using e-mail and the Internet for monetary interest or gain, or political purposes.
14. Employees should not subscribe to mailing lists or mail services strictly for personal use and should not participate in electronic discussion groups (i.e. list server, Usenet, news groups, chat rooms) for personal purposes.
15. Using the e-mail and Internet facilities to disable, impair or overload the performance of any computer system or network, or to circumvent any system intended to protect the privacy or security of another user.
16. Impeding the City network bandwidth performance through web sites with streaming or continuous audio or video for non-business use, i.e. radio station broadcasts, video trailers, internet games, etc.

C. OWNERSHIP

All electronic information on the System remains the property of the City and public records, subject to the Texas Public Information Act. Employees have no right of privacy in the use of the System, even if permitted for personal use. Employees should have no expectation of privacy regarding their use of e-mail, e-mail content and the use of the Internet. Employees must recognize that it is within the capabilities of the System to recover previously deleted elements at any time and those recovered elements remain the property of the City.

D. MONITORING

The City reserves the right, with or without notice, at any time, for any reason, to monitor the use of the System and to access information sent, received or stored. All e-mail is subject to review by management or its representatives at any time, with or without notice. Use of the City e-mail and Internet system by an employee indicates that the employee understands that the agency has a right to inspect and audit all email communications, Internet usage, and consents to any inspections.

E. PUBLIC DISCLOSURE

Any information on the System is presumed to be subject to disclosure, upon request, as public information. Therefore, employees should use discretion in making use of the System to discuss sensitive matters or matters in litigation.

F. PASSWORDS

Passwords are an important aspect of computer security. Employees must take every precaution to protect their passwords. A poorly chosen password may result in the compromise of the City's network.

If an account or password is suspected to have been compromised, report the incident to Information Technology and change all passwords.

G. SOFTWARE

To protect the integrity of the City's computer network environment, all software must be pre-approved by the Department Head or designated personnel, and a compatibility check completed

through the IT department before installation. Unauthorized software installation is strictly prohibited. Any software installed by the IT Department shall not be removed or altered in any way.

To maintain compliance with U.S. Copyright laws and to protect the integrity of the City of Tomball computer environment from viruses, unauthorized installation or downloading of any unauthorized software is strictly prohibited. Employees are not permitted to install their own copies of any software onto City computers. Likewise, employees are not permitted to copy software from a City computer to be used on any other computer unless such installation is in accordance with the applicable licensing agreement and has been previously authorized by the Department Head or designated personnel. Any employee, who knowingly makes, acquires or uses unauthorized copies of software licensed to the City of Tomball or who places or uses unauthorized software on the City of Tomball premises or equipment shall be subject to disciplinary action.

H. HARDWARE

Any employee's personal computer or equipment that is attached to the City of Tomball's network is subject to all rules within this policy. No hardware shall be installed or removed from the City of Tomball's computer without authorization from the Department Head or designated personnel and notification to the IT Department.

I. LAPTOPS

Laptops are assigned to individuals and/or departments. Employees who remove them from designated office spaces will take personal responsibility for the safety of these items. Employees may be held liable should laptops be damaged, lost or stolen while in an individual employee's possession.

J. AUDITS

The City reserves the right at any time to conduct audits of any or all of the City of Tomball's computers to ensure that the City is in compliance with all software licenses. Unauthorized software will be deleted upon detection.

3.08 MEDIA CONTACTS

The City Manager's office and designated public information officers are authorized to serve as liaisons to media representatives regarding policy issues. Other employees are not authorized to make statements on behalf of the City, unless directed to do so by the Department Head and in response to an inquiry for routine factual information relating specifically to his/her duties as a city employee, and not relating to litigation, legal opinions or City personnel matters. If an employee receives an inquiry, he/she should report the inquiry to the Department Head, and describe any response made to such inquiry. Nothing in this handbook prohibits the exercise of constitutional rights, which generally protect communications made as a citizen on matters of public concern, but not communications made as an employee on matters of personal interest.

3.09 SOCIAL MEDIA POLICY

This policy addresses the responsibility of all employees with regard to their personal use of social media. This policy also outlines the protocol and procedure for employee and volunteer use of social media to disseminate public information and/or promote special events, programs, and services on behalf of the City of Tomball.

A. DEFINITION

For purposes of this policy, "social media" shall mean the use of technology in combination with electronic social networks of any type. Social media sites may include, but not be limited to, Facebook, Twitter, LinkedIn, MySpace, YouTube, blogs, Wikis, chat rooms, and on-line forums. It will also include official City of Tomball websites and all forms of on-line community sites that are established and maintained by the City of Tomball. Social media activity includes but is not limited to texting, blogging, posting, and other actions involving technology and social media sites. The term "Employee", in this section, shall mean a full-time, part-time, or contract employee or volunteer for the City.

B. COVERAGE

This policy applies to all city departments and all employees.

C. EMPLOYEE PERSONAL USE OF SOCIAL MEDIA

The lines between public and private, personal and professional can become blurred in on-line social networks. With that in mind, below are guidelines for social media use by City employees while off duty.

1. Employees who use social media for personal use should not discuss information about the City's employees, citizens, vendors, issues, business, or legal matters without express consent to do so. Posting of confidential information may violate state law and subject the user to criminal penalty.
2. Personal use of social media while off duty must not interfere with or conflict with the employee's duties or job performance, utilize the employee status as a City employee to bolster his opinion or violate any City policy. Employees are encouraged to act responsibly while off duty and to exercise good judgment when using social media.
3. Employees should consider the following guidelines for personal use of social media:
 - Respect coworkers and the City. Do not post any confidential information obtained through employment with the City and/or pictures on the Internet that may defame, embarrass, insult, demean or damage the reputation of the City or any of its employees.
 - Do not post any information and/or pictures that may constitute violation of any City policy.
 - Do not post pictures containing images of City uniforms or insignia, City logos, City equipment or City work sites.
 - Do not permit or fail to remove postings violating this policy, even when placed by others on the employee's blog. Recognize that postings, even if done off premises and while off duty could have an adverse effect on the City's legitimate business interests.
 - Do not link from a personal blog or social networking site to the City's internal or external web site.
 - Do not post on social media sites the name, trademark, slogan or logo of the City.
 - Do not use City names or identifiers for your personal social networking accounts or email accounts.

- The City may require removal of any material that is disruptive to the workplace or impairs the mission of the City.

The City has a vested interest in protecting its confidential information and in encouraging employees to engage in communication with people outside the City that, not only reflects positively on the employee as an individual, but also on the City.

D. USE OF SOCIAL MEDIA ON DUTY

The City of Tomball permits the use of social media while on duty for the sole purpose of conducting City business and only with department director approval. Alternately, the City prohibits all personal use of social media while on duty regardless of whether the personal use is on a personal device or city-owned equipment, public wifi or city-owned private network unless such use is expressly permitted by the department director.

1. All communication representing the City through social media outlets should remain professional in nature. Incomplete, inaccurate, inappropriate, threatening, demeaning, harassing or poorly worded postings may be harmful to the City's reputation or violate City policy. Such wording will be removed by the Information Technology Services Department.
2. Employees bear full responsibility for the material they post on social media sites. Inappropriate usage of social media can be grounds for disciplinary action, up to and including termination.
3. Public messages relating to City of Tomball activities on social media sites and/or any messages that might act as the "voice" or attempt to reflect the views of the City of Tomball must be approved by the department director.
4. Employees shall not ignore copyright laws, cite, or reference sources inaccurately. Plagiarism is prohibited.
5. All information published on social media sites must comply with City of Tomball's privacy and/or data policies. This includes comments, pictures, video, audio, or any other multimedia posted on social networking sites, blogs, and forums.
6. Media inquiries generated on social media sites should be referred to the City Secretary or City Manager.

E. OFFICIAL SOCIAL MEDIA SITES

1. Official social media sites representing the City of Tomball will be the property of the City of Tomball. All social media sites and email accounts shall be established by the Information Technology Department.
2. The Information Technology Department shall be responsible for the technical oversight of the City of Tomball's social media formats to include:
 - Establishing social media sites and related email accounts.
 - Maintaining a list of social media domains, account logins and passwords and changing passwords. Notification to IT is required if an employee is no longer designated to update content on a social media site(s).
3. Social media formats must meet one or both of the following purposes:
 - Provide residents of Tomball information about City events, activities and issues.

- Promote the positive aspects of the City of Tomball to those in and outside the community.
4. The City's official website, www.tomballtx.gov, will remain the primary location for internet content regarding city business, services and events. Whenever possible, links within social media formats should direct users back to the City's website for more information, forms, documents or on-line services necessary to conduct business with the City of Tomball.
 5. A request to the Information Technology Department and approval by the City Manager are required prior to the establishment of any social media site. Requests to the Information Technology department must include:
 - Purpose for the site and intended content to be posted/shared including the primary audience to be served;
 - Indication of how often the site's content will be reviewed and updated to ensure material accuracy and appropriateness;
 - Identification of individual(s) responsible for managing/overseeing and corresponding with the public (employee's name and position must be included) as well as indicating what provisions will be made if the responsible party leaves the position or is absent.

F. CONTENT MANAGEMENT FOR SOCIAL MEDIA SITES

1. Only designated department employees approved by the Department Director will have authority to publish content on official social media sites of the City of Tomball.
2. Department directors are responsible for monitoring site activity and ensuring content is consistent with the goals and objectives of the City.
3. Departments are responsible for responding to public commentary, inquiries or complaints. Responses must be approved by the Department Head.
4. Communication through social media is a public record. Both the posts by City employees and any feedback by others will be part of the public records of the City of Tomball and will be subject to the Texas Public Information Act (Chapter 552 of the Texas Government Code). Designated department employees posting content on these sites will be responsible for maintaining copies of content posted to comply the City of Tomball Records Management Program.
5. Content posted by "friends," "followers" or "fans" will not constitute a representation, agreement or endorsement on the part of the City of Tomball. The City of Tomball Information Technology Department reserves the right to delete any comment or posting that is deemed inappropriate, malicious, offensive, threatening, profane or insulting. Content that promotes, fosters or perpetuates discrimination on the basis of race, creed, color, age, religion, gender, marital status, disability, national origin or sexual orientation will not be permitted. Users who violate these guidelines may be blocked from posting commentary to City of Tomball social media sites/pages.
6. Any comments posted by external parties on City of Tomball social media sites are not official public testimony concerning any project or program. An opinion expressed on a City of Tomball page is posted for discussion only and is not a substitute for a formal statement in public hearing process.

7. If a question arises regarding the use or posting of confidential information (e.g. litigation, investigations, etc.) on a social media site, the matter shall be referred to the City Attorney for review. The information in question shall not be posted, or if already posted, shall be removed until an opinion is rendered by the City Attorney. The City Manager or designee reserves the right to restrict or remove City information from an official City social media site if the City Manager believes that the information does not serve the best interests of the city.

G. DISCLAIMER

1. Each Official City of Tomball Social Media Site/Page must include a Disclaimer that contains the following information:

"The City of Tomball does not warrant or make representations or endorsements as to the quality, content, suitability, accuracy, or completeness of the information, text, graphics, links, and other items contained on a social media site's server or any other server. Such materials have been compiled from a variety of sources, and are subject to change without notice from the City. The City's primary and predominant internet presence shall remain the City's official website at www.tomballtx.gov and no other website or social media site can characterize itself as such.

Except to the extent required by law, commercial use of the materials is prohibited without the written permission of the City.

Some of the links on the City's social media pages may lead to resources outside the City of Tomball municipal government. The presence of these links should not be construed as an endorsement by the City of these sites or their content. The City is not responsible for the content of any such external link. The responsibility for content rests with the third party organizations that are providing the information.

Comments posted on this site by "friends," "fans," or "followers" or others will be monitored and any postings or comments that are disrespectful, offensive, dishonest, or do not accurately reflect the views, values or objectives of the City of Tomball will be deleted without notice.

Except to the extent required by law, communications made through e-mail and comments posted shall in no way be deemed to constitute legal notice to the City of Tomball or any of its agencies, officers, employees, agents, or representatives with respect to any existing or potential claim or cause of action against the agencies, officers, employees, agents or representatives where notice to the City is required by any federal, state or local laws, rules or its regulations. Notice of any claim must be filed in writing to the City Secretary of the City of Tomball, 401 Market St., Tomball TX, 77375.

H. ENFORCEMENT

1. Violations of this policy may result in immediate revocation of any or all electronic communications access and user privileges and may be grounds for disciplinary action up to and including termination. Certain violations could result in civil or criminal liabilities for the user. Individual supervisors do not have the authority to make exceptions to this policy.
2. No employee or volunteer should have any expectation of privacy or confidentiality when using any City resource, including the city's public and private networks. The City reserves the right to access, intercept, monitor and review all information accessed, posted, sent, stored, printed, or received through its communications systems or equipment at any time.
3. All social media access and use involving City equipment and resources are subject to the City's Internet, Intranet, and Email Use Policy.

I. REPORTING VIOLATIONS

1. The City urges employees to report any violations or possible perceived violations to their supervisor, department director, or the Human Resources Department. Violations include discussions of the City and its employees and patrons, any discussion of personal information and any unlawful activity related to blogging or social networking.

3.10 POLITICAL ACTIVITY

An employee may not endorse a candidate for federal, state or local public office while on-duty or permit the display of the City logo or the use of any city equipment or property in support of such candidates. All employees shall notify their supervisor when seeking or accepting nomination or election to any public office that provides enumeration for the same (Article 16, Sec. 40, Constitution, State of Texas). The determination will then be made, on a case by case basis, as to whether there is any conflict with the employee's position with the City. Employees who are elected or appointed to a public office are required to resign from City employment, if the candidacy or position creates a conflict of interest with their City position, or the position provides for remuneration.

An employee may not engage in political activity relating to a campaign for an elective public office or a proposition to be voted on by the public while in City uniform, on-duty, or while representing or acting on behalf of the City. For purposes of this policy, to engage in political activity includes:

1. Using or granting permission to use his or her job title for political activity.
2. Making a speech to a group or gathering supporting or opposing a candidate or proposition.
3. Distributing information relating to the campaign of a candidate or a proposition.
4. Wearing a campaign button while in uniform.
5. Circulating or signing a petition for a candidate or proposition.
6. Soliciting votes for a candidate or proposition.
7. Using City equipment to promote a candidate or proposition.
8. Soliciting campaign contributions for a candidate or for or against a proposition.
9. Any activity supporting or opposing a candidate or proposition expressed in a manner, time, or location that the public might reasonably believe represents a position of the City.
10. Any activity supporting or opposing a candidate or proposition expressed in a manner, time, or location that disrupts or interferes with the operations or effectiveness of City operations.

3.11 OUTSIDE EMPLOYMENT

While employed by the City, regular full time employees must notify their Supervisor before accepting additional employment. Employment at the City of Tomball is considered to be an employee's primary employer. Employees are subject to certain restrictions outlined as follows:

1. The City requires that employees' activities and conduct away from the job must not compete or conflict with or compromise the City's interest, or adversely affect job performance and the ability to fulfill all responsibilities to the City. This requirement, for example, prohibits employees from performing any services for customers on non-working time that are normally performed by City personnel. This prohibition also extends to the unauthorized use of any City tools or equipment. In addition, employees are not to solicit or conduct any outside business during paid working time, except for those exempt employees who, with permission of the City Manager, are able to structure their City employment so that outside employment is not an interference with their City job requirements.
2. All full-time employees must obtain prior approval from their Department Head before any outside employment is undertaken. Employee requests for permission to accept outside employment, including self-employment, must be submitted in writing to the employee's Supervisor and to the Director for final approval. The request must state any pertinent information about the outside employer, the nature of the job, and the hours of employment. The Director's decision will be final.
3. It is the responsibility of the employee to submit a new request for permission for outside employment annually to their Director for approval. Also, if at any time during the course of the outside employment that the employee's Director changes, a new request should be submitted.
4. Employees are cautioned to consider carefully the demands that additional work activity will create before requesting permission to seek or accept outside employment. Outside employment will not be considered an excuse for poor job performance, absenteeism, tardiness, leaving early, refusal to travel, or refusal to work overtime or different hours. If outside work activity does cause or contribute to job-related problems, it must be discontinued, and, if necessary, disciplinary procedures will be followed to deal with the specific problems.
5. Employees may not hold outside employment while on FMLA leave, sick leave, disability leave or while receiving worker's compensation benefits unless expressly authorized in writing in advance by the Director and City Manager.

This policy supplements and supports department defined policies already in place.

3.12 SOLICITATIONS

Solicitation and distribution of literature or goods in employee work areas by non-employees is prohibited.

The City may authorize a limited number of fund drives for charitable organizations.

3.13 SMOKING AND TOBACCO PRODUCTS

Employees must comply with the City's ordinance prohibiting the use of tobacco products in any City-owned building, facility or motor vehicle. Employees will be allowed to smoke only in designated smoking areas, as determined by State and Federal guidelines. In this policy, the "use of tobacco products" means the inhaling, exhaling, burning or carrying of any lighted cigar, cigarette, or other

combustible tobacco product in any manner, including cigarettes and cigars; the chewing of tobacco; and the use of snuff.

3.14 WEAPONS

An employee licensed to carry a concealed handgun under Texas law may not carry the concealed handgun or prohibited weapon into a City building, in a City vehicle, or on the employee's person while on duty as a City employee, unless the employee is a certified law enforcement officer for the City of Tomball.

3.15 ACCEPTANCE OF GIFTS

A gift is an economic gain or economic advantage to an employee or to a relative of an employee. The purpose of laws and policies governing gifts to public employees is to regulate attempts to influence the employees to use their authority or discretion to the advantage of the person making the gift. The City Manager and Finance Director may accept gifts to the City and issue acknowledgements on behalf of the City, subject to restrictions set forth in the City's Code of Ordinances and Charter.

Employees can only accept gifts when in compliance with Federal and State laws and this policy.

- A. It is a crime for a public employee to agree to make a decision in return for a payment or receipt of some other benefit.
- B. Employees may not accept gifts, favors, services or promises of future employment that could relate to, or influence the performance of the employee's official duties.
- C. Employees may not use their position to gain special privileges or benefits and are to avoid participating financially in any business enterprise, which might influence their official decisions and judgments.
- D. Employees may not hold any position with any business enterprise or governmental unit, which would conflict with the proper performance of the employee's duties or responsibilities.
- E. Employees, employee's spouse and minor children are prohibited from soliciting or receiving gifts in any amount unless a specific statutory exception applies.
- F. Perishable items or gifts sent to an employee should be placed in a common area for all employees to share. Similarly, legally acceptable gift certificates sent to employees should be given to Human Resources for use throughout the year to benefit all employees.
- E. Benefit means any economic gain or economic advantage to an employee or relative of an employee but does not include:
 - 1. Political contributions made and reported in accordance with the law.
 - 2. Awards publicly presented in recognition of public service.
 - 3. Gifts or tokens of recognition presented by representatives of governmental bodies or political subdivisions who are acting in their official capacities.

4. Commercially reasonable loans made in the ordinary course of the lender's business.
5. Complimentary copies of trade publications,
6. Reasonable hosting, including travel and expenses, entertainment, meals or refreshments furnished in connection with public events, appearances or ceremonies related to official City business, if furnished by the sponsor of such public event; or in connections with speaking engagements, teaching or rendering other public assistance to an organization or another governmental entity.
7. Any economic gain or economic advantage conferred by any one person or organization if the economic value totals less than \$25.00 per calendar year.

F. Donation of Prohibited Gifts.

1. An employee who receives a gift that would be in violation of State law who wishes to donate the gift to a recognized tax-exempt charitable organization, must, within five (5) business days of receipt of the gift, file a written statement, through their Director, to Finance Administration describing the gift, the date it was received, the date it was donated, and to what organization it was donated.
2. An employee who receives a gift that would be in violation of State law who wishes to donate the gift to the City, must, within five (5) business days of receipt of the gift, file a written statement, through their Director, to Finance Administration. The Executive Team will determine the disposition of the gift.

3.16 SUBSTANTIAL INTEREST IN BUSINESS ENTITY

A member of the governing body or another officer whether elected, appointed, paid or unpaid, of the City of Tomball shall disclose their interest in a business entity as required and described as "substantial interest" in Chapter 171 of the Local Government Code.

A person has a substantial interest in a business entity if:

1. The person owns 10 percent or more of the voting stock or shares of the business entity, or owns either 10 percent or more, or \$15,000 or more of the fair market value of the business entity.
2. Funds received by the person from the business entity exceed 10 percent of the person's gross income for the previous year.
3. A person has a substantial interest in real property if the interest is an equitable or legal ownership with a fair market value of \$2,500 or more.

A local public official is considered to have a substantial interest if a person related to the official in the first degree of consanguinity or affinity, as determined under Chapter 573 of the Government Code.

3.17 DRUG-FREE AND ALCOHOL-FREE WORKPLACE

The presence or use of illegal drugs or alcohol on the job is prohibited. It is the policy of the City of Tomball to:

- Maintain a safe, drug-free and alcohol-free work environment for its employees, conducive to effective city government operations, and to make a good faith effort to comply with the Federal Drug-Free Workplace Act of 1988, as amended.
- Prohibit the manufacture, distribution, dispensation, possession, sale or use of controlled substance drugs, intoxicants by employees at any time on-or off duty.
- Ensure that while on duty for or acting on behalf of the City, while wearing a City uniform and/or in a City vehicle, while on City premises, that employees will not be impaired by alcohol, intoxicants, or have controlled substances present in their systems not prescribed by a licensed physician.
- Require employees taking prescription medications that would impair their ability to operate vehicles, machinery, or equipment in a safe manner, to inform their supervisor of the potential danger.
- Subject employees to drug and alcohol testing when a supervisor has reasonable suspicion of drug or alcohol use; after certain accidents; when returning to duty as a result of self-referral; as follow-up after a determination that an employee was in need of assistance in resolving drug or alcohol problems; when promoted to a safety sensitive position; and for random testing if the employee is in a safety-sensitive position.

SECTION 4 – SALARY ADMINISTRATION

The City of Tomball's compensation policies (salary administration and pay practices) have been designed to provide guidelines for ensuring fair and equitable practices and to maintain compliance with the Fair Labor Standards Act (FLSA).

4.01 CATEGORIES OF EMPLOYMENT

A. AT-WILL EMPLOYER

Employment at the City of Tomball is at-will for an indefinite period of time, until terminated by either the City or the employee, with or without cause. That means either party may end the relationship with or without prior notice or cause.

No written or oral representation by the City of Tomball personnel will create a contract of employment. No employment practices of the City are intended to create a contract of employment. No changes in the City's employment-at-will policy will be effective unless executed in writing and signed by both the City Manager and Human Resources Director and approved by City Council. The City also retains the right to change any terms, conditions, benefits or privileges of employment at any time without notice.

B. PROBATIONARY PERIOD

All employees serve an initial six (6) month probationary period, which at the City's discretion, may be extended for a period not to exceed twelve (12) months. Police Officers will serve a probationary period of one year. Termination of employment during this probationary period is final with no appeal. **See section 4.09 for more information.**

C. PROBATIONARY EMPLOYMENT

Each new employee is placed into a probationary status until he/she completes the probationary period. The probationary period allows the supervisor or department director an opportunity to evaluate, train, coach and observe the employee's ability to perform assigned duties. Throughout the probationary period, the supervisor shall communicate and document the provisional employee's progress in his/her performance. If the employee's performance meets expected levels, they complete their probation after six (6) months. If the employee's performance during the provisional period is less than satisfactory, the probationary period may, at the discretion of the supervisor and with approval of the Department Head, be extended for an additional six (6) months. At any time during the probationary period and employee may be dismissed without further recourse. Even after completing the probationary period, an employee's employment with the City remains at-will in nature.

D. FULL-TIME EMPLOYEE

A full-time employee is defined as an employee who works a minimum of 40 hours a week or 2,080 hours annually in a full-time position; or an average of 53 hours a week or 2,756 annually in a full-time shift Firefighter position. Such employees are eligible for all City benefits. Full-time employees are further classified in one of the following categories:

1. **Exempt:** Certain employees, due to their position title and responsibilities, are exempt from the minimum wage and overtime provisions of the FLSA. Exempt employees primarily include those individuals occupying a bona fide executive, administrative, and/or professional position under the

FLSA. All positions are evaluated to ensure accurate classifications and may be re-evaluated as necessary to ensure the position is classified appropriately.

2. **Non-Exempt:** An employee covered by overtime provisions of the FLSA. Non-exempt employees include hourly employees (where pay is directly related to the number of hours worked) and some non-exempt salaried workers (clerical, first-line supervisory, and paraprofessional job categories). Non-exempt employees may receive overtime pay or be offered compensatory time at the rate of time and one-half in lieu of overtime pay. Time and one-half is used in calculating overtime and compensatory time in situations where the actual hours worked exceed standard work week hours.
3. **Shift Firefighter:** An employee who is trained in fire suppression, has the responsibility to fight fires, and is either actually engaged in fire suppression work and/or non-fire related emergency responses, and who works 24 hours on, with 48 hours off.

E. PART-TIME EMPLOYEE

A part-time employee is defined as an employee who normally works less than 999 hours per calendar year on a continuous basis. Supervisors must prohibit part-time employees from working more than 999 hours in a calendar year. Part-time employees are eligible for annual performance evaluations but are not eligible for any City benefits except those required by law.

F. SPECIAL ASSIGNMENT EMPLOYEE

A special assignment employee is defined as an employee who works between 1000 and 2000 hours per calendar year on a continuous basis. Special Assignment employees are eligible for annual performance evaluations and are eligible for Retirement, Medical and limited vacation and sick leave.

G. TEMPORARY EMPLOYEE

1. Temporary/Seasonal

A temporary/seasonal employee is defined as an employee who, regardless of the number of hours worked per week, will not exceed 999 hours in a calendar year and may only work periodically for a specific season or time period. These employees are not eligible for any City benefits, except those required by law, and are required to re-apply each successive year for continued employment consideration.

2. Interns

A degree-seeking college student hired for a specific period of time (i.e., summer, school semester) for the purpose of career development or field experience, with no entitlement to a job upon completion. Intern positions are considered "At-Will" and will not exceed 999 hours in a calendar year. The goal of an internship at the City is for the intern to gain insight into local government and municipal operations and prepare for future leadership positions. The experience is for the intern's benefit, not the City's advantage, and interns will not be used to displace regular employees. Interns may be asked to complete tasks that enable them to gain job related experience, including tasks not directly related to their course of study. Any paid internships shall be established annually during the budget process and are subject to the availability of funds.

4.02 WORK SCHEDULES

Employees in all City departments, with the exception of certain shift positions in the Fire Department, will observe a forty-hour work week. The work period begins 12:01 a.m. Monday (6:00 a.m. for Shift Police Personnel and 7:00 a.m. for shift Firefighters) and consists of seven consecutive 24-hour periods. Employees working a standard forty-hour work week schedule will consist of five eight-hour shifts. Police Dispatchers may utilize a work week schedule consisting of four ten-hour shifts, provided the service level to the community can be adequately maintained.

Each department head is responsible for exercising adequate supervision to ensure that employees are complying with established work schedules and that unscheduled work is performed only in bona fide emergencies. The department head is responsible for controlling starting and stopping time and all work times. If an employee starts work early or works late and the time for either period is seven minutes or less, then that time is considered incidental and will not require compensation. Overtime will begin the eighth minute and will be calculated in 15 minute intervals.

It is the employee's responsibility to comply with department work schedules and to avoid work that is unscheduled or unauthorized.

While many City services are provided on a 24-hour basis, seven days per week, the City has established its core business hours as 8:00 a.m. to 5:00 p.m., Monday through Thursday, and 8:00 a.m. to 4:00 p.m. on Friday.

A. WORK SCHEDULES FOR SHIFT FIREFIGHTERS

Under the 207K exemption of the FLSA, City of Tomball shift firefighters observe a 14-day work cycle for the purposes of calculating overtime. For shift firefighters, the work cycle begins at 7:00 a.m. on Monday and concludes at 6:59 a.m. 14 days later. Fire Department personnel on a 24-hour shift are regularly scheduled to work an average of 53 hours per week, based on 24-hour shifts with 48 hours off between shifts. Days off and shifts may change to meet the business needs of the city. For Shift Fire Personnel, the work day of 24-hour employees is considered to be 12 hours of leave for accrual/usage purposes.

B. WORK SCHEDULES FOR EXEMPT EMPLOYEES

Exempt employees work at the discretion of their department head or the City Manager and may be required to work hours in excess of the normal work week. Exempt positions are not eligible for overtime payment or the accrual of compensatory time. Therefore, the department head may define the work hours and hold the employee accountable to a specified schedule without affecting the exempt status under the FLSA.

The department head shall be available and accessible during the City's core business hours, as well as outside of those established hours as needed to ensure City services and programs are available.

C. WORK SCHEDULES FOR NON-EXEMPT EMPLOYEES

Non-exempt employees in all City departments will observe a forty-hour workweek. Directors, with approval of the City Manager, may establish the work schedules for their non-exempt employees based on providing the most comprehensive customer service to the public and to internal customers.

For purposes of calculating overtime under the FLSA, the work week begins on Sunday at 12:00 a.m. (midnight) and ends on Saturday at 11:59 p.m., except for fire shift personnel. This work week is defined for all types of shifts with the exception of a 9/80 schedule which has a workweek defined as beginning on Friday at 11:00 a.m. or 11:30 a.m. and ending on Friday at 10:59 a.m. or 11:29 a.m.

Non-exempt employee positions shall record each workday separately with respect to hours worked. Any hours worked outside of a normal work week schedule must be recorded on the time clock applicable to each workday. As set out above, any overtime must be approved in advance in writing, by a supervisor. If an employee leaves a work site periodically during the workday for personal reasons, the employee shall reflect the lost time on the time clock (i.e. vacation, sick leave, compensatory time, etc.). Hours must be recorded in increment of .25, (i.e. .25, .50, or .75).

The above referenced work schedules are defined to provide direction to employees, supervisors, and Payroll. However, there may be other work schedules based on the unique services provided by individual departments. All work schedules are to be defined and approved according to this policy, and Payroll is to be notified two weeks before they are implemented.

D. OVERTIME

All employees may be required to work overtime when necessary as determined by departmental management. All overtime must be pre-approved. Specific overtime assignments shall be rotated and allocated as evenly as possible among employees qualified to do the work. Employees are expected to respond to a reasonable request to work overtime and may be subject to disciplinary action for failing to stay or report for overtime work.

Any overtime work performed outside of an employee's normal work week must be promptly recorded and documented for purposes of maintaining an accurate payroll as set out below. Overtime shall only be granted with prior consent by the Supervisor and must be recorded and approved on the time sheet. Hours must be recorded in increments of .25, (i.e. .25, .50, or .75). Employees who work overtime without authorization are subject to disciplinary action, up to and including termination. By issuing an employee a PDA, cell phone, laptop or any similar remote access device, the City does not give such employee permission to work outside of a normal work week schedule and any overtime work involving such equipment also must be approved in advance.

1. Non-exempt employees (excluding shift firefighters) shall receive overtime at the rate of 1-1/2 hours for each hour of time worked in excess of 40 hours in a workweek. Shift firefighters will be paid one and one half times the regular rate for each hour worked in excess of 106 hours in any given work period. Overtime may be compensated in one of two ways: accrual of compensatory time or overtime payment (see 4.04 Overtime Pay Procedures).
2. Non-exempt employees, who are being paid overtime or provided comp time, are responsible for notifying their immediate supervisor if their normal work assignment cannot be completed within the established work hours, and shall not perform any work outside of their normal work week schedule unless expressly authorized do so in writing, in advance by a supervisor.

E. WAIVER PROHIBITED

The requirement that overtime must be paid after 40 hours a week or average 53 hours for shift fire personnel may not be waived by agreement between any employee and the City.

4.03 PAY PROCEDURES

A. BI-WEEKLY PAYROLL

The City of Tomball operates on a bi-weekly payroll system and paychecks are issued 26 times a calendar year, except every 7 years, there are 27 pay periods.

B. DIRECT DEPOSIT AND CHECK STUBS

Direct deposit offers a cost-effective way of ensuring that all employees are paid in a timely manner. Therefore, all employees are required to have direct deposit for their paycheck. Check stubs are given to employees on payday Friday. Each employee shall check each bi-weekly deposit confirmation for accuracy.

C. ERRORS IN PAY

It is the employee's responsibility to notify Human Resources, if the employee detects errors in a paycheck. This includes over and under payments, errors in deductions, and other information that would cause a discrepancy in the net or gross income of the employee. If an error occurs, which results in an overpayment to an employee, the employee will be required to reimburse the overpayment to the City. If the error occurs on the employee's final paycheck, corrections must be made in cash or cashier's check. If the error results in underpayment, the HR Department will rectify the problem as soon as possible, or no later than the next regularly scheduled pay period.

4.04 OVERTIME PAY PROCEDURES

Exempt positions are not eligible for overtime pay or the accrual of compensatory time. Human Resources shall maintain a listing of all positions, showing their designation as either exempt or non-exempt.

A. OVERTIME CALCULATIONS

Overtime is defined as those hours actually worked, by non-exempt employees during any FLSA-defined workweek, which exceed 40 hours specified for such workweek or exceeds 106 hours in a 14-day cycle for non-exempt shift firefighters.

Overtime will not be paid or accrued until the allowable number of hours has been surpassed for a given workweek regardless of the daily schedule of an eligible employee. All non-exempt employees who are directed to work after completing work beyond the normal 40 hour schedule or 106 hour schedule (shift-firefighters) will begin to accrue overtime hours to be compensated in one of two manners:

1. Compensatory time - accrued at an additional one and one-half times the hours worked; or
2. Overtime payments - paid an additional one and one-half times the hourly rate

B. COMPENSATORY TIME

1. ACCRUAL

Non-exempt personnel, excluding Police Officers may accrue a maximum of 80 hours of compensatory time for hours worked (53 hours of actual overtime worked). Non-exempt Police Officers and Firefighters may accrue a maximum of 160 hours of compensatory time for hours worked (106 hours of actual overtime worked). When compensatory time is used, it is not counted as time worked for calculation of overtime.

A non-exempt employee who has accrued the maximum number of compensatory hours for his/her position, shall thereafter be paid in money for any overtime hours worked until such time that the employee's compensatory time has been reduced below the maximum permitted (80 or 160 depending on position).

2. RECORD KEEPING OF COMPENSATORY TIME

Payroll records shall reflect the number of hours of compensatory time earned and used by each non-exempt employee in each pay period. The regular timesheets will provide a record of all overtime, both paid and compensatory time earned and used.

4. PROMOTION OF A NON-EXEMPT EMPLOYEE TO AN EXEMPT POSITION

When a non-exempt employee is promoted to an exempt employment status, the employee shall have the compensatory time balance cashed out prior to or at the effective date of the promotion.

C. OVERTIME AND LEAVE

If an employee works in excess of 40 hours during a regular workweek or 106 hours in a 14-day cycle for shift firefighters, the employee will be paid money or in compensatory time. Any paid vacation, personal or sick hours used by an employee during the same work week, will be calculated at the employee's regular rate of pay. In short, an employee will receive overtime compensation only after the employee has physically worked 40 hours during a regular work week or 106 hours in a 14-day cycle for shift firefighters. Vacation, Sick Leave, Holidays and Comp Time are not considered time worked for the purpose of calculating overtime.

D. OVERTIME AND HOLIDAYS

Employees, except for shift fire and police personnel, will be paid a rate of one and one-half times their regular hourly rate for the holiday hours worked. Shift police and fire personnel who are required to work on an official holiday will be paid a rate of one and one-half times their regular hourly rate for the entire shift that actually begins on the holiday. This is in addition to any holiday pay earned by the employee.

4.05 TIME AND PAY FOR ON-CALL, CALLBACK AND CALL OUT SITUATIONS

A. ON-CALL AND CALL BACK

On-Call time is not considered time worked and is not compensable at the employee's regular hourly rate of pay. On-call time is the time outside of regularly scheduled working hours when an employee is assigned to be available for callback. The employee is free to pursue personal activities but must respond to summons (paging, telephone or radio) within designated guidelines determined by the Director. Employees must abide by the guidelines set out in the Drug-Free and Alcohol-Free Workplace Policy of this manual. An employee may receive a stipend at the rate determined

Callback time is generally defined as the time the City requires an "on-call" employee to return to work on an unscheduled or emergency basis to work outside of the employee's regularly scheduled work hours. However, there are times when the "on call" employee must call in another employee with a particular expertise to fix an issue. This person is also considered to be on "call back" under this policy. The time that a non-exempt "on-call" employee is assigned to callback time will be considered as hours worked if during that time the employee is required to perform the employee's regular duties. When an employee is on an "on-call" status and is called to work, compensation will be given to the employee as defined below:

1. Return to the employee's usual place of work: any time worked less than 2 hours, will still be deemed as 2 hours of work, in accordance with the Fair Labor Standards Act. Any incident exceeding two hours will be paid according to the length of time requiring the employee's attention.

2. Remain near a telephone at a fixed location

The following provisions also apply to call back time and pay:

- Call back time does not change the number of hours scheduled as on call.
- If a non-exempt "on-call" employee is subject to callback, any hour(s) worked during the period of callback will be paid at the employee's overtime rate, regardless of the actual number of hours worked in the workweek.
- Call back pay is not associated with time where employees are asked to remain at work, or held over for a shift. If an employee is asked to remain at work after their shift, pay will be subject to the Fair Labor Standards Act guidelines.
- Exempt employees are not eligible for callback pay.

Departments can make their own policies concerning what positions will be mandated for "on-call" duty and what the length of response time must be for employees to return to the work site.

On-call time and callback time must be reported on the employee's bi-weekly timesheet, in accordance with the guidelines listed above.

B. CALL OUT

Non-exempt employees called back to work shall be paid at the rate of one and one-half times the regular rate of pay for the time worked, with a minimum of two hours of pay. The exception being where the call runs into the normal workday at which time a non-exempt employee's pay would change to straight time. The call out time is separate from the normal 40 hour work week calculation.

4.06 STEP-UP PAY, CERTIFICATION AND LICENSE PAYS

A. STEP-UP PAY

When an employee is temporarily assigned the duties and responsibilities of a higher classification, that employee may receive additional compensation if the assignment exceeds ten working days. The rate of pay will be determined by Human Resources and shall not exceed the range or position the employee is assuming.

B. CERTIFICATION AND LICENSE PAY

It is the policy of the City of Tomball to encourage its employees to participate in advanced training. Levels of training and certification for that training should be recognized. To properly compensate those employees who achieve required levels of certification and/or licenses, the city has adopted a certification and license policy which can be reviewed in the Human Resources Department at any time. When certification and license pay apply, eligible employees will only be compensated for the highest level of certification and degree level they achieve. Any changes to this policy will only be made during budget discussions depending on the funding levels that are available for the future year.

It is the employee's responsibility to notify their supervisor and provide documentation when they obtain a higher certification or education level, or if the certification or assignment pay no longer applies to their position. The supervisor will then notify the Human Resources Department.

4.07 TRAVEL TIME

A. COMMUTE TIME

Travel time at the beginning or end of the workday is not compensable. Generally, an employee is not at work until they reach the work site. This includes travel to offsite locations where the employee may have a temporary assigned worksite (i.e. training in Houston). However, if a non-exempt employee is required to report to work to pick up materials, equipment or other employees, or to receive instructions prior to traveling to the worksite, then the time from the worksite to the final destination is compensable. An employee who operates a City vehicle need not be compensated for commute time simply because the employee is driving the vehicle, so long as it is for the employee's convenience. A non-exempt employee who is directed to chauffeur other employees by his supervisors is entitled to compensation.

B. OVERNIGHT TRAVEL

Travel time is compensable when it occurs during the non-exempt employee's normal work hours. Moreover, if the travel occurs during the normal working hours of a non-exempt employee, even if on nonworking days (i.e. Saturday or Sunday for an employee who works Monday to Friday), the time is compensable. Travel time that occurs outside of regular working hours where the employee is a passenger and free to relax does not count as working time. However, if the non-exempt employee is required to drive or perform work, then the time is compensable.

C. TRAVEL AND EXPENSES REIMBURSEMENT

Please refer to APPENDIX for the City of Tomball Travel and Expense Reimbursement Policy

4.08 LIGHT-DUTY ASSIGNMENT

The City's return to work Light Duty Program is based on the belief that it is in the best interest of both the employee and the City for an employee to return to work in some capacity following an on the job-related illness, injury, or medical condition. Under this basis, Directors are instructed to work with Managers to identify possible Light Duty assignments. Attempts will first be made to provide Light Duty assignments in the department and division in which the employee currently works. If placement is not possible, then the Human Resources Department will attempt to place the individual in another department, based on physical ability skills and available assignments.

Light duty assignments are limited to those employees who have sustained an injury, illness, or other medical condition on the job. If an employee is unable to work at full duty capacity due to an injury, illness, or other medical condition, but is able to work in some capacity, they may be eligible for light duty.

The employee's treating health care professional must have the expectation that the employee will be able to work in a full-duty capacity. The employee must obtain a Doctor's Note from the health care professional that releases the employee to perform the assigned duties and submit it to Human Resources. For the 1st six months after the injury or onset of illness, an employee must provide medical documentation to Human Resources, in 45-day increments in order to remain on light duty. The supervisor shall provide Human Resources with the light duty job requirements.

An employee who is released to return to work in less than a full-duty status by the health care professional may be required to work in a position or department other than his normal position or department. The City will

consider returning the employee to work in a light duty work assignment resulting from a vacant position or work overflow.

Work duties will be assigned in accordance with the employee's limitations and knowledge, skills, and abilities and the needs of the City. No Light Duty will be assigned unless a health care professional's release is provided.

A. EMPLOYEE RESPONSIBILITIES ON LIGHT DUTY

An employee with a light duty assignment will be required to continue to present progress reports to their supervisor after each doctor's visit that states the employee's progress and the expected date of return to full duty.

Employees with a light duty assignment may not work any second jobs that conflict with the restrictions set forth by the health care professional. This will be in effect until the employee is released for full duty by their health care professional.

An employee's participation in the Light Duty Program may be suspended and/or terminated for the following reasons:

1. The treating health care professional temporarily prohibits the injured employee from continuing with a Light Duty assignment.
2. There is no longer any assignment available within the City which can be performed by the injured employee, given their current restrictions.
3. The treating health care professional indicates that the injured employee has reached maximum medical improvement and will not be able to return to their prior position with or without reasonable accommodation, in any reasonable foreseeable timeframe.
4. An injured employee has been on a light duty assignment for a period of 6 months, which is the maximum time allowed any employee to remain on Light Duty work without a recommendation of extension from the Assistant City Manager/City Manager.
5. The employee fails to comply with departmental policies and procedures, or any City policies and procedures.
6. If the employee fails to perform the assigned tasks, the employee will be removed and may be subject to disciplinary action.
7. The employee fails to comply with the terms and conditions of the Light Duty Program and/or fails to meet acceptable work standards and performance levels of the assigned position.
8. The City cannot make reasonable accommodations that meet the restrictions as outlined by the health care professional.
9. The health care professional releases the employee for full-time, regular duties without restrictions.
10. If work assignments conflict with restrictions.

The employee participating in the Light Duty Program will discuss with the supervisor the hours to be worked, not to exceed a 40 hour workweek.

The employee will be required to wear appropriate dress for the light duty assignment. This will be left to the discretion of the employee's assigned supervisor and in the case of Police and Fire personnel, the department's supervisor or the Chief's approval.

When possible, the employee shall attempt to schedule medical treatment or physical therapy appointments in an effort to minimize the interference with the employee's work schedule. It is the employee's responsibility to promptly return to work after Light Duty medical treatments or physical therapy appointments scheduled during normal work hours or to notify the Light Duty supervisor if unable to do so following each appointment with a health care professional.

B. DIRECTOR'S, MANAGER'S, SUPERVISOR'S RESPONSIBILITIES IN REGARDS TO LIGHT DUTY

1. It will be the Director's/Manager's responsibility to assign an employee to light duty in the employee's regular department/division, whenever possible. If light duty is not available within the employee's Department/Division, Human Resources will survey other Departments for suitable light duty assignments.
2. All light duty job offers must be made in writing.
3. It is the responsibility of the Director's/Manager that receives an employee on the Light Duty Program to:
 - a. Supervise the work of the light duty employee so that the performance standards of the assigned positions are met.
 - b. Notify Human Resources if the light duty employee fails to meet the performance standards of the position.
 - c. Notify Human Resources of any physical compliance rules or restrictions not adhered to by the light duty employee.

4.09 PROBATIONARY PERIOD

A. PURPOSE

The purpose of the probationary period is to allow newly hired full-time employees and the City the opportunity to measure and evaluate their satisfaction with the working relationship. At any time the employee or the City has the right to terminate the employment relationship, with or without notice, with or without cause. The City also retains the right to change any terms, conditions, benefits or privileges of employment at any time without notice. No employment contract either expressed or implied shall exist between the City and the employee for any duration, either specified or non-specified, during the introductory period.

B. LENGTH OF PROBATIONARY PERIOD

The length of the probationary period is as follows:

1. All full-time employees, excluding Police Officers, shall complete a probationary period of six months from the date of hire.
2. Police Officers shall complete a one-year probationary period from the date of hire.

At least 30 days before the end of the probationary period, the Supervisor must begin reviewing the employee's performance. At that time, if it is determined that the employee's performance is not satisfactory, the employee will be terminated from employment before the end of the probationary period. If it is determined that the employee's performance needs further evaluation, the Supervisor/

Director may, before the end of the Probationary Period, recommend to extend the employee's Probationary Period as provided below.

C. EXTENSION OF THE PROBATIONARY PERIOD

At the discretion of the Supervisor and Director and with the concurrence of the Director of Human Resources, an employee's Probationary Period may be extended up to six months.

D. POSITION CHANGES (INTERNAL MOVES)

Probationary periods will apply to all full-time employees that have a change in jobs (through reclassification, promotion, demotion, or reorganization) and are subject to a 6-month probationary period. At the end of 6 months in the new position, the incumbent will receive a 6-month review to be documented as a periodic update in the performance evaluation system. The 6-month review is not subject to an increase in pay, but is to determine if an employee can continue in the position. If the employee is not performing satisfactorily, they are subject to disciplinary action.

An employee who changes positions (through reclassification, reorganization, demotion, or promotion) may not transfer or change jobs within the first 6 months of the action without the consent of their Director.

4.10 EMPLOYEE PERFORMANCE AND DEVELOPMENT SYSTEM

The performance evaluation is a measurement of an employee's work performance over a period of time. The performance evaluation is also a developmental tool that is used as a means for the supervisor to communicate to the employee essential job factors, skills, expectations, and at what level the employee should be performing.

The City will evaluate employees at least annually. This evaluation will include a discussion between the employee and his/her immediate supervisor to determine goals and evaluate progress toward better performance and personal development. Performance evaluation results are used in determining merit increases and promotions. An employee's immediate supervisor will complete written performance evaluations with final written approval by the Department Head or City Manager. Employees will be given a copy of the evaluation prepared by their supervisor.

Salary increases may be given to reward individual performance are subject to budgetary guidelines established by the City.

A. ELIGIBILITY

All full-time and part-time employees shall be evaluated based upon a performance plan, to include the City's guiding values, mandatory job factors, and/or leadership and other criteria developed by the Supervisor and the employee. Employees hired during the last quarter of the fiscal year will not be eligible for a merit increase until the annual review the following year.

Supervisors shall review staff evaluations with the Director/Manager prior to discussing with the employee as part of the department calibration stage of the evaluation.

B. ANNUAL PERFORMANCE EVALUATION

An employee receiving a "Marginal" rating on their annual evaluation will not receive an adjustment to pay and will be placed on a Performance Improvement Plan and given 90 days to improve. If at the end of the 90-day period, the employee's performance improves to "Proficient", the employee will continue employment with the City and may be eligible to receive an adjustment from the date of the "Proficient" rating. The employee's next evaluation will be on the next common review date and may be eligible for an adjustment based on performance for the entire previous 12 months.

Upon the re-evaluation, if performance is still rated as "Marginal" the employee is subject to disciplinary action, up to and including termination, in accordance with directions provided by this policy and the Human Resources Department.

C. PERFORMANCE IMPROVEMENT PLAN

Employees may be disciplined for conduct or performance or a combination of the two. At any time, if an employee's performance falls below expected levels the employee may be placed on a Performance Improvement Plan and given 90 days to improve. If at the end of the 90-day period, the employee receives a rating that is below "Proficient", the employee is subject to disciplinary action, up to and including termination, in accordance with directions provided by this policy and the Human Resources Department.

D. EMPLOYEE EVALUATIONS WHILE ON LEAVE OF ABSENCE

If an employee is out on an approved leave of absence, including but not necessarily limited to, leave due to an on-the-job injury, FMLA leave, or Military leave, then the employee shall be evaluated based on their performance while at work. However, merit pay will be based on the evaluation rating, as if the employee were at work the entire evaluation period. If an employee is out the entire evaluation period, then the supervisor will use the previous evaluation period rating. Any salary increase shall occur on the effective date of the change.

4.11 PAY PLAN AND COMPENSATION GUIDELINES, AND JOB DESCRIPTIONS

A. COMPENSATION PHILOSOPHY

The City maintains a position classification system for all workers in an effort to apply sound principles of measurement to determine an internally equitable market value of each position in the City. The request for new classifications will occur during the budget process each year.

The City's compensation program will provide compensation opportunities (direct pay and indirect pay, career opportunities, benefits, etc.) that are a blend of those offered by its competitors.

Each job classification in the City will be assigned to the pay structure and will have a pay grade defined by the minimum and maximum dollar limits. The pay grade defines the pay opportunities for the job.

Pay structures shall be reviewed periodically to reflect the city's changing competitive position, economic conditions, and compensation objectives; and shall be subject to the budgetary guidelines established by the City.

B. ESTABLISHMENT OF PLAN

The City Council shall establish the pay plan annually during the budget process, which includes compensation and salary structure recommendations made by the City Manager or his designee. One of the functions of the budget process is to consider the competing priorities for limited revenue resources. It may be determined that the City's current financial status cannot support the total cost.

Conversely, in a positive financial condition, the City may consider increasing the percentages allotted. The financial status will affect both structure adjustments and individual salaries during any future fiscal years.

Generally, when any salary structure is adjusted, the employee's salary will be adjusted in order to maintain the employee's position in the structure. In addition, the employee may receive a budgeted merit increase. Conversely, if the City's financial status cannot support a structure adjustment and a merit increase in the same year, the City may elect to adjust the structure one year and in the following year provide a merit increase to employees with no structure adjustments, or may elect to maintain the current pay structure until conditions change.

C. SALARY RANGES

Each position in the City has a salary range defined by minimum and maximum salary limits and a midpoint. The salary range defines the pay opportunities for the job. The salary ranges and midpoints are to be reviewed and revised to reflect changing competitive positions, economic conditions and compensation objectives.

Employees shall not be paid less than the minimum of the pay grade established for their position and increases shall not provide for employee salaries to exceed the maximum of the pay range for their position. The midpoint of the range is equivalent to the average salary paid in the market, with the basic compensation philosophy that an employee should be at or near the midpoint of the range when he or she has attained five years of tenure in the position.

Employees whose salary is at or above the maximum of their pay grade will be "frozen" until the structure "catches up" with the individual's rate of pay. Employees at the maximum of their pay range may, with the approval of the City Manager and as provided for in the budget, be eligible for lump sum payments that are not included in the base pay of the employee. The pay described above is nonrecurring, and will not extend beyond the end of the fiscal year in which such pay is authorized, and will be tied to satisfactory job performance.

D. JOB DESCRIPTIONS

The job description provides a general summary of the purpose, essential duties, responsibilities and requirements of a position. It is not intended to be a comprehensive listing of all tasks associated with the position nor an implied contract between the City and the employee. Job descriptions are required for all positions and will define the position as exempt or non-exempt.

The main objectives of the job description are:

1. To serve as a means of communication between the supervisor and the employee to clarify the responsibilities and expectations of the job;
2. To serve as the main resource to determine the salary range;
3. To serve as the basis for the annual performance appraisal;
4. To identify minimum qualifications and applied skills, as well as knowledge and ability for the purpose of recruitment, selection, promotion and training.

Employees are hired on the assumption that each employee will "perform other work related duties as required" that may not be specifically spelled out in their job description.

4.12 MAINTENANCE OF CLASSIFICATION AND PAY PLANS

The Human Resources Department, assisted by the Department Heads, shall have primary responsibility for maintaining the classification and pay plans. All changes in job duties of a position and job classification of a position must be approved by the City Manager.

Department Heads and supervisors have a duty to report substantial changes in the duties and responsibilities of positions under their control, so that classification adjustments may be made.

The City Manager shall recommend to the City Council changes in the pay plan necessary to keep the City policy current, uniform and equitable. Recommended changes in pay policy shall be effective when the budget containing said changes is approved by City Council.

4.13 PROMOTIONS

It is the policy of the City to encourage and provide opportunities for promotion. Each employee is responsible for monitoring vacancies and is encouraged to apply for vacant positions, in which he/she is interested in and for which he/she is qualified. A promotion is defined as the assumption of job duties and responsibilities that are higher in character and scope than the previous job. A promotion occurs when the new job is of a higher salary range than the prior job and is accompanied by a job title change.

When a non-exempt employee is promoted to an exempt employment status, the employee shall have the compensatory time balance cashed out prior to the effective date of the promotion. Payment shall be made at the employee's rate of pay on the effective date of the cash out.

General guidelines relating to advancement or promotion are as follows:

1. If an employee is promoted, the resulting salary increase shall be at least an amount sufficient to reach the minimum salary range for the new job. If the current rate of pay is more than the maximum rate of pay for the new classification then the pay shall remain the same.
2. Promotions are subject to a six month probationary period. If the employee fails to meet the established performance standards, he/she may return to his/her previous position or a similar position, if a position is available.
3. Part-time employees promoting into a regular full-time position will use the new start date in their full time position as their accrual date for benefits.

4.14 LATERAL TRANSFERS

A lateral transfer is movement from one position to another position within the same pay range. In the event an incumbent is transferred, whether voluntary or involuntary, to a position with the same pay range, the incumbent shall remain at the same salary. A lateral transfer will require a six-month probationary period.

4.15 DEMOTIONS

A demotion occurs when an employee moves from one job position to a position of a lower salary range and therefore, may result in a lower salary based on the minimum and maximum of the salary range for the position.

4.16 REORGANIZATIONS

An employee may be transferred, have a job title change or have a salary increased or decreased due to a department or City-wide reorganization.

4.17 REDUCTION-IN-FORCE

From time to time economic conditions or the changing staffing needs of the City create situations which will require a reduction in force or layoff from specific positions.

SECTION 5 – EMPLOYEE BENEFITS AND SERVICES

The City of Tomball provides a benefits program for its full-time employees. The actual terms of coverage are as described in the individual summary plan documents, and the summary provided below is only to inform employees of the general benefits and procedures in a more concise manner. The terms of coverage are subject to periodic revision. All benefit guides and plan summaries can be obtained through the Human Resources Department.

5.01 ENROLLMENT AND PLAN YEAR

Full time employees are eligible for health and dental benefits and will be advised of group medical plans, dependent coverage availability, as well as current premium costs, during orientation. Employees and their eligible dependents will usually be covered on the 1st day of the next month following the start of employment. Group health plans operate on a fiscal year basis, beginning October 1 and ending September 30. Open Enrollment for the upcoming plan year occurs in September of each year. Once elections have been made to participate or not participate in the group health plans, no change or revocation may be made in that election until the next open enrollment period, except in the case of a qualifying event, as defined by the Internal Revenue Code. Premiums for group and voluntary plans are deducted bi-weekly from the employee's paycheck.

5.02 GROUP HEALTH PLANS

A. GROUP MEDICAL AND DENTAL PLANS

Full time employees are eligible for health and dental benefits and will be advised of group health and dental insurance plans, dependent coverage availability and current premium costs during orientation. The City offers a choice of group health plans to full-time employees, and their eligible dependents. Employees and their eligible dependents will usually be covered on the first day of the next month following the start of employment with the City. An employee's spouse who is eligible for medical and/or dental insurance at his/her place of employment will not be eligible for medical and/or dental insurance provided by the City of Tomball. See Plan Documents for specific information concerning coverage.

B. GROUP VISION CARE PLAN

Employees may elect vision insurance for themselves and their eligible dependents. The cost of coverage for this optional product is deducted from the employee paycheck on a bi-weekly basis.

5.03 LIFE INSURANCE AND ACCIDENTAL DEATH & DISMEMBERMENT (AD&D)

A. GROUP LIFE AND AD&D

Full time employees will be provided Term Life Insurance and Accidental Death and Dismemberment Insurance (AD&D) with a minimum value of 1 x base salary.

B. OPTIONAL LIFE AND AD&D

Employees may elect additional life insurance with or without an accident and dismemberment provision for themselves and their spouse and children. All costs for additional coverage are the responsibility of the employee. The cost of coverage for these optional products is deducted from the employee paycheck on a bi-weekly basis.

5.04 LONG TERM DISABILITY

A. LONG-TERM DISABILITY

The City of Tomball provides all full time employees with Long-Term Disability Insurance.

If an employee becomes disabled as defined by the terms of the policy, they would be eligible to receive a monthly benefit of 60% of their basic monthly income, to a maximum benefit as defined by the plan. There is a 90-calendar day elimination period, meaning benefits would begin on the 91st day for a disability related to an accident or an illness. The plan provides for a coordination of benefits, and disability payments are reduced in coordination with other benefits such as workers' compensation, or other similar compensation.

5.05 FLEXIBLE SPENDING ACCOUNT

Eligible employees have the option of participating in a Flexible Spending Plan that allows the employee to contribute pre-tax salary to an account. Money allocated in this account can be used to reimburse the employee for medical, dental and prescription co-payments, uncovered medical or dental charges and dependent care coverage. Employees make an annual determination on the amount to be allocated to this account. Once the employee makes a decision to participate, the decision cannot be revoked unless the employee has a qualifying event or during annual enrollment. Unused funds revert to the City annually.

5.06 EMPLOYEE ASSISTANCE PROGRAM

The Employee Assistance Program (EAP) is designed to provide full-time employees and their dependents with professional, cost-effective assistance in resolving difficult personal problems. An individual's voluntary involvement in the EAP is confidential.

5.07 TEXAS MUNICIPAL RETIREMENT SYSTEM (TMRS)

A. RETIREMENT SYSTEM

City of Tomball participates in the Texas Municipal Retirement System (TMRS).

B. ELIGIBILITY AND VESTING

Upon hire, all full-time employees become a member of TMRS. Participation on TMRS is mandatory if the employee's position normally requires them to work at least 1,000 hours per year. The vesting period is five (5) years.

C. CONTRIBUTIONS

Seven percent (7%) of an employee's gross salary is automatically deducted from their paycheck. The employee contribution is tax deferred. The City matches employee contributions at 2:1.

D. SEPARATION FROM EMPLOYMENT

If at separation, an employee is not vested in TMRS, the employee may either choose to:

1. Leave the money in the retirement system for up to five years, or
2. Withdraw the employee's contributions plus any accrued interest in a lump sum, less appropriate taxes, or
3. Roll the employee's contributions plus any accrued interest into a qualified retirement plan.

If at separation, an employee is vested in TMRS, the employee may either choose to:

1. Leave the employee's contributions plus interest in TMRS and receive a pension when qualified;
2. Withdraw the employee's contributions plus interest in a lump sum, less appropriate taxes; or
3. Roll the employee's contributions plus interest into a qualified retirement plan.

E. RETIREMENT OPTIONS

An employee is eligible for retirement from TMRS if one of the following qualifications is met:

1. Five (5) years of service and at least 60 years old; or
2. Twenty (20) years of service, as defined by TMRS

F. DEATH BENEFIT

1. Should an employee die while still in the City's employment, TMRS provides a death benefit to the employee's beneficiary approximately equal to the employee's current annual salary.
2. Retirees are provided a death benefit in an amount set by TMRS.

G. DISABILITY

1. If an employee can no longer perform his or her job at the City as a result of an illness or injury, TMRS may provide an occupational disability retirement, regardless of whether the age or service requirements have been met. An Occupational Disability is based on the employee's deposits and interest, the city's matching funds, and other credits.

H. UNPAID LEAVE STATUS

1. If an employee is on unpaid leave status and has exhausted all accrued leave benefits, the employee will not be able to contribute to TMRS. If this occurs, TMRS requires an employee to request an extension of his/her Supplemental Death Benefit and have it approved by the TMRS Medical Board.

5.08 RETIREMENT AND BENEFITS

Employees hired on October 1, 2014 and thereafter:

- A. A retiree and his or her covered dependent(s) may be eligible for continued health insurance coverage through COBRA according to regulatory requirements. Retirees may not add dependents after retiring. Retirees are responsible for all costs, including premiums and administrative fees, associated with COBRA benefits. Retiree/Dependent COBRA benefits will be terminated if the City (or the City's Third Party Administrator) does not receive the required contributions by the due date.
- B. Retirees may elect to seek health insurance through the state-based insurance exchanges after their creation by 2014 as currently mandated by the Patient Protection and Affordable Care Act ("APA" or "Act").

Employees hired prior to October 1, 2014:

A. RETIREE HEALTH BENEFITS

In order to recognize and reward long-term employees, as well as to provide an incentive for remaining in the City's employment, the City may pay a portion of the premium for continuation of the medical and dental coverage of certain retirees. Enrollment for retiree coverage must be completed no later than 30 days after the date of retirement. Later enrollment is not permitted. Any retiree eligible for medical coverage with another group plan shall not qualify for medical coverage with the City of Tomball.

Any employee hired on or after October 1, 2014, will no longer have any portion of their retiree health benefits paid for by the City. The eligibility requirements and premiums listed below, only apply to full-time employees hired prior to October 1, 2014.

B. ELIGIBILITY

In order to be eligible for this benefit, the retiree must meet the following criteria.

1. Retiree must be vested, age 55 or older and a current recipient of retirement benefits from the Texas Municipal system.
2. Retiree must have been a full time employee of the City of Tomball for 10 consecutive years immediately prior to retirement.
3. Retiree must satisfy the applicable plan requirements for the extension of retiree coverage under the medical and dental insurance benefit plan offered by the City at the time of retirement.

C. PREMIUMS

Beginning with retirement and ending when the person is eligible for Medicare coverage, the City may pay a portion of the retiree medical and dental coverage premiums in accordance with the following schedule.

1. The City may pay 40% of the premium costs for retirees having at least 10 years, but less than 15 years, of full time service with the City.
2. The City may pay 55% of the premium costs for retirees having at least 15 years, but less than 20 years, of full time service with the City.
3. The City may pay 70% of the premium costs for retirees having at least 20 years, but less than 25 years, of full time service with the City.

4. The City may pay 85% of the premium costs for retirees having at least 25 years of full time service with the City.

Eligible retirees shall pay 100% of vision premiums and 100% of the premiums for basic life insurance, which is currently \$2,000.

D. RETIREE DEPENDENT COVERAGE

Presently, a retiree's spouse and dependent(s) are also eligible for continued coverage if they are already covered at the time of retirement. Retirees may not add dependents after retiring. Each retiree is responsible for all costs, including premiums, associated with spouse and dependent benefits. The benefit includes the same medical coverage approved by Council and selected for current employees and excludes accidental death and life coverage.

E. MEDICARE AGE

The City of Tomball will no longer pay any retiree premiums once the retiree is eligible for Medicare coverage. Retirees who are eligible for Medicare coverage may, at their sole expense, continue to purchase coverage for themselves and their eligible dependents as provided under the applicable terms of City's policies. The City's policy will be a secondary policy to Medicare.

F. ANNUAL CERTIFICATION

Retirees, including covered spouse and dependents, shall certify their eligibility for continued health insurance benefits on an annual basis. The City will provide a Certification form to all retirees enrolled in the City's health plan, which must be returned by the chosen deadline. Failure to provide the Eligibility Certification form by the deadline will result in discontinuation of coverage.

5.9 SOCIAL SECURITY AND MEDICARE

The City of Tomball does participate in the Social Security and Medicare system.

5.10 WORKERS COMPENSATION

The City provides workers compensation coverage to all employees for job related injuries or occupational illnesses suffered by the employee while acting in the course and scope of their position. If an employee sustains a job related injury, the injury is to be reported immediately to the employee's supervisor or department head by the injured employee and any employee that provides assistance to the injured employee. A first Report of Injury Form is also to be immediately completed. To the extent provided by State law, worker's compensation insurance will cover medical expenses for treatment of such job related injuries. In order for the medical expenses to be paid, the employee must follow the appropriate guidelines issued by our worker's compensation carrier.

REMEMBER: Employees should never pay for treatment or prescriptions associated with the injury. **Employees should never use their personal insurance card for a work related injury.**

Administrative Leave will be provided for the first seven days for a worker injured in the course and scope of employment. Once the employee misses seven calendar days, the injured employee becomes eligible for temporary income benefits as required by the Texas Workers' Compensation Act. Temporary Income Benefits are approximately 70% of an employee's average wage during the previous 13 weeks. If the

absence is due to a serious health condition, the workers' compensation leave will run concurrently with Family and Medical Leave. After seven calendar days of missed work the employee may be eligible for wage continuation payments. More information is available in the Human Resources Department.

If an employee is absent due to an on the job injury or illness, the injured or ill employee will continue to accrue sick and vacation leave benefits for the first three months of the injury or illness. Accruals will cease after three months and until the employee returns to work.

5.11 OPTIONAL 457 PLANS

A. DEFERRED COMPENSATION PROGRAM

Deferred Compensation (Internal Revenue Code 457, Section (b)(2)) is a voluntary benefit available to public sector employees only and is not available to employees in the private sector. All full-time employees of the City are eligible to participate in the Deferred Compensation System.

This program allows public sector employees to defer a portion of their income and the taxes on that income to build a bigger fund for supplemental retirement income. The plan administrator sets the minimum that you may contribute to a Deferred Compensation plan and the maximum contribution is set annually by the Internal Revenue Service.

B. ROTH IRA

The IRS regulations have been updated to allow public employers to offer ROTH IRA's to employees through payroll deduction. Deductions into a ROTH IRA are deducted from the employees pay check after-tax and are subject to all IRS regulations.

C. DISCONTINUATION AND WITHDRAWALS

Employees participating in a deferred compensation program may begin and/or discontinue contributions to the program at any time. Money contributed toward Deferred Compensation can only be withdrawn following separation of employment with City of Tomball, or in the case of an emergency. The Internal Revenue Code 457 defines circumstances that qualify for an emergency.

5.12 CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT OF 1985 (COBRA)

The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) became effective on April 7, 1986. Through COBRA, the City of Tomball employees and their dependents, who are currently enrolled in qualified group benefits, are afforded an opportunity to extend those benefits at 102% of the established monthly premium (subject to change from time to time) in situations by which the benefits coverage would otherwise end. The length of COBRA varies depending on the nature of the qualifying event, but could range between 18 and 36 months.

5.13 TUITION REIMBURSEMENT PROGRAM

The Tuition Reimbursement Program is provided for eligible full-time employees to supplement the cost of obtaining degrees that will help them in their current job or in future jobs with the City. The Human Resources Department will administer the program and review all reimbursement applications.

A. ELIGIBILITY

This program shall apply to all regular, full time employees in good standing, who have completed two (2) years of employment with the City, are eligible to apply for tuition reimbursement for courses begun after the two-year anniversary. This policy shall apply to degree related programs only from an accredited (see HR for the list of acceptable accreditations) college, university, or technical school and will cover associate degrees, undergraduate bachelor's degrees and master's degrees. Employees will be limited to one degree per level (i.e. bachelors, masters). The courses and/or degree programs must relate to the employees' current positions, or to career paths with the City that they may be reasonably following in the near future.

B. SCHEDULING

Employees are responsible for scheduling classes that will not conflict with their work schedule. The Department Director has the option of altering the employee's work schedule if special circumstances are warranted. Employees shall not be permitted to attend courses under this educational reimbursement program during work hours unless authorized by the City Manager. Employees attending courses under this educational reimbursement program shall not be compensated for their course work as hours worked.

C. REIMBURSEMENT AMOUNT

The City shall reimburse the employee the cost of the tuition, lab fees, books and other mandatory fees for courses directly related to their degree plan. Reimbursements shall not include miscellaneous expenses such as late fees, travel expenses, out of district fees, parking fees, finance fees, health center fees, athletic fees and deposits, etc. Employees must earn a grade of "C" or better in undergraduate classes and a "B" or better in graduate classes to receive this benefit. It is not the policy of the City to reimburse the cost of tuition and fees for any individual who is receiving or is eligible to receive assistance from such other sources as scholarships, grants and other subsidy programs (e.g. G.I. Bill).

The availability of tuition reimbursement is subject to City Council approved funding levels. The total amount of annual tuition reimbursement (not to exceed \$4,000 in a calendar year) will be established annually, as part of the budget process based upon anticipated participation and available funding. The training needs of the department as a whole will be considered before individual requests for tuition reimbursement are added to the budget.

D. SERVICE REQUIREMENTS/REPAYMENT OBLIGATIONS

Requirements for continued service with the City after course completion are an assurance that the City will benefit from employee participation in the program. If an employee leaves City employment for any reason before a service requirement is completed, the employee must repay to the City all or part of the tuition that was paid to the employee.

A two (2) year service requirement begins on the reimbursement check date. A separate two-year service requirement must be completed for each reimbursement payment made to the employee. If the service requirement is not completed, the debt will be paid in one of the following ways:

1. If the employee has worked less than one year of the service requirement, the employee will

repay to the City the full amount of the reimbursement payment made to the employee.

2. If the employee has worked at least one year, but less than two years, of the service requirement, the employee will repay to the City 50% of the amount of the reimbursement payment, made to the employee.

A service requirement is **not** an assurance of continued employment by the City.

If a termination of employment occurs (voluntary or involuntary) and the employee owes a repayment amount, and the employee does not otherwise repay the amount, the employee agrees to have the repayment amount deducted from the employee's paychecks that are issued after the termination decision occurs.

E. APPLICATION

To begin participation in the Tuition Reimbursement Program, employees must notify their Department Head in writing by submitting a completed application for the program with proper signatures along with a degree plan from the school and tuition dollar estimates in time for the budget preparation workshops (usually in March) for the next fiscal year. All paperwork must then be forwarded to the HR department. This must be done each year for all classes to be taken in the next fiscal year.

To be considered for reimbursement, the course must be on the approved degree plan. Upon completion of a class, the employee must fill out a PA-7 listing course(s) taken on the comment line, attach a copy of the tuition receipt and a grade report, obtain the necessary signatures and forward the documents to Human Resources within 45 days of the completion of class. After reviewing the documents they will be forwarded to Accounts Payable for processing. All checks will be available for pick up in the Human Resources Department. The employee must sign a tuition repayment agreement before the check is released. **Requests for reimbursement received more than 45 days after the last day of class, and those without an application on file will not be honored.**

REMINDER: It is the employee's responsibility to complete all steps of the process within the specified deadlines. This includes Department Head approval and the time constraints placed on the Initial Application and on the deadline for submissions of an official grade report. The Human Resources Department will not be responsible for notifying the employee of deadline dates. Any required documentation or forms not submitted within the stipulated time frame will not be reimbursed.

5.14 TRAINING SCHOOLS

The City will pay appropriate costs for mandatory training for certification purposes, or to maintain such certification. The employee's Department Director must approve the training in advance.

5.15 LONGEVITY PAY

This policy applies to City employees employed full-time for a minimum of twelve consecutive months. Employees receive \$5.00 per month for each year of continuous service. Longevity pay shall be in addition to an employee's base salary and shall be paid annually in December. Longevity pay is subject to TMRS and income tax withholding. Former employees who are re-hired will be paid longevity pay without regard to their prior employment, after the minimum 12 consecutive months have passed.

SECTION 6 – DISCIPLINE/GRIEVANCES/APPEALS

6.01 DISCIPLINE

It is the intent of the City of Tomball to compensate its employees fairly; to make all reasonable provisions for their safety and health; to provide adequate instruction, direction and equipment; and to treat all employees with dignity and respect. All employees are expected to work diligently and conscientiously for the benefit of the City as directed by their supervisors and maintain a high level of conduct on and off the job.

A. DISCIPLINARY GUIDELINES

The City of Tomball encourages the use and application of progressive discipline whenever practical. Accordingly, mild disciplinary action may be taken when an employee first has problems with attendance, work performance, or conduct that is disruptive or inappropriate in nature. If the employee fails to correct the problem, or develops other problems, more severe disciplinary action shall be taken. Using progressive discipline in such a manner maximizes an employee's opportunity to correct problems.

Utilizing progressive discipline, however, does not preclude or inhibit the City from exercising its right to impose severe discipline, including the immediate termination, of an employee, whenever such action is deemed appropriate. By providing for the possible use of progressive discipline, the City in no way has waived or altered the "At-Will" nature of employment with the City. While in most cases the disciplinary action taken will depend upon the degree of severity of the offense(s), the record of the offender, and the seriousness of the consequences of the offense(s), there are certain offenses, which will result in severe disciplinary action regardless of the disciplinary record of the offender.

The purpose of standard disciplinary procedures is to make it easier to be consistent by applying similar penalties for similar offenses. However, Directors, Managers, and immediate Supervisors have the discretion to take the totality of the circumstances into account when taking disciplinary action.

B. BASIS FOR DISCIPLINE

The specific descriptions following each general heading are examples of that type of conduct and are not intended to be all-inclusive. Offenses such as these listed below or violations of other City or department policies and/or procedures constitute grounds for disciplinary action, up to and including termination:

1. Unsatisfactory Attendance

- a. Unauthorized absences.
- b. Abuse of leave.
- c. Tardiness.

2. Unsatisfactory Performance

- a. Inability or unwillingness to satisfactorily perform assigned work.
- b. Failing to perform duties at an acceptable level.
- c. Failure to successfully complete a performance improvement plan.

3. Indifference Toward Work

- a. Inefficiency, negligence, loafing, carelessness, leaving work without permission, excessive use of City time for performing personal business during work hours, abuse of eating or rest periods, sleeping

(other than designated times for Fire Shift Personnel) or otherwise being inattentive during work hours, interfering with the work of others, mistreatment of the public or other employees.

- b. Negligently causing damage to City property.
 - c. Failure to meet or maintain specified conditions of employment, such as failure to obtain a degree or obtain/maintain a license or certificate required as a condition for performing a job.
 - d. Misusing or failing to use delegated authority in performance of duties.
4. Dereliction of Duty
- a. Failure to observe and follow the policies of the employee's department/office or the City.
 - b. Failure of an employee to take appropriate action when a violation of policies, rules, or regulations comes to his/her attention, regardless of the violator's assignment or position in the City.
 - c. Failure to promptly report or deliver to a Supervisor any property found by, confiscated by, or relinquished to an employee of the City without undue delay.
 - d. Failure to promptly report damage to City equipment or property of others.
5. Insubordination
- a. Failure or refusal by an employee to perform assigned work or to fully comply with instructions or orders from a supervisor or other appropriate manager. This may include the use of abusive language, displaying of hostility, or indifference in response to supervision.
 - b. The following procedures apply in the event that an employee questions an order given by a supervisor:

If an employee believes that the instruction or order is improper, the employee should obey the order or instruction and question the order later in a reasonable manner.

If an employee believes an instruction or order, if followed, would result in personal injury or damage to City equipment, they should notify the supervisor who issued the order, or if necessary, request approval by another supervisor.

If an employee believes an instruction or order is illegal, they should immediately notify a supervisor above the supervisor giving the instruction or order.
 - c. Refusal to submit to corrective action or performance improvement as required by a supervisor.
6. Violation of Safety Rules
- a. Improper removal of safety guards (e.g. fire extinguishers); failure or improper use of safety equipment; failure to follow safety practice rules, which includes failure or refusal to participate in required post-accident drug and/or alcohol testing; failure to report an on-the-job injury, vehicle accident, or unsafe condition on the day of the occurrence; smoking in prohibited areas.
 - b. Causing or contributing to an accident by operating City equipment in an unsafe or unauthorized manner.
 - c. Failure to notify supervisor, prior to reporting to work, of taking prescribed or over-the-counter drugs with a warning label.

7. Dishonesty

- a. Misuse of City property or funds.
- b. Falsifying or altering City documents.
- c. Any falsifying action detrimental to the City; cheating; lying to any City official or member of City Management, including the employee's immediate supervisor.
- d. Falsely reporting illness or injury, or otherwise attempting to deceive any representative of the City as to a health or medical condition. Falsifying origin of personal injury to collect workers' compensation. Misuse of paid or unpaid leave of absence.

8. Disturbance

The City prohibits and will not tolerate employee conduct that is harassing, intimidating, threatening, or violent, including, but not limited to:

- a. Using confidential information in ways that may be detrimental to the City or to another employee.
- b. Entering City property for unauthorized reasons.
- c. Participation by an employee in a disturbance occurring on City property or while on duty.
- d. Harassment of or discourtesy to other City employees or citizens; creating dissension or discord between employees, or between employees and citizens.
- e. Use of abusive, profane, or threatening language; inappropriate or harassing comments, jokes, references, or mannerisms; threats of violence; physical challenges to fight.
- f. Horseplay; inappropriate or harassing physical contact; deliberately causing injury to fellow employees; attempted assault or assaulting of fellow employee(s); fighting on City property; possession of dangerous weapons, firearms, explosives without permission.

9. Misuse of City Equipment or Services

- a. Careless, negligent, or improper use of City property or equipment.
- b. Abuse, misuse, deliberate destruction, abandonment, or damaging of property, tools, facilities, or equipment belonging to other employees, citizens or the City.

10. Sabotage

- a. Deliberate damage or destruction of City equipment or property; advocacy of, or participation in, unlawful trespass or seizure of City property.
- b. Encouraging or engaging in illegal slowdowns, sit-ins, strikes or any other concerted effort to limit or restrict City employees from working.
- b. Falsifying, altering, or unauthorized destruction of City records.
- c. Willful waste of public supplies, service, or equipment.

11. Misconduct

- a. The violation of any federal or state law, rule, regulation, or City ordinance while on duty, or the violation of any federal or state law, rule, regulation, or City ordinance while off-duty, including a criminal act, that may have an adverse impact upon the City or on the public confidence in the integrity of City government, or on the relationship of the employee and other employees, or acts which reflect poorly upon the City's image.
- b. Theft of, aiding, or encouraging the theft of cash, City property, or equipment.

- c. Operating or conducting illegal activity on the job or on City property.
- d. Unauthorized charges against the City's account.

12. Taping

To assure the reasonable expectation of privacy in casual, business, or personal conversations, no employee, official or visitor may audio or videotape conversations of any employee, official, and/or visitor in City owned or occupied buildings and land, or through City owned or operated telephone equipment with the following exceptions:

- a. City Council meetings (regular, special, and emergency) and workshops.
- b. Public Hearings
- c. Official Police Department investigations or official "stops" by police officers on duty.
- d. Seminars. With the consents of the presenter.
- e. Equipment demonstrations, with the consent of the demonstrator.
- f. Employee counseling sessions and employee hiring and exit interviews with the knowledge and consent of all parties present.
- g. Unless prior permission is granted by the City Manager.

13. Disqualification from Operating City Vehicles or Equipment

C. TYPES OF DISCIPLINARY ACTIONS

All or a combination of the following progressive disciplinary measures may be taken by supervisors. Supervisors will evaluate each situation and take the appropriate level of discipline. Some infractions may warrant skipping steps in the process.

1. Counseling

The Supervisor should document and verbally advise the employee of their unsatisfactory performance or conduct and recommend areas for improvement.

Counseling shall be administered soon after the time the unsatisfactory performance or misconduct occurs and documented informally in the employee's departmental file.

2. Reprimand

Reprimands are written memos given to employees for unsatisfactory performance, for policy, procedural, or conduct violations, or in instances where counseling has already been given and the violation has subsequently been repeated or where unsatisfactory performance has continued.

When a written reprimand is given, it is to be administered in a timely manner. The employee concerned is to be informed directly of the conduct, the rule it violates, the action being taken, the terms and conditions of that action, the consequences of that action, and consequences of future violations.

Supervisors shall provide the employee with a copy of the reprimand. Originals of all reprimands shall be sent to the Human Resources Department for inclusion in the employee's Personnel File.

3. Suspension or Involuntary Demotion

A suspension without pay or an involuntary demotion may be administered in situations where reprimands have been imposed for previous infractions or lack of performance, or in situations that are serious enough to warrant this level of discipline without prior discipline. Suspension of exempt employees must be in compliance with the Fair Labor Standards Act (FLSA).

4. Termination

Termination may be the culmination of a progressive discipline or performance improvement process. Alternatively, termination may occur as the first disciplinary measure undertaken if the situation warrants it.

D. DISCIPLINARY PROCESS

Any Department Head who proposes to suspend an employee without pay, demote an employee, or terminate an employee is required before making a final decision, to give the employee notice of the proposed disciplinary action and an opportunity to respond. The employee must appear at the time indicated to give a verbal response to the proposed disciplinary action, but he or she also may submit a written response. The employee may accept the action or explain why the disciplinary action should not be taken. If the Department Head receives new information from the employee that may affect the disciplinary action, the Department Head should reconsider the proposed discipline in light of such new information, promptly conduct any investigation that is warranted, and then make a decision based on all of the information. After carefully considering the employee's response and any other new information, the Department Head may impose the disciplinary action as originally planned, modify such discipline, or forgo any discipline.

Department Heads must follow procedures outlined by the Human Resources Department in executing any documents of proposed or actual disciplinary actions.

E. PERFORMANCE IMPROVEMENT PLAN

Employees may be disciplined for conduct or performance or a combination of the two. At times performance is more predominantly the issue and for these instances a Performance Improvement Plan may be used in lieu of or in addition to other discipline.

1. Annual Performance Evaluation.

An employee receiving a "Marginal" rating on their annual evaluation will not receive an adjustment to pay and will be placed on a Performance Improvement Plan and given 90 days to improve. If at the end of the 90-day period, the employee's performance improves to "Proficient", the employee will continue employment with the City and may be eligible to receive an adjustment from the date of the "Proficient" rating. The employee's next evaluation will be on the next common review date and may be eligible for an adjustment based on performance for the entire previous 12 months.

Upon the re-evaluation, if performance is still rated as "Marginal" the employee is subject to disciplinary action, up to and including termination, in accordance with directions provided by this policy and the Human Resources Department.

2. Other Situations.

At any time, if an employee's performance falls below expected levels the employee may be placed on a Performance Improvement Plan and given 90 days to improve. If at the end of the 90-day period, the employee receives a rating that is below "Proficient", the employee is subject to disciplinary action, up to and including termination, in accordance with directions provided by this policy and the Human Resources Department.

F. EMPLOYEE REPRESENTATIVES

An employee does not have the right to have a representative present during any interview involved in an investigation of misconduct of the employee or another employee. An employee has the right to have a representative assist or represent the employee at any stage of the disciplinary proceeding that applies to that employee after the employee has been given notice of a proposed disciplinary action.

6.02 GRIEVANCE

A grievance is a claim by an employee that he/she has been unjustly disciplined or has been adversely affected by a personnel decision. A grievance is an informal discussion, with the purpose of giving the grievant an opportunity to present his or her position on the matter. Everyone involved in the chain of command should listen and consider the grievance, but this is not intended to mean, nor shall it have the effect of requiring, that any written notice, any charges, any witnesses, or any response or written reasons for decisions be presented during or after the grievance process by the City.

Grievances may not be filed by probationary or temporary employees.

6.03 AGGRIEVED EMPLOYEES

An employee having a grievance relating to employment shall first present the grievance to his or her Department Head, either verbally or in writing. The grievance should be presented within three working days of the date of the occurrence which led to the grievance, or within three working days from the date the employee first had knowledge of the occurrence.

6.04 DUTIES OF SUPERVISOR

The Department Head receiving a grievance has a duty to be attentive to the employee's concerns, to arrive at a full understanding of employee's point of view and to give the employee a clear and specific answer. If the Department Head believes the grievance to be of a substantial nature and not to have been settled to the full satisfaction of the employee, the Department Head shall make an immediate record in writing of the facts and report the grievance to the City Manager.

6.05 APPEAL BY EMPLOYEE

An employee, who after discussing a grievance with the employee's Department Head and not being satisfied with the answer, may appeal the grievance to the City Manager within five working days of the meeting with the Department Head. Any appeal to the latter shall be made in writing. The decision by the City Manager will be final.

6.06 WHAT IS NOT DISCIPLINE

Layoffs, reductions-in-force, expiration of temporary appointments, separations allowed by other sections of this handbook, pay reductions or other measures resulting from economy campaigns, reorganizations or other similar policies are not considered discipline and cannot be appealed under the City's policies and procedures.

6.07 APPLICABILITY

This section is not applicable to persons holding the following positions: City Manager; City Attorney; Municipal Court Judges; Department Heads who serve at the pleasure of the City Manager subject to the Charter; part-time, seasonal and temporary employees who serve at will, provisional employees who serve at will, and all other positions for which the Charter or state law prescribes disciplinary or dismissal requirements different from those stated in this section.

SECTION 7 – ACCRUALS AND LEAVE

7.01 VACATION

A. USE OF ACCRUED VACATION LEAVE

In appreciation of continuous service, the City shall provide employees in full-time positions, except as provided by contract, an opportunity for paid vacation leave away from the work environment. The City encourages employees to use vacation leave annually.

Approval of vacation leave shall be based on departmental needs. An employee may not take vacation leave without written approval of the supervisor.

An employee's approved leave shall be charged and used in amounts of not less than one-fourth (quarter) of an hour increments.

B. ELIGIBILITY

All full-time employees shall accrue vacation leave according to the chart below and shall comply with the following vacation leave guidelines:

1. Vacation leave is earned from the most recent date of full-time employment and accrued on a bi-weekly basis following the pay period it is earned.
2. Employees are allowed to use vacation leave after they have completed their six (6) month probationary period. Employees who are on probation will accrue vacation during this six (6) month probationary period however, if the employee's employment is terminated prior to regular employee status, no vacation accrual will be credited.
3. Employees may not substitute vacation leave for disciplinary suspension without pay.
4. If an employee goes on unpaid leave status, vacation leave shall not continue to accrue until the employee returns to work.

C. VACATION ACCRUAL

Vacation is accrued on a bi-weekly basis. The schedule below reflects vacation leave earned per pay period and per year by all employees in full-time positions:

Length of Service	All Employees, excluding Shift Firefighters	Shift Firefighters
4 years of service or less	10 days per year or 3.08 hours per pay period	10 days per year or 4.62 hours per pay period
End of 5 th Year, but less than 12 years of service	15 days per year or 4.62 hours per pay period	15 days per year or 6.93 hours per pay period
End of 12 th Year, but less than 20 years of service	20 days per year or 6.15 hours per pay period	20 days per year or 9.23 hours per pay period
20 th Year and thereafter	20 days per year or 6.15 hours per pay period, plus one additional day for each year of service beginning year 20 (limited to five extra days)	20 days per year or 9.23 hours per pay period, plus 12 hours for each year of service beginning year 20 (limited to 60 extra hours)

To adhere to the application of accrued time in accordance with our previous policy, the change from two to three weeks of vacation will occur at the time of the fifth anniversary by adding a week of accrued time to the two weeks already accrued in the fifth year. The same change will occur at the twelfth anniversary.

D. SCHEDULING VACATION USAGE

The employee's supervisor must approve all vacation leave, giving due consideration to the needs of the department and the ability of the remaining staff to perform the work of the department or division, as well as the preference of the employee. Each employee is requested to give their supervisor the maximum notice possible (generally at least 10 business days in advance), prior to the requested leave dates (s) in accordance with department policy. If an employee, due to some unforeseen emergency, is requested to work during a scheduled vacation, the employee can re-schedule vacation at another time. An employee may not be granted vacation leave in excess of the actual amount accrued. An employee may not request unpaid leave if they have vacation accrued that they are eligible to use.

E. HOLIDAYS WITHIN VACATION PERIODS

If a holiday falls within a scheduled vacation period, the employee shall receive holiday pay, in lieu of vacation pay.

F. REIMBURSEMENT FOR UNUSED VACATION

An employee shall receive reimbursement of unused accrued vacation at the time of separation of employment or retirement if they meet the following requirements:

- Employee must have completed 6 months of employment (or 12 months if the probationary period was extended),
- The employee provides a 2 week notice, and
- The employee has not been terminated.

In the case of the death of the employee, the estate of a deceased employee is entitled to payment for accrued vacation leave acquired by that employee.

G. VACATION CARRY OVER

Accumulated vacation leave in an amount not to exceed one times the employee's annual accrual amount, may be carried forward from year to year, except as provided by contract. Any unused vacation leave accumulated in excess of this amount will be lost, and may not thereafter be exercised by such employee.

7.02 SICK LEAVE

A. ACCRUAL OF SICK LEAVE

All full-time employees, other than shift firefighters, accrue 3.08 hours of sick leave per pay period or 10 days per year, to a maximum of 960 hours. Shift firefighters accrue 4.62 hours of sick leave per pay period or 10 days per year, to a maximum of 960 hours. Part-time and temporary employees are ineligible to earn or receive paid sick leave.

B. USE OF SICK LEAVE

An employee may use sick leave:

- For the employee's non-work related illness or injury that prevents the employee from working.
- To receive medical care from a physician, dentist, or other health care provider.
- Pregnancy and the birth of a child to an employee shall be deemed a bona fide illness for this purpose and no additional sick leave shall be authorized for maternity leave.

An employee may use up to 16 hours of accrued sick leave in a calendar year:

- To care for an employee's sick child (dependent minor child in the home) or spouse

NOTE: Leave allowed by the Family Medical Leave Act (FMLA) may apply to the serious injury or illness of you or your family member. Please refer to Policy 7.07 of The Family and Medical Leave Act or contact Human Resources.

Using sick leave for purposes other than authorized by this policy is just cause for disciplinary action up to and including termination of employment. The use of sick leave time is not counted as time worked under the FLSA.

C. WORK-RELATED INJURY

Loss of work due to an accident or injury received while at work is not charged against sick time.

D. ACCRUED TIME

Sick leave time begins the first working day of the illness. An employee who has used up their accumulated sick leave must then use their compensatory time, vacation leave, or any other applicable accrued leave benefit, if available. After the employee has exhausted all accumulated time, additional time off is without pay, if approved by the City Manager. Please refer to Policy 7.08 Leave of Absence.

E. NOTICE REQUIREMENTS

If an employee finds it necessary to be absent due to illness or injury, the employee or employee's representative must notify the immediate supervisor or Department Director on the first day, and each subsequent day thereafter, of the employee's absence before the beginning of the employee's scheduled shift or as prescribed by the department. Messages left with non-supervisory personnel will not be accepted. In this regard, the employee must understand and abide by their department's notice requirements.

When the employee returns to work after an absence of three or more days he or she shall be required to provide a doctor's certification that confirms that the employee's absence constituted an appropriate use of sick leave. Department Directors who have reason to believe that sick leave has been abused may request such certification when an employee has been absent for less than three days.

F. ABUSE OF SICK LEAVE

The frequent claiming of sick leave benefits may under certain circumstances, constitute grounds to believe that an employee's physical condition is below that required to perform the essential functions of his or her job. Evidence of malingering or abuse of this benefit will be considered grounds for disciplinary action, up to and including termination.

G. REIMBURSEMENT FOR UNUSED SICK LEAVE

Employees shall receive reimbursement of unused, accrued sick leave at the time of separation or retirement up to the maximum hours specified in the chart below if:

- Employee must have completed five consecutive years of service, and
- Employee provides 2 week notice, and
- Has not been terminated.

Employees hired prior to October 1, 2014

Length of Service	Sick Hours Reimbursed
5 years	20 days
6 years	25 days
7 years	30 days
8 years	40 days
9 years	50 days
10 or more years	60 days

Employees hired on October 1, 2014 and thereafter

Length of Service	Sick Hours Reimbursed
10 years	20 days
11 years	25 days
12 years	30 days
13 years	40 days
14 years	50 days
15 or more years	60 days

Each day is equal to 8 hours.

In the case of the death of any employee, the estate of a deceased employee is entitled to payment for accrued sick leave acquired by that employee up to the maximum hours specified.

Any employee, who terminates employment with the City of Tomball and is compensated for accumulated sick leave at the time of separation pursuant to this subsection, shall not be eligible for re-employment by the City for a period of one year following separation, except upon the written approval of the Department Director and the City Manager. If a former employee is re-employed by the City of Tomball, the original hire date will not be used to restore sick leave accrual rates. Please refer to Section 2.04 for more information.

7.03 SICK LEAVE INCENTIVE PROGRAM

As an incentive to encourage the responsible use of sick leave, the city will pay an employee four 8 hour sick leave days (32 hours) earned in any one calendar year if the employee meets the following requirements:

- The employees must have at least 10 days (80 hours) or 120 hours for shift firefighters accumulated sick leave remaining after the 32 hour deduction.
- The employees must not have taken more than two sick days (as determined by the normal working schedule) during the preceding calendar year.

Those employees eligible to be paid for the four days will be notified by Human Resources, through their Department Director with instructions for authorizing payment. Payment in lieu of sick leave will be made the second pay period in January of each year.

7.04 SICK LEAVE DONATIONS

An employee may experience a catastrophic illness, injury or other medical condition that prevents the employee from working for a period of time, and may cause the employee to use up his/her bank of sick, vacation and compensatory time. Before going onto unpaid leave, the employee may request leave donations from other City employees by filling out a "Request for Leave Donation" form. The City Manager will then decide if it qualifies as a catastrophic illness and if so, approve the request for donations. Other City employees may then donate up to 8 hours of their paid vacation or compensatory time. If the donating employee has been here longer than five years, he/she may also donate from their sick leave bank any of their sick leave credit that would be paid upon their resignation as listed in section 7.02.

Donations will be used on a first in, first out basis. The use of donated time will cease upon the employee's return to full time work and any unused donations will be returned to the donating employees. All donations will be handled through Human Resources only and will be kept completely confidential to avoid problems with employee relations.

7.05 PERSONAL LEAVE

Personal leave is provided at the rate of 16 hours per year for all full-time employees at the beginning of the calendar year. Leave is subject to the attendance and leave approval provisions of this policy and may not be taken during the probationary period. Personal leave does not accrue beyond the calendar year and unused hours will not be paid at the end of the year.

7.06 HOLIDAY LEAVE

A. CITY HOLIDAYS

The City provides full-time employees with paid holiday leave each year. Part-time and temporary/seasonal employees are ineligible for holiday compensation.

Every calendar year the City of Tomball recognizes 10 holidays, although certain employees may be required to report for duty:

- New Year's Day
- Good Friday
- Memorial Day
- Independence Day
- Labor Day
- Thanksgiving day
- Day after Thanksgiving
- Christmas Eve
- Christmas Day
- One Floating Holiday - given on January 1 of each year and cannot be taken until the probationary period is completed. Must be scheduled and taken during the calendar year and shall not be subject to carry-over or payment if not used.

If a holiday falls on a Saturday, the preceding Friday will be observed as a holiday, and if the holiday falls on a Sunday, the following Monday is observed as a holiday.

If a full-time, regular employee is currently at work and/or on an approved leave of absence with pay the day before and the day after a holiday, the employee will receive pay for the holiday.

B. SHIFT FIREFIGHTERS

This section applies to all non-exempt full-time shift Firefighters. The City of Tomball shall maintain compliance with all provisions of the Fair Labor Standards Act as applied to the allocation and use of holidays in the Fire Department.

All full-time shift Firefighters will be paid for 12 hours at the employee's regular rate of pay for every City holiday, whether or not the Firefighter works on the holiday. All full-time shift Firefighters who work a shift that begins on a City holiday will be paid a rate of one and one-half times their regular hourly rate.

The City has designated the floating holiday as the September 11th Memorial holiday for firefighters only if the firefighter chooses to use the floating holiday for that purpose on this day, and its use does not unduly disrupt the department's operation. For all other employees, the floating holiday is unchanged.

While firefighters have the same number of holidays as all other City employees, in accordance with H.B. 2113, the Texas legislature has amended Section 142.0013 (c) of the Local Government Code mandating that one of the City's holidays be designated as September 11th Memorial Holiday for all firefighters. All City employees have the same number of holidays on the same days however; this amendment mandates that the City refers to one of those holidays by a different name for a particular category of employees.

C. POLICE PERSONNEL

All full-time police personnel who work a shift that begins on a City holiday will be paid a rate of one and one-half times their regular hourly rate for that day of work.

7.07 FUNERAL LEAVE

Employees may be granted up to three days of paid leave per year to attend or arrange the funeral, and settle the affairs of an immediate family member. For the purpose of this policy, "immediate family" shall mean the employee's spouse, children, father, mother, brother, sister, father-in-law, mother-in-law, brother-in-law, sister-in-law, grandchildren and grandparents of the employee or employee's spouse.

The City Manager may allow administrative time off to attend the funeral of an employee, an employee's spouse or child, a former employee or well-known community leader, but only to the extent that it does not affect the safe and effective operation of city services.

7.08 EMERGENCY LEAVE

All regular and probationary employees may be granted emergency leave for the period not to exceed three consecutive workdays per calendar year, in the case of a serious illness or accident of a member of the employee's or employee's spouse family requiring immediate medical attention. Family members include parents, grandparents, brothers, sisters, children, in-laws and spouses. Emergency leave may include visitation of the seriously ill person in an intensive care or hospice setting. Documentations will be required to validate the emergency. Approval of emergency leave will be determined by the Human Resources Department.

7.09 CITIZENSHIP LEAVE

All full-time employees shall be granted leave with pay when it is necessary to be absent in order to fulfill citizenship obligations, in accordance with State Law, Texas Labor Code Sec. 52.051, Fair Labor Standards Act (FLSA), and Jury System Improvement Act of 1978. Part-time, temporary, and seasonal employees shall be granted leave without pay in order to fulfill citizenship obligations.

Employees are required to give advance notice of an absence for citizenship obligations. Employees that must be absent from work to fulfill citizenship obligations are required to notify their supervisor at least (3) days prior to the leave or at the earliest opportunity. The employee must provide a copy of the court order or jury summons.

A. JURY DUTY

The City shall grant jury duty leave for an employee summoned to serve on any grand, petit, or municipal court jury. The City shall not dismiss an employee from employment because of the nature or length of the employee's jury service. When an employee is on jury leave, he or she shall continue to receive his or her regular rate of pay in addition to any per diem received by the employee from the state or the court for jury service. Pay shall not exceed the number of hours in the employee's regular workweek. The time spent on jury duty that coincides with the employee's regular work time is counted as straight time for overtime calculation purposes.

If an employee is chosen as a juror, they must notify their supervisor immediately and fulfill their citizenship obligation. If the employee is not selected as a juror, the employee is required to report back to work upon being released from service. If more than 50% of the employee's shift remains at the time the employee is released from service, the employee is expected to report back to work during that shift. If less than 50% of the employee's shift is left at the time the employee is released from service, the employee is expected to report to work on their next scheduled shift.

A shift employee may be given time off with pay from duty, if in the judgment of their supervisor, the period of time spent on jury duty or as a witness on behalf of the City may impact job safety. (i.e. shift police officers that work night shift may require time off).

All employees must provide proof of attendance from the presiding court to their supervisor upon their return to work. Proof of attendance must be forwarded to Human Resources.

B. COURT APPEARANCES

Employees who are subpoenaed to appear in court or before any other judicial or administrative body in the furtherance of official city business or as a "Good Samaritan" will be compensated in accordance with this policy.

Employees that request time off to appear in court in a matter personal to the individual (divorce, liability suit, etc.) either as a defendant, plaintiff, or witness shall be required to use accrued leave in accordance with the appropriate policy.

All employees must provide proof of required attendance and participation from the presiding court to their supervisor upon their return to work. Proof of attendance must be forwarded to Human Resources.

C. VOTING

On the day of an election, an employee who does not have at least two consecutive hours outside the employee's work hours to vote, shall, upon the employee's request, be given time off to vote during the employee's work hours.

7.10 FAMILY AND MEDICAL LEAVE ACT

A. FAMILY AND MEDICAL LEAVE ACT OF 1993

The City provides leave to eligible employees in accordance with the Family and Medical Leave Act (FMLA). Federal law allows the City to require qualified employees to use FMLA when absent from work for a qualified reason. Under the FMLA, eligible employees may take up to 12 weeks of job-protected leave each year for specified family and medical reasons or 26 weeks of leave to care for an injured or ill service member. FMLA is unpaid leave which runs concurrently with other types of leave that are paid, such as sick leave, vacation leave, and worker's compensation. FMLA leave is typically unpaid unless the absence also qualifies for paid leave under another City policy.

B. ELIGIBILITY REQUIREMENTS

To be eligible for FMLA leave, an employee must:

- Have worked for the City for at least 12 months (need not necessarily be consecutive 12 months);

- Have worked for the City at least 1,250 hours during the 12 months before the start of the leave; and
- Work within 75 miles of a City worksite employing 50 or more employees.

C. QUALIFYING REASONS FOR LEAVE

1. Twelve Weeks of Leave. An eligible employee as defined above may take up to 12 weeks of FMLA leave in a single 12-month period (the city uses a rolling 12-month period measured backwards) for one or more of the following reasons:
 - a. When the employee is unable to perform the functions of his/her job because of his/her own serious health condition;
 - b. For the birth or placement of a child for adoption or foster care. FMLA leave for birth or placement for adoption or foster care must conclude within 12 months following the birth or placement. In addition, if an employee and the employee's spouse are both employed by the City, both are jointly entitled to a combined total of 12 work weeks of family leave for the birth or placement of a child for adoption or foster care;
 - c. To care for a spouse, child, or parent (but not a parent-in-law) with a serious health condition, the employee need not be the only individual available to care for the qualified family member; or
 - d. A qualifying exigency arising out of the fact that the employee's spouse, child, or parent is a covered military member on active duty (or has been notified of an impending call or order to active duty) in support of a contingency operation.
2. Twenty-Six Weeks of Leave. Eligible employees may take up to 26 weeks of FMLA leave in a single 12-month period to care for a covered service member (i.e., the employee's spouse, child, parent, or next of kin) with a serious injury or illness incurred in the line of duty while on active duty in the Armed Forces. The employee need not be the only individual available to care for the covered service member. If an employee and the employee's spouse are both employed by the City, both are jointly entitled to a combined total of 26 work weeks of leave during a single 12-month period.
3. Maximum Amount of Leave. The maximum amount of FMLA leave available, even if there are multiple FMLA qualifying events, is 12 weeks during a 12-month period or 26 weeks in a single 12-month period to care for an injured or ill service member.

D. DEFINITIONS

1. Son or daughter means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in the position of a parent.
2. Parent means biological parent or an individual who stands or stood in loco parentis to an employee when the employee was a child.
3. Covered service member means a member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, in outpatient status, or is on the temporary disability retired list, for a serious injury or illness.
4. 12-Month Period for Covered Service Members - The 12-month leave period for calculating leave to care for a covered service member with a serious injury or illness is the 12-month period measured forward from the date an employee's first FMLA leave to care for the covered service member

begins. During this 12-month period, the maximum FMLA leave an employee may take for any qualifying reason is limited to a combined total of 26 weeks.

5. 12-Month Period for All Other FMLA Leave - To determine eligibility for all other leave, the City uses a rolling 12-month period measured backward from the date of any FMLA leave.
6. Health Care Provider (HCP) – Means a doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; or any other person determined by the Secretary of Labor to be capable of providing health care services.
7. Next of Kin of a Covered Service Member – Means the nearest blood relative other than the covered service member's spouse, parent, or child.
8. Incapacity – Means the inability to work, attend school or perform other regular daily activities.
9. Serious Health Condition - For purposes of this policy, a "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves:
 - a. Inpatient care – an overnight stay in a hospital, hospice, or residential medical care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care; or
 - b. Continuing treatment by a health care provider (HCP) - includes one or more of the following:
 - Incapacity & Treatment - a period of incapacity of more than three consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition that also involves treatment: (i) two or more times (within 30 days of the first day of incapacity, unless extenuating circumstances exist), by a HCP or under direct supervision of, under orders of, or on referral by, a HCP, or (ii) by a HCP on at least one occasion which results in a regimen of continuing treatment under supervision of the HCP. The first (or only) in-person treatment visit must take place within 7 days of the first day of incapacity.
 - Pregnancy & Prenatal Care - any period of incapacity due to pregnancy, or for prenatal care;
 - Chronic Conditions - any period of incapacity or treatment for such incapacity due to a chronic serious health condition which (i) requires periodic visits (at least twice a year) for treatment by, or under the direct supervision of a HCP, or (ii) continues over an extended period of time (including recurring episodes of a single underlying condition); and (iii) may cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.);
 - Permanent or Long-Term Conditions - a period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective (e.g., Alzheimer's, a severe stroke, or the terminal stages of a disease);
 - Conditions Requiring Multiple Treatments - any period of absence to receive multiple treatments (including any period of recovery there from) by, or under the supervision of, under orders of, or on referral by, a HCP either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive, full calendar days in the absence of medical intervention or treatment (e.g., chemo or radiation for cancer, physical therapy for severe arthritis, or dialysis for kidney disease).

Unless complications arise, the common cold, the flu, earaches, upset stomach, minor ulcers, headaches (other than migraines), routine dental or orthodontia problems, and periodontal disease

are not serious health conditions. In addition, routine physicals, eye examinations, and dental examinations are not considered treatment.

10. Qualifying Exigency – this term includes issues arising from short-term deployments of seven or less calendar days prior to the date of the deployment; military events and related activities such as official ceremonies and programs sponsored by the military and to attend family support or assistance programs and informational briefings; childcare and school activities; financial and legal arrangements; counseling; rest and recuperations; post-deployment activities; and additional activities arising out of the covered military member's active duty or call to active duty status if the employee and the City agree that such leave qualifies as an exigency, and agree to both the timing and duration of the leave.

E. EMPLOYEE NOTIFICATION REQUIREMENTS

Employees must give the City sufficient information so that it can make a determination as to whether the employee's absence is FMLA-qualifying. If an employee fails to explain the reasons, FMLA leave may be denied. Employees must also indicate on their time records when an absence or tardy is or may be covered by FMLA. Any absence or illness that results in more than three days' absence must be reported to the City's Human Resources Department. City of Tomball reserves the right to retroactively designate leave as FMLA if the leave qualifies under the FMLA regulations.

1. Foreseeable and Unforeseeable Leave. Employees must provide their Director and the Human Resources Department with at least 30 days' advance notice when the need for FMLA leave is foreseeable. (Form HR 7.03 - Request for FMLA). If the need for FMLA leave is not foreseeable, employees must provide their Director and the Human Resources Department with as much advance notice as practicable, in accordance with their Department's normal call-in procedures. The employee must also provide an explanation as to why he/she was unable to provide at least 30 days' advance notice of the need for leave.
2. Content of Notice. Employees must provide the City with documentation, stating the reasons for the needed leave sufficient to allow the City to determine if the absence is FMLA-qualifying, and the anticipated timing and duration of the leave, if known. If the employee has previously taken FMLA leave for the same reason, he/she must specifically reference the qualifying reason for leave or the need for FMLA leave. The City may seek additional information from the employee, and the employee is obligated to respond to the City's questions so the City can determine if an absence is potentially FMLA-qualifying. The employee must notify the City as soon as practicable if the dates of his/her scheduled leave change or are extended, or where such dates are initially unknown.
3. Compliance with City's Call-In Procedures. Employees must comply with their Department's normal call-in procedures for reporting absences, tardies, and requesting leave, e.g., contacting a specific supervisor by a certain time. Notice may be given by the employee's spokesperson only if the employee is physically unable to do so personally. Where an employee does not comply with the City's and Department's normal call-in procedures and no unusual circumstances justify the failure to comply, FMLA-protected leave may be delayed or denied.
4. Consequences for Failing to Provide Required Notice. If the employee fails to timely explain the reasons for his/her need for leave, FMLA leave may be denied or delayed for up to 30 days. The employee may also be subject to disciplinary action in accordance with City policy. Likewise, if an employee fails to respond to the City's reasonable inquiries regarding a leave request, the employee may not be granted FMLA leave protection.

5. **Scheduling Planned Medical Treatment.** When an employee intends to take leave for planned medical treatment for him/herself or for his/her spouse, child or parent, the employee is ordinarily expected to consult with his/her supervisor and try to schedule the treatment so as not to disrupt unduly the City's operations, subject to the approval of the treating health care provider. This should be completed prior to the scheduling of treatment in order to coordinate a treatment schedule which best suits the needs of both the employee and the City.
6. **Periodic Check-In While on FMLA.** Employees should check in periodically with their supervisor and with the Human Resources Department regarding their status and intent to return to work. If the employee discovers that the amount of leave originally anticipated is no longer necessary, the employee must provide the City with reasonable notice (i.e., within two business days) of the changed circumstances if foreseeable.

F. CITY RESPONSIBILITIES

1. **Human Resources Department:** The Human Resources Department is responsible for the verification, approval and notification of FMLA leave. The Human Resources Department may place an employee on FMLA leave if it determines that a qualifying event has occurred.
 - a. **Eligibility Notice.** The Human Resources Department will notify an employee of his/her eligibility to take FMLA within five business days (absent extenuating circumstances) of its receipt of the employee's request for FMLA leave (or from when the City otherwise determines that an employee's absence may be FMLA-qualifying). Employee eligibility is determined (and notice will be provided) at the commencement of the first instance of leave for each FMLA-qualifying reason in the applicable 12-month period. Notification may be oral or in writing. If an employee's eligibility status changes, the Human Resources Department will so notify the employee within five business days, absent extenuating circumstances.
 - b. **Rights & Responsibilities Notice.** The Human Resources Department will provide employees with a notice detailing the City's specific expectations, the employee's obligations, and consequences to the employee of not meeting his/her obligations. The Human Resources Department will provide this notice each time it provides the Eligibility Notice described above. The required certification form will accompany this notice. If any of the specific information in the Rights & Responsibilities Notice changes, the Human Resources Department will notify the employee within five business days of its receipt of the employee's first notice of need for leave subsequent to any change.
 - c. **Designation Notice.** When the Human Resources Department has enough information to determine if an absence is FMLA-qualifying (e.g., after receiving the employee's fully completed Certification), the Human Resources Department will notify the employee in writing (FMLA HR 7.12) as to whether the leave will or will not be designated as FMLA. This Designation Notice will be given to the employee within five business days, absent extenuating circumstances. If the information in the Designation Notice changes, the Human Resources Department will notify the employee within five business days of the City's receipt of the employee's first notice of need for leave subsequent to any change.
 - d. **Certification Forms & Other Required Documentation.** The Human Resources Department is responsible for determining the completeness and authenticity of certification forms, fitness-for-duty/return to work certifications, and for review and coordination of all other FMLA documentation required by this policy.

2. Supervisors & Directors: So that the Human Resources Department can meet the notice deadlines required by the FMLA, supervisors must immediately notify both their Director and the Human Resources Department if they have reason to believe an employee's absence is due to an FMLA-covered reason. Supervisors must make this report even if the employee is using paid time off to cover the absence, e.g., sick leave, comp time, vacation, holiday. Supervisors and Directors must report to Human Resources any time an employee misses work for more than three days because of his/her own illness or injury or that of a spouse, child or parent. When an employee submits a leave/absence form indicating an FMLA absence, the form must be sent to the Human Resources Department immediately.

G. MEDICAL CERTIFICATIONS AND OTHER REQUIRED DOCUMENTATION

In all instances in which the City requests a certification from an employee, it is the employee's responsibility to provide the Human Resources Department with a complete and sufficient certification; failure to do so may result in the denial or delay of FMLA leave.

1. Certification. An employee must provide the Human Resources Department with a complete and sufficient medical certification supporting the need for FMLA leave due to a serious health condition affecting the employee, his/her spouse, child or parent, or due to the serious injury or illness of a covered service member. The required medical certification forms are available from the Human Resources Department. The certification must set forth the beginning and expected ending dates of the leave. In the case of intermittent leave, the certification must also provide the dates and duration of the treatments necessitating the intermittent leave. The employee is responsible for any expenses associated with providing the City with a required certification. The employee must turn in the required certification to the Human Resources Department within 15 days after it is requested, unless not practicable under the circumstances.
2. Second & Third Opinions. In some cases, the City may require a second or third medical opinion (at the City's expense). The City will not require second or third opinions in the case of leave to care for a covered service member.
3. Recertification. Employees may be asked to periodically recertify the need for FMLA. The City will not, however, require recertification in the case of leave to care for a covered service member. The recertification must be provided within 15 days or as soon as practicable under the particular facts and circumstances. The employee is responsible for any expenses associated with providing the City with any required recertification.
 - a. 30-day rule. The City will request recertification no more than every 30 days and only in connection with an absence by the employee unless paragraphs b or c below applies.
 - b. More than 30 days. If the certification indicates that the minimum duration of the condition is more than 30 days, the City will wait until that minimum duration expires before requiring a recertification, unless paragraph c below applies. If the minimum duration of a serious health condition extends beyond six months, the City may nevertheless request a recertification every six months in connection with an employee's absence.
 - c. Less than 30 days. The City may request recertification in less than 30 days if the employee requests an extension of leave, circumstances described by the previous certification have changed significantly (e.g., the duration or frequency of the absence, the nature or severity of the illness, complications, a pattern of unscheduled absences), or the City receives information that casts doubt upon the employee's stated reason for the absence or the continuing validity of the certification.

- d. Annual Medical Certifications. If a serious health condition lasts beyond a single leave year, the City may require the employee to provide a new medical certification in each subsequent leave year.
- 4. Return to Work Certification. Employees must submit a work release from their healthcare provider before they can return to work if FMLA leave is a result of the employee's own serious health condition. An employee who fails to timely provide the City with this certification will not be allowed to return to work. Any expense associated with the required work release will be the employee's responsibility.

While the City will not require a fitness-for-duty certification to return to duty for each absence taken on intermittent or reduced leave schedule, it may require such a certification up to once every 30 days if reasonable safety concerns (i.e., a reasonable belief of significant risk of harm to the employee or others) exist as to the employee's ability to perform his/her duties, based on the serious health condition for which the employee took leave.

- 5. Failure to Provide Certifications & Deficient Certifications. If an employee fails to provide a required certification within 15 days after the City requests it, the City may deny leave until the certification is provided. If the employee never produces the certification or recertification, the employee is not eligible for FMLA protections. If the certification is incomplete or insufficient, the Human Resources Department will notify the employee, in writing, and advise the employee what additional information is required. The City will provide the employee with seven additional days to cure any deficiency. If the deficiencies are not cured with the seven-day deadline, the City may deny the taking of FMLA leave. The Human Resources Department (or other authorized person) may contact the health care provider for purposes of clarification and authentication after giving the employee the opportunity to cure any deficiencies.
- 6. Documenting Family Relationships. If an employee elects to take FMLA leave in order to care for a qualifying family member or to care for a covered service member, the employee may be required to provide reasonable documentation confirming the family relationship.

H. CERTIFICATIONS FOR QUALIFIED EXIGENCY LEAVE

- 1. Active Duty Orders. The first time an employee requests leave because of a qualifying exigency arising out of the active duty or called to active duty status of a covered military member, the employee must provide a copy of the covered military member's active duty orders or other documentation issued by the military which indicates that the covered military member is on active duty or call to active duty status in support of a contingency operation, and the dates of the active duty service.
- 2. Certification Form. The employee must complete and submit to the Human Resources Department the appropriate certification form in support of his/her need for leave. This form must be turned in within 15 days after the City requests it.
- 3. Verification. If the qualifying exigency involves meeting with a third party, the Human Resources Department (or other authorized person) may contact the individual or entity with whom the employee is meeting for purposes of verifying a meeting or appointment, and the nature of the meeting. The City may also contact an appropriate unit of the Department of Defense to request verification of active duty or call to active duty status.
- 4. Denial or Delay of Leave. Exigency leave may be delayed or denied if the employee fails to turn in the required certification within 15 days. If the certification is incomplete or insufficient, the Human Resources Department will notify the employee, in writing, and advise the employee what

additional information is required. The City will provide the employee with seven additional days to cure any deficiency. If deficiencies are not cured with the seven-day deadline, the City may deny the taking of FMLA leave.

I. INTERMITTENT & REDUCED LEAVE SCHEDULE

An eligible employee may take FMLA leave on an intermittent or reduced schedule basis, because of a qualifying exigency, only if medically necessary, for planned medical treatment, or as otherwise approved by the Director.

1. Notice. The employee must inform the City of the reasons why the intermittent or reduced leave schedule is necessary and of the schedule for treatment, if necessary.
2. Scheduling Planned Medical Treatment. When an employee intends to take leave for planned medical treatment for him/herself or for his/her spouse, child or parent, the employee is ordinarily expected to consult with his/her supervisor and try to schedule the treatment so as not to disrupt unduly the City's operations, subject to the approval of the treating health care provider. This should be done prior to the scheduling of treatment in order to work out a treatment schedule which best suits the needs of the both the employee and the City.
3. Temporary Transfer. The City may temporarily transfer the employee to an alternative position (with equivalent pay and benefits, but not necessarily equivalent duties) in order to better accommodate an employee's intermittent or reduced leave schedule.
4. Minimum Increments. Intermittent leave will be counted in increments of 15 minutes to hourly for payroll purposes.
5. Exempt Employees. Exempt employees using unpaid intermittent or reduced schedule FMLA leave may be docked for absences of less than a day without jeopardizing their exempt status under the Fair Labor Standards Act (FLSA).

J. EMPLOYEE BENEFITS

1. Group Health Insurance. During any period of FMLA leave, the City will continue to pay its portion, if any, of any group health insurance coverage for the employee on the same terms as if the employee had continued to work. Where applicable, the employee must timely pay his or her share of health insurance premiums while on FMLA leave. The City will advise the employee of the terms and conditions for making such payments. Failure to pay premiums in a timely manner will result in cancellation of group health coverage.
2. Continued Service. The period of FMLA leave, whether paid or unpaid, shall be treated as continued service for the employee's vesting and eligibility for retirement and longevity.
3. Other Benefits. The employee's use of FMLA leave will not result in the loss of any employment benefit that accrued prior to the start of the employee's leave, and seniority will not be affected. However, benefit accruals, such as vacation and sick leave, will be suspended during any unpaid leave.
4. Holidays. When an employee takes a full work week of FMLA leave and a holiday occurs within the week, the week is counted as a full week of FMLA leave. If, however, an employee uses FMLA in increments of less than a week, the intervening holiday does not count against the employee's FMLA entitlement unless the employee was otherwise scheduled and expected to work on the holiday. Employees must be on an approved leave of absence with pay the full day before and the

day after a holiday to receive pay for the holiday; therefore, employees on unpaid FMLA leave are not normally paid for holidays.

K. JOB RESTORATION AFTER FMLA LEAVE

1. **Re-employment Rights.** Upon return from FMLA leave, an employee will normally be restored to his/her original job or to an equivalent job with equivalent pay, benefits, and other terms and conditions. An employee, however, has no greater right to reinstatement than if he/she had been continuously employed during the period of FMLA leave. Further, the City may delay restoration to employees who fail to timely provide a fitness-for-duty certification to return to work.
2. **Key Employees.** Under certain circumstances the City is not required to reinstate "key" employees. Certain highly compensated key employees may be denied reinstatement when necessary to prevent "substantial and grievous economic injury" to the City's operations. A "key" employee is a salaried eligible employee who is among the highest paid 10 percent of employees within 75 miles of the worksite. An employee will be notified of his/her status as a key employee, when applicable, after requesting FMLA leave.

L. OTHER EMPLOYMENT DURING FMLA PROHIBITED

Under no circumstances may an employee on FMLA leave, sick leave, disability leave, or workers' compensation leave engage in outside employment unless expressly authorized in writing in advance by the Director.

M. FRAUD

An employee who fraudulently obtains FMLA leave is not protected by the FMLA's job restoration or maintenance of health benefits provisions. Further, an employee who commits fraud may be terminated from City employment.

N. FMLA STATUTE AND REGULATIONS

This policy is intended to explain benefits available to eligible employees under the FMLA. It is not intended to create any rights to leave beyond those created by the FMLA.

O. MANDATORY REPORTING OF IMPROPER HANDLING OF FMLA

Employees must immediately report, in writing, to their Director or the Human Resources Department, the following so that the City can investigate and respond appropriately:

- Any interference with, restraint or denial of the employee's right to take FMLA or any rights protected by the FMLA or this policy.
- Any discrimination or perceived acts of discrimination against the employee for any right protected by the FMLA or this policy.
- Any refusal by a supervisor to authorize FMLA leave or attempt to discourage an employee from taking FMLA leave.
- Any attempt to avoid the City's FMLA responsibilities.
- Discrimination or retaliation against an employee for exercising or attempting to exercise FMLA rights.
- Discrimination or retaliation against an employee for opposing or complaining about any unlawful practice under the Act or this policy

7.11 LEAVE OF ABSENCE

A. LEAVE OF ABSENCE

Employees may be granted a leave of absence at the discretion of their Director, with the approval of the City Manager, provided the employee's absence will not unduly disrupt the operations of the department and City, or place an undue burden on fellow employees. A request for leave must be in writing and state the nature and duration of the leave. A leave of absence may be granted on an incremental basis. The maximum length of a leave of absence shall be 3 months.

B. ACCRUED TIME

If accrued leave is available, an employee must exhaust all applicable accrued leave balances while on a leave of absence. Once eligible accrued leave balances have been exhausted, any time spent on an approved leave of absence will be time without pay.

C. REPORTING REQUIREMENTS

An employee on a leave of absence shall be required to report their status to the immediate supervisor the first business day of each week.

D. EMPLOYEE BENEFITS

An employee shall be required to continue to pay the current premium contributions for any elected group health benefits. Once all accrued leave is exhausted and the employee begins leave without pay, the employee shall pay all health insurance and/or other premiums.

During any leave of absence without pay, an employee shall accrue no vacation or sick time, and no credited service toward retirement or longevity. An employee returning to work after leave without pay which extends for more than three months shall be evaluated based on the actual time they were at work.

E. REINSTATEMENT

If the need to fill the position should arise due to unforeseen circumstances, or if the job is eliminated due to a reduction in force, the City of Tomball cannot guarantee the reinstatement of an employee on an extended leave at the end of the leave period.

7.12 MILITARY LEAVE

This policy establishes the rules and procedures that apply to employees enlisted in the United States military reserves or the Texas National Guard that are required to take military leave.

A. MILITARY TRAINING LEAVE

The City provides military training leave to employees who are required to satisfy military obligations under the Uniformed Services Employment and Reemployment Rights Act (USERRA) or other applicable law.

B. MILITARY ACTIVE DUTY

1. The City provides leave to employees who are called to military active duty to satisfy military obligations under USERRA or other applicable law.
2. While not required by federal law, the City does provide supplemental pay to employees called to military active duty when the employee's military wage or salary is less than their City wage or salary. For more information on supplemental pay, please see Item C. Pay and Benefits.

C. PAY AND BENEFITS WHILE ON MILITARY TRAINING LEAVE OR MILITARY ACTIVE DUTY

1. Employees who are absent from work for military training leave or when called to military active duty are entitled to military pay for up to 120 hours, or 168 hours for shift firefighters, per calendar year, in accordance with Section 431.005 of the Texas Government Code. Requests for military pay may only be made for the calendar year in which leave is to be granted.
2. If the employee is called to extended active duty the City of Tomball will pay the difference between the military pay and the employee's normal salary for a period not to exceed six months.
3. After the six month period, the employee's accrued balances of vacation, compensatory time and holiday time may be used to supplement the military pay up to the employee's normal salary amount. At the point that all accrued leave has been exhausted, the employee will be placed on unpaid leave. The employee's job will be available upon return as specified by Federal and State law.
4. Other benefits, i.e. Vacation and sick leave, shall continue to accrue while the employee is on military leave.
5. Military pay hours are considered time not worked and cannot be used to accrue overtime. Employees shall only be paid for hours missed as a result of military training leave or when called to military active duty.
6. There is no accrual of military pay hours. Unused military pay hours shall not be paid out at the employee's separation from employment. Unused hours will not be carried over to the next calendar year.
7. Holiday pay shall be granted (paid) during the expenditure of the 120 hours, or 168 hours for shift firefighters, of military pay. Holiday pay shall be paid at straight time.
8. The entitlements outlined in this policy apply only to those employees who are activated from a military reserve or Texas National Guard unit. Those employees who enlist in the US military shall not be eligible for supplemental pay or the City's participation in paying a portion of the dependent premium.

D. PROCEDURES

1. The following procedures apply to both Military Training Leave and Military Active Duty.
 - a. Employees must provide notice, including a copy of military orders documenting the requirement to take military leave, to their immediate supervisor.
 - b. The supervisor is responsible for notifying the Manager and/or Director. The Director shall provide a copy of the military orders to the Human Resources Department.
 - c. Employees are responsible for checking with the Human Resources Department to determine their responsibilities while on military training leave or when called to military active duty.

2. The following procedures apply only to Military Active Duty.

- a. Supplemental Pay. Employees must provide the Human Resources Department with a copy of their military pay record prior to receiving supplemental pay.
 - b. Health Insurance. From the date military active leave begins, the employee may elect to continue dependent health insurance coverage as allowed by federal law, which is continuously up to 18 months, and state law, which is up to an additional 6 months following the exhaustion of the federal limit. For the first 18 months of the employee's leave, the employee shall pay the premium-contribution rate for the elected dependent coverage. Thereafter, employees may maintain the same dependent coverage by paying the full cost of the insurance premium. Employees are eligible to be reinstated on the insurance plans at the employee's premium-contribution rate on the day they return to the City as a full-time employee, and must complete the required forms to reinstate coverage.
 - c. TMRS Retirement Benefits. Employees who take military active leave may apply to the Texas Municipal Retirement System (TMRS) for service credits for the time they were on leave if the employee:
 - Returns to work within 90 days of the end of leave;
 - Receives an honorable discharge;
 - Completes an application and forms required by TMRS;
 - Within 5 years of the end of the leave, deposits the money that would have been deducted from the employee's salary had the employee not been on leave, according to rules established by TMRS.
 - d. Deferred Compensation. Employee deferred compensation plans (457 plans) shall be maintained while on leave. If reemployed, the employee may resume contributions or contact the deferred compensation plan provider to make any changes.
 - e. Return from Military Active Duty. Employees returning from active duty must provide written copies of their separation or deactivation orders to the City as follows:
 - Less than 31 days of leave - within 72 hours of their release from service.
 - More than 30 but less than 181 days of leave - within 14 days of their release from service.
 - More than 180 days of leave - within 90 days of their release from service.
3. Reemployment. The City, in accordance with USERRA, shall reemploy employees that:
- a. Served for a period of 5 years or less (unless their service fits into one of the excused categories defined in USERRA);
 - b. Are discharged under honorable conditions; and
 - c. Reapply in a timely manner.

7.13 ADMINISTRATIVE LEAVE

Under justifiable circumstances a Director may, with the approval of the City Manager, place an employee on administrative leave with or without pay. Such circumstances may be, but are not limited to, completion of pending criminal or administrative investigations.

SECTION 8 - SEPARATION FROM EMPLOYMENT

Although we hope your employment with the City of Tomball will be a mutually rewarding experience, we understand that varying circumstances do cause employees to voluntarily resign employment. Should this time come you are asked to follow the guidelines below regarding notice and exit procedures.

8.01 RESIGNATIONS

A. NOTICE OF RESIGNATION

Employees may leave City service in good standing by submitting a written resignation to their supervisor ten (10) business days in advance of their final day of employment. The written resignation shall include the effective date of the resignation, the reason for resigning, and signature of the employee. An employee's resignation is effective when their Supervisor accepts the resignation. The notice of resignation will be placed in the employee's Personnel File. Employees who resign in this manner and whose documented performance and employment record meets or exceeds standards will be eligible for reemployment.

Under certain circumstances, if the Director and the Director of Human Resources feels that is in the best interest of the City, the ten day notice requirement may be waived.

B. ORAL RESIGNATIONS

In instances where only an oral resignation is tendered, the Director shall promptly communicate the facts in writing to the Human Resources Department for inclusion in the employee's Personnel File. Oral resignations shall be considered as failure to properly notify and employees are not eligible for rehire.

C. JOB ABANDONMENT

An employee voluntarily and irrevocably resigns City employment if the employee:

1. Fails to return from an approved leave of absence on the date specified by the employee or the date agreed upon by the City and employee, without prior notice or sufficient cause.
2. Fails to report to work without notice to the City for 3 consecutive workdays or shifts without sufficient cause.

Employees who abandon their jobs will not be eligible for rehire.

D. WITHDRAWAL OF RESIGNATION

An employee wishing to request the withdrawal of an accepted resignation shall submit a written statement to the Director outlining the basis for the request prior to the effective date. Once a resignation is tendered by the employee and accepted as provided in this section, it may not be withdrawn unless the Director agrees.

E. RESIGNATION IN LIEU OF PENDING DISCIPLINARY ACTION TERMINATION

A resignation because of pending or possible disciplinary action will be considered as separation for misconduct. Employees who resign in lieu of pending disciplinary action will not be eligible for rehire.

8.02 RETIREMENTS

Full-time employees are afforded retirement under the Texas Municipal Retirement System. Eligible employees may retire from City service in accordance with applicable programs. Retirement with the City of Tomball is a voluntary separation and employment is terminated on the last day worked. For more information on Retirement, please refer to Section 5.09 or contact the Human Resources Department.

8.03 REDUCTION IN FORCE (LAYOFFS)

From time to time economic conditions or the changing staffing needs of the City create situations which require a reduction in force or layoff from specific positions. A reduction in force is a non-disciplinary decrease in the number of authorized positions.

8.04 ABSENCE WITHOUT LEAVE

If an employee is absent from work, without proper authorization, whether for part or all of a working day or for a longer period, such absence shall be grounds for disciplinary action or termination.

8.05 TERMINATIONS

Employees separated through termination are not eligible for rehire except as otherwise required by federal or state law.

All non-elected officers and employees of the City shall be appointed or hired for an indefinite term and either the City or employee can terminate the employment and compensation at will, at any time with or without cause.

Non-elected officers of the City and Department Directors shall be removed by the City Manager in accordance with the City Charter. Other employees of the City shall be removed by their respective Department Head with the consent of the City Manager. No verbal or written reason for dismissal is required to be given to the employee.

8.06 INCAPACITY

An employee may be separated from employment for incapacity due to medical reasons arising from illness, injury, or other medical conditions when the employee, with or without reasonable accommodation, is unable to perform the essential functions of the job; or continued employment creates a direct threat to the health and safety of the employee or others.

It is the supervisor's responsibility to know an employee's ability to perform essential job functions. Should an employee's ability to physically or mentally perform his or her duties be questioned, the Director through the Director of Human Resources may accept the determination of the employee's treating physician and/or may require the employee to submit to a medical evaluation performed by a physician approved by the City. A finding of incapacity shall be made through an individual job related medical examination by the physician. Separation for incapacity will not be considered disciplinary action.

8.07 DEATH

If a City employee dies, their estate will receive all pay due as well as any earned and payable benefits as of the date of the employee's death.

8.08 EXIT INTERVIEWS

Each person departing from City employment is required to meet with the Human Resources Department for an exit interview. Departments must notify the Human Resources Department regarding employee separations. The Human Resources Department will schedule an exit interview to conduct out-processing of the employee.

8.09 RETURN OF CITY PROPERTY/EQUIPMENT

Supervisors are responsible for obtaining all departments-issued City property, such as keys, tools, manuals, inclement weather gear, protective gear, uniforms, cell phones, etc. that may be in the employees possession or custody and returning the items to the appropriate departments.

Employees who fail to return City property may be delayed in payment of final pay until all City property is returned. If these items are damaged or missing, their value will be deducted from the separating employee's final paycheck as outlined in the Payroll Deduction Authorization form.

8.10 SEPARATION PAY

The separation date for all employees is the last day of actual work. Final pay received by an employee will not be construed to extend employment with the City of Tomball beyond the separation date. Any accrued compensatory hours will be cashed out to the employee on the final paycheck from the City. Full-time employees leaving in good standing, who have completed their probationary period, may be eligible for vacation and sick leave as outlined in Section 7. Authorized deductions, which include Federal Insurance Contribution Act (FICA), social security, insurance premiums, Texas Municipal Retirement System (TMRS), etc., will also be withheld from the departing employee's final check. The final check will be deposited into the employee's account on the next pay date. Final pay check stubs will be mailed to the address designated at the time of separation.

SECTION 9 – PRIVACY AND RECORDS MANAGEMENT

9.01 EMPLOYEE PRIVACY

The City will retain its duties and privileges as an employer consistent with good business practices. This includes collection, retention, use, disclosure and confidentiality of employee information.

9.02 PRIVACY RULE POLICY AND PROCEDURES

A. Purpose and Scope

The Health Insurance Portability and Accountability Act (HIPAA) Standards for Privacy of Identifiable Health Information (the Privacy Rule) is effective April 14, 2004. The Privacy Rule provides the first comprehensive Federal protection for the privacy of health information. In accordance with the Privacy Rule, the City of Tomball will implement reasonably minimum necessary policies and procedures that limit how much protected health information is used, disclosed, and requested for certain purposes. The City is required by applicable federal and state law to maintain the privacy of protected health information. The HIPAA Privacy Rule permits disclosure of health information for workers' compensation purposes as governed by the State of Texas Labor Code and the Texas Workers' Compensation Commission associated rules. In addition, the HIPAA Privacy Rule permits the employer to collect health information as needed for employment. The HIPAA Privacy Rule does not affect medical information the employer collects and uses to carry out obligations under the Family Medical Leave Act, the Americans with Disabilities Act as Amended (ADAAA), and similar laws.

B. Protected Health Information Definition

Protected Health Information (PHI) is any individually identifiable health information that is written, oral, or electronic, including demographic information collected from an individual. PHI also relates to past, present, or future physical or mental health or condition of an individual; or the past, present, or future payment for the provision of health care to an individual; and:

1. That identifies the individual; or
2. There is a reasonable basis to believe the information can be used to identify the individual.

C. Designation of Privacy Officer

1. The Privacy Officer for the Health Plan is the Director of Human Resources.
2. The Privacy Officer is responsible for:
 - a. The development and implementation of the privacy policies and procedures,
 - b. Tracking the use and disclosure of PHI,
 - c. Selecting and ensuring implementation of an initial training program and then subsequent "new hire" training,
 - d. Overseeing HIPAA Privacy compliance,
 - e. Monitoring legal and regulatory changes and suggesting new policies as needed.

3. The Privacy Officer may delegate responsibilities to other Human Resources staff as required.

D. Notice of Privacy Practices

All employees will receive a Privacy Notice from the City of Tomball and/or health insurance vendor.

The City will limit whom within the organization has access to PHI based on who needs access to perform their job duties. PHI will only be used or disclosed as authorized or required by law.

The City may release PHI to business associates with whom the City has written agreements containing terms to protect the privacy of PHI. A business associate is a person or entity who performs or assists the City with an activity involving the use or disclosure of medical information that is protected under the Privacy Rules.

The City will use or disclose employee PHI to a public or private entity authorized by law to assist in disaster relief efforts or as authorized by law deemed to be in the public interest or benefit according to the Privacy Rule.

Designated City staff that have access to PHI will be required to practice the following safeguards for individuals' health information.

- Speaking quietly when discussing PHI.
- Under no circumstances discuss individual health information outside an assigned work area;
- Isolating and locking file cabinets and file rooms; and
- Providing additional safety measures by securing personal information in the work area. Protected information will be placed in files or properly put away and not left in an open area. Staff will protect information displayed on computer terminals in open areas and information on fax machines with multiple users.

Any identifiable health information such as pre-employment physicals, drug screens, and health and welfare benefit information will not be made a part of an employee's Personnel File. A benefits file will be maintained for all full-time employees and will not be combined with the Personnel File after termination of employment. The benefits file will not be released under the Public Information Act unless required by law. The City will not be responsible for any incidental use or disclosure of information if designated staff with access to PHI make every reasonable effort to avoid being overheard and reasonably limit information shared.

Certain City personnel will be approved to have access to PHI to carry out their job duties. These staff members will be allowed to receive only the listed type of PHI needed to properly perform their job responsibilities.

1. Human Resources Staff -

The Director of Human Resources will be allowed information related to employment physicals and drug screens and other HR personnel as authorized by the Director. Specific information regarding employment physicals or drug screens will not be disclosed to the supervisor or any other staff member. This information will be filed separately from the employee's Personnel File. It is the responsibility of the employee or prospective employee to discuss specifics with the physician. Only HR personnel authorized by the Director will have access to PHI, and confidential files. Personnel and confidential files are retained indefinitely and will be housed in the Human Resources Department in a secure locked area, or at a secure area off site. These files contain PHI and it is the responsibility of the Privacy Officer to monitor access.

The Privacy Officer or designee will be responsible for retrieving requested information and all PHI files. Under no circumstances will Human Resources staff allow access to confidential files without the consent of the Privacy Officer.

Copies from the PHI and/or benefit files will only be distributed by the Human Resources Department through the oversight of the Privacy Officer.

2. Personal Health Information –

HR personnel, as designated by the HR Director, will be allowed access to information related to employee benefits, disability assessments, and voluntary information provided by a City employee or retiree to provide customer service. Under no circumstances will HR personnel solicit PHI when assisting customers. All information voluntarily provided by an individual will be absolutely safeguarded. Human Resources may only use PHI in connection with providing customer service purposes and as authorized and required by law.

HR personnel, as designated by the Director, will disclose PHI to a personal representative or family member of an employee or retiree if the personal representative or family member they have properly designated and documented in writing through written authorization. It is the responsibility of the employee or retiree to revoke the authorization in writing should the designated person no longer need access to personal information.

The Director of Human Resources will enter into and monitor Business Associates Agreements between the City of Tomball and any health insurance vendors to assure privacy of protected information.

3. Americans with Disabilities Coordinator –

Per the Americans with Disabilities Act Amendments Act of 2008 (ADAAA), the Director of Human Resources, or designee, will be designated as the ADAAA coordinator and will have access to medical information necessary to assist an employee with ADAAA issues to determine reasonable accommodations for their current position or placement in another position within the City. All disability assessment information will be kept in the individual's PHI file unless the disability is the result of an on-the-job illness or injury. Workers' Compensation assessments will be retained by Risk Management. Employees that assist the ADAAA Coordinator are prohibited from discussing PHI with any employee outside of the designated staff that needs the information to perform their required job duties.

4. Supervisory Staff -

Supervisory staff will make every effort to limit the amount of employee's PHI to information absolutely necessary to perform required job duties. Physician's notes for sick leave absences may be retained by the Supervisor where the files will be kept in a secure locked area. Information in connection with FMLA will be retained in Human Resources where the files will be kept in a secure locked area. Supervisors are prohibited to disclose information to anyone who does not have a valid business need for the information. Supervisory staff will make no reference to individual health information through written correspondence or electronic mail. FMLA request forms and medical disability information not related to Worker's Compensation will be sent to the authorized HR personnel only. Copies of FMLA forms will not be attached to or be sent to the City's payroll department.

5. City of Tomball Employees -

All employees are entitled to have personal and medical information private. Under no circumstances will a City employee disclose PHI regarding another City employee through the electronic mail system or written correspondence, unless the affected employee provides written authorization. Unauthorized disclosure of PHI may constitute a federal crime and will subject an employee to immediate disciplinary action up to and including termination.

6. Complaint Filing Procedures -

Anyone who believes that the City of Tomball is not complying with a requirement of the Privacy Rule may submit a written complaint to the Privacy Officer. The writing must contain a description of the complaint and an explanation of the circumstances surrounding the complaint.

Complaints may also be filed with the Secretary of the United States Department of Health and Human Services. No retaliation will be taken or tolerated because someone files a complaint with the Privacy Officer or Department of Health and Human Services.

9.03 PROTECTION OF CONFIDENTIALITY

The Director of Human Resources and other appropriate officials will take necessary actions to protect the privacy of personal data both in City maintained personnel files and the personnel data system.

The Human Resources Department will develop a department structure, which limits access to employee's personnel files as allowed by the Texas Public Information Act. Use of records for improper or unauthorized purposes may result in disciplinary action.

9.04 RESPONSIBILITIES UNDER TEXAS PUBLIC INFORMATION ACT

While the Texas Public Information Act requires that much of the documents and information collected by the City is subject to public disclosure upon written request, a City employee has the right to choose whether or not to allow public access to portions of his or her personnel file that reveal a home address, home telephone number, social security number and information that reveals whether or not he or she has family members. Home addresses, telephone numbers, social security numbers and personal family information of peace officers are automatically closed to the public. A signed form must be in the employee's personnel file that states that this information is not to be released or it is subject to release under this Act. A new employee, must state in writing, no later than the 14th day after the initial date of employment, if this information is to be available upon public request or to remain confidential.

9.05 PERSONNEL FILES

The City of Tomball maintains the following files for each employee:

A. PERSONNEL FILES

Personnel Files of all employees are kept in the Human Resources Department. They contain all the information that was used in the hiring process- job application, W-4 and tax withholding information, supplementary materials submitted with the job application (resumes, licenses, certificates. etc.) and test records, reference check lists, aptitude testing data, pay adjustments, performance appraisals, notices of disciplinary actions, grievances/appeals filed and their responses, etc. The law requires special handling and segregation of other information, explained in the following sections.

B. CONFIDENTIAL FILES

The Human Resources Department maintains confidential files for employees based on the guidelines set forth by the Equal Employment Opportunity Commission (EEOC). Under the EEOC guidelines, the personnel files should not include the following:

- Benefits Claims forms
- Reimbursement requests for medical expenses
- Drug testing results
- Post-offer physical examinations
- Financial and credit information
- Results of back ground investigations
- Motor Vehicle Records
- Voluntary disclosure information from the applicant regarding a “disability” as defined by Section 503 of the Rehabilitation Act of 1973
- Any record of voluntary medical history obtained from an employee or any documents relating to an employee’s medical condition.

These guidelines are meant to apply mainly to information collected in connection with the Americans with Disabilities Act Amendments Act of 2008 (ADAAA), but as the employment relationship continues after hire, medical information on employees may come from any number of sources, and it must be handled with utmost care and placed in a separate confidential file. The Human Resources Department maintains confidential files for each employee, as detailed below:

1. Protected Health Information (PHI)

- a. The Privacy Officer, or designee, maintains files on Protected Health Information with access limited to:
 - Supervisors who may need to know about restrictions on the work or duties of an employee and necessary accommodations
 - First aid and safety personnel in connection with emergencies
 - Government officials investigating compliance
 - Government agencies gathering statistics
 - Insurance carriers assessing health status in connection with life or health insurance policy.
 - Employee Assistance Program information.

b. Leave

Under federal and state law, employers must keep detailed records of paid and unpaid leave, including records of notifications made, health care costs incurred, disputes about leave, and information on serious health conditions necessitating leave. Special security precautions apply to information about the employee’s medical history and condition.

2. General Confidential Files

Any information not specifically related to employee wage and hour status of job performance is carefully scrutinized to determine whether it reveals any private fact about an employee. If it does,

it is placed in this general confidential file rather than the "Personnel File". Financial and credit information and the results of back ground investigations and drug and alcohol results are kept in this file. Specific medical information is not a part of this file.

The City will not collect or retain the following information in the Personnel Files", except as may be needed for employment, insurance, or retirement matters:

- Names and birth dates of employees' family members. This is kept in a separate benefits file.
- Generally, marriage certificates, birth certificates or other personal documents will not be maintained with the exception for benefits purposes, such as documentation of qualifying events. The general rule will be a business need to know.
- Information on an employee's credit worthiness, financial standing or like information. This is kept in a separate confidential file.
- Medical information as needed, based on job requirements, will be maintained in separate files, as per federal regulations.

3. Benefits Files

The Human Resources Department maintains a benefits file on all employees that contains benefits enrollment forms and related documentation.

4. Departmental Files

Each Supervisor may maintain a limited "Departmental Personnel File" on employees in their charge. Information in this file will be considered necessary to properly administer and supervise employees within their work unit. This information may include, but is not limited to: performance evaluations, attendance records, emergency notification records, notes, memos, letters, information concerning recent disciplinary actions and other information relating to the employees' job training and performance.

9.06 EMPLOYEE ACCESS TO PERSONNEL RECORDS

The employee has the right to review their personnel files. Specific guidelines for employee access are as follows:

- A. An employee who wishes to see their personnel records should contact the Human Resources Department, where a representative will assist the employee. If the employee wishes to see a departmental personnel file, the supervisor or manager will arrange a time convenient for the review. A representative of Human Resources will be present at all times.
- B. Employees have the right to review information in their personnel file and their departmental file.
- C. The Director of Human Resources will strictly limit the internal availability of personal information to those officials with a clear need to know.
- D. The Director of Human Resources will refuse to release any information, except under the Texas Public Information Act, to outside sources without the employee's written approval. Exceptions are limited to simple employment verification and legal requirements as may be necessary.
- E. The Director of Human Resources requires each employee to strictly adhere to these policies and practices. Violations are subjected to appropriate disciplinary action.

An employee may inspect their files and may take notes or have single copies made of any page in the file. No employee is allowed to remove any documentation from any personnel file. In such cases, an employee may be disciplined for removing City property.

An employee has the right to request a correction or deletion of inaccurate information. Approval for correction or deletion of any material rests with the Director of Human Resources and such requests must be submitted in writing. In case of disagreement with the information in their file, the employee may add a statement of disagreement in the file.

9.07 CITY OFFICIALS' ACCESS TO EMPLOYEE RECORDS

Access to employee personal information is prohibited to other employees with the following exceptions:

- A. Human Resources Department staff to which the Director of Human Resources authorizes access to files in conduct of their normal duties.
- B. An employee's immediate supervisor.
- C. Supervisors, within the chain of command of an employee, with a legitimate need to know.
- D. Persons involved in considering an employee for a promotional opportunity or other job change.
- E. City Attorneys, Directors, and Managers who the Director of Human Resources determines have a business need to know in the interest of matters pertaining to the City.
- F. Internal and external auditors of the City who the Director of Human Resources determines have a business need to know in performing an audit on the operations of the City.

9.08 DISCLOSURE OF EMPLOYEE INFORMATION

All requests for information about current and former employees as well as job applicants will be referred to the Human Resources Department. In most cases, written approval of the individual is required (other than routine employment verification) before personal data may be disclosed to an outside source. Exceptions to this rule include:

- A. Requests from prospective employers concerning dates of employment, title or position and job location.
- B. Subpoenas and judicial orders.

9.09 TAPE RECORDING

To assure the reasonable expectation of privacy in casual, business, or personal conversations, no employee, may audio or videotape conversations of any employee, official, and/or visitor in City owned or occupied buildings, unless the person grants permission. Please refer to Section 6.01 for a list of exceptions.

9.10 CURRENT ADDRESS AND INFORMATION

Each employee is responsible for promptly notifying the Human Resources Department of changes in address, telephone number, marital status and dependents. Please be sure to provide the necessary documentation for a change in marital status. A form for address changes is available from Human Resources. This responsibility extends to employees on layoff status and leaves of absence.

9.11 SEARCHES

The City may conduct inspections or searches of City property at any time at the discretion of the Department Director or City Manager with or without the employee's consent or approval, and without prior notice to the employee. The City may search City property regardless of whether the property is used exclusively by the employee, is secured, unsecured or secured by a lock or locking device provided by the employee or the City.

The City may also conduct inspections or searches of an employee's personal property, that are brought onto City property or the employee's workplace during the employee's work hours, if a supervisor has reasonable suspicion to believe that the employee's property is being used in violation of any City policy or state or federal law. In addition to personal property, the City reserves the right, with cause, to search any office, desk, file, computer, locker or any other area or article owned by the City. In this connection, all offices, desks, files (including electronic or computer files), computers, lockers, vehicles and any other piece of equipment or furniture are property of the City and are issued for the use of employees only during the employee's employment by the City.

An employee who interferes with a search or fails to cooperate in allowing a search conducted under this policy, including giving access to City property as directed, is subject to discipline, including possible termination.

Regular City Council Agenda Item Data Sheet

Meeting Date: October 6, 2014

Topic:

Consideration of a Revision to Section 40-76 of the Tomball Code of Ordinances:

Adopt of First Reading, Ordinance No. 2014-36, an Ordinance Amending the Code of Ordinances of the City of Tomball, Texas by Amending Section 40-76, Utilities, of Article III, Design Standards, of Chapter 40, Subdivisions, to Require all Utility Lines, Other than Electric Lines, to be Located Underground; to Require all Electric Distribution Lines to be Underground if the Customer Elects Such Pursuant to the Utility's Distribution Tariff; and to Require All Aboveground Electric Distribution Lines be Located Along the Perimeter of the Overall Subdivision Unless the Utility Determines Different Placement is Needed to Provide Safe and Reliable Electric Service; Providing a Penalty in an Amount Not to Exceed \$2,000 for Each Violation Hereof; and Providing for Severability; and Making Other Provisions and Findings Related Thereto.

Background:**Origination:**

City Attorney

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

Community Development Director

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

ATTACHMENTS:

Ordinance 2014-36

ORDINANCE NO. 2014-36

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF TOMBALL, TEXAS BY AMENDING SECTION 40-76, UTILITIES, OF ARTICLE III, DESIGN STANDARDS, OF CHAPTER 40, SUBDIVISIONS, TO REQUIRE ALL UTILITY LINES, OTHER THAN ELECTRIC LINES, TO BE LOCATED UNDERGROUND; TO REQUIRE ALL ELECTRIC DISTRIBUTION LINES TO BE UNDERGROUND IF THE CUSTOMER ELECTS SUCH PURSUANT TO THE UTILITY'S DISTRIBUTION TARIFF; AND TO REQUIRE ALL ABOVEGROUND ELECTRIC DISTRIBUTION LINES BE LOCATED ALONG THE PERIMETER OF THE OVERALL SUBDIVISION UNLESS THE UTILITY DETERMINES DIFFERENT PLACEMENT IS NEEDED TO PROVIDE SAFE AND RELIABLE ELECTRIC SERVICE; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH VIOLATION HEREOF; AND PROVIDING FOR SEVERABILITY; AND MAKING OTHER PROVISIONS AND FINDINGS RELATED THERETO.

* * * * *

WHEREAS, the City Council of the City of Tomball finds that it is in the best interest of the health, safety and welfare of its citizens for above-ground electrical distribution lines be located along the perimeter of subdivisions; and

WHEREAS, the City Council desires to amend Section 40-76 of the Tomball Code of Ordinances to require all above-ground electrical distribution lines to be located along the perimeter of the area within a recorded subdivision plat; 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 are hereby found to be true and correct.

Section 2. Section 40-76, Utilities, of Article III, Design Standards, of Chapter 40, Subdivisions, of the Code of Ordinances of the City of Tomball, Texas is hereby amended by deleting the language struckthrough below and adding the language underscored below:

“Section 40-76. Utilities.

Adequate provision for all utilities shall be provided to the entire subdivision. All distribution and service lines of ~~single-phase electrical~~, telephone, television, and other wire-carrier type (other than electric) utilities shall be underground. Transformers, amplifiers, or similar devices associated with the underground lines (other than electric) shall be located upon the ground or below ground level. Where the underground placement of such facilities, other than electric facilities, is not a standard practice of the utility involved, the subdivider or developer shall ~~make arrangements with request~~ the applicable utility to place the facilities underground and shall pay for payment of all costs associated with the non-standard installation. ~~All e~~Electrical transmission and utility distribution ~~(other than single phase)~~, lines shall be underground if the customer elects such non-standard installation pursuant to the terms of the utility's distribution tariff. Electric distribution lines, if installed aboveground, shall be located along the perimeter of the overall subdivision unless the utility determines different placement is needed to provide safe and reliable electric service. All utility installations, other than electric, shall comply with the ‘City of Tomball Minimum Construction Standards for Community Improvements.’”

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 _____ 2014.

COUNCILMAN HUDGENS _____
COUNCILMAN STOLL _____
COUNCILMAN DEGGES _____
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 _____ 2014.

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

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary

Regular City Council Agenda Item Data Sheet

Meeting Date: October 6, 2014

Topic:

Executive Session: The City Council will meet in Executive Session as Authorized by Title 5, Chapter 551, Government Code, the Texas Open Meetings Act, for the Following Purpose(s):

- Sec. 551.072 – Deliberations Regarding Real Property
- Sec. 551.074 - Personnel Matters: Deliberation of the Appointment, Employment, and Duties of a Public Officer or Employee – Chief of Police
- Sec. 551.074 – Personnel Matters: Deliberation of the Evaluation of a Public Officer or Employee – City Manager

Background:**Origination:**

City Manager

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	

Regular City Council

Agenda Item

Data Sheet

Meeting Date: October 6, 2014

Topic:

Consideration and Possible Action on the Employment and Appointment of Billy Tidwell as Chief of Police by the City Manager, Pursuant to Section 7.03 of the City Charter

Background:

The City Charter requires that the Chief of Police position be approved by the City Council.

I wish to recommend Billy Tidwell for the position of Chief of Police. Chief Tidwell is currently the Chief of Police for the City of Liberty, located just east of Houston. Chief Tidwell brings to Tomball over 28 years of Texas law enforcement experience; he has taught college-level courses, along with leadership and management courses across Texas and the nation and has worked extensively in the private sector throughout his law enforcement career.

Most recently with the City of Liberty, the Liberty Police Department has achieved the “Recognized Agency” certification from the Texas Police Chief’s Association.

Chief Tidwell is well respected in the Houston area law enforcement community and across the state.

Origination:

City Manager

Recommendation:

Approval of the Appointment by the City Manager of Billy Tidwell as Chief of Police

Funding:

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

City Secretary

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

Regular City Council
Agenda Item
Data Sheet

Meeting Date: October 6, 2014

Topic:

Consideration and Possible Action regarding Amendments to and Extension of the Employment Contract for George Shackelford, City Manager

Background:

Origination:

Council

Recommendation:

N/A

Funding:

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

City Secretary, HR Director

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