NOTICE OF REGULAR CITY COUNCIL MEETING
CITY OF TOMBALL, TEXAS

MONDAY, JULY 21, 2014

6:00 P.M.

Notice is hereby given of a meeting of the Tomball City Council, to be held on Monday, July 21, 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 Steven Lee, The Pointe Fellowship Church

3.0 Pledges to U.S. and Texas Flags

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:

- Mike Baxter - Presentation of ***Texas Festival Events Association Awards***

6.0 Reports and Announcements

- ***Tomball City Pool - 2014 Swim Season*** **- Jerry Matheson Park Pool** opened May 24, 2014 and will close on September 1, 2014. May 24-June 6, 2014, the pool will be open only during weekends. The pool will be closed every Monday during swim season 2014, except Memorial Day and Labor Day. June 6-August 24, 2014 will be regular weekly days and hours. After August 24, 2014, the pool will open weekends only until September 1, 2014.
- June 9-July 28, 2014 - ***TOMBALL KID'S CLUB*** - Every Monday and Thursday, 11:00 a.m.-1:00 p.m., at **MLK Community Park**, 403 W. Chestnut
- August 8, 2014 – **Friday Night Creature Feature –** ***The Lost Skeleton of Cadavra***
- August 9, 2014 - **2nd Saturday at the Depot –** ***The SpongeBob Squarepants Movie*** - 6:30 p.m.
- August 30, 2014 – **Texas Music Festival**
- September 27, 2014 – **4th Annual Bugs, Brew & Barbeque Festival**
- October 25, 2014 – **3rd Annual Tomball** ***Bluegrass Festival***
- ***Walk Tomball!*** – Every Saturday at 8:00 a.m. at the Depot
- Reports by City staff and members of council about items of community interest on which no action will be taken.

7.0 Approve the Minutes of the Following Meetings:

- July 7, 2014 Special City Council Meeting
- July 7, 2014 Regular City Council Meeting
- July 14, 2014 Special City Council Meeting

8.0 New Business:

8.1 Receive Proposed Budget and Set August 18, 2014 at 6:00 p.m. as the Date for the Public Hearing on the FY 2014-2015 Budget, as presented to Council by the City Manager

8.2 Consideration to Approve **COMPREHENSIVE PLAN CASE P14-087:** Request by Nancy Gomez, on behalf of Nancy Gomez Revocable Living Trust, to amend the City's Comprehensive Plan by altering the Future Land Use of approximately 2.46 acres of land, legally described as Tract 42B, Tomball Outlots, within the City of Tomball, Harris County, Texas, generally located between Ulrich Road and Rudolph Street, north of East Hufsmith Road, from Low Density Residential to Commercial.

- Conduct a Public Hearing on **COMPREHENSIVE PLAN CASE P14-087**
- Adopt, on First Reading, Ordinance No. 2014-16, an Ordinance of the

City of Tomball, Texas, Amending Its Comprehensive Plan by Changing the Future Land Use Classification of Approximately 2.46 Acres of Land, Legally Described as Tract 42B, Tomball Outlots, within the City of Tomball, Harris County, Texas, from Low Density Residential to Commercial; Said Property being Generally Located between Ulrich Road and Rudolph Road, North of East Hufsmith 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

8.3 Consideration to approve **ZONING CASE P14-088:** Request by Nancy Gomez, on behalf of Nancy Gomez Revocable Living Trust, to amend the City's Zoning Ordinance by rezoning approximately 2.46 acres of land, legally described as Tract 42B, Tomball Outlots, within the City of Tomball, Harris County, Texas, generally located between Ulrich Road and Rudolph Road, north of East Hufsmith Road, from the Single-Family Estate Residential-20 District to the Commercial District.

- Conduct a Public Hearing on **ZONING CASE P14-088**
- Adopt, on First Reading, Ordinance No. 2014-17, an Ordinance of the City of Tomball, Texas, Amending Its Zoning Ordinance by Changing the Zoning District Classification of Approximately 2.46 Acres of Land, Legally Described as Tract 42B, Tomball Outlots, within the City of Tomball, Harris County, Texas, from the Single-Family Estate Residential-20 District to the Commercial District; said Property being Generally Located between Ulrich Road and Rudolph Road, North of East Hufsmith 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

8.4 Consideration to approve **ZONING CASE P14-109:** Request by Steven Vaughan, on behalf of Keary Barnes, to amend the City's Zoning Ordinance by rezoning approximately .68 acres of land, legally described as Lots 1, 2, 3, and 14, Block 7, Main Street Addition, within the City of Tomball, Harris County, Texas, generally located west of Lawrence Avenue, south of West Main Street, from the Commercial District & Old Town and Mixed Use District to the Commercial District.

- Conduct a Public Hearing on **ZONING CASE P14-109**
- Adopt, on First Reading, Ordinance No. 2014-18, an Ordinance of the City of Tomball, Texas, Amending Its Zoning Ordinance by Changing the Zoning District Classification of Approximately .68 Acres of Land, Legally Described as Lots 1, 2, 3, and 14, Block 7, Main Street Addition, within the City of Tomball, Harris County, Texas, from the Commercial and Old Town and Mixed Use Districts to the Commercial District; Said Property being Generally Located West of Lawrence Avenue, South of West Main Street; 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 Approve the Following Plats as Recommended by the Planning and Zoning Commission:

- **CAPPADONNA TRACTS**: A Subdivision of a 3.8897-acre tract; Being a Replat of Lot 1, Block 1 Stotts Tracts as recorded under Film Code No. 612089, Harris County Map Records, Situated in the Ralph Hubbard Survey A-383, Harris County, Texas.
- **SECOND REPLAT OF MARTIN MARIETTA SUBDIVISION**: Being a Subdivision of 29.5011 acres and being a Replat of Martin Marietta Subdivision Replat recorded under Film Code No. 645043, Harris County Map Records, Situated in the William Hurd Survey, Abstract 371 and the Jesse Pruett Survey Abstract 629, City of Tomball, Harris County, Texas.

8.6 Presentation and Discussion regarding the Adoption of Impact Fees for Water, Wastewater, Drainage, and Roadway Facilities, in Accordance with Chapter 395, Texas Local Government Code; Making Other Findings and Providing Details Related Thereto

- Conduct a Public Hearing regarding Impact Fees
- Adopt on First Reading, Ordinance No. 2014-22, an Ordinance of the City of Tomball, Texas, Adopting Impact Fees for Water, Wastewater, and Drainage Facilities; Defining Certain Terms; Providing for the Assessment and Collection of Such Impact Fees; Containing Other Provisions Relating to the Subject; and Providing for Severability.

8.7 Approve the Acquisition of a Low-Power FCC-Issued FM Radio Station License to Create a Local Broadcasting System

8.8 Approve Updates to the Interlocal Agreement between Harris County and the City of Tomball regarding the Harris County Emergency Operations Plan for the Provision of Mutual Aid between Harris County and the City of Tomball during a Disaster Event, to which the City of Tomball is a Signatory

8.9 Approve Annual Update to the Memorandum of Understanding (MOU) between the City of Tomball and Tomball Independent School District for Assistance During Disaster and Other Large-Scale Incidents

8.10 Approve the Extension of the Current Lease Agreement between the Harris County Tax Assessor-Collector and the City of Tomball for the use of the Facility located at 101 South Walnut as a Harris County Tax Office for an Additional One-Year Term, from December 1, 2014 to November 30, 2015

8.11 Appoint a City Representative to Serve on the Texas Heritage Railroad Museum Board of Directors

8.12 Award Contract for Project No. 2014-06, Solid Waste Collection and Disposal Services for the City of Tomball, to WCA Waste Corporation and Authorize the City Manager to Execute the Necessary Service Contract

9.0 Adjournment

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 17th day of July 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: July 21, 2014

Topic:

- Led by Pastor Steven Lee, The Pointe Fellowship Church

Background:

Origination:

Recommendation:

Funding:

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

ACTION TAKEN

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

Regular City Council
Agenda Item
Data Sheet

Meeting Date: July 21, 2014

Topic:

- Mike Baxter - Presentation of ***Texas Festival Events Association Awards***

Background:

Origination:

Recommendation:

N/A

Funding:

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

City Secretary

ACTION TAKEN

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

Regular City Council
Agenda Item
Data Sheet

Meeting Date: July 21, 2014

Topic:

- ***Tomball City Pool - 2014 Swim Season*** **- Jerry Matheson Park Pool** opened May 24, 2014 and will close on September 1, 2014. May 24-June 6, 2014, the pool will be open only during weekends. The pool will be closed every Monday during swim season 2014, except Memorial Day and Labor Day. June 6-August 24, 2014 will be regular weekly days and hours. After August 24, 2014, the pool will open weekends only until September 1, 2014.
- June 9-July 28, 2014 - ***TOMBALL KID'S CLUB*** - Every Monday and Thursday, 11:00 a.m.-1:00 p.m., at **MLK Community Park**, 403 W. Chestnut
- August 8, 2014 – **Friday Night Creature Feature –** ***The Lost Skeleton of Cadavra***
- August 9, 2014 - **2nd Saturday at the Depot –** ***The SpongeBob Squarepants Movie*** - 6:30 p.m.
- August 30, 2014 – **Texas Music Festival**
- September 27, 2014 – **4th Annual Bugs, Brew & Barbeque Festival**
- October 25, 2014 – **3rd Annual Tomball** ***Bluegrass Festival***
- ***Walk Tomball!*** – Every Saturday at 8:00 a.m. at the Depot
- Reports by City staff and members of council about items of community interest on which no action will be taken.

Background:

Origination:

Recommendation:

Funding:

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

ACTION TAKEN

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

ATTACHMENTS:

Tomball City Pool - 2014 Swim Season
Tomball Kid's Club
2nd Saturday at the Depot - The SpongeBob Squarepants Movie

TOMBALL CITY POOL—2014 Swim Season

Jerry Matheson Park, 1240 Ulrich St. Tomball, Texas

SWIM LESSONS **Summer 2014**

YMCA Aquatics is about water safety, skill development and fun for everyone! Our programs are about more than just the techniques and skills; they are about building friendships, developing self-esteem and creating positive experiences that will last a lifetime.

TUESDAY THRU FRIDAY SESSIONS

Session 1: June 10-20
Session 2: June 24– July 4
Session 3: July 8-18
Session 4: July 22-August 1
Session 5: August 5-15

CLASS TIMES:

8:30 am: Preschool, Youth
9:15 am: Preschool, Youth
5:30 pm: Preschool, Youth
6:15 pm: Preschool, Youth

FEES:

$55 Facility Members / $80 Program Members

All swim classes are held at the Tomball City Pool, 1240 Ulrich Street

Pool Hours

MANAGED BY THE MAGNOLIA TOMBALL FAMILY YMCA

The pool will open May 24, 2014 and close on September 1, 2014. The pool will be closed every Monday during swim season 2014 except Memorial Day and Labor Day. May 24, 2014 the pool will be open only during weekends until June 6, 2014. June 6—August 24, 2014 will be regular weekly days and hours. After August 24, 2014 the pool will open weekends only until September 1, 2014.

DAILY FEES:
CHILDREN (AGE 12 & UNDER) $2
ADULTS (AGE 13 & UP) $4

SUMMER PASSES:
CHILDREN (AGE 12 & UNDER) $50
ADULTS (AGE 13 & UP) $100
FAMILY OF 4 OR MORE $200

City of Tomball residents receive 1/2 off the above prices
with a valid City of Tomball water bill. Season passes will be issued once residency is verified.

Questions may be directed to City of Tomball Public Works Department at 281-290-1400. Located at 501 James St., Tomball.

For registration information, please call the Y at 281-356-4077.

For aquatics program information, please email

MAGNOLIA/TOMBALL FAMILY YMCA
36725 FM 1774 Magnolia, TX 77355
281.356.4077

Tomball Kid's Club

Hosted by

Partnership with

Buffalo Wild Wings, Cisco Salsa Company & Salem Lutheran

June 9th- July 28th

Every Monday & Thursday

11am-1pm

MLK Community Park, Tomball
(403 S. Chestnut)

Date	Activity	Presenter
Monday, June 9th Thursday June 12th	HLSR Special Event Team Water fun Park	HEB Cisco's Salsa Company
Monday, June 16th Thursday, June 19th	Tomball Fire Department Lowes—building kits	HEB Buffalo Wild Wings
Monday, June 23rd Thursday, June 26th	NWEMS Water fun Park	HEB Cisco's Salsa Company
Monday, June 30th Thursday, July 3rd	Mi Pottery Salem Ministries Fun Day	HEB Buffalo Wild Wings
Monday, July 7th Thursday, July 10th	First Aid & Summer Kits Water fun Park	HEB Cisco's Salsa Company
Monday, July 14th Thursday, July 17th	Live Reptiles Tomball Police Dept.	HEB Buffalo Wild Wings
Monday, July 21st Thursday, July 24th	Tomball Soo Bahk Do Water fun Park	HEB Cisco's Salsa company
Monday, July 28th	End of Program Party	HEB, Buffalo Wild Wings & Cisco's Salsa Company

2ND SATURDAY AT THE DEPOT

August 9th at 6:30

Spongebob Squarepants Movie

- Crafts by Mi Pottery
- Music by Tony
- Sponge fun games and more...

Shop at Kroger -bring canned & non-perishable food to 2nd Saturday & receive a gift (while supplies last)

FREE ADMISSION AND PARKING. BRING YOUR LAWN CHAIRS AND PICNIC THROWS!
THE DEPOT IS AT 201 S. ELM STREET IN DOWNTOWN TOMBALL, TEXAS.

Regular City Council
Agenda Item
Data Sheet

Meeting Date: July 21, 2014

Topic:
Approve the Minutes of the Following Meetings:

- July 7, 2014 Special City Council Meeting
- July 7, 2014 Regular City Council Meeting
- July 14, 2014 Special 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	☐ 1ST ☐ 2ND	

ATTACHMENTS:
Draft Minutes - July 7, 2014 Special City Council Meeting
Draft Minutes - July 7, 2014 Regular City Council Meeting
Draft Minutes - July 14, 2014 Special City Council Meeting

MINUTES OF SPECIAL CITY COUNCIL MEETING
CITY OF TOMBALL, TEXAS

MONDAY, JULY 7, 2014

4:00 P.M.

1.0 The Council meeting was called to order at 4:00 p.m. by Mayor Fagan**.** Other members present were:

Councilman Hudgens (arrived at 4:19 p.m.)
Councilman Stoll
Councilman Townsend
Councilman Klein Quinn

Members absent:

Councilman Degges

Others present:

City Manager – George Shackelford
Assistant City Manager/Police Chief – Robert Hauck
City Secretary – Doris Speer
Fire Chief – Randy Parr
Director of Public Works – David Kauffman
Marketing Director – Mike Baxter
Finance Director – Glenn Windsor
HR Director – Lisa Coe
IT Manager – Doug Tippey
City Engineer – Lori Lakatos
Fire Marshal – Doug Sanguedolce
Accountant – Christine Brookshire
Public Administration Intern – Amelia Vasquez

2.0 No Public Comments were received.

3.0 New Business:

3.1 The Tomball City Council entered into a Workshop Session regarding the Fiscal Year 2014-2015 Budget.

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

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this the 21st day of July 2014.

Doris Speer, TRMC, CMC
City Secretary

Gretchen Fagan
Mayor

MINUTES OF REGULAR CITY COUNCIL MEETING
CITY OF TOMBALL, TEXAS

MONDAY, JULY 7, 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 were:

Councilman Hudgens
Councilman Stoll
Councilman Degges
Councilman Townsend
Councilman Klein Quinn

Others present:

City Manager – George Shackelford
Assistant City Manager/Police Chief – Robert Hauck
City Secretary – Doris Speer
City Attorney – Scott Bounds
Fire Chief – Randy Parr
Director of Public Works – David Kauffman
Marketing Director – Mike Baxter
Finance Director – Glenn Windsor
HR Director – Lisa Coe
City Engineer – Lori Lakatos
City Planner – Rebeca Guerra
Community Events Coordinator – Rosalie Dillon
NWEMS Director – Brian Bayani

2.0 The invocation was led by Pastor Dustin Reitzel, The Woodlands Church Tomball Campus

3.0 The pledges to the U. S. and Texas Flags were led by Robert Hauck.

4.0 The following public comments were received.

Tina Roquemore 614 N. Hickory, 77375	- Solicited City support for partnership with "PALS" program.
Kathleen Warr 24887 Tenn Oaks Rd, 77447	- Requested rental fee be waived for use of Community Center by Tomball Sesquicentennial Promenaders
Steve Warr 24887 Tenn Oaks Rd, 77447	- Requested rental fee be waived for use of Community Center by Tomball Sesquicentennial Promenaders
Bob Watson 17627 Champion Forest, 77378	- Requested rental fee be waived for use of Community Center by Tomball Sesquicentennial Promenaders

5.0 Presentations – the following presentations were made:

- Glenn Windsor presented the Finance Department New Hires:
  - Candice Joyce – Accounting Assistant
  - Lauren Sykora - Utility Billing Supervisor
- Randy Parr presented the Fire Department Intern, Promotions, and New Hires:
  - Austin Konicki - Intern
  - Josh Brookshire to Lieutenant
  - Kye Rymer to Driver/Operator
  - Matt Hughes - Full-time Firefighter
- Lisa Coe presented:
  - Amelia Vasquez - Public Administration Intern
- Rob Hauck presented the Police Department Interns, Promotions, and New Hires:
  - Nick Lopez – Intern
  - Helen Ramirez – Intern
  - LaShondrick Davis to Sergeant
  - Crystal Garrett to Police Officer
  - Peter Manickas to Police Corporal
  - Jamy Brock – Dispatcher
  - Adam Woodard – Dispatcher
- Rosalie Dillon presented:
  - Michelle Quinn – Marketing Department Intern
- Rebeca Guerra presented:
  - Rachel Lazo – Community Development Intern
- Mayor Fagan presented a Proclamation declaring the week of July 21-25, 2014 as the ***"10th Annual City of Tomball Employee Appreciation Week"*** to City of Tomball employees.

6.0 Reports and Announcements:

- ***Tomball City Pool - 2014 Swim Season* - Jerry Matheson Park Pool** opened May 24, 2014 and will close on September 1, 2014. May 24-June 6, 2014, the pool will be open only during weekends. The pool will be closed every Monday during swim season 2014, except Memorial Day and Labor Day. June 6-August 24, 2014 will be regular weekly days and hours. After August 24, 2014, the pool will open weekends only until September 1, 2014.
- June 9-July 28, 2014 - ***TOMBALL KID'S CLUB -*** *Every Monday and Thursday, 11:00 a.m.-1:00 p.m., at* **MLK Community Park**, 403 W. Chestnut
- July 12, 2014 - **2nd Saturday at the Depot** - ***"Disney's Teen Beach Movie" -*** 6:30 p.m.
- July 14, 2014 – Public Hearing regarding the Proposed Annexation of Alexander Estates – 5:00 p.m.
- July 21, 2014 – Budget Workshop – 5:00 p.m.
- August 30, 2014 –**Texas Music Festival**
- September 27, 2014 – **4th Annual Bugs, Brew & Barbeque Festival**
- October 25, 2014 – **3rd Annual Tomball *Bluegrass Festival***
- ***Walk Tomball!*** – Every Saturday at 8:00 a.m. at the Depot
- Reports by City staff and members of council about items of community interest on which no action will be taken:
    - Randy Parr and Mike Baxter presented reports regarding the successful ***July 4th Celebration and Street Party***

7.0 Motion was made by Councilman Townsend, second by Councilman Stoll, to approve the Minutes of the June 16, 2014 Special City Council Meeting and the June 16, 2014 Regular City Council Meeting.

Motion carried unanimously.

8.0 Old Business:

8.1 Motion was made by Councilman Hudgens, second by Councilman Degges, to adopt on Second Reading, Ordinance No. 2014-15, an Ordinance of the City of Tomball, Texas, Amending the "2009 Major Thoroughfare Plan" for the City of Tomball, Texas; Making Certain Findings; and Providing for Severability. Vote was as follows:

Councilman Hudgens	Aye
Councilman Stoll	Aye
Councilman Degges	Aye
Councilman Townsend	Aye
Councilman Klein Quinn	Aye

Motion carried unanimously.

8.2 Motion was made by Councilman Degges, second by Councilman Stoll, to approve the purchase of a Chevrolet Suburban, instead of a Chevrolet Tahoe, to replace the Chevrolet Tahoe being retired in the Fire Department.

Motion carried unanimously.

8.3 Motion was made by Councilman Townsend, second by Councilman Klein Quinn, to approve the Amended Letter of Support on behalf of the Tomball Sister City Organization for Road Closure of South Cherry Street, a County Road, in Connection with the German Christmas Market, December 12-14, 2014 and the German Heritage Festival, March 27-29, 2015 and to authorize Mayor Fagan to Issue Letter of Support to Harris County Commissioners Court.

Motion carried unanimously.

9.0 New Business:

9.1 Mayor Fagan opened the Public Hearing at 6:54 p.m. for the First Public Hearing to Consider the Annexation of the Following Tract of Land: (Alexander Estates):

A 70.36-acre tract of land situated in the Elizabeth Smith Survey, Abstract Number 70, Harris County, Texas; being a portion of Unrestricted Reserve "C" of Tomball Greens Final Plat as shown on a plat filed for record under Film Code Number 440128 of the Harris County Map Records, being the remainder of a called 78.4754 acre tract conveyed to BCDE, LTD. by Special Warranty Deed With Vendor's Lien dated December 30, 2002 and filed for record under Clerk's File No. W332593 of the Harris County Official Public Records of Real Property and being all of a called 4.882 acres conveyed to Eibsen & Associates, Inc. by Warranty Deed dated March 31, 2014 and filed for record under Clerk's File No. 20140133968 of the Harris County Official Public Records of Real Property; said 70.36 acres being more particularly described as follows with all bearings based on a call of South 59º56'55" West along the southeast line of said Unrestricted Reserve "C".

The following public comments were received:

Holly Pierce 20823 Mystic Stone Dr., 77375	-	Opposed to annexation; requested that her subdivision, Albury Trail Estates, be annexed.
Doug Eibsen 24522 Creekview Dr., Spring	-	Spoke in support of the proposed annexation.

Receiving no additional public comments, Mayor Fagan closed the public hearing at 6:56 p.m.

9.2 Motion was made by Councilman Klein Quinn, second by Councilman Degges, to Deny the Tax Abatement for American National Carbide for Tax Year 2014 under the Existing Agreement between the City of Tomball and American National Carbide.

Motion carried unanimously.

9.3 Motion was made by Councilman Townsend, second by Councilman Klein Quinn, to Deny the Tax Abatement for Baker Hughes Oilfield Operations, Inc. for Tax Year 2014 under the Existing Agreement between the City of Tomball and Baker Hughes Oilfield Operations, Inc.

Motion carried unanimously.

9.4 Motion was made by Councilman Degges, second by Councilman Townsend, to Acknowledge the Donation of Park Land located at 1414 Hufsmith, by Bruce Broussard, to the City of Tomball and to Instruct City Staff to Continue the Legal Process for the Donation, Texas Parks & Wildlife Outdoor Recreation Grant Program, and Submittal of Application to the KaBOOM! Community Partner and Construction Grants Programs.

Motion carried unanimously.

9.5 Mayor Fagan opened the Public Hearing at 7:05 p.m. regarding an application for a Texas Parks and Wildlife Local Park Grant Program for the proposed City of Tomball Park located at 1414 E. Hufsmith; a portion of the proposed site is located within the 1% and 0.2% Annual Chance Floodplain.

Receiving no public comments, Mayor Fagan closed the public hearing at 7:05 p.m.

No action taken.

9.6 Motion was made by Councilman Townsend, second by Councilman Hudgens, to approve Resolution No. 2014-15, a Resolution of the City Council of the City of Tomball, Texas, Adopting the City of Tomball Master Drainage Plan 2012-2030; and Making Other Findings Related Thereto.

Motion carried unanimously.

9.7 Motion was made by Councilman Townsend, second by Councilman Klein Quinn, to approve **PECK STATION**: A Subdivision of 34.4945 acres of land situated in the Jesse Pruitt Survey, Abstract No. 629, City of Tomball, Harris

County, Texas; Being a partial Replat of Lots 296, 297, 298, 302, 303, 308, 309, 310, and 311 of Tomball Townsite, Volume 2, Page 65, M.R.H.C.

Motion carried unanimously.

9.9 Motion was made by Councilman Townsend, second by Councilman Klein Quinn, to nominate George Shackelford, City Manager, to Place 3 on the Texas Municipal League Intergovernmental Risk Pool Board of Trustees (TML-IRP)

Motion carried unanimously.

9.8 Consideration regarding the Acquisition of a Low-Power FCC-Issued FM Radio Station License to Create a Local Broadcasting System was tabled until the July 21, 2014 Council meeting.

No action taken.

10.0 Motion was made by Councilman Townsend, second by Councilman Klein Quinn, to adjourn.

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this the _____ day of _____ 2014.

Doris Speer, TRMC, CMC
City Secretary

Gretchen Fagan
Mayor

MINUTES OF SPECIAL CITY COUNCIL MEETING
CITY OF TOMBALL, TEXAS

MONDAY, JULY 14, 2014

5:00 P.M.

1.0 The Council meeting was called to order at 5:01 p.m. by Mayor Fagan**.** Other members present were:

Councilman Hudgens
Councilman Stoll
Councilman Townsend
Councilman Klein Quinn

Members absent:

Councilman Degges

Others present:

City Manager – George Shackelford
City Secretary – Doris Speer
Community Development Director – Craig Meyers
City Engineer – Lori Lakatos
City Planner – Rebeca Guerra
Assistant City Planner – Rodney Schmidt

2.0 The following public comments were received:

Laura Wilson 209 Commerce, 77375	-	Expressed her support for a Local Option Liquor Election to remove the 14% alcoholic beverage limitation in the Downtown Tomball area
Jeremiah Nunley 1100 Cherry #234, 77375	-	Expressed his support for a Local Option Liquor Election to remove the 14% alcoholic beverage limitation in the Downtown Tomball area

3.0 Old Business:

3.1 Mayor Fagan opened the Public Hearing at 5:08 p.m. for the Second Public Hearing to Consider the Annexation of the Following Tract of Land (Alexander Estates):

A 70.36-acre tract of land situated in the Elizabeth Smith Survey, Abstract Number 70, Harris County, Texas; being a portion of Unrestricted Reserve "C" of Tomball Greens Final Plat as shown on a plat filed for record under Film Code Number 440128 of the Harris County Map Records, being the remainder of a called 78.4754 acre tract conveyed to BCDE, LTD. by Special Warranty Deed With Vendor's Lien dated December 30, 2002 and filed for record under Clerk's File No. W332593 of the Harris County Official Public Records of Real Property and being all of a called 4.882 acres conveyed to Eibsen & Associates, Inc. by Warranty Deed dated March 31, 2014 and filed for record under Clerk's File No. 20140133968 of the Harris County Official Public Records of Real Property; said 70.36 acres being more particularly described as follows with all bearings based on a call of South 59º56'55" West along the southeast line of said Unrestricted Reserve "C"

Receiving no public comments, Mayor Fagan closed the public hearing at 5:08 p.m.

4.0 New Business:

4.1 Motion was made by Councilman Townsend, second by Councilman Klein Quinn, to approve Resolution No. 2014-16, a Resolution of the City Council of Tomball, Texas, Approving the Utilization of Two Temporary Buildings for a Period Not to Exceed Two Years for Concordia Lutheran High School; and Making Other Findings Related Thereto.

Motion carried unanimously.

5.0 Motion was made by Councilman Townsend, second by Councilman Klein Quinn, 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: July 21, 2014

Topic:

Receive Proposed Budget and Set August 18, 2014 at 6:00 p.m. as the Date for the Public Hearing on the FY 2014-2015 Budget, as presented to Council by the City Manager

Background:

The City's Charter, Section 8.03, requires the City Manager to present the proposed budget to City Council between 60 and 120 days prior to the beginning of the new fiscal year and Local Government Code, Section 102.006(b) requires the public hearing to be set for a date 15 days after the date the proposed budget is filed with the City Secretary (July 22-28).

The proposed budget for Fiscal Year 2014-2015 is presented to City Council tonight, 77 days before the beginning of the new fiscal year and the recommended date for the public hearing is August 18, 2014.

According to the City's Charter and State Law, a public hearing must be held prior to the adoption of the City's annual budget. The public hearing notice will be posted in the City's official newspaper and on the City's web site.

Origination:

Doris speer, City Secretary

Recommendation:

Staff recommends August 18, 2014 as the date for the public hearing.

Funding:

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

Doris Speer, City Secretary

ACTION TAKEN

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

Regular City Council
Agenda Item
Data Sheet

Meeting Date: July 21, 2014

Topic:

Consideration to Approve **COMPREHENSIVE PLAN CASE P14-087:** Request by Nancy Gomez, on behalf of Nancy Gomez Revocable Living Trust, to amend the City's Comprehensive Plan by altering the Future Land Use of approximately 2.46 acres of land, legally described as Tract 42B, Tomball Outlots, within the City of Tomball, Harris County, Texas, generally located between Ulrich Road and Rudolph Street, north of East Hufsmith Road, from Low Density Residential to Commercial.

- Conduct a Public Hearing on **COMPREHENSIVE PLAN CASE P14-087**
- Adopt, on First Reading, Ordinance No. 2014-16, an Ordinance of the City of Tomball, Texas, Amending Its Comprehensive Plan by Changing the Future Land Use Classification of Approximately 2.46 Acres of Land, Legally Described as Tract 42B, Tomball Outlots, within the City of Tomball, Harris County, Texas, from Low Density Residential to Commercial; Said Property being Generally Located between Ulrich Road and Rudolph Road, North of East Hufsmith 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 May 12, 2014, the City of Tomball identified that a covered entrance had been constructed at the subject site without receiving permits from the City. On May 13, 2014, a representative of the applicant met with City staff to inquire how the situation could be rectified. City staff informed the representative that the subject site is zoned Single-Family-20-Estate District and that the existing land use, Texas Star Gymnastics, appears to be classified as a "Dance/Drama/Music School" per Section 38.2 of the Zoning Ordinance. Because this land use classification is not a permitted use in the Single-Family-20-Estate District, the representative was informed that no new construction could be permitted without first having the property rezoned to a district allowing this use by right. City staff also informed the representative that the property has a Future Land Use designation of Low Density Residential and that if he wished to make a request to rezone the property, he may want to consider submitting a Comprehensive Plan Amendment application so any Rezoning request would be consistent with the Comprehensive Plan. On May 14, 2014, the applicant turned in a Comprehensive Plan Amendment application requesting the property's designation be changed from Low Density Residential to Commercial. Accompanying the Comprehensive Plan Amendment application was a Rezoning application requesting the property be rezoned from the Single-Family-20-Estate District to the Commercial District. The Comprehensive Plan Amendment is being heard as Case P14-087 and the Rezoning application is being heard as Case P14-088. Both cases are being submitted to allow for the expansion of the existing gymnastics facility.

The Planning & Zoning Commission heard this request on July 14, 2014, and unanimously voted to recommend DENIAL.

Origination:

Nancy Gomez, on behalf of Nancy Gomez Revocable Living Trust

Recommendation:

DENIAL

Funding:

Party(ies) responsible for placing this item on agenda:
Craig Meyers, Community Development Department

ACTION TAKEN

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

ATTACHMENTS:

Property Owner Notification Letter
Notice of Public Hearing
P14-087 Staff Report
Ordinance 2014-16

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: P14-087

APPLICANT: Nancy Gomez, on behalf of Nancy Gomez Revocable Living Trust

LOCATION: Between Ulrich Road and Rudolph Street, north of East Hufsmith Road

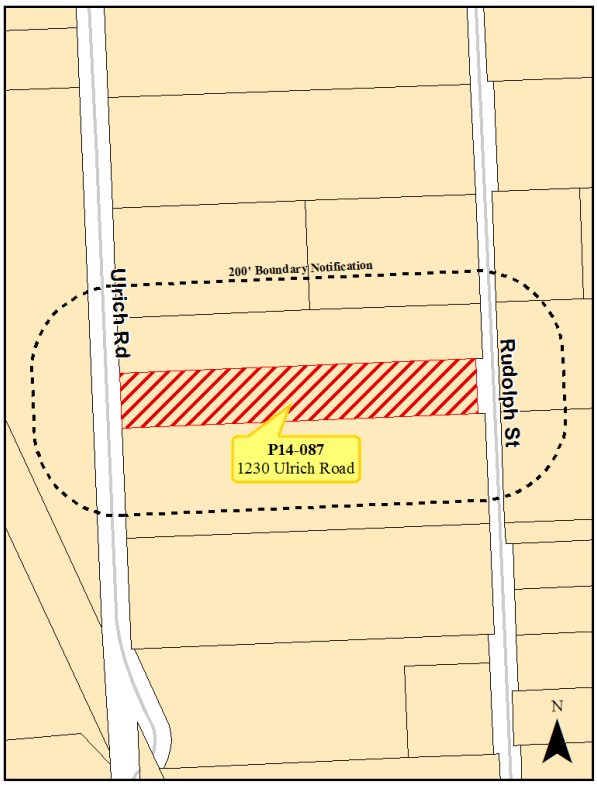
PROPOSAL: Request to amend the City's Comprehensive Plan by altering the Future Land Use of approximately 2.46 acres of land, legally described as Tract 42B, Tomball Outlots, within the City of Tomball, Harris County, Texas, from Low Density Residential to Commercial.

* * *

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, July 14, 2014, 6:00 PM

City Council Public Hearing:
***Monday, July 21, 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.

NOTICE OF PUBLIC HEARING
CITY OF TOMBALL
PLANNING & ZONING COMMISSION
JULY 14, 2014
&
CITY COUNCIL
JULY 21, 2014

Notice is Hereby Given that a Public Hearing will be held by the Planning & Zoning Commission of the City of Tomball on **Monday, July 14, 2014, at 6:00 P.M.,** and by the City Council of the City of Tomball on **Monday, July 21, 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:

COMPREHENSIVE PLAN CASE P14-087: Request by Nancy Gomez, on behalf of Nancy Gomez Revocable Living Trust, to amend the City's Comprehensive Plan by altering the Future Land Use of approximately 2.46 acres of land, legally described as Tract 42B, Tomball Outlots, within the City of Tomball, Harris County, Texas, generally located between Ulrich Road and Rudolph Street, north of East Hufsmith Road, from Low Density Residential to Commercial.

ZONING CASE P14-088: Request by Nancy Gomez, on behalf of Nancy Gomez Revocable Living Trust, to amend the City's Zoning Ordinance by rezoning approximately 2.46 acres of land, legally described as Tract 42B, Tomball Outlots, within the City of Tomball, Harris County, Texas, generally located between Ulrich Road and Rudolph Road, north of East Hufsmith Road, from the Single-Family Estate Residential-20 District to the Commercial District.

ZONING CASE P14-109: Request by Steven Vaughan, on behalf of Keary Barnes, to amend the City's Zoning Ordinance by rezoning approximately .68 acres of land, legally described as Lots 1, 2, 3, and 14, Block 7, Main Street Addition, within the City of Tomball, Harris County, Texas, generally located west of Lawrence Avenue, south of West Main Street, from the Commercial District & Old Town and Mixed Use District to the Commercial District.

Persons interested in this case 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 request. Should the Planning & Zoning Commission vote to table a decision/recommendation on this 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 decision/recommendation is forwarded to the City Council by the Planning & Zoning Commission. The application is 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 10th of July 2014 by 4:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Brandy Harbolt
Brandy Harbolt
Senior Administrative Assistant

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.

Comprehensive Plan (CP) Amendment Staff Report

Planning & Zoning Commission Public Hearing Date: July 14, 2014

CP Amendment Case:	P14-087
Property Owner(s):	Nancy Gomez Revocable Living Trust
Applicant(s):	Nancy Gomez
Legal Description:	Tract 42B, Tomball Outlots
Location:	Between Ulrich Road and Rudolph Road, north of East Hufsmith Road (Exhibit "A")
Area:	2.46 acres
Present Zoning & Use:	Single-Family Estate Residential-20 (SF-20-E) District (Exhibit "B")/ Texas Star Gymnastics
FLU Designation:	Low Density Residential (Exhibit "C")
Proposed FLU:	Commercial

Adjacent FLU Designation & Land Usage:

North:	Low Density Residential / Vacant land and single-family residential
South:	Parks / City of Tomball Park (Jerry Matheson Park)
West:	Parks / Ulrich Road and City of Tomball Park (Juergens Park)
East:	Rural Residential / Rudolph Road and vacant land (Exhibit "D")

BACKGROUND

On May 12, 2014, the City of Tomball identified that a covered entrance had been constructed at the subject site without receiving permits from the City of Tomball. On May 13, 2014, Mike Dutka, an employee of the applicant, met with City staff to inquire how the situation could be rectified. City staff informed Mr. Dutka that the subject site is zoned SF-20-E District and that the existing land use, Texas Star Gymnastics, appears to be classified as a "Dance/Drama/Music School" per Section 38.2 of the Zoning Ordinance. Because this land use classification is not a permitted use in the SF-20-E District, Mr. Dutka was informed that no new construction could be permitted without first having the property rezoned to a district allowing this use by right. City staff also informed Mr. Dutka that the property has a Comprehensive Plan (CP) Future Land Use (FLU) designation of Low Density Residential and that if he wished to make a request to rezone the property, he may want to consider submitting a CP Amendment application so any Rezoning request would be consistent with the CP.

On May 14, 2014, the applicant turned in a CP Amendment application (Exhibit "E") requesting the property's designation be changed from Low Density Residential to Commercial. Accompanying the CP Amendment application was a Rezoning application requesting the property be rezoned from the SF-20-E District to the Commercial District. The CP Amendment is being heard as Case

P14-087 and the Rezoning application is being heard as Case P14-088. Both cases are being submitted to allow for the expansion of the existing gymnastics facility.

ANALYSIS

The proposed FLU designation for this site is Commercial. The CP states, "Commercial is where retail sales and service activities should occur. These uses include but are not limited to shopping centers, convenience stores, auto dealers, department stores, grocery and drug stores, entertainment facilities, food and beverage purveyors, salons, and small repair shops. Small professional office uses such as physicians, accountants, or therapy offices would be permitted. It is expected that these uses will have a steady traffic stream throughout the day and in some cases well into the evening. Some businesses may provide 24-hour services."

There are several land uses in the vicinity of the subject site. To the north are vacant land and single-family residences; to the south is Jerry Matheson Park (owned by City of Tomball); to the west are Ulrich Road and Juergens Park (owned by City of Tomball); and to the east are Rudolph Road and vacant land. The Commercial FLU designation appears to be inconsistent and incompatible with the existing land uses in the vicinity.

The zoning classification of the property and the properties in the vicinity is SF-20-E District. According to Section 15.1 of the Zoning Ordinance, "The SF-20-E…district is intended to provide for development of primarily very low-density detached, single-family residences on lots of not less than 20,000 square feet in size, churches, schools and public parks." The Commercial FLU designation appears to be inconsistent and incompatible with the SF-20-E District.

The predominant FLU designations in the vicinity are Low Density Residential, Rural Residential, and Parks. To the north is Low Density Residential; to the south and west is Parks; and to the east is Rural Residential. According to the CP:

- Low Density Residential includes residential development on minimum 20,000 square foot lots with the intent to provide for a larger lot development pattern.

- Rural Residential includes residential developments on minimum 1-acre lots that allow up to one house per acre lot. The intent is to provide for a rural lifestyle as well as to encourage appropriate development due to environmental constraints such as waterways, floodplains, and other features.

- Parks includes mini, neighborhood, community, or regional parks that are both active and passive recreational areas. This can include both publicly and privately owned parks, open spaces, and recreation areas. Park and open space uses are also appropriate in all residential land use designations.

The Commercial FLU designation appears to be inconsistent and incompatible with the FLU designations in the vicinity.

City staff recommends **DENIAL** of this request based on the following:

1. The proposed CP Amendment appears to be inconsistent and incompatible with the surrounding land uses, zoning districts, and FLU designations as explained above.

2. The proposed CP Amendment appears to be inconsistent 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 Commercial CP designation would be inconsistent with the surrounding designations. The nearest Commercial property is at the intersection of East Main Street and Willow Street.

        ii. The CP has located the Commercial designation along major thoroughfares and away from parks to avoid traffic and land use incompatibility issues. This request is both not along a major thoroughfare and is adjacent to two City-parks.

    b. Objective LUD 2.1: Protect the rural character and continued ranching or agricultural uses, where appropriate, to maintain the rural lifestyle in Tomball.

        i. The vast majority of the properties to the east of the subject site between Rudolph, Zion, and East Hufsmith Roads have a CP designation of Rural Residential. Allowing this property to be Commercial would not appear to promote or protect the rural residential character intended for this area.

    c. Action LUD 3.1.1: Protect existing residential areas from encroachment of incompatible uses.

        i. Allowing the proposed CP Amendment may set a precedent for further non-residential development to the north. The existing land uses to the north are single-family residential in nature, are zoned for single-family use, and have a CP map designation of residential.

3. The proposed CP Amendment does not appear to be a better use of land than what is recommended by the CP.

    a. The CP was created to provide a unified vision for future land uses that would maximize the utility for the City. It groups like uses together, apportions appropriate land areas to fulfill the goals of the City, and provides adequate transition areas to separate incompatible uses. This proposal appears to be inconsistent with the parks and single-family residences that the City intends for this area. The CP has allocated sufficient land area in the City for gymnastics-type uses without altering the CP.

PUBLIC COMMENT

Property owners within 200 feet of the project site were mailed notification of this proposal on July 3, 2014; no public comments have been received as of July 8, 2014.

RECOMMENDATION

Based on the findings outlined in the analysis section of this staff report, City staff recommends **DENIAL** of Comprehensive Plan Amendment Case P14-087.

EXHIBITS

A. Aerial Photo
B. Future Land Use Map
C. Zoning Map
D. Site Photos
E. Comprehensive Plan Amendment Application

Exhibit "A"
Aerial Photo

Exhibit "B"
Future Land Use Map

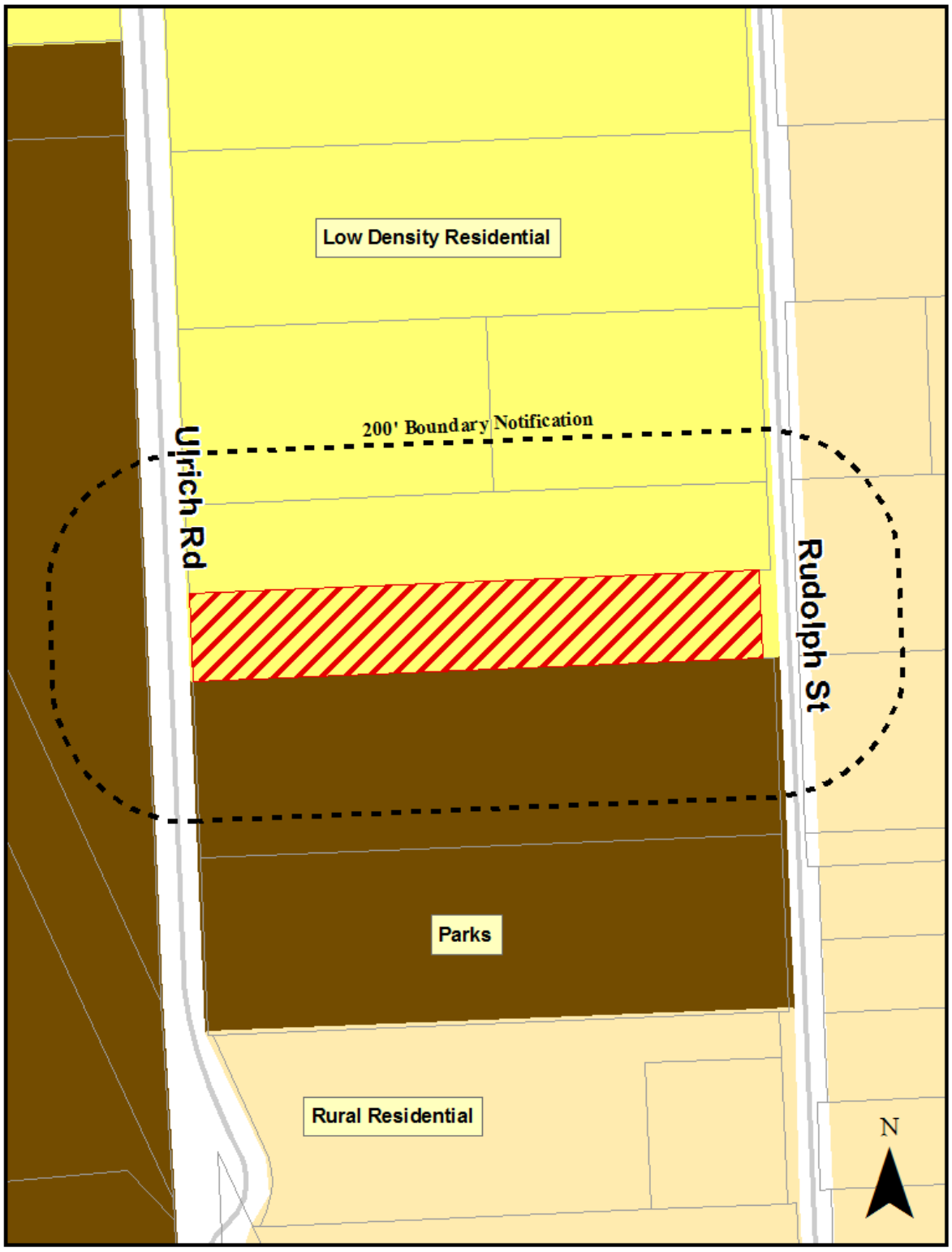


Exhibit "C"
Zoning Map

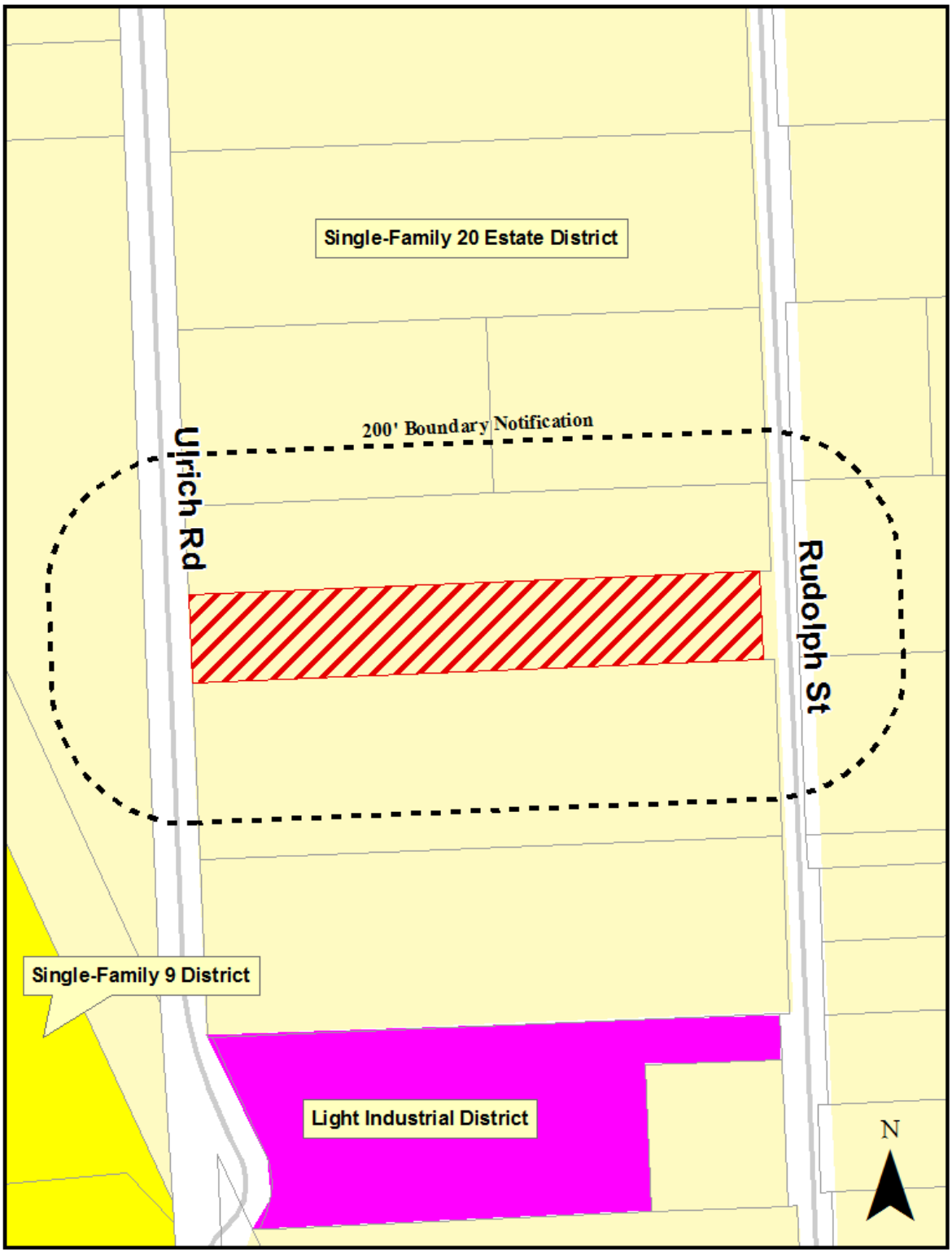


Exhibit "D"
Site Photos

Figure 1: Subject site.

Figure 2: North

Figure 3: South

Figure 4: West

Figure 5: East

Revised 1/26/10

COMPREHENSIVE PLAN AMENDMENT APPLICATION

Engineering & Planning Department

RECEIVED
MAY 14 2014
BY:

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: Nancy Gomez Title: President
Mailing Address: 1230 Ulrich Road City: Tomball State: Tx
Zip: 77375
Phone: (281) 255-9997 Fax: (281) 255-9966
Email: NGomez6883@sbcglobal.net

Owner
Name: Nancy Gomez Living Revocable Trust Title: President
Mailing Address: 32210 Spinnaker Run City: Magnolia State: Tx
Zip: 77354
Phone: (281) 734-2506 Fax: (___) N/A
Email: NGomez6883@sbcglobal.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: Low Density Residential

Proposed Comprehensive Plan Designation: Commercial

Proposed Use of Property: Gymnastic Center

Physical Location of Property: 1230 Ulrich Road Tomball, Tx 77375

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

Legal Description of Property: Tract 42B Tomball Outlots Abstract 383

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

Current Zoning District: Single Family Estate Residential-20 District

Current Use of Property: Gymnastic Facility

HCAD Identification Number: 035-282-200-0080

Property Acreage: 2.25

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 Nancy A Gomez — 5/14/2014
Signature of Applicant — **Date**

x Nancy A Gomez — 5/14/2014
Signature of Owner — **Date**

Texas Star Gymnastics of Tomball
1230 Ulrich Road
Tomball, Texas 77375

May 28, 2014

Planning Department
City of Tomball
501 James Street
Tomball, Texas 77375

RE: Application to Change Comprehensive Plan, Tract 42B Tomball Outlets

Please allow this letter to serve as our request to change the future land use of the property referenced above as designated in the City of Tomball's Comprehensive Plan.

We request that the change be supported by staff and ultimately approved by the Planning and Zoning Commission and City Council as requested for several reasons.

First, the adjacent properties to Texas Star Gymnastics are City Parks, which are family oriented parks and very similar in nature. Children need to find activities to do to keep healthy and fit lifestyle. Texas Star Gymnastics is a family oriented business that helps children find fun in athletic activity. Texas Star Gymnastics also has consistent operating hours as the City Parks and would not disturb anyone outside of those operating hours.

I feel the statement above supports these goals, objectives, and actions in the Comprehensive Plan.

- Goal LUD 1 Implement an efficient land use philosophy that is fiscally sustainable and enhances Tomball's quality of life.
- Objective LUD 1.2 Promote a cohesive land use pattern by minimizing incompatible land uses.
- Action LUD 1.2.1 Maintain and strengthen effective buffering policies between land uses to ensure compatibility.
- Action LUD 1.2.2 Manage the impacts of noise, glare, fumes, odor, refuse, etc. by utilizing buffering and site design techniques to protect the health and livability of the community.

Gymnastics is more than just an athletic activity. Gymnastics is perhaps one of the most comprehensive "lifestyle exercise programs" available to children, incorporating strength, flexibility, speed, balance, coordination, power and discipline.

- In a study of school-aged youth, researchers found that the risk of substance abuse by adolescents is decreased by physical training programs that incorporate life skills. Better school attendance, lower anxiety and depression, and decreased use of tobacco and alcohol were all reported after a twelve week physical training program (Collingwood, Sunderlin, Reynolds & Kohl, 2000). Recreational sports activities, including gymnastics is a key to balanced human development and has been proven to be a significant factor in reducing alcohol and drug use (Williams, 1994).

- Many studies have reported the benefits of moderate impact activities such as gymnastics has on the development of bone density and the prevention of osteoporosis. Plyometric exercises (also known as jump training) like tumbling and vaulting have been determined by the American College of Sports Medicine to be a safe, beneficial and fun activity for children.

Healthy activities like gymnastics keep our kids off the couch and engaged in a healthy lifestyle. That intermediate gymnastics class teacher is contributing to lower health care costs in the United States; active children are more likely to grow to become active and healthier adults, reducing the burden on the health care system. Sedentary lifestyles have been linked to the development of coronary heart disease, diabetes mellitus and numerous other chronic ailments. Nurturing the enjoyment of movement and motor skill development at an early age will help to promote continued participation in physical activity. Long range, these active and therefore healthier adults are more likely to be more productive at work, take less sick days, and have fewer "on the job" accidents (Paffenbarger, 1986)."

Second, the change would give us the ability to add a new building which could house new programs such as cheerleading and martial arts which would give children more options of activities. More programs and more activities will require more employees which will help out the Tomball residents looking for employment, which is Goal LUD 7 Maintain a sustainable jobs-to-population ratio and a mix of locally available jobs, and Objective LUD 7.1 Enhance Tomball's viability as a place for businesses by reserving adequate employment related land.. This will also help the City economically by raising the value of the property and therefore producing more tax dollars for the City.

Third, this change will not adversely impact adjacent residential uses due to the existing roads and therefore separations being currently provided. This change will not adversely affect vehicular or pedestrian access, roadway capacity, ingress and egress of traffic.

Forth, the proposed map amendment will help the City aesthetically because Texas Star will be able to add structures and signs to the property to make the building look better. I feel it is very important to be able make the building look nicer because of the location next to and across from the City Parks.

Additionally, the proposed change presents a significant benefit to the public health, safety, and welfare of the community by consolidating the family oriented fun and activities to a specified area while controlling its activities through consistent zoning ordinances.

For these reasons the property's uses should be changed on the City's Comprehensive Plan to reflect commercial types of uses.

Sincerely,

Mike Dutka

Mike Dutka
Texas Star Gymnastics

ORDINANCE NO. 2014-16

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING ITS COMPREHENSIVE PLAN BY CHANGING THE FUTURE LAND USE CLASSIFICATION OF APPROXIMATELY 2.46 ACRES OF LAND, LEGALLY DESCRIBED AS TRACT 42B, TOMBALL OUTLOTS, WITHIN THE CITY OF TOMBALL, HARRIS COUNTY, TEXAS, FROM LOW DENSITY RESIDENTIAL TO COMMERCIAL; SAID PROPERTY BEING GENERALLY LOCATED BETWEEN ULRICH ROAD AND RUDOLPH ROAD, NORTH OF EAST HUFSMITH 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 2.46 acres of land, legally described as Tract 42B, Tomball Outlots, generally located between Ulrich Road and Rudolph Road, north of East Hufsmith 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 Low 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 grant 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 Low Density Residential to Commercial, 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 Low Density Residential to Commercial 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 Commercial.

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 Commercial.

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 21ST DAY OF JULY 2014.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN DEGGES	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN 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 4TH DAY OF AUGUST 2014.

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

_____
Gretchen Fagan, Mayor

ATTEST:

_____
Doris Speer, City Secretary

Regular City Council Agenda Item Data Sheet

Meeting Date: July 21, 2014

Topic:

Consideration to approve **ZONING CASE P14-088:** Request by Nancy Gomez, on behalf of Nancy Gomez Revocable Living Trust, to amend the City's Zoning Ordinance by rezoning approximately 2.46 acres of land, legally described as Tract 42B, Tomball Outlots, within the City of Tomball, Harris County, Texas, generally located between Ulrich Road and Rudolph Road, north of East Hufsmith Road, from the Single-Family Estate Residential-20 District to the Commercial District.

- Conduct a Public Hearing on **ZONING CASE P14-088**
- Adopt, on First Reading, Ordinance No. 2014-17, an Ordinance of the City of Tomball, Texas, Amending Its Zoning Ordinance by Changing the Zoning District Classification of Approximately 2.46 Acres of Land, Legally Described as Tract 42B, Tomball Outlots, within the City of Tomball, Harris County, Texas, from the Single-Family Estate Residential-20 District to the Commercial District; said Property being Generally Located between Ulrich Road and Rudolph Road, North of East Hufsmith 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 May 12, 2014, the City of Tomball identified that a covered entrance had been constructed at the subject site without receiving permits from the City. On May 13, 2014, a representative of the applicant met with City staff to inquire how the situation could be rectified. City staff informed the representative that the subject site is zoned Single-Family-20-Estate District and that the existing land use, Texas Star Gymnastics, appears to be classified as a "Dance/Drama/Music School" per Section 38.2 of the Zoning Ordinance. Because this land use classification is not a permitted use in the Single-Family-20-Estate District, the representative was informed that no new construction could be permitted without first having the property rezoned to a district allowing this use by right. City staff also informed the representative that the property has a Future Land Use designation of Low Density Residential and that if he wished to make a request to rezone the property, he may want to consider submitting a Comprehensive Plan Amendment application so any Rezoning request would be consistent with the Comprehensive Plan. On May 14, 2014, the applicant turned in a Comprehensive Plan Amendment application requesting the property's designation be changed from Low Density Residential to Commercial. Accompanying the Comprehensive Plan Amendment application was a Rezoning application requesting the property be rezoned from the Single-Family-20-Estate District to the Commercial District. The Comprehensive Plan Amendment is being heard as Case P14-087 and the Rezoning application is being heard as Case P14-088. Both cases are being submitted to allow for the expansion of the existing gymnastics facility.

The Planning & Zoning Commission heard this request on July 14, 2014, and unanimously voted to recommend DENIAL.

Origination:

Nancy Gomez, on behalf of Nancy Gomez Revocable Living Trust

Recommendation:
DENIAL

Funding:

Party(ies) responsible for placing this item on agenda:
Craig Meyers, Community Development Department

ACTION TAKEN

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

ATTACHMENTS:

Notice of Public Hearing
Property Owner Notification Letter
P14-088 Staff Report
Ordinance 2014-17

NOTICE OF PUBLIC HEARING
CITY OF TOMBALL
PLANNING & ZONING COMMISSION
JULY 14, 2014
&
CITY COUNCIL
JULY 21, 2014

Notice is Hereby Given that a Public Hearing will be held by the Planning & Zoning Commission of the City of Tomball on **Monday, July 14, 2014, at 6:00 P.M.,** and by the City Council of the City of Tomball on **Monday, July 21, 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:

COMPREHENSIVE PLAN CASE P14-087: Request by Nancy Gomez, on behalf of Nancy Gomez Revocable Living Trust, to amend the City's Comprehensive Plan by altering the Future Land Use of approximately 2.46 acres of land, legally described as Tract 42B, Tomball Outlots, within the City of Tomball, Harris County, Texas, generally located between Ulrich Road and Rudolph Street, north of East Hufsmith Road, from Low Density Residential to Commercial.

ZONING CASE P14-088: Request by Nancy Gomez, on behalf of Nancy Gomez Revocable Living Trust, to amend the City's Zoning Ordinance by rezoning approximately 2.46 acres of land, legally described as Tract 42B, Tomball Outlots, within the City of Tomball, Harris County, Texas, generally located between Ulrich Road and Rudolph Road, north of East Hufsmith Road, from the Single-Family Estate Residential-20 District to the Commercial District.

ZONING CASE P14-109: Request by Steven Vaughan, on behalf of Keary Barnes, to amend the City's Zoning Ordinance by rezoning approximately .68 acres of land, legally described as Lots 1, 2, 3, and 14, Block 7, Main Street Addition, within the City of Tomball, Harris County, Texas, generally located west of Lawrence Avenue, south of West Main Street, from the Commercial District & Old Town and Mixed Use District to the Commercial District.

Persons interested in this case 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 request. Should the Planning & Zoning Commission vote to table a decision/recommendation on this 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 decision/recommendation is forwarded to the City Council by the Planning & Zoning Commission. The application is 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 10th of July 2014 by 4:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Brandy Harbolt
Brandy Harbolt
Senior Administrative Assistant

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.

Community Development Department

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: P14-088

APPLICANT: Nancy Gomez, on behalf of Nancy Gomez Revocable Living Trust

LOCATION: Between Ulrich Road and Rudolph Street, north of East Hufsmith Road

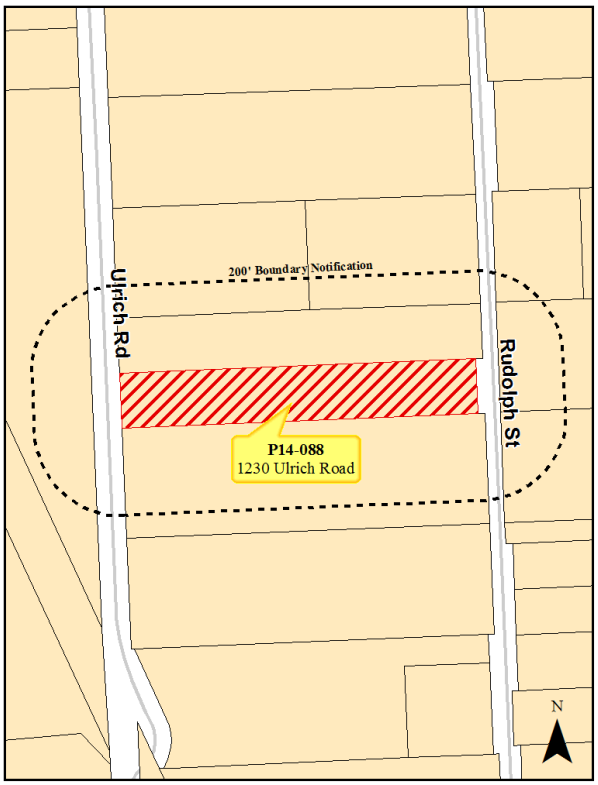
PROPOSAL: Request to amend the City's Zoning Ordinance by rezoning approximately 2.46 acres of land, legally described as Tract 42B, Tomball Outlots, within the City of Tomball, Harris County, Texas, generally located between Ulrich Road and Rudolph Road, north of East Hufsmith Road, from the Single-Family Estate Residential-20 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, July 14, 2014, 6:00 PM

City Council Public Hearing:
***Monday, July 21, 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.

Community Development Department

Rezoning Staff Report

Planning & Zoning Commission Public Hearing Date: July 14, 2014

Rezoning Case:	P14-088
Property Owner(s):	Nancy Gomez Revocable Living Trust
Applicant(s):	Nancy Gomez
Legal Description:	Tract 42B, Tomball Outlots
Location:	Between Ulrich Road and Rudolph Road, north of East Hufsmith Road (Exhibit "A")
Area:	2.46 acres
Present Zoning & Use:	Single-Family Estate Residential-20 (SF-20-E) District (Exhibit "B")/ Texas Star Gymnastics
Future Land Use (FLU):	Low Density Residential (Exhibit "C")[1]
Proposed Zoning and Use:	Commercial[2] / Gymnastics facility
Adjacent Zoning & Use:	
North:	SF-20-E District / Vacant land and single-family residential
South:	SF-20-E District / City of Tomball Park (Jerry Matheson Park)
West:	SF-20-E District / Ulrich Road and City of Tomball Park (Juergens Park)
East:	SF-20-E District / Rudolph Road and vacant land (Exhibit "D")

BACKGROUND

On May 12, 2014, the City of Tomball identified that a covered entrance had been constructed at the subject site without receiving permits from the City of Tomball. On May 13, 2014, Mike Dutka, an employee of the applicant, met with City staff to inquire how the situation could be rectified. City staff informed Mr. Dutka that the subject site is zoned SF-20-E District and that the existing land use, Texas Star Gymnastics, appears to be classified as a "Dance/Drama/Music School" per Section 38.2 of the Zoning Ordinance. Because this land use classification is not a permitted use in the SF-20-E District, Mr. Dutka was informed that no new construction could be permitted without first having the property rezoned to a district allowing this use by right. City staff also informed Mr. Dutka that the

[1] The applicant is requesting the FLU be changed to Commercial in Comprehensive Plan Amendment Case P14-087.

[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.

property has a Comprehensive Plan (CP) designation of Low Density Residential and that if he wished to make a request to rezone the property, he may want to consider submitting a CP Amendment application so any Rezoning request would be consistent with the CP.

On May 14, 2014, the applicant turned in a CP Amendment application requesting the property's designation be changed from Low Density Residential to Commercial. Accompanying the CP Amendment application was a Rezoning application (Exhibit "E") requesting the property be rezoned from the SF-20-E District to the Commercial District. The CP Amendment is being heard as case P14-087 and the Rezoning application is being heard as case P14-088. Both cases are being submitted to allow for the expansion of the existing gymnastics facility.

ANALYSIS

The applicant is requesting that the property be rezoned from the SF-20-E District to the Commercial District. According to Section 30.1 of the Zoning Ordinance:

> The C, 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. Some light manufacturing may also be allowed with certain conditions. The uses envisioned for the district will typically utilize smaller sites and have operation characteristics which are generally not compatible with residential uses and some nonresidential uses. Convenient access to thoroughfares and collector streets is also a primary consideration.

There are several land uses in the vicinity of the subject site. To the north are vacant land and single-family residences; to the south is Jerry Matheson Park (owned by City of Tomball); to the west are Ulrich Road and Juergens Park (owned by City of Tomball); and to the east are Rudolph Road and vacant land. Many of the uses permitted in the Commercial District appear to be incompatible and inconsistent with the existing uses in the vicinity of the subject site.

The zoning classification of the property and the properties in the vicinity is SF-20-E District. According to Section 15.1 of the Zoning Ordinance, "The SF-20-E…district is intended to provide for development of primarily very low-density detached, single-family residences on lots of not less than 20,000 square feet in size, churches, schools and public parks." The Commercial District appears to be inconsistent and incompatible with the SF-20-E District.

The FLU map identifies the subject site as Low Density Residential. The predominant FLU designations in the vicinity are Low Density Residential, Rural Residential, and Parks. To the north is Low Density Residential; to the south and west is Parks; and to the east is Rural Residential. According to the CP:

- Low Density Residential includes residential development on minimum 20,000 square foot lots with the intent to provide for a larger lot development pattern.

- Rural Residential includes residential developments on minimum 1-acre lots that allows up to one house per acre lot. The intent is to provide for a rural lifestyle as

well as to encourage appropriate development due to environmental constraints such as waterways, floodplains, and other features.

- Parks includes mini, neighborhood, community, or regional parks that are both active and passive recreational areas. This can include both publicly and privately owned parks, open spaces, and recreation areas. Park and open space uses are also appropriate in all residential land use designations.

The Commercial District appears to be inconsistent and incompatible with the FLU designations in the vicinity of the subject site.

Additionally, this request appears to create a situation known as "spot zoning" which has been deemed illegal in the State of Texas. Spot zoning occurs when a single property is zoned differently than those lands which are immediately adjacent to it. As illustrated above, the request to rezone the property to Commercial District is inconsistent with the zoning designations of those properties in the surrounding area.

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.

Many of the uses permitted in the Commercial District appear to be incompatible and inconsistent with the existing uses in the vicinity of the subject site.

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 elsewhere in the City already zoned Commercial District including an approximately two-acre property near the intersection of East Hufsmith Road and Rudoloph Road (approximately .4 miles south of the subject site).

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 zoning change 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 appears to be a spot zoning request which is not permitted in the State of Texas. Because a City's authority to enforce its zoning ordinance is considered a police power to protect the public's health, safety, and welfare, and because spot zoning has been determined to be a violation of this police power, to allow this request may affect the public's health, safety, and welfare.

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

1) The Rezoning request appears to be inconsistent and incompatible with the FLU designations in the vicinity of the subject site.

2) The Rezoning request appears to be inconsistent with the following CP goals, objectives, and actions:

    a) CP Objective LUD 1.2: Promote a cohesive land use pattern by minimizing incompatible land uses.

        i) The Rezoning request would be inconsistent with the surrounding CP FLU designations. The nearest Commercial FLU designated property is at the intersection of East Main Street and Willow Street.

        ii) The CP has located the Commercial FLU designated properties along major thoroughfares and away from parks to avoid traffic and land use incompatibility issues. This request is both not along a major thoroughfare and is adjacent to two City-parks.

    b) CP Objective LUD 2.1: Protect the rural character and continued ranching or agricultural uses, where appropriate, to maintain the rural lifestyle in Tomball.

        i) The vast majority of the properties to the east of the subject site between Rudolph, Zion, and East Hufsmith Roads have a CP designation of Rural Residential. Allowing this Rezoning request would not appear to promote or protect the rural residential character intended for this area.

    c) Action LUD 3.1.1: Protect existing residential areas from encroachment of incompatible uses.

        i) Allowing the proposed Rezoning may set a precedent for further non-residential development to the north. The existing land uses to the north are single-family residential in nature, are zoned for single-family use, and have a CP FLU designation of residential.

3) The proposed Rezoning does not appear to be a better use of land than what is recommended by the CP.

    a) The CP was created to provide a unified vision for future land uses that would maximize the utility for the City. It groups like uses together, apportions appropriate land areas to fulfill the goals of the City, and provides adequate transition areas to separate incompatible uses. The proposed Rezoning appears to be inconsistent with the parks and single-family residences that the City intends for this area. The CP has allocated sufficient land area in the City for gymnastics-type uses without altering the Zoning Map.

PUBLIC COMMENT

Property owners within 200 feet of the project site were mailed notification of this proposal on July 3, 2014; no public comments have been received as of July 8, 2014.

RECOMMENDATION

Based on the findings outlined in the analysis and zoning considerations sections of this staff report, City staff recommends **DENIAL** of Rezoning Case P14-088.

EXHIBITS

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

Exhibit "A"
Aerial Photo

Exhibit "B"
Future Land Use Map

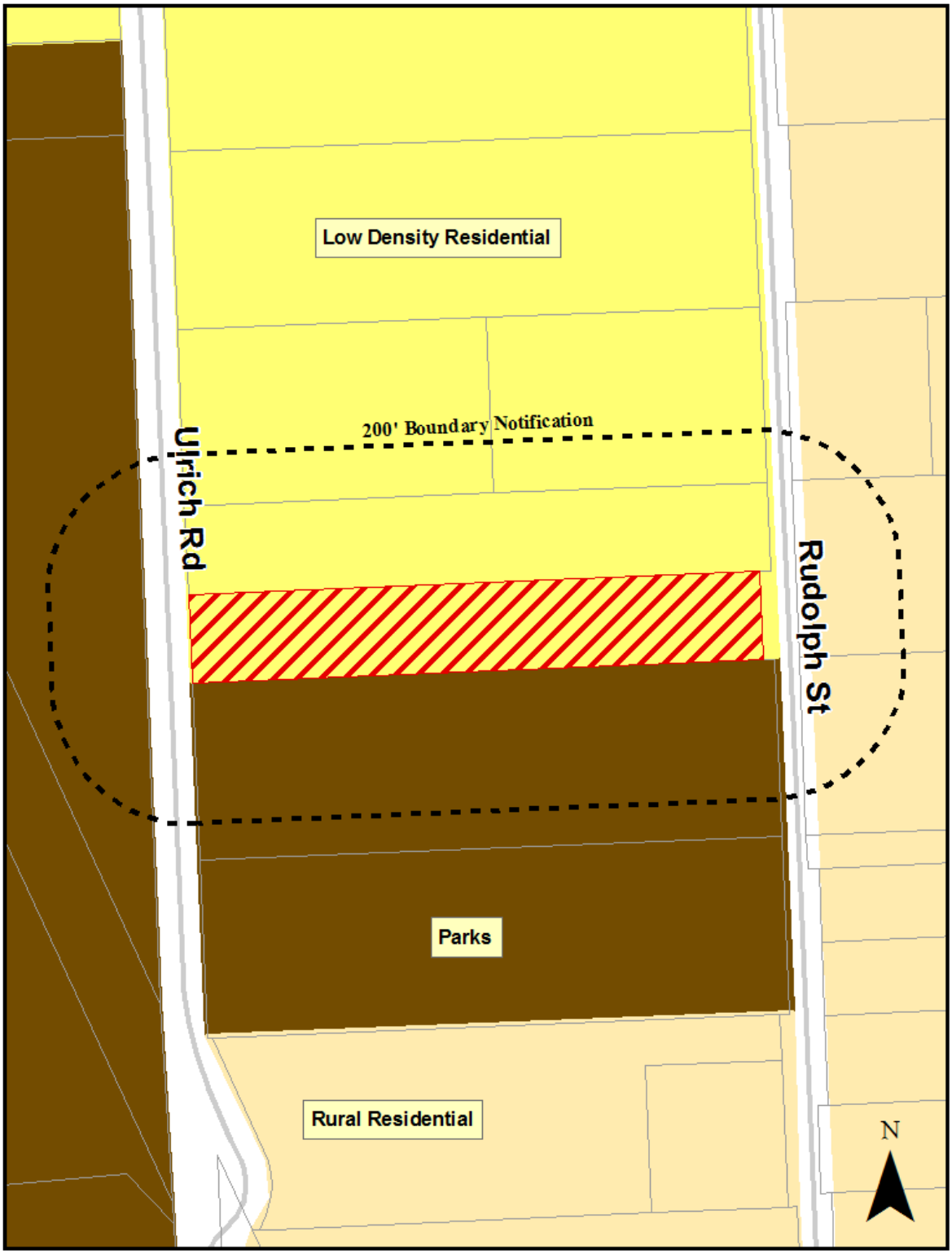


Exhibit "C"
Zoning Map

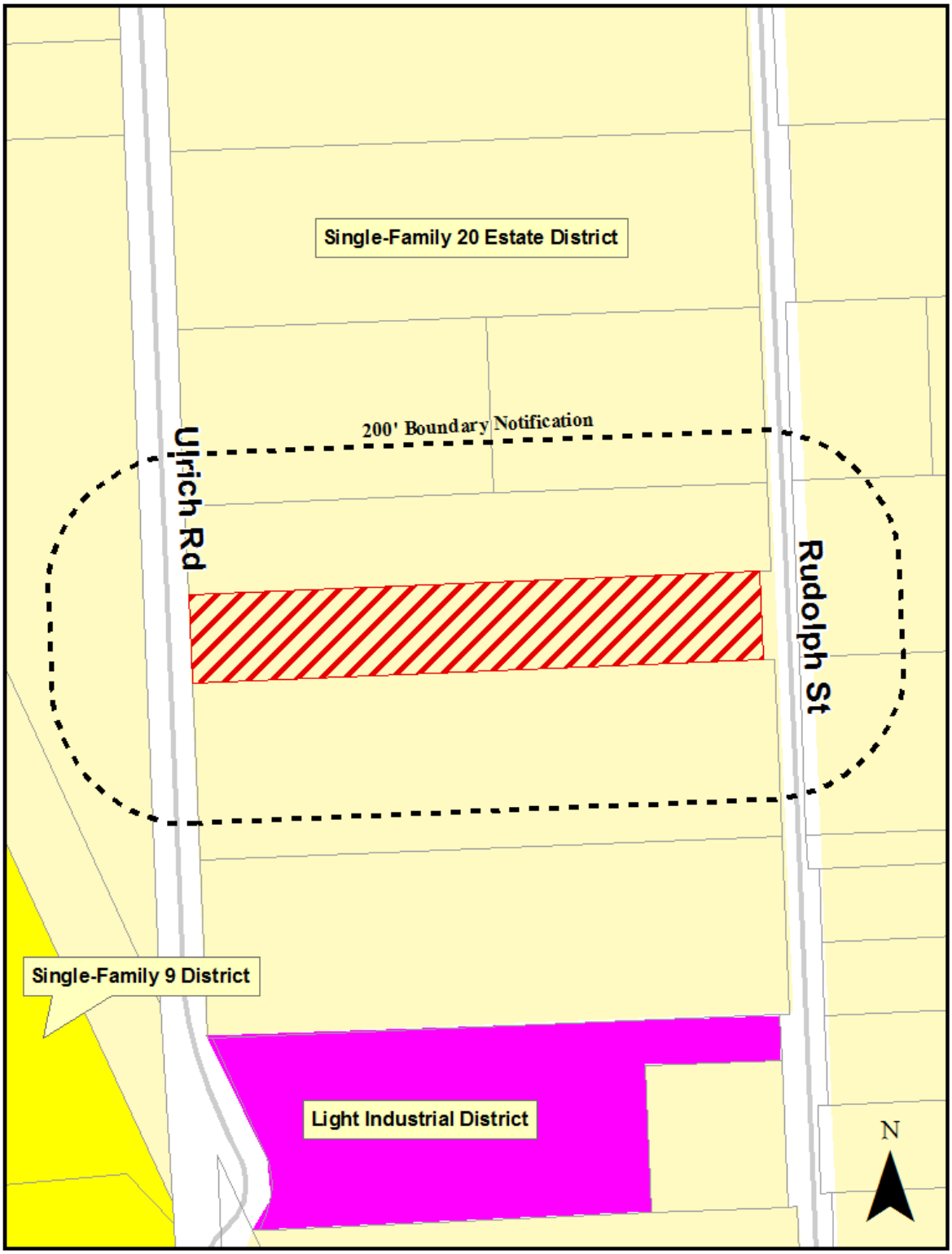


Exhibit "D"
Site Photos

Figure 1: Subject site.

Figure 2: North

Figure 3: South

Figure 4: West

Figure 5: East

Exhibit "E"
Rezoning Application

Revised 1/20/09

APPLICATION FOR REZONING

Engineering & Planning Department

RECEIVED
MAY 14 2014
BY:

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: Nancy A. Gomez Title: President
Mailing Address: 1230 Ulrich Road City: Tomball State: Tx
Zip: 77375
Phone: (281) 255-9997 Fax: (281) 255-9966 Email: NGomez6883@sbcglobal.net

Owner
Name: Nancy A. Gomez Revocable Living Trust Title: President
Mailing Address: 32210 Spinnaker Run City: Magnolia State: Tx
Zip: 77354
Phone: (281) 734-2506 Fax: (___) N/A Email: NGomez6883@sbcglobal.net

Engineer/Surveyor (if applicable)
Name: _____ Title: _____
Mailing Address: _____ City: _____ State: _____
Zip: _____
Phone: (___) _____ Fax: (___) _____ Email: _____

Description of Proposed Project: _____

Physical Location of Property: 1230 Ulrich Road Tomball, Tx 77375
[General Location – approximate distance to nearest existing street corner]

Legal Description of Property: TR 42B Tomball Outlots
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]

Current Zoning District: Residential Single Family - 20 Residential

Current Use of Property: Gymnastic Facility

Proposed Zoning District: Commerical

Proposed Use of Property: Gymnastic Facility

City of Tomball, Texas 501 James Street, Tomball, Texas 77375 Phone: 281-290-1405 www.ci.tomball.tx.us

HCAD Identification Number: 0352820000080 Acreage: 108,900 SF

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 Nancy A Gomez — 5/14/2014
Signature of Applicant — **Date**

x Nancy A Gomez — 5/14/2014
Signature of Owner — **Date**

5/14/2014

Dear City of Tomball,

I will like my property zoned Commerical. It has been a gymnastic center since 2000. We would like to put new signage to comply with Tomball new sign rules

Thank-you

Nancy C Ramirez

ORDINANCE NO. 2014-17

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING ITS ZONING ORDINANCE BY CHANGING THE ZONING DISTRICT CLASSIFICATION OF APPROXIMATELY 2.46 ACRES OF LAND, LEGALLY DESCRIBED AS TRACT 42B, TOMBALL OUTLOTS, WITHIN THE CITY OF TOMBALL, HARRIS COUNTY, TEXAS, FROM THE SINGLE-FAMILY ESTATE RESIDENTIAL-20 DISTRICT TO THE COMMERCIAL DISTRICT; SAID PROPERTY BEING GENERALLY LOCATED BETWEEN ULRICH ROAD AND RUDOLPH ROAD, NORTH OF EAST HUFSMITH 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 2.46 acres of land, legally described as Tract 42B, Tomball Outlots, generally located between Ulrich Road and Rudolph Road, north of East Hufsmith Road, in the City of Tomball, Harris County, Texas, (the "Property"), has 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 Single-Family Estate Residential-20 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 grant 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 Single-Family Estate Residential-20 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 Single-Family Estate Residential-20 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 21ST DAY OF JULY 2014.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN DEGGES	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN 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 4TH DAY OF AUGUST 2014.

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

_____
Gretchen Fagan, Mayor

ATTEST:

_____
Doris Speer, City Secretary

Regular City Council
Agenda Item
Data Sheet

Meeting Date: July 21, 2014

Topic:

Consideration to approve **ZONING CASE P14-109:** Request by Steven Vaughan, on behalf of Keary Barnes, to amend the City's Zoning Ordinance by rezoning approximately .68 acres of land, legally described as Lots 1, 2, 3, and 14, Block 7, Main Street Addition, within the City of Tomball, Harris County, Texas, generally located west of Lawrence Avenue, south of West Main Street, from the Commercial District & Old Town and Mixed Use District to the Commercial District.

- Conduct a Public Hearing on **ZONING CASE P14-109**
- Adopt, on First Reading, Ordinance No. 2014-18, an Ordinance of the City of Tomball, Texas, Amending Its Zoning Ordinance by Changing the Zoning District Classification of Approximately .68 Acres of Land, Legally Described as Lots 1, 2, 3, and 14, Block 7, Main Street Addition, within the City of Tomball, Harris County, Texas, from the Commercial and Old Town and Mixed Use Districts to the Commercial District; Said Property being Generally Located West of Lawrence Avenue, South of West Main Street; 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 May 7, 2014, City staff met with the applicant, Steven Vaughan, regarding the possible construction of a bank and office building at the subject site. At this meeting, City staff informed Mr. Vaughan of the following:

- The property has a Comprehensive Plan FLU of Mixed Use which is consistent with a bank and office building.

- Approximately 65% of the property is zoned Commercial and approximately 35% is zoned OTMU District.

- The bank and office uses are both permitted by right in both zoning districts.

- The property is comprised of multiple lots and would need to be replatted into one overall tract.

- Because the property has two zoning classifications, any improvements to the site would be required to be developed according to the standards of the zoning district classification upon which it is zoned. To avoid having to develop his project under two different sets of zoning district standards, Mr. Vaughan was informed that he could have the property rezoned.

Mr. Vaughan informed City staff of his desire to rezone the entire property to the Commercial District to have one set of design standards for the project. On June 4, 2014, the City received a Rezoning application from Mr. Vaughan requesting to rezone the property from the Commercial and OTMU Districts to the Commercial District.

The Planning & Zoning Commission heard this request on July 14, 2014, and unanimously voted to

recommend APPROVAL.

Origination:
Steven Vaughan, on behalf of Keary Barnes

Recommendation:
APPROVAL

Funding:

Party(ies) responsible for placing this item on agenda:
Craig Meyers, Community Development Department

ACTION TAKEN

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

ATTACHMENTS:

Notice of Public Hearing
Property Owner Notification Letter
P14-109 Staff Report
Ordinance 2014-18

NOTICE OF PUBLIC HEARING
CITY OF TOMBALL
PLANNING & ZONING COMMISSION
JULY 14, 2014
&
CITY COUNCIL
JULY 21, 2014

Notice is Hereby Given that a Public Hearing will be held by the Planning & Zoning Commission of the City of Tomball on **Monday, July 14, 2014, at 6:00 P.M.,** and by the City Council of the City of Tomball on **Monday, July 21, 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:

COMPREHENSIVE PLAN CASE P14-087: Request by Nancy Gomez, on behalf of Nancy Gomez Revocable Living Trust, to amend the City's Comprehensive Plan by altering the Future Land Use of approximately 2.46 acres of land, legally described as Tract 42B, Tomball Outlots, within the City of Tomball, Harris County, Texas, generally located between Ulrich Road and Rudolph Street, north of East Hufsmith Road, from Low Density Residential to Commercial.

ZONING CASE P14-088: Request by Nancy Gomez, on behalf of Nancy Gomez Revocable Living Trust, to amend the City's Zoning Ordinance by rezoning approximately 2.46 acres of land, legally described as Tract 42B, Tomball Outlots, within the City of Tomball, Harris County, Texas, generally located between Ulrich Road and Rudolph Road, north of East Hufsmith Road, from the Single-Family Estate Residential-20 District to the Commercial District.

ZONING CASE P14-109: Request by Steven Vaughan, on behalf of Keary Barnes, to amend the City's Zoning Ordinance by rezoning approximately .68 acres of land, legally described as Lots 1, 2, 3, and 14, Block 7, Main Street Addition, within the City of Tomball, Harris County, Texas, generally located west of Lawrence Avenue, south of West Main Street, from the Commercial District & Old Town and Mixed Use District to the Commercial District.

Persons interested in this case 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 request. Should the Planning & Zoning Commission vote to table a decision/recommendation on this 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 decision/recommendation is forwarded to the City Council by the Planning & Zoning Commission. The application is 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 10th of July 2014 by 4:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Brandy Harbolt
Brandy Harbolt
Senior Administrative Assistant

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.

Community Development Department

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: P14-109

APPLICANT: Steven Vaughan, on behalf of Keary Barnes

LOCATION: West of Lawrence Avenue, south of West Main Street

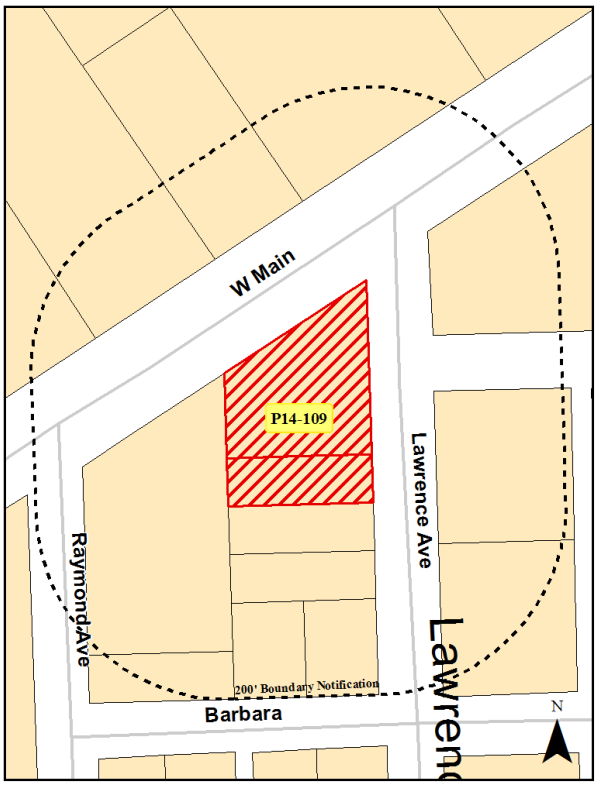
PROPOSAL: Request to amend the City's Zoning Ordinance by rezoning approximately .68 acres of land, legally described as Lots 1, 2, 3, and 14, Block 7, Main Street Addition, within the City of Tomball, Harris County, Texas, from the Commercial District & Old Town and Mixed Use District to the Commercial 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, July 14, 2014, 6:00 PM

City Council Public Hearing:
***Monday, July 21, 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.

Community Development Department

Rezoning Staff Report

Planning & Zoning Commission Public Hearing Date: July 14, 2014

Rezoning Case:	P14-109
Property Owner:	Keary Barnes
Applicant:	Steven Vaughan
Legal Description:	Lots 1, 2, 3, and 14, Block 7, Main Street Addition
Location:	West of Lawrence Avenue, south of West Main Street (Exhibit "A")
Area:	.68 acres
Present Zoning & Use:	Commercial and Old Town and Mixed Use (OTMU) Districts (Exhibit "B") / Undeveloped
Future Land Use (FLU):	Mixed Use (Exhibit "C")
Proposed Zoning and Use:	Commercial District[1] / Bank and office building

Adjacent Zoning & Use:

North:	Commercial District / West Main Street, lumber yard, retail center, former eating establishment, and a single-family residence
South:	OTMU District / Single-family residences and vacant land
West:	Commercial District / Medical office
East:	Commercial and OTMU Districts / Lawrence Avenue, unimproved Arnold Street right-of-way, eating establishment, and vacant land (Exhibit "D")

BACKGROUND

On May 7, 2014, City staff met with the applicant, Steven Vaughan, regarding the possible construction of a bank and office building at the subject site. At this meeting, City staff informed Mr. Vaughan of the following:

- The property has a Comprehensive Plan FLU of Mixed Use which is consistent with a bank and office building.

- Approximately 65% of the property is zoned Commercial and approximately 35% is zoned OTMU District.

[1] 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 bank and office uses are both permitted by right in both zoning districts.

- The property is comprised of multiple lots and would need to be replatted into one overall tract.

- Because the property has two zoning classifications, any improvements to the site would be required to be developed according to the standards of the zoning district classification upon which it is zoned. To avoid having to develop his project under two different sets of zoning district standards, Mr. Vaughan was informed that he could have the property rezoned.

Mr. Vaughan informed City staff of his desire to rezone the entire property to the Commercial District to have one set of design standards for the project. On June 4, 2014, the City received a Rezoning application (Exhibit "E") from Mr. Vaughan requesting to rezone the property from the Commercial and OTMU Districts to the Commercial District.

ANALYSIS

There is a mixture of land uses in the vicinity of the subject site. To the north are West Main Street, a lumber yard, a retail center, a former eating establishment, and a single-family residence; to the south are single-family residences and vacant land; to the west is a medical office; and to the east are Lawrence Avenue, unimproved Arnold Street right-of-way, an eating establishment, and vacant land. The uses permitted in the Commercial District appear to be compatible with the lumber yard, retail center, former and current eating establishments, and medical office in the vicinity. With the appropriate design standards (i.e. building setbacks, fencing, landscaping, etc.), the uses permitted in the Commercial District may be compatible with the single-family residences in the vicinity.

There are two zoning classifications in the vicinity of the subject site: Commercial and OTMU Districts. To the north, west, and east is the Commercial District and to the south is the OTMU District. The proposed 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. Some light manufacturing may also be allowed with certain conditions. The uses envisioned for the district will typically utilize smaller sites and have operation characteristics which are generally not compatible with residential uses and some nonresidential uses. Convenient access to thoroughfares and collector streets is also a primary consideration." The Commercial District appears to be compatible with the existing Commercial Districts to the north, west, and east. With the appropriate design standards (i.e. building setbacks, fencing, landscaping, etc.), the Commercial District may be compatible with the OTMU District to the south.

The FLU map identifies the subject site as Mixed Use. Mixed Use is intended to include a mix of office, retail/commercial, and high density residential uses in a master planned, integrated manner. The proposed rezoning and uses appear to be consistent with a FLU of Mixed Use.

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 uses permitted in the Commercial District appear to be compatible with the lumber yard, retail center, former and current eating establishments, and medical office in the vicinity. With the appropriate design standards (i.e. building setbacks, fencing, landscaping, etc.), the uses permitted in the Commercial District may be compatible with the single-family residences to the north and south.

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 elsewhere in the City already zoned Commercial District. However, there is little vacant property in the vicinity 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 zoning change 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 is not anticipated to affect the public health, safety, morals, or general welfare.

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

The proposed Rezoning and uses appear to be consistent with a FLU of Mixed Use.

PUBLIC COMMENT

Property owners within 200 feet of the project site were mailed notification of this proposal on July 3, 2014; no public comments have been received as of July 8, 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 P14-109.

EXHIBITS

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

Exhibit "A"
Aerial Photo

Exhibit "B"
Future Land Use Map

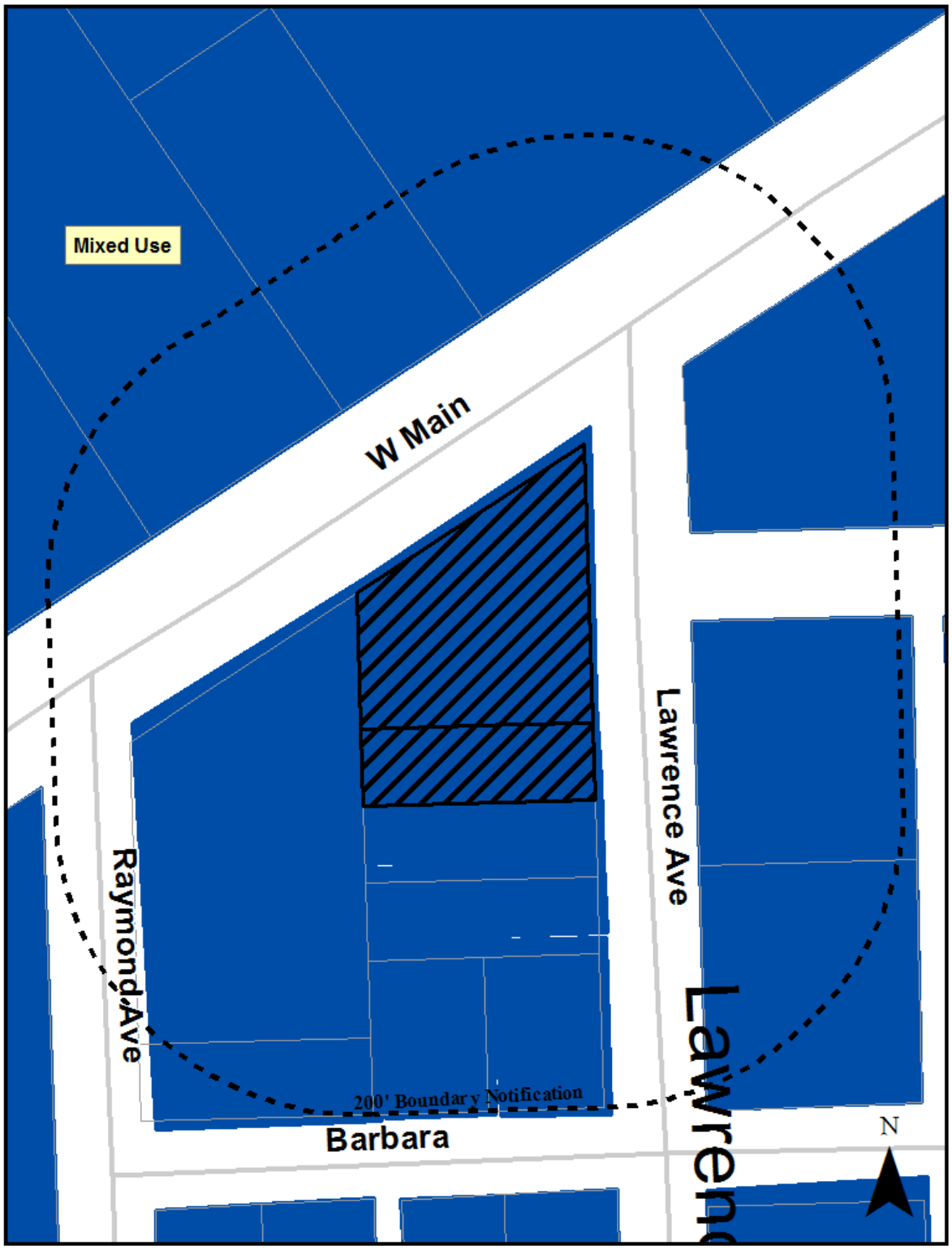


Exhibit "C"
Zoning Map

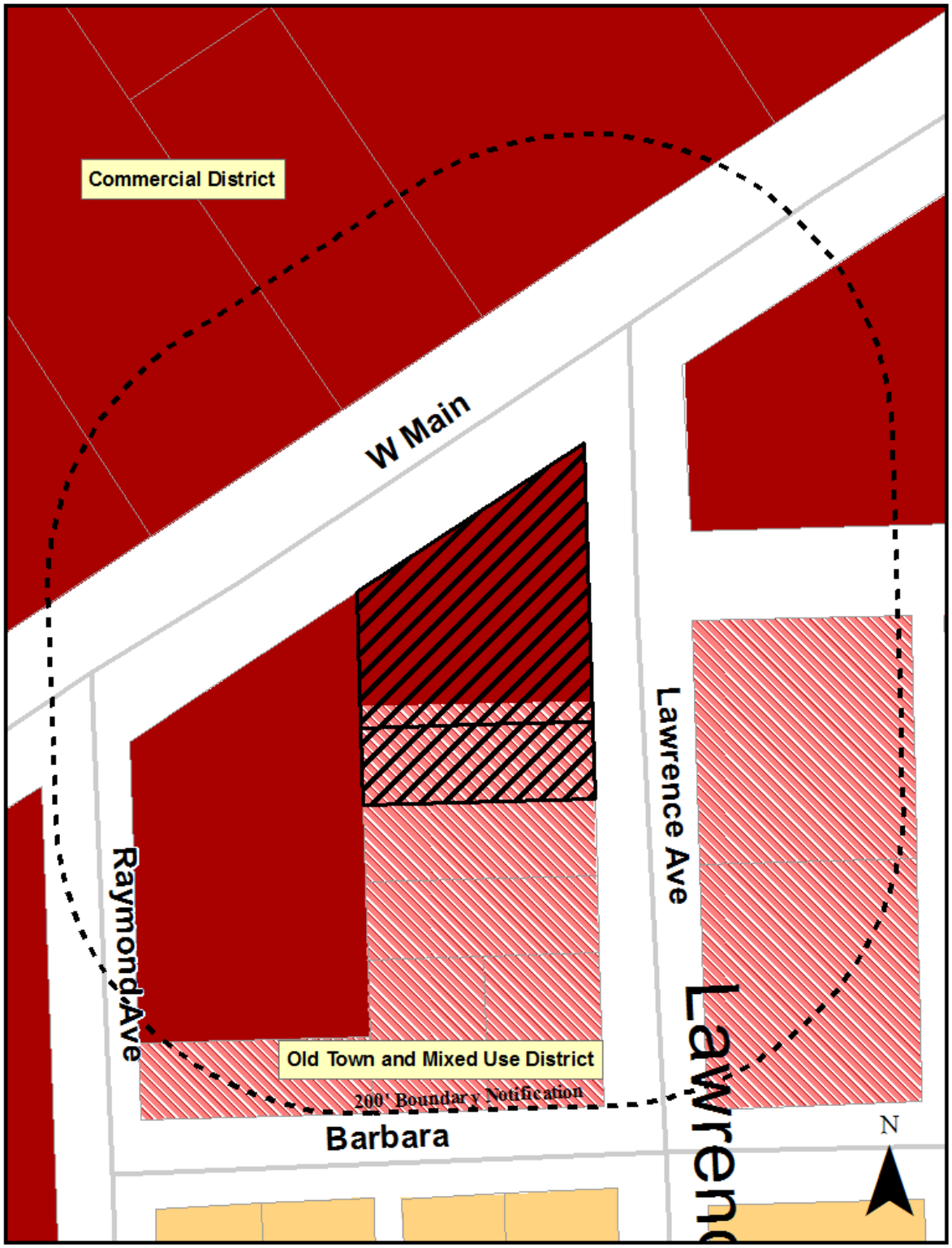


Exhibit "D"
Site Photos

Figure 1: Subject site

Figure 2: North

Figure 3: North

Figure 4: North

Figure 5: South

Figure 6: West

Figure 7: East

Figure 8: East

Figure 9: East

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: Steven E. Vaughan Title: Co-owner
Mailing Address: 13322 Wildwood City: Tomball State: TX
Zip: 77375
Phone: (281) 413-4193 Fax: (___) _____ Email: svaughanstr@gmail.com

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

Engineer/Surveyor (if applicable)
Name: Walter Smith Title: President
Mailing Address: 1002 Village Sq. Drive Suite B City: Tomball State: TX
Zip: 77375
Phone: (281) 655-0634 Fax: (___) _____ Email: smithwe@arborleaf.com

Description of Proposed Project: New Office Building

Physical Location of Property: 1001 W. Main
[General Location – approximate distance to nearest existing street corner]

Legal Description of Property: Lots 1, 2, 3, & 14 Block 7 Main Street Addition
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]

Current Zoning District: Lots 1, 2, & 3 are C - commercial and OT & MU but 14 is OT & MU

Current Use of Property: Vacant

Proposed Zoning District: All lots change to C - commercial

Proposed Use of Property: Bank / Office building

City of Tomball, Texas 501 James Street, Tomball, Texas 77375 Phone: 281-290-1405 www.ci.tomball.tx.us

HCAD Identification Number: 0670990070001
0670990070017 Acreage: .676

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 L. Vaughan 6/4/14

Signature of Applicant **Date**

X L. Vaughan 6/4/14

Signature of Owner **Date**

Steven L. Vaughan
13322 Wildwood
Tomball, Texas 77375
June 4, 2014

City of Tomball Engineering and Planning Department
% City of Tomball
501 James Street
Tomball, Texas 77375

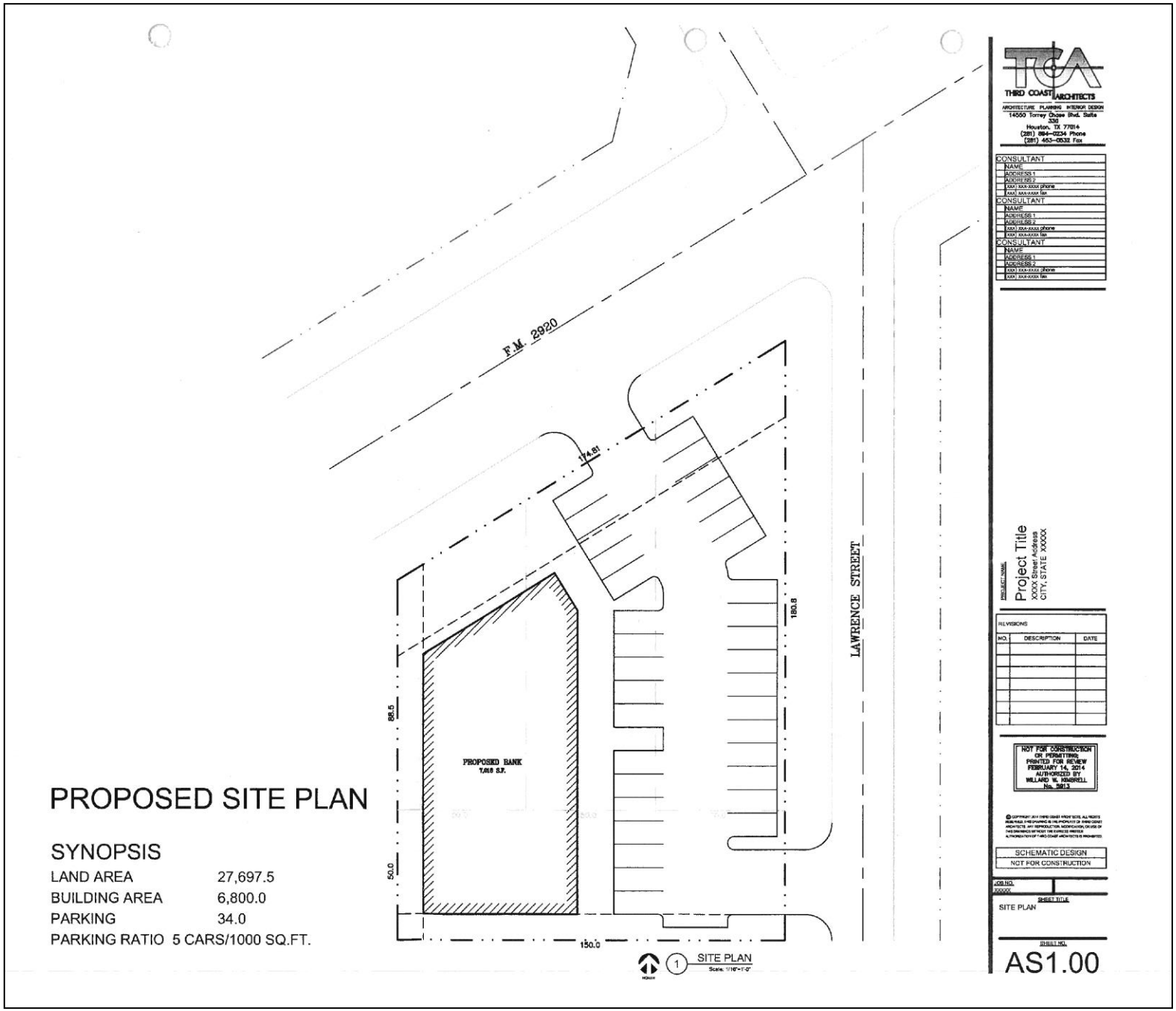
Dear Sirs:

Attached please find my application for a zoning change for four lots located at 1001 West Main Street in Tomball. They are for lots 1, 2, 3, & 14 Blk 7 Main Street Addition, Tomball. Currently parts of lots 1, 2, and 3 are zoned C commercial and OT & MU and lot 14 is zoned OT & MU. I would like all four lots to be zoned C commercial. We are planning to design and construct a bank/office building on the site. We are currently working on survey work to replat the four lots into one tract.

Sincerely,

Steven L. Vaughan
Co-owner

Enclosure



PROPOSED SITE PLAN

SYNOPSIS

LAND AREA	27,697.5
BUILDING AREA	6,800.0
PARKING	34.0
PARKING RATIO	5 CARS/1000 SQ.FT.

THIRD COAST ARCHITECTS
ARCHITECTURE PLANNING INTERIOR DESIGN
14550 Torrey Chase Blvd. Suite 330
Houston, TX 77014
(281) 894-0234 Phone
(281) 463-0638 Fax

CONSULTANT
NAME
ADDRESS 1
ADDRESS 2
xxx xxx-xxxx phone
xxx xxx-xxxx fax
CONSULTANT
NAME
ADDRESS 1
ADDRESS 2
xxx xxx-xxxx phone
xxx xxx-xxxx fax
CONSULTANT
NAME
ADDRESS 1
ADDRESS 2
xxx xxx-xxxx phone
xxx xxx-xxxx fax

PROJECT NAME
Project Title
XXXX Street Address
CITY, STATE XXXXX

REVISIONS		
NO.	DESCRIPTION	DATE

NOT FOR CONSTRUCTION OR PERMITTING
PRINTED FOR REVIEW FEBRUARY 14, 2014
AUTHORIZED BY
WILLARD W. KNORRELL
No. 9813

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SCHEMATIC DESIGN
NOT FOR CONSTRUCTION

JOB NO.
XXXXX

SHEET TITLE
SITE PLAN

SHEET NO.
AS1.00

ORDINANCE NO. 2014-18

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING ITS ZONING ORDINANCE BY CHANGING THE ZONING DISTRICT CLASSIFICATION OF APPROXIMATELY .68 ACRES OF LAND, LEGALLY DESCRIBED AS LOTS 1, 2, 3, AND 14, BLOCK 7, MAIN STREET ADDITION, WITHIN THE CITY OF TOMBALL, HARRIS COUNTY, TEXAS, FROM THE COMMERCIAL AND OLD TOWN AND MIXED USE DISTRICTS TO THE COMMERCIAL DISTRICT; SAID PROPERTY BEING GENERALLY LOCATED WEST OF LAWRENCE AVENUE, SOUTH OF WEST MAIN STREET; 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 .68 acres of land, legally described as Lots 1, 2, 3, and 14, Block 7, Main Street Addition, generally located west of Lawrence Avenue, south of West Main Street, 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 Commercial and Old Town and Mixed Use Districts 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 grant 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 Commercial and Old Town and Mixed Use Districts 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 Commercial and Old Town and Mixed Use Districts 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 21ST DAY OF JULY 2014.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN DEGGES	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN 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 4TH DAY OF AUGUST 2014.

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

_____
Gretchen Fagan, Mayor

ATTEST:

_____
Doris Speer, City Secretary

Regular City Council
Agenda Item
Data Sheet

Meeting Date: July 21, 2014

Topic:

Approve the Following Plats as Recommended by the Planning and Zoning Commission:

- **CAPPADONNA TRACTS**: A Subdivision of a 3.8897-acre tract; Being a Replat of Lot 1, Block 1 Stotts Tracts as recorded under Film Code No. 612089, Harris County Map Records, Situated in the Ralph Hubbard Survey A-383, Harris County, Texas.
- **SECOND REPLAT OF MARTIN MARIETTA SUBDIVISION**: Being a Subdivision of 29.5011 acres and being a Replat of Martin Marietta Subdivision Replat recorded under Film Code No. 645043, Harris County Map Records, Situated in the William Hurd Survey, Abstract 371 and the Jesse Pruett Survey Abstract 629, City of Tomball, Harris County, Texas.

Background:

The Planning and Zoning Commission voted 5-0 to approve the Cappadonna Tracts and Second Replat of Martin Marietta Subdivision plats with contingencies on Monday, July 14, 2014. The plats have been corrected and are now being forwarded to City Council for approval consideration.

Origination:

Recommendation:

Funding:

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

Brandy Harbolt, Engineering and Planning

ACTION TAKEN

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

ATTACHMENTS:

Cappadonna Tracts Plat
Second Replat of Martin Marietta Subdivision

THE STATE OF TEXAS
COUNTY OF HARRIS

WE, MITCHELL P. CAPPADONNA AND JEFFIE K. CAPPADONNA, OWNERS, HEREINAFTER REFERRED TO AS OWNERS (WHETHER ONE OR MORE) OF THE 3.8897 ACRE TRACT DESCRIBED IN THE ABOVE AND FOREGOING MAP OF CAPPADONNA TRACTS, 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, WATER COURSES, DRAINS, EASEMENTS AND PUBLIC PLACES SHOWN THEREON FOR THE PURPOSES AND CONSIDERATIONS THEREIN EXPRESSED; AND DO HEREBY BIND OURSELVES, OUR HEIRS, SUCCESSORS AND ASSIGNS TO WARRANT AND FOREEVER DEFEND THE TITLE ON 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 (5') 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 WITHIN 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 (1-3/4) SQUARE FEET (18" DIAMETER) WITH CULVERTS OR BRIDGES TO BE PROVIDED FOR ALL PRIVATE DRIVEWAYS OR WALKWAYS CROSSING SUCH DRAINAGE FACILITIES.

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 OPERATION 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.

WITNESS OUR HANDS IN THE CITY OF TOMBALL, TEXAS, THIS 7th DAY OF July, 2014.

BY: _____ BY: _____
MITCHELL P. CAPPADONNA, OWNER JEFFIE K. CAPPADONNA, OWNER

STATE OF TEXAS
COUNTY OF HARRIS

BEFORE ME, THE UNDERSIGNED AUTHORITIES, ON THIS DAY PERSONALLY APPEARED MITCHELL P. CAPPADONNA AND JEFFIE K. CAPPADONNA, OWNERS, KNOWN TO ME TO BE THE PERSONS WHOSE NAMES ARE SUBSCRIBED TO THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATIONS THEREIN EXPRESSED AND IN THE CAPAPCITY THEREIN AND HEREIN STATED.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS 7 DAY OF July, 2014.

_____
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS
PRINT NAME: Glenda Schneider
MY COMMISSION EXPIRES: 02/02/2018

Glenda Schneider
NOTARY PUBLIC
STATE OF TEXAS
MY COMM. EXP. 02/02/2018

WE, THE CITY MANAGER AND CITY ENGINEER FOR THE CITY OF TOMBALL, DO HEREBY CERTIFY THAT THIS PLAT COMPLIES WITH THE CITY OF TOMBALL ORDINANCE.

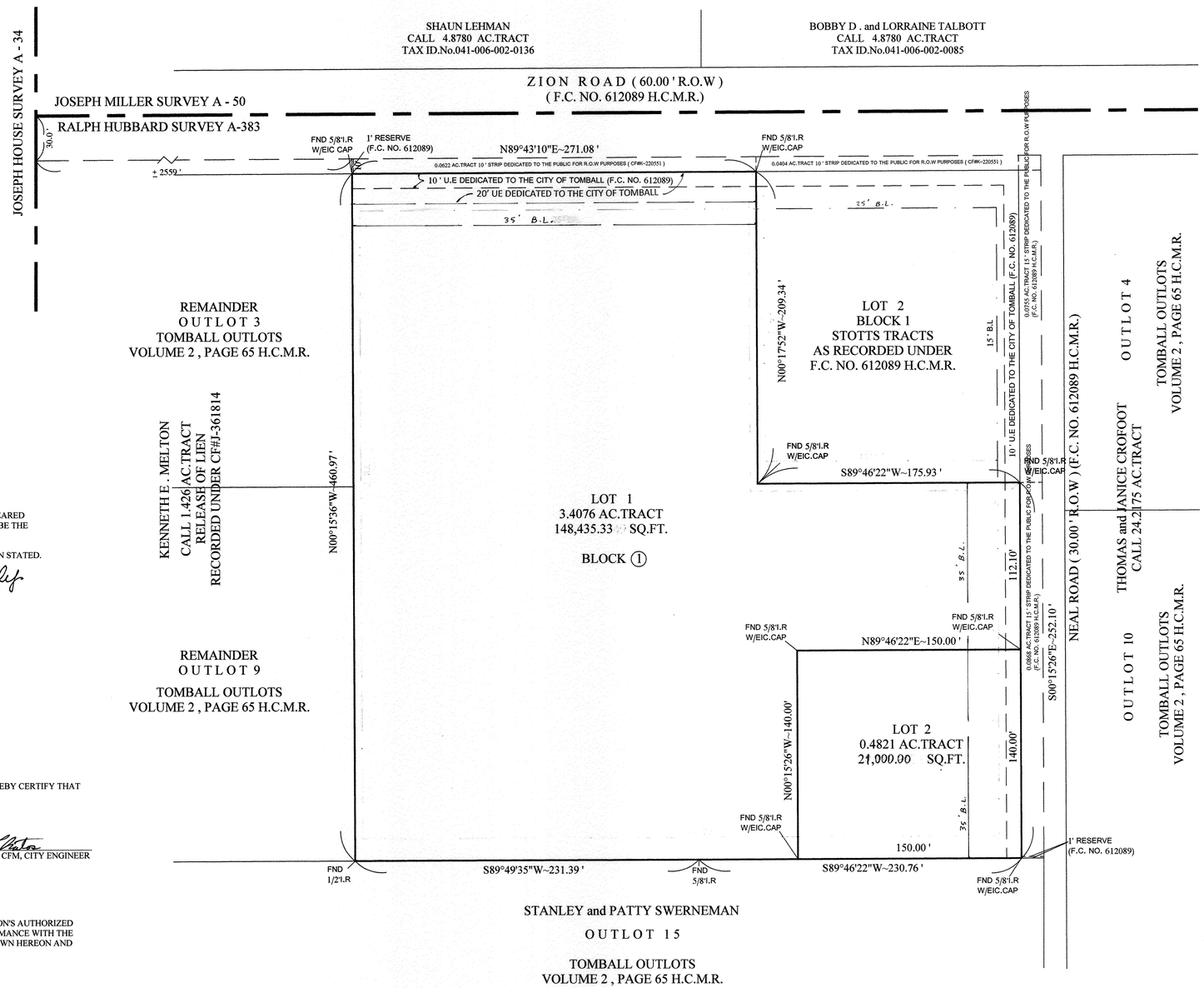
BY: _____ BY: _____
GEORGE SHACKELFORD, CITY MANAGER LORI LAKATOS, P.E., CFM, CITY ENGINEER

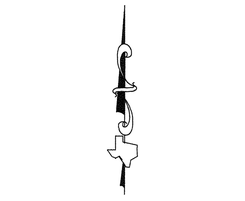
THIS IS TO CERTIFY THAT THE CITY ACCEPTS THE PLANNING & ZONING COMMISSION'S AUTHORIZED APPROVAL AND ACCEPTANCE OF ALL DEDICATED PUBLIC EASEMENTS IN CONFORMANCE WITH THE LAWS OF THE STATE OF TEXAS THE ORDINANCE OF THE CITY OF TOMBALL AS SHOWN HEREON AND AUTHORIZED THE RECORDING OF THIS PLAT THIS _____ DAY OF _____, 2014.

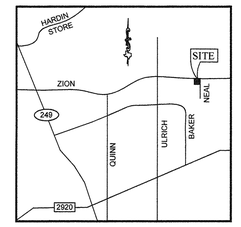
BY: _____ BY: _____
GRETCHEN FAGAN, MAYOR DORLS SPEER, CITY SECRETARY

THIS IS TO CERTIFY THAT THE PLANNING COMMISSION OF THE CITY OF CITY OF TOMBALL, TEXAS, HAS APPROVED THIS PLAT AND SUBDIVISION OF CAPPADONNA TRACTS IN CONFORMANCE WITH THE LAWS OF THE STATE OF TEXAS THE ORDINANCES OF THE CITY OF TOMBALL AS SHOWN HEREON AND AUTHORIZED THE RECORDING OF THIS PLAT THIS _____ DAY OF _____, 2014.

BY: _____ BY: _____
BARBARA TAGUE, CHAIRMAN DARRELL ROQUEMORE, VICE CHAIRMAN







VICINITY MAP
NOT TO SCALE
KEY MAP 248Z

CAPPADONNA TRACTS

A SUBDIVISION OF A 3.8897 ACRE TRACT,
169,435.332 SQUARE FEET,
BEING A REPLAT OF LOT 1, BLOCK 1
STOTTS TRACTS
AS RECORDED UNDER
FILM CODE NO. 612089,
HARRIS COUNTY MAP RECORDS
SITUATED IN THE RALPH HUBBARD SURVEY A - 383
HARRIS COUNTY , TEXAS

CONTAINING
2 LOTS, 1 BLOCK

JULY 2014

(REASON FOR PARTIAL REPLAT TO DIVIDED LOT 1 INTO 2 LOTS)

OWNER

MITCHELL P . and JEFFIE K.CAPPADONNA
12727 ZION ROAD
TOMBALL, TEXAS 77375
TEL:(713) 681 - 0627

SURVEYOR

E.I.C. SURVEYING COMPANY
12345 JONES ROAD # 270
HOUSTON, TEXAS 77070
TEL: (281) 955 - 2772

I, EMIL HADDAD, AM REGISTERED UNDER THE LAWS OF 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, EXCEPT AS SHOWN, ALL BOUNDARY CORNERS, ANGLE POINTS, POINTS OF CURVATURE, AND OTHER POINTS OF REFERENCE HAVE BEEN MARKED WITH IRON (OR OTHER SUITABLE PERMANENT METAL) PIPES OR RODS HAVING AN OUTSIDE DIAMETER OF NOT LESS THAN THREE-QUARTER INCH (3/4") AND A LENGTH OF NOT LESS THAN THREE FEET (3'); AND THAT THE PLAT BOUNDARY CORNERS HAVE BEEN TIED TO THE NEAREST SURVEY CORNER.

EMIL HADDAD, R.P.L.S.
TEXAS REGISTRATION NO. 5072

STATE OF TEXAS
REGISTERED
EMIL HADDAD
5072
PROFESSIONAL
LAND SURVEYOR

I, STAN STANART, COUNTY CLERK OF HARRIS COUNTY, TEXAS, 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
OF HARRIS COUNTY, TEXAS

BY: _____
DEPUTY

LEGEND NOTES

1.	B.L	Indicates " Building Line "
2.	U.E	Indicates " Utility Easement "
3.	R.O.W	Indicates " Right-of Way "
4.	AC.	Indicates " Acre "
5.	SQ.FT.	Indicates " Square Foot "
6.	Vol.	Indicates " Volume "
7.	Pg.	Indicates " Page "
8.	I.R.	Indicates " Iron Rod "
9.	H.C.M.R.	Indicates " Harris County Map Records "
10.	H.C.D.R.	Indicates " Harris County Deed Records "
11.	F.C. NO.	Indicates " Film Code Number"

GENERAL NOTES

1. Public easements donated 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 other public utility shall be responsible for any damages to property within an easement arising out of the removal or relocation of any obstruction in the public easement.
2. According to FEMA Firm Panel No. 48201C0230L (Effective Date June 18, 2007), this property is in Zone "X" and is not in the 0.2% Annual Chance Flood Plain.
3. All oil/gas pipelines or pipeline easements with ownership through the subdivision have been shown.
4. 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.
5. This plat does not attempt to amend or remove any valid covenants or restrictions.
6. 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.
7. All oil/gas wells with ownership (plugged, abandoned, and/or Active) through the subdivision have been shown.

SECOND REPLAT OF
MARTIN MARIETTA SUBDIVISION

BEING A SUBDIVISION OF
29.5011 ACRES, 1,285,059.204 SQ. FT.
AND BEING A REPLAT OF
MARTIN MARIETTA SUBDIVISION REPLAT
RECORDED UNDER FILM CODE NO. 645043
HARRIS COUNTY MAP RECORDS
SITUATED IN THE WILLIAM HURD
SURVEY , ABSTRACT 371
AND THE JESSE PRUETT
SURVEY ABSTRACT 629
CITY OF TOMBALL ,
HARRIS COUNTY , TEXAS

CONTAINING
5 LOTS
2 RESERVES
1 BLOCK

JULY 2014

(REASON FOR REPLAT TO CREATE 5 COMMERCIAL LOTS AND 2 RESERVES)

OWNER

MARTIN MARIETTA MATERIALS SOUTHWEST,INC.
17910 I H - 10 WEST
SAN ANTONIO , TEXAS 78257
TEL:(281)441-6804

SURVEYOR

E.I.C.SURVEYING COMPANY
12345 JONES ROAD # 270
HOUSTON,TEXAS 77070
TEL:(281)955-2772

SCALE 1 " = 100'

VICINITY MAP
SCALE 1 " = 100'
KEY MAP 288-K

THE STATE OF TEXAS
COUNTY OF HARRIS

We, MARTIN MARIETTA MATERIALS SOUTHWEST,INC.,acting by and through , George Burger, V.P. General Manager-Houston District, and Steve Ware, Area Sales Manager-Houston District, being officers of MARTIN MARIETTA MATERIALS hereinafter referred to as owners (whether one or more) of the 29.5011 Acre Tract described in the above and foregoing plat of SECOND REPLAT OF MARTIN MARIETTA SUBDIVISION, do hereby make and establish of 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 expressed ; 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 and unobstructed aerial easement five feet (5') 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 within the boundaries of this plat shall be restricted to provide that drainage structures under private driveways shall have a net drainage opening area of sufficiant size to permitt 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 drivewaysor walkways crossing such drainage facilities .

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 operation 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 .

In testimony whereof , the Martin Marietta Materials Southwest, Inc.has caused these presents to be signed by George Burger, its V.P. General Manager-Houston District thereunto authorized, attested by its Area Sales Manager-Houston District, Steve Ware, this_____day of _____, 2014.

MARTIN MARIETTA MATERIALS SOUTHWEST,INC .

By : _____
GEORGE BURGER
V.P., General Manager
Houston District

Attest : _____
STEVE WARE
Area Sales Manager
Houston District

THE STATE OF TEXAS
COUNTY OF HARRIS

Before me, the undersigned authorities , on this day personally appeared George Burger, V.P., General Manage-Houston District and Steve Ware, Area Sales Manager-Houston District, known to me the persons whose names are subscribed to the foregoing instrument and acknowledge to me that they excuted 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 Corporation .

Given under my hand and seal of office this 3rd day of July , 2014 .

Notary Public in and for the State of Texas

My Commission expires : 5/17/2016

Michelle Russell
Commission Expires
05-17-2016

We , the City Manager and City Engineer for the City of Tomball , do hereby certify that this plat complies with the City of Tomball ordinance .

George Shackelford , City Manager

Lori Lakatos, P.E., CFM, City Engineer

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

BY : _____
Gretchen Fagan , Mayor

_____
Doris Speer , City Secretary

This is to certify that the Planning & Zoning Commission of the City of City of Tomball , Texas has approved this plat and subdivision of SECOND REPLAT OF MARTIN MARIETTA SUBDIVISION in conformance with the laws of the State of Texas and the ordinance of the City of Tomball as shown authorized the recording of this plat this _____ day of _____ , 2014 .

By: _____
Barbara Tague, Chairman

_____
Darrell Roquemore, Vice Chairman

I , EMIL HADDAD , am registered under the laws of 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, except as shown, all boundary corners, angle points , points of curveture , and other points of reference have been marked with iron (or other suitable permanent metal) pipes or rods having an outside diameter of not less than three-quarter inch (3/4") and a length of not less than three feet (3 ') ; and that the plat boundary corners have been tied to the nearest survey corner .

EMIL HADDAD , R.P.L.S
Texas Registration No.5072

STATE OF TEXAS
REGISTERED
EMIL HADDAD
5072
PROFESSIONAL
LAND SURVEYOR

I , Stan Stanart , County Clerk of Harris County , Texas, do hereby certify that the within instrument with it's certificate of a authentication was filed for registration in my office on _____ , 2014 at _____ o'clock _____ , and dully recorded on _____ , 2014 , at _____o'clock_____, and under Film Code Number _____ 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
Clerk of the County Court
Harris County , Texas

By : _____
Deputy

LINE TABLE		
LINE	LENGTH	BEARING
L1	52.33	S64°26'00"W
L2	46.59	S16°19'06"E
L3	50.49	N64°26'00"E

CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD DISTANCE
C1	146.60	60.00	139°59'41"	S44°22'15"W	112.76
C2	156.94	60.00	149°52'15"	N79°26'17"E	115.88
C3	87.17	13571.99	0°22'05"	N11°03'56"W	87.17
C4	44.57	572.56	4°27'36"	N06°22'39"W	44.56
C5	125.78	385.86	18°40'38"	N04°18'33"E	125.23
C6	74.82	538.37	7°57'47"	N21°32'56"W	74.76
C7	40.51	25.00	92°49'54"	S30°05'50"W	36.22
C8	200.06	60.00	191°02'15"	S18°14'24"E	119.44
C9	22.36	470.09	2°43'30"	N67°35'32"E	22.36
C10	429.29	470.09	52°19'24"	S40°04'05"W	414.53

LEGEND NOTES

B.L	Indicates " Building Line "
U.E	Indicates " Utility Easement "
R.O.W	Indicates " Right-of Way "
Ac.	Indicates " Acre "
Vol.	Indicates " Volume "
Pg.	Indicates " Page "
I.R.	Indicates " Iron Rod "
H.C.M.R.	Indicates " Harris County Map Records "
H.C.D.R.	Indicates " Harris County Deed Records "
(●)	= SET 5/8" IRON ROD W/E.I.C. SURVEYING CAP
(O)	= FND 5/8" IRON ROD W/E.I.C. SURVEYING CAP

GENERAL NOTES

1. 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 other public utility shall be responsible for any damages to property within an easement arising out of the removal or relocation of any obstruction in the public easement.
2. According to the FEMA Firm Panel No. 4803150230L (Effective Date June 18, 2007), this property is in Zone "X" and is not in the 0.2% Annual Chance Flood Plain.
3. All oil/ gas pipelines or pipeline easements with ownership through the subdivision have been shown.
4. All oil/ gas wells with ownership (plugged, abandoned, and/ or active) through the subdivision have been shown.
5. 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 setback at a minimum should be 15 feet off centerline of low pressure gas lines, and 30 feet off centerline of high pressure gas line.
6. This plat does not attempt to amend or remove any valid covenants or restrictions.
7. The building lines shown in 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.
8. Property may be subject to gas or oil well sites that are located within the heavily wooded area . A number of instrument recorded in the Harris County Contract Records may designate drill sites , in Vol.225,Pg.222 , Vol.236,Pg.166 and also recorded under H.C.C.F.No.K-405859 and T-514545 .

Regular City Council
Agenda Item
Data Sheet

Meeting Date: July 21, 2014

Topic:

Presentation and Discussion regarding the Adoption of Impact Fees for Water, Wastewater, Drainage, and Roadway Facilities, in Accordance with Chapter 395, Texas Local Government Code; Making Other Findings and Providing Details Related Thereto

- Conduct a Public Hearing regarding Impact Fees
- Adopt on First Reading, Ordinance No. 2014-22, an Ordinance of the City of Tomball, Texas, Adopting Impact Fees for Water, Wastewater, and Drainage Facilities; Defining Certain Terms; Providing for the Assessment and Collection of Such Impact Fees; Containing Other Provisions Relating to the Subject; and Providing for Severability.

Background:

On May 12, 2014, the Capital Improvements Plan Advisory Committee (CIPAC) reviewed the 2012-2022 City of Tomball Infrastructure Master Plan and Impact Fee Determination and PowerPoint presentation information prepared by CLR, Inc. and City staff. CIPAC voted unanimously to approve the Land Use Assumptions, Capital Improvements Plan, and Impact Fees. CIPAC recommends a 75% increase for water and sewer impact fees to be implemented by a 15% increase over the next five years.

	CURRENT	PROPOSED
Water:	$1,329.12	$2,325.96
Sewer:	$1,653.23	$2,322.57

	Existing Impact Fees	15% Increase Over Existing Fees	30% Increase Over Existing Fees	45% Increase Over Existing Fees	60% Increase Over Existing Fees	75% Increase Over Existing Fees
Water (LUE)	$1,329.12	$1,528.49	$1,727.86	$1,927.22	$2,126.59	$2,325.96
Sewer (LUE)	$1,653.23	$1,901.21	$2,100.58	$2,299.95	$2,322.57	$2,322.57
Total	$2,982.35	$3,429.70	$3,828.44	$4,227.17	$4,449.16	$4,648.53

CIPAC voted unanimously to recommend the maximum allowable fee for drainage impact fees:

	CURRENT	PROPOSED
M125:	$574.40	$436.88
M121 West:	$4,985.14	$6,692.00
M121 East:	$6,828.71	$7,886.69
M118:	$6,023.90	$5,757.81
M124:	$0.00	$13,041.36

These recommendations are now being forwarded to City Council for approval consideration or to determine an impact fee not exceeding the maximum amount identified in the Infrastructure Master Plan and Impact Fee Determination 2012-2022. Local Government Code 395.015 requires that the impact fee may not exceed the maximum amount determined and Council may adopt a lesser amount.

In 2009, City Council adopted a 20% increase of impact fees, implementing a 5% increase over a 4 year period. This increase reflects the following percentages of the maximum allowable fee in the 2009 Infrastructure Master Plan.

Adopted Impact Fee:

Water	Sewer	Total
66% = $1,329.12	37% = $1,653.23	46% = $2,982.35

Maximum Allowable Fee:

$2,000.54	$4,523.54	$6,524.08

Origination:

Engineering and Planning

Recommendation:

Adopt, Ordinance No. 2014-22, on First Reading

Funding:

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

ACTION TAKEN

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

ATTACHMENTS:

Notice of Public Hearing
CIPAC Recommendation Letter
Infrastructure Master Plan 2012-2022
Ordinance 2014-12

NOTICE OF PUBLIC HEARING ON ADOPTION OF IMPACT FEES

CITY OF TOMBALL, TEXAS

MONDAY, JULY 21, 2014
6:00 P.M.

Notice is hereby given that a **PUBLIC HEARING** will be held by the Tomball City Council, as the Governing Body of the City of Tomball, at a Regular City Council Meeting on **Monday, July 21, 2014 at 6:00 p.m.**, at City Hall, 401 Market Street, Tomball, Texas 77375, as follows:

NOTICE OF PUBLIC HEARING ON ADOPTION OF IMPACT FEES.

The City Council of the City of Tomball, Texas, will hold a Public Hearing at 6:00 p.m. on Monday, July 21, 2014, for the purpose of receiving public comments regarding the adoption of Impact Fees imposed for water, wastewater, drainage and roadway facilities.

2014 Impact Fee Review	
Component	2014 Maximum Allowable Fee
Water (LUE)	$3,319.37
Sewer (LUE)	$2,322.57
Drainage (per acre)	
M118	$5,757.81
M121E	$7,886.69
M121W	$6,692.00
M124	$13,041.36
M125	$436.88

Any member of the public has the right to appear at the hearing and present evidence for or against the adoption of Impact Fees.

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 4th day of June 2014 by 5:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Doris Speer
Doris Speer, City Secretary, TRMC

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please feel free to contact the City Secretary's office at (281) 290-1002 or FAX (281) 351-6256 for further information. AGENDAS MAY ALSO BE VIEWED ONLINE AT www.tomballtx.gov.

CITY OF TOMBALL
CAPITAL IMPROVEMENTS PLAN ADVISORY COMMITTEE

DATE: May 13, 2014

TO: MAYOR AND CITY COUNCIL

FROM: LORI LAKATOS, PE, CFM

RE: CIPAC RECOMMENDED IMPACT FEE POLICY

The Capital Improvements Plan Advisory Committee (CIPAC) has concluded their review of the Infrastructure Master Plan and Impact Fee Determination 2012-2022, prepared by CLR, Inc., dated 04-10-14 and hereby presents their impact fee recommendation. The CIPAC, in accordance with Chapter 395.058 of the Texas Local Government Code has filed its written recommendation (attached). In review, the current water and sewer impact fee is $2,982.35 for a new, single-family residence or the equivalent of one living unit (LUE). The existing drainage impact fees per acre of development are listed as follows:

M125 -	$574.40
M121 West -	$4,985.14
M121 East -	$6,828.71
M118 -	$6,023.90

The result of the CIPAC process was a unanimous vote to recommend Council consideration of an updated impact fee. The attached materials show both the process and the complete methodology used in the process. The process followed Chapter 395 Texas Local Government Code on impact fees. City Council approved the same Planning & Zoning Committee "plus one" format for the CIPAC.

Exhibit A is a summary of impact fees for single-family residential and includes an "apples to apples" comparison of the 2009 fees and the final recommended 2012 fees. The yellow highlighted areas are the CIPAC recommendation, which represents a 75% increase over current impact fees. The recommended water and sewer impact fee is $4,648.53 for a new single-family residence or LUE. The recommended drainage impact fees per acre of development are listed as follows:

M125 -	$436.88
M121 West -	$6,692.00
M121 East -	$7,886.69
M118 -	$5,757.81
M124 -	$13,041.36

The recommended increases were unanimously approved by the CIPAC. For comparison, Exhibit B contains a chart showing a sample revision of other Cities and their current water and sewer impact fees.

Sincerely,

Lori Lakatos, P.E., CFM
City Engineer

cc: George Shackelford
Rob Hauck
Craig Meyers, P.E.

Attachments: CIPAC Letter Dated 05-13-14
Exhibit A
Exhibit B

CITY OF TOMBALL
CAPITAL IMPROVEMENTS PLAN ADVISORY COMMITTEE

DATE: May 13, 2014

TO: MAYOR AND CITY COUNCIL

FROM: CAPITAL IMPROVEMENTS PLAN ADVISORY COMMITTEE

RE: COMMITTEE RECOMMENDATION ON LAND USE ASSUMPTIONS AND INFRASTRUCTURE MASTER PLAN AND IMPACT FEE DETERMINATION 2012-2022

In accordance with Chapter 395.056 of the Texas Local Government Code, the Capital Improvements Plan Advisory Committee (CIPAC) created under Section 395.058 shall file its written comments on the proposed amendments to the land use assumptions, capital improvements plan, and impact fee before the fifth business day before the date of the public hearing on the amendments.

I hereby certify that this letter with the attached land use assumptions, capital improvements plans and impact fee (Exhibits A&B), and minutes of the CIPAC meeting held on May 12, 2014, in which the committee made its final recommendation to the City Council to approve the proposed amendments by a vote of 5-0, shall serve as the CIPAC's final written comments on the proposed amendments. The recommended impact fees represent a 75% increase, (15% each year for the next 5 years) over current impact fees for water and sewer, and the maximum allowable fee for drainage.

Sincerely,

Barbara Tague

Barbara Tague
CIPAC Chairman

Attachments:

Exhibit A
Exhibit B

Exhibit A (05/12/14)

Summary of Impact Fees for Single Family Residence

2009 Impact Fee Review			
Component	2009 Maximum Allowable Fee	2009 Adopted Fee (Effective 6/30/13)	% of Maximum Allowable Fee
Water (LUE)	$2,000.54	$1,329.12	66%
Sewer (LUE)	$4,523.54	$1,653.23	37%
Drainage (per acre)			
M118	$6,023.90	$6,023.90	100%
M121E	$6,828.71	$6,828.71	100%
M121W	$4,985.14	$4,985.14	100%
M124	$0.00	$0.00	
M125	$574.40	$574.40	100%

| Proposed 2014 Impact Fee Review | | |

Exhibit B (5/8/14)

Sample Review of Single-Family Residential Unit Water & Sewer Impact Fees			
City	**Water**	**Sewer**	**Total**
Baytown	$324.47	$1,918.99	$2,243.46
Conroe	$0.00	$0.00	$0.00
Friendswood	$2,088.00	$840.00	$2,928.00
Humble	$0.00	$1,675.00	$1,675.00
Jersey Village	$1,738.42	$2,339.00	$4,077.42
Katy*	$0.00	$0.00	$0.00
League City	$3,215.00	$2,419.00	$5,634.00
Magnolia	$1,500.00	$3,000.00	$4,500.00
Missouri City	$0.00	$0.00	All MUD districts
Pearland*	$1,972.78	$2,867.22	$4,840.00
Rosenberg	$3,215.86	$1,317.89	$4,533.75
Shenandoah	$0.00	$0.00	$0.00
Sugar Land	$0.00	$0.00	$0.00
Webster	$1,259.00	$1,399.00	$2,658.00
Tomball (Current)	**$1,329.12**	**$1,653.23**	**$2,982.35**
Tomball (Maximum proposed)	**$3,319.37**	**$2,322.57**	**$5,641.94**
Tomball (CIPAC Recommended)	**$2,325.96**	**$2,322.57**	**$4,648.53**
Note:			
**The average total is $2,545.36. If the highest total impact fee is eliminated the average is $2,287.97.*			
**Katy does assess impact fees on its City MUD's based on engineering calculations for each MUD.*			
**Pearland has a different impact fee for a large PD.*			

CITY OF TOMBALL

INFRASTRUCTURE MASTER PLAN
&
CAPITAL RECOVERY FEE DETERMINATION
2012 TO 2022

Prepared By

CLR, Inc.

Engineering * Surveying * GIS

19530 F.M. 362 Waller, Texas 77484

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RYDAN & ASSOCIATES LLC

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Water System
Wastewater System
Parks, Trails, & Sidewalks
Capital Recovery Fee Calculations

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Population Projections
Land Use Projections
Drainage System

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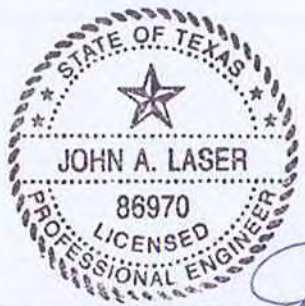

John A. Laser, PE, CFM — Date
TX PE No. 86970 4/10/14

INFRASTRUCTURE MASTER PLAN
&
CAPITAL RECOVERY FEE DETERMINATION
2012 TO 2022

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1.0 Executive Summary

The City of Tomball Infrastructure Master Plan & Capital Recovery Fee Determination for 2012 to 2022 is an update to the Infrastructure Master Plan & Impact Fee Determination for 2007 to 2012 as required by Texas Local Government Code. The City of Tomball retained CLR, Inc. to update this capital improvements plan using generally accepted engineering and planning practices to meet State requirements, review and evaluate its current land use assumptions, and update its capital improvements plan.

Infrastructure improvements necessary to accommodate projected growth/development within the City of Tomball jurisdiction were identified based on population and land use projections. Improvements were identified for the City's Potable Water System, Wastewater System, Drainage System, Traffic & Transportation Network, Parks, Trails & Sidewalks, and its Natural Gas Distribution System.

The 2012 estimated population of the City of Tomball is 11,121, plus an additional 3,241 in the extra-territorial jurisdiction (ETJ), for a total estimated population of 14,362. The 2022 population forecast for the City of Tomball is 13,156, plus an additional 3,834 in the extra-territorial jurisdiction (ETJ), for a total estimated population of 16,990. Population from 2012 to 2022 is projected to increase 18.3%, at an annualized growth rate of 1.695%.

The City of Tomball is approximately 12 square miles (7,670 acres) in area with an additional 8.6 square miles (5,515 acres) included in Tomball's ETJ. Projected 2022 increases in developed acreage were calculated to be 440 acres (27.9% increase) in residential land, and 227 acres (18.9% increase) in commercial land.

City of Tomball 2012 Potable Water System currently is estimated at 6,654 connections, with Average Daily Demand (ADD) usage of 2.26 MGD. Water Production ADD is projected at 2.67 MGD with 7,950 connections for end of FY 2022, based on current 5-Year average water production of 335.9 gpd per Living Unit Equivalent (LUE). This report projects a 1,000 gpm production Water Plant, at a probable cost of $3.83M, and an increase in the water distribution network, amounting to probable cost of $12.31M, will be necessary to meet future demands.

City of Tomball 2012 Wastewater System currently is estimated at 6,654 connections, with Average Daily Flow (ADF) usage of 1.507 MGD. Wastewater Collection ADF is projected at 1.684 MGD for 7,950 connections for end of FY 2022, based on current 5-Year average wastewater collection of 211.9 gpd per LUE. This report projects four lift stations and an increase in the wastewater collection network, amounting to a probable cost of $14.45M, will be necessary to meet future demands. TCEQ criteria may require the design of a 0.35 MGD expansion to the south wastewater treatment plant, for probable cost of $0.53M in design costs, but projected flow capacity will not require construction to commence.

Projected increases in development acreage is within all watershed sub-basins, however for 10-year constructability, sub-basins selected for improvements are limited to M118, M121, M124, & M125. Estimated channel drainage system project costs for projected growth to 2022 amounts to $46.76 M. Estimated detention improvements costs for projected growth to 2022 amounts to $44.36 M.

An analysis of existing and projected roadway capacity was done for major roadways near the City of Tomball utilizing the Houston-Galveston Area Council (H-GAC) population growth factor to develop volume projections for 2017 & 2035. Based on volume projections, by 2017 FM 2920 (Main Street) from Telge Road to SH 249 (a two-lane roadway) will be operating at Level of Service (LOS) E, and by 2035 the roadway will be operating at LOS F. To bring the roadway to an acceptable LOS D, this segment should be widened to six lanes. Volume projections also predict that the volumes on Hufsmith-Kuykendahl Road (a two-lane roadway) from Stuebner-Airline Road to Kuykendahl Road, will be operating at LOS F by 2035. To bring the roadway to LOS C, this segment of the road should be widened to four lanes. LOS A being ideal traffic conditions with free flow of vehicles, and LOS F being grid-lock of traffic and unacceptable conditions.

For the 2022 population projection of 13,156, existing park space will proportion to approximately 8.81 acres per 1,000 residents. Approximately 15.7 acres of City of Tomball park development will be necessary to meet 10 acres per 1,000 residents by the end of 2022.

Historically, the City's natural gas distribution has not been included in this report. However, basic information has been included in this update to better centralize all infrastructure owned and operated by the City and provide reference for future planning.

This Capital Improvement Plan was developed in accordance with Texas Local Government Code §395, describing existing capital improvements and their total capacities, identifying necessary capital improvements or facility expansions and their costs, establishing a service unit for each category of capital improvements, projecting service units and demand necessitated by new development based on approved land use assumptions projected over a period of 10 years. From this Capital Improvement Plan a Maximum Capital Recovery Fee Determination was made for each service unit category.

The Maximum Impact Fees calculated are as follows:

Facility	Service Unit	Effective Date	Current Fee	Maximum Fee Calculated By This Report
Water Production	LUE	06/01/2012	$ 1,329.12	$ 3,319.37
Wastewater Collection	LUE	06/01/2012	$ 1,653.23	$ 2,322.57
Drainage System (by sub-basin)				
M118	Per Acre	06/01/2009	$ 6,023.90	$ 5,757.81
M121E	Per Acre	06/01/2009	$ 6,828.71	$ 7,886.69
M121W	Per Acre	06/01/2009	$ 4,985.14	$ 6,692.00
M124	Per Acre	N/A	$ -	$13,041.36
M125	Per Acre	06/01/2009	$ 574.40	$ 436.88

2.0 Plan Objective

The objective of this report is to identify infrastructure improvements necessary to accommodate projected growth/development within the City of Tomball jurisdiction. The focus of the studies conducted and recommendation provided are for a period of 10 years beginning 2012 and ending 2022. The studies and resulting recommendations utilize population and development projections, updated herein, City of Tomball Zoning Ordinance and Comprehensive Plan, and existing infrastructure records provided by the City of Tomball.

Probable costs associated with the improvements identified will be calculated and include costs of construction, land acquisition (when appropriate), engineering design, surveying, and other necessary consultant services. Of the improvements identified, the costs of those necessitated by new development and/or significant redevelopment will be utilized to calculate maximum capital recovery fees in accordance with Local Government Code, Title 12, Planning and Development, Chapter 395, Financing Capital Improvements Required by New Development in Municipalities, Counties and Certain Other Local Governments. The Capital Recovery Fees determined will establish maximum fees that can be adopted by the City if desired.

Population projects, land use, and drainage infrastructure data contained in this report are summaries from a Master Drainage Plan (MDP) prepared for the City of Tomball under separate contract. Only data required for the final recommendations and conclusions of this report have been included.

Basic steps used to identify necessary infrastructure improvements included:

- Estimation of current (2012) land use and distribution of population.
- Estimation of future (2022) land use and distribution of population.
- Review of Existing (2012) Infrastructure with respect to projected growth/development
- Determination of infrastructure improvements necessary to serve 2022 conditions.
- Calculation of Probable Costs associated with identified infrastructure improvements.
- Determination of maximum capital recovery fees.

3.0 Population Projections

History and Previous Projections

Several reports produced for the City of Tomball have included population projections for the City and the ETJ:

1. The 2002 Infrastructure Master Plan (IMP) by PBS&J;
2. The 2007 Infrastructure Master Plan by LAN; and,
3. The 2009 Tomball Comprehensive Plan.

All three of these documents utilized population projections developed by the Houston-Galveston Area Council (H-GAC) and the Texas Water Development Board (TWDB). The 2002 IMP refers to the 2000 Census population of 9,089 for the City of Tomball, but uses H-GAC and TWDB population projections that are based on the 1990 Census when the population was reported to be 6,370. Since this information is dated, population projections from the 2002 IMP will not be discussed further.

Both the 2007 IMP and the Comprehensive Plan include population projections developed by H-GAC using the 2000 Census population of 9,089 as a basis. Projections developed by the TWDB, also using the 2000 data, were included for reference in the 2007 IMP. The methodologies employed by these agencies to develop these projections will not be reviewed, but it should be noted that neither agency utilizes methods that incorporate variables particular to the City in estimating future growth. Populations for the county or region are estimated at a gross level and allocated to smaller jurisdictions on a percentage basis. The projections for the City appear in the following table. The figures for 1990 and 2000 are reported by the U.S. Census Bureau.

Year	H-GAC 2035	TWDB 2006
1990	6,370	6,370
2000	9,089	9,089
2010	12,238	12,059
2020	15,281	15,429
2030	19,541	18,150

The authors of the 2007 IMP developed estimates of the City and ETJ population employing land use density assumptions from the 2002 IMP and population density statistics from the 2000 Census to derive estimates for 2007 and 2017. The combined population estimates for these two data points was used in this report to produce comparable statistics for the years of interest noted in the following section.

2010 Census & Current Projection

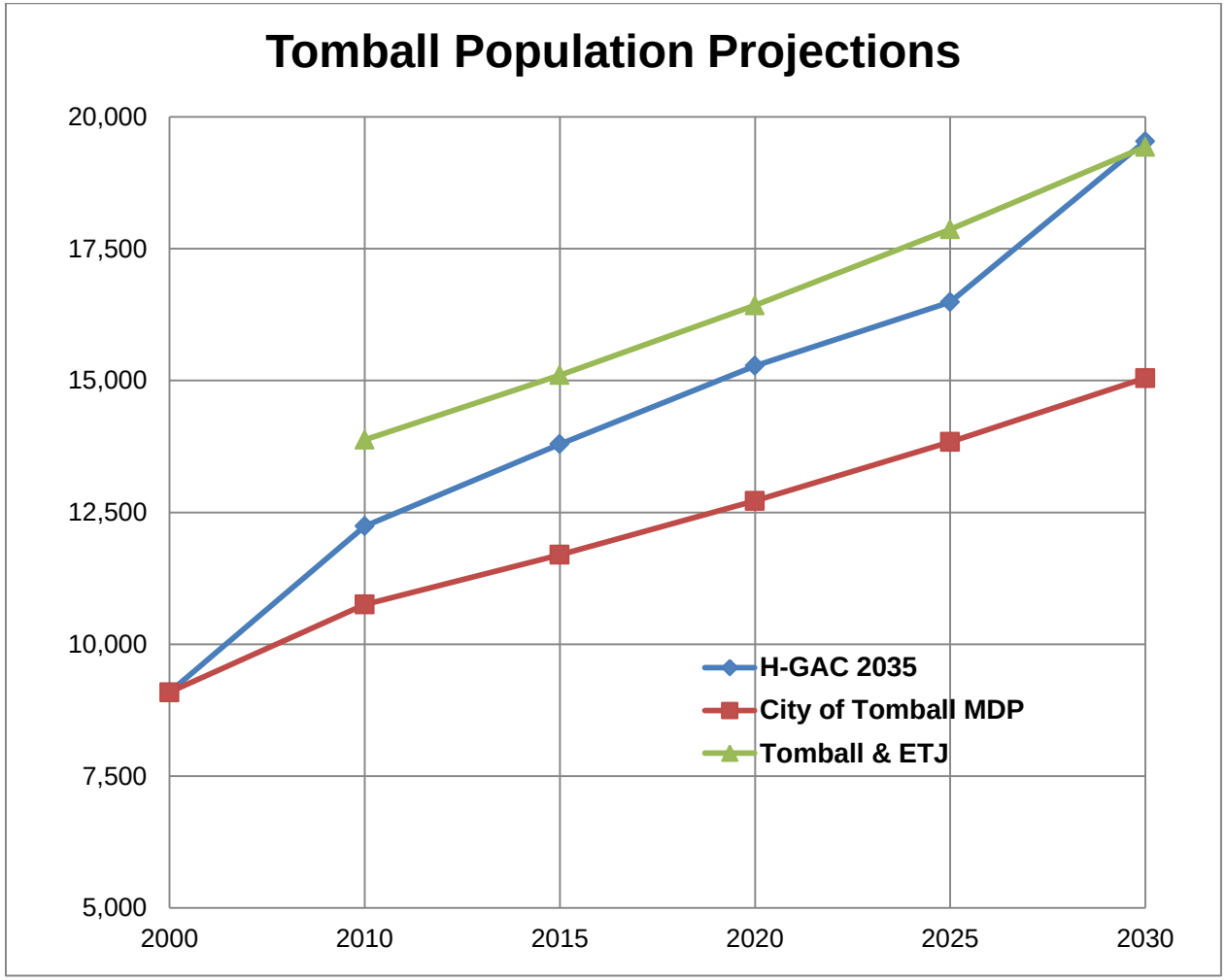
The U.S. Census Bureau has reported a 2010 population of 10,753 for the City of Tomball. This figure represents an absolute growth of 1,664 persons at a compounded annual growth rate of approximately 1.7% from the 2000 Census population of 9,089. The Census count represents a point-in-time estimate of the actual population which is unknown and may vary on a daily, weekly or monthly basis within the reporting year.

The following table presents the reported 2000 and 2010 US Census population for the City and projections developed for this IMP using the annualized growth rate of approximately 1.7% from 2000 to 2010. An estimate of the population for the Tomball extra-territorial jurisdiction (ETJ) based on 2010 Census Block data was provided by the Greater Houston Partnership in association with the Tomball Economic Development Corporation. The estimate of 3,241 for 2012 was discounted by the annualized growth rate of 1.7% to derive a 2010 population estimate of 3,134.

Year	Within City Limits	Tomball ETJ	Combined
2000	9,089	n/a	n/a
2010	10,753	3,134	13,887
2012	11,121	3,241	14,362
2015	11,696	3,409	15,105
2020	12,721	3,708	16,429
2022	13,156	3,834	16,990
2025	13,836	4,033	17,869
2030	15,049	4,386	19,435

To appreciate the differences in the projections for the 20-year time horizon (2010-2030), it should be noted that the annualized growth rate for the City of Tomball from 1990 to 2000 was 3.6% or approximately twice the growth rate for the latest 10-year period. The comparison of past and present population projections is not intended to imply that any particular forecasting methodology is superior to another since all forecasting of population is basically a best-guess formulated primarily on past history. A chart comparing population projections for the City of Tomball from the

H-GAC 2035 forecast with the projections developed for this IMP appears at the top of the next page. The combined projection for the City and ETJ developed for this report is also included in the graph.



Two major highway projects scheduled to begin construction in 2013 could likely impact population growth trends in the Tomball area. First, construction on both Segments F1 and F2 of the Grand Parkway is planned for the summer of 2013 with completion of both segments anticipated by the end of 2015. Segment F1 will connect State Highway 249 with U.S. Highway 290 while Segment F2 will extend from SH 249 to IH 45. The

planned intersection of the Grand Parkway with SH 249 is positioned near the current intersection of SH 249 with Boudreax Road. The second project involves upgrading SH 249 to a six-lane toll road from north of Spring-Cypress to FM 2920. Eventually, this project will include a second phase to extend the toll road, to be named the "Tomball Tollway", to FM 1774 in Montgomery County. Long-term, the Texas Department of Transportation plans to extend the project to SH 6 at Navasota.

On May 23, 2012, while text of this report was being drafted, the U.S. Census Bureau released estimates of 2012 population for states, cities and various other political subdivisions. The Bureau estimated a 2012 population of 10,964 for the City of Tomball. The Bureau's estimated growth in population from 2010 to 2012 is less than 60% of that projected for use in this report, resulting in an annualized growth rate of approximately 1%.

4.0 Land Use Projections

General

The City of Tomball is approximately 12 square miles (7,670 acres) in area with an additional 8.6 square miles (5,515 acres) included in Tomball's ETJ. Of the area within the ETJ, approximately 6.1 square miles (3,936 acres) is located in Harris County while 2.5 square miles (1,579 acres) lies within Montgomery County.

Land use within the City of Tomball and ETJ has been defined and described in several recent documents including the 2007 Infrastructure Master Plan, the 2009 Comprehensive Plan, and the Tomball Zoning Ordinance (2008-01). *See* ***Tomball Zoning & Tomball Comprehensive Land Use Plan Exhibits.*** The Zoning Ordinance and Comprehensive Plan provide the basis for guiding future land use, and the difference between these two documents should be clarified.

According to the City of Tomball Website:

> *"The purpose of a Comprehensive Plan is to anticipate growth and to guide that growth in a manner that provides Tomball with a balance of land uses that promote economic growth and improve quality of life."*
>
> *"The Comprehensive Plan is not a zoning ordinance and it does not affect existing zoning regulations. Instead, it provides the foundation for making changes or developing new regulations that implement identified goals, objectives, and actions."*
>
> *The Zoning Ordinance provides the legal framework for regulating development within the City. Again, with reference to the City's Website:*
>
> *"Zoning is a system of land use regulation that controls the development of land in the corporate City limits. It is a legal mechanism by which the City of Tomball is able to regulate land uses so as to protect the public health, safety, and/or general welfare. Land is mapped into different zones with the primary purpose of promoting compatible land uses and to separate incompatible uses*."

In addition, while the Comprehensive Plan provides guidance for development within the City limits and ETJ, the Zoning Ordinance only applies within the City. While the City has regulatory authority over certain development activities in the ETJ, those activities that do not fall within the purview of the City are subject to regulation by Harris and Montgomery counties, and by the requirements of utility districts, utility providers, and homeowner associations.

Existing Land Use

At any point in time, the existing land use in Tomball and the ETJ may be established by visual inspection and/or by inspection of the tax records maintained by Harris and Montgomery counties. Visual inspection of each parcel within Tomball and the ETJ was not feasible, even using aerial photographs, due to the large number of parcels within this area. Tax records of both the Harris County Appraisal District (HCAD) and the Montgomery County Appraisal District (MCAD) were used for production of this report. Not all areas are included in the tax records. In particular, public roads and right-of-way (ROW) are excluded, and other areas owned by public entities, such as drainage basins and channels, may be

excluded as well. However, with the exception of one large tract along the eastern portion of the ETJ in Montgomery County, almost all of the area within Tomball and the ETJ is included in the tax records exclusive of the ROW areas.

Both the HCAD and MCAD records identify land use on a parcel basis using the "Texas Property Tax Assistance Property Classification Guide". The Guide classifies properties by 21 broad categories. The HCAD and MCAD records used the following broad categories for classifying real property:

- Single Family Residential (A)
- Multi-Family Residential (B)
- Vacant Lots and Tracts (C)
- Agricultural and Timber (D)
- Farm and Ranch Improvements (E)
- Commercial and Industrial (F)
- Utilities (J)
- Residential Inventory (O)
- Exempt Property (X)

Most of these categories have sub-divisions which allow further insight into type of property use on a parcel basis. In addition to the Guide classification system, HCAD also identifies parcels by use of its own classifications. This information is accessible in the GIS database developed for this report in the event that further analysis is desired. Also see **Tomball Land Use by State Code Exhibit**.

To develop statistics for the existing 2012 land use, 4,493 properties from the City Tomball's Zoning records and from HCAD analyzed by state classification. An additional 2,028 parcels in the ETJ were examined. Agricultural land, undeveloped areas, and areas not included in the tax and zoning records are reflected in the "Other" category in this table. Land use is a dynamic process and the information represents a snapshot in time. In addition, the state tax classification may not accurately represent actual land use in all cases.

The following table displays 2012 existing land use for the City of Tomball and its ETJ.

2012 Land Use, Estimated

Within City Limits	Area (Acres)	Parcels Developed	Land Use Density (Acres/Parcel)	Population	Population Density (Persons/Acre)	Population Density (Persons/Parcel)
Residential, Developed	1,578.5	2,442	0.65	11,121	7.05	4.55
Commercial, Developed	1,200.8	547	2.20	n/a	n/a	n/a
Industrial, Developed	3.5	1	3.47	n/a	n/a	n/a
Other	4,887.6	21	n/a	n/a	n/a	n/a
Total City	7,670.4	3,011	n/a	11,121	1.45	n/a

Within ETJ	Area (Acres)	Parcels Developed	Land Use Density (Acres/Parcel)	Population	Population Density (Persons/Acre)	Population Density (Persons/Parcel)
Residential, Developed	1,643.2	1,070	1.54	3,241	1.97	3.03
Commercial, Developed	427.1	84	5.08	n/a	n/a	n/a
Industrial, Developed	8.8	1	8.75	n/a	n/a	n/a
Other	3,436.3	10	n/a	n/a	n/a	n/a
Total ETJ	5,515.4	1,165	n/a	3,241	0.59	n/a

Categories defined by State Classification

Total City & ETJ	13,186	14,362

Projected Land Use

Regardless of the existing usage, currently developed property was projected for future years under the same classification as the existing use. For undeveloped property, the Zoning description provided guidance for parcels within the City limits and the Comprehensive Plan served as guidance in the ETJ when determining future land use. The methodology employed for projecting residential development is complex and is included as an appendix to this report. The methodology used to project non-residential development is described in the following narrative. GIS software was employed to execute the analysis. Non-residential land use was forecast for 2022 and 2030, although data for intermittent years may be estimated without a great deal of additional effort using the GIS files.

Methodology for Non-residential Future Land Development

Properties currently used for residential purposes or projected for residential development were removed from consideration for non-residential development. Of 4,493 parcels in the City Zoning database, 2,844 were designated for residential use through 2030 leaving 1,649 properties for existing or potential non-residential development. Of the 1,649 non-residential properties, 568 had some type of structure listed in the tax records, leaving 1,081 properties determined to be undeveloped. Of the 2,028 properties in the ETJ, 1,450 were designated for residential use through 2030 leaving 578 properties for existing or potential non-residential development. Of those 578 properties, 95 were listed as having a structure on site, leaving 483 properties as undeveloped.

Step 1: The acreage associated with existing developed commercial and exempt properties was determined for the area within the City limits and the ETJ. This total area was increased by a factor of 1.7%, compounded annually, which is the same growth factor employed for projecting population growth. The resulting projected growth in non-residential development from 2012 to 2022 was determined to be 302.8 acres. The projected acreage increase in non-residential development was divided between the City (75%) and ETJ (25%).

Step 2: The 2012 undeveloped non-residential acreage was used as the basis for assigning growth for 2022. Within the City limits, the following zoning descriptions associated with the undeveloped parcels provided the categories for growth: General Retail, Commercial, Office, and Old Town/Mixed Use. Within the ETJ, the following Comprehensive Plan land use descriptions served as categories for growth: Commercial, Employment/Office, and Mixed Use. The relative percentage of undeveloped acreage in each category to the total undeveloped acreage was used to allocate the projected growth acreage to those categories. Allocations for the City and ETJ were conducted separately.

Step 3: The GIS database of non-residential properties was utilized to select undeveloped parcels that were associated with the categories listed in Step 2. Priority was given to selecting undeveloped properties along existing or expected major transportation categories: SH 249 and SH 249 Expressway, Hufsmith-Kohrville Road (FM 2978), East and West Main Street (FM 2920), Holderrieth Road, Hufsmith, Zion, and Cherry Street.

Step 4: The same process was employed for projecting land use by parcel for 2030. The effective percentage increase in developed non-residential land use from 2012 to 2030 was calculated to be 583 acres (35.4%) with or 303 acres (18.4%) projected as being developed by 2022 and an additional 280 acres being developed by 2030.

The following table displays the results of land use projections for the City of Tomball and its ETJ for 2022. 2022 Projected Land Use was apportioned to characteristic categories for residential, commercial, and industrial land use by acreage, and actual acreage and effective percentage increases were calculated. Increases were projected at 440 acres and 27.9% for developed residential land, and 227 acres and 18.9% for developed commercial land.

2022 Land Use, Projected

Within City Limits	Area (Acres)	Parcels Developed	Land Use Density (Acres/Parcel)	Population	Population Density (Persons/Acre)	Population Density (Persons/Parcel)
Residential, Developed	2,018.1	2,558	0.79	13,156	6.52	5.14
Commercial, Developed	1,427.63	648	2.20	n/a	n/a	n/a
Industrial, Developed	3.5	1	3.47	n/a	n/a	n/a
Other	4,221.2	20	n/a	n/a	n/a	n/a
Total City	7,670.4	3,227	n/a	13,156	1.72	n/a

Categories defined by State Classification/Zoning

Within ETJ	Area (Acres)	Parcels Developed	Land Use Density (Acres/Parcel)	Population	Population Density (Persons/Acre)	Population Density (Persons/Parcel)
Residential, Developed	1,691.8	1,267	1.34	3,834	2.27	3.03
Commercial, Developed	503.1	106	4.75	n/a	n/a	n/a
Industrial, Developed	8.8	1	8.75	n/a	n/a	n/a
Other	3,311.8	10	n/a	n/a	n/a	n/a
Total ETJ	5,515.4	1,384	n/a	3,834	0.70	n/a

Categories defined by State Classification/Comprehensive Plan

	13,186			16,990		

Comments on Methodologies

The methodologies employed to allocate projected population growth and land use to individual parcels within the City limits and ETJ creates a hypothetical version of the future. Although the selection of individual parcels follows certain rules, any number of undeveloped parcels could be eligible for selection, and a different scenario could easily result from selecting one parcel rather than another. In that sense, the process is somewhat arbitrary. Since the analyses were developed using GIS tools, and the output files are being provided to the City as products of this project, alternative scenarios may be developed with relative ease.

In addition, the HCAD and MCAD records that serve as the basis for categorizing and selecting properties are not without faults when used for the purposed described in the preceding narrative. The primary use of these records is taxation and not to serve as a database for land use analysis. However, these records were considered the best available data for the purpose of developing this IMP.

N

W E

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0 1500 3000 4500 6000

Feet

Legend

- A: Single Family Residential
- B: Multifamily Residential
- C1: Vacant Lots and Land Tracts
- C2: Colonia Lots and Land Tracts
- C3: Res Vacant/Private Streets/Open Space/Retention
- D1: Native Pasture and Hay/Open Space
- D2: General Commercial Vacant
- E1: Rural Land, not qualified for Open Space, and Improvements
- F1: Commercial
- F2: Industrial and Manufacturing
- J3: Utilities-Electric
- J4: Utilities-Telephone
- J5: Utilities-Railroad
- O1: Residential Inventory
- TMBR: Timberland
- X: Exempy Property

Tomball
Land Use by State Code

AS OF: 03/12/2013

THE CITY OF TOMBALL, TEXAS FOUNDED 1907

CLR, Inc.

Engineers • Surveyors • GIS

19530 FM-362, Waller, Texas 77484 Phone: (713) 462-0993

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Feet

Legend

- AG - Agricultural District
- SF-20E - Single Family 20 Estate District
- SF-9 - Single Famiily 9 District
- SF-6 - Single Famiily 6 District
- D - Duplex Residential District
- MF - Multi-Family Residential District
- O - Office District
- OT & MU - Old Town Mixed Use District
- GR - General Retail District
- C - Commercial District
- LI - Light Industrial District
- PD - Planned Development
- CUP - Conditional Use Permit
- MDR - Medium Density Residential
- RR - Rural Residential
- Employment
- Open Space

Tomball
Comprehensive Land Use Plan

AS OF: 01/08/2013

CLR, Inc.

Engineers • Surveyors • GIS

19530 FM-362, Waller, Texas 77484 Phone: (713) 462-0993

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N

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0 1500 3000 4500 6000

Feet

SPRING CREEK

Spring Hollow Dr

Helen Ln

Lost Creek Rd

Under Rd

William Juergens Dr

Crescent Dr

Quinn Meadows Dr

Warrens Rd

Quinn Rd

Sleepy Ln

Spring Ct

Tomball Pkwy

Chris Ln

Camille Dr

Capella Ct

Castor Ct

Alice Cir

Rigel Ct

Spica St

Dorado Cir

Stella Ln

Antonia Ln

Alice Ln

Orion Dr

Altair Dr

Spring Pines Dr

Heidi Ln

Limerick Ln

Carnes wood Ln

Buckingham Ln

Turner Vine Dr

Turner Vine Ln

Baker Dr

Pine Trails

Arbor Pine

Lee Ann

Serene Trails

Brown Rd

Brown-Hufsmith

W Hufsmith Rd

Keen Dr

Liberty Ln

Imperial Creek Dr

Orchard Grove Dr

N Pecan Dr

N Magnolia

N Cherry

N Elm

Inwood

Roxanne Dr

Hicks St

Oxford

Epps

Hodston St

N Pine

N Oak

N Peach

N Live Oak

Kane

Mason

Market

Elm

Fannin St

Tyler St

S Elm

S Oak

S Pine

S Poplar

S Peach

S Live Oak

S Chestnut

Todd

W Main

Malone

Florence St

Mcphail St

Rye St

Percival

Clayton St

James St

Whitwick St

Belmont St

Southmore St

Vernon Ave

Raymond Ave

Pine Ave

Barbara

Alma St

Rudel Dr

Klein

Keller

Village Square Dr

High St

Foster St

Moore St

Texas St

Hopkins St

Hospital Rd

Carrell

N Willow

Welty

Loyett St

Loyett Ct

Snoddy Ln

Afton Ct

Surrey Ct

Neal St

Rudolph St

East Hufsmith Rd

Zion Rd

FM 2978

Lucky Lp

Dement Rd

Winney Ln

Ward Rd

E Main

Timkin Rd

Blackshear St

Lizzie Ln

Weirich Ln

Mahaffey Rd

Anna St

S Plionhoff Rd

S Persimmon

Sutton Ln

Agg Rd

Ashley Ct

Joseph Ct

St Holderrieth

St Schools

Lawrence St

Park Dr

Stallcup Dr

Medical Complex Dr

Michel Rd

Johnson Rd

Hirschfeld Rd

Meadowlark Ln

Briar Meadow

Red Fox Rd

Mary Jane Ln

Alice Rd

Dana Dr

Sarah Ln

Theiss Ln

Humble Rd

SH 249

BUS 249

BNSF RR

Yonge

Holderrieth Rd

WILLOW CREEK

SH 249

PARK ROAD

Tomball Cemetery Rd

FM 2920

Treichel Rd

Calvert Rd

Zoning Legend

- AG - Agricultural District
- SF-20-E - Single Family 20 Estate District
- SF-9 - Single Family 9 District
- SF-6 - Single Family 6 District
- D - Duplex Residential District
- MF - Multi-Family Residential District
- MHP - Manufactured Home Park
- O - Office District
- OT & MU - Old Town Mixed Use District
- GR - General Retail District
- C - Commercial District
- LI - Light Industrial District
- PD - Planned Development
- CUP - Conditional Use Permit

AS OF: 07/17/2013

Tomball Zoning

THE CITY OF TOMBALL, TEXAS FOUNDED 1907

CLR, Inc.

Engineers • Surveyors • GIS

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5.0 Potable Water System

The City of Tomball's water system consists of two primary components, water supply and water distribution. Currently, potable water is supplied by groundwater pumped from 2 aquifers by 6 wells at 4 production facilities operated by the City of Tomball. Facilities include 5 storage tanks and ancillary metering and disinfection (chlorine) equipment. Water well pump submergence was reported to be between 52 and 160 feet of depth.[1]

Water is distributed through approximately 99 miles of transmission and distribution lines ranging from 1.5-inch to 16-inch diameter, with system pressure maintained by elevated storage and booster pumps. Existing transmission and distribution line pipe materials consist of iron, steel, and PVC (polyvinylchloride) with the oldest lines originating in the late 1950's. The Water Distribution System Plant locations are shown in the **Tomball Master Plan Water Distribution System Exhibit**.

Existing Water System

The following table summarizes the existing water production and storage facilities:

Water Plant	Well Number (U.S.G.S. #)	Well Capacity (Estimated 2012) (gpm)	Aquifer	Ground Storage (gallons)	Elevated Storage (gallons)	Booster Pumps (No./gpm)
Pine Street	1 (Onsite) (LJ-60-60-10G)	548	Chicot	400,000	750,000	2 – 1,600 1 – 1,000
	2 (Onsite) (LJ-60-60-11G)	1,856	Evangeline	N/A	N/A	N/A
	3 (Offsite) School Street (LJ-60-60-111)	741	Chicot	N/A	N/A	N/A
Baker Street	4 (Onsite) (LJ-60-59-324) (See Note 1)	784	Evangeline	200,000 (See Note 2)	N/A	1 – 600 2 – 500
Ulrich Road	See Note 3	N/A	N/A	N/A	500,000	N/A
F.M. 2920	5 (Onsite) (LJ-60-60-T5)	786	Evangeline	500,000	N/A	3 – 1000
	6 (Onsite)	578	Chicot			
Totals		5,293		1,100,000	1,250,000	8,800

Notes:

1. The Baker Street well has continued to experience a high concentration of hydrogen sulfite gas and therefore it does not contribute to the City's supply.
2. The storage tank at the Baker Street plant is constructed as an elevated tank. However, the tank bowl is below the operating pressure plane and therefore operates as a ground storage tank.
3. Elevated tank functions as primary control for the pressure pumping operates for both the Pine and Baker plants.

Historical Water Use

City of Tomball historical data was used to develop existing and projected requirements. The City tracks meter count and monthly water consumption in five categories; single family residential, multifamily (combined), commercial, public municipal, and flushed/emergency. The following table quantifies annual water metered and pumped for the previous five fiscal years.

CITY OF TOMBALL
Annual Water Metered and Water Pumped
(in thousands of gallons)

FISCAL YEAR	RESIDENTIAL METERED	COMMERCIAL METERED	MULTI-FAMILY METERED	FLUSHED PUMPED & EMERGENCY	PUBLIC MUNICIPAL	TOTAL METERED & FLUSHED	TOTAL PUMPED	PERCENT METERED / PUMPED	# ACTIVE MTRS	AVERAGE EQUIV CONN'S	LUE GPD/CONN
2008 FY	271983	308332	64981	12000	8752	666048	774190	86.03%	3326	6472	327.7
2009 FY	290763	323787	65522	12024	8152	700248	790399	88.59%	3369	6515	332.4
2010 FY	240544	292952	75357	12000	6058	626911	709131	88.41%	3394	6540	297.1
2011 FY	364966	329679	97205	14000	8865	814715	922723	88.29%	3447	6593	383.5
2012 FY	279463	297707	82524	12000	6068	677762	823204	82.33%	3508	6654	339.0

For the purposes of this report, one Equivalent Single Family Connection (ESFC) equals one Living Unit Equivalent (LUE). For Fiscal Years 2008 to 2012 the average daily demand per ESFC required 335.9 gpd of water production. 5-Year average water production percentages for five categories follows: single family residential 41.4%, multifamily 11.0%, commercial 44.7%, public municipal 1.1%, and flushed/emergency 1.8%.

State Design Criteria

The Texas Commission on Environmental Quality (TCEQ) criteria specified in TAC, Title 30, part I, Chapter 290, Subchapter D, Rules and Regulations for Public Water Systems, 9/13/00, provides minimum acceptable design and construction practices to ensure public facilities are properly sized to produce and distribute safe potable water. This criterion includes:

- Connection – Defined as, a single residential unit or each commercial or industrial establishment to which drinking water is supplied from the system.
- Maximum Daily Demand – 2.4 times average daily demand
- Peak Hourly Demand – 1.25 times maximum daily demand (prorated to an hourly rate)
- Minimum Water System Capacity Requirements:

  Wells (2 or more) – total capacity of 0.6 gallons per minute (gpm) per connection

Booster Pumps (the lesser of)

Two or more pumps with total capacity of 2 gpm per connection, or

Minimum of 1,000 gpm with capacity to meet peak hourly demands with the largest pump out of service

Storage – Total capacity of 200 gallons per connection, including elevated storage of 100 gallons per connection.

Nominal Operating Pressure = 35 psi throughout system/20 psi minimum during firefighting event

Adequacy of Existing System

Existing City of Tomball water production facilities were evaluated based on TCEQ criteria as follows:

2012 Existing System vs. TCEQ Minimum Requirements

	Existing	Required	Meets
With Baker Plant	**Capacity**	**Capacity**	**Minimum**
Wells	5,293 gpm	3,992 gpm	Yes
Firm Booster Pump Capacity	8,800 gpm	4,656 gpm	Yes
Total Storage	2,350,000 gal	1,330,800 gal	Yes
Elevated Storage	1,250,000 gal	665,400 gal	Yes
Nominal Operating Pressure	55 psi	35 psi	Yes
Without Baker Plant			
Wells	4,509 gpm	3,992 gpm	Yes
Firm Booster Pump Capacity	7,200 gpm	4,656 gpm	Yes
Total Storage	2,150,000 gal	1,330,800 gal	Yes
Elevated Storage	1,250,000 gal	665,400 gal	Yes
Nominal Operating Pressure	55 psi	35 psi	Yes

Based on the available City of Tomball 2012 data for existing Water System conditions (6,654 conn at 2.26 MGD ADD), all components meet or exceed TCEQ minimum requirements both with and without operation of the Baker Street Plant facilities. The existing distribution system (lines 6" and larger) will be modeled to establish nominal operating pressure nodes.

Projected Improvements

To determine recommended water system improvements, CLR analyzed historical data, TCEQ criteria, and projected water demand through 2022. The recommended improvements include facilities in both the current City corporate boundary and in the ETJ necessary to serve the projected development.

Based on this report's earlier projection of City of Tomball annualized growth rate of approximately 1.7%, water demand was projected at the same rate to FY 2022 as shown in the following table. Water Production Average Daily Demand (ADD) is projected at 2,913,380 gpd for 7,874 connections for end of FY 2022.

CITY OF TOMBALL

Projected Water Production Requirements (Gallons)

	PROJECTED[1]			
FISCAL YEAR	**ANNUAL PUMPED**	**ADD PUMPED**	**AVG EQUIV CONN'S[2]**	**LUE GPD/CONN[3]**
2013	913,883,350	2,503,790	6767	370.0
2014	929,414,100	2,546,340	6882	370.0
2015	945,214,950	2,589,630	6999	370.0
2016	961,285,900	2,633,660	7118	370.0
2017	977,626,950	2,678,430	7239	370.0
2018	994,238,100	2,723,940	7362	370.0
2019	1,011,119,350	2,770,190	7487	370.0
2020	1,028,270,700	2,817,180	7614	370.0
2021	1,045,692,150	2,864,910	7743	370.0
2022	1,063,383,700	2,913,380	7874	370.0

[1] Projections based on 1.7% growth rate; see Population projection section 3.0.

[2] Average of Connections Projected for Given Fiscal Year.

[3] 335.9 GPD Historical 5-YR Average + 10% Factor of Safety = 370 GPD for planning.

The following table provides a summary of the projected water supply system demands, for end of FY 2022 loads, when evaluated against TCEQ minimum requirements (without operation of the Baker Street Plant facilities).

2022 Projected System vs. 2012 TCEQ Minimum Requirements

(Without Baker Plant)

	Existing Capacity	Required Capacity	Meets Minimum
Wells	4,509 gpm	4,725 gpm	No
Firm Booster Pump Capacity	7,200 gpm	5,511 gpm	Yes
Total Storage	2,150,000 gal	1,574,800 gal	Yes
Elevated Storage	1,250,000 gal	787,400 gal	Yes
Nominal Operating Pressure	55 psi	35 psi	Yes

Based on the projected water demands of the study period, the City of Tomball will be required by TCEQ criteria to increase its well production by 216 gpm. For practical water well construction to also serve water demands beyond 2022, CLR recommends Standard Water Plant sizing to include a 1,000 gpm Well, a 400,000 gal GST, 3 - 600 gpm total booster pumps, a maintenance building and emergency generator. With contingencies, engineering and surveying, the total Water Plant cost estimate amounts to $3.83M.

To meet projected needs, the City will require additional distribution lines to serve developing areas and for replacement of substandard lines, less than 8-inch, with minimum 8-inch diameter lines. The following table provides a summary of the projected water distribution system demands, for end of FY 2022 with loads distributed utilizing land use and density projections. The 20.8 mile total of additions represents a 21% increase in the water distribution network. Estimated future Water Distribution costs in 2013 dollars, amounts to $13.22M.

Water Line Unit Cost Data used to calculate the 10-year Water Distribution System CIP costs can be found in APPENDIX C. Costs do not include allowances for private crossings (RR or pipeline), legal or fiscal costs, or right of way/easement acquisition costs.

Future Water Distribution System Projects, 2012 to 2022

Project No.	Description	Priority (1)	Quantity	Units	Unit Cost	Total Cost
1	12-inch Water Line along Zion Road and E. Hufsmith Road from Neal Street east to F.M. 2978 E. ROW	1	6,700	LF	$ 127.00	$ 850,900.00
2	12-inch Water Line along FM 2978 from North of FM 2920 north to E. Hufsmith Road (East & West)	1	12,600	LF	$ 127.00	$ 1,600,200.00
3	12-inch Water Line along E. Hufsmith Road from Ulrich Road to Zion Road (includes Railroad Crossing)	1	8,300	LF	$ 127.00	$ 1,054,100.00
4	12-inch Water Line through new development between Ulrich Road and Zion Road	2	4,400	LF	$ 127.00	$ 558,800.00
5	12-inch Water Line along S. Persimmon Street from Agg Road to Holderrieth Road	2	5,700	LF	$ 127.00	$ 723,900.00
6	12-inch Water Line along S. Persimmon Street fromFM 2920 to Agg Road	2	4,500	LF	$ 127.00	$ 571,500.00
7	12-inch Water Line along Agg Road from S. Pitchford Road to S. Persimmon Street	2	1,200	LF	$ 127.00	$ 152,400.00
8	8-inch Water Line along S. Pitchford Road	2	3,600	LF	$ 88.00	$ 316,800.00
9	8-inch Water Line between S. Pitchford Road and S. Persimmon Street south of channel south of Lizzie Lane	2	1,200	LF	$ 88.00	$ 105,600.00
10	12-inch Water Line along Calvert Road and Alice Road from FM 2920 to High Meadows Rd	2	7,700	LF	$ 127.00	$ 977,900.00
11	12-Inch Water Line along Agg Road from Mulberry Street to S. Pitchford Road (includes Railroad Crossing)	2	1,900	LF	$ 127.00	$ 241,300.00
12	12-Inch Water Line along the Future Medical Complex Drive from S. Holderrieth to S. Cherry Street	2	3,900	LF	$ 127.00	$ 495,300.00
13	12-Inch Water Line along the Future Agg Rd from S. Persimmon Street to Hufsmith-Kohrville Road	2	2,100	LF	$ 127.00	$ 266,700.00
14	12-Inch Water Line along the Future Agg Rd east of Hufsmith-Kohrville Road to ETJ	3	2,600	LF	$ 127.00	$ 330,200.00
15	8-inch Water Line between Quinn Road and Julia Street of Hunterwood (includes Railroad Crossing)	3	1,500	LF	$ 88.00	$ 132,000.00
16	8-inch Water Line along Future Commercial Park Drive between Medical Complex Drive and Theis Lane	4	1,100	LF	$ 88.00	$ 96,800.00
17	12-Inch Water Line along Park Road from FM 2920 to Brown Road	4	3,900	LF	$ 127.00	$ 495,300.00
18	12-Inch Water Line along Ulrich Road north of Zion to replace existing 6-inch Water Line	4	4,500	LF	$ 127.00	$ 571,500.00
19	8-inch Water Line along Rudolph Road	4	3,700	LF	$ 88.00	$ 325,600.00
20	12-Inch Water Line along Brown Road from Park Road to Orchard Grove Drive	4	4,300	LF	$ 127.00	$ 546,100.00
21	8-Inch Water Line along Hospital Road between E. Hufsmith Road and E. Carrell Street	5	1,400	LF	$ 88.00	$ 123,200.00
22	8-Inch Water Line along Snook Lane from FM 2920 south ROW north to the Cedar Post Street backlot WL	5	2,800	LF	$ 88.00	$ 246,400.00
23	12-Inch Water Line along FM 2920 from N. Willow to S. Persimmon	5	2,400	LF	$ 127.00	$ 304,800.00
24	12-Inch Water Line along SH 249 Bypass west ROW from Brown Road south to Lowe's	5	4,100	LF	$ 127.00	$ 520,700.00
25	12-Inch Water Line along Business SH 249 east ROW from Brown Road south to Rudel Drive	5	4,000	LF	$ 127.00	$ 508,000.00
26	12-Inch Water Line along Hirschfield Road from SH 249 Bypass W. ROW east to Business SH 249	5	1,600	LF	$ 127.00	$ 203,200.00
27	12-Inch Water Line along SH 249 Bypass west ROW from Alice Road south to Holderrieth Road	5	4,900	LF	$ 127.00	$ 622,300.00
28	8-Inch Water Line along Business SH 249 west ROW from Theis Lane south to Holderrieth Road	5	3,200	LF	$ 88.00	$ 281,600.00
	Totals		**109,800**	**LF**		**$ 13,223,100.00**
	(1) Priority Rating of 1 is highest priority and 5 is lowest priority					

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0 1500 3000 4500 6000
Feet

ELEVATED STORAGE TANK
EST = 500,000 GAL

WATER PLANT
GST = 200,000 GAL
WELL 4 = 784 GPM
BP = 3-500 GPM

WATER WELL SITE
WELL 3 = 741 GPM

WATER PLANT
EST = 750,000 GAL
GST = 400,000 GAL
WELL 1 = 548 GPM
WELL 2 = 1856 GPM
BP = 2-1600 GPM
BP = 1-1000 GPM

WATER PLANT
GST = 500,000 GAL
H-TANK= 5,000 GAL
WELL 5 = 786 GPM
WELL 6 = 578 GPM
BP-3 = 1000 GPM

Tomball ETJ
Tomball City Limits

Water
Existing
Proposed

Tomball Master Plan
Water Distribution System

CLR, Inc.
Engineers • Surveyors • GIS
19530 FM-362, Waller, Texas 77487 Phone: (713) 462-0993

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6.0 Wastewater System

The City of Tomball's wastewater system consists of two primary components, wastewater collection and wastewater treatment.

Currently, wastewater water is treated at 2 facilities, both operated by the City of Tomball. The north wastewater treatment plant is located at Neal Road south of Zion, and discharges into J231-00-00 then to Boggs Gully and eventually to Spring Creek. The south wastewater treatment plant is located at Holderrieth Road near S. Cherry and discharges into M121-00-00 then to Willow Creek.

Wastewater is collected through approximately 80 miles of sanitary sewer lines including 6-inch to 36-inch diameter gravity sanitary sewer, and 4-inch to 12-inch pressure force mains in two networks. The dividing line between the collections systems for the North and South Wastewater Plants generally follows SH249 Business South from Spring Creek, turns East remaining near Medical Complex Drive until it turns North on FM 2978 until Zion Road. Existing collection line pipe materials consist of clay, steel, and PVC (polyvinylchloride) with the oldest lines originating in the late 1950's.

Existing Wastewater System

Wastewater Treatment Plants

The north facility was completed in 1974 as a 0.75 MGD Sewage Treatment Plant (STP), and subsequently expanded in the late 80's to 1.5 MGD. This facility operates as a complete mix plant with four mixing basins and two clarifiers. The north service area presently serves approximately 4,270 acres and 2,459 connections.

The south facility was placed in service in 1999 as a 1.5 MGD STP. This facility operates as an extended aeration-oxidation facility, with one aeration channel, two clarifiers, and associated units. Facilities include ancillary metering and disinfection (chlorine) equipment. The south service area presently serves approximately 3,400 acres and 4,194 connections.

The following table summarizes the existing wastewater treatment facilities:

Wastewater Plant	Permit/Discharge Number	Plant Capacity (MGD)	Discharge	Lift Station (gpm)
Neal Road	TX 0022361/ 001-A	1.5	Spring Creek	4,500
Holderrieth Road	TX 0117595/ 001-A	1.5	Willow Creek	4,475

Lift Stations

Presently the City operates 11 sanitary sewer lift stations, not including the 2 located within the wastewater treatment plant sites. Private lift stations also exist within the City and serve areas that are not currently served by public gravity sewers. Public lift station general locations and capacities are shown below. The capacities shown are firm capacities with one pump out of service.

Existing Lift Station Capacities

LS #	Lift Station Name	Firm Capacity[1] (gpm)	LUE Equiv[2] Capacity
-	North WWTP	4500	7645
-	South WWTP	4475	7603
1	Northstar	250	425
2	Sherwood	380	646
3	Hunterwood	175	297
4	Hufsmith	350	595
5	Tomball Hills	225	382
6	Persimmon	108	183
7	Jergens Park	36	61
8	Mattheson Park	125	212
9	FM 2920 & Park Rd	340	578
10	Hicks	50-150	
11	School	200-300	
	(1) Lift station capacity with largest pump out-of-service		
	(2) Based on 211.9 gpd per LUE		

Collection System

The City's collection system is comprised of approximately 80 miles of gravity sewers and force mains ranging in size from 4-inch to 36-inch diameter. City of Tomball topography requires some isolated collection systems to pump by Lift Station before continuing as gravity lines.

The Wastewater Treatment Plants and sanitary sewer collection system are shown in the **Tomball Master Plan Sanitary Sewer System Exhibit**.

Historical Wastewater Flows

City of Tomball historical data was used to develop existing and projected requirements. As a Texas Pollutant Discharge Elimination System permit holder the City submits water quality discharge-monitoring reports (DMRs) to the TCEQ.

The following table quantifies DMR reported flows for the previous five years.

Historical Wastewater Treatment Plant Flows

	2008	2009	2010	2011	2012
North Wastewater Treatment Plant					
Annual Flow (MG)	231.0	216.1	195.3	177.4	203.3
Average Daily Flow (MGD)	**0.633**	**0.592**	**0.535**	**0.486**	**0.557**
Plant Capacity (MGD)	1.500	1.500	1.500	1.500	1.500
% of Total Plant Capacity Used	42.2%	39.5%	35.7%	32.4%	37.1%
South Wastewater Treatment Plant					
Annual Flow (MG)	305.1	290.5	276.7	292.4	346.8
Average Daily Flow (MGD)	**0.836**	**0.796**	**0.758**	**0.801**	**0.950**
Plant Capacity (MGD)	1.500	1.500	1.500	1.500	1.500
% of Total Plant Capacity Used	55.7%	53.1%	50.5%	53.4%	63.3%
Total Average Daily Flow (MGD)	**1.469**	**1.388**	**1.293**	**1.287**	**1.507**
LUE	6472	6515	6540	6593	6654
Average Daily Flow per LUE (gpd)	227.0	213.0	197.7	195.2	226.5
Total Water Demand					
Annual Water Demand (MG)	774.19	790.40	709.13	922.72	823.20
Average Daily Demand (MGD)	2.121	2.165	1.943	2.528	2.255
% of Wastewater Treated vs Water Pumped	69.3%	64.1%	66.6%	50.9%	66.8%

For the purposes of this report, one Equivalent Single Family Connection (ESFC) equals one Living Unit Equivalent (LUE). For Years 2008 to 2012 the average daily flow per ESFC was 211.9 gpd of wastewater treatment.

Wastewater flow was assumed to follow the 5-Year average water production percentages for five categories as follows: single family residential 41.4%, multifamily 11.0%, commercial 44.7%, public municipal 1.1%, and flushed/emergency 1.8%.

State Design Criteria

The TCEQ maintains minimum standards for public wastewater treatment and collections systems. The criteria are contained in Chapter 317 of the TCEQ regulations titled "Design Criteria for Sewerage Systems". The following minimum standards were utilized to determine adequacy of the existing system and to size necessary improvements.

- Estimation of wet weather flows as 400 percent of average day flow rates (collection system).
- The layout of collection lines are placed to provide flexibility toward future land use changes and economic considerations.
- Maximum sewer capacities were calculated for pipes flowing full at not less than 2 feet per second using standard grades on Manning's formula with an assumed "n" factor of 0.013.
- In order to avoid under-designs, which can occur without long range planning, trunk lines sizes were based upon consideration of the size of an area and an allowance for full development. The interim improvements for the study period consider future growth and provide a base system for the ultimate improvements.
    - Lift Station design to follow TCEQ Chapter 317 - Design Criteria for Sewerage Systems § 317.3. Lift Stations
    - STP design to follow TCEQ Chapter 317 - Design Criteria for Sewerage Systems § 317.4. Wastewater Treatment Facilities
- STP Design flow is defined as the wet weather maximum 30-day average flow. Peak flow is defined as the highest two hour flow expected to be encountered under any operational conditions, including times of high rainfall (generally the two-year, 24-hour storm is assumed - 4.85-inch for City of Tomball) and prolonged periods of wet weather. For new systems, the peak flow to average annual flow ratio is normally in the range between three and five to one, although other peaking factors may be warranted.
- Per TCEQ criteria an STP at 75% of flow capacity requires the design of a plant expansion, and an STP at 90% of flow capacity requires construction to commence on the expansion design.

Adequacy of Existing Wastewater System

Based on the available City of Tomball 2012 data for existing Wastewater System conditions (6,654 conn at 1.507 MGD ADF), both Wastewater Treatment Plants, all Lift Stations, and Sanitary Sewer Collection facilities meet or exceed TCEQ minimum requirements.

Projected Improvements

To determine recommended wastewater system improvements, CLR analyzed historical data, TCEQ criteria, and projected wastewater flow through 2022. The recommended improvements include facilities in both the current City corporate boundary and in the ETJ necessary to serve the projected development area.

Wastewater flow was projected to FY 2022, based on this report's earlier projection of the City of Tomball's annualized growth rate of approximately 1.7%, as shown in the following table. Wastewater Collection Average Daily Flow (ADF) is projected at 1.787 MGD for 7,874 connections for end of FY 2022. Wastewater flow projections based on historical flow per LUE is shown below.

Projected Wastewater Treatment Plant Flows

		Projected Averages										Increase
	2012	**2013**	**2014**	**2015**	**2016**	**2017**	**2018**	**2019**	**2020**	**2021**	**2022**	**2012-2022**
Total Average Daily Flow (MGD)	**1.507**	**1.536**	**1.562**	**1.589**	**1.616**	**1.643**	**1.671**	**1.700**	**1.728**	**1.758**	**1.787**	**0.280**
Case 1: Future LUEs reflect historical LUEs												
LUE	6654	6767	6882	6999	7118	7239	7362	7487	7614	7743	7874	1220
Average Daily Flow per LUE (gpd)	**226.5**	227.0	227.0	227.0	227.0	227.0	227.0	227.0	227.0	227.0	227.0	
North Wastewater Treatment Plant												
Annual Flow (MG)	203.3	207.2	210.8	214.3	218.0	221.7	225.5	229.3	233.2	237.1	241.1	37.8
Average Daily Flow (MGD)	**0.557**	**0.57**	**0.58**	**0.59**	**0.60**	**0.61**	**0.62**	**0.63**	**0.64**	**0.65**	**0.66**	0.10
Plant Capacity (MGD)	1.500	1.500	1.500	1.500	1.500	1.500	1.500	1.500	1.500	1.500	1.500	_
% of Total Plant Capacity Used	37.1%	37.9%	38.5%	39.1%	39.8%	40.5%	41.2%	41.9%	42.6%	43.3%	44.0%	6.9%
South Wastewater Treatment Plant												
Annual Flow (MG)	346.8	353.5	359.5	365.6	371.8	378.1	384.6	391.1	397.7	404.5	411.3	64.6
Average Daily Flow (MGD)	**0.950**	**0.97**	**0.98**	**1.00**	**1.02**	**1.04**	**1.05**	**1.07**	**1.09**	**1.11**	**1.13**	0.18
Plant Capacity (MGD)	1.500	1.500	1.500	1.500	1.500	1.500	1.500	1.500	1.500	1.500	1.500	_
% of Total Plant Capacity Used	63.3%	64.6%	65.7%	66.8%	67.9%	69.1%	70.2%	71.4%	72.6%	73.9%	75.1%	11.8%

However, the wastewater plants are normally designed for more flow per connection, as higher use is possible from future connections. Higher use is also possible from existing connections, without additional development (for example, higher occupancies in residences and hotels or changes in use of non-residential properties). The table that follows shows flow projections based on 300 gpd/LUE for existing and new development.

Projected Wastewater Treatment Plant Flows												
		Projected Averages										Increase
	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2012-2022
Total Average Daily Flow (MGD)	**1.507**	**2.030**	**2.065**	**2.100**	**2.135**	**2.172**	**2.209**	**2.246**	**2.284**	**2.323**	**2.362**	**0.855**
Case 2: Future LUEs at 300 gpd												
LUE	6654	6767	6882	6999	7118	7239	7362	7487	7614	7743	7874	1220
Average Daily Flow per LUE (gpd)	**226.5**	300.0	300.0	300.0	300.0	300.0	300.0	300.0	300.0	300.0	300.0	
North Wastewater Treatment Plant												
Annual Flow (MG)	203.3	273.9	278.5	283.3	288.1	293.0	298.0	303.0	308.2	313.4	318.7	115.4
Average Daily Flow (MGD)	**0.557**	**0.75**	**0.76**	**0.78**	**0.79**	**0.80**	**0.82**	**0.83**	**0.84**	**0.86**	**0.87**	0.32
Plant Capacity (MGD)	1.500	1.500	1.500	1.500	1.500	1.500	1.500	1.500	1.500	1.500	1.500	_
% of Total Plant Capacity Used	37.1%	50.0%	50.9%	51.7%	52.6%	53.5%	54.4%	55.3%	56.3%	57.2%	58.2%	21.1%
South Wastewater Treatment Plant												
Annual Flow (MG)	346.8	467.2	475.1	483.2	491.4	499.7	508.2	516.9	525.6	534.5	543.6	196.8
Average Daily Flow (MGD)	**0.950**	**1.28**	**1.30**	**1.32**	**1.35**	**1.37**	**1.39**	**1.42**	**1.44**	**1.46**	**1.49**	0.54
Plant Capacity (MGD)	1.500	1.500	1.500	1.500	1.500	1.500	1.500	1.500	1.500	1.500	1.500	_
% of Total Plant Capacity Used	63.3%	85.3%	86.8%	88.3%	89.8%	91.3%	92.8%	94.4%	96.0%	97.6%	99.3%	36.0%

When both existing Wastewater Treatment Plants are evaluated against TCEQ minimum requirements for both 2022 Projected Wastewater System conditions (7,874 connections at 1.787 MGD and 2.362 MGD), facilities meet or exceed TCEQ minimum requirements.

The South Wastewater Treatment Plant is expected to exceed 75% of flow capacity (1.125 MGD) during the ten year period, requiring the design of a plant expansion in accordance with TCEQ regulations. The TCEQ requires that facilities begin engineering and financial plans once flows reach 75% of a facility and require construction to begin once flows reach 90%.

For this reason, included in the Master Infrastructure Plan is a 0.5 MGD expansion. With contingencies, engineering, and surveying, the total Wastewater Treatment Plant expansion cost estimate amounts to $4.20M. Since the expected new development from 2012 to 2022 is not expected to use this capacity, this cost is not included in the maximum impact fee calculation.

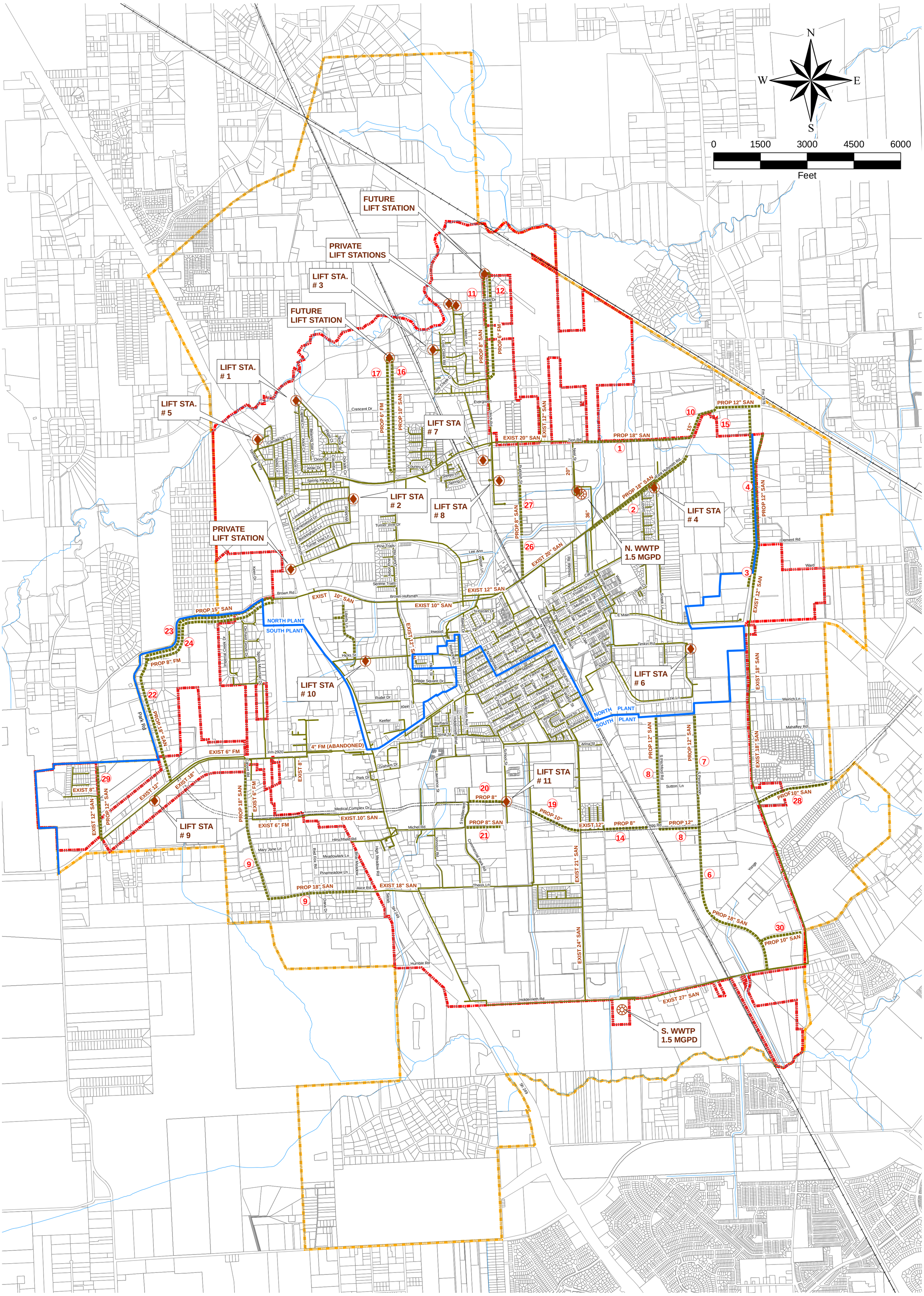
Projected development may also overload existing lift stations. Individual lift station demand vs capacity will have to be monitored to determine when pump or wet well upgrades are needed or required. Three new lift stations are included in the Capital Improvement Plan (CIP) cost estimate table for wastewater collection lines.

To meet projected needs, the City will require additional sanitary sewer collection lines to serve developing areas. The following table provides a summary of the projected wastewater collection system demands, for end of FY 2022 with estimated loads distributed utilizing land use and density projections. The 15.7 mile total of additions represents a 19.7% increase in the wastewater collection network. Estimated future wastewater collection system costs in 2013 dollars, amount to $13.5M.

Sanitary Sewer Unit Cost Data used to calculate the 10-year Wastewater Collection System CIP costs can be found in APPENDIX C. Costs do not include allowances for private crossings (RR or pipeline), legal or fiscal costs, or right of way acquisition costs.

Future Wastewater Collection System Projects, 2012 to 2022

Project No.	Description	Priority (1)	Quantity	Units	Unit Cost (2)	Total Cost
1	18-inch Gravity Sanitary Sewer along Zion Road from Neal Street to Cabotway Road	1	2,600	LF	$222.00	$577,200.00
2	18-inch Gravity Sanitary Sewer along E. Hufsmith Road from existing 36-inch line to Zion Road	2	3,900	LF	$222.00	$865,800.00
3	12-inch Gravity Sanitary Sewer along F.M. 2978 from north of F.M. 2920 to Dement Road	2	1,400	LF	$142.00	$198,800.00
4	12-inch Gravity Sanitary Sewer along F.M. 2978 north of Dement Road	2	3,600	LF	$142.00	$511,200.00
5	8-inch Gravity Sanitary Sewer along Liberty Lane from Hicks	2	2,000	LF	$92.00	$184,000.00
6	18-inch Gravity Sanitary Sewer along S. Persimmon Street from Agg Road to Holderrieth Road	3	5,600	LF	$222.00	$1,243,200.00
7	12-inch Gravity Sanitary Sewer along S. Persimmon Street north of Agg Road	3	3,600	LF	$142.00	$511,200.00
8	12-inch Gravity Sanitary Sewer along S. Pitchford Road and Agg Road to S. Persimmon Street	3	4,700	LF	$142.00	$667,400.00
9	18-inch Gravity Sanitary Sewer along Calvert Road and Alice Road from F.M. 2920 to SH 249	3	8,100	LF	$222.00	$1,798,200.00
10	15-inch Gravity Sanitary Sewer along Zion Road and E. Hufsmith Road from Cabotway Road to Stanolind Rd	3	2,600	LF	$182.00	$473,200.00
11	8-inch Gravity Sanitary Sewer along Ulrich Road	3	3,500	LF	$92.00	$322,000.00
12	6-inch Force Main along Ulrich Road	3	3,600	LF	$62.00	$223,200.00
13	Lift Station at the end of Ulrich Road (Design Flow = 375 gpm)	3	1	LS	$400,000.00	$400,000.00
14	8-inch Gravity Sanitary Sewer along Agg Road east of Mulberry Street	3	1,300	LF	$92.00	$119,600.00
15	12-inch Gravity Sanitary Sewer along E. Hufsmith Road from Stanolind Road across F.M. 2978	4	1,600	LF	$142.00	$227,200.00
16	10-inch Gravity Sanitary Sewer along Quinn Road	4	4,000	LF	$112.00	$448,000.00
17	6-inch Force Main along Quinn Road	4	4,200	LF	$62.00	$260,400.00
18	Lift Station at the end of Quinn Road (Design Flow = 430 gpm)	4	1	LS	$400,000.00	$400,000.00
19	10-inch Gravity Sanitary Sewer along the Future Medical Complex Drive west of Cherry Street	4	1,800	LF	$112.00	$201,600.00
20	8-inch Gravity Sanitary Sewer along the Future Medical Complex Drive west of School Street	4	1,100	LF	$92.00	$101,200.00
21	8-inch Gravity Sanitary Sewer along the Future Michel Road extension east of Commercial Park Drive	4	1,200	LF	$92.00	$110,400.00
22	18-inch Gravity Sanitary Sewer along Park Road from FM 2920 to Brown Road	4	4,500	LF	$222.00	$999,000.00
23	15-inch Gravity Sanitary Sewer along Brown Road from Park Road to Orchard Grove Drive	4	5,200	LF	$182.00	$946,400.00
24	8-inch Force Main along Brown Road from Orchard Drive to Park Road	4	5,200	LF	$72.00	$374,400.00
25	Lift Station at Brown Road and Orchard Grove Drive (Design Flow = 1,000 gpm)	4	1	LS	$550,000.00	$550,000.00
26	8-inch Gravity Sanitary Sewer along Rudolph Road north of E. Hufsmith Road	4	1,200	LF	$92.00	$110,400.00
27	8-inch Gravity Sanitary Sewer along Rudolph Road south of Zion Road	5	2,400	LF	$92.00	$220,800.00
28	10-inch Gravity Sanitary Sewer along the Future Med Complex east of Hufsmith-Kohrville Road	5	2,200	LF	$112.00	$246,400.00
29	8-inch Tomball Cemetery Rd north of FM 2920	6	1,000	LF	$92.00	$92,000.00
30	10-inch Gravity Sanitary Sewer along Spell Road from S Persimmon to FM 2978	6	1,000	LF	$112.00	$112,000.00
	(1) Priority Rating of 1 is highest priority and 5 is lowest priority		83,100		**Construction Total**	**$13,495,200.00**
	(2) Unit Price for Gravity Sanitary Sewer Includes Manholes					



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Tomball ETJ
Tomball City Limits

Sanitary
Existing
Proposed
Waste Water Treatment Plant
Lift Station

Tomball Master Plan
Sanitary Sewer System

THE CITY OF TOMBALL, TEXAS FOUNDED 1907

CLR, Inc.
Engineers • Surveyors • GIS
19530 FM-362, Waller, Texas 77487 Phone: (713) 462-0993

7.0 Drainage System

Introduction

The City of Tomball lies predominantly within the Spring Creek (J100-00-00) and Willow Creek (M100-00-00) watersheds in northwest Harris County. Rainfall runoff within the City and ETJ may travel overland, or be collected by drainage networks, and routed to natural or manmade (engineered) local drainage channels. The collector networks are typically roadside ditches, with culverts passing stormwater flows beneath paved areas, but also include curb and gutter applications draining to buried storm sewers.

Willow Creek serves a majority of the City of Tomball (4,333 acres) and its ETJ (3,873 acres), generally south of FM 2920 and west of SH 249, while Spring Creek drains the remaining area (3,337 acres and 1,642 acres respectively), with the exception of a small area in the far southern ETJ which drains to Cypress Creek. The Federal Emergency Management Agency (FEMA) Effective Flood Insurance Rate Map (FIRM) panels reflect significant 1% 100-year floodplains for both Willow Creek and Spring Creek. The City of Tomball has also mapped the Willow Creek floodplain beyond the FIRM map continuing north of FM2920 in the report titled "Willow Creek Tributary M124-00-00 Preliminary Engineering Report for Extension Improvements" (DRAFT), Lockwood, Andrews & Newnam, Inc., September, 2013. Both creeks are natural unimproved channels, and based on a review of the 2013-2014 Harris County Flood Control District (HCFCD) Capital Improvement Program, which covers planning through 2018, HCFCD has no current plans to improve either creek.

A large portion of the land area within the City and ETJ is either undeveloped or lightly developed. Future development in the City will be regulated to prevent structural flooding during extreme rainfall events up to and exceeding the 1% 100-year storm. Floodplain and drainage regulations in Harris and Montgomery counties also provide protection from structural flooding for new development in the City's ETJ.

Floodplain Regulation

Regulation of development activity within the City of Tomball and ETJ is shared with HCFCD, and Harris and Montgomery county engineering. HCFCD is authorized by the State of Texas to regulate activity that may impact the waters of rivers and streams and their tributaries within Harris County, this includes both Spring Creek and Willow Creek. Regardless of the permitting authority, the requirements of the jurisdiction must meet the minimum standards expressed in National Flood Insurance Program (NFIP) Title 44, Code of Federal Regulations (CFR), Section 60.3.

Development within the City of Tomball is governed by Chapter 38, "Flood Damage Prevention", of the City of Tomball Code of Ordinances which was last updated in October, 2010. Chapter 38 includes all of the minimum standards mandated by the NFIP (44 CFR § 60.3) plus a number of higher standards such as requiring that the first floor elevation of new or substantially-improved buildings be elevated to at least 1.5 feet above the base flood elevation (1% 100-year BFE). Harris County also requires 1.5 feet of freeboard above the 1% 100-year BFE for the first floor of new and substantially-improved buildings, and other provisions of the regulations exceed federal minimum standards as well. The Montgomery County floodplain court order requires one foot of freeboard for development within the regulatory floodplain.

In 2011 the City contracted for development of maps that would identify high-risk flood-prone areas within Tomball that were delineated within the regulatory floodplain on FEMA FIRM panels. 1% 100-year and 0.2% 500-year flood-prone area maps were developed for all areas within the City limits and most of the ETJ that are not included in the FEMA regulatory floodplain. In May, 2013, City Council adopted these maps by resolution (2013-19) extending Chapter 38 to apply to areas delineated on these maps within the City limits. Development within the ETJ is not affected by this resolution; however, if any portion of the ETJ in Harris County or Montgomery County is annexed by the City, then Chapter 38 would govern future development in those areas.

The FEMA floodplain data for Harris County used in this report is from the Flood Insurance Study (FIS) and DFIRM effective June 18, 2007. Floodplain data for Montgomery County is from the preliminary FIS and PDFIRM dated September 20, 2008, and is not effective as of this writing.

Drainage Regulation

In August, 2012, City Council adopted Ordinance No. 2011-17 which amended Chapter 38 to include Article IV, Drainage Design. Article IV states that the local drainage regulations will be expressed in the "City of Tomball Minimum Standards for Stormwater Drainage System Design" manual (Standards). Prior to amending Chapter 38 to include Article IV., the City informally utilized the drainage criteria issued by Harris County for guiding local development. The drainage policies of Harris County ("Regulations of Harris County, Texas, for the Approval and Acceptance of Infrastructure", amended May 1, 2011) still apply to development in the Tomball ETJ that lies within that county. The drainage policies of Montgomery County apply to the ETJ within that county.

The City of Tomball Standards provide protection from structural flooding for new development by mandating that the minimum first floor elevation of a proposed structure be the highest of:

- Eighteen inches (18") above the 1% probability recurrence interval (100-year) flood event; or,
- One foot (1') above the elevation of the center of the road or nearest sanitary or storm sewer manhole, whichever is higher; or,
- One foot (1') above the calculated ponding depth (as discussed in the Standards).

The Standards also provide protection for mobility in the design and construction of roadways that may be designated for emergency evacuation and emergency services. In general, the Standards specify the use of a 50% 2-year storm event for the design of storm sewers and roadside ditch collection systems while requiring that the water surface elevation during a 1% 100-year event not threaten structural flooding. The design of open channel stormwater conveyance is provided by the "HCFCD Policy Criteria and Procedure Manual" (current edition dated December 2010).

The Standards provide the requirements for on-site stormwater detention whenever new development may result in an increase in runoff from the site. Exceptions to these requirements are noted for specific instances including the availability of regional detention volume. Where regional detention volume is available, the City may assess an impact fee based on the acreage being developed in lieu of requiring on-site detention. In addition, a developer may be responsible for the cost of conveying the increased runoff to the conveying channel and/or funding improvements to the

conveying channel in order to accommodate the proposed increased flow volume. Currently, the availability and maximum amount of stormwater detention fee that may be assessed for new development is established by City Ordinance No. 2009-12.

Design Criteria

The City of Tomball Engineering and Planning Department established Minimum Standards for Stormwater Drainage Design effective September 6, 2011.

- *A 2-year rainfall design storm event is used for sizing storm sewers in newly developed areas. Existing storm drainage is evaluated using a 2-year design storm with proposed design based on resultant hydraulic gradient. Design of roadside ditches also utilizes a minimum 2-year rainfall.*
- *Design frequency for overland flow considers extreme storm events (1% 100-year storm) from the development to the primary outlet.*
- *Design and construction standards for open channel and outfalls into channels shall conform to those in the HCFCD Criteria Manual.*
- *Stormwater detention volume for redevelopment areas is calculated on the basis of the amount of area of the redeveloped impervious cover or the detention factor for the entire site, determined by the basin the project is located in.*
- *Stormwater detention volume serving the City, but within the ETJ in Harris County, fall under HCFCD Criteria.*

Watersheds

The City and its ETJ within Harris County are primarily drained by tributary channels to either Spring Creek or Willow Creek watersheds, with the exception of a small area of the southern ETJ which drains to Cypress Creek, see **Tomball Master Plan Drainage Systems Exhibit**. The area within the City and ETJ in Harris County to the north of FM 2920 and east of SH 249 primarily drains to Spring Creek through **J131-00-00** (Boggs Gulley) or J100E (served by J132-00-00 & J133-00-00). The remaining area primarily drains to Willow Creek to the south.

The five main tributaries providing drainage for the City to Willow Creek are:

- **M116-00-00** serves an area of the eastern City and ETJ and eventually makes outfall to Willow Creek in unincorporated Harris County east of the Tomball ETJ.
- **M118-00-00** is being developed to serve an area in southeastern Tomball that was previously drained by M116-00-00.
- **M121-00-00** is being extended and improved to serve a large area in the southern portion of the City.
- **M125-00-00** serves an area adjacent to SH 249 primarily in the southwestern part of the City.
- **M124-00-00** serves a large area in the western portion of the City and ETJ and extends well north of FM 2920.

The characteristics of each of the watershed sub-basins that drain through these channels will be discussed in detail later in this chapter.

The ETJ within Montgomery County drains to Spring Creek through several intermittent streams and through the Decker Branch to Mill Creek. Drainage in the Montgomery County ETJ is not explored in detail in this IMP except in reference to sub-basin J100E

Drainage Sub-Basins

In this document, the term "watershed" is reserved for the area drained by a main channel such as Spring Creek or Willow Creek, while the term "sub-basin" is used to refer to the tributary areas that aggregate to form the larger watershed. The term "catchment" may also be used interchangeably to refer to the same drainage area as "sub-basin".

This section of the Tomball IMP provides drainage and related information for seven primary sub-basins serving the Tomball ETJ in Montgomery County including:

Spring Creek Watershed: J131 and J100E

Willow Creek Watershed: M116, M118, M121, M125, and M124

Several other sub-basins provide drainage for areas of Tomball and the ETJ, but are not discussed in detail since their role is minor, and are described as follows:

M100F2 serves an area within the City limits that lies along both sides of the southern portion of SH 249 which drains by roadside ditches to Willow Creek and an area within the ETJ south of Holderrieth Road and east of SH 249 that is largely within the regulatory floodplain and drains to the creek through overland flow.

An area of the ETJ south of Holderrieth Road and west of SH249 is situated in the M100F1 and M100E sub-basins. M123-00-00 drains a portion of M100F1, but the 1999 Willow Creek study did not disclose any recommended improvements for this channel or for the sub-basin. None of the area within these two sub-basins includes territory within the City limits.

Areas of the ETJ east of the City are located within sub-basins M112A and M112B-C. The channel serving these two basins, M112-00-00 lies within unincorporated Harris County beyond the Tomball ETJ.

The far northern portion of the ETJ in Montgomery County is located in sub-basin J403E. This area is only sparsely developed and large portion is within the FEMA preliminary 1% 100-year floodplain of the Decker Branch to Mill Creek and Mill Creek.

M116

The IMP drainage area identified as M116 comprises an area of approximately 1575 acres located in the eastern portion of the City of Tomball (466 acres) and ETJ (559 acres). M116 is bounded generally by Main Street (FM 2920) along the north and east, a drainage divide with M100G along the south, and Hufsmith-Kohrville Road (FM 2978), and the Burlington Northern and Santa Fe Railroad tracks jumping to FM 2978 to the

west (see Exhibit). M116 is formed from a portion of TSARP catchment M116A_C by removal of the IMP drainage area identified as M118 and by minor modifications to the northeastern boundary.

The M116 drainage area is served by HCFCD channel M116-00-00 which outfalls to Willow Creek beyond the ETJ. M116-00-00 is primarily located in the county and ETJ, and HCFCD has not identified project funding for improvements within the current five-year CIP.

A visual inspection of the 2012 aerial photography reveals much of the M116 service area to be undeveloped.

New development resulting in stormwater runoff impacts will require on-site detention as impact fees are not available for this area.

M118

The IMP drainage area identified as M118 consists of an area of approximately 732 acres located in the southeastern portion of the City of Tomball (679 acres) and ETJ (53 acres). M118 is bound by the Burlington Northern and Santa Fe Railroad tracks along the western perimeter, the projection of Mahaffey Rd to the north, along Hufsmith-Kohrville Road on the east, and Willow Creek to the south (see Exhibit). M118 is formed from the southwestern portion of TSARP catchment M116A_C and a northwestern portion of TSARP catchment M100G.

M118-00-00 Channel and stormwater detention improvements are currently under development in the area south of Holderrieth Road and north of Willow Creek.

A visual inspection of the 2012 aerial photography reveals much of the M118 service area to be rural and undeveloped.

Payment of a drainage impact fee in lieu of on-site detention is available for new development in M118 at a maximum rate of $6,023.90 per acre.

M121

M121 encompasses an area of approximately 1,790 acres south of the City of Tomball (1,511 acres) and ETJ (279 acres). Its boundary extends from Main Street (FM 2920) south along the Burlington Northern and Santa Fe Railroad tracks to the east, then along Willow Creek and Holderrieth Road to the south, and eventually along a varied boundary intersecting Main near Vernon Avenue (see Exhibit). For management and analysis purposes, M121 was divided into three sub-basins: M121 East (538 acres), M121 West (993 acres), and M121 Detention (259 acres), with South Cherry Street providing a boundary between M121 East and West, and Holderrieth Street separating the detention area. M121 East and West lie mainly within the City limits while the detention area is primarily within the ETJ.

M121 is formed exclusively from TSARP catchment M100F2 with a portion of that original basin along SH 249 and Willow Creek remaining as M100F2. The M121 drainage area is served by HCFCD channel M121-00-00 which outfalls to Willow Creek.

A visual inspection of the 2012 aerial photography reveals much of the M121 East service area to be rural and undeveloped and there is little development within the boundaries of the detention area. The northern-most portion of M121 West service area includes the section of Old Town south of West Main, while the area to the south of Medical Complex Drive is largely rural and undeveloped.

M121 West detention volume is in place to serve this area, however basin and channel construction are expected to be completed by the end of CY 2015. *Payment of a drainage impact fee in lieu of on-site detention is available for new development in M121 West at a maximum rate of $4,985.14 per acre.*

M121 East channel and storm water detention improvements are under development in the area south of Holderrieth Road and north of Willow Creek, however final engineering design is on hold. *Payment of a drainage impact fee in lieu of on-site detention is available for new development in M121 East at a maximum rate of $6,828.71 per acre.*

M124

M124 comprises an area of approximately 2,930 acres extending from just south of the Lone Star College – Tomball campus on the north to an outfall to Willow Creek along the southwestern boundary of the City of Tomball (1,129 acres) and ETJ (924 acres). The basin includes drainage areas to the east and west of SH 249 and the SH 249 Expressway and is bounded primarily by J131 and M125 to the east and M100E, M100J and J100E along the west and north (see Exhibit).

M124 is formed primarily from TSARP catchments M124_A and M124B_C, and also includes areas previously included in M100J and J131. The drainage area is served by HCFCD channel M124-00-00 which outfalls to Willow Creek to the west of SH 249. The basin is the largest of the Tomball area basins draining to Willow Creek and includes a substantial area in the ETJ and unincorporated Harris County.

A visual inspection of the 2012 aerial photography reveals much of M124 to be undeveloped or lightly developed with dense commercial development in the vicinity of the SH 249/West Main Street interchange and the SH 249 Expressway and FM 2920 interchange.

New development resulting in stormwater runoff impacts will require on-site detention. Currently no impact fee has been adopted by the City of Tomball for this basin. However, this report includes a calculation for consideration.

M125

M125 is composed of an area of approximately 675 acres extending south from Hicks Street with meandering boundaries to Willow Creek along the southern boundary of the City of Tomball (496 acres) and ETJ (160 acres). This basin includes drainage areas to the east and west of SH 249 and the SH 249 Expressway and is bounded primarily by M121 West and M100F2 along the east and M124 along the west (see Exhibit).

M125 is formed from portions of TSARP catchments M100F1 and M100F2. The drainage area is served by HCFCD channel M125-00-00, a manmade channel, which outfalls to Willow Creek west of SH 249.

A visual inspection of the 2012 aerial photography reveals much of the M125 service area east of the Expressway to be developed while the area to the west is lightly developed or serving as stormwater detention.

Payment of a drainage impact fee for channel improvements is currently assessed for new development in M125 at a maximum rate of $574.40 per acre.

J131

J131 encompasses an area of approximately 3,156 acres including a major portion of Old Town north of Main Street in the City of Tomball (2297acres) and ETJ (472 acres). The basin is bound by the Spring Creek floodplain in the northeast, and roughly along Hufsmith-Kohrville Road (FM 2978) to the east, Main Street (FM 2920) to the south, and shares basin boundaries with M125 and M124 to the west, and along the drainage divide with J100E to the west (see Exhibit).

J131 is primarily formed from TSARP catchment J131 (with an area of the TSARP basin to the west of Quinn Road transferred to M124). The drainage area is served by HCFCD channel J131-00-00 (Boggs Gully) which outfalls to Spring Creek west of FM 2978. HCFCD tributaries that outfall to J131-00-00 include J131-01-00 in the eastern portion of the basin; J131-03-00, manmade channel serving an older developed portion of the City east of the BNSF RR tracks; and, J131-04-00 and J231-00-00, manmade channels that provide relief to smaller, more sparsely developed areas of the central and western basin.

A visual inspection of the 2012 aerial photography reveals that J131 encompasses most of Old Town, north of FM2920, and other densely developed commercial and residential areas near the downtown area, more sparsely developed commercial and residential areas apart from the downtown area, and large areas of undeveloped property, particularly in the far north and eastern regions of the basin.

Proposed improvements for J131-00-00 (Boggs Gully) have been completed. No other drainage channel improvement projects are being pursued at this time. New development resulting in stormwater runoff impacts will require on-site detention as impact fees are not available for this area.

The "Draft Tomball Downtown Specific Plan" (DSP), August, 2011, recommends storm sewer improvements and sub-regional detention for the downtown area of J131 in order to alleviate existing flooding concerns and reduce the potential for increased flooding related to expected redevelopment. According to the DSP, the area to be served by the proposed Project 4 ("North Storm Sewer Trunk Line") and Project 5 ("Detention Pond and Outfall Structure") extends from Main Street to roughly Epps Street to the north and from around Magnolia Street to the west to Elm Street to the east. A separate proposed storm sewer trunk line improvement project (Project 3) would provide drainage relief for an area west of Magnolia Street and connect to an existing storm sewer trunk line that discharges to Boggs Gully. The estimated cost for Projects 4 and 5, which must both be completed to provide relief, is estimated to be approximately $2.2 million; while the estimated cost for Project 3 is $0.3 million.

J100E

J100E is composed of approximately 6,572 acres along Spring Creek from the northern-most point in the City of Tomball to well west of the City limits (1,040 acres) and ETJ (1,170 acres). The basin includes a major portion of the ETJ in Montgomery County extending east from SH 249.

Within the City of Tomball, the basin shares boundaries with basins J131 and M124, and includes the Lone Star College – Tomball campus (see Exhibit). The IMP boundaries of this basin are consistent with the TSARP catchment boundaries.

A visual inspection of the 2012 aerial photography shows a good deal of residential development in the Tomball portion of the J100E basin with commercial development along SH 249. Heavily vegetated areas along both banks of Spring Creek remain undeveloped and are proximate to the 1% 100-year floodplain of the channel.

HCFCD is responsible for management of Spring Creek and increased drainage outfall volumes to the channel are not permitted by the District.

Proposed improvements for J132-00-00 & J133-00-00 have been completed. No other drainage channel improvement projects are being pursued at this time. New development resulting in stormwater runoff impacts will require on-site detention as impact fees are not available for this area.

Adequacy of Existing System

Drainage System

The majority of the existing storm sewer system meets the regulatory requirements of the City of Tomball. However, several properties located within the Old Town/mixed use area have recorded NFIP flood claims. Evaluation of flood risk in these areas should be assessed to determine the extent infrastructure meets current performance standards.

Channel System (Conveyance)

The adequacy of the existing storm water drainage channel system by sub-basin is as follows:

M116, M118, & M125

The M116, M118, & M125 drainage areas do not require channel conveyance improvements for existing development.

M121

The M121 drainage area will require channel conveyance improvements for existing development.

Downtown flooding south of FM 2920 is expected to be relieved when channel M121-01 connecting to the Hardin Street drainage ditch is completed. Localized flooding, particularly in older developed areas such downtown, may be related to inadequate drainage network infrastructure, poor maintenance of infrastructure, or structures being at risk of inundation during an extreme event due to a lack of elevation above adjacent natural ground. There are several structures located in the older developed area of M121 West that have flood claims filed under the NFIP. Uninsured structures may have also flooded, but the NFIP would have no record of such occurrences.

Since basin-wide drainage studies typically do not focus on the adequacy of localized collector networks, an evaluation of such networks is advised where there is a history of flooding.

M124

The M124 drainage area will require channel conveyance improvements for existing development.

This area, which is in the ETJ, includes several structures having experienced NFIP repetitive flood losses along with many structures deemed to be at risk of flooding by HCFCD. Most of these properties are beyond the limits of the 1% 100-year regulatory floodplain.

The western extents of M124 along and south of FM 2920 is also populated with large numbers of at-risk structures and several repetitive loss properties located within the City limits, ETJ, and unincorporated Harris County.

J131

The J131 drainage area will require channel conveyance improvements for existing development.

There are over 600 structures within J131 determined to be at risk of flooding by HCFCD. Of that number, almost 500 are located within the City limits of Tomball. Within the City, these properties tend to be clustered in three areas:

- A residential neighborhood located south of East Hufsmith Road and west of Snook Lane;
- A mixed use area east of the BNSF RR tracks, south of East Hufsmith Road, north of East Main Street and west of the J131-03-00 channel, and including a cluster of structures just to the east of North Willow Street; and,
- The Old Town/mixed use area bounded by Hufsmith Road on the north, the BNSF RR tracks to the east, West Main to the south, and the J131-00-00 drainage alignment to the west, with an additional cluster located between the alignment and Quinn Road.

In addition, there are several properties located within the Old Town/mixed use area that have recorded NFIP flood claims. Information from the Infrastructure GIS database, along with the expertise of Engineering Division staff, should be utilized to assess the flood risk in these areas to determine if the infrastructure meets current performance standards.

J100E

The J100E drainage area does not require channel conveyance improvements for existing development.

Detention System

The City of Tomball currently provides offsite detention capacity for sub-basins M118, M121 & M125 suitable for future land use development.

Projected Improvements

Projected increases in development acreage is within all watershed sub-basins, however for 10-year constructability, sub-basins selected for improvements are limited to M118, M121, M124, & J131. Projected drainage system improvements identified for end of FY 2022, with acreage distributed utilizing land use and density projections include:

M118

A preliminary engineering report (PER) for construction of M118-00-00 and the associated detention facility was issued in November, 2009. The detention basin south of Holderrieth Road is partially excavated, and the channel is partially completed south of Holderrieth Road. The Tomball Economic Development Corporation (TEDC) is expected to fund a portion of channel construction which is to be completed by the end of 2014. The expected completion date for remaining channel improvements is unknown. The improvements are being constructed to provide drainage for existing and future development in this area while eliminating the need for on-site stormwater detention.

M121

A PER was published in November 2009 that recommended channel improvements allowing for full development in the M121 basin. A major portion (volume) of M500 (M121 Detention - 258.38 acres) has been excavated by private parties under contract with HCFCD who owns and administers this facility. The proposed improvements are being constructed to alleviate localized flooding and to provide drainage infrastructure for new development in this area while eliminating the need for on-site stormwater detention.

M125

The FY 2012-2015 CIP status report, dated November 2011, states that an inter-local agreement was signed by the City and HCFCD in February 2008 for M125-00-00 channel improvements between Barbara Street and Willow Creek. The detention basin serves drainage from existing development. The City of Tomball will be responsible for funding expansion of the detention pond to provide storage volume for new development. On-site detention is required for new development. The proposed channel and detention improvements to serve existing development have been achieved and drainage regulations are adequate to assure that increased runoff from future development is managed appropriately.

M124

A feasibility study for extension improvements to M124-00-00 was prepared September 2013. According to the report, the preferred plan for improvements would include a channel designed to accommodate flows from the 1% 100-year event and detention storage to "mitigate increased conveyance from the proposed channel improvements and the loss of floodplain in the overbanks of the proposed channel." The cost of the project was estimated to be $48.2 million. Planning and execution of the project would require coordination with Harris County and HCFCD. The FY 2013-2017 CIP status report states that the proposed project has been divided into two phases: M124 North (from FM 2920 to SH 249) and M124 South (from FM 2920 southward). Also, a southern drainage area to be served by a future channel to M124-00-00, flowing east to west and just south of Hirschfield Farms should be considered in future planning for improvements to the M124-00-00 channel.

Summary

Estimated channel drainage system project costs for projected growth to 2022 amounts to $46.95M. Estimated detention improvements costs for projected growth to 2022 amounts to $42.17M. Drainage Unit Cost Data used to calculate the 10-year Drainage Channel & Detention System CIP costs can be found in APPENDIX C.

Future Drainage System Projects, 2012 to 2022

HCFCD Channel No.	Total Basin Area Served (Acres)	Construction Project	Estimated Length (Ft)	Estimated Volume (Acre-Ft)	Unit Cost	Estimated Channel Improvement Costs[1]	Estimated Detention Improvement Costs[1]
J131[2]	3,156	Detention & Conveyence	3,750		N/A[4]	$2,216,433	
J132[2]	250	Channel	1,250		$ 591.05	$738,811	
J133[2]	500	Channel	2,500		$ 591.05	$1,477,622	
M116[2]	1,575	Channel	4,750		$ 591.05	$2,807,482	
M116[2]	1,575	Detention		300	$ 27,616.87		$8,285,060
M118	732	N of EDC Project	4,100		$ 591.05	$2,423,300	
M118	732	EDC Project	2,300		$ 591.05	$1,359,412	
M118	732	S of Holderrieth + Detention	1,200	226	$ 591.05	$709,259	$1,790,741
M121 East	629	Channel	3,750		$ 591.05	$2,216,433	
M121 East	629	Detention		157	$ 27,616.87		$4,335,848
M121 West	1,161	Channel	2,450		$ 591.05	$1,448,070	
M121 West	1,161	Channel	4,750		$ 591.05	$2,807,482	
M121 West	1,161	Detention		215	$ 27,616.87		$5,937,626
M124[2]	2,930	Channel	4,000		$ 591.05	$2,364,196	
M124[2,3]	2,930	Channel	10,400			$26,377,589	
M124[2,3]	2,930	Detention		642			$21,818,344
		Totals	45,200	1,540		$46,946,090	$42,167,620

(1) Limited to Proposed Facilities estimates, including engineering & contingencies when no improvements exist.
(2) The current CIP does not include channel or detention construction within the next ten years.
(3) From 2013 LAN Estimate of Probable Costs; Includes Pipeline Adjustments and Land Acquisition
(4) Projects and costs identified in the Downtown Specific Plan

N
W
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S
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1500
3000
4500
6000
Feet
J403
J100F
J100E
M112A
J131
J131-00-00
J131-01-00
J231-00-00
J131-03-00
J133-00-00
J100-00-00
J132-01-00
J132-00-00
M112-00-00
J131-04-00
M112B_C
PROP J131 DETENTION BASIN
M124 DETENTION BASIN
M116
M125
M125-00-00
M125-00-00
M124
M124-00-00
M121 WEST
M121 EAST
M118
M118 DETENTION BASIN
FUTURE M124 DETENTION BASIN
M125 DETENTION BASIN
M124 DETENTION BASIN
M100F2
M121-DETENTION
M121-00-00
M122-00-00
M100G
M120-00-00
M500 DETENTION BASIN
M500 EAST DETENTION BASIN
M100F1
M100E
M1000I
M100F3
M122-01-00
K142A
K142-07-02
K140
M100-00-00
Spring Hollow Dr
Wildwood Dr
Lost Creek Ct
Lost Creek Rd
Ulrich Rd
Helen Ln
William Juergens Dr
Zion Rd
Crescent Dr
Chris Ln
Camille Dr
Capella Cir
Alice Cir
Bearing Star Ln
Rudel Ct
Spica St
Orion Dr
Columba Ct
Dorado Cir
Altair Dr
Spring Pines Dr
Heidi Ln
Stella Ln
Antonia Ln
Alice Ln
Tomball Pkwy
Country Meadows Dr
Country Cir
Marlene Rd
Quinn Rd
Sleepy Ln
Spring Ct
Limerick Ln
Carnegwood Ln
Buckingham Ln
Turner Vine Ln
Turner Vine Dr
Hirsch
Pine Trails
Arbor Pine
Serene Trails
Keefe Dr
Brown Rd
Brown-Hufsmith
W Hufsmith Rd
Liberty Ln
Wilson Ln
Hospital Rd
Neal St
Radolph St
East Hufsmith Rd
Surrey Ct
Lovett
Alton Ct
Lucky Lp
Dement Rd
Ward
Winfrey Ln
Snook Ln
Lovett St
Lovett Ct
Carrell
Foster St
Mary
N Willow
Fm 2978
N Pecan Dr
S Pecan Dr
Baker Dr
Epps
Oxford
N Cherry
Houston St
N Walnut
M Elm
S Elm
S Crockett
Todd
E Main
Timkin Rd
Blackshear St
Inwood
Hicks St
Summit
High St
Village Square Dr
Roxanne Dr
Kahle
N Magnolia
N Pine
N Oak
W Main
Elm
Mason
Market
Fannin St
Tyler St
Malone
Clarence St
S Pine
S Oak
Florence St
E Walnut St
S Poplar
Percival
Mcphail St
Clayton St
James St
Wilcrest St
Belmont St
Southmore St
Lizzie Ln
Weirich Ln
Mahaffey Rd
Rudel Dr
Klein
Keefer
Ella Ave
Barbara
Alma St
Hoddenieth Blvd
Vernon Ave
Graham Dr
Anna St
School St
S Pitchford Rd
Sutton Ln
S Persimmon
Joseph Ct
Ashley Ct
Agg Rd
Fm 2920
Tomball Cemetery Rd
Calvert Rd
Park Dr
Medical Complex Dr
Michel Rd
Lawrence St
S Holderrieth
Johnson Rd
Commercial Park Rd
Hirschfield Rd
Mary Jane Ln
Red Fox Rd
Meadowlark Ln
Pinemeadow Ln
Green Meadow
Sh 249
High Meadow Rd
Alice Rd
Green Meadow Rd
Daria Dr
Salah
Theiss Ln
Holderrieth Rd
Humble Rd
Yonge
Legend
Outfalls
Proposed Drainage Projects
Existing Channel Centerlines
Tomball City Limits
Tomball ETJ
Tomball Catchment
Tomball Master Plan
Drainage Systems
CLR, Inc.
Engineers • Surveyors • GIS
19530 FM-362, Waller, Texas 77487 Phone: (713) 462-0993
THE CITY OF TOMBALL, TEXAS
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8.0 Traffic and Transportation

Introduction

The City of Tomball is located 28 miles northwest of downtown Houston in Harris County. The City and its ETJ are situated along three major highway corridors, SH 249, FM 2978, and FM 2920. SH 249 runs north and south on the western side of Tomball, connecting southward into Houston and northward into Montgomery County and eventually Navasota via other roadways. FM 2978 runs north-south from the FM 2920 (E. Main Street) and continues north toward Lake Conroe. FM 2920 (Waller-Tomball Road) travels east and west through the center of the City, extending westward to US 290 at Waller and eastward at IH 45 near Spring, Texas.

The roadway classifications for existing and proposed roadways in this report are based on the 2009 City of Tomball Major Thoroughfare Plan (MTP). The 2009 City of Tomball MTP was an update to the 2007 MTP, where a modified classification hierarchy system was established and clearly defined.

Regional arterials in or near Tomball's city limits and ETJ include Holderrieth Road, Brown Road, Hufsmith Road, and Hufsmith-Kohrville Road.

The roadway system is the City's primary form of transportation; however, the City, along with Houston-Galveston Area Council, has developed a bicycle and pedestrian trails network. Tomball is not in the METRO service area; although the surrounding portion of unincorporated Harris County is in the service area. The nearest bus service is approximately five miles to the south, where the #86 bus terminates at Hewlett Packard's office campus at State Highway 249 and Louetta Road.

Description of Major and Minor Existing Routes

The 2009 City of Tomball Major Thoroughfare Plan defines roadways through a hierarchy classification system of Collector, Minor Arterial, Major Arterial, and State Highway/Farm-to-Market Road. This classification system is based on right-of-way width, number of lanes, divided vs. undivided, pavement width, and median width.

Ulrich Road begins three miles north of Zion road as a two-lane minor arterial that runs north-south until Hufsmith Road, where it becomes Cherry Street.

Cherry Street begins at Hufsmith Road as Ulrich Road and continues south to Holderrieth Road, where it ends. Cherry is a two-lane minor arterial that runs north-south through the center of Tomball.

FM 2920 (Main Street) is a four-lane state highway/farm-to-market road. It begins west of Tomball near the City of Waller and becomes Main Street, which continues through downtown Tomball then east toward IH-45, where it terminates. This east-west roadway runs through the middle of the City of Tomball.

Holderrieth Road is a two-lane major arterial roadway that runs east-west on the southern edge of the City of Tomball. It begins at State Highway 249 and ends at Hufsmith-Kohrville Road.

Hufsmith Road is a southwest-northeast, undivided, two-lane major arterial roadway. It begins at Baker Drive and continues northeast to FM 2978, where Hufsmith Road ends and Hufsmith-Kueukendahl Road begins.

Brown Road is an east-west, undivided, two-lane major arterial roadway. The road begins at Lutheran Cemetery Road, which is west of Tomball, and currently ends at Baker Drive where it becomes Hufsmith Road to the east.

Hufsmith-Kohrville Road/FM 2978 is a north-south facility that spurs off of SH 249 in northern Harris County and forms the east city limit boundary of Tomball, then extends north into Montgomery County. North of Tomball city limits, FM 2978 becomes a five lane road at Stanolind Road/Bogs Road until E. Main Street, where it becomes a four lane road. Additionally, FM 2978 will be widened from 2 to 4 lanes from south of Dry Creek to Conroe-Hufsmith Rd. with construction expected to begin in 2013.

South Persimmon Street is a north-south two-lane minor arterial facility which begins at FM 2920 and continues south 1.5 miles where it terminates and becomes a gravel road.

State Highway 249, commonly referred to as Tomball Parkway, is a north-south state highway that traverses the City of Tomball. Its northernmost terminus is at the intersection of FM 1774 and FM 149 in Pinehurst. It extends approximately 27 miles south, crosses Beltway 8, and terminates in northern Houston at Interstate Highway 45. Its major intersections are FM 2920, Spring-Cypress Road, Louetta Road, and FM 1960.

Zion Road is a two-lane minor arterial that extends from SH 249 to Hufsmith Road. It is an east-west roadway that runs across the northern area of Tomball.

Description of Major Proposed Routes

Grand Parkway (State Highway 99) is a proposed 180+ mile scenic highway encircling the Greater Houston Region. At completion, it will traverse seven counties and provide easier access for suburban communities. Currently, 28.3 miles of the highway, Segment D from US 59 near Sugar Land to IH 10 near Katy (19.5 miles) and part of Segment I-2 from IH 10 to FM 1405 (8.8 miles), have been constructed as toll free roads. Segment D has been open to the public since 1994 and Segment I-2 since 2008. Segment F-1 is a proposed 12.0 mile, four-lane, controlled access toll road with intermittent frontage roads from US 290-Northwest Freeway to SH 249-Tomball Parkway with construction beginning in 2013. Segment F-2 is a proposed 12.1 mile, four-lane, controlled access toll road with intermittent frontage roads from SH 249-Tomball Parkway to IH 45-North Freeway, also beginning construction in 2013. Both segments have the potential to greatly affect Tomball, as this portion of the highway will travel east to west roughly in the vicinity of Boudreaux Road, just to the south of Tomball's ETJ. The opening of this facility, currently scheduled for 2015, will greatly affect traffic patterns in the region and serve as an additional east-west arterial.

State Highway 249 is an existing four lane roadway that runs along the western side of the City of Tomball. It is proposed to be developed into a six lane tollway from Brown Road to Harris County Line. The expansion is currently under construction and will be completed in 2015.

FM 2978/Hufsmith-Kohrville Road is an existing four-lane roadway that runs along the eastern side of the City of Tomball. This road is proposed to be widened to four lanes from South of Dry Creek to Conroe-Hufsmith Road and from FM 2920 to the future Grand Parkway (SH 99).

Medical Complex Drive is a four-lane boulevard that will serve potential commercial and industrial facilities, as well as the existing Tomball Regional Hospital. Medical Complex Drive currently extends eastward half a mile from SH 249 (Tomball Parkway). The City can benefit greatly from an additional east-west route. Currently, Main Street (FM 2920) serves as the primary route when traveling east or west through the City. This through traffic on the corridor mixes with traffic trying to access shopping and other Main Street attractions. The extension of Medical Complex Drive will allow the roadway to serve as an east-west arterial in the City of Tomball, shown in Exhibit 8-1. The proposed extension of Medical Complex Drive is a four lane roadway and extend southeast from FM 2920 at Triechel Road and connect with the existing segment of Medical Complex Drive. East of the existing roadway, it will continue southeast to join the existing Agg Road. Past Agg Road, Medical Complex Drive will continue northeast and run north of Tomball Country Club and south of the Willow Creek Estates subdivision. The road will then align with the existing Mahaffey Road and continue east to connect to FM 2920. East of the existing roadway, Medical Complex Drive is currently under design and is scheduled to be completed by April 2015, between Lawndale and South Cherry Street.

Other area roadways are in various stages of project development and can be found in Table 8-1. A map of Regional Transportation Plan (RTP) and Transportation Improvement Plan (TIP) projects can be seen in Exhibit 8-2.

Connections to Houston ETJ

Texas state law allocates ETJ based on a city's population. Tomball, with a 2010 Census population of 10,753, falls in the "5,000 to 24,999" category, and is thus entitled to a 1-mile ETJ. The ETJ will increase to 2 miles when the population reaches 25,000, and 3 ½ miles at 50,000. Tomball's actual ETJ is smaller than the allotted 1 mile in places, as it is surrounded on three sides by the ETJ of the City of Houston, who is entitled to a 5-mile ETJ, based on a population of 100,000 or more. Houston and Tomball have agreed to several ETJ exchanges to the east and west of Tomball.

Holderrieth Road, where it exits Tomball's ETJ and enters Houston's, is shown as a major thoroughfare (100 foot ROW) "to be acquired" in the City of Houston Major Thoroughfare and Freeway Plan. The connection would continue westward, parallel to FM 2920, until it merges with FM 2920 between Bauer and Backer Roads, approximately 10 miles west of Tomball. East of Tomball, Holderrieth is proposed to turn southward and connect to the existing Champions Forest Drive.

Hufsmith-Kuykendahl Road is shown as a major collector (minimum 70 foot ROW) with sufficient width from where it exits Tomball's eastern edge, to the road's current terminus at Kuykendahl Road.

Boudreaux Road, which is entirely in Houston's ETJ, is shown as a major thoroughfare. Other than the state facilities of FM 2920 and proposed Grand Parkway (SH 99), no other east-west roadways are shown in the vicinity of Tomball.

Triechel Road (extending eastward from FM 2920 near Telge Road) is shown as a major thoroughfare "to be widened". It ends at the Tomball city limits. This corridor was originally planned to connect to Tomball's Medical Complex Drive. It is located south of Medical Complex but north of Alice Road (the western extension of Theis Lane).

Hufsmith Road is a southwest-northeast, undivided, two-lane major arterial roadway that connects Tomball to the City of Houston's ETJ on the northeast side of the City. It extends out of the Tomball City limits into the City of Houston ETJ for only a quarter of a mile before the road becomes Hufsmith Kuykendahl Road.

Brown Road is an east-west, undivided, two-lane major arterial roadway which connects the City of Tomball to the City of Houston's ETJ on the west side of the City. Brown Road extends 1.5 miles outside of the Tomball City Limits and into the City of Houston ETJ before its ending point at Lutheran Cemetery Road.

Table 8-1 Other Future Roadway Projects – Tomball Vicinity

County	Sponsor	Street	From Limit	To Limit	Project Description	Fiscal Year	Project Status
Harris	Harris County	Cypress Rosehill Rd	Juergen Rd	Lake Cypress Hill Rd	4 Lane Asphalt Section W/ Bridge	2013	TIP
Montgomery	TxDOT Houston	FM 2978	S Of Dry Creek	Conroe Hufsmith Rd	Widen From 2 To 4 Lanes	2013	TIP
Harris	TxDOT Houston	SH 249	Willow Creek	1.5 mi. N Of Spring Cypress Rd	Construct 6 Lane Toll Road With Grade Separations	2015	TIP
Harris	TxDOT Houston	SH 249	Brown Rd	Willow Creek	Construct 6-Lane Toll Road With Bridges	2015	TIP
Harris	TxDOT Houston	SH 249	Montgomery C/L	Brown Rd	Reconstruct 6-Lane Toll Road With Grade Separations	2015	TIP
Montgomery	TxDOT Houston	SH 249	FM 1774/FM 149 In Pinehurst	Spring Creek/Harris C/L	Construct 6-Lane Toll Road With Grade Separations	2015	TIP
Harris	TxDOT Houston	SH 99	At SH 249		Construct 4 Direct Connectors (Toll)	2015	TIP
Multiple	TxDOT Houston	SH 99	US 290	US 59 N	Design And Construct 4-Lane Toll Road	2013	TIP
Montgomery	Montgomery County	Gosling Rd	Panther Creek Pines	Spring Creek	Widen 2 To 4 Lane; Construct 1/2 Bridge at Spring Creek	2023	RTP
Harris	Harris County	Gosling Rd	Montgomery C/L	FM 2920	Widen To 4-Lanes Undivided	2023	RTP
Harris	Harris County	Hufsmith-Kohrville Rd	FM 2920	SH 99	Widen To 4-Lane Undivided Asphalt	2023	RTP
Harris	Harris County	Louetta Rd	Steubner Airline Rd	T.C. Jester Blvd	Widen 5 Lane to 7-Lane	2023	RTP
Harris	Harris County	Louetta Rd	T. C. Jester	Kuykendahl Rd	Widen 5 Lane to 7-Lane	2023	RTP
Montgomery	Montgomery County	Nichols Sawmill Rd	S. of Butera Rd	FM 2920 In Harris Co	Construct New 2-Lane Road	2018	RTP
Harris	TxDOT Houston	SH 99	At SH 249		Construct 4 Direct Connectors (Toll)	2030	RTP
Montgomery	Montgomery County	Stagecoach Rd	Walnut Creek Rd	SH 249	Widen From 2 To 4-Lanes	2030	RTP
Harris	Harris County	Stuebner Airline Rd	Spring Cypress Rd	Louetta Rd	Widen To 6 Lane Concrete Blvd W/ S	2023	RTP

Existing and Proposed Capacity of Streets

An analysis of existing and projected roadway capacity was done for major roadways near the City of Tomball. The population growth factor which Houston-Galveston Area Council (H-GAC) used to develop the volume projections for 2017 & 2035 was much higher than that received from CLR, Inc. The volumes projections for 2017 & 2035 obtained from H-GAC were used to analyze existing roadway configuration capacity. Lane Levels of Service (LOS), found in Table 8-2, are based on the City of Houston's Major Thoroughfare and Freeway Plan 2012 Policy Statement. These Levels of Service were used to determine if existing capacity will be enough for future years. LOS A being ideal traffic conditions with free flow of vehicles, and LOS F being grid-lock of traffic and unacceptable conditions. Based on the results, by 2035 there are two segments of roadway that will be LOS F, and should therefore be widened, seen in Table 8-3.

Hufsmith-Kuykendahl Road from Stuebner-Airline Road to Kuykendahl Road exists as a two-lane roadway. By 2035, the volumes on this roadway indicate that this segment will be operating at LOS F. In order to bring the roadway LOS to LOS C, this segment of the road should be widened to four lanes.

FM 2920 (Main Street) from Telge Road to SH 249 exists as a four-lane roadway. Based on volume projections, by 2035 the roadway will be operating at LOS F. To bring the roadway LOS to an acceptable LOS D, this segment should be widened to six lanes. .

Table 8-2: Roadway Level of Service

Level of Service (LOS)	Vehicle Trips per Day
A	0-199
B	200-349
C	350-499
D	500-649
E	650-799
F	800 or more

Table 8-3: Roadway Capacity Level of Service								
Street		Segment	Classification	Existing Lanes	2035 Proposed Lanes	2017 Roadway LOS	2035 No-Build Roadway LOS	2035 Proposed Roadway LOS
1	Zion	SH 249 to Ulrich	Minor Arterial	2	2	A	B	B
2	Zion	Ulrich to Hufsmith	Minor Arterial	2	2	A	B	B
3	Hufsmith-Kuykendahl	FM 2978 to Stuebner-Airline	Major Arterial	2	2	B	D	D
4	Hufsmith-Kuykendahl	Stuebner-Airline to Kuykendahl	Major Arterial	2	4	D	F	C
5	FM 2978/ Hufsmith-Kohrville	Hufsmith-Kuykendahl to Main	State Highway	4	4	A	D	D
6	FM 2978/ Hufsmith-Kohrville	Holderrieth to SH 99	Major Arterial	2	4	A	C	C
7	Medical Complex Drive	FM 2920 to SH 249	Major Arterial	2	2	A	C	C
8	Medical Complex Drive	SH 249 to Hufsmith-Kohrville	Major Arterial	4	4	B	D	D
9	Medical Complex Drive	Hufsmith-Kohrville to FM 2920	Major Arterial	4	4	A	D	D
10	Ulrich	North of Hufsmith Rd	Minor Arterial	2	2	A	A	A
11	N. Cherry	Hufsmith to Main	Minor Arterial	2	2	A	B	B
12	S. Cherry	Main to Holderrieth	Minor Arterial	2	2	A	C	C
13	Holderrieth	Telge to SH 249	Major Arterial	2	2	A	C	C
14	Holderrieth	SH 249 to Hufsmith-Kohrville	Major Arterial	2	2	A	A	A
15	Main St (FM 2920)	Telge to SH 249	Major Arterial	4	6	E	F	D
16	Main St (FM 2920)	SH 249 to Hufsmith-Kohrville	State Highway	4	4	A	C	C
17	Main St (FM 2920)	Hufsmith-Kohrville to Stuebner-Airline	State Highway	4	4	A	A	A
18	Main St (FM 2920)	Stuebner-Airline to Hufsmith	State Highway	4	4	A	A	A
19	Hufsmith	N. Cherry to Hospital	Minor Arterial	2	2	B	C	C
20	Hufsmith	Hospital to Zion	Minor Arterial	2	2	B	C	C
21	Hufsmith	Zion to Hufsmith-Kohrville	Minor Arterial	2	2	C	D	D

Updates to the 2009 City of Tomball Major Thoroughfare Plan

Local Streets was added to the existing roadway classification hierarchy system. Local Streets is defined as an undivided, two-lane roadway with 50'-60' right-of-way serving primarily residential areas.

Medical Complex Drive will be extended along the existing Mahaffey Road. This extension will provide a complete east-west arterial that will connect to FM 2920 in the east.

Tomball Parkway was updated to be consistent with the H-GAC Transportation Improvement Project (TIP) to construct a six-lane toll road from Brown Road to Harris County Line.

Hufsmith-Kohrville Road will be extended as a four-lane roadway south of Holderrieth Road and will connect to Tomball Parkway south of Tomball.

Grand Parkway will be constructed south of Tomball as a four-lane toll road in the future, providing improved access to surrounding areas.

The Hike and Bike Trail, which connects parks, schools, and other land uses, as shown on the Tomball Parks and Recreation Exhibit.

The City of Tomball Major Thoroughfare Plan with updates can be seen in Exhibit 8-3.

N
W E
S

0 0.15 0.3 0.6 0.9 1.2
Miles

Existing
From SH 249 to S. Holderreith
Four Lane Roadway

Under Design/Construction 2014
S. Holderreith to S. Cherry
Four Lane Roadway

Proposed
West from FM 2920 to East at FM 2920
Four Lane Roadway

Legend

- Under Design/Construction
- Existing Medical Complex Drive
- Future Medical Complex Drive
- Tomball City Limits
- Tomball ETJ

Exhibit 8-1:
Tomball Infrastructure Master Plan
Medical Complex Drive

GUNDA CORPORATION
Engineers, Planners & Managers

N
W E
S

0 0.175 0.35 0.7 1.05 1.4
Miles

SH 2987
From South of Dry Creek to Conroe-Hufsmith
Widen to four lanes

SH 249
From 1.5 miles north of Spring-Cypress
to Harris County Line
Construct six lane tollway

Hufsmith-Kohrville Road
From FM 2920 to SH 99
Widen to four lanes

SH 99
From US 290 to US 59 N
Construct four lane tollway

Hufsmith-Kohrville Extension
From SH 99 to SH 249
Construct four lane roadway

Spring Hollow Dr
Helen Ln
Julia St
Lost Creek Rd
Ulrich Rd
William Juergens Dr
Crescent Dr
Country Meadows Dr
Martens Rd
Zion Rd
Capella Cir
Castor Ct
Alice Cir
Spica St
Camille Dr
Orion Dr
Altair Dr
Stella Ln
Antonia Ln
Alice Ln
Heidi Ln
Quinn Rd
Sleepy Ln
Limerick Ln
Carnes wood Ln
Wickford
Buckingham Ln
Hirsch
Pine Trails
Lee Ann
Arbor Pine
Rudolph St
Neal St
East Hufsmith Rd
Hospital Rd
Lovett Cir
Afton Ct
Snook Ln
Lovett St
Fm 2978
Lucky Ln
Dement Rd
Ward
Winfrey Ln
Carrell
Welty
N Willow
Foster St
Moore St
Texas St
Keen Dr
Brown Rd
Brown-Hufsmith
W Hufsmith Rd
Liberty Ln
Baker Dr
Hickory
Epps
Oxford
N Cherry
N Walnut
N Elm
N Peach
N Pine
N Oak
Kane
Mason
Market
Elm
S Chestnut
Todd
Timkin Rd
Blackshear St
E Main
Inwood
Roxanne Dr
Hicks St
High St
Holderrieth Blvd
S Tyler St
S Elm
S Pine
S Oak
S Magnolia
S Poplar
Mcphail St
Rye St
James St
Belmont St
Southmore St
Lizzie Ln
Weirich Ln
Mahaffey Rd
Rudel Dr
Klein
Keefer
W Main
Barbara
Alma St
Anna St
Graham Dr
Park Dr
Fm 2920
Lawrence St
School St
S Pritchford Rd
S Persimmon
Ashley Ct
Joseph Ct
Medical Complex Dr
Michel Rd
S Holderrieth
Johnson Rd
Hirschfield Rd
Mary Jane Ln
Red Fox Rd
Dana Dr
Alice Rd
Theiss Ln
Sarah
Tomball Pkwy
Humble Rd
Holderrieth Rd
Yonge
Tomball Cemetery Rd
Treichel Rd
Calvert Rd
SH 249

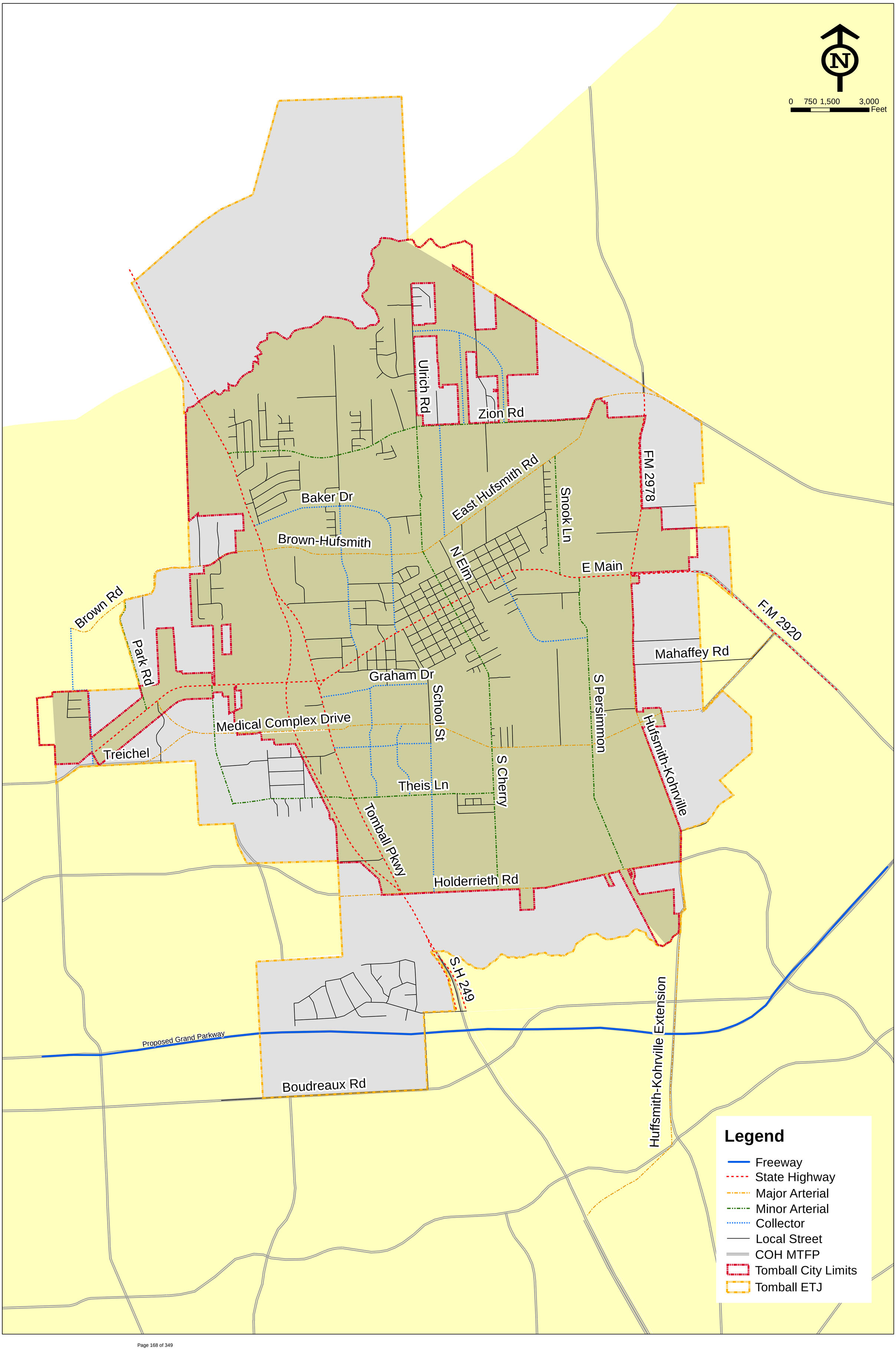
Legend

- Roadway Extension
- RTP
- TIP
- City Limits

Exhibit 8-2:
Tomball Infrastructure Master Plan
Transportation Improvement Program (TIP)
and Regional Transportation Plan (RTP) Future Projects

GUNDA CORPORATION
Engineers, Planners & Managers

City of Tomball Major Thoroughfare Plan



9.0 Parks, Trails, & Sidewalks

In 1995, the City developed its first park master plan, which included a list of existing parks and a plan for acquiring and developing new park land. Currently, the City owns approximately 43.5 acres of developed park land. There are also three Harris County park facilities either within the City or nearby that are available for Tomball residents. There are no regulations for park space, but the National Recreation and Park Association (NRPA) prior to 1997 did promote the goal of 10 acres of local park land per 1,000 residents, an attainable goal for the City of Tomball. The NRPA subsequently encouraged guidelines using need analysis to determine a recommended level of service for park elements.

Existing Parks

As seen in the **Parks and Recreation Exhibit**, there are six developed parks within the City's ETJ including one Harris County park. There are also two Harris County parks within 4 miles of the City. All of these parks are in good condition.

Parks within the City

Juergens Park is a 10 acre facility located at 1331 Ulrich Road. The park includes a large, lighted pavilion with covered picnic tables, a basketball court, sand volleyball court, barbeque and picnic facilities, restrooms, water fountains, 3 playgrounds, a lighted ½ mile asphalt walking trail, and a parking area. Overall, the park is in good condition, but vandalism has been a recurring problem.

Jerry Mattheson Park is a 9.8 acre facility located across from Juergens Park at 1240 Ulrich Road. The park includes four fenced & lighted tennis courts, a peewee baseball field, a large playground, a municipal swimming pool with a shower and restroom facilities, and a parking area. The park is in excellent condition.

Martin Luther King, Jr. Park is a 0.7 acre facility located at Timkin Road and South Chesnut Street. This park includes a restrooms, a covered and lighted basketball court, a playground, and two picnic tables with barbeque grills. The park is in excellent condition.

The Wayne Stovall Memorial Sports Complex is located on a 19 acre tract on the corner of West Hufsmith Road and North Cherry Street. The facility is owned by the City and leased to the Tomball Sports Association for operations and maintenance. The site includes eight baseball fields, two concession stands, a League office, a small playground, and large parking areas.

The Theis Attaway Nature Center is a 4 acre nature preserve located at 13509 Theis Lane between SH 249 and Commercial Park Drive. The park includes a nature pond with a pier, a grassy amphitheater, a bird/wildlife observation blind, 6-ft wide ¼ mile asphalt walking trail, benches, tables, restrooms, and a parking area.

Parks within the ETJ

Samuel Matthews Park is a 6 acre Harris County Precinct 4 facility located within the City's ETJ at 1728 Hufsmith Road near Stanolind Road. The park includes a covered and lighted basketball court, one open basketball court, one volleyball court, a playground, a lighted baseball field, picnic tables, restrooms, a 1/3 mile walking tail, a community building, restrooms, and parking area. The park is in very good condition.

Additional Harris County Parks outside the ETJ

The Harris County Park System consists of four precincts including 22,500 acres of park facilities available for Tomball residents. Examples of these local park lands are Spring Creek Park and Roy Campbell Burroughs Park.

Spring Creek Park is a 114 acre facility located west of the City at 15012 Brown Road just outside the ETJ. The park includes RV/camper hookups, tent camping sites, a pavilion with picnic tables, a separate small barbeque pavilion, volleyball court, covered basketball court, two lighted tennis courts, baseball backstop, restroom facilities, camping/picnic areas, multiple playgrounds, and nature trails.

Roy Campbell Burroughs Park is a 320 acre facility located northeast of the City at 9738 Hufsmith Road about 3 miles from the ETJ. The park includes nine soccer fields, four baseball fields, two volleyball courts, 3 restroom facilities, over 8 miles of nature trails, dog park, a small fishing lake, picnic tables, multiple playground areas, and a large barbeque pavilion.

Existing Park Lands to be Developed

The City currently owns four additional sites totaling 64.9 acres which may be used for park land.

Martin Park is a 3 acre wooded site located on East Hufsmith Road at Peach Street. The site is located next to an assisted living facility that has an agreement with a regional non-profit group to develop a 1 acre park on the site in exchange for the use of the remainder of the property. The park development may include walking trails, benches, picnic tables, playground equipment, and native plantings and landscaping.

Tomball City Park is a 9.9 acre wooded site west of Rudolph Road. HCFCD Unit #J131-00-00 divides the tract into two sections, and the 5 acre Cortez Tract separates Tomball City Park from Jerry Mattheson Park. The City's 1995 park plan suggested the park include two large covered pavilions, picnic facilities, one softball field, restrooms, parking area, and walking trails with a wooden foot bridge crossing the drainage channel.

The City landfill is a 19 acre site between Neal Street and Rudolph Street that can be made available for possible park development. Harris County Flood District and the City jointly own a 75 acre site south of Holderrieth Road at Cherry Street for a storm water detention pond. When the construction of the pond is completed, the site will have approximately 35 acres available for possible park development.

Possibilities of development for both tracts include splash pads, skateboard, skating, or rollerblade facilities, baseball fields, soccer fields, walking trails, restrooms, picnic areas, playgrounds, and parking areas.

Proposed Parks

The Cortez Tract is a 5 acre site located on Ulrich Road between Jerry Mattheson Park and the future Tomball City Park. The acquisition of this tract will connect the two parks and complete the master park plan for Jerry Mattheson Park.

Tomball Outlots are small parcels between Ulrich Road, East Hufsmith Road, and the railroad without any road frontage. The City owns most of the parcels and is currently negotiating to acquire the rest of the parcels in order to designate the land for public use.

Pedestrian Sidewalks

The 1995 Park Plan proposed an interconnected system of pedestrian sidewalks that would connect existing parks as well as neighborhoods, schools, the community college, medical center, and other parts of the City. Existing pedestrian trails and sidewalks can also be seen in the **Parks and Recreation Exhibit**. The pedestrian trails are planned to be constructed in open areas and drainage easements where possible, and they will utilize approximately 1 mile of existing sidewalks along Baker Drive and Quinn Road. When complete, the project will consist of approximately 9.4 miles of trails throughout the City.

Bicycle Trails

Houston-Galveston Area Council (H-GAC), the Metropolitan Planning Organization (MPO) for Tomball, has developed a bicycle trails plan which identifies share use paths/trails for bicyclist to take that will connect residential, retail, and recreational areas of the City. The plan, which is incorporated in the **Parks and Recreation Exhibit**, is currently in the proposal stage. The sponsors for the bicycle trail plan are Harris County, TxDOT, and The Woodlands Development Corporation.

Summary

The City of Tomball currently maintains about 43.5 acres of park space available to residents within the City limits. This relates to approximately 3.91 acres per 1,000 residents based on the 2012 estimated population of 11,121 residents. Including the existing Harris County park system of approximately 22,500 acres of park space available to 4,092,459 residents within the county, approximately 5.50 acres per 1,000 residents, local public park land is at 9.41 acres per 1,000 residents.

For the 2022 population projection of 13,156, existing park space will proportion to approximately 3.31 acres per 1,000 residents, bringing local public park land to about 8.81 acres per 1,000 residents. Approximately 15.7 acres of City of Tomball park development will be necessary to meet 10 acres per 1,000 residents by the end of 2022. If the City of Tomball continues to acquire and develop the parks discussed previously, a goal of 10 acres of local park land per 1,000 residents is attainable.

N
W
E
S

0 1500 3000 4500 6000

Feet

HARRIS COUNTY PCT 4
BURROUGHS PARK

HARRIS COUNTY PCT 4
SAMUEL MATTHEWS PARK

JUERGENS PARK

JERRY MATTHESON PARK

FUTURE PARK

MARTIN PARK (FUTURE)

STOVALL
MEMORIAL
COMPLEX

HARRIS COUNTY PCT 4
SPRING CREEK PARK

THEISS ATTAWAY
NATURE CENTER

FUTURE
HARRIS COUNTY
FLOOD CONTROL
PARK

SPRING CREEK

Spring Hollow Dr
Helen Ln
Lost Creek Rd
Hillcrest Dr
Crescent Dr
William Juergens Dr
Richards Rd
County Aberdeen Dr
Tomball Pkwy
Capella Cir
Castor Cir
Alice Cir
Royal Ct
Sprica St
Dorado Ct
Chris Ln
Camille Dr
Stella Ln
Antonia Ln
Alice Ln
Orion Dr
Altair Dr
Spring Pines Dr
Heidi Ln
Limerick Ln
Carneswood Ln
Buckingham Ln
Wickford
Turner Vine Dr
Turner Vine Ln
Hirsch
Baker Dr
Pine Trails
Arbor Pointe
Serene Trails
Lee Ann
Keen Dr
Brown Rd
Brown-Hufsmith
Liberty Ln
Imperial Creek Dr
Orchard Grove Dr
Inwood
Hicks St
High St
Rosanne Dr
Village Square Dr
Rudel Dr
Klein
Keefer
Ella Ave
Raymond Ave
Barbara
Anna St
Vernon Ave
Graham Dr
Park Dr
Lawrence St
Medical Complex Dr
Michel Rd
Hirschfield Rd
Mary Jane Ln
Meadowlark Ln
Red Fox Rd
Briar Meadow
Alice Rd
Dana Dr
Sarah Rd
SH 249
Humble Rd
Holderrieth Rd
Tomball Cemetery Rd
Fm 2920
Medders Rd
Calvert Rd
Johnson Rd
S Holderrieth Rd
Schoolcraft
Ashley Dr
Joseph Ct
Agg Rd
Sutton Ln
S Pitchford Rd
S Persimmon
Yonge
Zion Rd
Neal St
East Hufsmith Rd
Lovett
Afton Ct
Snook Ln
Lucky Lp
Clement Rd
Ward
Winfrey Ln
N Elm
Carter
Foster St
N Moore St
N Live Oak
N Pine St
N Peach
N Cherry
R Williams
E Main
Epps
Oxford
Kane
Live Oak
S Oak
S Peach
S Cherry
Elm
Market
E Main St
Tyler St
S Elm
W Main
Main
S Pine
S Oak
Florence St
Mcphail St
Rye St
Poplar
Percival
Clayton
Willowick St
Bellefont St
Southmore St
Timkin Rd
Todd
Blackshear St
Lizzie Ln
Weirich Ln
Mahaffey Rd
Toll Rd 99
Lowe Rd
Winfrey Rd

Parks
College or University; School
Cultural Facility; Social/Fraternal Hall
Hospitals
Religious
Detention Pond

Trails
Bikeways
HCFCD Channels
Tomball City Limits
Tomball ETJ

Sidewalk
Existing
Proposed

Tomball
Parks and Recreation

CLR, Inc.

Engineers • Surveyors • GIS

19530 FM-362, Waller, Texas 77484 Phone: (713) 462-0993

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10.0 Natural Gas Distribution

The City of Tomball is the retail natural gas provider within the corporate boundaries of the City. Currently the City maintains and operates approximately 55.8 miles of distribution line ranging in size from 2 to 6 inch diameter. The system is currently supplied through two separate contracts with private wholesale providers.

Historically the City natural gas infrastructure system has not been included in this report. However, a decision was made to include basic information for the system in this report to help consolidate all City maintained and operated infrastructure systems. Typically the City will assess natural gas needs for an area and construct necessary improvements with and parallel to City water lines.

The City is currently in the process of evaluating the system to identify deficiencies such as under sized lines and/or in need of line looping. The **Tomball Master Plan Gas Distribution System** exhibit included in this report represents the existing lines in the system.

N
W
E
S
0 1500 3000 4500 6000
Feet

Legend

Tomball City Limits

Tomball ETJ

<all other values>

Gas

Existing

Proposed

Tomball Master Plan
Gas Distribution System

THE CITY OF TOMBALL, TEXAS
FOUNDED 1907

CLR, Inc.
Engineers • Surveyors • GIS
19530 FM-362, Waller, Texas 77487 Phone: (713) 462-0993

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11.0 Capital Improvement Plan & Maximum Capital Recovery Fee Determination

Capital Improvement Plan (CIP)

This section contains a discussion of the technical basis used in the calculation of Tomball's maximum impact fees as set forth in Local Government Code, Title 12, Planning and Development, Chapter 395, et seq, Financing Capital Improvements Required by New Development in Municipalities, Counties, and Certain Other Local Governments (Included in Appendix A for reference). Tomball Code, Part II, Chapter 82, Utilities, Article IV, Water and Wastewater Capital Recovery Fees, adopted by Ordinance No. 90-01 and amended by Ordinance 93-11, 96-20, 99-21, 2003-02, and 2009-12 implements Local Government Code §395.

In accordance with Chapter 395, a Capital Improvement Plan must be developed by qualified professional and contain the following:

1. A description of the existing capital improvements within the service area and the costs to upgrade, update, improve, expand, or replace the improvements to meet existing needs and usage and stricter safety, efficiency, environmental, or regulatory standards.
2. An analysis of the total capacity, the level of current usage, and commitments for usage of capacity of the existing capital improvements.
3. A description of all or the parts of the capital improvements or facility expansions and their costs necessitated by and attributable to new development in the service area based on the approved land use assumptions.
4. A definitive table establishing the specific level or quantity of use, consumption, generation, or discharge of a service unit for each category of capital improvements or facility expansions and an equivalency or conversion table establishing the ratio of a service unit to various types of land uses, including residential, commercial, and industrial.
5. The total number of projected service units necessitated by and attributable to new development within the service area based on the approved land use assumptions and calculated in accordance with generally accepted engineering or planning criteria.
6. The projected demand for capital improvements or facility expansions required by new service units projected over a reasonable period of time, not to exceed 10 years.
7. A plan for awarding:
    A. A credit for the portion of ad valorem tax and utility service revenues generated by new service units during the program period that is used for the payment of improvements, including the payment of debt, that are included in the capital improvements plan; or
    B. In the alternative, a credit equal to 50 percent of the total projected cost of implementing the capital improvements plan.

Chapter 395 stipulates updates to the CIP are to be completed within 5 years of the previous impact fee adoption. This document represents an update to the 2007 CIP, which impact fee was adopted May 18, 2009. The Impact Fee CIP process calculates the maximum allowable fees, also in conformance to Chapter 395.

Existing Capital Improvements

Existing capital improvements were identified earlier in this report. Costs to upgrade to regulatory standards are summarized below.

- Water - Existing Water Treatment Plants and Water Distribution facilities meet or exceed TCEQ minimum requirements; no upgrade costs associated with existing needs.
- Wastewater - Existing Wastewater Treatment Plants, Lift Stations, and Sanitary Sewer Collection facilities meet or exceed TCEQ minimum requirements; no upgrade costs associated with existing needs.
- Drainage – Several properties located within the Old Town/mixed use area have recorded NFIP flood claims. Evaluation of flood risk in these areas should be assessed to determine the extent infrastructure meets current performance standards. All existing City and ETJ drainage channel 1% 100-yr design flows are in bank per HCFCD requirements. Existing stormwater detention facilities exceed regulatory requirements of the City of Tomball and HCFCD. No costs within this CIP are associated to upgrading existing facilities.

Existing Capacity & Usage

An analysis of the total capacities, the levels of current usage, and commitments for usage of the capacities of the existing capital improvements have been identified in the Infrastructure Master Plan earlier sections. These values are summarized in the tables below:

Water Supply & Distribution

2012 Existing Water Production was compared to TCEQ Minimum Capacity Requirements as follows:

	Existing Capacity	**Required Capacity**	**Level of Usage**
Wells	5,293 gpm	3,992 gpm	75.4%
Firm Booster Pump Capacity	8,800 gpm	4,656 gpm	52.9%
Total Storage	2,350,000 gal	1,330,800 gal	56.6%
Elevated Storage	1,250,000 gal	665,400 gal	53.2%
Nominal Operating Pressure	55 psi	35 psi	Sufficient

Note: Pressure range is from 50 to 60 psi within the City of Tomball.

Analysis of City of Tomball 2012 data for existing Water System conditions yielded 6,654 connections at 2.26 MGD ADD.

Wastewater Collection & Treatment

2012 Existing Wastewater Collection was compared to actual capacity as follows:

North Wastewater Treatment Plant		South Wastewater Treatment Plant	
Annual Flow (MG)	203.3	Annual Flow (MG)	346.8
Average Daily Flow (MGD)	**0.557**	Average Daily Flow (MGD)	**0.950**
Plant Capacity (MGD)	1.500	Plant Capacity (MGD)	1.500
% of Total Plant Capacity Usage	37.1%	% of Total Plant Capacity Usage	63.3%

Analysis of City of Tomball 2012 data for existing Wastewater System conditions yielded 6,654 connections at 1.507 MGD ADF.

Drainage & Detention

Existing Land Use estimated for 2012, distributed by characteristic category, includes 1,578.5 acres in developed residential land, 1,200.8 acres in developed commercial land and 3.5 acres of Industrial land use. Existing City of Tomball storm sewer system capacities and levels of current usage are undetermined. Evaluation of flood risk areas is required for shortfall capacity requirements, and undeveloped or partially developed areas cannot be assessed to determine the extent that infrastructure does meet current performance standards.

Existing stormwater drainage channels 100yr design conveyance capacities are not sufficient for existing development.

Existing stormwater detention facilities are not sufficient and/or do not exist for existing development.

Land Use Assumptions

In accordance with State code Sec. 395.052. Periodic Update of Land Use Assumptions and Capital Improvements Plan Required

(a) A political subdivision imposing an impact fee shall update the land use assumptions and capital improvements plan at least every five years.

(b) The political subdivision shall review and evaluate its current land use assumptions and shall cause an update of the capital improvements plan to be prepared in accordance with Subchapter B.

Further, according to Sec. 395.042, to impose an impact fee, a political subdivision must adopt an order, ordinance, or resolution establishing a public hearing date to consider the land use assumptions and capital improvements plan for the designated service area.

"Land use assumptions" includes a description of the service area and projections of changes in land uses, densities, intensities, and population in the service area over at least a 10-year period.

Description of Service Area

The current corporate boundaries of the City of Tomball encompass approximately 12 square miles (7,670 acres) in area with an additional 8.6 square miles (5,515 acres) included in Tomball's ETJ. In accordance with State code, service area definitions for the infrastructure master plan have been divided into three categories as follows:

1. Potable water and wastewater facilities – service area is defined as the area within the current corporate boundaries and the extraterritorial jurisdiction (ETJ) of the City of Tomball.
2. Roadway facilities – service area is defined as the area within the current corporate boundaries of the City of Tomball not to exceed six miles.
3. Drainage facilities – for storm water, drainage, and flood control facilities the service area is defined as the area within the current corporate boundaries and the ETJ of the City of Tomball. Individual drainage service areas for seven basins with the current corporate boundaries and the extraterritorial jurisdiction have been defined earlier in this report and include Basins M116, M118, M121, M124, M125, J131, & J100E (which includes J132 & J133). These areas represent the areas actually served by their respective improvements.

10-year Service Area Land Use Projections

Land use and population projections were prepared earlier in this report as part of the Infrastructure Master Plan and are summarized below.

- Land Use changes projected for 2022, distributed by characteristic categories, include an increase in developed residential land use calculated to be 440 acres, in developed commercial land use of 227 acres.
- The Population Density within the current corporate boundaries of the City of Tomball is expected to increase from 1.45 capita per acre to 1.72 capita per acre for 2022. The Population Density within the current ETJ boundaries is expected to increase from 0.59 capita per acre to 0.70 capita per acre for 2022.
- Intensities of land use projections from 2012 to 2022 are an effective percentage increase in developed residential land use of 27.9% and in developed commercial land use of 18.9%.
- The 2012 estimated population of the City of Tomball is 11,121, plus an additional 3,241 in the extra-territorial jurisdiction (ETJ), for a total estimated population of 14,362. The 2022 population forecast for the City of Tomball is 13,156, plus an additional 3,834 in the extra-territorial jurisdiction (ETJ), for a total estimated population of 16,990. Population from 2012 to 2022 is projected to increase 18.3%, at an annualized growth rate of approximately 1.7%.

Capital Improvements Due to New Development

Capital improvements including facility expansions, necessitated and attributable to new development, were identified earlier in this report and are summarized below. The improvements identified conform to the approved land use assumptions described earlier in this report.

Water Supply & Distribution

Based on the projected water demands of the study period, the City of Tomball will be required by TCEQ criteria to increase its well production by 216 gpm. For practical water well construction to also serve water demands beyond 2022, CLR recommends Standard Water Plant sizing to include a 1,000 gpm Well, a 400,000 gal GST, 3 - 600 gpm total booster pumps, a maintenance building and emergency generator. With contingencies, engineering, and surveying, the total Water Plant cost estimate amounts to $3.83M.

Projected water distribution system improvements were identified earlier in this report for end of FY 2022 with loads distributed utilizing land use and density projections. The 20.8 mile total of additions represents a 21% increase in the water distribution network. Estimated future Water Distribution costs in 2013 dollars, amounts to $13.22M.

Wastewater Collection & Treatment

The City of Tomball is not expected to be required by new development to design a wastewater treatment plant expansion. However, TCEQ regulations are expected to cause the design, and possibly the construction, of an expansion at the South Wastewater Treatment Plant. With contingencies, engineering and surveying, the total Wastewater Treatment Plant expansion cost estimate amounts to $4.2M.

Projected development may overload existing lift stations. Individual lift station demand vs capacity will have to be monitored to determine time of needed pump or wet well upgrades. Three new lift stations are included in the CIP collection line estimate.

To meet projected needs, the City will require additional sanitary sewer collection lines to serve developing areas for end of FY 2022, with loads distributed utilizing land use and density projections. The 15.7 mile of additional lines represents a 19.7% increase in the wastewater collection network. Estimated future wastewater collection system costs in 2013 dollars, amounts to $13.5M.

Drainage & Detention

Using the 2022 assumptions of the Capital Improvement Plan, specifically projected land use and density projections, increased demand was projected within four (4) impact fee basins (out of seven total basins). Projected drainage system improvements were identified earlier in this report. Based on the 2022 projected demand, an increased length of 6.24 miles of drainage channel will be required for conveyance, amounting to an estimated cost of $39.71M. Based on the same projected demand, estimated detention improvements amount to $33.88M.

Total Costs of Capital Improvements and facility expansions necessitated and attributable to new development, are adjusted by calculated credits, then divided by projected service units, to calculate the impact fee per service unit.

Service Units and Conversion Table

State code requires establishment of a standard unit of measure for consumption, use, generation, or discharge attributable to an individual unit of development.

For utilities, the City of Tomball, Article IV, Sections 82-134 establishes living unit equivalents (LUE) as a basis for establishing equivalency for the various customer classifications relative to water and wastewater demands. Each single family home is served by a ¾-inch meter and this classification is considered one LUE. The following table shows LUE equivalences for various meter sizes and types. Conversion table applies equally to all land uses, with City ordinance provisions for exceptions based on professional engineering reports and/or staff recommendations.

LUE Equivalencies for Various Types and Sizes of Water Meters

Meter Type	Meter Size	Continuous Duty Maximum Rate (gpm)	Living Unit Equivalent (LUE)
Simple	3/4"	15	1.0
Simple	1"	25	2.5
Simple	1-1/2"	50	5.0
Compound	2"	80	8.0
Turbine	2"	100	10.0
Compound	3"	160	16.0
Turbine	3"	240	24.0
Compound	4"	250	25.0
Turbine	4"	420	42.0
Compound	6"	500	50.0
Turbine	6"	920	92.0
Compound	8"	800	80.0
Turbine	8"	1600	160.0
Compound	10"	1150	115.0
Turbine	10"	2500	250.0
Turbine	12"	3300	330.0

LUE is determined on the basis of the American Water Works Association (AWWA) standards C700-09, C701-12, and C702-10 recommended maximum rate for continuous duty flow of the meter, purchased at the sale of tap based on the Uniform Plumbing Code meter size and type.

LUE has also been used as the "service unit" for calculation of applicable potable water and wastewater fees presented in this report.

For Fiscal Years 2008 to 2012 the historical average daily demand per LUE required 335.9 gpd of water production. This report uses 370 gpd/LUE for annual variations in demand.

For Calendar Years 2008 to 2012 the historical maximum average annual daily flow per LUE was 227.0 gpd of wastewater treatment. This report recognizes that wastewater facilities are normally design at 300 gpd/LUE.

Calculation of impact fees associated with drainage improvements are based on actual acreage served by each basin as the "service unit".

Projected Service Units

Projected service unit increases for Water Production, Wastewater Collection, and Drainage & Detention were calculated earlier in this report. Water Production and Wastewater Collection are both projected for 7,874 connections by end of FY 2022, an increase of 1,195 in service units. Additional drainage areas projected for end of FY 2022 include 440 acres of residential land and 227 acres of commercial land, for a total 667 acres of projected development within the City Limits.

Projected Demands to Satisfy New Development

Projected service demands for Water Production, Wastewater Collection, and Drainage & Detention were calculated earlier in this report.

Water Production Average Daily Demand (ADD) is projected at 2,913,380 gpd for 7,874 connections for end of FY 2022.

Wastewater Collection Average Daily Flow (ADF) is projected at 2.362 MGD for 7,874 connections for end of FY 2022.

Future facilities will satisfy the drainage and detention storage requirements of the 2022 projected 667 acres of new development within the four basins.

Plan for Awarding Capital Improvement Plan Credits

As allowed by Chapter 395, City of Tomball Infrastructure Master Plan & Capital Recovery Fee Determination for 2012 to 2022 Credits will be calculated as a credit equal to 50 percent of the total projected cost of implementing the capital improvements plan. Credit calculation is included under Maximum Capital Recovery Fee Determination.

Maximum Capital Recovery Fee Determination

The City of Tomball may enact or impose impact fees on land within the service area defined previously and by complying with other requirements defined in Texas Local Government Code Chapter 395. Items payable by fee for constructing capital improvements or facility expansions, established in the capital improvement plan only, include and are limited to:

1. Construction contract price
2. Surveying and engineering fees
3. Land acquisition costs, including land purchases, court awards and costs, attorney's fees, and expert witness fees
4. Fees actually paid or contracted to be paid to an independent qualified engineer or financial consultant preparing or updating the capital improvements plan who is not an employee of the political subdivision.

Other eligible costs provided by Chapter 395.012 include Cost of Indebtedness:

"Projected interest charges and other finance costs may be included in determining the amount of impact fees only if the impact fees are used for the payment of principal and interest on bonds, notes, or other obligations issued by or on behalf of the political subdivision to finance the capital improvements or facility expansions identified in the capital improvements plan and are not used to reimburse bond funds expended for facilities that are not identified in the capital improvements plan."

Applicable Capital Improvement Plan Costs

1. Capital Improvements Construction Costs for projected development was calculated per LUE for water and wastewater, and per acre for drainage. Existing costs include the City's currently outstanding bonds for Capital Improvement Plan (CIP) projects (See APPENDIX D).

Facility	Service Unit	CIP costs
Water Production	LUE	$ 4,394.20
Wastewater Collection	LUE	$ 3,074.64
Drainage System (by sub-basin)		
M118	Per Acre	$ 7,622.23
M121East	Per Acre	$ 10,440.45
M121West	Per Acre	$ 8,858.92
M124	Per Acre	$ 17,264.24
M125	Per Acre	$ 873.76

2. Surveying and engineering fees are included in the above estimates.
3. Land acquisition costs, including land purchases, court awards and costs, attorney's fees, and expert witness fees are not included in this report.
4. Total consultant fees actually paid for updating the capital improvements plan - $151,000. Fees were allocated equally to the three cost calculations (i.e., water, wastewater, and drainage) included above.

Cost of Indebtedness

Per Chapter 395.012 Impact fees of this CIP are to be used for the payment of principal and interest on bonds, notes, or other obligations issued by or on behalf of the City of Tomball to finance the capital improvements or facility expansions identified in this capital improvements plan. No bond funds will be expended for facilities that are not identified in this capital improvements plan. Projected Cost of Implementing the CIP, including indebtedness, thus may be included in determining the amount of impact fees.

Interest charges and other finance costs were estimated and added to the Capital Improvement Plan Costs as shown in APPENDIX D.

Credits

Capital Improvement Plan Credits were calculated as follows:

A credit equal to 50 percent of the total projected cost of implementing the capital improvements plan was calculated and subtracted from the total costs.

See APPENDIX D Capital Improvement Plan Debt Service Credit and Maximum Impact Fees for calculation.

Maximum Impact Fees

The impact fee per service unit may not exceed the amount determined by subtracting the amount in Capital Improvement Plan Credits *Section 395.014(a)(7)* from the costs of the capital improvements described by Capital Improvements Due to New Development *Section 395.014(a)(3)* and dividing that amount by the total number of projected service units described by Projected Service Units *Section 395.014(a)(5).*

The maximum impact fee per service unit shall be calculated by dividing the costs of the part of the capital improvements necessitated by and attributable to projected new service units described by Section 395.014(a)(6) by the projected new service units described in that section.

The Maximum Impact Fees were calculated per LUE for water and wastewater, and per acre for drainage as follows (See APPENDIX D Capital Improvement Plan Debt Service Credit and Maximum Impact Fees for calculation):

Facility	Service Unit	Effective Date	Current Fee	Maximum Fee Per 2007 Report	Maximum Fee Calculated By This Report
Water Production	LUE	06/01/2012	$ 1,329.12	$ 2,000.54	$ 3,319.37
Wastewater Collection	LUE	06/01/2012	$ 1,653.23	$ 4,523.54	$ 2,322.57
Drainage System (by sub-basin)					
M118	Per Acre	06/01/2009	$ 6,023.00	$ 6,023.90	$ 5,757.81
M121E	Per Acre	06/01/2009	$ 6,828.71	$ 6,828.71	$ 7,886.69
M121W	Per Acre	06/01/2009	$ 4,985.14	$ 4,985.14	$ 6,692.00
M124	Per Acre	-	$ -	N/A	$13,041.36
M125	Per Acre	06/01/2009	$ 574.40	$ 574.40	$ 436.88

Maximum Impact Fee for Various Types and Sizes of Water Meters is also included in APPENDIX D.

Disposition of Previous Impact Fees

Fees previously collected under the City of Tomball impact fee program as of October 30, 2013 are listed in APPENDIX D.

APPENDIX A

TEXAS LOCAL GOVERNMENT CODE CHAPTER 395

The following requirements, extracted from the Texas Local Government Code Chapter 395, were utilized for preparation of this report.

TITLE 12. PLANNING AND DEVELOPMENT

SUBTITLE C. PLANNING AND DEVELOPMENT PROVISIONS APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 395. FINANCING CAPITAL IMPROVEMENTS REQUIRED BY NEW DEVELOPMENT IN MUNICIPALITIES, COUNTIES, AND CERTAIN OTHER LOCAL GOVERNMENTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 395.001. DEFINITIONS. In this chapter:

(1) "Capital improvement" means any of the following facilities that have a life expectancy of three or more years and are owned and operated by or on behalf of a political subdivision:

(A) water supply, treatment, and distribution facilities; wastewater collection and treatment facilities; and storm water, drainage, and flood control facilities; whether or not they are located within the service area; and

(B) roadway facilities.

(2) "Capital improvements plan" means a plan required by this chapter that identifies capital improvements or facility expansions for which impact fees may be assessed.

(3) "Facility expansion" means the expansion of the capacity of an existing facility that serves the same function as an otherwise necessary new capital improvement, in order that the existing facility may serve new development. The term does not include the repair, maintenance, modernization, or expansion of an existing facility to better serve existing development.

(4) "Impact fee" means a charge or assessment imposed by a political subdivision against new development in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to the new development. The term includes amortized charges, lump-sum charges, capital recovery fees, contributions in aid of construction, and any other fee that functions as described by this definition. The term does not include:

(A) dedication of land for public parks or payment in lieu of the dedication to serve park needs;

(B) dedication of rights-of-way or easements or construction or dedication of on-site or off-site water distribution, wastewater collection or drainage facilities, or streets, sidewalks, or curbs if the dedication or construction is required by a valid ordinance and is necessitated by and attributable to the new development;

(C) lot or acreage fees to be placed in trust funds for the purpose of reimbursing developers for oversizing or constructing water or sewer mains or lines; or

(D) other pro rata fees for reimbursement of water or sewer mains or lines extended by the political subdivision.

However, an item included in the capital improvements plan may not be required to be constructed except in accordance with Section 395.019(2), and an owner may not be required to construct or dedicate facilities and to pay impact fees for those facilities.

(5) "Land use assumptions" includes a description of the service area and projections of changes in land uses, densities, intensities, and population in the service area over at least a 10-year period.

(6) "New development" means the subdivision of land; the construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any structure; or any use or extension of the use of land; any of which increases the number of service units.

(7) "Political subdivision" means a municipality, a district or authority created under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution, or, for the purposes set forth by Section 395.079, certain counties described by that section.

(8) "Roadway facilities" means arterial or collector streets or roads that have been designated on an officially adopted roadway plan of the political subdivision, together with all necessary appurtenances. The term includes the political subdivision's share of costs for roadways and associated improvements designated on the federal or Texas highway system, including local matching funds and costs related to utility line relocation and the establishment of curbs, gutters, sidewalks, drainage appurtenances, and rights-of-way.

(9) "Service area" means the area within the corporate boundaries or extraterritorial jurisdiction, as determined under Chapter 42, of the political subdivision to be served by the capital improvements or facilities expansions specified in the capital improvements plan, except roadway facilities and storm water, drainage, and flood control facilities. The service area, for the purposes of this chapter, may include all or part of the land within the political subdivision or its extraterritorial jurisdiction, except for roadway facilities and storm water, drainage, and flood control facilities. For roadway facilities, the service area is limited to an area within the corporate boundaries of the political subdivision and shall not exceed six miles. For storm water, drainage, and flood control facilities, the service area may include all or part of the land within the political subdivision or its extraterritorial jurisdiction, but shall not exceed the area actually served by the storm water, drainage, and flood control facilities designated in the capital improvements plan and shall not extend across watershed boundaries.

(10) "Service unit" means a standardized measure of consumption, use, generation, or discharge attributable to an individual unit of development calculated in accordance with generally accepted engineering or planning standards and based on historical data and trends applicable to the political subdivision in which the individual unit of development is located during the previous 10 years.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 1989, 71st Leg., ch. 566, Sec. 1(e), eff. Aug. 28, 1989; Acts 2001, 77th Leg., ch. 345, Sec. 1, eff. Sept. 1, 2001.

SUBCHAPTER B. AUTHORIZATION OF IMPACT FEE

Sec. 395.011. AUTHORIZATION OF FEE.

(a) Unless otherwise specifically authorized by state law or this chapter, a governmental entity or political subdivision may not enact or impose an impact fee.

(b) Political subdivisions may enact or impose impact fees on land within their corporate boundaries or extraterritorial jurisdictions only by complying with this chapter, except that impact fees may not be enacted or imposed in the extraterritorial jurisdiction for roadway facilities.

(c) A municipality may contract to provide capital improvements, except roadway facilities, to an area outside its corporate boundaries and extraterritorial jurisdiction and may charge an impact fee under the contract, but if an impact fee is charged in that area, the municipality must comply with this chapter.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.012. ITEMS PAYABLE BY FEE.

(a) An impact fee may be imposed only to pay the costs of constructing capital improvements or facility expansions, including and limited to the:

(1) construction contract price;

(2) surveying and engineering fees;

(3) land acquisition costs, including land purchases, court awards and costs, attorney's fees, and expert witness fees; and

(4) fees actually paid or contracted to be paid to an independent qualified engineer or financial consultant preparing or updating the capital improvements plan who is not an employee of the political subdivision.

(b) Projected interest charges and other finance costs may be included in determining the amount of impact fees only if the impact fees are used for the payment of principal and interest on bonds, notes, or other obligations issued by or on behalf of the political subdivision to finance the capital improvements or facility expansions identified in the capital improvements plan and are not used to reimburse bond funds expended for facilities that are not identified in the capital improvements plan.

(c) Notwithstanding any other provision of this chapter, the Edwards Underground Water District or a river authority that is authorized elsewhere by state law to charge fees that function as impact fees may use impact fees to pay a staff engineer who prepares or updates a capital improvements plan under this chapter.

(d) A municipality may pledge an impact fee as security for the payment of debt service on a bond, note, or other obligation issued to finance a capital improvement or public facility expansion if:

(1) the improvement or expansion is identified in a capital improvements plan; and

(2) at the time of the pledge, the governing body of the municipality certifies in a written order, ordinance, or resolution that none of the impact fee will be used or expended for an improvement or expansion not identified in the plan.

(e) A certification under Subsection (d)(2) is sufficient evidence that an impact fee pledged will not be used or expended for an improvement or expansion that is not identified in the capital improvements plan.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 1995, 74th Leg., ch. 90, Sec. 1, eff. May 16, 1995.

Sec. 395.013. ITEMS NOT PAYABLE BY FEE. Impact fees may not be adopted or used to pay for:

(1) construction, acquisition, or expansion of public facilities or assets other than capital improvements or facility expansions identified in the capital improvements plan;

(2) repair, operation, or maintenance of existing or new capital improvements or facility expansions;

(3) upgrading, updating, expanding, or replacing existing capital improvements to serve existing development in order to meet stricter safety, efficiency, environmental, or regulatory standards;

(4) upgrading, updating, expanding, or replacing existing capital improvements to provide better service to existing development;

(5) administrative and operating costs of the political subdivision, except the Edwards Underground Water District or a river authority that is authorized elsewhere by state law to charge fees that function as impact fees may use impact fees to pay its administrative and operating costs;

(6) principal payments and interest or other finance charges on bonds or other indebtedness, except as allowed by Section 395.012.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.014. CAPITAL IMPROVEMENTS PLAN.

(a) The political subdivision shall use qualified professionals to prepare the capital improvements plan and to calculate the impact fee. The capital improvements plan must contain specific enumeration of the following items:

(1) a description of the existing capital improvements within the service area and the costs to upgrade, update, improve, expand, or replace the improvements to meet existing needs and usage and stricter safety, efficiency, environmental, or regulatory standards, which shall be prepared by a qualified professional engineer licensed to perform the professional engineering services in this state;

(2) an analysis of the total capacity, the level of current usage, and commitments for usage of capacity of the existing capital improvements, which shall be prepared by a qualified professional engineer licensed to perform the professional engineering services in this state;

(3) a description of all or the parts of the capital improvements or facility expansions and their costs necessitated by and attributable to new development in the service area based on the approved land use assumptions, which shall be prepared by a qualified professional engineer licensed to perform the professional engineering services in this state;

(4) a definitive table establishing the specific level or quantity of use, consumption, generation, or discharge of a service unit for each category of capital improvements or facility expansions and an equivalency or conversion table establishing the ratio of a service unit to various types of land uses, including residential, commercial, and industrial;

(5) the total number of projected service units necessitated by and attributable to new development within the service area based on the approved land use assumptions and calculated in accordance with generally accepted engineering or planning criteria;

(6) the projected demand for capital improvements or facility expansions required by new service units projected over a reasonable period of time, not to exceed 10 years; and

(7) a plan for awarding:

(A) a credit for the portion of ad valorem tax and utility service revenues generated by new service units during the program period that is used for the payment of improvements, including the payment of debt, that are included in the capital improvements plan; or

(B) in the alternative, a credit equal to 50 percent of the total projected cost of implementing the capital improvements plan.

(b) The analysis required by Subsection (a)(3) may be prepared on a systemwide basis within the service area for each major category of capital improvement or facility expansion for the designated service area.

(c) The governing body of the political subdivision is responsible for supervising the implementation of the capital improvements plan in a timely manner.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 2, eff. Sept. 1, 2001.

Sec. 395.015. MAXIMUM FEE PER SERVICE UNIT.

(a) The impact fee per service unit may not exceed the amount determined by subtracting the amount in Section 395.014(a)(7) from the costs of the capital improvements described by Section 395.014(a)(3) and dividing that amount by the total number of projected service units described by Section 395.014(a)(5).

(b) If the number of new service units projected over a reasonable period of time is less than the total number of new service units shown by the approved land use assumptions at full development of the service area, the maximum impact fee per service unit shall be calculated by dividing the costs of the part of the capital improvements necessitated by and attributable to projected new service units described by Section 395.014(a)(6) by the projected new service units described in that section.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 3, eff. Sept. 1, 2001.

Sec. 395.016. TIME FOR ASSESSMENT AND COLLECTION OF FEE.

(a) This subsection applies only to impact fees adopted and land platted before June 20, 1987. For land that has been platted in accordance with Subchapter A, Chapter 212, or the subdivision or platting procedures of a political subdivision before June 20, 1987, or land on which new development occurs or is proposed without platting, the political subdivision may assess the impact fees at any time during the development approval and building process. Except as provided by Section 395.019, the political subdivision may collect the fees at either the time of recordation of the subdivision plat or connection to the political subdivision's water or sewer system or at the time the political subdivision issues either the building permit or the certificate of occupancy.

(b) This subsection applies only to impact fees adopted before June 20, 1987, and land platted after that date. For new development which is platted in accordance with Subchapter A, Chapter 212, or the subdivision or platting procedures of a political subdivision after June 20, 1987, the political subdivision may assess the impact fees before or at the time of recordation. Except as provided by Section 395.019, the political subdivision may collect the fees at either the time of recordation of the subdivision plat or connection to the political subdivision's water or sewer system or at the time the political subdivision issues either the building permit or the certificate of occupancy.

(c) This subsection applies only to impact fees adopted after June 20, 1987. For new development which is platted in accordance with Subchapter A, Chapter 212, or the subdivision or platting procedures of a political subdivision before the adoption of an impact fee, an impact fee may not be collected on any service unit for which a valid building permit is issued within one year after the date of adoption of the impact fee.

(d) This subsection applies only to land platted in accordance with Subchapter A, Chapter 212, or the subdivision or platting procedures of a political subdivision after adoption of an impact fee adopted after June 20, 1987. The political subdivision shall assess the impact fees before or at the time of recordation of a subdivision plat or other plat under Subchapter A, Chapter 212, or the subdivision or platting ordinance or procedures of any political subdivision in the official records of the county clerk of the county in which the tract is located. Except as provided by Section 395.019, if the political subdivision has water and wastewater capacity available:

(1) the political subdivision shall collect the fees at the time the political subdivision issues a building permit;

(2) for land platted outside the corporate boundaries of a municipality, the municipality shall collect the fees at the time an application for an individual meter connection to the municipality's water or wastewater system is filed; or

(3) a political subdivision that lacks authority to issue building permits in the area where the impact fee applies shall collect the fees at the time an application is filed for an individual meter connection to the political subdivision's water or wastewater system.

(e) For land on which new development occurs or is proposed to occur without platting, the political subdivision may assess the impact fees at any time during the development and building process and may collect the fees at either the time of recordation of the subdivision plat or connection to the political subdivision's water or sewer system or at the time the political subdivision issues either the building permit or the certificate of occupancy.

(f) An "assessment" means a determination of the amount of the impact fee in effect on the date or occurrence provided in this section and is the maximum amount that can be charged per service unit of such development. No specific act by the political subdivision is required.

(g) Notwithstanding Subsections (a)-(e) and Section 395.017, the political subdivision may reduce or waive an impact fee for any service unit that would qualify as affordable housing under 42 U.S.C. Section 12745, as amended, once the service unit is constructed. If affordable housing as defined by 42 U.S.C. Section 12745, as amended, is not

constructed, the political subdivision may reverse its decision to waive or reduce the impact fee, and the political subdivision may assess an impact fee at any time during the development approval or building process or after the building process if an impact fee was not already assessed.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 52, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 345, Sec. 4, eff. Sept. 1, 2001.

Sec. 395.017. ADDITIONAL FEE PROHIBITED; EXCEPTION. After assessment of the impact fees attributable to the new development or execution of an agreement for payment of impact fees, additional impact fees or increases in fees may not be assessed against the tract for any reason unless the number of service units to be developed on the tract increases. In the event of the increase in the number of service units, the impact fees to be imposed are limited to the amount attributable to the additional service units.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.018. AGREEMENT WITH OWNER REGARDING PAYMENT. A political subdivision is authorized to enter into an agreement with the owner of a tract of land for which the plat has been recorded providing for the time and method of payment of the impact fees.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.019. COLLECTION OF FEES IF SERVICES NOT AVAILABLE. Except for roadway facilities, impact fees may be assessed but may not be collected in areas where services are not currently available unless:

(1) the collection is made to pay for a capital improvement or facility expansion that has been identified in the capital improvements plan and the political subdivision commits to commence construction within two years, under duly awarded and executed contracts or commitments of staff time covering substantially all of the work required to provide service, and to have the service available within a reasonable period of time considering the type of capital improvement or facility expansion to be constructed, but in no event longer than five years;

(2) the political subdivision agrees that the owner of a new development may construct or finance the capital improvements or facility expansions and agrees that the costs incurred or funds advanced will be credited against the impact fees otherwise due from the new development or agrees to reimburse the owner for such costs from impact fees paid from other new developments that will use such capital improvements or facility expansions, which fees shall be collected and reimbursed to the owner at the time the other new development records its plat; or

(3) an owner voluntarily requests the political subdivision to reserve capacity to serve future development, and the political subdivision and owner enter into a valid written agreement.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.020. ENTITLEMENT TO SERVICES. Any new development for which an impact fee has been paid is entitled to the permanent use and benefit of the services for which the fee was exacted and is entitled to receive immediate service from any existing facilities with actual capacity to serve the new service units, subject to compliance with other valid regulations.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.021. AUTHORITY OF POLITICAL SUBDIVISIONS TO SPEND FUNDS TO REDUCE FEES. Political subdivisions may spend funds from any lawful source to pay for all or a part of the capital improvements or facility expansions to reduce the amount of impact fees.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.022. AUTHORITY OF POLITICAL SUBDIVISION TO PAY FEES. (a) Political subdivisions and other governmental entities may pay impact fees imposed under this chapter.

(b) A school district is not required to pay impact fees imposed under this chapter unless the board of trustees of the district consents to the payment of the fees by entering a contract with the political subdivision that imposes the fees. The contract may contain terms the board of trustees considers advisable to provide for the payment of the fees.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 250, Sec. 1, eff. May 25, 2007.

Sec. 395.023. CREDITS AGAINST ROADWAY FACILITIES FEES. Any construction of, contributions to, or dedications of off-site roadway facilities agreed to or required by a political subdivision as a condition of development approval shall be credited against roadway facilities impact fees otherwise due from the development.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.024. ACCOUNTING FOR FEES AND INTEREST.

(a) The order, ordinance, or resolution levying an impact fee must provide that all funds collected through the adoption of an impact fee shall be deposited in interest-bearing accounts clearly identifying the category of capital improvements or facility expansions within the service area for which the fee was adopted.

(b) Interest earned on impact fees is considered funds of the account on which it is earned and is subject to all restrictions placed on use of impact fees under this chapter.

(c) Impact fee funds may be spent only for the purposes for which the impact fee was imposed as shown by the capital improvements plan and as authorized by this chapter.

(d) The records of the accounts into which impact fees are deposited shall be open for public inspection and copying during ordinary business hours.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.025. REFUNDS.

(a) On the request of an owner of the property on which an impact fee has been paid, the political subdivision shall refund the impact fee if existing facilities are available and service is denied or the political subdivision has, after collecting the fee when service was not available, failed to commence construction within two years or service is not available within a reasonable period considering the type of capital improvement or facility expansion to be constructed, but in no event later than five years from the date of payment under Section 395.019(1).

(b) Repealed by Acts 2001, 77th Leg., ch. 345, Sec. 9, eff. Sept. 1, 2001.

(c) The political subdivision shall refund any impact fee or part of it that is not spent as authorized by this chapter within 10 years after the date of payment.

(d) Any refund shall bear interest calculated from the date of collection to the date of refund at the statutory rate as set forth in Section 302.002, Finance Code, or its successor statute.

(e) All refunds shall be made to the record owner of the property at the time the refund is paid. However, if the impact fees were paid by another political subdivision or governmental entity, payment shall be made to the political subdivision or governmental entity.

(f) The owner of the property on which an impact fee has been paid or another political subdivision or governmental entity that paid the impact fee has standing to sue for a refund under this section.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 1997, 75th Leg., ch. 1396, Sec. 37, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 7.82, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 345, Sec. 9, eff. Sept. 1, 2001.

SUBCHAPTER C. PROCEDURES FOR ADOPTION OF IMPACT FEE

Sec. 395.041. COMPLIANCE WITH PROCEDURES REQUIRED. Except as otherwise provided by this chapter, a political subdivision must comply with this subchapter to levy an impact fee.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.0411. CAPITAL IMPROVEMENTS PLAN. The political subdivision shall provide for a capital improvements plan to be developed by qualified professionals using generally accepted engineering and planning practices in accordance with Section 395.014.

Added by Acts 2001, 77th Leg., ch. 345, Sec. 5, eff. Sept. 1, 2001.

Sec. 395.042. HEARING ON LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLAN. To impose an impact fee, a political subdivision must adopt an order, ordinance, or resolution establishing a public hearing date to consider the land use assumptions and capital improvements plan for the designated service area.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 5, eff. Sept. 1, 2001.

Sec. 395.043. INFORMATION ABOUT LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLAN AVAILABLE TO PUBLIC. On or before the date of the first publication of the notice of the hearing on the land use assumptions and capital improvements plan, the political subdivision shall make available to the public its land use assumptions, the time period of the projections, and a description of the capital improvement facilities that may be proposed.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 5, eff. Sept. 1, 2001.

Sec. 395.044. NOTICE OF HEARING ON LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLAN.

(a) Before the 30th day before the date of the hearing on the land use assumptions and capital improvements plan, the political subdivision shall send a notice of the hearing by certified mail to any person who has given written notice by certified or registered mail to the municipal secretary or other designated official of the political subdivision requesting notice of the hearing within two years preceding the date of adoption of the order, ordinance, or resolution setting the public hearing.

(b) The political subdivision shall publish notice of the hearing before the 30th day before the date set for the hearing, in one or more newspapers of general circulation in each county in which the political subdivision lies. However, a river authority that is authorized elsewhere by state law to charge fees that function as impact fees may publish the required newspaper notice only in each county in which the service area lies.

(c) The notice must contain:

(1) a headline to read as follows:

"NOTICE OF PUBLIC HEARING ON LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLAN RELATING TO POSSIBLE ADOPTION OF IMPACT FEES"

(2) the time, date, and location of the hearing;

(3) a statement that the purpose of the hearing is to consider the land use assumptions and capital improvements plan under which an impact fee may be imposed; and

(4) a statement that any member of the public has the right to appear at the hearing and present evidence for or against the land use assumptions and capital improvements plan.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 5, eff. Sept. 1, 2001.

Sec. 395.045. APPROVAL OF LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLAN REQUIRED.

(a) After the public hearing on the land use assumptions and capital improvements plan, the political subdivision shall determine whether to adopt or reject an ordinance, order, or resolution approving the land use assumptions and capital improvements plan.

(b) The political subdivision, within 30 days after the date of the public hearing, shall approve or disapprove the land use assumptions and capital improvements plan.

(c) An ordinance, order, or resolution approving the land use assumptions and capital improvements plan may not be adopted as an emergency measure.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 5, eff. Sept. 1, 2001.

Sec. 395.0455. SYSTEMWIDE LAND USE ASSUMPTIONS.

(a) In lieu of adopting land use assumptions for each service area, a political subdivision may, except for storm water, drainage, flood control, and roadway facilities, adopt systemwide land use assumptions, which cover all of the area subject to the jurisdiction of the political subdivision for the purpose of imposing impact fees under this chapter.

(b) Prior to adopting systemwide land use assumptions, a political subdivision shall follow the public notice, hearing, and other requirements for adopting land use assumptions.

(c) After adoption of systemwide land use assumptions, a political subdivision is not required to adopt additional land use assumptions for a service area for water supply, treatment, and distribution facilities or wastewater collection and treatment facilities as a prerequisite to the adoption of a capital improvements plan or impact fee, provided the capital improvements plan and impact fee are consistent with the systemwide land use assumptions.

Added by Acts 1989, 71st Leg., ch. 566, Sec. 1(b), eff. Aug. 28, 1989.

Sec. 395.047. HEARING ON IMPACT FEE. On adoption of the land use assumptions and capital improvements plan, the governing body shall adopt an order or resolution setting a public hearing to discuss the imposition of the impact fee. The public hearing must be held by the governing body of the political subdivision to discuss the proposed ordinance, order, or resolution imposing an impact fee.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 5, eff. Sept. 1, 2001.

Sec. 395.049. NOTICE OF HEARING ON IMPACT FEE.

(a) Before the 30th day before the date of the hearing on the imposition of an impact fee, the political subdivision shall send a notice of the hearing by certified mail to any person who has given written notice by certified or registered mail to the municipal secretary or other designated official of the political subdivision requesting notice of the hearing within two years preceding the date of adoption of the order or resolution setting the public hearing.

(b) The political subdivision shall publish notice of the hearing before the 30th day before the date set for the hearing, in one or more newspapers of general circulation in each county in which the political subdivision lies. However, a river authority that is authorized elsewhere by state law to charge fees that function as impact fees may publish the required newspaper notice only in each county in which the service area lies.

(c) The notice must contain the following:

(1) a headline to read as follows:

"NOTICE OF PUBLIC HEARING ON ADOPTION OF IMPACT FEES"

(2) the time, date, and location of the hearing;

(3) a statement that the purpose of the hearing is to consider the adoption of an impact fee;

(4) the amount of the proposed impact fee per service unit; and

(5) a statement that any member of the public has the right to appear at the hearing and present evidence for or against the plan and proposed fee.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 5, eff. Sept. 1, 2001.

Sec. 395.050. ADVISORY COMMITTEE COMMENTS ON IMPACT FEES. The advisory committee created under Section 395.058 shall file its written comments on the proposed impact fees before the fifth business day before the date of the public hearing on the imposition of the fees.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 5, eff. Sept. 1, 2001.

Sec. 395.051. APPROVAL OF IMPACT FEE REQUIRED.

(a) The political subdivision, within 30 days after the date of the public hearing on the imposition of an impact fee, shall approve or disapprove the imposition of an impact fee.

(b) An ordinance, order, or resolution approving the imposition of an impact fee may not be adopted as an emergency measure.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 5, eff. Sept. 1, 2001.

Sec. 395.052. PERIODIC UPDATE OF LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLAN REQUIRED.

(a) A political subdivision imposing an impact fee shall update the land use assumptions and capital improvements plan at least every five years. The initial five-year period begins on the day the capital improvements plan is adopted.

(b) The political subdivision shall review and evaluate its current land use assumptions and shall cause an update of the capital improvements plan to be prepared in accordance with Subchapter B.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 6, eff. Sept. 1, 2001.

Sec. 395.053. HEARING ON UPDATED LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLAN. The governing body of the political subdivision shall, within 60 days after the date it receives the update of the land use assumptions and the capital improvements plan, adopt an order setting a public hearing to discuss and review the update and shall determine whether to amend the plan.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.054. HEARING ON AMENDMENTS TO LAND USE ASSUMPTIONS, CAPITAL IMPROVEMENTS PLAN, OR IMPACT FEE. A public hearing must be held by the governing body of the political subdivision to discuss the proposed ordinance, order, or resolution amending land use assumptions, the capital improvements plan, or the impact fee. On or before the date of the first publication of the notice of the hearing on the amendments, the land use assumptions and the capital improvements plan, including the amount of any proposed amended impact fee per service unit, shall be made available to the public.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.055. NOTICE OF HEARING ON AMENDMENTS TO LAND USE ASSUMPTIONS, CAPITAL IMPROVEMENTS PLAN, OR IMPACT FEE.

(a) The notice and hearing procedures prescribed by Sections 395.044(a) and (b) apply to a hearing on the amendment of land use assumptions, a capital improvements plan, or an impact fee.

(b) The notice of a hearing under this section must contain the following:

(1) a headline to read as follows:

"NOTICE OF PUBLIC HEARING ON AMENDMENT OF IMPACT FEES"

(2) the time, date, and location of the hearing;

(3) a statement that the purpose of the hearing is to consider the amendment of land use assumptions and a capital improvements plan and the imposition of an impact fee; and

(4) a statement that any member of the public has the right to appear at the hearing and present evidence for or against the update.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 7, eff. Sept. 1, 2001.

Sec. 395.056. ADVISORY COMMITTEE COMMENTS ON AMENDMENTS. The advisory committee created under Section 395.058 shall file its written comments on the proposed amendments to the land use assumptions, capital improvements plan, and impact fee before the fifth business day before the date of the public hearing on the amendments.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.057. APPROVAL OF AMENDMENTS REQUIRED.

(a) The political subdivision, within 30 days after the date of the public hearing on the amendments, shall approve or disapprove the amendments of the land use assumptions and the capital improvements plan and modification of an impact fee.

(b) An ordinance, order, or resolution approving the amendments to the land use assumptions, the capital improvements plan, and imposition of an impact fee may not be adopted as an emergency measure.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.0575. DETERMINATION THAT NO UPDATE OF LAND USE ASSUMPTIONS, CAPITAL IMPROVEMENTS PLAN OR IMPACT FEES IS NEEDED.

(a) If, at the time an update under Section 395.052 is required, the governing body determines that no change to the land use assumptions, capital improvements plan, or impact fee is needed, it may, as an alternative to the updating requirements of Sections 395.052-395.057, do the following:

(1) The governing body of the political subdivision shall, upon determining that an update is unnecessary and 60 days before publishing the final notice under this section, send notice of its determination not to update the land use assumptions, capital improvements plan, and impact fee by certified mail to any person who has, within two years preceding the date that the final notice of this matter is to be published, give written notice by certified or registered mail to the municipal secretary or other designated official of the political subdivision requesting notice of hearings related to impact fees. The notice must contain the information in Subsections (b)(2)-(5).

(2) The political subdivision shall publish notice of its determination once a week for three consecutive weeks in one or more newspapers with general circulation in each county in which the political subdivision lies. However, a river authority that is authorized elsewhere by state law to charge fees that function as impact fees may publish the required newspaper notice only in each county in which the service area lies. The notice of public hearing may not be in the part of the paper in which legal notices and classified ads appear and may not be smaller than one-quarter page of a standard-size or tabloid-size newspaper, and the headline on the notice must be in 18-point or larger type.

(b) The notice must contain the following:

(1) a headline to read as follows:

"NOTICE OF DETERMINATION NOT TO UPDATE LAND USE ASSUMPTIONS, CAPITAL IMPROVEMENTS PLAN, OR IMPACT FEES";

(2) a statement that the governing body of the political subdivision has determined that no change to the land use assumptions, capital improvements plan, or impact fee is necessary;

(3) an easily understandable description and a map of the service area in which the updating has been determined to be unnecessary;

(4) a statement that if, within a specified date, which date shall be at least 60 days after publication of the first notice, a person makes a written request to the designated official of the political subdivision requesting that the land use assumptions, capital improvements plan, or impact fee be updated, the governing body must comply with the request by following the requirements of Sections 395.052-395.057; and

(5) a statement identifying the name and mailing address of the official of the political subdivision to whom a request for an update should be sent.

(c) The advisory committee shall file its written comments on the need for updating the land use assumptions, capital improvements plans, and impact fee before the fifth business day before the earliest notice of the government's decision that no update is necessary is mailed or published.

(d) If, by the date specified in Subsection (b)(4), a person requests in writing that the land use assumptions, capital improvements plan, or impact fee be updated, the governing body shall cause an update of the land use assumptions and capital improvements plan to be prepared in accordance with Sections 395.052-395.057.

(e) An ordinance, order, or resolution determining the need for updating land use assumptions, a capital improvements plan, or an impact fee may not be adopted as an emergency measure.

Added by Acts 1989, 71st Leg., ch. 566, Sec. 1(d), eff. Aug. 28, 1989.

Sec. 395.058. ADVISORY COMMITTEE.

(a) On or before the date on which the order, ordinance, or resolution is adopted under Section 395.042, the political subdivision shall appoint a capital improvements advisory committee.

(b) The advisory committee is composed of not less than five members who shall be appointed by a majority vote of the governing body of the political subdivision. Not less than 40 percent of the membership of the advisory committee must be representatives of the real estate, development, or building industries who are not employees or officials of a political subdivision or governmental entity. If the political subdivision has a planning and zoning commission, the commission may act as the advisory committee if the commission includes at least one representative of the real estate, development, or building industry who is not an employee or official of a political subdivision or governmental entity. If no such representative is a member of the planning and zoning commission, the commission may still act as the advisory committee if at least one such representative is appointed by the political subdivision as an ad hoc voting member of the planning and zoning commission when it acts as the advisory committee. If the impact fee is to be applied in the extraterritorial jurisdiction of the political subdivision, the membership must include a representative from that area.

(c) The advisory committee serves in an advisory capacity and is established to:

(1) advise and assist the political subdivision in adopting land use assumptions;

(2) review the capital improvements plan and file written comments;

(3) monitor and evaluate implementation of the capital improvements plan;

(4) file semiannual reports with respect to the progress of the capital improvements plan and report to the political subdivision any perceived inequities in implementing the plan or imposing the impact fee; and

(5) advise the political subdivision of the need to update or revise the land use assumptions, capital improvements plan, and impact fee.

(d) The political subdivision shall make available to the advisory committee any professional reports with respect to developing and implementing the capital improvements plan.

(e) The governing body of the political subdivision shall adopt procedural rules for the advisory committee to follow in carrying out its duties.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

SUBCHAPTER D. OTHER PROVISIONS

Sec. 395.071. DUTIES TO BE PERFORMED WITHIN TIME LIMITS. If the governing body of the political subdivision does not perform a duty imposed under this chapter within the prescribed period, a person who has paid an impact fee or an owner of land on which an impact fee has been paid has the right to present a written request to the governing body of the political subdivision stating the nature of the unperformed duty and requesting that it be performed within 60 days after the date of the request. If the governing body of the political subdivision finds that the duty is required under this chapter and is late in being performed, it shall cause the duty to commence within 60 days after the date of the request and continue until completion.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.072. RECORDS OF HEARINGS. A record must be made of any public hearing provided for by this chapter. The record shall be maintained and be made available for public inspection by the political subdivision for at least 10 years after the date of the hearing.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.073. CUMULATIVE EFFECT OF STATE AND LOCAL RESTRICTIONS. Any state or local restrictions that apply to the imposition of an impact fee in a political subdivision where an impact fee is proposed are cumulative with the restrictions in this chapter.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.074. PRIOR IMPACT FEES REPLACED BY FEES UNDER THIS CHAPTER. An impact fee that is in place on June 20, 1987, must be replaced by an impact fee made under this chapter on or before June 20, 1990. However, any political subdivision having an impact fee that has not been replaced under this chapter on or before June 20, 1988, is liable to any party who, after June 20, 1988, pays an impact fee that exceeds the maximum permitted under Subchapter B by more than 10 percent for an amount equal to two times the difference between the maximum impact fee allowed and the actual impact fee imposed, plus reasonable attorney's fees and court costs.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.075. NO EFFECT ON TAXES OR OTHER CHARGES. This chapter does not prohibit, affect, or regulate any tax, fee, charge, or assessment specifically authorized by state law.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.076. MORATORIUM ON DEVELOPMENT PROHIBITED. A moratorium may not be placed on new development for the purpose of awaiting the completion of all or any part of the process necessary to develop, adopt, or update land use assumptions, a capital improvements plan, or an impact fee.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 441, Sec. 2, eff. Sept. 1, 2001.

Sec. 395.077. APPEALS.

(a) A person who has exhausted all administrative remedies within the political subdivision and who is aggrieved by a final decision is entitled to trial de novo under this chapter.

(b) A suit to contest an impact fee must be filed within 90 days after the date of adoption of the ordinance, order, or resolution establishing the impact fee.

(c) Except for roadway facilities, a person who has paid an impact fee or an owner of property on which an impact fee has been paid is entitled to specific performance of the services by the political subdivision for which the fee was paid.

(d) This section does not require construction of a specific facility to provide the services.

(e) Any suit must be filed in the county in which the major part of the land area of the political subdivision is located. A successful litigant shall be entitled to recover reasonable attorney's fees and court costs.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.078. SUBSTANTIAL COMPLIANCE WITH NOTICE REQUIREMENTS. An impact fee may not be held invalid because the public notice requirements were not complied with if compliance was substantial and in good faith.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.079. IMPACT FEE FOR STORM WATER, DRAINAGE, AND FLOOD CONTROL IN POPULOUS COUNTY.

(a) Any county that has a population of 3.3 million or more or that borders a county with a population of 3.3 million or more, and any district or authority created under Article XVI, Section 59, of the Texas Constitution within any such county that is authorized to provide storm water, drainage, and flood control facilities, is authorized to impose impact fees to provide storm water, drainage, and flood control improvements necessary to accommodate new development.

(b) The imposition of impact fees authorized by Subsection (a) is exempt from the requirements of Sections 395.025, 395.052-395.057, and 395.074 unless the political subdivision proposes to increase the impact fee.

(c) Any political subdivision described by Subsection (a) is authorized to pledge or otherwise contractually obligate all or part of the impact fees to the payment of principal and interest on bonds, notes, or other obligations issued or incurred by or on behalf of the political subdivision and to the payment of any other contractual obligations.

(d) An impact fee adopted by a political subdivision under Subsection (a) may not be reduced if:

(1) the political subdivision has pledged or otherwise contractually obligated all or part of the impact fees to the payment of principal and interest on bonds, notes, or other obligations issued by or on behalf of the political subdivision; and

(2) the political subdivision agrees in the pledge or contract not to reduce the impact fees during the term of the bonds, notes, or other contractual obligations.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 669, Sec. 107, eff. Sept. 1, 2001.

Sec. 395.080. CHAPTER NOT APPLICABLE TO CERTAIN WATER-RELATED SPECIAL DISTRICTS.

(a) This chapter does not apply to impact fees, charges, fees, assessments, or contributions:

(1) paid by or charged to a district created under Article XVI, Section 59, of the Texas Constitution to another district created under that constitutional provision if both districts are required by law to obtain approval of their bonds by the Texas Natural Resource Conservation Commission; or

(2) charged by an entity if the impact fees, charges, fees, assessments, or contributions are approved by the Texas Natural Resource Conservation Commission.

(b) Any district created under Article XVI, Section 59, or Article III, Section 52, of the Texas Constitution may petition the Texas Natural Resource Conservation Commission for approval of any proposed impact fees, charges, fees, assessments, or contributions. The commission shall adopt rules for reviewing the petition and may charge the petitioner fees adequate to cover the cost of processing and considering the petition. The rules shall require notice substantially the same as that required by this chapter for the adoption of impact fees and shall afford opportunity for all affected parties to participate.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 11.257, eff. Sept. 1, 1995.

Sec. 395.081. FEES FOR ADJOINING LANDOWNERS IN CERTAIN MUNICIPALITIES.

(a) This section applies only to a municipality with a population of 115,000 or less that constitutes more than three-fourths of the population of the county in which the majority of the area of the municipality is located.

(b) A municipality that has not adopted an impact fee under this chapter that is constructing a capital improvement, including sewer or waterline or drainage or roadway facilities, from the municipality to a development located within or outside the municipality's boundaries, in its discretion, may allow a landowner whose land adjoins the capital improvement or is within a specified distance from the capital improvement, as determined by the governing body of the municipality, to connect to the capital improvement if:

(1) the governing body of the municipality has adopted a finding under Subsection (c); and

(2) the landowner agrees to pay a proportional share of the cost of the capital improvement as determined by the governing body of the municipality and agreed to by the landowner.

(c) Before a municipality may allow a landowner to connect to a capital improvement under Subsection (b), the municipality shall adopt a finding that the municipality will benefit from allowing the landowner to connect to the capital improvement. The finding shall describe the benefit to be received by the municipality.

(d) A determination of the governing body of a municipality, or its officers or employees, under this section is a discretionary function of the municipality and the municipality and its officers or employees are not liable for a determination made under this section.

Added by Acts 1997, 75th Leg., ch. 1150, Sec. 1, eff. June 19, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1043, Sec. 5, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1163, Sec. 100, eff. September 1, 2011.

APPENDIX B

References

"City of Tomball Infrastructure Master Plan and Capital Recovery Fee Determination 2002 to 2012", PBS&J, Houston, Texas, May 2002.

"City of Tomball Infrastructure Master Plan and Impact Fee Determination 2007 to 2017", LAN, Houston, Texas, October 2008.

"Tomball Comprehensive Plan - Vision 2030", adopted by Ordinance No. 2009-33, December 7, 2009.

"2035 Regional Growth Forecast", Houston-Galveston Area Council

2010 U.S. Census Report SF-1, City of Tomball, Texas, U.S. Census Bureau and the Texas State Data Center, 2011.

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"Expansion of 249 moving plans for Aggie Expressway along", www.yourhoustonnews.com, by Lindsey Vaculin, posted December 19, 2012.

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APPENDIX C

Unit Cost Data

Water System Unit Cost Data

8-inch Water Line		Unit	Unit Price
8-inch Water Line		LF	$ 35.00
Fire Hydrant[1]		LF	$ 6.86
Trench Safety		LF	$ 1.00
Subtotal			$ 43.00
Augering & Roadway Repairs	20%	LF	$ 8.60
Easement Acquisition	15%	LF	$ 6.45
Pipeline Relocation	30%	LF	$ 12.90
Contingencies	15%	LF	$ 6.45
Engineering & Surveying	25%	LF	$ 10.75
Total 8-inch Water Line per LF			**$ 88.00**

12-Inch Water Line		Unit	Unit Price
12-inch Water Line		LF	$ 54.00
Fire Hydrant[1]		LF	$ 6.86
Trench Safety		LF	$ 1.00
Subtotal			$ 62.00
Augering & Roadway Repairs	20%	LF	$ 12.40
Easement Acquisition	15%	LF	$ 9.30
Pipeline Relocation	30%	LF	$ 18.60
Contingencies	15%	LF	$ 9.30
Engineering & Surveying	25%	LF	$ 15.50
Total 12-inch Water Line per LF			**$ 127.00**

(1) Assumes Fire Hydrants are spaced every 350 feet

Miscellaneous Items Used in Water Lines above			
Fire Hydrant Assembly		EA	$ 2,400.00

Water Well Plant Estimate	Qty		Unit Cost Est	Total Cost
Well	1000	gpm	$ 1,420.00	$1,420,000.00
GST	400000	gal	$ 2.50	$1,000,000.00
Boosters	1800	gpm	$ 37.00	$ 66,600.00
Maintenance Bldg	1	LS	$ 216,000.00	$ 216,000.00
HPT	10000	gal	$ 4.15	$ 41,500.00
Emer. Gen 275kW	300	kW	$ 300.00	$ 90,000.00
				$2,834,100.00
Contingencies	15%			$ 283,410.00
Engineering & Surveying	25%			$ 708,525.00
				$3,826,035.00

Sanitary Sewer Unit Cost Data

Item		Unit	Unit Price
8-inch Gravity Sanitary Sewer			
8-inch Gravity Sanitary Sewer (all depths)		LF	$ 40.00
Sanitary Sewer Manhole(1)		LF	$ 5.00
Trench Safety		LF	$ 1.00
Subtotal			$ 46.00
Augering & Roadway Repairs	15%	LF	$ 6.90
Easement Acquisition	15%	LF	$ 6.90
Pipeline Relocation	30%	LF	$ 13.80
Contingencies	15%	LF	$ 6.90
Engineering & Surveying	25%	LF	$ 11.50
Indirect Cost Subtotal	100%		$ 46.00
8-inch Gravity Sanitary Sewer Total			**$ 92.00**
10-Inch Gravity Sanitary Sewer			
10-inch Gravity Sanitary Sewer (all depths)		LF	$ 50.00
Sanitary Sewer Manhole(1)		LF	$ 5.00
Trench Safety		LF	$ 1.00
Subtoal			$ 56.00
Indirect Cost Subtotal (2)		LF	$ 56.00
10-Inch Gravity Sanitary Sewer Total			**$ 112.00**
12-Inch Gravity Sanitary Sewer			
12-inch Gravity Sanitary Sewer (all depths)		LF	$ 65.00
Sanitary Sewer Manhole(1)		LF	$ 5.00
Trench Safety		LF	$ 1.00
Subtotal			$ 71.00
Indirect Cost Subtotal (2)		LF	$ 71.00
12-Inch Gravity Sanitary Sewer Total			**$ 142.00**
15-Inch Gravity Sanitary Sewer			
15-inch Gravity Sanitary Sewer (all depths)		LF	$ 85.00
Sanitary Sewer Manhole(1)		LF	$ 5.00
Trench Safety		LF	$ 1.00
Subtotal			$ 91.00
Indirect Cost Subtotal (2)		LF	$ 91.00
15-Inch Gravity Sanitary Sewer Total			**$ 182.00**
18-Inch Gravity Sanitary Sewer			
18-inch Gravity Sanitary Sewer (all depths)		LF	$ 105.00
Sanitary Sewer Manhole(1)		LF	$ 5.00
Trench Safety		LF	$ 1.00
Subtotal			$ 111.00
Indirect Cost Subtotal (2)		LF	$ 111.00
18-Inch Gravity Sanitary Sewer Total			**$ 222.00**

Sanitary Sewer Unit Cost Data (Cont.)

21-Inch Gravity Sanitary Sewer			
21-inch Gravity Sanitary Sewer (all depths)	LF	$	120.00
Sanitary Sewer Manhole(1)	LF	$	5.00
Trench Safety	LF	$	1.00
Subtotal		$	126.00
Indirect Cost Subtotal (2)	LF	$	126.00
21-Inch Gravity Sanitary Sewer Total		**$**	**252.00**
4-Inch Force Main			
4-Inch Force Main	LF	$	25.00
Trench Safety	LF	$	1.00
Subtotal		$	26.00
Indirect Cost Subtotal (2)	LF	$	26.00
4-Inch Force Main Total		**$**	**52.00**
6-Inch Force Main			
6-Inch Force Main	LF	$	30.00
Trench Safety	LF	$	1.00
Subtotal		$	31.00
Indirect Cost Subtotal (2)	LF	$	31.00
6-Inch Force Main Total		**$**	**62.00**
8-Inch Force Main			
8-Inch Force Main	LF	$	35.00
Trench Safety	LF	$	1.00
Subtotal		$	36.00
Indirect Cost Subtotal (2)	LF	$	36.00
8-Inch Force Main Total		**$**	**72.00**
Miscellaneous Items Used in Sanitary Sewer Lines Above			
Sanitary Sewer Manhole	EA	$	2,000.00
Lift Station (300-500 gpm)			
Lift Station (300-500 gpm) including contengencies	EA	$	320,000.00
Engineering & Testing	EA	$	80,000.00
Total		**$**	**400,000.00**
Lift Station (1,000-1,500 gpm)			
Lift Station (1,000-1,500 gpm) including contengencies	EA	$	440,000.00
Engineering & Testing	EA	$	110,000.00
Total		**$**	**550,000.00**
Lift Station (1,500-2,000 gpm)			
Lift Station (1,500-2,000 gpm) including contengencies	EA	$	820,000.00
Engineering & Testing	EA	$	205,000.00
Total		**$**	**1,025,000.00**
Wastewater Treatment Plant Capacity			
Wastewater Treatment Plant Capacity incl. contg.	gpd	$	6.00
Contingencies	gpd	$	0.90
Engineering & Testing	gpd	$	1.50
Total per gpd		**$**	**8.40**

(1) Manhole spaced every 400 feet.

(2) Indirect cost percentages are the same for all sizes of sanitary sewer lines and force mains. The percentages are shown in the cost data for an 8-inch sanitary sewer line.

Drainage Unit Cost Calculation

Item		Unit	Unit Price
Drainage Ditch			
Drainage Channel Excavation (10' bottom, 12' depth, 4:1 SS)*		LF	$ 257.78
Backslope Swale & Interceptor**		LF	$ 56.00
Sod (160' ROW)		LF	$ 53.33
Misc (Clearing, SWPPP, Etc)	15%	LF	$ 55.07
Subtotal			$ 422.18
Contingencies	15%	LF	$ 63.33
Engineering & Surveying	25%	LF	$ 105.54
Indirect Cost Subtotal	40%		$ 168.87
Drainage Ditch Total			**$ 591.05**

* Excavation Haul Off Assumed

** 250 ft spacing

Detention Unit Cost Calculation

Item		Unit	Unit Price
Detention Facility			
Detention Excavation (12' depth, 4:1 SS)*		Acre-Ft	$16,130.00
Backslope Swale & Interceptor**		Acre-Ft	$ 583.33
Sod		Acre-Ft	$ 440.00
Misc (Clearing, SWPPP, Etc)	15%	Acre-Ft	$ 2,573.00
Subtotal			$19,726.33
Contingencies	15%	Acre-Ft	$ 2,958.95
Engineering & Surveying	25%	Acre-Ft	$ 4,931.58
Indirect Cost Subtotal	40%		$ 7,890.53
Detention Facility Total			**$27,616.87**

* Excavation Haul Off Assumed

** 250 ft spacing

Unit Cost Data

Item		Unit	Unit Price
Mobilization			4%
SWPPP			2.5%
Excavation - Haul Off		CY	$ 10.00
Backslope Swale		Ea	$ 6,000.00
Backslope Interceptor		LF	$ 4.00
Sod		SY	$ 3.00
Sod		Acre	$ 4,840.00
Clearing & Grubbing		Acre	$ 5,000.00

Water System Capital Improvements Construction Costs per LUE, 2012 to 2022

Total Connections in City Only, 2012 =	**6,679**	**LUE**
Total Projected Connections in City & ETJ, 2022 =	**7,874**	**LUE**
Total Projected Additional Connections =	**1,195**	**LUE**

Component	Outstanding Capital Cost	LUE Capacity	Cost Basis per LUE	New LUE's Served from 2012 to 2022	Cost Distribution 2012 to 2022	Total Capital Cost per LUE 2012 to 2022
Facilities constructed with 2007 CIP[1]						
Distribution Lines	$535,900	7,874	$68.06	1,195	$81,331	
Water Wells	$4,491,570	1,667	$2,694.94	979	$2,638,348	
Proposed Facilities with 2012 CIP						
Water Well	$1,420,000	1,667	$852.00	216	$184,032	
Ground Storage Tanks	$1,000,000	2,000	$500.00	216	$108,000	
Booster Pumps	$66,600	1,667	$39.96	216	$8,631	
Facility (Bldg, H-Tank & Generator)	$347,500	1,667	$208.50	216	$45,036	
WP Engineering, Surveying & Contingencies	$991,935	1,667	$595.16	216	$128,555	
Distribution Lines	$13,223,100	7,874	$1,679.34	1,195	$2,006,808	
Water (1/3 2012-2022 CIP Preparation Fees)					$50,333	
Total				**1,195**	**$5,251,075**	**$4,394.20**

(1) Existing facility costs are from Tomball staff.

Wastewater System Capital Improvements Construction Costs per LUE, 2012 to 2022

Total Connections in City Only, 2012 =	**6,679**	**LUE**
Total Projected Connections in City & ETJ, 2022 =	**7,874**	**LUE**
Total Projected Additional Connections =	**1,195**	**LUE**

Component	Outstanding Bond Principal	Outstanding Capital Cost	LUE Capacity	Cost Basis per LUE	New LUE's Served from 2012 to 2022	Cost Distribution 2012 to 2022	Total Capital Cost per LUE 2012 to 2022
Facilities constructed with 1996 & 1999 CIP [(1)]							
South Wastewater Treatment Plant	$2,465,000		3,333	$739.50	753	$556,733	
Facilities constructed with 2002 CIP[(1)]							
Trunklines		$4,263,701	7,874	$541.49	1,195	$647,082	
Facilities constructed with 2007 CIP[(1)]							
Trunk Lines 2007 CIP		$888,503	7,874	$112.84	1,195	$134,844	
Proposed Facilities with 2012CIP							
Lift Stations 2012 CIP		$1,350,000	6,804	$198.41	1,195	$237,098	
Trunk Lines 2012 CIP		$13,495,200	7,874	$1,713.89	1,195	$2,048,103	
Water (1/3 2012-2022 CIP Preparation Fees)						$50,333	
Total					**1,195**	**$3,674,193**	**$3,074.64**

(1) Existing Facility costs from Tomball staff. Costs shown are outstanding bond amounts.
(2) Buildout to WWTP's maximum capacities.

Drainage System Capital Improvements Construction Costs per Acre, 2012 to 2022

HCFCD Channel No.	Construction Project	Estimated Improvement Costs	Collected Funds[1]	2012 Assessable Improvement Costs[2]	Total Basin Area Served (Acres)	Existing City of Tomball 2012 Development[3]	Estimated Floodway Acreage	Areas outside City and ETJ	Net Acreage to Bear Fee	1/3 2012-2022 CIP Fees per Usage Acre[5]	Capital Cost Basis per Acre	Total Cost Basis per Acre
J131[4]	Detention & Conveyence	$0	$0	$0	3,156	57	18	387	3,156		$0.00	
J132[4]	Channel	$0	$0	$0	250	57	4	0	250		$0.00	
										$ -		
J133[4]	Channel	$0	$0	$0	500	57	9	0	500		$0.00	
										$ -		
M116[4]	Channel	$0	$0	$0	1,575	57	0	550	1,575		$0.00	
M118	N of EDC Project	$2,423,300										
M118	EDC Project	$1,359,412										
M118	S of Holderrieth + Detention	$1,790,741										
		$5,573,454	$0	$5,573,454	732	57	51	0	732	$ 8.22	$7,614.01	$ 7,622.23
M121 East	Channel	$2,216,433										
M121 East	Detention	$4,335,848										
		$6,552,281	($9,591)	$6,561,872	629	170	27	0	629	$ 8.22	$10,432.23	$ 10,440.45
M121 West	Channel	$1,448,070										
M121 West	Channel	$2,807,482										
M121 West	Detention	$5,937,626										
		$10,193,178	($82,485)	$10,275,664	1,161	225	49	0	1,161	$ 8.22	$8,850.70	$ 8,858.92
M124[4]	Channel	$2,364,196		$2,364,196								
M124	Channel	$26,377,589		$26,377,589								
M124	Detention	$21,818,344		$21,818,344								
		$50,560,129	$0	$50,560,129	2,930	373	100	877	2,930	$ 8.22	$17,256.02	$ 17,264.24
M125	Detention	$543,805	($40,431)	$584,237	675	373	14	19	675	$ 8.22	$865.54	$ 873.76

(1) Existing Facility costs from Tomball staff based on outstanding bond amounts, plus Proposed Facilities estimates, including engineering & contingencies.

(2) Limited to Proposed Facility construction estimates, including engineering & contingencies when no improvements exist.

(3) Existing Areas previously assessed impact fees.

(4) The current CIP does not include channel or detention construction within the next ten years due to funding constraints.

(5) (1/3 2012-2022 CIP) Fee Dispensed by acreage for M118, M121, & M125.

Projected Cost of Implementing the CIP

Component	Capital Cost per LUE 2012 to 2022	Estimated Bond Soft Costs per LUE [1]	Estimated Total Bond Amount per LUE	Interest per LUE [2]	Total Debt Service per LUE
Water	$4,394.20	$351.54	$4,745.74	$1,893.00	$6,638.74
Wastewater	$3,074.64	$245.97	$3,320.61	$1,324.54	$4,645.15

Drainage Service Area	Capital Cost per Acre 2012 to 2022	Estimated Bond Soft Costs	Estimated Bond Amount per Acre [1]	Interest per Acre [2]	Total Debt Service per Acre
J131	$0.00	$0.00	$0.00	$0.00	$0.00
J132	$0.00	$0.00	$0.00	$0.00	$0.00
J133	$0.00	$0.00	$0.00	$0.00	$0.00
M116	$0.00	$0.00	$0.00	$0.00	$0.00
M118	$7,622.23	$609.78	$8,232.01	$3,283.61	$11,515.62
M121E	$10,440.45	$835.24	$11,275.69	$4,497.69	$15,773.37
M121W	$8,858.92	$708.71	$9,567.63	$3,816.37	$13,384.01
M124	$17,264.24	$1,381.14	$18,645.38	$7,437.34	$26,082.71
M125	$873.76	$0.00	$0.00	$0.00	$873.76

(1) Assumes a bond soft costs of 8.0%
(2) Assumes an interest rate of 3.5% and 40 semi-annual payments

Capital Improvement Plan Debt Service Credit and Maximum Impact Fees

Component	Total Debt Service per LUE	Debt Service Credit per LUE (1)	Maximum Impact Fee per LUE
Water	$6,638.74	$3,319.37	$3,319.37
Wastewater	$4,645.15	$2,322.57	$2,322.57

Drainage Service Area	Total Debt Service per Acre	Debt Service Credit per Acre (1)	Maximum Impact Fee per Acre
J131	$0.00	$0.00	$0.00
J132	$0.00	$0.00	$0.00
J133	$0.00	$0.00	$0.00
M116	$0.00	$0.00	$0.00
M118	$11,515.62	$5,757.81	$5,757.81
M121E	$15,773.37	$7,886.69	$7,886.69
M121W	$13,384.01	$6,692.00	$6,692.00
M124	$26,082.71	$13,041.36	$13,041.36
M125	$873.76	$436.88	$436.88

(1) Credit equal to 50% of the total projected cost of implementing the CIP.

Maximum Impact Fee for Various Types and Sizes of Water Meters

Meter Type	Meter Size	Living Unit Equivalent (LUE)	Water Impact Fee by Meter Size		Wastewater Impact Fee by Meter Size	Total Impact Fee by Meter Size
Simple	3/4"	1.0	$ 3,319.37	s	$ 2,322.57	$ 5,641.94
Simple	1"	2.5	$ 8,298.42		$ 5,806.43	$ 14,104.86
Simple	1-1/2"	5.0	$ 16,596.85		$ 11,612.87	$ 28,209.71
Compound	2"	8.0	$ 26,554.96		$ 18,580.58	$ 45,135.54
Turbine	2"	10.0	$ 33,193.70		$ 23,225.73	$ 56,419.43
Compound	3"	16.0	$ 53,109.92		$ 37,161.17	$ 90,271.09
Turbine	3"	24.0	$ 79,664.88		$ 55,741.75	$ 135,406.63
Compound	4"	25.0	$ 82,984.25		$ 58,064.33	$ 141,048.57
Turbine	4"	42.0	$ 139,413.53		$ 97,548.07	$ 236,961.60
Compound	6"	50.0	$ 165,968.49		$ 116,128.65	$ 282,097.14
Turbine	6"	92.0	$ 305,382.02		$ 213,676.72	$ 519,058.74
Compound	8"	80.0	$ 265,549.58		$ 185,805.84	$ 451,355.43
Turbine	8"	160.0	$ 531,099.17		$ 371,611.68	$ 902,710.85
Compound	10"	115.0	$ 381,727.53		$ 267,095.90	$ 648,823.42
Turbine	10"	250.0	$ 829,842.45		$ 580,643.25	$ 1,410,485.70
Turbine	12"	330.0	$ 1,095,392.04		$ 766,449.09	$ 1,861,841.13

LUE is determined on the basis of the American Water Works Association (AWWA) standards C700-09, C701-12, and C702-10 recommended maximum rate for continuous duty flow of the meter, purchased at the sale of tap based on the Uniform Plumbing Code meter size and type.

Disposition of Collected Impact Fees

Water Impact Fees Collected and Interest Earnings as of 12/31/12	$2,460,861			
Water System Improvements, completed from 1996 CIP	**Amount**	**Wells**	**EST**	**Water lines**
1. 12" water main along Zion Road from Ulrich to Neal St.	$97,200			$97,200
2. 12" water main along SH 249 from Brown to Baker	$50,000			$50,000
3. 12" water main along S. Cherry from Agg to Theis	$210,600			$210,600
4. 12" water main along Theis from S. Cherry to SH 249	$194,499			$194,499
5. 2000 gpm water well	$600,000	$600,000		
Total	**$1,152,299**	**$600,000**	**$0**	**$552,299**
Water System Improvements, completed from 1999 CIP				
1. 12" water main along FM 2920 from Lowes to Calvert	$54,810			$54,810
2. 750,000 gallon elevated storage tank	$1,200,000		$1,200,000	
3. 6" parallel water main on Graham and Holderreith	$124,981			$124,981
Total	**$1,379,791**	**$0**	**$1,200,000**	**$179,791**
Total Water System Improvements from 1996 and 1999 CIP	**$2,532,090**	**$600,000**	**$1,200,000**	**$732,090**
Water System Improvements, completed from 2002 CIP	**Amount**	**Wells**	**EST**	**Water lines**
1. 12" Water main on SH 249 from Theis to Holderreith	$172,800			$172,800
2. 12" Water main on Holderreith from School St ext. to SH 249	$86,400			$86,400
3. 12" Water main on Holderreith from School St ext. to Cherry	$103,680			$103,680
4. 12" Water main on Holderreith from S. Cherry to Huffsmith-Korhville	$311,040			$311,040
5. 12" Water main along S. Cherry from Theis to Holderreith	$164,160			$164,160
6. 12" Water main along Brown Rd to E. Hufsmith Extension	$216,000			$216,000
7. 8" Water main along Johnson Rd from Michel to shopping center	$37,260			$37,260
8. 12" Water main along Hufsmith-Kohrville from FM 2920 to Holderreith	$492,480			$492,480
9. Install 1200 gpm pump at Baker St. well	$270,000	$270,000		
10. 12" Water main along Alice Rd from SH 249 to SH 249 Bypass	$86,400			$86,400
11. 12" Water mian along FM 2920 from Persimmon to ETJ	$181,440			$181,440
12. 8" Water main on Willow St from Carrell to Texas	$34,155			$34,155
Total	**$2,155,815**	**$270,000**	**$0**	**$1,885,815**
Water System Improvements, completed from 2007 CIP	**Amount**	**Wells**	**EST**	**Water lines**
1. 8-Inch Water Line along the Future Michel Road extension from Commercial Park Drive to	$796			$796

School Street				
2. 12-inch Water Line along Quinn Road from Baker Drive to Inwood Street	$195,978			$195,978
3. 12-inch Water Line along Future Brown-Hufsmith Road from SH 249 to Quinn Road	$407,486			$407,486
4. 12-inch Water Line along Tomball Cemetery Road North of 2920 (Private Funding)	$0			
5. 12-inch Water Line along Future Brown-Hufsmith Road from Quinn Road to Baker Drive	$126,058			$126,058
6. Water Line Extension on Mechanic Street	$20,878			$20,878
7. Water Wells 5 and 6/Plant	$4,491,570	$4,491,570		
Total	**$5,242,766**	**$4,491,570**	**$0**	**$751,196**
Not 50% Funded by Impact fee as of 12/13/2012	$5,045,993	$4,491,570	$0	$554,422
Less Impact Fee Balance	-$18,522	0		-$18,522
Remaining to be paid by Impact fees	**$5,027,471**	**$4,491,570**		**$535,900**
Wastewater Impact Fees Collected and Interest Earnings as of 12/31/12	$2,600,215			
Balance as of 3/31/2008	$83,046			
Wastewater System Improvements, completed from 1996 CIP	**Amount**	**N. WWTP**	**S. WWTP**	**Trunklines**
1. 10" gravity sewer along SH 249 from McCoy's to FM 2920	$103,200			$103,200
2. 10" gravity sewer along Hooper from Bypass to SH 249	$50,000			$50,000
3. 10" gravity sewer along Hirschfield from SH 249 to Bypass	$40,000			$40,000
4. 1.5 MGD Wastewater Treatment Plant	$6,117,000		$6,117,000	
Total	**$6,310,200**	**$0**	**$6,117,000**	**$193,200**
Wastewater System Improvements, completed from 1999 CIP				
1. 10" gravity line along FM 2920: Kroger to City Limit	$14,144			$14,144
2. 12" gravity line along FM 2920: City Limit to Calvert	$151,948			$151,948
3. 10" gravity line along Hirschfield: SH 249 and bypass	$56,253			$56,253
4. Temporaty Lift Station at Calvert FM 2920	$80,000			$80,000
5. 6" force main along FM 2920 from temporary Lift Station to gravity sewer at Sh 249	$39,387			$39,387
6. 18" gravity trunk along Cherry from McPhail to Agg Road	$127,374			$127,374
7. 21" gravity trunk along Cherry from Agg to Theis	$120,745			$120,745
8. 24" gravity trunk along Cherry from Theis to Holderreith	$305,597			$305,597
9. 27" gravity trunk along Cherry from Holderreith to WWTP	$158,165			$158,165
10. 18" gravity line along Theis from LS to Cherry	$83,278			$83,278
11. Abandon Theis Lift Station	$360			$360
Total	**$1,137,251**	**$0**	**$0**	**$1,137,251**
Total Wastewater System Imp from 1996 and 1999 CIP	$7,447,451	$0	$6,117,000	$1,330,451

Wastewater System Improvements, completed from 2002 CIP	**Amount**	**N. WWTP**	**S. WWTP**	**Trunklines**
1. (8) 12" gravity line along W. Hufsmith from Quin Ext to SH 249	$164,160			$164,160
2. (10) 18" gravity line along FM 2920 from Calvert to Park St	$228,960			$228,960
3. (11) 6" force main from Temp Lift Station at Park/FM 2920 to Calvert	$73,440			$73,440
4. (12) 12" gravity line along FM 2920 from Park Rd to Tomball Cem. Rd	$145,935			$145,935
5. (14) Temp Lift Station at FM 2920 and Park Rd	$107,933			$107,933
6. (16) 10" gravity line on SH 249 from Hirschfield Rd to Alice Rd	$64,800			$64,800
7. (17) 21" gravity line on SH 249 from Alice Rd to Holderreith Rd	$528,255			$528,255
8. (18) 18" gravity line on Alice Rd from SH 249 Bypass to SH 249	$128,790			$128,790
9. (19) 30" gravity line on Holderreith Ext west of SH 249	$79,488			$79,488
10. (20) 30" gravity line on Holderreith from SH 249 and S. WWTP	$864,000			$864,000
11. (25) 8" gravity line along Johnson	$40,500			$40,500
12. (28) Abandon Cherry St Lift Station	$13,500			$13,500
13. (29) 27" gravity line on Holderreith from S. WWTP Trunk Line to BNRR	$577,800			$577,800
14. (30) 27" gravity line on Holderrieth from BNRR to Hufsmith-Kohrville Rd	$288,900			$288,900
15. (31) 24" gravity line on Hufsmith-Kohrville Rd from Holderreith to Sutton Ln	$790,560			$790,560
16. (32) 18" gravity line on Hufsnith-Kohrville Rd from Sutton Ln to FM 2920	$357,750			$357,750
Total	**$4,454,771**	**$0**	**$0**	**$4,454,771**
Not 50% Funded by Impact fee as of 12/13/2012	$4,290,611			$4,290,611
Less Impact Fee Balance	-$26,910			-$26,910
Remaining to be paid by Impact fees	**$4,263,701**			**$4,263,701**
Wastewater System Improvements, completed from 2007 CIP				
1. 10-inch Gravity Sanitary Sewer along Future Brown-Hufsmith Road from SH 249 to Quinn Road	$329,227			$329,227
2. 12-inch Gravity Sanitary Sewer along Tomball Cementery Road (Private Funding)	$0			$0
3. 8-inch Gravity Sanitary Sewer along Future Brown-Hufsmith Road from Quinn Road to Baker Drive	$88,565			$88,565
4. 8" gravity line on Mechanic Street	$4,378			$4,378
5. Tomball Hills Lift Station	$466,333			$466,333
Total	**$888,503**	**$0**	**$0**	**$888,503**

APPENDIX A

TEXAS LOCAL GOVERNMENT CODE CHAPTER 395

The following requirements, extracted from the Texas Local Government Code Chapter 395, were utilized for preparation of this report.

TITLE 12. PLANNING AND DEVELOPMENT

SUBTITLE C. PLANNING AND DEVELOPMENT PROVISIONS APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 395. FINANCING CAPITAL IMPROVEMENTS REQUIRED BY NEW DEVELOPMENT IN MUNICIPALITIES, COUNTIES, AND CERTAIN OTHER LOCAL GOVERNMENTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 395.001. DEFINITIONS. In this chapter:

(1) "Capital improvement" means any of the following facilities that have a life expectancy of three or more years and are owned and operated by or on behalf of a political subdivision:

(A) water supply, treatment, and distribution facilities; wastewater collection and treatment facilities; and storm water, drainage, and flood control facilities; whether or not they are located within the service area; and

(B) roadway facilities.

(2) "Capital improvements plan" means a plan required by this chapter that identifies capital improvements or facility expansions for which impact fees may be assessed.

(3) "Facility expansion" means the expansion of the capacity of an existing facility that serves the same function as an otherwise necessary new capital improvement, in order that the existing facility may serve new development. The term does not include the repair, maintenance, modernization, or expansion of an existing facility to better serve existing development.

(4) "Impact fee" means a charge or assessment imposed by a political subdivision against new development in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to the new development. The term includes amortized charges, lump-sum charges, capital recovery fees, contributions in aid of construction, and any other fee that functions as described by this definition. The term does not include:

(A) dedication of land for public parks or payment in lieu of the dedication to serve park needs;

(B) dedication of rights-of-way or easements or construction or dedication of on-site or off-site water distribution, wastewater collection or drainage facilities, or streets, sidewalks, or curbs if the dedication or construction is required by a valid ordinance and is necessitated by and attributable to the new development;

(C) lot or acreage fees to be placed in trust funds for the purpose of reimbursing developers for oversizing or constructing water or sewer mains or lines; or

(D) other pro rata fees for reimbursement of water or sewer mains or lines extended by the political subdivision.

However, an item included in the capital improvements plan may not be required to be constructed except in accordance with Section 395.019(2), and an owner may not be required to construct or dedicate facilities and to pay impact fees for those facilities.

(5) "Land use assumptions" includes a description of the service area and projections of changes in land uses, densities, intensities, and population in the service area over at least a 10-year period.

(6) "New development" means the subdivision of land; the construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any structure; or any use or extension of the use of land; any of which increases the number of service units.

(7) "Political subdivision" means a municipality, a district or authority created under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution, or, for the purposes set forth by Section 395.079, certain counties described by that section.

(8) "Roadway facilities" means arterial or collector streets or roads that have been designated on an officially adopted roadway plan of the political subdivision, together with all necessary appurtenances. The term includes the political subdivision's share of costs for roadways and associated improvements designated on the federal or Texas highway system, including local matching funds and costs related to utility line relocation and the establishment of curbs, gutters, sidewalks, drainage appurtenances, and rights-of-way.

(9) "Service area" means the area within the corporate boundaries or extraterritorial jurisdiction, as determined under Chapter 42, of the political subdivision to be served by the capital improvements or facilities expansions specified in the capital improvements plan, except roadway facilities and storm water, drainage, and flood control facilities. The service area, for the purposes of this chapter, may include all or part of the land within the political subdivision or its extraterritorial jurisdiction, except for roadway facilities and storm water, drainage, and flood control facilities. For roadway facilities, the service area is limited to an area within the corporate boundaries of the political subdivision and shall not exceed six miles. For storm water, drainage, and flood control facilities, the service area may include all or part of the land within the political subdivision or its extraterritorial jurisdiction, but shall not exceed the area actually served by the storm water, drainage, and flood control facilities designated in the capital improvements plan and shall not extend across watershed boundaries.

(10) "Service unit" means a standardized measure of consumption, use, generation, or discharge attributable to an individual unit of development calculated in accordance with generally accepted engineering or planning standards and based on historical data and trends applicable to the political subdivision in which the individual unit of development is located during the previous 10 years.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 1989, 71st Leg., ch. 566, Sec. 1(e), eff. Aug. 28, 1989; Acts 2001, 77th Leg., ch. 345, Sec. 1, eff. Sept. 1, 2001.

SUBCHAPTER B. AUTHORIZATION OF IMPACT FEE

Sec. 395.011. AUTHORIZATION OF FEE.

(a) Unless otherwise specifically authorized by state law or this chapter, a governmental entity or political subdivision may not enact or impose an impact fee.

(b) Political subdivisions may enact or impose impact fees on land within their corporate boundaries or extraterritorial jurisdictions only by complying with this chapter, except that impact fees may not be enacted or imposed in the extraterritorial jurisdiction for roadway facilities.

(c) A municipality may contract to provide capital improvements, except roadway facilities, to an area outside its corporate boundaries and extraterritorial jurisdiction and may charge an impact fee under the contract, but if an impact fee is charged in that area, the municipality must comply with this chapter.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.012. ITEMS PAYABLE BY FEE.

(a) An impact fee may be imposed only to pay the costs of constructing capital improvements or facility expansions, including and limited to the:

(1) construction contract price;

(2) surveying and engineering fees;

(3) land acquisition costs, including land purchases, court awards and costs, attorney's fees, and expert witness fees; and

(4) fees actually paid or contracted to be paid to an independent qualified engineer or financial consultant preparing or updating the capital improvements plan who is not an employee of the political subdivision.

(b) Projected interest charges and other finance costs may be included in determining the amount of impact fees only if the impact fees are used for the payment of principal and interest on bonds, notes, or other obligations issued by or on behalf of the political subdivision to finance the capital improvements or facility expansions identified in the capital improvements plan and are not used to reimburse bond funds expended for facilities that are not identified in the capital improvements plan.

(c) Notwithstanding any other provision of this chapter, the Edwards Underground Water District or a river authority that is authorized elsewhere by state law to charge fees that function as impact fees may use impact fees to pay a staff engineer who prepares or updates a capital improvements plan under this chapter.

(d) A municipality may pledge an impact fee as security for the payment of debt service on a bond, note, or other obligation issued to finance a capital improvement or public facility expansion if:

(1) the improvement or expansion is identified in a capital improvements plan; and

(2) at the time of the pledge, the governing body of the municipality certifies in a written order, ordinance, or resolution that none of the impact fee will be used or expended for an improvement or expansion not identified in the plan.

(e) A certification under Subsection (d)(2) is sufficient evidence that an impact fee pledged will not be used or expended for an improvement or expansion that is not identified in the capital improvements plan.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 1995, 74th Leg., ch. 90, Sec. 1, eff. May 16, 1995.

Sec. 395.013. ITEMS NOT PAYABLE BY FEE. Impact fees may not be adopted or used to pay for:

(1) construction, acquisition, or expansion of public facilities or assets other than capital improvements or facility expansions identified in the capital improvements plan;

(2) repair, operation, or maintenance of existing or new capital improvements or facility expansions;

(3) upgrading, updating, expanding, or replacing existing capital improvements to serve existing development in order to meet stricter safety, efficiency, environmental, or regulatory standards;

(4) upgrading, updating, expanding, or replacing existing capital improvements to provide better service to existing development;

(5) administrative and operating costs of the political subdivision, except the Edwards Underground Water District or a river authority that is authorized elsewhere by state law to charge fees that function as impact fees may use impact fees to pay its administrative and operating costs;

(6) principal payments and interest or other finance charges on bonds or other indebtedness, except as allowed by Section 395.012.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.014. CAPITAL IMPROVEMENTS PLAN.

(a) The political subdivision shall use qualified professionals to prepare the capital improvements plan and to calculate the impact fee. The capital improvements plan must contain specific enumeration of the following items:

(1) a description of the existing capital improvements within the service area and the costs to upgrade, update, improve, expand, or replace the improvements to meet existing needs and usage and stricter safety, efficiency, environmental, or regulatory standards, which shall be prepared by a qualified professional engineer licensed to perform the professional engineering services in this state;

(2) an analysis of the total capacity, the level of current usage, and commitments for usage of capacity of the existing capital improvements, which shall be prepared by a qualified professional engineer licensed to perform the professional engineering services in this state;

(3) a description of all or the parts of the capital improvements or facility expansions and their costs necessitated by and attributable to new development in the service area based on the approved land use assumptions, which shall be prepared by a qualified professional engineer licensed to perform the professional engineering services in this state;

(4) a definitive table establishing the specific level or quantity of use, consumption, generation, or discharge of a service unit for each category of capital improvements or facility expansions and an equivalency or conversion table establishing the ratio of a service unit to various types of land uses, including residential, commercial, and industrial;

(5) the total number of projected service units necessitated by and attributable to new development within the service area based on the approved land use assumptions and calculated in accordance with generally accepted engineering or planning criteria;

(6) the projected demand for capital improvements or facility expansions required by new service units projected over a reasonable period of time, not to exceed 10 years; and

(7) a plan for awarding:

(A) a credit for the portion of ad valorem tax and utility service revenues generated by new service units during the program period that is used for the payment of improvements, including the payment of debt, that are included in the capital improvements plan; or

(B) in the alternative, a credit equal to 50 percent of the total projected cost of implementing the capital improvements plan.

(b) The analysis required by Subsection (a)(3) may be prepared on a systemwide basis within the service area for each major category of capital improvement or facility expansion for the designated service area.

(c) The governing body of the political subdivision is responsible for supervising the implementation of the capital improvements plan in a timely manner.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 2, eff. Sept. 1, 2001.

Sec. 395.015. MAXIMUM FEE PER SERVICE UNIT.

(a) The impact fee per service unit may not exceed the amount determined by subtracting the amount in Section 395.014(a)(7) from the costs of the capital improvements described by Section 395.014(a)(3) and dividing that amount by the total number of projected service units described by Section 395.014(a)(5).

(b) If the number of new service units projected over a reasonable period of time is less than the total number of new service units shown by the approved land use assumptions at full development of the service area, the maximum impact fee per service unit shall be calculated by dividing the costs of the part of the capital improvements necessitated by and attributable to projected new service units described by Section 395.014(a)(6) by the projected new service units described in that section.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 3, eff. Sept. 1, 2001.

Sec. 395.016. TIME FOR ASSESSMENT AND COLLECTION OF FEE.

(a) This subsection applies only to impact fees adopted and land platted before June 20, 1987. For land that has been platted in accordance with Subchapter A, Chapter 212, or the subdivision or platting procedures of a political subdivision before June 20, 1987, or land on which new development occurs or is proposed without platting, the political subdivision may assess the impact fees at any time during the development approval and building process. Except as provided by Section 395.019, the political subdivision may collect the fees at either the time of recordation of the subdivision plat or connection to the political subdivision's water or sewer system or at the time the political subdivision issues either the building permit or the certificate of occupancy.

(b) This subsection applies only to impact fees adopted before June 20, 1987, and land platted after that date. For new development which is platted in accordance with Subchapter A, Chapter 212, or the subdivision or platting procedures of a political subdivision after June 20, 1987, the political subdivision may assess the impact fees before or at the time of recordation. Except as provided by Section 395.019, the political subdivision may collect the fees at either the time of recordation of the subdivision plat or connection to the political subdivision's water or sewer system or at the time the political subdivision issues either the building permit or the certificate of occupancy.

(c) This subsection applies only to impact fees adopted after June 20, 1987. For new development which is platted in accordance with Subchapter A, Chapter 212, or the subdivision or platting procedures of a political subdivision before the adoption of an impact fee, an impact fee may not be collected on any service unit for which a valid building permit is issued within one year after the date of adoption of the impact fee.

(d) This subsection applies only to land platted in accordance with Subchapter A, Chapter 212, or the subdivision or platting procedures of a political subdivision after adoption of an impact fee adopted after June 20, 1987. The political subdivision shall assess the impact fees before or at the time of recordation of a subdivision plat or other plat under Subchapter A, Chapter 212, or the subdivision or platting ordinance or procedures of any political subdivision in the official records of the county clerk of the county in which the tract is located. Except as provided by Section 395.019, if the political subdivision has water and wastewater capacity available:

(1) the political subdivision shall collect the fees at the time the political subdivision issues a building permit;

(2) for land platted outside the corporate boundaries of a municipality, the municipality shall collect the fees at the time an application for an individual meter connection to the municipality's water or wastewater system is filed; or

(3) a political subdivision that lacks authority to issue building permits in the area where the impact fee applies shall collect the fees at the time an application is filed for an individual meter connection to the political subdivision's water or wastewater system.

(e) For land on which new development occurs or is proposed to occur without platting, the political subdivision may assess the impact fees at any time during the development and building process and may collect the fees at either the time of recordation of the subdivision plat or connection to the political subdivision's water or sewer system or at the time the political subdivision issues either the building permit or the certificate of occupancy.

(f) An "assessment" means a determination of the amount of the impact fee in effect on the date or occurrence provided in this section and is the maximum amount that can be charged per service unit of such development. No specific act by the political subdivision is required.

(g) Notwithstanding Subsections (a)-(e) and Section 395.017, the political subdivision may reduce or waive an impact fee for any service unit that would qualify as affordable housing under 42 U.S.C. Section 12745, as amended, once the service unit is constructed. If affordable housing as defined by 42 U.S.C. Section 12745, as amended, is not

constructed, the political subdivision may reverse its decision to waive or reduce the impact fee, and the political subdivision may assess an impact fee at any time during the development approval or building process or after the building process if an impact fee was not already assessed.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 52, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 345, Sec. 4, eff. Sept. 1, 2001.

Sec. 395.017. ADDITIONAL FEE PROHIBITED; EXCEPTION. After assessment of the impact fees attributable to the new development or execution of an agreement for payment of impact fees, additional impact fees or increases in fees may not be assessed against the tract for any reason unless the number of service units to be developed on the tract increases. In the event of the increase in the number of service units, the impact fees to be imposed are limited to the amount attributable to the additional service units.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.018. AGREEMENT WITH OWNER REGARDING PAYMENT. A political subdivision is authorized to enter into an agreement with the owner of a tract of land for which the plat has been recorded providing for the time and method of payment of the impact fees.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.019. COLLECTION OF FEES IF SERVICES NOT AVAILABLE. Except for roadway facilities, impact fees may be assessed but may not be collected in areas where services are not currently available unless:

(1) the collection is made to pay for a capital improvement or facility expansion that has been identified in the capital improvements plan and the political subdivision commits to commence construction within two years, under duly awarded and executed contracts or commitments of staff time covering substantially all of the work required to provide service, and to have the service available within a reasonable period of time considering the type of capital improvement or facility expansion to be constructed, but in no event longer than five years;

(2) the political subdivision agrees that the owner of a new development may construct or finance the capital improvements or facility expansions and agrees that the costs incurred or funds advanced will be credited against the impact fees otherwise due from the new development or agrees to reimburse the owner for such costs from impact fees paid from other new developments that will use such capital improvements or facility expansions, which fees shall be collected and reimbursed to the owner at the time the other new development records its plat; or

(3) an owner voluntarily requests the political subdivision to reserve capacity to serve future development, and the political subdivision and owner enter into a valid written agreement.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.020. ENTITLEMENT TO SERVICES. Any new development for which an impact fee has been paid is entitled to the permanent use and benefit of the services for which the fee was exacted and is entitled to receive immediate service from any existing facilities with actual capacity to serve the new service units, subject to compliance with other valid regulations.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.021. AUTHORITY OF POLITICAL SUBDIVISIONS TO SPEND FUNDS TO REDUCE FEES. Political subdivisions may spend funds from any lawful source to pay for all or a part of the capital improvements or facility expansions to reduce the amount of impact fees.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.022. AUTHORITY OF POLITICAL SUBDIVISION TO PAY FEES. (a) Political subdivisions and other governmental entities may pay impact fees imposed under this chapter.

(b) A school district is not required to pay impact fees imposed under this chapter unless the board of trustees of the district consents to the payment of the fees by entering a contract with the political subdivision that imposes the fees. The contract may contain terms the board of trustees considers advisable to provide for the payment of the fees.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 250, Sec. 1, eff. May 25, 2007.

Sec. 395.023. CREDITS AGAINST ROADWAY FACILITIES FEES. Any construction of, contributions to, or dedications of off-site roadway facilities agreed to or required by a political subdivision as a condition of development approval shall be credited against roadway facilities impact fees otherwise due from the development.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.024. ACCOUNTING FOR FEES AND INTEREST.

(a) The order, ordinance, or resolution levying an impact fee must provide that all funds collected through the adoption of an impact fee shall be deposited in interest-bearing accounts clearly identifying the category of capital improvements or facility expansions within the service area for which the fee was adopted.

(b) Interest earned on impact fees is considered funds of the account on which it is earned and is subject to all restrictions placed on use of impact fees under this chapter.

(c) Impact fee funds may be spent only for the purposes for which the impact fee was imposed as shown by the capital improvements plan and as authorized by this chapter.

(d) The records of the accounts into which impact fees are deposited shall be open for public inspection and copying during ordinary business hours.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.025. REFUNDS.

(a) On the request of an owner of the property on which an impact fee has been paid, the political subdivision shall refund the impact fee if existing facilities are available and service is denied or the political subdivision has, after collecting the fee when service was not available, failed to commence construction within two years or service is not available within a reasonable period considering the type of capital improvement or facility expansion to be constructed, but in no event later than five years from the date of payment under Section 395.019(1).

(b) Repealed by Acts 2001, 77th Leg., ch. 345, Sec. 9, eff. Sept. 1, 2001.

(c) The political subdivision shall refund any impact fee or part of it that is not spent as authorized by this chapter within 10 years after the date of payment.

(d) Any refund shall bear interest calculated from the date of collection to the date of refund at the statutory rate as set forth in Section 302.002, Finance Code, or its successor statute.

(e) All refunds shall be made to the record owner of the property at the time the refund is paid. However, if the impact fees were paid by another political subdivision or governmental entity, payment shall be made to the political subdivision or governmental entity.

(f) The owner of the property on which an impact fee has been paid or another political subdivision or governmental entity that paid the impact fee has standing to sue for a refund under this section.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 1997, 75th Leg., ch. 1396, Sec. 37, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 7.82, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 345, Sec. 9, eff. Sept. 1, 2001.

SUBCHAPTER C. PROCEDURES FOR ADOPTION OF IMPACT FEE

Sec. 395.041. COMPLIANCE WITH PROCEDURES REQUIRED. Except as otherwise provided by this chapter, a political subdivision must comply with this subchapter to levy an impact fee.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.0411. CAPITAL IMPROVEMENTS PLAN. The political subdivision shall provide for a capital improvements plan to be developed by qualified professionals using generally accepted engineering and planning practices in accordance with Section 395.014.

Added by Acts 2001, 77th Leg., ch. 345, Sec. 5, eff. Sept. 1, 2001.

Sec. 395.042. HEARING ON LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLAN. To impose an impact fee, a political subdivision must adopt an order, ordinance, or resolution establishing a public hearing date to consider the land use assumptions and capital improvements plan for the designated service area.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 5, eff. Sept. 1, 2001.

Sec. 395.043. INFORMATION ABOUT LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLAN AVAILABLE TO PUBLIC. On or before the date of the first publication of the notice of the hearing on the land use assumptions and capital improvements plan, the political subdivision shall make available to the public its land use assumptions, the time period of the projections, and a description of the capital improvement facilities that may be proposed.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 5, eff. Sept. 1, 2001.

Sec. 395.044. NOTICE OF HEARING ON LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLAN.

(a) Before the 30th day before the date of the hearing on the land use assumptions and capital improvements plan, the political subdivision shall send a notice of the hearing by certified mail to any person who has given written notice by certified or registered mail to the municipal secretary or other designated official of the political subdivision requesting notice of the hearing within two years preceding the date of adoption of the order, ordinance, or resolution setting the public hearing.

(b) The political subdivision shall publish notice of the hearing before the 30th day before the date set for the hearing, in one or more newspapers of general circulation in each county in which the political subdivision lies. However, a river authority that is authorized elsewhere by state law to charge fees that function as impact fees may publish the required newspaper notice only in each county in which the service area lies.

(c) The notice must contain:

(1) a headline to read as follows:

"NOTICE OF PUBLIC HEARING ON LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLAN RELATING TO POSSIBLE ADOPTION OF IMPACT FEES"

(2) the time, date, and location of the hearing;

(3) a statement that the purpose of the hearing is to consider the land use assumptions and capital improvements plan under which an impact fee may be imposed; and

(4) a statement that any member of the public has the right to appear at the hearing and present evidence for or against the land use assumptions and capital improvements plan.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 5, eff. Sept. 1, 2001.

Sec. 395.045. APPROVAL OF LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLAN REQUIRED.

(a) After the public hearing on the land use assumptions and capital improvements plan, the political subdivision shall determine whether to adopt or reject an ordinance, order, or resolution approving the land use assumptions and capital improvements plan.

(b) The political subdivision, within 30 days after the date of the public hearing, shall approve or disapprove the land use assumptions and capital improvements plan.

(c) An ordinance, order, or resolution approving the land use assumptions and capital improvements plan may not be adopted as an emergency measure.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 5, eff. Sept. 1, 2001.

Sec. 395.0455. SYSTEMWIDE LAND USE ASSUMPTIONS.

(a) In lieu of adopting land use assumptions for each service area, a political subdivision may, except for storm water, drainage, flood control, and roadway facilities, adopt systemwide land use assumptions, which cover all of the area subject to the jurisdiction of the political subdivision for the purpose of imposing impact fees under this chapter.

(b) Prior to adopting systemwide land use assumptions, a political subdivision shall follow the public notice, hearing, and other requirements for adopting land use assumptions.

(c) After adoption of systemwide land use assumptions, a political subdivision is not required to adopt additional land use assumptions for a service area for water supply, treatment, and distribution facilities or wastewater collection and treatment facilities as a prerequisite to the adoption of a capital improvements plan or impact fee, provided the capital improvements plan and impact fee are consistent with the systemwide land use assumptions.

Added by Acts 1989, 71st Leg., ch. 566, Sec. 1(b), eff. Aug. 28, 1989.

Sec. 395.047. HEARING ON IMPACT FEE. On adoption of the land use assumptions and capital improvements plan, the governing body shall adopt an order or resolution setting a public hearing to discuss the imposition of the impact fee. The public hearing must be held by the governing body of the political subdivision to discuss the proposed ordinance, order, or resolution imposing an impact fee.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 5, eff. Sept. 1, 2001.

Sec. 395.049. NOTICE OF HEARING ON IMPACT FEE.

(a) Before the 30th day before the date of the hearing on the imposition of an impact fee, the political subdivision shall send a notice of the hearing by certified mail to any person who has given written notice by certified or registered mail to the municipal secretary or other designated official of the political subdivision requesting notice of the hearing within two years preceding the date of adoption of the order or resolution setting the public hearing.

(b) The political subdivision shall publish notice of the hearing before the 30th day before the date set for the hearing, in one or more newspapers of general circulation in each county in which the political subdivision lies. However, a river authority that is authorized elsewhere by state law to charge fees that function as impact fees may publish the required newspaper notice only in each county in which the service area lies.

(c) The notice must contain the following:

(1) a headline to read as follows:

"NOTICE OF PUBLIC HEARING ON ADOPTION OF IMPACT FEES"

(2) the time, date, and location of the hearing;

(3) a statement that the purpose of the hearing is to consider the adoption of an impact fee;

(4) the amount of the proposed impact fee per service unit; and

(5) a statement that any member of the public has the right to appear at the hearing and present evidence for or against the plan and proposed fee.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 5, eff. Sept. 1, 2001.

Sec. 395.050. ADVISORY COMMITTEE COMMENTS ON IMPACT FEES. The advisory committee created under Section 395.058 shall file its written comments on the proposed impact fees before the fifth business day before the date of the public hearing on the imposition of the fees.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 5, eff. Sept. 1, 2001.

Sec. 395.051. APPROVAL OF IMPACT FEE REQUIRED.

(a) The political subdivision, within 30 days after the date of the public hearing on the imposition of an impact fee, shall approve or disapprove the imposition of an impact fee.

(b) An ordinance, order, or resolution approving the imposition of an impact fee may not be adopted as an emergency measure.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 5, eff. Sept. 1, 2001.

Sec. 395.052. PERIODIC UPDATE OF LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLAN REQUIRED.

(a) A political subdivision imposing an impact fee shall update the land use assumptions and capital improvements plan at least every five years. The initial five-year period begins on the day the capital improvements plan is adopted.

(b) The political subdivision shall review and evaluate its current land use assumptions and shall cause an update of the capital improvements plan to be prepared in accordance with Subchapter B.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 6, eff. Sept. 1, 2001.

Sec. 395.053. HEARING ON UPDATED LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLAN. The governing body of the political subdivision shall, within 60 days after the date it receives the update of the land use assumptions and the capital improvements plan, adopt an order setting a public hearing to discuss and review the update and shall determine whether to amend the plan.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.054. HEARING ON AMENDMENTS TO LAND USE ASSUMPTIONS, CAPITAL IMPROVEMENTS PLAN, OR IMPACT FEE. A public hearing must be held by the governing body of the political subdivision to discuss the proposed ordinance, order, or resolution amending land use assumptions, the capital improvements plan, or the impact fee. On or before the date of the first publication of the notice of the hearing on the amendments, the land use assumptions and the capital improvements plan, including the amount of any proposed amended impact fee per service unit, shall be made available to the public.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.055. NOTICE OF HEARING ON AMENDMENTS TO LAND USE ASSUMPTIONS, CAPITAL IMPROVEMENTS PLAN, OR IMPACT FEE.

(a) The notice and hearing procedures prescribed by Sections 395.044(a) and (b) apply to a hearing on the amendment of land use assumptions, a capital improvements plan, or an impact fee.

(b) The notice of a hearing under this section must contain the following:

(1) a headline to read as follows:

"NOTICE OF PUBLIC HEARING ON AMENDMENT OF IMPACT FEES"

(2) the time, date, and location of the hearing;

(3) a statement that the purpose of the hearing is to consider the amendment of land use assumptions and a capital improvements plan and the imposition of an impact fee; and

(4) a statement that any member of the public has the right to appear at the hearing and present evidence for or against the update.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 7, eff. Sept. 1, 2001.

Sec. 395.056. ADVISORY COMMITTEE COMMENTS ON AMENDMENTS. The advisory committee created under Section 395.058 shall file its written comments on the proposed amendments to the land use assumptions, capital improvements plan, and impact fee before the fifth business day before the date of the public hearing on the amendments.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.057. APPROVAL OF AMENDMENTS REQUIRED.

(a) The political subdivision, within 30 days after the date of the public hearing on the amendments, shall approve or disapprove the amendments of the land use assumptions and the capital improvements plan and modification of an impact fee.

(b) An ordinance, order, or resolution approving the amendments to the land use assumptions, the capital improvements plan, and imposition of an impact fee may not be adopted as an emergency measure.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.0575. DETERMINATION THAT NO UPDATE OF LAND USE ASSUMPTIONS, CAPITAL IMPROVEMENTS PLAN OR IMPACT FEES IS NEEDED.

(a) If, at the time an update under Section 395.052 is required, the governing body determines that no change to the land use assumptions, capital improvements plan, or impact fee is needed, it may, as an alternative to the updating requirements of Sections 395.052-395.057, do the following:

(1) The governing body of the political subdivision shall, upon determining that an update is unnecessary and 60 days before publishing the final notice under this section, send notice of its determination not to update the land use assumptions, capital improvements plan, and impact fee by certified mail to any person who has, within two years preceding the date that the final notice of this matter is to be published, give written notice by certified or registered mail to the municipal secretary or other designated official of the political subdivision requesting notice of hearings related to impact fees. The notice must contain the information in Subsections (b)(2)-(5).

(2) The political subdivision shall publish notice of its determination once a week for three consecutive weeks in one or more newspapers with general circulation in each county in which the political subdivision lies. However, a river authority that is authorized elsewhere by state law to charge fees that function as impact fees may publish the required newspaper notice only in each county in which the service area lies. The notice of public hearing may not be in the part of the paper in which legal notices and classified ads appear and may not be smaller than one-quarter page of a standard-size or tabloid-size newspaper, and the headline on the notice must be in 18-point or larger type.

(b) The notice must contain the following:

(1) a headline to read as follows:

"NOTICE OF DETERMINATION NOT TO UPDATE LAND USE ASSUMPTIONS, CAPITAL IMPROVEMENTS PLAN, OR IMPACT FEES";

(2) a statement that the governing body of the political subdivision has determined that no change to the land use assumptions, capital improvements plan, or impact fee is necessary;

(3) an easily understandable description and a map of the service area in which the updating has been determined to be unnecessary;

(4) a statement that if, within a specified date, which date shall be at least 60 days after publication of the first notice, a person makes a written request to the designated official of the political subdivision requesting that the land use assumptions, capital improvements plan, or impact fee be updated, the governing body must comply with the request by following the requirements of Sections 395.052-395.057; and

(5) a statement identifying the name and mailing address of the official of the political subdivision to whom a request for an update should be sent.

(c) The advisory committee shall file its written comments on the need for updating the land use assumptions, capital improvements plans, and impact fee before the fifth business day before the earliest notice of the government's decision that no update is necessary is mailed or published.

(d) If, by the date specified in Subsection (b)(4), a person requests in writing that the land use assumptions, capital improvements plan, or impact fee be updated, the governing body shall cause an update of the land use assumptions and capital improvements plan to be prepared in accordance with Sections 395.052-395.057.

(e) An ordinance, order, or resolution determining the need for updating land use assumptions, a capital improvements plan, or an impact fee may not be adopted as an emergency measure.

Added by Acts 1989, 71st Leg., ch. 566, Sec. 1(d), eff. Aug. 28, 1989.

Sec. 395.058. ADVISORY COMMITTEE.

(a) On or before the date on which the order, ordinance, or resolution is adopted under Section 395.042, the political subdivision shall appoint a capital improvements advisory committee.

(b) The advisory committee is composed of not less than five members who shall be appointed by a majority vote of the governing body of the political subdivision. Not less than 40 percent of the membership of the advisory committee must be representatives of the real estate, development, or building industries who are not employees or officials of a political subdivision or governmental entity. If the political subdivision has a planning and zoning commission, the commission may act as the advisory committee if the commission includes at least one representative of the real estate, development, or building industry who is not an employee or official of a political subdivision or governmental entity. If no such representative is a member of the planning and zoning commission, the commission may still act as the advisory committee if at least one such representative is appointed by the political subdivision as an ad hoc voting member of the planning and zoning commission when it acts as the advisory committee. If the impact fee is to be applied in the extraterritorial jurisdiction of the political subdivision, the membership must include a representative from that area.

(c) The advisory committee serves in an advisory capacity and is established to:

(1) advise and assist the political subdivision in adopting land use assumptions;

(2) review the capital improvements plan and file written comments;

(3) monitor and evaluate implementation of the capital improvements plan;

(4) file semiannual reports with respect to the progress of the capital improvements plan and report to the political subdivision any perceived inequities in implementing the plan or imposing the impact fee; and

(5) advise the political subdivision of the need to update or revise the land use assumptions, capital improvements plan, and impact fee.

(d) The political subdivision shall make available to the advisory committee any professional reports with respect to developing and implementing the capital improvements plan.

(e) The governing body of the political subdivision shall adopt procedural rules for the advisory committee to follow in carrying out its duties.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

SUBCHAPTER D. OTHER PROVISIONS

Sec. 395.071. DUTIES TO BE PERFORMED WITHIN TIME LIMITS. If the governing body of the political subdivision does not perform a duty imposed under this chapter within the prescribed period, a person who has paid an impact fee or an owner of land on which an impact fee has been paid has the right to present a written request to the governing body of the political subdivision stating the nature of the unperformed duty and requesting that it be performed within 60 days after the date of the request. If the governing body of the political subdivision finds that the duty is required under this chapter and is late in being performed, it shall cause the duty to commence within 60 days after the date of the request and continue until completion.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.072. RECORDS OF HEARINGS. A record must be made of any public hearing provided for by this chapter. The record shall be maintained and be made available for public inspection by the political subdivision for at least 10 years after the date of the hearing.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.073. CUMULATIVE EFFECT OF STATE AND LOCAL RESTRICTIONS. Any state or local restrictions that apply to the imposition of an impact fee in a political subdivision where an impact fee is proposed are cumulative with the restrictions in this chapter.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.074. PRIOR IMPACT FEES REPLACED BY FEES UNDER THIS CHAPTER. An impact fee that is in place on June 20, 1987, must be replaced by an impact fee made under this chapter on or before June 20, 1990. However, any political subdivision having an impact fee that has not been replaced under this chapter on or before June 20, 1988, is liable to any party who, after June 20, 1988, pays an impact fee that exceeds the maximum permitted under Subchapter B by more than 10 percent for an amount equal to two times the difference between the maximum impact fee allowed and the actual impact fee imposed, plus reasonable attorney's fees and court costs.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.075. NO EFFECT ON TAXES OR OTHER CHARGES. This chapter does not prohibit, affect, or regulate any tax, fee, charge, or assessment specifically authorized by state law.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.076. MORATORIUM ON DEVELOPMENT PROHIBITED. A moratorium may not be placed on new development for the purpose of awaiting the completion of all or any part of the process necessary to develop, adopt, or update land use assumptions, a capital improvements plan, or an impact fee.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 441, Sec. 2, eff. Sept. 1, 2001.

Sec. 395.077. APPEALS.

(a) A person who has exhausted all administrative remedies within the political subdivision and who is aggrieved by a final decision is entitled to trial de novo under this chapter.

(b) A suit to contest an impact fee must be filed within 90 days after the date of adoption of the ordinance, order, or resolution establishing the impact fee.

(c) Except for roadway facilities, a person who has paid an impact fee or an owner of property on which an impact fee has been paid is entitled to specific performance of the services by the political subdivision for which the fee was paid.

(d) This section does not require construction of a specific facility to provide the services.

(e) Any suit must be filed in the county in which the major part of the land area of the political subdivision is located. A successful litigant shall be entitled to recover reasonable attorney's fees and court costs.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.078. SUBSTANTIAL COMPLIANCE WITH NOTICE REQUIREMENTS. An impact fee may not be held invalid because the public notice requirements were not complied with if compliance was substantial and in good faith.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.079. IMPACT FEE FOR STORM WATER, DRAINAGE, AND FLOOD CONTROL IN POPULOUS COUNTY.

(a) Any county that has a population of 3.3 million or more or that borders a county with a population of 3.3 million or more, and any district or authority created under Article XVI, Section 59, of the Texas Constitution within any such county that is authorized to provide storm water, drainage, and flood control facilities, is authorized to impose impact fees to provide storm water, drainage, and flood control improvements necessary to accommodate new development.

(b) The imposition of impact fees authorized by Subsection (a) is exempt from the requirements of Sections 395.025, 395.052-395.057, and 395.074 unless the political subdivision proposes to increase the impact fee.

(c) Any political subdivision described by Subsection (a) is authorized to pledge or otherwise contractually obligate all or part of the impact fees to the payment of principal and interest on bonds, notes, or other obligations issued or incurred by or on behalf of the political subdivision and to the payment of any other contractual obligations.

(d) An impact fee adopted by a political subdivision under Subsection (a) may not be reduced if:

(1) the political subdivision has pledged or otherwise contractually obligated all or part of the impact fees to the payment of principal and interest on bonds, notes, or other obligations issued by or on behalf of the political subdivision; and

(2) the political subdivision agrees in the pledge or contract not to reduce the impact fees during the term of the bonds, notes, or other contractual obligations.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 669, Sec. 107, eff. Sept. 1, 2001.

Sec. 395.080. CHAPTER NOT APPLICABLE TO CERTAIN WATER-RELATED SPECIAL DISTRICTS.

(a) This chapter does not apply to impact fees, charges, fees, assessments, or contributions:

(1) paid by or charged to a district created under Article XVI, Section 59, of the Texas Constitution to another district created under that constitutional provision if both districts are required by law to obtain approval of their bonds by the Texas Natural Resource Conservation Commission; or

(2) charged by an entity if the impact fees, charges, fees, assessments, or contributions are approved by the Texas Natural Resource Conservation Commission.

(b) Any district created under Article XVI, Section 59, or Article III, Section 52, of the Texas Constitution may petition the Texas Natural Resource Conservation Commission for approval of any proposed impact fees, charges, fees, assessments, or contributions. The commission shall adopt rules for reviewing the petition and may charge the petitioner fees adequate to cover the cost of processing and considering the petition. The rules shall require notice substantially the same as that required by this chapter for the adoption of impact fees and shall afford opportunity for all affected parties to participate.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 11.257, eff. Sept. 1, 1995.

Sec. 395.081. FEES FOR ADJOINING LANDOWNERS IN CERTAIN MUNICIPALITIES.

(a) This section applies only to a municipality with a population of 115,000 or less that constitutes more than three-fourths of the population of the county in which the majority of the area of the municipality is located.

(b) A municipality that has not adopted an impact fee under this chapter that is constructing a capital improvement, including sewer or waterline or drainage or roadway facilities, from the municipality to a development located within or outside the municipality's boundaries, in its discretion, may allow a landowner whose land adjoins the capital improvement or is within a specified distance from the capital improvement, as determined by the governing body of the municipality, to connect to the capital improvement if:

(1) the governing body of the municipality has adopted a finding under Subsection (c); and

(2) the landowner agrees to pay a proportional share of the cost of the capital improvement as determined by the governing body of the municipality and agreed to by the landowner.

(c) Before a municipality may allow a landowner to connect to a capital improvement under Subsection (b), the municipality shall adopt a finding that the municipality will benefit from allowing the landowner to connect to the capital improvement. The finding shall describe the benefit to be received by the municipality.

(d) A determination of the governing body of a municipality, or its officers or employees, under this section is a discretionary function of the municipality and the municipality and its officers or employees are not liable for a determination made under this section.

Added by Acts 1997, 75th Leg., ch. 1150, Sec. 1, eff. June 19, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1043, Sec. 5, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1163, Sec. 100, eff. September 1, 2011.

APPENDIX B

References

"City of Tomball Infrastructure Master Plan and Capital Recovery Fee Determination 2002 to 2012", PBS&J, Houston, Texas, May 2002.

"City of Tomball Infrastructure Master Plan and Impact Fee Determination 2007 to 2017", LAN, Houston, Texas, October 2008.

"Tomball Comprehensive Plan - Vision 2030", adopted by Ordinance No. 2009-33, December 7, 2009.

"2035 Regional Growth Forecast", Houston-Galveston Area Council

2010 U.S. Census Report SF-1, City of Tomball, Texas, U.S. Census Bureau and the Texas State Data Center, 2011.

"Subcounty Total Resident Population Estimates (Vintage 2012): April 1, 2010 to July 1, 2012", U.S. Census Bureau, released via Internet on May 23, 2013.

"Local Grand Parkway construction upcoming…", Community Impact Newspaper, Northwest Houston Edition, Volume 4, Issue 5, January 24 – February 20, 2013.

"Expansion of 249 moving plans for Aggie Expressway along", www.yourhoustonnews.com, by Lindsey Vaculin, posted December 19, 2012.

"Work to begin on Hwy. 249 tollway…", Community Impact Newspaper, Northwest Houston Edition, Volume 4, Issue 9, May 16 – June 19, 2013.

APPENDIX C

Unit Cost Data

Water System Unit Cost Data

8-inch Water Line		Unit	Unit Price
8-inch Water Line		LF	$ 35.00
Fire Hydrant[1]		LF	$ 6.86
Trench Safety		LF	$ 1.00
Subtotal			$ 43.00
Augering & Roadway Repairs	20%	LF	$ 8.60
Easement Acquisition	15%	LF	$ 6.45
Pipeline Relocation	30%	LF	$ 12.90
Contingencies	15%	LF	$ 6.45
Engineering & Surveying	25%	LF	$ 10.75
Total 8-inch Water Line per LF			**$ 88.00**

12-Inch Water Line		Unit	Unit Price
12-inch Water Line		LF	$ 54.00
Fire Hydrant[1]		LF	$ 6.86
Trench Safety		LF	$ 1.00
Subtotal			$ 62.00
Augering & Roadway Repairs	20%	LF	$ 12.40
Easement Acquisition	15%	LF	$ 9.30
Pipeline Relocation	30%	LF	$ 18.60
Contingencies	15%	LF	$ 9.30
Engineering & Surveying	25%	LF	$ 15.50
Total 12-inch Water Line per LF			**$ 127.00**

(1) Assumes Fire Hydrants are spaced every 350 feet

Miscellaneous Items Used in Water Lines above			
Fire Hydrant Assembly		EA	$ 2,400.00

Water Well Plant Estimate				
	Qty		Unit Cost Est	Total Cost
Well	1000	gpm	$ 1,420.00	$1,420,000.00
GST	400000	gal	$ 2.50	$1,000,000.00
Boosters	1800	gpm	$ 37.00	$ 66,600.00
Maintenance Bldg	1	LS	$ 216,000.00	$ 216,000.00
HPT	10000	gal	$ 4.15	$ 41,500.00
Emer. Gen 275kW	300	kW	$ 300.00	$ 90,000.00
				$2,834,100.00
Contingencies	15%			$ 283,410.00
Engineering & Surveying	25%			$ 708,525.00
				$3,826,035.00

Sanitary Sewer Unit Cost Data

Item		Unit	Unit Price
8-inch Gravity Sanitary Sewer			
8-inch Gravity Sanitary Sewer (all depths)		LF	$ 40.00
Sanitary Sewer Manhole(1)		LF	$ 5.00
Trench Safety		LF	$ 1.00
Subtotal			$ 46.00
Augering & Roadway Repairs	15%	LF	$ 6.90
Easement Acquisition	15%	LF	$ 6.90
Pipeline Relocation	30%	LF	$ 13.80
Contingencies	15%	LF	$ 6.90
Engineering & Surveying	25%	LF	$ 11.50
Indirect Cost Subtotal	100%		$ 46.00
8-inch Gravity Sanitary Sewer Total			**$ 92.00**
10-Inch Gravity Sanitary Sewer			
10-inch Gravity Sanitary Sewer (all depths)		LF	$ 50.00
Sanitary Sewer Manhole(1)		LF	$ 5.00
Trench Safety		LF	$ 1.00
Subtoal			$ 56.00
Indirect Cost Subtotal (2)		LF	$ 56.00
10-Inch Gravity Sanitary Sewer Total			**$ 112.00**
12-Inch Gravity Sanitary Sewer			
12-inch Gravity Sanitary Sewer (all depths)		LF	$ 65.00
Sanitary Sewer Manhole(1)		LF	$ 5.00
Trench Safety		LF	$ 1.00
Subtotal			$ 71.00
Indirect Cost Subtotal (2)		LF	$ 71.00
12-Inch Gravity Sanitary Sewer Total			**$ 142.00**
15-Inch Gravity Sanitary Sewer			
15-inch Gravity Sanitary Sewer (all depths)		LF	$ 85.00
Sanitary Sewer Manhole(1)		LF	$ 5.00
Trench Safety		LF	$ 1.00
Subtotal			$ 91.00
Indirect Cost Subtotal (2)		LF	$ 91.00
15-Inch Gravity Sanitary Sewer Total			**$ 182.00**
18-Inch Gravity Sanitary Sewer			
18-inch Gravity Sanitary Sewer (all depths)		LF	$ 105.00
Sanitary Sewer Manhole(1)		LF	$ 5.00
Trench Safety		LF	$ 1.00
Subtotal			$ 111.00
Indirect Cost Subtotal (2)		LF	$ 111.00
18-Inch Gravity Sanitary Sewer Total			**$ 222.00**

Sanitary Sewer Unit Cost Data (Cont.)

21-Inch Gravity Sanitary Sewer			
21-inch Gravity Sanitary Sewer (all depths)	LF	$	120.00
Sanitary Sewer Manhole(1)	LF	$	5.00
Trench Safety	LF	$	1.00
Subtotal		$	126.00
Indirect Cost Subtotal (2)	LF	$	126.00
21-Inch Gravity Sanitary Sewer Total		**$**	**252.00**
4-Inch Force Main			
4-Inch Force Main	LF	$	25.00
Trench Safety	LF	$	1.00
Subtotal		$	26.00
Indirect Cost Subtotal (2)	LF	$	26.00
4-Inch Force Main Total		**$**	**52.00**
6-Inch Force Main			
6-Inch Force Main	LF	$	30.00
Trench Safety	LF	$	1.00
Subtotal		$	31.00
Indirect Cost Subtotal (2)	LF	$	31.00
6-Inch Force Main Total		**$**	**62.00**
8-Inch Force Main			
8-Inch Force Main	LF	$	35.00
Trench Safety	LF	$	1.00
Subtotal		$	36.00
Indirect Cost Subtotal (2)	LF	$	36.00
8-Inch Force Main Total		**$**	**72.00**
Miscellaneous Items Used in Sanitary Sewer Lines Above			
Sanitary Sewer Manhole	EA	$	2,000.00
Lift Station (300-500 gpm)			
Lift Station (300-500 gpm) including contengencies	EA	$	320,000.00
Engineering & Testing	EA	$	80,000.00
Total		**$**	**400,000.00**
Lift Station (1,000-1,500 gpm)			
Lift Station (1,000-1,500 gpm) including contengencies	EA	$	440,000.00
Engineering & Testing	EA	$	110,000.00
Total		**$**	**550,000.00**
Lift Station (1,500-2,000 gpm)			
Lift Station (1,500-2,000 gpm) including contengencies	EA	$	820,000.00
Engineering & Testing	EA	$	205,000.00
Total		**$**	**1,025,000.00**
Wastewater Treatment Plant Capacity			
Wastewater Treatment Plant Capacity incl. contg.	gpd	$	6.00
Contingencies	gpd	$	0.90
Engineering & Testing	gpd	$	1.50
Total per gpd		**$**	**8.40**

(1) Manhole spaced every 400 feet.

(2) Indirect cost percentages are the same for all sizes of sanitary sewer lines and force mains. The percentages are shown in the cost data for an 8-inch sanitary sewer line.

Drainage Unit Cost Calculation

Item		Unit	Unit Price
Drainage Ditch			
Drainage Channel Excavation (10' bottom, 12' depth, 4:1 SS)*		LF	$ 257.78
Backslope Swale & Interceptor**		LF	$ 56.00
Sod (160' ROW)		LF	$ 53.33
Misc (Clearing, SWPPP, Etc)	15%	LF	$ 55.07
Subtotal			$ 422.18
Contingencies	15%	LF	$ 63.33
Engineering & Surveying	25%	LF	$ 105.54
Indirect Cost Subtotal	40%		$ 168.87
Drainage Ditch Total			**$ 591.05**
* Excavation Haul Off Assumed			
** 250 ft spacing			

Detention Unit Cost Calculation

Item		Unit	Unit Price
Detention Facility			
Detention Excavation (12' depth, 4:1 SS)*		Acre-Ft	$16,130.00
Backslope Swale & Interceptor**		Acre-Ft	$ 583.33
Sod		Acre-Ft	$ 440.00
Misc (Clearing, SWPPP, Etc)	15%	Acre-Ft	$ 2,573.00
Subtotal			$19,726.33
Contingencies	15%	Acre-Ft	$ 2,958.95
Engineering & Surveying	25%	Acre-Ft	$ 4,931.58
Indirect Cost Subtotal	40%		$ 7,890.53
Detention Facility Total			**$27,616.87**
* Excavation Haul Off Assumed			
** 250 ft spacing			

Unit Cost Data

Item		Unit	Unit Price
Mobilization			4%
SWPPP			2.5%
Excavation - Haul Off		CY	$ 10.00
Backslope Swale		Ea	$ 6,000.00
Backslope Interceptor		LF	$ 4.00
Sod		SY	$ 3.00
Sod		Acre	$ 4,840.00
Clearing & Grubbing		Acre	$ 5,000.00

Water System Capital Improvements Construction Costs per LUE, 2012 to 2022

Total Connections in City Only, 2012 =	**6,679**	**LUE**
Total Projected Connections in City & ETJ, 2022 =	**7,874**	**LUE**
Total Projected Additional Connections =	**1,195**	**LUE**

Component	Outstanding Capital Cost	LUE Capacity	Cost Basis per LUE	New LUE's Served from 2012 to 2022	Cost Distribution 2012 to 2022	Total Capital Cost per LUE 2012 to 2022
Facilities constructed with 2007 CIP[1]						
Distribution Lines	$535,900	7,874	$68.06	1,195	$81,331	
Water Wells	$4,491,570	1,667	$2,694.94	979	$2,638,348	
Proposed Facilities with 2012 CIP						
Water Well	$1,420,000	1,667	$852.00	216	$184,032	
Ground Storage Tanks	$1,000,000	2,000	$500.00	216	$108,000	
Booster Pumps	$66,600	1,667	$39.96	216	$8,631	
Facility (Bldg, H-Tank & Generator)	$347,500	1,667	$208.50	216	$45,036	
WP Engineering, Surveying & Contingencies	$991,935	1,667	$595.16	216	$128,555	
Distribution Lines	$13,223,100	7,874	$1,679.34	1,195	$2,006,808	
Water (1/3 2012-2022 CIP Preparation Fees)					$50,333	
Total				**1,195**	**$5,251,075**	**$4,394.20**

(1) Existing facility costs are from Tomball staff.

Wastewater System Capital Improvements Construction Costs per LUE, 2012 to 2022

Total Connections in City Only, 2012 =	**6,679**	**LUE**
Total Projected Connections in City & ETJ, 2022 =	**7,874**	**LUE**
Total Projected Additional Connections =	**1,195**	**LUE**

Component	Outstanding Bond Principal	Outstanding Capital Cost	LUE Capacity	Cost Basis per LUE	New LUE's Served from 2012 to 2022	Cost Distribution 2012 to 2022	Total Capital Cost per LUE 2012 to 2022
Facilities constructed with 1996 & 1999 CIP [(1)]							
South Wastewater Treatment Plant	$2,465,000		3,333	$739.50	753	$556,733	
Facilities constructed with 2002 CIP[(1)]							
Trunklines		$4,263,701	7,874	$541.49	1,195	$647,082	
Facilities constructed with 2007 CIP[(1)]							
Trunk Lines 2007 CIP		$888,503	7,874	$112.84	1,195	$134,844	
Proposed Facilities with 2012CIP							
Lift Stations 2012 CIP		$1,350,000	6,804	$198.41	1,195	$237,098	
Trunk Lines 2012 CIP		$13,495,200	7,874	$1,713.89	1,195	$2,048,103	
Water (1/3 2012-2022 CIP Preparation Fees)						$50,333	
Total					**1,195**	**$3,674,193**	**$3,074.64**

(1) Existing Facility costs from Tomball staff. Costs shown are outstanding bond amounts.
(2) Buildout to WWTP's maximum capacities.

Drainage System Capital Improvements Construction Costs per Acre, 2012 to 2022

HCFCD Channel No.	Construction Project	Estimated Improvement Costs	Collected Funds[1]	2012 Assessable Improvement Costs[2]	Total Basin Area Served (Acres)	Existing City of Tomball 2012 Development[3]	Estimated Floodway Acreage	Areas outside City and ETJ	Net Acreage to Bear Fee	1/3 2012-2022 CIP Fees per Usage Acre[5]	Capital Cost Basis per Acre	Total Cost Basis per Acre
J131[4]	Detention & Conveyence	$0	$0	$0	3,156	57	18	387	3,156		$0.00	
J132[4]	Channel	$0	$0	$0	250	57	4	0	250		$0.00	
										$ -		
J133[4]	Channel	$0	$0	$0	500	57	9	0	500		$0.00	
										$ -		
M116[4]	Channel	$0	$0	$0	1,575	57	0	550	1,575		$0.00	
M118	N of EDC Project	$2,423,300										
M118	EDC Project	$1,359,412										
M118	S of Holderrieth + Detention	$1,790,741										
		$5,573,454	$0	$5,573,454	732	57	51	0	732	$ 8.22	$7,614.01	$ 7,622.23
M121 East	Channel	$2,216,433										
M121 East	Detention	$4,335,848										
		$6,552,281	($9,591)	$6,561,872	629	170	27	0	629	$ 8.22	$10,432.23	$ 10,440.45
M121 West	Channel	$1,448,070										
M121 West	Channel	$2,807,482										
M121 West	Detention	$5,937,626										
		$10,193,178	($82,485)	$10,275,664	1,161	225	49	0	1,161	$ 8.22	$8,850.70	$ 8,858.92
M124[4]	Channel	$2,364,196		$2,364,196								
M124	Channel	$26,377,589		$26,377,589								
M124	Detention	$21,818,344		$21,818,344								
		$50,560,129	$0	$50,560,129	2,930	373	100	877	2,930	$ 8.22	$17,256.02	$ 17,264.24
M125	Detention	$543,805	($40,431)	$584,237	675	373	14	19	675	$ 8.22	$865.54	$ 873.76

(1) Existing Facility costs from Tomball staff based on outstanding bond amounts, plus Proposed Facilities estimates, including engineering & contingencies.

(2) Limited to Proposed Facility construction estimates, including engineering & contingencies when no improvements exist.

(3) Existing Areas previously assessed impact fees.

(4) The current CIP does not include channel or detention construction within the next ten years due to funding constraints.

(5) (1/3 2012-2022 CIP) Fee Dispensed by acreage for M118, M121, & M125.

Projected Cost of Implementing the CIP

Component	Capital Cost per LUE 2012 to 2022	Estimated Bond Soft Costs per LUE [1]	Estimated Total Bond Amount per LUE	Interest per LUE [2]	Total Debt Service per LUE
Water	$4,394.20	$351.54	$4,745.74	$1,893.00	$6,638.74
Wastewater	$3,074.64	$245.97	$3,320.61	$1,324.54	$4,645.15

Drainage Service Area	Capital Cost per Acre 2012 to 2022	Estimated Bond Soft Costs	Estimated Bond Amount per Acre [1]	Interest per Acre [2]	Total Debt Service per Acre
J131	$0.00	$0.00	$0.00	$0.00	$0.00
J132	$0.00	$0.00	$0.00	$0.00	$0.00
J133	$0.00	$0.00	$0.00	$0.00	$0.00
M116	$0.00	$0.00	$0.00	$0.00	$0.00
M118	$7,622.23	$609.78	$8,232.01	$3,283.61	$11,515.62
M121E	$10,440.45	$835.24	$11,275.69	$4,497.69	$15,773.37
M121W	$8,858.92	$708.71	$9,567.63	$3,816.37	$13,384.01
M124	$17,264.24	$1,381.14	$18,645.38	$7,437.34	$26,082.71
M125	$873.76	$0.00	$0.00	$0.00	$873.76

(1) Assumes a bond soft costs of 8.0%
(2) Assumes an interest rate of 3.5% and 40 semi-annual payments

Capital Improvement Plan Debt Service Credit and Maximum Impact Fees

Component	Total Debt Service per LUE	Debt Service Credit per LUE [1]	Maximum Impact Fee per LUE
Water	$6,638.74	$3,319.37	$3,319.37
Wastewater	$4,645.15	$2,322.57	$2,322.57

Drainage Service Area	Total Debt Service per Acre	Debt Service Credit per Acre [1]	Maximum Impact Fee per Acre
J131	$0.00	$0.00	$0.00
J132	$0.00	$0.00	$0.00
J133	$0.00	$0.00	$0.00
M116	$0.00	$0.00	$0.00
M118	$11,515.62	$5,757.81	$5,757.81
M121E	$15,773.37	$7,886.69	$7,886.69
M121W	$13,384.01	$6,692.00	$6,692.00
M124	$26,082.71	$13,041.36	$13,041.36
M125	$873.76	$436.88	$436.88

(1) Credit equal to 50% of the total projected cost of implementing the CIP.

Maximum Impact Fee for Various Types and Sizes of Water Meters

Meter Type	Meter Size	Living Unit Equivalent (LUE)	Water Impact Fee by Meter Size		Wastewater Impact Fee by Meter Size	Total Impact Fee by Meter Size
Simple	3/4"	1.0	$ 3,319.37	s	$ 2,322.57	$ 5,641.94
Simple	1"	2.5	$ 8,298.42		$ 5,806.43	$ 14,104.86
Simple	1-1/2"	5.0	$ 16,596.85		$ 11,612.87	$ 28,209.71
Compound	2"	8.0	$ 26,554.96		$ 18,580.58	$ 45,135.54
Turbine	2"	10.0	$ 33,193.70		$ 23,225.73	$ 56,419.43
Compound	3"	16.0	$ 53,109.92		$ 37,161.17	$ 90,271.09
Turbine	3"	24.0	$ 79,664.88		$ 55,741.75	$ 135,406.63
Compound	4"	25.0	$ 82,984.25		$ 58,064.33	$ 141,048.57
Turbine	4"	42.0	$ 139,413.53		$ 97,548.07	$ 236,961.60
Compound	6"	50.0	$ 165,968.49		$ 116,128.65	$ 282,097.14
Turbine	6"	92.0	$ 305,382.02		$ 213,676.72	$ 519,058.74
Compound	8"	80.0	$ 265,549.58		$ 185,805.84	$ 451,355.43
Turbine	8"	160.0	$ 531,099.17		$ 371,611.68	$ 902,710.85
Compound	10"	115.0	$ 381,727.53		$ 267,095.90	$ 648,823.42
Turbine	10"	250.0	$ 829,842.45		$ 580,643.25	$ 1,410,485.70
Turbine	12"	330.0	$ 1,095,392.04		$ 766,449.09	$ 1,861,841.13

LUE is determined on the basis of the American Water Works Association (AWWA) standards C700-09, C701-12, and C702-10 recommended maximum rate for continuous duty flow of the meter, purchased at the sale of tap based on the Uniform Plumbing Code meter size and type.

Disposition of Collected Impact Fees

Water Impact Fees Collected and Interest Earnings as of 12/31/12	$2,460,861			
Water System Improvements, completed from 1996 CIP	**Amount**	**Wells**	**EST**	**Water lines**
1. 12" water main along Zion Road from Ulrich to Neal St.	$97,200			$97,200
2. 12" water main along SH 249 from Brown to Baker	$50,000			$50,000
3. 12" water main along S. Cherry from Agg to Theis	$210,600			$210,600
4. 12" water main along Theis from S. Cherry to SH 249	$194,499			$194,499
5. 2000 gpm water well	$600,000	$600,000		
Total	**$1,152,299**	**$600,000**	**$0**	**$552,299**
Water System Improvements, completed from 1999 CIP				
1. 12" water main along FM 2920 from Lowes to Calvert	$54,810			$54,810
2. 750,000 gallon elevated storage tank	$1,200,000		$1,200,000	
3. 6" parallel water main on Graham and Holderreith	$124,981			$124,981
Total	**$1,379,791**	**$0**	**$1,200,000**	**$179,791**
Total Water System Improvements from 1996 and 1999 CIP	**$2,532,090**	**$600,000**	**$1,200,000**	**$732,090**
Water System Improvements, completed from 2002 CIP	**Amount**	**Wells**	**EST**	**Water lines**
1. 12" Water main on SH 249 from Theis to Holderreith	$172,800			$172,800
2. 12" Water main on Holderreith from School St ext. to SH 249	$86,400			$86,400
3. 12" Water main on Holderreith from School St ext. to Cherry	$103,680			$103,680
4. 12" Water main on Holderreith from S. Cherry to Huffsmith-Korhville	$311,040			$311,040
5. 12" Water main along S. Cherry from Theis to Holderreith	$164,160			$164,160
6. 12" Water main along Brown Rd to E. Hufsmith Extension	$216,000			$216,000
7. 8" Water main along Johnson Rd from Michel to shopping center	$37,260			$37,260
8. 12" Water main along Hufsmith-Kohrville from FM 2920 to Holderreith	$492,480			$492,480
9. Install 1200 gpm pump at Baker St. well	$270,000	$270,000		
10. 12" Water main along Alice Rd from SH 249 to SH 249 Bypass	$86,400			$86,400
11. 12" Water mian along FM 2920 from Persimmon to ETJ	$181,440			$181,440
12. 8" Water main on Willow St from Carrell to Texas	$34,155			$34,155
Total	**$2,155,815**	**$270,000**	**$0**	**$1,885,815**
Water System Improvements, completed from 2007 CIP	**Amount**	**Wells**	**EST**	**Water lines**
1. 8-Inch Water Line along the Future Michel Road extension from Commercial Park Drive to	$796			$796

School Street				
2. 12-inch Water Line along Quinn Road from Baker Drive to Inwood Street	$195,978			$195,978
3. 12-inch Water Line along Future Brown-Hufsmith Road from SH 249 to Quinn Road	$407,486			$407,486
4. 12-inch Water Line along Tomball Cemetery Road North of 2920 (Private Funding)	$0			
5. 12-inch Water Line along Future Brown-Hufsmith Road from Quinn Road to Baker Drive	$126,058			$126,058
6. Water Line Extension on Mechanic Street	$20,878			$20,878
7. Water Wells 5 and 6/Plant	$4,491,570	$4,491,570		
Total	**$5,242,766**	**$4,491,570**	**$0**	**$751,196**
Not 50% Funded by Impact fee as of 12/13/2012	$5,045,993	$4,491,570	$0	$554,422
Less Impact Fee Balance	-$18,522	0		-$18,522
Remaining to be paid by Impact fees	**$5,027,471**	**$4,491,570**		**$535,900**
Wastewater Impact Fees Collected and Interest Earnings as of 12/31/12	$2,600,215			
Balance as of 3/31/2008	$83,046			
Wastewater System Improvements, completed from 1996 CIP	**Amount**	**N. WWTP**	**S. WWTP**	**Trunklines**
1. 10" gravity sewer along SH 249 from McCoy's to FM 2920	$103,200			$103,200
2. 10" gravity sewer along Hooper from Bypass to SH 249	$50,000			$50,000
3. 10" gravity sewer along Hirschfield from SH 249 to Bypass	$40,000			$40,000
4. 1.5 MGD Wastewater Treatment Plant	$6,117,000		$6,117,000	
Total	**$6,310,200**	**$0**	**$6,117,000**	**$193,200**
Wastewater System Improvements, completed from 1999 CIP				
1. 10" gravity line along FM 2920: Kroger to City Limit	$14,144			$14,144
2. 12" gravity line along FM 2920: City Limit to Calvert	$151,948			$151,948
3. 10" gravity line along Hirschfield: SH 249 and bypass	$56,253			$56,253
4. Temporaty Lift Station at Calvert FM 2920	$80,000			$80,000
5. 6" force main along FM 2920 from temporary Lift Station to gravity sewer at Sh 249	$39,387			$39,387
6. 18" gravity trunk along Cherry from McPhail to Agg Road	$127,374			$127,374
7. 21" gravity trunk along Cherry from Agg to Theis	$120,745			$120,745
8. 24" gravity trunk along Cherry from Theis to Holderreith	$305,597			$305,597
9. 27" gravity trunk along Cherry from Holderreith to WWTP	$158,165			$158,165
10. 18" gravity line along Theis from LS to Cherry	$83,278			$83,278
11. Abandon Theis Lift Station	$360			$360
Total	**$1,137,251**	**$0**	**$0**	**$1,137,251**
Total Wastewater System Imp from 1996 and 1999 CIP	$7,447,451	$0	$6,117,000	$1,330,451

Wastewater System Improvements, completed from 2002 CIP	**Amount**	**N. WWTP**	**S. WWTP**	**Trunklines**
1. (8) 12" gravity line along W. Hufsmith from Quin Ext to SH 249	$164,160			$164,160
2. (10) 18" gravity line along FM 2920 from Calvert to Park St	$228,960			$228,960
3. (11) 6" force main from Temp Lift Station at Park/FM 2920 to Calvert	$73,440			$73,440
4. (12) 12" gravity line along FM 2920 from Park Rd to Tomball Cem. Rd	$145,935			$145,935
5. (14) Temp Lift Station at FM 2920 and Park Rd	$107,933			$107,933
6. (16) 10" gravity line on SH 249 from Hirschfield Rd to Alice Rd	$64,800			$64,800
7. (17) 21" gravity line on SH 249 from Alice Rd to Holderreith Rd	$528,255			$528,255
8. (18) 18" gravity line on Alice Rd from SH 249 Bypass to SH 249	$128,790			$128,790
9. (19) 30" gravity line on Holderreith Ext west of SH 249	$79,488			$79,488
10. (20) 30" gravity line on Holderreith from SH 249 and S. WWTP	$864,000			$864,000
11. (25) 8" gravity line along Johnson	$40,500			$40,500
12. (28) Abandon Cherry St Lift Station	$13,500			$13,500
13. (29) 27" gravity line on Holderreith from S. WWTP Trunk Line to BNRR	$577,800			$577,800
14. (30) 27" gravity line on Holderrieth from BNRR to Hufsmith-Kohrville Rd	$288,900			$288,900
15. (31) 24" gravity line on Hufsmith-Kohrville Rd from Holderreith to Sutton Ln	$790,560			$790,560
16. (32) 18" gravity line on Hufsnith-Kohrville Rd from Sutton Ln to FM 2920	$357,750			$357,750
Total	**$4,454,771**	**$0**	**$0**	**$4,454,771**
Not 50% Funded by Impact fee as of 12/13/2012	$4,290,611			$4,290,611
Less Impact Fee Balance	-$26,910			-$26,910
Remaining to be paid by Impact fees	**$4,263,701**			**$4,263,701**
Wastewater System Improvements, completed from 2007 CIP				
1. 10-inch Gravity Sanitary Sewer along Future Brown-Hufsmith Road from SH 249 to Quinn Road	$329,227			$329,227
2. 12-inch Gravity Sanitary Sewer along Tomball Cementery Road (Private Funding)	$0			$0
3. 8-inch Gravity Sanitary Sewer along Future Brown-Hufsmith Road from Quinn Road to Baker Drive	$88,565			$88,565
4. 8" gravity line on Mechanic Street	$4,378			$4,378
5. Tomball Hills Lift Station	$466,333			$466,333
Total	**$888,503**	**$0**	**$0**	**$888,503**

APPENDIX A

TEXAS LOCAL GOVERNMENT CODE CHAPTER 395

The following requirements, extracted from the Texas Local Government Code Chapter 395, were utilized for preparation of this report.

TITLE 12. PLANNING AND DEVELOPMENT

SUBTITLE C. PLANNING AND DEVELOPMENT PROVISIONS APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 395. FINANCING CAPITAL IMPROVEMENTS REQUIRED BY NEW DEVELOPMENT IN MUNICIPALITIES, COUNTIES, AND CERTAIN OTHER LOCAL GOVERNMENTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 395.001. DEFINITIONS. In this chapter:

(1) "Capital improvement" means any of the following facilities that have a life expectancy of three or more years and are owned and operated by or on behalf of a political subdivision:

(A) water supply, treatment, and distribution facilities; wastewater collection and treatment facilities; and storm water, drainage, and flood control facilities; whether or not they are located within the service area; and

(B) roadway facilities.

(2) "Capital improvements plan" means a plan required by this chapter that identifies capital improvements or facility expansions for which impact fees may be assessed.

(3) "Facility expansion" means the expansion of the capacity of an existing facility that serves the same function as an otherwise necessary new capital improvement, in order that the existing facility may serve new development. The term does not include the repair, maintenance, modernization, or expansion of an existing facility to better serve existing development.

(4) "Impact fee" means a charge or assessment imposed by a political subdivision against new development in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to the new development. The term includes amortized charges, lump-sum charges, capital recovery fees, contributions in aid of construction, and any other fee that functions as described by this definition. The term does not include:

(A) dedication of land for public parks or payment in lieu of the dedication to serve park needs;

(B) dedication of rights-of-way or easements or construction or dedication of on-site or off-site water distribution, wastewater collection or drainage facilities, or streets, sidewalks, or curbs if the dedication or construction is required by a valid ordinance and is necessitated by and attributable to the new development;

(C) lot or acreage fees to be placed in trust funds for the purpose of reimbursing developers for oversizing or constructing water or sewer mains or lines; or

(D) other pro rata fees for reimbursement of water or sewer mains or lines extended by the political subdivision.

However, an item included in the capital improvements plan may not be required to be constructed except in accordance with Section 395.019(2), and an owner may not be required to construct or dedicate facilities and to pay impact fees for those facilities.

(5) "Land use assumptions" includes a description of the service area and projections of changes in land uses, densities, intensities, and population in the service area over at least a 10-year period.

(6) "New development" means the subdivision of land; the construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any structure; or any use or extension of the use of land; any of which increases the number of service units.

(7) "Political subdivision" means a municipality, a district or authority created under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution, or, for the purposes set forth by Section 395.079, certain counties described by that section.

(8) "Roadway facilities" means arterial or collector streets or roads that have been designated on an officially adopted roadway plan of the political subdivision, together with all necessary appurtenances. The term includes the political subdivision's share of costs for roadways and associated improvements designated on the federal or Texas highway system, including local matching funds and costs related to utility line relocation and the establishment of curbs, gutters, sidewalks, drainage appurtenances, and rights-of-way.

(9) "Service area" means the area within the corporate boundaries or extraterritorial jurisdiction, as determined under Chapter 42, of the political subdivision to be served by the capital improvements or facilities expansions specified in the capital improvements plan, except roadway facilities and storm water, drainage, and flood control facilities. The service area, for the purposes of this chapter, may include all or part of the land within the political subdivision or its extraterritorial jurisdiction, except for roadway facilities and storm water, drainage, and flood control facilities. For roadway facilities, the service area is limited to an area within the corporate boundaries of the political subdivision and shall not exceed six miles. For storm water, drainage, and flood control facilities, the service area may include all or part of the land within the political subdivision or its extraterritorial jurisdiction, but shall not exceed the area actually served by the storm water, drainage, and flood control facilities designated in the capital improvements plan and shall not extend across watershed boundaries.

(10) "Service unit" means a standardized measure of consumption, use, generation, or discharge attributable to an individual unit of development calculated in accordance with generally accepted engineering or planning standards and based on historical data and trends applicable to the political subdivision in which the individual unit of development is located during the previous 10 years.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 1989, 71st Leg., ch. 566, Sec. 1(e), eff. Aug. 28, 1989; Acts 2001, 77th Leg., ch. 345, Sec. 1, eff. Sept. 1, 2001.

SUBCHAPTER B. AUTHORIZATION OF IMPACT FEE

Sec. 395.011. AUTHORIZATION OF FEE.

(a) Unless otherwise specifically authorized by state law or this chapter, a governmental entity or political subdivision may not enact or impose an impact fee.

(b) Political subdivisions may enact or impose impact fees on land within their corporate boundaries or extraterritorial jurisdictions only by complying with this chapter, except that impact fees may not be enacted or imposed in the extraterritorial jurisdiction for roadway facilities.

(c) A municipality may contract to provide capital improvements, except roadway facilities, to an area outside its corporate boundaries and extraterritorial jurisdiction and may charge an impact fee under the contract, but if an impact fee is charged in that area, the municipality must comply with this chapter.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.012. ITEMS PAYABLE BY FEE.

(a) An impact fee may be imposed only to pay the costs of constructing capital improvements or facility expansions, including and limited to the:

(1) construction contract price;

(2) surveying and engineering fees;

(3) land acquisition costs, including land purchases, court awards and costs, attorney's fees, and expert witness fees; and

(4) fees actually paid or contracted to be paid to an independent qualified engineer or financial consultant preparing or updating the capital improvements plan who is not an employee of the political subdivision.

(b) Projected interest charges and other finance costs may be included in determining the amount of impact fees only if the impact fees are used for the payment of principal and interest on bonds, notes, or other obligations issued by or on behalf of the political subdivision to finance the capital improvements or facility expansions identified in the capital improvements plan and are not used to reimburse bond funds expended for facilities that are not identified in the capital improvements plan.

(c) Notwithstanding any other provision of this chapter, the Edwards Underground Water District or a river authority that is authorized elsewhere by state law to charge fees that function as impact fees may use impact fees to pay a staff engineer who prepares or updates a capital improvements plan under this chapter.

(d) A municipality may pledge an impact fee as security for the payment of debt service on a bond, note, or other obligation issued to finance a capital improvement or public facility expansion if:

(1) the improvement or expansion is identified in a capital improvements plan; and

(2) at the time of the pledge, the governing body of the municipality certifies in a written order, ordinance, or resolution that none of the impact fee will be used or expended for an improvement or expansion not identified in the plan.

(e) A certification under Subsection (d)(2) is sufficient evidence that an impact fee pledged will not be used or expended for an improvement or expansion that is not identified in the capital improvements plan.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 1995, 74th Leg., ch. 90, Sec. 1, eff. May 16, 1995.

Sec. 395.013. ITEMS NOT PAYABLE BY FEE. Impact fees may not be adopted or used to pay for:

(1) construction, acquisition, or expansion of public facilities or assets other than capital improvements or facility expansions identified in the capital improvements plan;

(2) repair, operation, or maintenance of existing or new capital improvements or facility expansions;

(3) upgrading, updating, expanding, or replacing existing capital improvements to serve existing development in order to meet stricter safety, efficiency, environmental, or regulatory standards;

(4) upgrading, updating, expanding, or replacing existing capital improvements to provide better service to existing development;

(5) administrative and operating costs of the political subdivision, except the Edwards Underground Water District or a river authority that is authorized elsewhere by state law to charge fees that function as impact fees may use impact fees to pay its administrative and operating costs;

(6) principal payments and interest or other finance charges on bonds or other indebtedness, except as allowed by Section 395.012.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.014. CAPITAL IMPROVEMENTS PLAN.

(a) The political subdivision shall use qualified professionals to prepare the capital improvements plan and to calculate the impact fee. The capital improvements plan must contain specific enumeration of the following items:

(1) a description of the existing capital improvements within the service area and the costs to upgrade, update, improve, expand, or replace the improvements to meet existing needs and usage and stricter safety, efficiency, environmental, or regulatory standards, which shall be prepared by a qualified professional engineer licensed to perform the professional engineering services in this state;

(2) an analysis of the total capacity, the level of current usage, and commitments for usage of capacity of the existing capital improvements, which shall be prepared by a qualified professional engineer licensed to perform the professional engineering services in this state;

(3) a description of all or the parts of the capital improvements or facility expansions and their costs necessitated by and attributable to new development in the service area based on the approved land use assumptions, which shall be prepared by a qualified professional engineer licensed to perform the professional engineering services in this state;

(4) a definitive table establishing the specific level or quantity of use, consumption, generation, or discharge of a service unit for each category of capital improvements or facility expansions and an equivalency or conversion table establishing the ratio of a service unit to various types of land uses, including residential, commercial, and industrial;

(5) the total number of projected service units necessitated by and attributable to new development within the service area based on the approved land use assumptions and calculated in accordance with generally accepted engineering or planning criteria;

(6) the projected demand for capital improvements or facility expansions required by new service units projected over a reasonable period of time, not to exceed 10 years; and

(7) a plan for awarding:

(A) a credit for the portion of ad valorem tax and utility service revenues generated by new service units during the program period that is used for the payment of improvements, including the payment of debt, that are included in the capital improvements plan; or

(B) in the alternative, a credit equal to 50 percent of the total projected cost of implementing the capital improvements plan.

(b) The analysis required by Subsection (a)(3) may be prepared on a systemwide basis within the service area for each major category of capital improvement or facility expansion for the designated service area.

(c) The governing body of the political subdivision is responsible for supervising the implementation of the capital improvements plan in a timely manner.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 2, eff. Sept. 1, 2001.

Sec. 395.015. MAXIMUM FEE PER SERVICE UNIT.

(a) The impact fee per service unit may not exceed the amount determined by subtracting the amount in Section 395.014(a)(7) from the costs of the capital improvements described by Section 395.014(a)(3) and dividing that amount by the total number of projected service units described by Section 395.014(a)(5).

(b) If the number of new service units projected over a reasonable period of time is less than the total number of new service units shown by the approved land use assumptions at full development of the service area, the maximum impact fee per service unit shall be calculated by dividing the costs of the part of the capital improvements necessitated by and attributable to projected new service units described by Section 395.014(a)(6) by the projected new service units described in that section.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 3, eff. Sept. 1, 2001.

Sec. 395.016. TIME FOR ASSESSMENT AND COLLECTION OF FEE.

(a) This subsection applies only to impact fees adopted and land platted before June 20, 1987. For land that has been platted in accordance with Subchapter A, Chapter 212, or the subdivision or platting procedures of a political subdivision before June 20, 1987, or land on which new development occurs or is proposed without platting, the political subdivision may assess the impact fees at any time during the development approval and building process. Except as provided by Section 395.019, the political subdivision may collect the fees at either the time of recordation of the subdivision plat or connection to the political subdivision's water or sewer system or at the time the political subdivision issues either the building permit or the certificate of occupancy.

(b) This subsection applies only to impact fees adopted before June 20, 1987, and land platted after that date. For new development which is platted in accordance with Subchapter A, Chapter 212, or the subdivision or platting procedures of a political subdivision after June 20, 1987, the political subdivision may assess the impact fees before or at the time of recordation. Except as provided by Section 395.019, the political subdivision may collect the fees at either the time of recordation of the subdivision plat or connection to the political subdivision's water or sewer system or at the time the political subdivision issues either the building permit or the certificate of occupancy.

(c) This subsection applies only to impact fees adopted after June 20, 1987. For new development which is platted in accordance with Subchapter A, Chapter 212, or the subdivision or platting procedures of a political subdivision before the adoption of an impact fee, an impact fee may not be collected on any service unit for which a valid building permit is issued within one year after the date of adoption of the impact fee.

(d) This subsection applies only to land platted in accordance with Subchapter A, Chapter 212, or the subdivision or platting procedures of a political subdivision after adoption of an impact fee adopted after June 20, 1987. The political subdivision shall assess the impact fees before or at the time of recordation of a subdivision plat or other plat under Subchapter A, Chapter 212, or the subdivision or platting ordinance or procedures of any political subdivision in the official records of the county clerk of the county in which the tract is located. Except as provided by Section 395.019, if the political subdivision has water and wastewater capacity available:

(1) the political subdivision shall collect the fees at the time the political subdivision issues a building permit;

(2) for land platted outside the corporate boundaries of a municipality, the municipality shall collect the fees at the time an application for an individual meter connection to the municipality's water or wastewater system is filed; or

(3) a political subdivision that lacks authority to issue building permits in the area where the impact fee applies shall collect the fees at the time an application is filed for an individual meter connection to the political subdivision's water or wastewater system.

(e) For land on which new development occurs or is proposed to occur without platting, the political subdivision may assess the impact fees at any time during the development and building process and may collect the fees at either the time of recordation of the subdivision plat or connection to the political subdivision's water or sewer system or at the time the political subdivision issues either the building permit or the certificate of occupancy.

(f) An "assessment" means a determination of the amount of the impact fee in effect on the date or occurrence provided in this section and is the maximum amount that can be charged per service unit of such development. No specific act by the political subdivision is required.

(g) Notwithstanding Subsections (a)-(e) and Section 395.017, the political subdivision may reduce or waive an impact fee for any service unit that would qualify as affordable housing under 42 U.S.C. Section 12745, as amended, once the service unit is constructed. If affordable housing as defined by 42 U.S.C. Section 12745, as amended, is not

constructed, the political subdivision may reverse its decision to waive or reduce the impact fee, and the political subdivision may assess an impact fee at any time during the development approval or building process or after the building process if an impact fee was not already assessed.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 52, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 345, Sec. 4, eff. Sept. 1, 2001.

Sec. 395.017. ADDITIONAL FEE PROHIBITED; EXCEPTION. After assessment of the impact fees attributable to the new development or execution of an agreement for payment of impact fees, additional impact fees or increases in fees may not be assessed against the tract for any reason unless the number of service units to be developed on the tract increases. In the event of the increase in the number of service units, the impact fees to be imposed are limited to the amount attributable to the additional service units.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.018. AGREEMENT WITH OWNER REGARDING PAYMENT. A political subdivision is authorized to enter into an agreement with the owner of a tract of land for which the plat has been recorded providing for the time and method of payment of the impact fees.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.019. COLLECTION OF FEES IF SERVICES NOT AVAILABLE. Except for roadway facilities, impact fees may be assessed but may not be collected in areas where services are not currently available unless:

(1) the collection is made to pay for a capital improvement or facility expansion that has been identified in the capital improvements plan and the political subdivision commits to commence construction within two years, under duly awarded and executed contracts or commitments of staff time covering substantially all of the work required to provide service, and to have the service available within a reasonable period of time considering the type of capital improvement or facility expansion to be constructed, but in no event longer than five years;

(2) the political subdivision agrees that the owner of a new development may construct or finance the capital improvements or facility expansions and agrees that the costs incurred or funds advanced will be credited against the impact fees otherwise due from the new development or agrees to reimburse the owner for such costs from impact fees paid from other new developments that will use such capital improvements or facility expansions, which fees shall be collected and reimbursed to the owner at the time the other new development records its plat; or

(3) an owner voluntarily requests the political subdivision to reserve capacity to serve future development, and the political subdivision and owner enter into a valid written agreement.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.020. ENTITLEMENT TO SERVICES. Any new development for which an impact fee has been paid is entitled to the permanent use and benefit of the services for which the fee was exacted and is entitled to receive immediate service from any existing facilities with actual capacity to serve the new service units, subject to compliance with other valid regulations.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.021. AUTHORITY OF POLITICAL SUBDIVISIONS TO SPEND FUNDS TO REDUCE FEES. Political subdivisions may spend funds from any lawful source to pay for all or a part of the capital improvements or facility expansions to reduce the amount of impact fees.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.022. AUTHORITY OF POLITICAL SUBDIVISION TO PAY FEES. (a) Political subdivisions and other governmental entities may pay impact fees imposed under this chapter.

(b) A school district is not required to pay impact fees imposed under this chapter unless the board of trustees of the district consents to the payment of the fees by entering a contract with the political subdivision that imposes the fees. The contract may contain terms the board of trustees considers advisable to provide for the payment of the fees.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 250, Sec. 1, eff. May 25, 2007.

Sec. 395.023. CREDITS AGAINST ROADWAY FACILITIES FEES. Any construction of, contributions to, or dedications of off-site roadway facilities agreed to or required by a political subdivision as a condition of development approval shall be credited against roadway facilities impact fees otherwise due from the development.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.024. ACCOUNTING FOR FEES AND INTEREST.

(a) The order, ordinance, or resolution levying an impact fee must provide that all funds collected through the adoption of an impact fee shall be deposited in interest-bearing accounts clearly identifying the category of capital improvements or facility expansions within the service area for which the fee was adopted.

(b) Interest earned on impact fees is considered funds of the account on which it is earned and is subject to all restrictions placed on use of impact fees under this chapter.

(c) Impact fee funds may be spent only for the purposes for which the impact fee was imposed as shown by the capital improvements plan and as authorized by this chapter.

(d) The records of the accounts into which impact fees are deposited shall be open for public inspection and copying during ordinary business hours.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.025. REFUNDS.

(a) On the request of an owner of the property on which an impact fee has been paid, the political subdivision shall refund the impact fee if existing facilities are available and service is denied or the political subdivision has, after collecting the fee when service was not available, failed to commence construction within two years or service is not available within a reasonable period considering the type of capital improvement or facility expansion to be constructed, but in no event later than five years from the date of payment under Section 395.019(1).

(b) Repealed by Acts 2001, 77th Leg., ch. 345, Sec. 9, eff. Sept. 1, 2001.

(c) The political subdivision shall refund any impact fee or part of it that is not spent as authorized by this chapter within 10 years after the date of payment.

(d) Any refund shall bear interest calculated from the date of collection to the date of refund at the statutory rate as set forth in Section 302.002, Finance Code, or its successor statute.

(e) All refunds shall be made to the record owner of the property at the time the refund is paid. However, if the impact fees were paid by another political subdivision or governmental entity, payment shall be made to the political subdivision or governmental entity.

(f) The owner of the property on which an impact fee has been paid or another political subdivision or governmental entity that paid the impact fee has standing to sue for a refund under this section.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 1997, 75th Leg., ch. 1396, Sec. 37, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 7.82, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 345, Sec. 9, eff. Sept. 1, 2001.

SUBCHAPTER C. PROCEDURES FOR ADOPTION OF IMPACT FEE

Sec. 395.041. COMPLIANCE WITH PROCEDURES REQUIRED. Except as otherwise provided by this chapter, a political subdivision must comply with this subchapter to levy an impact fee.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.0411. CAPITAL IMPROVEMENTS PLAN. The political subdivision shall provide for a capital improvements plan to be developed by qualified professionals using generally accepted engineering and planning practices in accordance with Section 395.014.

Added by Acts 2001, 77th Leg., ch. 345, Sec. 5, eff. Sept. 1, 2001.

Sec. 395.042. HEARING ON LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLAN. To impose an impact fee, a political subdivision must adopt an order, ordinance, or resolution establishing a public hearing date to consider the land use assumptions and capital improvements plan for the designated service area.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 5, eff. Sept. 1, 2001.

Sec. 395.043. INFORMATION ABOUT LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLAN AVAILABLE TO PUBLIC. On or before the date of the first publication of the notice of the hearing on the land use assumptions and capital improvements plan, the political subdivision shall make available to the public its land use assumptions, the time period of the projections, and a description of the capital improvement facilities that may be proposed.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 5, eff. Sept. 1, 2001.

Sec. 395.044. NOTICE OF HEARING ON LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLAN.

(a) Before the 30th day before the date of the hearing on the land use assumptions and capital improvements plan, the political subdivision shall send a notice of the hearing by certified mail to any person who has given written notice by certified or registered mail to the municipal secretary or other designated official of the political subdivision requesting notice of the hearing within two years preceding the date of adoption of the order, ordinance, or resolution setting the public hearing.

(b) The political subdivision shall publish notice of the hearing before the 30th day before the date set for the hearing, in one or more newspapers of general circulation in each county in which the political subdivision lies. However, a river authority that is authorized elsewhere by state law to charge fees that function as impact fees may publish the required newspaper notice only in each county in which the service area lies.

(c) The notice must contain:

(1) a headline to read as follows:

"NOTICE OF PUBLIC HEARING ON LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLAN RELATING TO POSSIBLE ADOPTION OF IMPACT FEES"

(2) the time, date, and location of the hearing;

(3) a statement that the purpose of the hearing is to consider the land use assumptions and capital improvements plan under which an impact fee may be imposed; and

(4) a statement that any member of the public has the right to appear at the hearing and present evidence for or against the land use assumptions and capital improvements plan.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 5, eff. Sept. 1, 2001.

Sec. 395.045. APPROVAL OF LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLAN REQUIRED.

(a) After the public hearing on the land use assumptions and capital improvements plan, the political subdivision shall determine whether to adopt or reject an ordinance, order, or resolution approving the land use assumptions and capital improvements plan.

(b) The political subdivision, within 30 days after the date of the public hearing, shall approve or disapprove the land use assumptions and capital improvements plan.

(c) An ordinance, order, or resolution approving the land use assumptions and capital improvements plan may not be adopted as an emergency measure.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 5, eff. Sept. 1, 2001.

Sec. 395.0455. SYSTEMWIDE LAND USE ASSUMPTIONS.

(a) In lieu of adopting land use assumptions for each service area, a political subdivision may, except for storm water, drainage, flood control, and roadway facilities, adopt systemwide land use assumptions, which cover all of the area subject to the jurisdiction of the political subdivision for the purpose of imposing impact fees under this chapter.

(b) Prior to adopting systemwide land use assumptions, a political subdivision shall follow the public notice, hearing, and other requirements for adopting land use assumptions.

(c) After adoption of systemwide land use assumptions, a political subdivision is not required to adopt additional land use assumptions for a service area for water supply, treatment, and distribution facilities or wastewater collection and treatment facilities as a prerequisite to the adoption of a capital improvements plan or impact fee, provided the capital improvements plan and impact fee are consistent with the systemwide land use assumptions.

Added by Acts 1989, 71st Leg., ch. 566, Sec. 1(b), eff. Aug. 28, 1989.

Sec. 395.047. HEARING ON IMPACT FEE. On adoption of the land use assumptions and capital improvements plan, the governing body shall adopt an order or resolution setting a public hearing to discuss the imposition of the impact fee. The public hearing must be held by the governing body of the political subdivision to discuss the proposed ordinance, order, or resolution imposing an impact fee.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 5, eff. Sept. 1, 2001.

Sec. 395.049. NOTICE OF HEARING ON IMPACT FEE.

(a) Before the 30th day before the date of the hearing on the imposition of an impact fee, the political subdivision shall send a notice of the hearing by certified mail to any person who has given written notice by certified or registered mail to the municipal secretary or other designated official of the political subdivision requesting notice of the hearing within two years preceding the date of adoption of the order or resolution setting the public hearing.

(b) The political subdivision shall publish notice of the hearing before the 30th day before the date set for the hearing, in one or more newspapers of general circulation in each county in which the political subdivision lies. However, a river authority that is authorized elsewhere by state law to charge fees that function as impact fees may publish the required newspaper notice only in each county in which the service area lies.

(c) The notice must contain the following:

(1) a headline to read as follows:

"NOTICE OF PUBLIC HEARING ON ADOPTION OF IMPACT FEES"

(2) the time, date, and location of the hearing;

(3) a statement that the purpose of the hearing is to consider the adoption of an impact fee;

(4) the amount of the proposed impact fee per service unit; and

(5) a statement that any member of the public has the right to appear at the hearing and present evidence for or against the plan and proposed fee.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 5, eff. Sept. 1, 2001.

Sec. 395.050. ADVISORY COMMITTEE COMMENTS ON IMPACT FEES. The advisory committee created under Section 395.058 shall file its written comments on the proposed impact fees before the fifth business day before the date of the public hearing on the imposition of the fees.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 5, eff. Sept. 1, 2001.

Sec. 395.051. APPROVAL OF IMPACT FEE REQUIRED.

(a) The political subdivision, within 30 days after the date of the public hearing on the imposition of an impact fee, shall approve or disapprove the imposition of an impact fee.

(b) An ordinance, order, or resolution approving the imposition of an impact fee may not be adopted as an emergency measure.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 5, eff. Sept. 1, 2001.

Sec. 395.052. PERIODIC UPDATE OF LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLAN REQUIRED.

(a) A political subdivision imposing an impact fee shall update the land use assumptions and capital improvements plan at least every five years. The initial five-year period begins on the day the capital improvements plan is adopted.

(b) The political subdivision shall review and evaluate its current land use assumptions and shall cause an update of the capital improvements plan to be prepared in accordance with Subchapter B.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 6, eff. Sept. 1, 2001.

Sec. 395.053. HEARING ON UPDATED LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLAN. The governing body of the political subdivision shall, within 60 days after the date it receives the update of the land use assumptions and the capital improvements plan, adopt an order setting a public hearing to discuss and review the update and shall determine whether to amend the plan.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.054. HEARING ON AMENDMENTS TO LAND USE ASSUMPTIONS, CAPITAL IMPROVEMENTS PLAN, OR IMPACT FEE. A public hearing must be held by the governing body of the political subdivision to discuss the proposed ordinance, order, or resolution amending land use assumptions, the capital improvements plan, or the impact fee. On or before the date of the first publication of the notice of the hearing on the amendments, the land use assumptions and the capital improvements plan, including the amount of any proposed amended impact fee per service unit, shall be made available to the public.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.055. NOTICE OF HEARING ON AMENDMENTS TO LAND USE ASSUMPTIONS, CAPITAL IMPROVEMENTS PLAN, OR IMPACT FEE.

(a) The notice and hearing procedures prescribed by Sections 395.044(a) and (b) apply to a hearing on the amendment of land use assumptions, a capital improvements plan, or an impact fee.

(b) The notice of a hearing under this section must contain the following:

(1) a headline to read as follows:

"NOTICE OF PUBLIC HEARING ON AMENDMENT OF IMPACT FEES"

(2) the time, date, and location of the hearing;

(3) a statement that the purpose of the hearing is to consider the amendment of land use assumptions and a capital improvements plan and the imposition of an impact fee; and

(4) a statement that any member of the public has the right to appear at the hearing and present evidence for or against the update.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 7, eff. Sept. 1, 2001.

Sec. 395.056. ADVISORY COMMITTEE COMMENTS ON AMENDMENTS. The advisory committee created under Section 395.058 shall file its written comments on the proposed amendments to the land use assumptions, capital improvements plan, and impact fee before the fifth business day before the date of the public hearing on the amendments.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.057. APPROVAL OF AMENDMENTS REQUIRED.

(a) The political subdivision, within 30 days after the date of the public hearing on the amendments, shall approve or disapprove the amendments of the land use assumptions and the capital improvements plan and modification of an impact fee.

(b) An ordinance, order, or resolution approving the amendments to the land use assumptions, the capital improvements plan, and imposition of an impact fee may not be adopted as an emergency measure.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.0575. DETERMINATION THAT NO UPDATE OF LAND USE ASSUMPTIONS, CAPITAL IMPROVEMENTS PLAN OR IMPACT FEES IS NEEDED.

(a) If, at the time an update under Section 395.052 is required, the governing body determines that no change to the land use assumptions, capital improvements plan, or impact fee is needed, it may, as an alternative to the updating requirements of Sections 395.052-395.057, do the following:

(1) The governing body of the political subdivision shall, upon determining that an update is unnecessary and 60 days before publishing the final notice under this section, send notice of its determination not to update the land use assumptions, capital improvements plan, and impact fee by certified mail to any person who has, within two years preceding the date that the final notice of this matter is to be published, give written notice by certified or registered mail to the municipal secretary or other designated official of the political subdivision requesting notice of hearings related to impact fees. The notice must contain the information in Subsections (b)(2)-(5).

(2) The political subdivision shall publish notice of its determination once a week for three consecutive weeks in one or more newspapers with general circulation in each county in which the political subdivision lies. However, a river authority that is authorized elsewhere by state law to charge fees that function as impact fees may publish the required newspaper notice only in each county in which the service area lies. The notice of public hearing may not be in the part of the paper in which legal notices and classified ads appear and may not be smaller than one-quarter page of a standard-size or tabloid-size newspaper, and the headline on the notice must be in 18-point or larger type.

(b) The notice must contain the following:

(1) a headline to read as follows:

"NOTICE OF DETERMINATION NOT TO UPDATE LAND USE ASSUMPTIONS, CAPITAL IMPROVEMENTS PLAN, OR IMPACT FEES";

(2) a statement that the governing body of the political subdivision has determined that no change to the land use assumptions, capital improvements plan, or impact fee is necessary;

(3) an easily understandable description and a map of the service area in which the updating has been determined to be unnecessary;

(4) a statement that if, within a specified date, which date shall be at least 60 days after publication of the first notice, a person makes a written request to the designated official of the political subdivision requesting that the land use assumptions, capital improvements plan, or impact fee be updated, the governing body must comply with the request by following the requirements of Sections 395.052-395.057; and

(5) a statement identifying the name and mailing address of the official of the political subdivision to whom a request for an update should be sent.

(c) The advisory committee shall file its written comments on the need for updating the land use assumptions, capital improvements plans, and impact fee before the fifth business day before the earliest notice of the government's decision that no update is necessary is mailed or published.

(d) If, by the date specified in Subsection (b)(4), a person requests in writing that the land use assumptions, capital improvements plan, or impact fee be updated, the governing body shall cause an update of the land use assumptions and capital improvements plan to be prepared in accordance with Sections 395.052-395.057.

(e) An ordinance, order, or resolution determining the need for updating land use assumptions, a capital improvements plan, or an impact fee may not be adopted as an emergency measure.

Added by Acts 1989, 71st Leg., ch. 566, Sec. 1(d), eff. Aug. 28, 1989.

Sec. 395.058. ADVISORY COMMITTEE.

(a) On or before the date on which the order, ordinance, or resolution is adopted under Section 395.042, the political subdivision shall appoint a capital improvements advisory committee.

(b) The advisory committee is composed of not less than five members who shall be appointed by a majority vote of the governing body of the political subdivision. Not less than 40 percent of the membership of the advisory committee must be representatives of the real estate, development, or building industries who are not employees or officials of a political subdivision or governmental entity. If the political subdivision has a planning and zoning commission, the commission may act as the advisory committee if the commission includes at least one representative of the real estate, development, or building industry who is not an employee or official of a political subdivision or governmental entity. If no such representative is a member of the planning and zoning commission, the commission may still act as the advisory committee if at least one such representative is appointed by the political subdivision as an ad hoc voting member of the planning and zoning commission when it acts as the advisory committee. If the impact fee is to be applied in the extraterritorial jurisdiction of the political subdivision, the membership must include a representative from that area.

(c) The advisory committee serves in an advisory capacity and is established to:

(1) advise and assist the political subdivision in adopting land use assumptions;

(2) review the capital improvements plan and file written comments;

(3) monitor and evaluate implementation of the capital improvements plan;

(4) file semiannual reports with respect to the progress of the capital improvements plan and report to the political subdivision any perceived inequities in implementing the plan or imposing the impact fee; and

(5) advise the political subdivision of the need to update or revise the land use assumptions, capital improvements plan, and impact fee.

(d) The political subdivision shall make available to the advisory committee any professional reports with respect to developing and implementing the capital improvements plan.

(e) The governing body of the political subdivision shall adopt procedural rules for the advisory committee to follow in carrying out its duties.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

SUBCHAPTER D. OTHER PROVISIONS

Sec. 395.071. DUTIES TO BE PERFORMED WITHIN TIME LIMITS. If the governing body of the political subdivision does not perform a duty imposed under this chapter within the prescribed period, a person who has paid an impact fee or an owner of land on which an impact fee has been paid has the right to present a written request to the governing body of the political subdivision stating the nature of the unperformed duty and requesting that it be performed within 60 days after the date of the request. If the governing body of the political subdivision finds that the duty is required under this chapter and is late in being performed, it shall cause the duty to commence within 60 days after the date of the request and continue until completion.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.072. RECORDS OF HEARINGS. A record must be made of any public hearing provided for by this chapter. The record shall be maintained and be made available for public inspection by the political subdivision for at least 10 years after the date of the hearing.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.073. CUMULATIVE EFFECT OF STATE AND LOCAL RESTRICTIONS. Any state or local restrictions that apply to the imposition of an impact fee in a political subdivision where an impact fee is proposed are cumulative with the restrictions in this chapter.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.074. PRIOR IMPACT FEES REPLACED BY FEES UNDER THIS CHAPTER. An impact fee that is in place on June 20, 1987, must be replaced by an impact fee made under this chapter on or before June 20, 1990. However, any political subdivision having an impact fee that has not been replaced under this chapter on or before June 20, 1988, is liable to any party who, after June 20, 1988, pays an impact fee that exceeds the maximum permitted under Subchapter B by more than 10 percent for an amount equal to two times the difference between the maximum impact fee allowed and the actual impact fee imposed, plus reasonable attorney's fees and court costs.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.075. NO EFFECT ON TAXES OR OTHER CHARGES. This chapter does not prohibit, affect, or regulate any tax, fee, charge, or assessment specifically authorized by state law.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.076. MORATORIUM ON DEVELOPMENT PROHIBITED. A moratorium may not be placed on new development for the purpose of awaiting the completion of all or any part of the process necessary to develop, adopt, or update land use assumptions, a capital improvements plan, or an impact fee.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 441, Sec. 2, eff. Sept. 1, 2001.

Sec. 395.077. APPEALS.

(a) A person who has exhausted all administrative remedies within the political subdivision and who is aggrieved by a final decision is entitled to trial de novo under this chapter.

(b) A suit to contest an impact fee must be filed within 90 days after the date of adoption of the ordinance, order, or resolution establishing the impact fee.

(c) Except for roadway facilities, a person who has paid an impact fee or an owner of property on which an impact fee has been paid is entitled to specific performance of the services by the political subdivision for which the fee was paid.

(d) This section does not require construction of a specific facility to provide the services.

(e) Any suit must be filed in the county in which the major part of the land area of the political subdivision is located. A successful litigant shall be entitled to recover reasonable attorney's fees and court costs.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.078. SUBSTANTIAL COMPLIANCE WITH NOTICE REQUIREMENTS. An impact fee may not be held invalid because the public notice requirements were not complied with if compliance was substantial and in good faith.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.079. IMPACT FEE FOR STORM WATER, DRAINAGE, AND FLOOD CONTROL IN POPULOUS COUNTY.

(a) Any county that has a population of 3.3 million or more or that borders a county with a population of 3.3 million or more, and any district or authority created under Article XVI, Section 59, of the Texas Constitution within any such county that is authorized to provide storm water, drainage, and flood control facilities, is authorized to impose impact fees to provide storm water, drainage, and flood control improvements necessary to accommodate new development.

(b) The imposition of impact fees authorized by Subsection (a) is exempt from the requirements of Sections 395.025, 395.052-395.057, and 395.074 unless the political subdivision proposes to increase the impact fee.

(c) Any political subdivision described by Subsection (a) is authorized to pledge or otherwise contractually obligate all or part of the impact fees to the payment of principal and interest on bonds, notes, or other obligations issued or incurred by or on behalf of the political subdivision and to the payment of any other contractual obligations.

(d) An impact fee adopted by a political subdivision under Subsection (a) may not be reduced if:

(1) the political subdivision has pledged or otherwise contractually obligated all or part of the impact fees to the payment of principal and interest on bonds, notes, or other obligations issued by or on behalf of the political subdivision; and

(2) the political subdivision agrees in the pledge or contract not to reduce the impact fees during the term of the bonds, notes, or other contractual obligations.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 669, Sec. 107, eff. Sept. 1, 2001.

Sec. 395.080. CHAPTER NOT APPLICABLE TO CERTAIN WATER-RELATED SPECIAL DISTRICTS.

(a) This chapter does not apply to impact fees, charges, fees, assessments, or contributions:

(1) paid by or charged to a district created under Article XVI, Section 59, of the Texas Constitution to another district created under that constitutional provision if both districts are required by law to obtain approval of their bonds by the Texas Natural Resource Conservation Commission; or

(2) charged by an entity if the impact fees, charges, fees, assessments, or contributions are approved by the Texas Natural Resource Conservation Commission.

(b) Any district created under Article XVI, Section 59, or Article III, Section 52, of the Texas Constitution may petition the Texas Natural Resource Conservation Commission for approval of any proposed impact fees, charges, fees, assessments, or contributions. The commission shall adopt rules for reviewing the petition and may charge the petitioner fees adequate to cover the cost of processing and considering the petition. The rules shall require notice substantially the same as that required by this chapter for the adoption of impact fees and shall afford opportunity for all affected parties to participate.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 11.257, eff. Sept. 1, 1995.

Sec. 395.081. FEES FOR ADJOINING LANDOWNERS IN CERTAIN MUNICIPALITIES.

(a) This section applies only to a municipality with a population of 115,000 or less that constitutes more than three-fourths of the population of the county in which the majority of the area of the municipality is located.

(b) A municipality that has not adopted an impact fee under this chapter that is constructing a capital improvement, including sewer or waterline or drainage or roadway facilities, from the municipality to a development located within or outside the municipality's boundaries, in its discretion, may allow a landowner whose land adjoins the capital improvement or is within a specified distance from the capital improvement, as determined by the governing body of the municipality, to connect to the capital improvement if:

(1) the governing body of the municipality has adopted a finding under Subsection (c); and

(2) the landowner agrees to pay a proportional share of the cost of the capital improvement as determined by the governing body of the municipality and agreed to by the landowner.

(c) Before a municipality may allow a landowner to connect to a capital improvement under Subsection (b), the municipality shall adopt a finding that the municipality will benefit from allowing the landowner to connect to the capital improvement. The finding shall describe the benefit to be received by the municipality.

(d) A determination of the governing body of a municipality, or its officers or employees, under this section is a discretionary function of the municipality and the municipality and its officers or employees are not liable for a determination made under this section.

Added by Acts 1997, 75th Leg., ch. 1150, Sec. 1, eff. June 19, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1043, Sec. 5, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1163, Sec. 100, eff. September 1, 2011.

APPENDIX B

References

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"City of Tomball Infrastructure Master Plan and Impact Fee Determination 2007 to 2017", LAN, Houston, Texas, October 2008.

"Tomball Comprehensive Plan - Vision 2030", adopted by Ordinance No. 2009-33, December 7, 2009.

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"Expansion of 249 moving plans for Aggie Expressway along", www.yourhoustonnews.com, by Lindsey Vaculin, posted December 19, 2012.

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APPENDIX C

Unit Cost Data

Water System Unit Cost Data

8-inch Water Line		Unit	Unit Price
8-inch Water Line		LF	$ 35.00
Fire Hydrant[1]		LF	$ 6.86
Trench Safety		LF	$ 1.00
Subtotal			$ 43.00
Augering & Roadway Repairs	20%	LF	$ 8.60
Easement Acquisition	15%	LF	$ 6.45
Pipeline Relocation	30%	LF	$ 12.90
Contingencies	15%	LF	$ 6.45
Engineering & Surveying	25%	LF	$ 10.75
Total 8-inch Water Line per LF			**$ 88.00**

12-Inch Water Line		Unit	Unit Price
12-inch Water Line		LF	$ 54.00
Fire Hydrant[1]		LF	$ 6.86
Trench Safety		LF	$ 1.00
Subtotal			$ 62.00
Augering & Roadway Repairs	20%	LF	$ 12.40
Easement Acquisition	15%	LF	$ 9.30
Pipeline Relocation	30%	LF	$ 18.60
Contingencies	15%	LF	$ 9.30
Engineering & Surveying	25%	LF	$ 15.50
Total 12-inch Water Line per LF			**$ 127.00**

(1) Assumes Fire Hydrants are spaced every 350 feet

Miscellaneous Items Used in Water Lines above			
Fire Hydrant Assembly		EA	$ 2,400.00

Water Well Plant Estimate				
	Qty		Unit Cost Est	Total Cost
Well	1000	gpm	$ 1,420.00	$1,420,000.00
GST	400000	gal	$ 2.50	$1,000,000.00
Boosters	1800	gpm	$ 37.00	$ 66,600.00
Maintenance Bldg	1	LS	$ 216,000.00	$ 216,000.00
HPT	10000	gal	$ 4.15	$ 41,500.00
Emer. Gen 275kW	300	kW	$ 300.00	$ 90,000.00
				$2,834,100.00
Contingencies	15%			$ 283,410.00
Engineering & Surveying	25%			$ 708,525.00
				$3,826,035.00

Sanitary Sewer Unit Cost Data

Item		Unit	Unit Price
8-inch Gravity Sanitary Sewer			
8-inch Gravity Sanitary Sewer (all depths)		LF	$ 40.00
Sanitary Sewer Manhole(1)		LF	$ 5.00
Trench Safety		LF	$ 1.00
Subtotal			$ 46.00
Augering & Roadway Repairs	15%	LF	$ 6.90
Easement Acquisition	15%	LF	$ 6.90
Pipeline Relocation	30%	LF	$ 13.80
Contingencies	15%	LF	$ 6.90
Engineering & Surveying	25%	LF	$ 11.50
Indirect Cost Subtotal	100%		$ 46.00
8-inch Gravity Sanitary Sewer Total			**$ 92.00**
10-Inch Gravity Sanitary Sewer			
10-inch Gravity Sanitary Sewer (all depths)		LF	$ 50.00
Sanitary Sewer Manhole(1)		LF	$ 5.00
Trench Safety		LF	$ 1.00
Subtoal			$ 56.00
Indirect Cost Subtotal (2)		LF	$ 56.00
10-Inch Gravity Sanitary Sewer Total			**$ 112.00**
12-Inch Gravity Sanitary Sewer			
12-inch Gravity Sanitary Sewer (all depths)		LF	$ 65.00
Sanitary Sewer Manhole(1)		LF	$ 5.00
Trench Safety		LF	$ 1.00
Subtotal			$ 71.00
Indirect Cost Subtotal (2)		LF	$ 71.00
12-Inch Gravity Sanitary Sewer Total			**$ 142.00**
15-Inch Gravity Sanitary Sewer			
15-inch Gravity Sanitary Sewer (all depths)		LF	$ 85.00
Sanitary Sewer Manhole(1)		LF	$ 5.00
Trench Safety		LF	$ 1.00
Subtotal			$ 91.00
Indirect Cost Subtotal (2)		LF	$ 91.00
15-Inch Gravity Sanitary Sewer Total			**$ 182.00**
18-Inch Gravity Sanitary Sewer			
18-inch Gravity Sanitary Sewer (all depths)		LF	$ 105.00
Sanitary Sewer Manhole(1)		LF	$ 5.00
Trench Safety		LF	$ 1.00
Subtotal			$ 111.00
Indirect Cost Subtotal (2)		LF	$ 111.00
18-Inch Gravity Sanitary Sewer Total			**$ 222.00**

Sanitary Sewer Unit Cost Data (Cont.)

21-Inch Gravity Sanitary Sewer			
21-inch Gravity Sanitary Sewer (all depths)	LF	$	120.00
Sanitary Sewer Manhole(1)	LF	$	5.00
Trench Safety	LF	$	1.00
Subtotal		$	126.00
Indirect Cost Subtotal (2)	LF	$	126.00
21-Inch Gravity Sanitary Sewer Total		**$**	**252.00**
4-Inch Force Main			
4-Inch Force Main	LF	$	25.00
Trench Safety	LF	$	1.00
Subtotal		$	26.00
Indirect Cost Subtotal (2)	LF	$	26.00
4-Inch Force Main Total		**$**	**52.00**
6-Inch Force Main			
6-Inch Force Main	LF	$	30.00
Trench Safety	LF	$	1.00
Subtotal		$	31.00
Indirect Cost Subtotal (2)	LF	$	31.00
6-Inch Force Main Total		**$**	**62.00**
8-Inch Force Main			
8-Inch Force Main	LF	$	35.00
Trench Safety	LF	$	1.00
Subtotal		$	36.00
Indirect Cost Subtotal (2)	LF	$	36.00
8-Inch Force Main Total		**$**	**72.00**
Miscellaneous Items Used in Sanitary Sewer Lines Above			
Sanitary Sewer Manhole	EA	$	2,000.00
Lift Station (300-500 gpm)			
Lift Station (300-500 gpm) including contengencies	EA	$	320,000.00
Engineering & Testing	EA	$	80,000.00
Total		**$**	**400,000.00**
Lift Station (1,000-1,500 gpm)			
Lift Station (1,000-1,500 gpm) including contengencies	EA	$	440,000.00
Engineering & Testing	EA	$	110,000.00
Total		**$**	**550,000.00**
Lift Station (1,500-2,000 gpm)			
Lift Station (1,500-2,000 gpm) including contengencies	EA	$	820,000.00
Engineering & Testing	EA	$	205,000.00
Total		**$**	**1,025,000.00**
Wastewater Treatment Plant Capacity			
Wastewater Treatment Plant Capacity incl. contg.	gpd	$	6.00
Contingencies	gpd	$	0.90
Engineering & Testing	gpd	$	1.50
Total per gpd		**$**	**8.40**

(1) Manhole spaced every 400 feet.

(2) Indirect cost percentages are the same for all sizes of sanitary sewer lines and force mains. The percentages are shown in the cost data for an 8-inch sanitary sewer line.

Drainage Unit Cost Calculation

Item		Unit	Unit Price
Drainage Ditch			
Drainage Channel Excavation (10' bottom, 12' depth, 4:1 SS)*		LF	$ 257.78
Backslope Swale & Interceptor**		LF	$ 56.00
Sod (160' ROW)		LF	$ 53.33
Misc (Clearing, SWPPP, Etc)	15%	LF	$ 55.07
Subtotal			$ 422.18
Contingencies	15%	LF	$ 63.33
Engineering & Surveying	25%	LF	$ 105.54
Indirect Cost Subtotal	40%		$ 168.87
Drainage Ditch Total			**$ 591.05**
* Excavation Haul Off Assumed			
** 250 ft spacing			

Detention Unit Cost Calculation

Item		Unit	Unit Price
Detention Facility			
Detention Excavation (12' depth, 4:1 SS)*		Acre-Ft	$16,130.00
Backslope Swale & Interceptor**		Acre-Ft	$ 583.33
Sod		Acre-Ft	$ 440.00
Misc (Clearing, SWPPP, Etc)	15%	Acre-Ft	$ 2,573.00
Subtotal			$19,726.33
Contingencies	15%	Acre-Ft	$ 2,958.95
Engineering & Surveying	25%	Acre-Ft	$ 4,931.58
Indirect Cost Subtotal	40%		$ 7,890.53
Detention Facility Total			**$27,616.87**
* Excavation Haul Off Assumed			
** 250 ft spacing			

Unit Cost Data

Item		Unit	Unit Price
Mobilization			4%
SWPPP			2.5%
Excavation - Haul Off		CY	$ 10.00
Backslope Swale		Ea	$ 6,000.00
Backslope Interceptor		LF	$ 4.00
Sod		SY	$ 3.00
Sod		Acre	$ 4,840.00
Clearing & Grubbing		Acre	$ 5,000.00

Water System Capital Improvements Construction Costs per LUE, 2012 to 2022

Total Connections in City Only, 2012 =	**6,679**	**LUE**
Total Projected Connections in City & ETJ, 2022 =	**7,874**	**LUE**
Total Projected Additional Connections =	**1,195**	**LUE**

Component	Outstanding Capital Cost	LUE Capacity	Cost Basis per LUE	New LUE's Served from 2012 to 2022	Cost Distribution 2012 to 2022	Total Capital Cost per LUE 2012 to 2022
Facilities constructed with 2007 CIP[1]						
Distribution Lines	$535,900	7,874	$68.06	1,195	$81,331	
Water Wells	$4,491,570	1,667	$2,694.94	979	$2,638,348	
Proposed Facilities with 2012 CIP						
Water Well	$1,420,000	1,667	$852.00	216	$184,032	
Ground Storage Tanks	$1,000,000	2,000	$500.00	216	$108,000	
Booster Pumps	$66,600	1,667	$39.96	216	$8,631	
Facility (Bldg, H-Tank & Generator)	$347,500	1,667	$208.50	216	$45,036	
WP Engineering, Surveying & Contingencies	$991,935	1,667	$595.16	216	$128,555	
Distribution Lines	$13,223,100	7,874	$1,679.34	1,195	$2,006,808	
Water (1/3 2012-2022 CIP Preparation Fees)					$50,333	
Total				**1,195**	**$5,251,075**	**$4,394.20**

(1) Existing facility costs are from Tomball staff.

Wastewater System Capital Improvements Construction Costs per LUE, 2012 to 2022

Total Connections in City Only, 2012 =	**6,679**	**LUE**
Total Projected Connections in City & ETJ, 2022 =	**7,874**	**LUE**
Total Projected Additional Connections =	**1,195**	**LUE**

Component	Outstanding Bond Principal	Outstanding Capital Cost	LUE Capacity	Cost Basis per LUE	New LUE's Served from 2012 to 2022	Cost Distribution 2012 to 2022	Total Capital Cost per LUE 2012 to 2022
Facilities constructed with 1996 & 1999 CIP (1)							
South Wastewater Treatment Plant	$2,465,000		3,333	$739.50	753	$556,733	
Facilities constructed with 2002 CIP(1)							
Trunklines		$4,263,701	7,874	$541.49	1,195	$647,082	
Facilities constructed with 2007 CIP(1)							
Trunk Lines 2007 CIP		$888,503	7,874	$112.84	1,195	$134,844	
Proposed Facilities with 2012CIP							
Lift Stations 2012 CIP		$1,350,000	6,804	$198.41	1,195	$237,098	
Trunk Lines 2012 CIP		$13,495,200	7,874	$1,713.89	1,195	$2,048,103	
Water (1/3 2012-2022 CIP Preparation Fees)						$50,333	
Total					**1,195**	**$3,674,193**	**$3,074.64**

(1) Existing Facility costs from Tomball staff. Costs shown are outstanding bond amounts.
(2) Buildout to WWTP's maximum capacities.

Drainage System Capital Improvements Construction Costs per Acre, 2012 to 2022

HCFCD Channel No.	Construction Project	Estimated Improvement Costs	Collected Funds[1]	2012 Assessable Improvement Costs[2]	Total Basin Area Served (Acres)	Existing City of Tomball 2012 Development[3]	Estimated Floodway Acreage	Areas outside City and ETJ	Net Acreage to Bear Fee	1/3 2012-2022 CIP Fees per Usage Acre[5]	Capital Cost Basis per Acre	Total Cost Basis per Acre
J131[4]	Detention & Conveyence	$0	$0	$0	3,156	57	18	387	3,156		$0.00	
J132[4]	Channel	$0	$0	$0	250	57	4	0	250		$0.00	
										$ -		
J133[4]	Channel	$0	$0	$0	500	57	9	0	500		$0.00	
										$ -		
M116[4]	Channel	$0	$0	$0	1,575	57	0	550	1,575		$0.00	
M118	N of EDC Project	$2,423,300										
M118	EDC Project	$1,359,412										
M118	S of Holderrieth + Detention	$1,790,741										
		$5,573,454	$0	$5,573,454	732	57	51	0	732	$ 8.22	$7,614.01	$ 7,622.23
M121 East	Channel	$2,216,433										
M121 East	Detention	$4,335,848										
		$6,552,281	($9,591)	$6,561,872	629	170	27	0	629	$ 8.22	$10,432.23	$ 10,440.45
M121 West	Channel	$1,448,070										
M121 West	Channel	$2,807,482										
M121 West	Detention	$5,937,626										
		$10,193,178	($82,485)	$10,275,664	1,161	225	49	0	1,161	$ 8.22	$8,850.70	$ 8,858.92
M124[4]	Channel	$2,364,196		$2,364,196								
M124	Channel	$26,377,589		$26,377,589								
M124	Detention	$21,818,344		$21,818,344								
		$50,560,129	$0	$50,560,129	2,930	373	100	877	2,930	$ 8.22	$17,256.02	$ 17,264.24
M125	Detention	$543,805	($40,431)	$584,237	675	373	14	19	675	$ 8.22	$865.54	$ 873.76

(1) Existing Facility costs from Tomball staff based on outstanding bond amounts, plus Proposed Facilities estimates, including engineering & contingencies.

(2) Limited to Proposed Facility construction estimates, including engineering & contingencies when no improvements exist.

(3) Existing Areas previously assessed impact fees.

(4) The current CIP does not include channel or detention construction within the next ten years due to funding constraints.

(5) (1/3 2012-2022 CIP) Fee Dispensed by acreage for M118, M121, & M125.

Projected Cost of Implementing the CIP

Component	Capital Cost per LUE 2012 to 2022	Estimated Bond Soft Costs per LUE [1]	Estimated Total Bond Amount per LUE	Interest per LUE [2]	Total Debt Service per LUE
Water	$4,394.20	$351.54	$4,745.74	$1,893.00	$6,638.74
Wastewater	$3,074.64	$245.97	$3,320.61	$1,324.54	$4,645.15

Drainage Service Area	Capital Cost per Acre 2012 to 2022	Estimated Bond Soft Costs	Estimated Bond Amount per Acre [1]	Interest per Acre [2]	Total Debt Service per Acre
J131	$0.00	$0.00	$0.00	$0.00	$0.00
J132	$0.00	$0.00	$0.00	$0.00	$0.00
J133	$0.00	$0.00	$0.00	$0.00	$0.00
M116	$0.00	$0.00	$0.00	$0.00	$0.00
M118	$7,622.23	$609.78	$8,232.01	$3,283.61	$11,515.62
M121E	$10,440.45	$835.24	$11,275.69	$4,497.69	$15,773.37
M121W	$8,858.92	$708.71	$9,567.63	$3,816.37	$13,384.01
M124	$17,264.24	$1,381.14	$18,645.38	$7,437.34	$26,082.71
M125	$873.76	$0.00	$0.00	$0.00	$873.76

(1) Assumes a bond soft costs of 8.0%
(2) Assumes an interest rate of 3.5% and 40 semi-annual payments

Capital Improvement Plan Debt Service Credit and Maximum Impact Fees

Component	Total Debt Service per LUE	Debt Service Credit per LUE [1]	Maximum Impact Fee per LUE
Water	$6,638.74	$3,319.37	$3,319.37
Wastewater	$4,645.15	$2,322.57	$2,322.57

Drainage Service Area	Total Debt Service per Acre	Debt Service Credit per Acre [1]	Maximum Impact Fee per Acre
J131	$0.00	$0.00	$0.00
J132	$0.00	$0.00	$0.00
J133	$0.00	$0.00	$0.00
M116	$0.00	$0.00	$0.00
M118	$11,515.62	$5,757.81	$5,757.81
M121E	$15,773.37	$7,886.69	$7,886.69
M121W	$13,384.01	$6,692.00	$6,692.00
M124	$26,082.71	$13,041.36	$13,041.36
M125	$873.76	$436.88	$436.88

(1) Credit equal to 50% of the total projected cost of implementing the CIP.

Maximum Impact Fee for Various Types and Sizes of Water Meters

Meter Type	Meter Size	Living Unit Equivalent (LUE)	Water Impact Fee by Meter Size		Wastewater Impact Fee by Meter Size	Total Impact Fee by Meter Size
Simple	3/4"	1.0	$ 3,319.37	s	$ 2,322.57	$ 5,641.94
Simple	1"	2.5	$ 8,298.42		$ 5,806.43	$ 14,104.86
Simple	1-1/2"	5.0	$ 16,596.85		$ 11,612.87	$ 28,209.71
Compound	2"	8.0	$ 26,554.96		$ 18,580.58	$ 45,135.54
Turbine	2"	10.0	$ 33,193.70		$ 23,225.73	$ 56,419.43
Compound	3"	16.0	$ 53,109.92		$ 37,161.17	$ 90,271.09
Turbine	3"	24.0	$ 79,664.88		$ 55,741.75	$ 135,406.63
Compound	4"	25.0	$ 82,984.25		$ 58,064.33	$ 141,048.57
Turbine	4"	42.0	$ 139,413.53		$ 97,548.07	$ 236,961.60
Compound	6"	50.0	$ 165,968.49		$ 116,128.65	$ 282,097.14
Turbine	6"	92.0	$ 305,382.02		$ 213,676.72	$ 519,058.74
Compound	8"	80.0	$ 265,549.58		$ 185,805.84	$ 451,355.43
Turbine	8"	160.0	$ 531,099.17		$ 371,611.68	$ 902,710.85
Compound	10"	115.0	$ 381,727.53		$ 267,095.90	$ 648,823.42
Turbine	10"	250.0	$ 829,842.45		$ 580,643.25	$ 1,410,485.70
Turbine	12"	330.0	$ 1,095,392.04		$ 766,449.09	$ 1,861,841.13

LUE is determined on the basis of the American Water Works Association (AWWA) standards C700-09, C701-12, and C702-10 recommended maximum rate for continuous duty flow of the meter, purchased at the sale of tap based on the Uniform Plumbing Code meter size and type.

Disposition of Collected Impact Fees

Water Impact Fees Collected and Interest Earnings as of 12/31/12	$2,460,861			
Water System Improvements, completed from 1996 CIP	**Amount**	**Wells**	**EST**	**Water lines**
1. 12" water main along Zion Road from Ulrich to Neal St.	$97,200			$97,200
2. 12" water main along SH 249 from Brown to Baker	$50,000			$50,000
3. 12" water main along S. Cherry from Agg to Theis	$210,600			$210,600
4. 12" water main along Theis from S. Cherry to SH 249	$194,499			$194,499
5. 2000 gpm water well	$600,000	$600,000		
Total	**$1,152,299**	**$600,000**	**$0**	**$552,299**
Water System Improvements, completed from 1999 CIP				
1. 12" water main along FM 2920 from Lowes to Calvert	$54,810			$54,810
2. 750,000 gallon elevated storage tank	$1,200,000		$1,200,000	
3. 6" parallel water main on Graham and Holderreith	$124,981			$124,981
Total	**$1,379,791**	**$0**	**$1,200,000**	**$179,791**
Total Water System Improvements from 1996 and 1999 CIP	**$2,532,090**	**$600,000**	**$1,200,000**	**$732,090**
Water System Improvements, completed from 2002 CIP	**Amount**	**Wells**	**EST**	**Water lines**
1. 12" Water main on SH 249 from Theis to Holderreith	$172,800			$172,800
2. 12" Water main on Holderreith from School St ext. to SH 249	$86,400			$86,400
3. 12" Water main on Holderreith from School St ext. to Cherry	$103,680			$103,680
4. 12" Water main on Holderreith from S. Cherry to Huffsmith-Korhville	$311,040			$311,040
5. 12" Water main along S. Cherry from Theis to Holderreith	$164,160			$164,160
6. 12" Water main along Brown Rd to E. Hufsmith Extension	$216,000			$216,000
7. 8" Water main along Johnson Rd from Michel to shopping center	$37,260			$37,260
8. 12" Water main along Hufsmith-Kohrville from FM 2920 to Holderreith	$492,480			$492,480
9. Install 1200 gpm pump at Baker St. well	$270,000	$270,000		
10. 12" Water main along Alice Rd from SH 249 to SH 249 Bypass	$86,400			$86,400
11. 12" Water mian along FM 2920 from Persimmon to ETJ	$181,440			$181,440
12. 8" Water main on Willow St from Carrell to Texas	$34,155			$34,155
Total	**$2,155,815**	**$270,000**	**$0**	**$1,885,815**
Water System Improvements, completed from 2007 CIP	**Amount**	**Wells**	**EST**	**Water lines**
1. 8-Inch Water Line along the Future Michel Road extension from Commercial Park Drive to	$796			$796

School Street				
2. 12-inch Water Line along Quinn Road from Baker Drive to Inwood Street	$195,978			$195,978
3. 12-inch Water Line along Future Brown-Hufsmith Road from SH 249 to Quinn Road	$407,486			$407,486
4. 12-inch Water Line along Tomball Cemetery Road North of 2920 (Private Funding)	$0			
5. 12-inch Water Line along Future Brown-Hufsmith Road from Quinn Road to Baker Drive	$126,058			$126,058
6. Water Line Extension on Mechanic Street	$20,878			$20,878
7. Water Wells 5 and 6/Plant	$4,491,570	$4,491,570		
Total	**$5,242,766**	**$4,491,570**	**$0**	**$751,196**
Not 50% Funded by Impact fee as of 12/13/2012	$5,045,993	$4,491,570	$0	$554,422
Less Impact Fee Balance	-$18,522	0		-$18,522
Remaining to be paid by Impact fees	**$5,027,471**	**$4,491,570**		**$535,900**
Wastewater Impact Fees Collected and Interest Earnings as of 12/31/12	$2,600,215			
Balance as of 3/31/2008	$83,046			
Wastewater System Improvements, completed from 1996 CIP	**Amount**	**N. WWTP**	**S. WWTP**	**Trunklines**
1. 10" gravity sewer along SH 249 from McCoy's to FM 2920	$103,200			$103,200
2. 10" gravity sewer along Hooper from Bypass to SH 249	$50,000			$50,000
3. 10" gravity sewer along Hirschfield from SH 249 to Bypass	$40,000			$40,000
4. 1.5 MGD Wastewater Treatment Plant	$6,117,000		$6,117,000	
Total	**$6,310,200**	**$0**	**$6,117,000**	**$193,200**
Wastewater System Improvements, completed from 1999 CIP				
1. 10" gravity line along FM 2920: Kroger to City Limit	$14,144			$14,144
2. 12" gravity line along FM 2920: City Limit to Calvert	$151,948			$151,948
3. 10" gravity line along Hirschfield: SH 249 and bypass	$56,253			$56,253
4. Temporaty Lift Station at Calvert FM 2920	$80,000			$80,000
5. 6" force main along FM 2920 from temporary Lift Station to gravity sewer at Sh 249	$39,387			$39,387
6. 18" gravity trunk along Cherry from McPhail to Agg Road	$127,374			$127,374
7. 21" gravity trunk along Cherry from Agg to Theis	$120,745			$120,745
8. 24" gravity trunk along Cherry from Theis to Holderreith	$305,597			$305,597
9. 27" gravity trunk along Cherry from Holderreith to WWTP	$158,165			$158,165
10. 18" gravity line along Theis from LS to Cherry	$83,278			$83,278
11. Abandon Theis Lift Station	$360			$360
Total	**$1,137,251**	**$0**	**$0**	**$1,137,251**
Total Wastewater System Imp from 1996 and 1999 CIP	$7,447,451	$0	$6,117,000	$1,330,451

Wastewater System Improvements, completed from 2002 CIP	**Amount**	**N. WWTP**	**S. WWTP**	**Trunklines**
1. (8) 12" gravity line along W. Hufsmith from Quin Ext to SH 249	$164,160			$164,160
2. (10) 18" gravity line along FM 2920 from Calvert to Park St	$228,960			$228,960
3. (11) 6" force main from Temp Lift Station at Park/FM 2920 to Calvert	$73,440			$73,440
4. (12) 12" gravity line along FM 2920 from Park Rd to Tomball Cem. Rd	$145,935			$145,935
5. (14) Temp Lift Station at FM 2920 and Park Rd	$107,933			$107,933
6. (16) 10" gravity line on SH 249 from Hirschfield Rd to Alice Rd	$64,800			$64,800
7. (17) 21" gravity line on SH 249 from Alice Rd to Holderreith Rd	$528,255			$528,255
8. (18) 18" gravity line on Alice Rd from SH 249 Bypass to SH 249	$128,790			$128,790
9. (19) 30" gravity line on Holderreith Ext west of SH 249	$79,488			$79,488
10. (20) 30" gravity line on Holderreith from SH 249 and S. WWTP	$864,000			$864,000
11. (25) 8" gravity line along Johnson	$40,500			$40,500
12. (28) Abandon Cherry St Lift Station	$13,500			$13,500
13. (29) 27" gravity line on Holderreith from S. WWTP Trunk Line to BNRR	$577,800			$577,800
14. (30) 27" gravity line on Holderrieth from BNRR to Hufsmith-Kohrville Rd	$288,900			$288,900
15. (31) 24" gravity line on Hufsmith-Kohrville Rd from Holderreith to Sutton Ln	$790,560			$790,560
16. (32) 18" gravity line on Hufsnith-Kohrville Rd from Sutton Ln to FM 2920	$357,750			$357,750
Total	**$4,454,771**	**$0**	**$0**	**$4,454,771**
Not 50% Funded by Impact fee as of 12/13/2012	$4,290,611			$4,290,611
Less Impact Fee Balance	-$26,910			-$26,910
Remaining to be paid by Impact fees	**$4,263,701**			**$4,263,701**
Wastewater System Improvements, completed from 2007 CIP				
1. 10-inch Gravity Sanitary Sewer along Future Brown-Hufsmith Road from SH 249 to Quinn Road	$329,227			$329,227
2. 12-inch Gravity Sanitary Sewer along Tomball Cementery Road (Private Funding)	$0			$0
3. 8-inch Gravity Sanitary Sewer along Future Brown-Hufsmith Road from Quinn Road to Baker Drive	$88,565			$88,565
4. 8" gravity line on Mechanic Street	$4,378			$4,378
5. Tomball Hills Lift Station	$466,333			$466,333
Total	**$888,503**	**$0**	**$0**	**$888,503**

ORDINANCE NO. 2014-22

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, ADOPTING IMPACT FEES FOR WATER, WASTEWATER, AND DRAINAGE FACILITIES; DEFINING CERTAIN TERMS; PROVIDING FOR THE ASSESSMENT AND COLLECTION OF SUCH IMPACT FEES; CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT; AND PROVIDING FOR SEVERABILITY.

* * * * *

WHEREAS, the City Council of the City of Tomball, Texas (the "City") has reviewed and evaluated its impact fees for water, wastewater and drainage facilities in the time and manner required by law; and

WHEREAS, the City Council has employed qualified professionals to prepare its land use assumptions, capital improvements plan, and impact fees for water, wastewater and drainage facilities for the City, and each was considered by the City's advisory committee, and such assumptions, plan, and proposed fees were filed with the City, along with the advisory committee's comments; and

WHEREAS, the City Council has called, given notice of, and conducted a public hearing on such assumptions, plan, and proposed fees, in the time and manner required by law; and

WHEREAS, the City Council now desires to adopt such impact fees for water, wastewater and drainage facilities, all in accordance with said Chapter 395, Texas Local Government Code; now, therefore,

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

Section 1. **Findings**. The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct.

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Section 2. **Title**. This Ordinance shall be known and cited as the "City of Tomball Impact Fee Ordinance."

Section 3. Purpose. This Ordinance is intended to impose and levy water, wastewater and drainage impact fees on new development, as established in this Ordinance, in order to finance public facilities, the demand for which is generated by new development in the designated service areas.

Section 4. Authorization. The City is authorized to enact this Ordinance in accordance with Chapter 395, Texas Local Government Code, which authorizes cities to enact or impose impact fees (capital recovery fees) on land within their corporate boundaries or extraterritorial jurisdictions, as charges or assessments imposed against new development in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to such new development.

Section 5. **Land Use Assumptions and Capital Improvements Plan**. The land use assumptions and capital improvements plan included in the "Infrastructure Master Plan & Capital Recovery fee Determination," prepared by CLR, Inc., was adopted by the City Council of the City of Tomball pursuant to Ordinance No. 2014-12.

Section 7. **Impact Fees**. The impact fees set forth in the "Infrastructure Master Plan & Capital Recovery fee Determination," prepared by CLR, Inc., attached hereto as Exhibit "C" and made a part hereof for all purposes, are hereby levied against new non-exempt development on lands located within the corporate boundaries of the City .

Section 8. **Assessment of Impact Fees**.

A. Assessment of impact fees for new development shall be made as follows:

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1. For land which is unplatted at the time of application for a building permit or utility connection, or for a new development which has received final plat approval prior to the effective date of this Ordinance, and for which no replatting is required pursuant to the City's subdivision regulations prior to development, assessment shall occur at the time application is made for the building permit or utility connection, whichever occurs first, and shall be the amount of the maximum impact fee per service unit applicable to the respective service area(s) in which the development is located.

2. For new developments that have filed applications for approval pursuant to the City's subdivision regulations after the effective date of this Ordinance, or for which replatting results in an increase in the number of service units after such date, assessment shall be at the time of final plat approval, and shall be the amount of the maximum impact fee per service unit applicable to the respective service area(s) in which the development is located.

B. Following initial assessment of impact fees for a new development pursuant to subsection A, the amount of the maximum impact fee per service unit for any such development may not be increased unless the owner proposes to change the approved development and increase the number of service units, in which case the impact fee shall be reassessed and the impact fee then in effect shall be imposed for such additional service units.

C. Following the lapse or expiration of approval of a new development, a new assessment shall be performed at the time a new application for such development is filed.

Section 9. **Collection of Impact Fees**.

A. For residential developments platted after the effective date of this Ordinance, the impact fees due shall be collected prior to the recording of the subdivision plat.

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B. For all other new developments, the impact fees due shall be collected at the time of application for a building permit, or at the time of application for a utility connection, whichever occurs first. If the building permit for which an impact fee has been paid has expired, and a new application is thereafter filed, the impact fees due shall be computed using the impact fee then in effect, and previous payments of impact fees shall be credited against the new fees due.

Section 10. **Establishment of Accounts**.

A. The City shall establish an account to which interest is allocated for each type of capital facility for which an impact fee is imposed pursuant to this Ordinance. Each impact fee collected within the service area shall be deposited in such account.

B. Interest earned on the account into which the impact fees are deposited shall be considered funds of the account and shall be used solely for the purposes authorized in Section 11 below.

C. The City shall establish adequate financial and accounting controls to ensure that impact fees disbursed from the account are utilized solely for the purposes authorized in Section 11. Disbursement of funds shall be authorized by the City at such times as are reasonably necessary to carry out the purposes and intent of this Ordinance.

D. The City shall maintain and keep financial records for impact fees, which shall show the source and disbursement of all fees collected in or expended within the service area. The records of the account into which impact fees are deposited shall be open for public inspection and copying during ordinary business hours.

Section 11. **Use of Proceeds of Impact Fee Accounts**. The impact fees collected pursuant to this Ordinance may be used to finance or to recoup the costs of any capital

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improvements or facility expansion identified in the applicable capital improvements plan for the service area, including but not limited to the construction contract price, surveying and engineering fees, land acquisition costs (including land purchases, court awards and costs, attorney's fees, and expert witness fees). Impact fees may also be used to pay the principal sum and interest and other finance costs on bonds, notes, or other obligations issued by or on behalf of the City to finance such capital improvements or facility expansion. Impact fees also may be used to pay fees actually contracted to be paid to an independent qualified engineer or financial consultant for preparation of or updating the impact fee capital improvements plan.

Section 12. **Refunds and Rebates**.

A. Upon application, any impact fee, or portion thereof, collected pursuant to this Ordinance, which has not been expended within the service area within ten (10) years from the date of payment, shall be refunded to the record owner of the property for which the impact fee was paid or, if the impact fee was paid by another governmental entity, to such governmental entity, together with interest calculated from the date of collection to the date of refund at the statutory rate as set forth in Section 302.002, Finance Code, or its successor statute. An impact fee shall be considered expended on a first in, first out basis.

B. Upon application, any impact fee collected pursuant to this Ordinance shall be refunded if:

1. Existing service is available and service is denied; or

2. Service was not available when the fee was collected and the City has failed to commence construction of facilities to provide service within two (2) years of fee payment; or

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3. Service was not available when the fee was collected and has not subsequently been made available within a reasonable period of time considering the type of capital improvement or facility expansion to be constructed, but in any event later than five (5) years from the date of fee payment.

Section 13. **Repealer**. Ordinance No. 2009-12 passed, approved, and adopted on the 1st day of June, 2009, and all other ordinances or parts of ordinances in consistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

Section 14. **Severability Clause**. In the event any clause phrase, provision, sentence, or part of this Ordinance 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 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, 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 15. 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.

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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

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Regular City Council
Agenda Item
Data Sheet

Meeting Date: July 21, 2014

Topic:

Approve the Acquisition of a Low-Power FCC-Issued FM Radio Station License to Create a Local Broadcasting System

Background:

The Tomball Public Safety Team and the Marketing Department have been discussing an opportunity to acquire an FCC issued radio license to create a local broadcasting system. The system would have limited reach that would extend slightly beyond the City Limits. It would be the intent to use this system to broadcast information about local emergencies, festivals and other localized or regional events. This would allow us to broadcast live from the various festivals and events, broadcast the music from the fireworks show, inform citizens of street closures and water flushing activities, etc., and provides another tool for both emergency management and marketing.

From discussions with the consultant, initial equipment costs for the station will be approximately $7,500. We will be working with Lone Star College-Tomball and Tomball High School to establish some partnerships with both schools to develop additional programming and operational opportunities. We have also discussed the possibility of additional programming with KVST – S-Star Radio in Conroe. According to K-Star, they produce loops of personalized programming for several clients at this time.

We are working to reallocate current budget funds among Fire, Police and Marketing Departments to accommodate the purchase of the necessary equipment.

Origination:

Fire Department

Recommendation:

Staff recommends approval

Funding: No

Funds will be transferred from Account: to Account:

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

Randy Parr

ACTION TAKEN

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

Regular City Council
Agenda Item
Data Sheet

Meeting Date: July 21, 2014

Topic:

Approve Updates to the Interlocal Agreement between Harris County and the City of Tomball regarding the Harris County Emergency Operations Plan for the Provision of Mutual Aid between Harris County and the City of Tomball during a Disaster Event, to which the City of Tomball is a Signatory

Background:

The City of Tomball became a signatory to the Harris County Emergency Operations Plan by Ordinance No. 1992-16. The Tomball Office of Emergency Management participates with the Harris County Office of Homeland Security and Emeregency Management (HCOHSEM) in updating the plan every two years. As the plan is improved, the City Council is requested to re-ratify the agreements and has continuously done so.

Origination:

Tomball Office of Emergency Management (Fire Department)

Recommendation:

Staff recommends approval

Funding:

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

Randy Parr

ACTION TAKEN

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

ATTACHMENTS:

Interlocal Agreement
Ordinance
Joint Resolution

INTERLOCAL MUTUAL AID AGREEMENT

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

THIS INTERLOCAL AGREEMENT (the "Agreement") is made and entered into by and between the **City of Tomball, Texas** ("Entity"), acting by and through its governing body, and **Harris County, Texas**, acting by and through its governing body, Harris County Commissioners Court. This Agreement is made pursuant to chapter 791 of the Texas Government Code (the Interlocal Cooperation Act) and chapter 418 of the Texas Government Code (the Texas Disaster Act of 1975) to the extent it applies to this Agreement. This Agreement does not apply to "law enforcement assistance" provided, or "mutual aid law enforcement task forces" created, under Chapter 362 of the Texas Local Government Code.

RECITALS:

The Parties hereto recognize the vulnerability of the people, communities and schools to damage, injury, and loss of life and property resulting from natural or man-made catastrophes, riots, or hostile military or paramilitary action, and other emergencies.

The full and effective utilization of the resources available to Entity and Harris County is necessary for the prompt and efficient rescue, care, and treatment of persons victimized or threatened by disaster.

Chapter 791 of the Texas Government Code authorizes interlocal agreements between local governmental entities such as Entity and Harris County. Chapter 791 authorizes such entities to contract for emergency assistance, section 791.27; governmental functions and services, section 791.011, including police protection and detention services; public health and welfare; planning; administrative functions; and, other governmental functions in which the contracting entities are mutually interested, section 791.003(3), such as those provided in chapter 418 of the Texas Government Code.

Section 418.107(c) of the Texas Government Code provides that a political subdivision may render aid to other subdivisions under mutual aid agreements.

The Parties hereto desire to enter into an agreement to provide mutual aid consistent with the mutual aid and emergency assistance plans approved by their governing body.

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

TERMS:

I.

If Entity is a county or incorporated city, both Entity and Harris County shall each appoint an Emergency Management Coordinator to take all steps necessary for the implementation of this Agreement. If Entity is an independent school district, public junior college district, emergency services district, other special district, joint board, or other entity defined as a political subdivision under the laws of the State of Texas that maintains the capability to provide mutual aid, or organized volunteer group as defined in Section 418.004(5) of the Texas Government Code, Entity's chief, highest ranking officer, or Emergency Management Coordinator, as applicable, shall take all steps necessary for the implementation of this Agreement.

II.

It shall be the duty of each Party to formulate emergency management plans and programs that incorporate the use of available resources, including personnel, equipment, buildings, and supplies necessary to provide mutual aid and emergency assistance. If Entity is a county or incorporated municipality, Entity shall have an approved Emergency Management Program as defined by the Texas Division of Emergency Management.

This Agreement shall apply to the dispatch of emergency service responses by either or both Parties in response to a disaster as that term is defined in section 418.004 of the Texas Government Code, and in response to actual and imminent incidents that endanger the health, safety, or welfare of the public and require the use of special equipment, trained personnel, or personnel in larger number than are locally available in order to reduce, counteract, or remove the danger caused by the incident. This Agreement includes the provision of materials, supplies, equipment, and other forms of aid by and between the Parties including the staffing and equipping of emergency operations, and participation by personnel in exercises, drills, or other training activities designed to train and prepare for, cope with, respond to, recover from, or prevent the occurrence of any disaster.

In carrying out emergency management plans and programs, the Parties shall, insofar as possible, provide and follow uniform standards, practices and rules and regulations, including but not limited to the following:

- Warnings and signals for exercises or disasters and the mechanical devices to be used in connection therewith.
- Shutting off water mains, gas mains, and electric power connections, and the suspension of all other utility services.
- Selection of all materials, equipment or buildings used or to be used for emergency management purposes to assure that such materials and equipment will be easily and freely interchangeable when used by either Party hereto.
- The conduct of civilians and the movement and cessation of movement of pedestrian and vehicular traffic prior to, during, and subsequent to exercises or disasters.
- The safety of public meetings or gatherings.

As further set forth below, each Party shall coordinate the emergency responses within its scope of responsibility under this Agreement.

Either Party, when requested to provide mutual aid or emergency assistance, may take such action as is necessary to provide and make available the resources covered by this Agreement in accordance with the terms hereof, provided however, the Party rendering aid (the "Responding Party") to the Party receiving assistance (the "Requesting Party") may withhold resources to the extent necessary to provide other necessary governmental functions for itself.

When a request for emergency assistance is received, law enforcement, fire, emergency response personnel, and other resources shall be subject to the command and control of their respective agencies. However, the respective agencies shall coordinate their emergency responses and resources through the emergency management authorities of the Requesting Party. Any request for aid shall specify the amount and type of resources requested. However, the Responding Party shall determine the specific resources furnished. The personnel and resources deployed by the Responding Party shall report to the officer in charge of the incident and report through the incident chain of command. The Responding Party shall be released by the Requesting Party when the reserves of the Responding Party are no longer required or when the resources are needed within the Responding Party's normal emergency service area.

If Entity is a county with an Emergency Management Coordinator, each request for mutual aid assistance shall be made through the Emergency Management Coordinator of the Requesting Party to the Emergency Management Coordinator of the Responding Party.

If Entity is an incorporated municipality without an Emergency Management Coordinator, independent school district, public junior college district, emergency services district, other special district, joint board, or other entity defined as a political subdivision under the laws of the State of Texas that maintains the capability to provide mutual aid, or organized volunteer group as defined in Section 418.004(5) of the Texas Government Code, Entity's requests for mutual aid assistance shall be made through Entity's chief or highest ranking officer to Harris County's Emergency Management Coordinator, Sheriff, Fire Marshal, Public Health Director, or an elected Constable. Harris County's requests for mutual aid assistance shall be made through its Emergency Management Coordinator, Sheriff, Fire Marshal, Public Health Director, or an elected Constable to Entity's chief or highest ranking officer.

In the event of rapidly developing emergencies occurring within the jurisdiction of the Requesting Party and near the Responding Party's boundary, the Responding Party's law enforcement and/or emergency responders will respond as they are able, without the prior request of the Requesting Party, as provided by applicable law. The Responding Party's emergency response units will establish control of the scene. The Responding Party and staff representing other governmental entities requested to provide mutual assistance will provide assistance and resources as available in accordance with the existing emergency management plans and programs. The Responding Party's resources will remain on the scene as needed. In such event this Agreement shall be in effect.

When mutual aid assistance will be provided for more than 12 consecutive hours, the Requesting Party shall, prior to the expiration of the 12th hour, confirm in writing to the Responding Party that the Requesting Party desires continued mutual aid assistance from the Responding Party. Notwithstanding the above, if, due to the nature of the emergency, disaster, or other condition requiring mutual aid, the Requesting Party cannot confirm its request for continued mutual aid assistance before the expiration of the 12th hour, the written request must be sent as soon as practicable, but in all cases, within 90 days of the verbal request.

III.

Nothing in this Agreement shall be construed as making either Party responsible for the payment of compensation and/or any benefits including, but not limited to, health, workers' compensation, disability, death, and/or dismemberment insurance for the other Party's employees, contractors, vendors, or other workers. Nothing in this Agreement shall be construed as making either Party responsible for the payment of property, motor vehicle, or other insurance, on the other party's equipment, buildings, supplies, or other property or assets.

IV.

Notwithstanding Section III of this Agreement, if a Party hereto requests mutual aid assistance that requires a response that exceeds 12 consecutive hours, the Requesting Party shall reimburse the Responding Party its actual cost for providing mutual aid assistance to the Requesting Party after the first 12 hours, including costs for personnel, operation and maintenance of equipment, damaged equipment, food, lodging, and transportation, provided that, in no event shall the cost for a service or item be greater than the rate, as such rates are amended from time to time, set by the Federal Emergency Management Agency (FEMA) for the substantially same service or item. FEMA rates are available at http://www.fema.gov/schedule-equipment-rates The Parties mutually agree that a Responding Party shall not be entitled to and will not seek reimbursement from a Requesting Party for either: (a) assistance provided that does not exceed 12 consecutive hours or (b) for assistance provided during the initial 12 hours of the response.

Each Party hereto agrees to comply with such statutory and constitutional provisions, or other contracts, rules, regulations, ordinances, guidelines, procedures, or conventions, as apply to it with regard to the appropriation of funds for the payment of contractual obligations. Each Party hereto understands and acknowledges, that funds for the payment of Harris County's obligations inuring under or out of this Agreement, irrespective of the nature thereof, are available to the extent such funds are appropriated by Order of Harris County Commissioners Court, and certified as provided by law, by the Harris County Auditor, as available from current funds set aside in the annual budget in which the expenditures are incurred before expenditure of such funds. It shall be the responsibility of each Responding Party to assure itself that sufficient funds have been allocated to pay for the services provided. In the event Harris County fails to appropriate sufficient funds to perform its obligations arising out of or in relation to this Agreement, Entity acknowledges and agrees that its sole and exclusive remedy is to terminate participation in this Agreement.

The Responding Party is responsible for the work it performs under this Agreement. No later than the 90th day after services are performed under this Agreement, the Responding Party shall submit an invoice to the Requesting Party. Supporting documentation as mutually agreed upon

will be supplied. The Responding Party shall maintain auditable records verifying each service or item and the dates provided. The Responding Party shall warrant that all billing data submitted is complete and truthful. The Requesting Party will review each invoice and statement and modify it as necessary and appropriate and, thereafter, forward the same to the appropriate official, in the case of Harris County to the Harris County Auditor, for payment. Requesting Party reserves the right to withhold payment of any questionable charges or expenses, including, but not limited to, any charges in excess of the rate set by FEMA for the substantially same service or item. Should the Requesting Party determine that any payment has been made to a Responding Party in excess or in error for any reason whatsoever, Requesting Party may recoup from the Responding Party the amount made in excess or in error. Within 90 days of receipt of a request for repayment of an amount made in excess or in error, the overpaid Party shall return the amount paid in excess or in error.

V.

Neither Party to this Agreement waives or relinquishes any immunity or defense on behalf of itself, its officers, employees, agents, and volunteers as a result of its execution of this Agreement and the performance of the covenants contained herein. Furthermore, neither the terms of Section III and Section IV, nor any other provision in this Agreement, shall prohibit either Party from seeking financial aid or in-kind reimbursement from any state or federal agency or program.

Pursuant to section 421.062 of the Texas Government Code, the Responding Party is not responsible for any civil liability that arises from any act or omission made within the course and scope of its functions to provide a service under this Agreement that is related to a homeland security activity. The Parties understand and agree that the Requesting Party does not assume civil liability under any theory of law for the actions of the Responding Party in providing services hereunder.

If the equipment is damaged or destroyed, the owner may seek recovery through insurance acquired by the owner, reimbursement as set forth in Section IV, or through any other resources available to the owner.

VI.

This Agreement shall terminate on the last day of February of each year and shall automatically renew for a one-year term, subject to continued funding and certification of funds as referenced in Section IV, unless the governing body of either Party gives notice received no later than the preceding December 1 of its desire to terminate the agreement. Unless notice of termination is received by December 1, the agreement shall continue in force and remain binding subject to funding and certification as referenced in Section IV. Notwithstanding the above, the Emergency Management Coordinator of Harris County may suspend the operation of this agreement at any time during a term upon notice to the other party.

VII.

Except as otherwise provided in this Agreement, any notice required to be given under this Agreement shall be in writing and shall be duly served when it is deposited, enclosed in a

wrapper with the proper postage affixed and duly certified, return-receipt requested, in a United States post office, addressed to a Party at the following addresses.

To Harris County:

Harris County Commissioners Court
1001 Preston, Suite 911
Houston, Texas 77002
Attention: Harris County Judge

With a copy to:
Harris County Office of Homeland Security & Emergency Management
6922 Old Katy Road
Houston, Texas 77024
Attention: Emergency Management Coordinator

To _____:

_____
_____
_____, Texas _____
Attention: _____

Either Party may designate a different address by giving the other Party ten days' written notice.

VIII.

The Parties shall observe and comply with all applicable federal, Texas, and local laws, rules, ordinances, and regulations affecting the conduct of services provided and the performance of obligations undertaken by this Agreement. In case any one or more provisions contained in this Agreement is held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

IX.

The presiding officer of the governing body of each Party to this Agreement shall notify the Harris County Office of Homeland Security and Emergency Management (the "Office") of the manner in which the Party is providing or securing an emergency management program, identify the person who heads the agency responsible for the program, and furnish additional pertinent information that the Office requires. The person so designated shall accomplish training prescribed by the Office where applicable.

X.

This Agreement should be construed in a manner consistent with the Texas Disaster Act of 1975, chapter 418 of the Texas Government Code, and the Texas Interlocal Cooperation Act, chapter 791 of the Texas Government Code, as they may hereafter be amended. As used in this Agreement, the term "disaster" has the meaning given it in section 418.004 of the Texas Government Code.

XI.

Mandatory and exclusive venue of any dispute between the Parties to this Agreement shall be in Harris County, Texas.

XII.

This Agreement is not intended to be an exclusive agreement, and each Party may enter into other similar agreements.

XIII.

This Agreement replaces and terminates any previous existing mutual aid agreement for like services entered into by the same Parties.

IN WITNESS WHEREOF, this instrument has been executed on behalf of Harris County by a duly authorized representative of Harris County, and on behalf of the City of Tomball, Texas by an authorized representative of the City of Tomball, Texas.

APPROVED AS TO FORM
VINCE RYAN
Harris County Attorney

By: _____
Marva Gay
Assistant County Attorney

HARRIS COUNTY

By: _____
ED EMMETT
County Judge
Date Signed: _____

CITY OF TOMBALL

By: _____
Print Name: _____
Title: _____
Date Signed: _____

CITY ORDINANCE ESTABLISHING
AN EMERGENCY MANAGEMENT PROGRAM

ORDINANCE NO. 92-16

AN ORDINANCE ESTABLISHING A PROGRAM RESPONSE AND RECOVERY PHASES OF COMPREHENSIVE EMERGENCY MANAGEMENT; ACKNOWLEDGING THE OFFICE OF EMERGENCY MANAGEMENT DIRECTOR; AUTHORIZING THE APPOINTMENT OF AN EMERGENCY MANAGEMENT COORDINATOR; AND PROVIDING FOR THE DUTIES AND RESPONSIBILITIES OF THOSE OFFICES; IDENTIFYING AN OPERATIONAL ORGANIZATION; GRANTING NECESSARY POWERS TO COPE WITH ALL PHASES OF EMERGENCY MANAGEMENT WHICH THREATEN LIFE AND PROPERTY IN THE CITY OF TOMBALL; AUTHORIZING COOPERATIVE AND MUTUAL AID AGREEMENTS FOR RELIEF WORK BETWEEN THIS AND OTHER CITIES OR COUNTIES AND FOR RELATED PURPOSES.

WHEREAS, the City Council of the City of Tomball finds that the identification of potential hazards and the prevention or mitigation of their effects must be an on-going concern of the City if the lives and property of the populace are to be protected; and

WHEREAS, the City Council hereby declares that the preparation of a Comprehensive Emergency Management plan, and the means for its implementation, for the protection of lives and property of lives and property in the City of Tomball from natural or man-caused disasters or threat thereof is immediately essential; and

WHEREAS, the City Council further finds that in times of disasters which may imperil the safety of the inhabitants of the City, or their property, it becomes necessary to effectuate and place into operation the preconceived plans and preparations with a minimum of delay; and

WHEREAS, the City Council finds, therefore, that the preparation and implementation of such plans are now imperative; BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TOMBALL:

Section 1. ORGANIZATION

There exists the office of Emergency Management Director of the City of Tomball, which shall be held by the Mayor in accordance with State law.

(a) An Emergency Management Coordinator may be appointed by and serve at the pleasure of the Director;

(b) The Director shall be responsible for a program of comprehensive emergency management within the City and for carrying out the duties and responsibilities set

forth in this ordinance. He/she may delegate authority for execution shall remain with the Director.

(c) The operational Emergency Management organization of the City of Tomball shall consist of the officers and employees of the City so designated by the Director in the emergency management plan, as well as organized volunteer groups. The functions and duties of this organization shall be distributed among such officers and employees in accordance with the terms of the Emergency Management plan.

Section 2. EMERGENCY MANAGEMENT DIRECTOR – POWERS AND DUTIES

The duties and responsibilities of the Emergency Management Director shall include the following:

(a) Surveying actual or potential hazards that threaten life and property within the City and identifying and requiring or recommending the implementation of measures that would tend to prevent the occurrence or reduce the impact of such hazards if a disaster did occur.

(b) Supervision of the development and approval of an emergency management plan for the City of Tomball, and shall recommend for adoption by the City Council all mutual aid arrangements deemed necessary for the implementation of such plan.

(c) Authority to declare a local state of disaster. The declaration may not be continued or renewed for a period in excess of 7 days except by or with the consent of the City Council. Any order or proclamation declaring, continuing, or terminating a local state of disaster shall be given prompt and general publicity and shall be filed promptly with the City Secretary.

(d) Issuance of necessary proclamations, regulations, or directives that are necessary for carrying out the purposes of this ordinance. Such proclamations, regulations, or directives shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and, unless circumstances attendant on the disaster prevent or impede, promptly filed with the City Secretary.

(e) Direction and control of the operations of the Emergency Management organization as well as the training of Emergency Management personnel.

(f) Determination of all questions of authority and responsibility that may arise within the Emergency Management organization of the City.

(g) Maintenance of liaison with other municipal, County, District, State, regional or federal Emergency Management organizations.

(h) Marshaling of all necessary personnel, equipment, or supplies from any department of the City to aid in the carrying out of the provisions of the emergency management plan.

(i) Supervision of the drafting and execution of mutual aid agreements, in cooperation with the representatives of the State and of other local political subdivisions of the State, and the drafting and execution, if deemed desirable, of an agreement with the county in which said City is located and with other municipalities within the County, for the County-wide coordination of Emergency Management efforts.

(j) Supervision of, and final authorization for the procurement of all necessary supplies and equipment, including acceptance of private contributions, which may be offered for the purpose of improving Emergency Management within the City.

(k) Authorizing of agreements, after approval by the City Attorney, for use of private property for public shelter and other purposes.

(l) Surveying the availability of existing personnel, equipment, supplies, and services which could be used during a disaster, as provided for herein.

(m) Other requirements as specified in the Texas Disaster Act (Chapter 418 of the Government Code).

Section 3. EMERGENCY MANAGEMENT PLAN

A comprehensive Emergency Management Plan shall be developed and maintained in a current state. The plan shall set forth the form of the organization; establish and designate divisions and functions; assign responsibilities, tasks, duties, and powers; and designate officers and employees to carry out the provisions of this ordinance. As provided by State law, the plan shall follow the standards and criteria established by the State Division of Emergency Management of the State of Texas. Insofar as possible, the form of organization, titles, and terminology shall conform to the recommendations of the State Division of Emergency Management. When approved, it shall be the duty of all departments and agencies to perform the functions assigned by the plan and to maintain their portion of the plan in a current state of readiness at all times. The emergency management plan shall be considered supplementary to this ordinance and have the effect of law during the time of a disaster.

Section 4. INTER-JURISDICTIONAL PROGRAM

The Mayor is hereby authorized to join with the County Judge of the County of Harris and the Mayors of the other cities in said County in the formation of an inter-jurisdictional emergency management program for the County of Harris, and shall have the authority to cooperate in the preparation of an inter-jurisdictional emergency management plan and in the appointment of a joint Emergency Management Coordinator, as well as all powers necessary to participate in a County-wide program of emergency management insofar as said program may affect the City of Tomball.

Section 5. OVERRIDE

At all times when the orders, rules, and regulations made and promulgated pursuant to this ordinance shall be in effect, they shall supersede and override all existing ordinances, orders, rules, and regulations insofar as the latter may be inconsistent therewith.

Section 6. LIABILITY

This ordinance is an exercise by the City of its governmental functions for the protection of the public peace, health, and safety and the City of Tomball, the agents and representatives of said City, any individual, receiver, firm, partnership, corporation, association, or trustee, and any of the agents thereof, in good faith carrying out, complying with or attempting to comply with, any order, rule, or regulation promulgated pursuant to the provisions of this ordinance shall, to the extent permitted by Texas and federal law as amended, be protected from liability for any damage sustained to persons as the result of said activity.

Section 7. COMMITMENT OF FUNDS

No person shall have the right to expend any public funds of the City in carrying out any Emergency Management activity authorized by this ordinance without prior approval by the City Council, nor shall any person have any right to bind the City by contract, agreement, or otherwise without prior and specific approval of the City Council unless during a declared disaster. During a declared disaster, the Mayor may expend and/or commit public funds of the City when deemed prudent and necessary for the protection of health, life, or property.

Section 8. OFFENSES; PENALTIES

(a) It shall be unlawful for any person willfully to obstruct, hinder, or delay any member of the Emergency Management organization in the enforcement of any rule or regulation issued pursuant to this ordinance.

(b) It shall likewise be unlawful for any person to wear, carry, or display any emblem, insignia, or any other means of identification as a member of the Emergency Management organization of the City of Tomball, unless authority to do so has been granted to such person by the proper officials.

(c) Convictions for violations of the provisions of this ordinance shall be punishable by fine not to exceed one thousand dollars ($1,000.00), or such maximum amount as is set by section 418.173(b) of the Texas Government Code, as amended.

Section 9. SEVERABILITY

If any portion of this ordinance shall, for any reason, be declared invalid such, invalidity shall not affect the remaining provisions thereof.

Section 10. LIMITATIONS

This ordinance shall not be construed so as to conflict with any State or Federal statute or with any military or naval order, rule, or regulation.

Section 11. REPEALER

All ordinances, parts of ordinances, or resolutions in conflict herewith are expressly repealed.

READ AND APPROVED on first reading this the _____day of_____, 20___.

READ AND APPROVED AND ADOPTED on second reading this the ____ day of _____, 20___.

_____
Mayor
City of Tomball, Texas

ATTEST:

_____
City Secretary

JOINT RESOLUTION

WHEREAS, the City of Tomball by City ORDINANC[redacted]-16, and Harris County by Commissioners Court Order dated HCCC, [redacted]ablished similar programs of comprehensive emergency management which [redacted] the mitigation, preparedness, response and recovery phases of emergency mana[redacted]nd

WHEREAS, the City and the County find that vulnerability to many potential hazards is shared by residents of the City of Tomball and the unincorporated portions of Harris County; and

WHEREAS, the City and the County further find that the common goal of emergency management can best be achieved through an organization which shares the combined resources of the City and the County; and

WHEREAS, the contemplated action is specifically authorized by the aforementioned ORDINANCE and Court Order;

THEREFORE, BE IT RESOLVED that there is hereby established the Harris County Emergency Management organization which shall consist of the officers and employees of the City and of the County as designated in an interjurisdictional emergency management plan, together with such organized volunteer groups as that plan may specify; and

BE IT FURTHER RESOLVED that this joint resolution will be reviewed and resubmitted every two years to be in compliance with the election of new mayors. The county or the city may terminate this resolution, with or without cause, prior to the expiration of the term set forth above, upon thirty (30) days prior written notice to the other party

RESOLVED this the _____ day of _____, 2014.

_____ _____

Mayor, City of Tomball Harris County Judge

ATTEST:

_____ _____

City Secretary County Clerk

Regular City Council
Agenda Item
Data Sheet

Meeting Date: July 21, 2014

Topic:

Approve Annual Update to the Memorandum of Understanding (MOU) between the City of Tomball and Tomball Independent School District for Assistance During Disaster and Other Large-Scale Incidents

Background:

The City of Tomball and Tomball ISD have maintained a long-standing MOU to provide assistance to each other during times of disaster or other incidents. The terms of the MOU are reviewed annually by TISD personnel and personnel from the Tomball Office of Emergency Management. This is the annual update.

Origination:

Tomball Office of Emergency Management

Recommendation:

Staff recommends approval of updates to the Memorandum of Understanding

Funding:

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

Randy Parr, Fire Chief

ACTION TAKEN

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

ATTACHMENTS:

Update Memorandum of Understanding

MEMORANDUM OF UNDERSTANDING
FOR MUTUAL AID IN TIME OF EMERGENCY
BETWEEN TOMBALL INDEPENDENT SCHOOL DISTRICT AND THE CITY OF TOMBALL

The following is a memorandum of understanding between Tomball Independent School District (the district) and the City of Tomball (the city). The provisions of the memorandum govern implementation of the district's and the city's Emergency Management Response Plan. This memorandum will be reviewed annually by the Superintendent of the district and the Director of Emergency Management for the city and will be modified as needed. All authority of the Superintendent or the Director extends to their respective designees.

Mutual aide may take effect following a 911 call from a district administrator or at the request of the Superintendent to the city Mayor, city manager, or the manager of a city safety agency, or at a request to the Superintendent by the city Mayor, city manager, or the manager of a city safety agency.

1. The district may provide the city with the district's Emergency Management Plan as well as each campus Emergency Management Plan.

2. The district will provide the city with after hours telephone numbers, including mobile phone numbers, of the Superintendent, the Assistant Superintendents, and all site administrators.

3. The district will regularly provide the city with the current schematic drawings of all facilities. These drawings should include electric, water, telephone, and natural gas connections.

4. The district and the city will agree on a plan for city emergency personnel to have access to building and facility master keys.

5. The district will facilitate up to two drills each year by city police and fire departments. These drills will be after hours and will not disrupt the instructional day at any school.

6. The district may provide the city with a schedule of drills and trainings for district staff. The city will provide appropriate support and assistance.

7. The Tomball Police Department will respond to any security threat as required by circumstances. This includes the central administration building and any remote relocation site within the greater Tomball area to which students and staff may be transported.

8. The Tomball Fire Department will respond to any safety threat at schools within their authorized response areas and upon request from the primary agency for schools outside the Tomball Fire Department jurisdiction, as required by circumstances.

9. A NIMS based Incident Command System will be used to manage all emergencies that occur within the district. In situations where other responders are providing significant response resources or technical assistance, management will transfer to a Unified Command structure.

10. In the event of an emergency the district may respond to transportation requests within the limits of available resources.

11. In the event of an emergency the district will make reimbursable resources available, not to exceed that needed to reopen school (i.e., fuel, food and drink, etc. from excess inventory, not to exceed that needed for a three day supply when school reopens).

Tomball Independent School District

_____ _____

Huey Kinchen, Superintendent Date

_____ _____

Chris Trotter, Assistant Superintendent Date

City of Tomball

_____ _____

Gretchen Fagan, Mayor, Director of Emergency Management Date

_____ _____

Randy Parr, Fire Chief, Emergency Management Coordinator Date

Regular City Council
Agenda Item
Data Sheet

Meeting Date: July 21, 2014

Topic:

Approve the Extension of the Current Lease Agreement between the Harris County Tax Assessor-Collector and the City of Tomball for the use of the Facility located at 101 South Walnut as a Harris County Tax Office for an Additional One-Year Term, from December 1, 2014 to November 30, 2015

Background:

Harris County's Facilities & Property Management (FPM) is in the process of renewing the leases for various County departments, including the lease for the space located at 101 S. Walnut, Tomball Texas for the benefit of the Harris County Tax Assessor-Collector. The current term will expire on November 30, 2014.

Harris County wishes to exercise its option to renew the current lease in accordance with Section XIII., Item (m) of the Lease Agreement (copy attached):

"If Tenant does exercise the option under the preceding subparagraph, then and in that event Tenant has the option to re-lease the Premises for a thirteenth term of one year (from December 1, 2014 to November 30, 2015) on the same terms and conditions as are provided for in this Lease. Tenant may exercise this option by giving notice to that effect to Landlord on or before the 15th day of October 2014."

Having the Harris County Tax Office in Tomball has proven very beneficial to the citizens of Tomball and the surrounding area.

Origination:

Harris County Facilities & Property Management (FPM)

Recommendation:

Approve Extension of Lease Agreement

Funding:

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

City Secretary

ACTION TAKEN

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

ATTACHMENTS:

Lease Agreement between City of Tomball and Harris County - Tax Office

COMPANY
P039409

LEASE AGREEMENT

THE STATE OF TEXAS §

COUNTY OF HARRIS §

This Lease Agreement, made and entered into by and between the CITY OF TOMBALL, a municipal corporation situated in Harris County, Texas, hereinafter designated "Landlord," and HARRIS COUNTY, a body corporate and politic under the laws of the State of Texas, hereinafter designated "Tenant,"

WITNESSETH:

WHEREAS, Tenant is desirous of leasing the hereinafter described Premises located at 101 S. Walnut, in the City of Tomball, Harris County, Texas; and

WHEREAS, Landlord is desirous of leasing said premises to Tenant;

NOW, THEREFORE, in consideration of the mutual covenants, agreements, and benefits to both parties, it is agreed as follows:

I.

Subject to the terms and provisions hereinafter set forth, Landlord has rented and leased, and by these presents does rent and lease, unto Tenant, its successors and assigns, for a term of one year, beginning December 1, 2001 and ending November 30, 2002 (unless sooner ended in accordance with the provisions hereof), the following described Premises situated in the City of Tomball, Harris County, Texas, to-wit:

> Approximately 2,145 square feet, more or less, of office space in the building located at 101 S. Walnut in the City of Tomball, Harris County, Texas, said area hereby leased being crosshatched in black on the diagram of the floor plan of said building, attached hereto as Exhibit "A" (the "Premises"), said building being located on Lots 11 and 12, in Block 3, of Tomball Townsite, according to the map or plat thereof recorded in Volume 4, Page 25 of the Map Records of Harris County, Texas, together with rights of ingress and egress to S. Walnut and Market Streets.

II.

Prior to December 1, 2001, Landlord will, at its own expense, perform the following in the Premises:

(a) Have lines for adequate electric current, gas and water supply to the Premises in good operating condition.

(b) Have heating and air conditioning equipment in the Premises of the size, type, and capacity to properly heat and air condition the Premises.

(c) Complete in a good and workmanlike manner the finish out of the Premises as set out in the plans and specifications to be prepared by Landlord and signed by Landlord and Tenant for identification and approved by the Director of the County

Facilities and Property Management Department and the County Tax Assessor-Collector. Said finish out will comply with all requirements of the American With Disabilities Act, the Texas Architectural Barriers Act, and all other valid laws, ordinances, regulations, and other requirements of all federal, state, and local governmental bodies and agencies which are applicable to the Premises. Said plans and specifications, upon approval by Landlord and Tenant, are incorporated by reference herein. In the event Tenant and Landlord are unable to agree on plans and specifications, this Lease Agreement will be of no force and effect.

(d) Obtain a Certificate of Occupancy for the Premises from the City of Tomball, including the making of all repairs, alterations, and modifications, and doing all other things (similar and dissimilar) that may be required or necessary to obtain said Certificate of Occupancy.

If, prior to December 1, 2001, Landlord fails to perform its undertakings and obligations under this Paragraph II to Tenant's satisfaction, then and in that event, Tenant may proceed pursuant to Paragraph XI hereof, and Tenant will be relieved of all obligations to pay rent for the portion of the term of this Lease from the commencement of the term to and including the day on which Landlord completes such performance. If Landlord so delays its performance, and the day following the day on which Landlord completes such performance is a day other than the first day of a calendar month, then the rent for such calendar month is that proportionate part of the monthly rental that the number of days remaining in such calendar month after the day Landlord completes such performance, bears to the total number of days in such calendar month. If Landlord performs its undertakings and obligations under this paragraph, and Tenant takes possession of the leased premises, and Landlord thereafter refuses or fails to perform any one or more of its undertakings or obligations which are to be performed during the term of this Lease, then and in that event, Tenant may proceed under Paragraph XI hereof.

III.

As rental for the use of the Premises, Tenant will pay Landlord the sum of Six Hundred Fifty Dollars ($650.00) per month. On or about the first day of each calendar month during the term of this Lease, Landlord will submit to Tenant a statement for the rent for such calendar month, and Tenant will pay the same by the twentieth day of such calendar month or the fifteenth day after receipt of the same, whichever is later.

IV.

Landlord will pay utility bills for water, sewer, gas, and electricity incurred by Tenant in its use of the Premises. Landlord has no obligation to pay for telephone service used by Tenant on the Premises.

V.

The Premises are to be used by Tenant for a tax office and other lawful purposes.

VI.

During the term of this Lease, Landlord will, at its own expense, perform the following:

A. Keep and maintain in good repair the exterior walls, exterior doors, exterior doorways, windows, roof, structural portions, heating, ventilation

and air conditioning equipment, plumbing, lobby, wiring and electrical equipment, interior walls, ceilings, floors, floor covering, interior doors, interior doorways, hallways, restrooms, and all other parts of said building.

B. Keep and maintain in good repair the driveways, walkways, and entrances on the above described tract or parcel of land and also keep the same neat and clean.

C. Keep and maintain in good repair and condition the lighting fixtures in the Premises, including, but not limited to, furnishing and installing light producing elements.

D. Keep other tenants of said building and persons from blocking or obstructing the hallways, restroom doorways, and entrances of said building.

E. Keep all persons using any part of the above described tract of land from making excessive noise, causing bad odor, or otherwise interfering with Tenant's use and enjoyment of the Premises and the exercise of its rights hereunder.

F. Operate the air conditioning and heating equipment so as to maintain the air temperature in the Premises between 65 and 75 degrees Fahrenheit between the hours of 7:00 A.M. and 6:00 P.M. of each and every day except Saturdays, Sundays, and County holidays. However, in the event any state, federal, or municipal law, rule, or regulation applicable to the Premises requires the maintenance of the air temperature therein within a range other than that hereinabove specified, then the air temperature range will be maintained as near to the temperature range set forth above as may be permitted under such law, rule, or regulation.

G. Comply with all requirements of the Americans With Disabilities Act, the Texas Architectural Barriers Act, and all other valid laws, ordinances, regulations, and other requirements, now or hereafter in force, of all federal, state, and local governmental bodies and agencies which are applicable to the Premises and common areas of the building, including, but not limited to, the halls, restrooms, driveways, walkways, and entrances on the above described tract of land, to accommodate Tenant's employees and invitees. Landlord is wholly responsible for all alterations which need to be made to the Premises and common areas described above, to accommodate Tenant's employees and invitees. LANDLORD WILL INDEMNIFY AND HOLD TENANT HARMLESS FROM ANY AND ALL EXPENSES, LIABILITIES, COSTS, AND DAMAGES SUFFERED BY TENANT AS A RESULT OF LANDLORD'S FAILURE TO FULFILL ITS AFORESAID RESPONSIBILITIES REGARDING MAKING SUCH ALTERATIONS REFERENCED IN THE PRECEDING SENTENCE. No provision in this Lease will be construed in any manner as permitting, consenting to, or authorizing Tenant to violate requirements under either such Act, and any provision to the Lease which could arguably be construed as authorizing a violation of either Act will be interpreted in a manner which permits compliance with such Act and is hereby amended to permit such compliance.

H. Provide adequate janitorial services for the Premises.

I. Keep and maintain a valid Certificate of Occupancy (issued by the City of Tomball) for said building posted in said building.

J. Provide adequate parking spaces for Tenant's employees and invitees.

VII.

In the event a dispute arises as to Landlord's right to lease any portion of the Premises, or Landlord's right to receive the rentals herein provided, Tenant may withhold the rent herein provided, but such rent will continue to accrue and will be payable by Tenant to the party or parties entitled thereto, after said dispute is settled either by court action or settlement. LANDLORD WILL INDEMNIFY AND HOLD TENANT HARMLESS AS TO ANY DAMAGES, EXPENSES, OR CLAIMS THAT TENANT MAY SUFFER DUE TO FAILURE OF LANDLORD'S RIGHT TO LEASE THE PREMISES.

VIII.

Should the Premises or the above mentioned building be destroyed or damaged, or the right of ingress and egress be impaired, so that the Premises are thereby rendered unfit for use by Tenant, or should any governmental body, agency, department, or official determine such building to be a fire hazard, or for any other reason whatsoever to be unsuitable for the use or uses for which Tenant contemplates using same, then and in any such event the rent hereinbefore reserved will not be due nor paid by Tenant during the period of destruction or damaged condition, impairment, or unsuitability, and this Lease may be terminated at the option of Tenant. Regardless of whether Tenant exercises its option to terminate the Lease in such event, the rent for any month during which the Premises are unfit or unsuitable for use by Tenant for a portion thereof is equal to the number of days the same was fit for use by Tenant times an amount equal to one-thirtieth (1/30th) of the monthly rental rate, and if the rent for any such month has been paid in advance, then Tenant is entitled to a refund from Landlord of the excess amount paid. However, Tenant is obligated to pay rent for each day Tenant actually uses the premises. The phrase "actually uses," as used in this paragraph, means the use of the Premises for the purpose Tenant contemplates or intends to use same, and does not include any limited use or uses such as, but not limited to, inspecting the Premises, or leaving furniture and other property therein while waiting for repairs of such damage or other action to correct or otherwise remedy such damaged condition, impairment, or unsuitability.

IX.

All fixtures and all personal property created and/or placed in and on the Premises by Tenant may be removed by Tenant at the termination of this Lease, or any extension thereof, even though the same may be attached to the Premises.

X.

In the event Tenant holds over and remains in possession of the Premises herein leased, after the expiration of this Agreement, without any written renewal or extension thereof, such holding over is not deemed to operate as a renewal or extension of this Agreement, but only creates a tenancy from month to month at a monthly rental rate in an amount equal to the monthly rental (hereinabove provided for the month immediately preceding such hold over) which month to month tenancy may be terminated at any time by either Tenant or Landlord, upon thirty (30) days prior written notice.

XI.

If Landlord refuses or fails to perform any one or more of its undertakings or obligations under this Lease Agreement, Tenant has the right, but not the obligation, to perform, or cause to be performed, any one or more of said undertakings or obligations of Landlord, and may deduct all costs and expenses thereof from the rental to be paid hereunder, or this Agreement may be terminated by Tenant, in Tenant's sole discretion, by giving at least fifteen (15) days prior written notice to Landlord. The performance by Tenant of any one or more of the undertakings or obligations of Landlord hereunder will not be construed or held to be a waiver by Tenant of any succeeding refusal or failure to perform such undertaking or obligation of Landlord. Tenant's exercise of any of the rights or options under this paragraph will not in any way prejudice Tenant's right to recover damages which Tenant has sustained as a result of Landlord's refusal or failure to perform, and the rights and options under this paragraph are cumulative with, and not in lieu of, other remedies provided by law.

XII.

Landlord represents and warrants that it has the right and power to lease the Premises for the term hereof and the periods covered by the options hereunder.

XIII.

(a) Tenant has the option to re-lease the Premises for a second term (from December 1, 2002 to November 30, 2003) on the same terms and conditions as are provided for in this Lease. Tenant may exercise this option by giving notice to that effect to Landlord on or before the 15th day of October 2002.

(b) If Tenant does exercise the option under the preceding subparagraph, then and in that event Tenant has the option to re-lease the Premises for a third term of one year (from December 1, 2003 to November 30, 2004) on the same terms and conditions as are provided for in this Lease. Tenant may exercise this option by giving notice to that effect to Landlord on or before the 15th day of October 2003.

(c) If Tenant does exercise the option under the preceding subparagraph, then and in that event Tenant has the option to re-lease the Premises for a fourth term of one year (from December 1, 2004 to November 30, 2005) on the same terms and conditions as are provided for in this Lease. Tenant may exercise this option by giving notice to that effect to Landlord on or before the 15th day of October 2004.

(d) If Tenant does exercise the option under the preceding subparagraph, then and in that event Tenant has the option to re-lease the Premises for a fifth term of one year (from December 1, 2005 to November 30, 2006) on the same terms and conditions as are provided for in this Lease. Tenant may exercise this option by giving notice to that effect to Landlord on or before the 15th day of October 2005.

(e) If Tenant does exercise the option under the preceding subparagraph, then and in that event Tenant has the option to re-lease the Premises for a sixth term of one year (from December 1, 2006 to November 30, 2007) on the same terms and conditions as are provided for in this Lease. Tenant may exercise this option by giving notice to that effect to Landlord on or before the 15th day of October 2006.

(f) If Tenant does exercise the option under the preceding subparagraph, then and in that event Tenant has the option to re-lease the Premises for a seventh term of one year (from December 1, 2007 to November 30, 2008) on the same terms and conditions as are provided for

in this Lease. Tenant may exercise this option by giving notice to that effect to Landlord on or before the 15th day of October 2007.

(g) If Tenant does exercise the option under the preceding subparagraph, then and in that event Tenant has the option to re-lease the Premises for an eighth term of one year (from December 1, 2008 to November 30, 2009) on the same terms and conditions as are provided for in this Lease. Tenant may exercise this option by giving notice to that effect to Landlord on or before the 15th day of October 2008.

(h) If Tenant does exercise the option under the preceding subparagraph, then and in that event Tenant has the option to re-lease the Premises for a ninth term of one year (from December 1, 2009 to November 30, 2010) on the same terms and conditions as are provided for in this Lease. Tenant may exercise this option by giving notice to that effect to Landlord on or before the 15th day of October 2009.

(i) If Tenant does exercise the option under the preceding subparagraph, then and in that event Tenant has the option to re-lease the Premises for a tenth term of one year (from December 1, 2010 to November 30, 2011) on the same terms and conditions as are provided for in this Lease. Tenant may exercise this option by giving notice to that effect to Landlord on or before the 15th day of October 2010.

(j) If Tenant does exercise the option under the preceding subparagraph, then and in that event Tenant has the option to re-lease the Premises for an eleventh term of one year (from December 1, 2011 to November 30, 2012) on the same terms and conditions as are provided for in this Lease. Tenant may exercise this option by giving notice to that effect to Landlord on or before the 15th day of October 2011.

(k) If Tenant does exercise the option under the preceding subparagraph, then and in that event Tenant has the option to re-lease the Premises for a twelfth term of one year (from December 1, 2012 to November 30, 2013) on the same terms and conditions as are provided for in this Lease. Tenant may exercise this option by giving notice to that effect to Landlord on or before the 15th day of October 2012.

(l) If Tenant does exercise the option under the preceding subparagraph, then and in that event Tenant has the option to re-lease the Premises for a thirteenth term of one year (from December 1, 2013 to November 30, 2014) on the same terms and conditions as are provided for in this Lease. Tenant may exercise this option by giving notice to that effect to Landlord on or before the 15th day of October 2013.

(m) If Tenant does exercise the option under the preceding subparagraph, then and in that event Tenant has the option to re-lease the Premises for a fourteenth term of one year (from December 1, 2014 to November 30, 2015) on the same terms and conditions as are provided for in this Lease. Tenant may exercise this option by giving notice to that effect to Landlord on or before the 15th day of October 2014.

(n) If Tenant does exercise the option under the preceding subparagraph, then and in that event Tenant has the option to re-lease the Premises for an fifteenth term of one year (from December 1, 2015 to November 30, 2016) on the same terms and conditions as are provided for in this Lease. Tenant may exercise this option by giving notice to that effect to Landlord on or before the 15th day of October 2015.

(o) Any notice permitted or required to be given to Landlord hereunder may be given by registered or certified United States mail, postage prepaid, return receipt requested, addressed to the City of Tomball, 401 West Market Street, Tomball, Texas 77375, Attention: Mayor and such

option is considered exercised and completed upon Tenant's deposit in a receptacle regularly maintained by the United States Postal Service.

(p) Landlord will give Tenant written notice reminding Tenant of the expiration date of each option hereunder not less than fifteen days nor more than thirty days prior to the expiration of each such option. The failure of Landlord to give Tenant any such notice during said period has the effect of extending the period of the option through the 15th day next after the late notice is given, or October 15, 2015, whichever is earlier. Any notice permitted or required to be given to Tenant hereunder may be given by registered or certified United States mail, postage prepaid, return receipt requested, addressed to County Judge of Harris County, Harris County Administration Building, 1001 Preston, Ninth Floor, Houston, Texas 77002, with a photocopy thereof addressed to Director, Harris County Facilities and Property Management Department, 1310 Prairie, Suite 1330, Houston, Texas 77002. Notice is considered given and completed upon deposit of the notice in a receptacle regularly maintained by the United States Postal Service. Either party may change its address pursuant to this paragraph upon written notice to the other party.

XIV.

Landlord will not take any action or recourse against Tenant for any default in the performance of Tenant's obligations, or any breach of this Lease Agreement by Tenant, until thirty (30) days after Landlord has given Tenant written notice setting out in detail the type and nature of the default or breach, and the failure of Tenant to cure such default or breach within such thirty (30) day period.

XV.

The liability of Tenant under the terms and provisions of this Lease, and all amendments and supplements thereto, is expressly limited to the amount of funds hereinbelow certified available for satisfying Tenant's first lease year obligations under the terms and provisions of this lease, and any additional funds for such purpose which may, from time to time, be certified available for Tenant's obligations by the County Auditor of Harris County. When and if all the funds so certified are expended for the purpose of satisfying Tenant's obligations pursuant to this Agreement, the sole and exclusive remedy of Landlord will be to terminate this Lease.

XVI.

Tenant, upon the several conditions herein set forth and upon payment of the rentals herein provided, and upon continued performance of the covenants and agreements herein contained, will have and occupy the Premises peacefully and quietly for the term herein set forth.

EXECUTED in duplicate originals this _____ day of SEP 25 2001, 2001.

APPROVED AS TO FORM:

MIKE STAFFORD
County Attorney

By: M. Scott Bresk
M. SCOTT BRESK
Assistant County Attorney

HARRIS COUNTY

By: _____
ROBERT ECKELS
County Judge

ATTEST:

THE CITY OF TOMBALL

Mary Coker
MARY COKER
City Secretary

By: H. G. Harrington
H. G. HARRINGTON
Mayor

AUDITOR'S CERTIFICATE

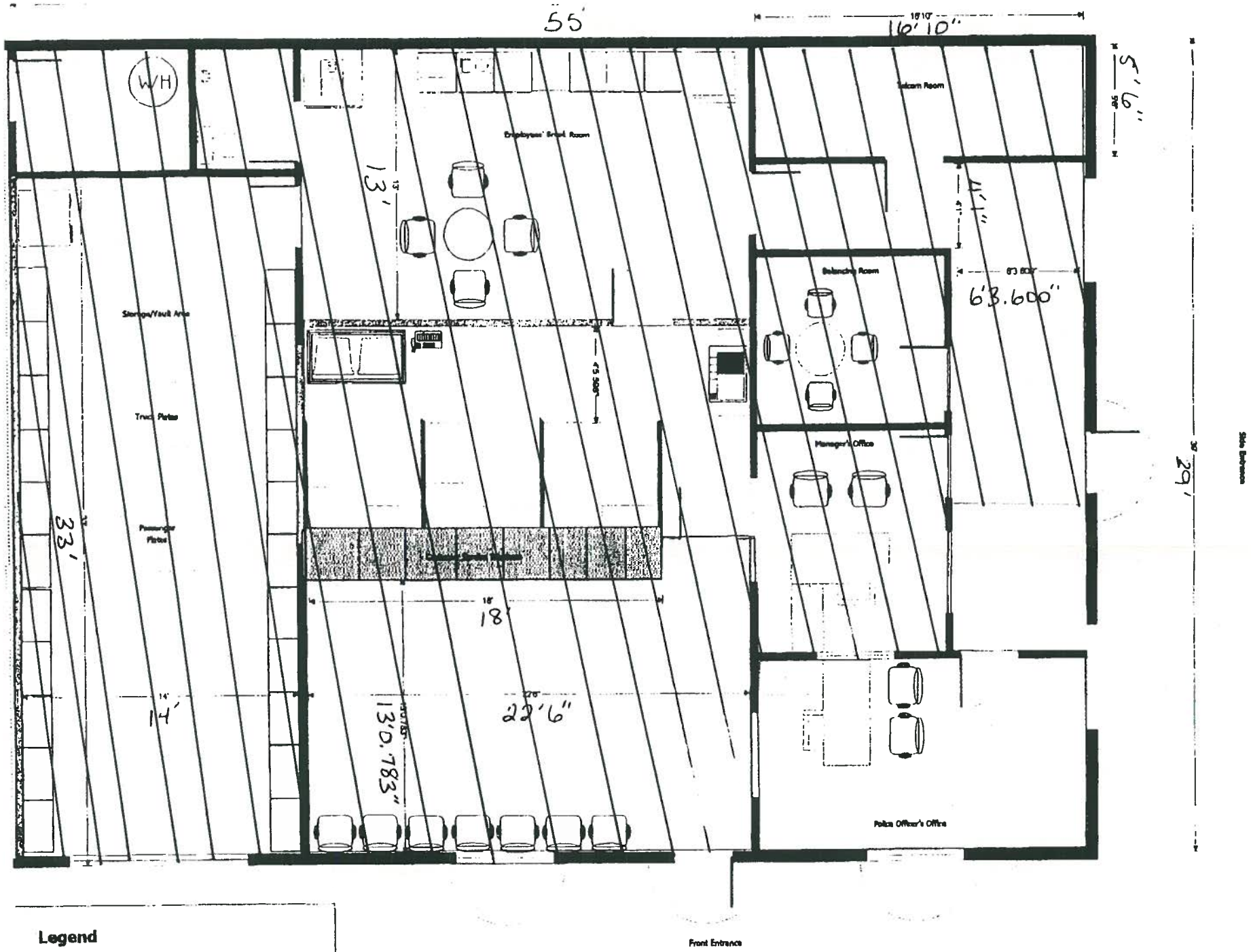
I hereby certify that funds in the amount of $7,800.00 are available to pay the obligation of Harris County under the foregoing Agreement.

Tommy J. Tompkins by DF
TOMMY J. TOMPKINS, County Auditor

Registered with me this 4th day of October, 2001.

Michael Yancey
MICHAEL YANCEY, AIA, Director
Harris County Facilities & Property Management Department

EXHIBIT "A"



Legend

- Tile
- Carpet
- Awning

Proposed Tomball Tax Office Annex
Prepared by Special Projects Department

Tomball Annex

THE STATE OF TEXAS §

COUNTY OF HARRIS §

The Commissioners Court of Harris County, Texas, convened at a meeting of said Court at the Harris County Administration Building in the City of Houston, Texas, on the ____ day of SEP 25 2001, 2001, with the following members present, to-wit:

Robert Eckels	County Judge
El Franco Lee	Commissioner, Precinct No. 1
James Fonteno	Commissioner, Precinct No. 2
Steve Radack	Commissioner, Precinct No. 3
Jerry Eversole	Commissioner, Precinct No. 4

and the following members absent, to-wit: None, constituting a quorum, when among other business, the following was transacted:

ORDER AUTHORIZING THE COUNTY JUDGE TO EXECUTE A LEASE AGREEMENT BY AND BETWEEN THE CITY OF TOMBALL AND HARRIS COUNTY.

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

Vote of the Court:	Yes	No	Abstain
Judge Eckels	☐	☐	☑
Comm. Lee	☐	☐	☐
Comm. Fonteno	☐	☐	☐
Comm. Radack	☐	☐	☐
Comm. Eversole	☐	☐	☐

AYES:
NAYS:
ABSTENTIONS:

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

WHEREAS, Harris County is desirous of leasing from the City of Tomball the hereinafter described Premises located at 101 S. Walnut, in Tomball, Texas; and

WHEREAS, The City of Tomball is desirous of leasing said Premises to Harris County;

NOW, THEREFORE, BE IT ORDERED BY THE COMMISSIONERS COURT OF HARRIS COUNTY, TEXAS, THAT:

Section 1: The recitals set forth in this order are true and correct.

Section 2: The Harris County Judge is hereby authorized to execute for and on behalf of Harris County a Lease Agreement by and between the City of Tomball and Harris County, covering Premises located at 101 S. Walnut, in Tomball, Texas, for the Assessor and Collector of Taxes, for a term of one year, commencing on December 1, 2001, said agreement being incorporated herein by reference and made a part hereof for all intents and purposes as though fully set forth herein word for word.

Section 3: All Harris County officials and employees are authorized to do any and all things necessary or convenient to accomplish the purpose of this Order.

Presented to Commissioner's Court

SEP 25 2001

APPROVE _____

Recorded Vol ____ Page ____

Regular City Council
Agenda Item
Data Sheet

Meeting Date: July 21, 2014

Topic:

Appoint a City Representative to Serve on the Texas Heritage Railroad Museum Board of Directors

Background:

The Texas Heritage Railroad Museum has voted to allow a city and county representative to serve on their Board of Directors. As they transition a museum into Tomball, it will be important to have someone sitting on their board to provide input.

There is no additional prerequisite for the member, other than someone interested in railroads and interested in serving on their board. It could be a member of the Council, City staff, or a private citizen.

The appointment does not necessarily have to be done at Monday's meeting, but does need to be made relatively soon. The Museum has a series of meetings set up in the very near future regarding governance of the museum and a long-range planning session in which City input/insight could be invaluable.
.

Origination:

Texas Heritage Railroad Museum Board of Directors

Recommendation:

Appointment of Representative to the Texas Heritage Railroad Museum Board of Directors

Funding:

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

City Secretary

ACTION TAKEN

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

Regular City Council
Agenda Item
Data Sheet

Meeting Date: July 21, 2014

Topic:

Award Contract for Project No. 2014-06, Solid Waste Collection and Disposal Services for the City of Tomball, to WCA Waste Corporation and Authorize the City Manager to Execute the Necessary Service Contract

Background:

At the regular City Council meeting of April 21, 2014, City Council authorized City staff to issue a Request for Proposals (RFP) for Solid Waste Collection and Disposal Services for the City of Tomball. Staff issued the RFP for Project No. 2014-06, Solid Waste Collection and Disposal Services for the City of Tomball, on May 28, 2014 with a response deadline of 2:00 P.M, June 24, 2014.

A total of three service providers responded to the RFP including: Waste Management, Nexus, and the City's current service provider, WCA Waste Corporation of Texas. Staff has completed a comprehensive assessment of submittals and proposed rate tabulations, and has determined that:

- WCA Waste Corporation is the apparent low proposer.
- WCA Waste Corporation's response sufficiently meets the RFP submittal requirements.
- WCA Waste Corporation was awarded the City's current Solid Waste Collection and Disposal Services Contract effective October 1, 2009 thru October 1, 2014, and has demonstrated satisfactory service capabilities for the Tomball community for the past five years.
- WCA Waste Corporation has adequate solid waste collection and disposal experience and capabilities.

Based on the results of a comprehensive assessment of all submitted proposals, staff recommends award of Contract for Project No. 2014-06, Solid Waste Collection and Disposal Services for the City of Tomball, to WCA Waste Corporation of Texas and requests City Council select the most favorable residential service option from the Proposal Items listed below:

Proposal Item 1 - *Residential curbside refuse collection and disposal consisting of plastic bags to be picked up twice per week and including curbside collection and disposal of 18-gallon recyclable container and green waste collection and disposal.*
Note: Item 1 is current service level for bag only pickup - City-provided bags - Current customer monthly rate = $14.74 - WCA proposed monthly rate = $15.70 - $0.96 increase.

Alternate A - *Residential curbside collection and disposal consisting of 95-gallon poly cart and including once per week curbside collection and disposal of 18-gallon recyclable container and green waste collection and disposal.* Note: Once per week pickup - WCA provides 95-gallon poly cart for trash - same 18-gallon recyclable container - WCA proposed customer rate = $12.75 - $1.99 decrease.

Alternate B - *Residential curbside refuse collection and disposal consisting of 95 gallon poly cart and including once per week curbside collection and disposal of 95 gallon recyclable poly cart and green waste*

collection and disposal. Note: Once per week pickup - WCA provides 95-gallon poly cart for trash, and 95-gallon poly cart recyclable container - WCA proposed customer rate = $14.49 - $0.25 decrease - demand for 95-gallon recyclable container not warranted.

Attachments for your review include copies of: RFP 2014-06 Tabulation of Proposals, RFP 2014-06 Comparison of Current Service Rates and Proposed Rates, RFP 2014-06 Tabulation of Annualized Contract Values, DRAFT Solid Waste Collection and Disposal Services Contract for the City of Tomball.

Origination:

Public Works

Recommendation:

Staff recommends award of Contract for Project #2014-06 Solid Waste Collection and Disposal Services for the City of Tomball to WCA Waste Corporation and recommends the City Manager be authorized to execute the contract on behalf of the City.

Funding: Yes

Account Number: 100-155-6327

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

Director of Public Works

ACTION TAKEN

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

ATTACHMENTS:

Project 2014-06 Proposal Tabulation
Project 2014-06 Comparison of Rates
2014-06 Tabulation of Annualized Contract Values
2014-06 DRAFT Service Contract

City of Tomball
RFP #2014-06
Solid Waste Collection and Disposal
TABULATION OF PROPOSALS

Description of Current Services	WCA Waste Corporation	Nexus	Waste Management Inc.
Residential curbside refuse collection and disposal (Plastic Bags Placed Curbside)	393,348.96 / Year	423,740.16 / Year	439,948.80 / Year
Residential curbside refuse collection and disposal (95 Gal. Poly Cart & 18 Gal. Recycle Containers)	319,541.76 / Year	467,735.04 / Year	380,903.04 / Year
Residential curbside refuse collection and disposal (95 Gal. Poly Cart & 95 Gal. Recycle Container)	363,247.20 / Year	573,091.20 / Year	424,897.92 / Year
95 gallon commercial container (one pick up per week)	32,884.80 / Year	28,548.00 / Year	31,200.00 / Year
Additional 95 gallon commercial container to same customer (one pick up per week)	-0-	-0-	-0-
95 gallon commercial container (two pick ups per week)	14,995.44 / Year	20,178.00 / Year	21,240.00 / Year
Additional 95 gallon commercial container to same customer (two pick ups per week)	1,808.64 / Year	$2,052.00 / Year	2,160.00 / Year
3 yard commercial dumpster (one pick up per week)	43,474.20 / Year	38,280.00 / Year	44,121.00 / Year
3 yard commercial dumpster (two pick ups per week)	15,081.12 / Year	12,960.00 / Year	19,252.80 / Year
3 yard commercial dumpster (three pick ups per week)	7,566.72 / Year	6,480.00 / Year	9,622.56 / Year
3 yard commercial dumpster (four pick ups per week)	9,483.36 / Year	8,880.00 / Year	12,295.00 / Year
3 yard commercial dumpster (five pick ups per week)	2,954.28 / Year	2,880.00 / Year	3,975.64 / Year

Description of Current Services	WCA Waste Corporation	Nexus	Waste Management Inc.
3 yard commercial dumpster (six pick ups per week)	7,099.92 / Year	6,840.00 / Year	8,577.12 / Year
4 yard commercial dumpster (one pick up per week)	34,195.20 / Year	32,640.00 / Year	43,152.00 / Year
Additional 4 yard dumpster to same customer (one pick up per week)	764.52 / Year	780.00 / Year	1,078.80 / Year
4 yard commercial dumpster (two pick ups per week)	17,685.72 / Year	17,160.00 / Year	24,354.72 / Year
Additional 4 yard commercial dumpster to same customer (two pick ups per week)	1,217.76 / Year	1,140.00 / Year	1,873.44 / Year
4 yard commercial dumpster (three pick ups per week)	14,238.84 / Year	15,120.00 / Year	20,680.80 / Year
4 yard commercial dumpster (four pick ups per week)	7,657.20 / Year	8,100.00 / Year	11,451.60 / Year
4 yard commercial dumpster (five pick ups per week)	-0-	-0-	-0-
4 yard commercial dumpster (six pick ups per week)	-0-	-0-	-0-
6 yard commercial dumpster (one pick up per week)	52,859.52 / Year	50,688.00 / Year	69,062.40 / Year
Additional 6 yard commercial dumpster to same customer (one pick up per week)	3,937.92 / Year	3,984.00 / Year	5,755.20 / Year
6 yard commercial dumpster (two pick ups per week)	57,297.24 / Year	61,380.00 / Year	87,092.28 / Year
6 yard commercial dumpster (three pick ups per week)	62,784.00 / Year	67,680.00 / Year	92,666.88 / Year

Description of Current Services	WCA Waste Corporation	Nexus	Waste Management Inc.
Additional 6 yard commercial dumpster to same customer (three pick ups per week)	9,431.52 / Year	10,320.00 / Year	15,444.48 / Year
6 yard commercial dumpster (four pick ups per week)	6,555.84 / Year	7,200.00 / Year	10,424.16 / Year
6 yard commercial dumpster (five pick ups per week)	8,188.32 / Year	8,880.00 / Year	13,097.04 / Year
6 yard commercial dumpster (six pick ups per week)	24,487.80 / Year	27,000.00 / Year	40,093.20 / Year
8 yard commercial dumpster (one pick up per week)	40,035.60 / Year	36,720.00 / Year	54,756.00 / Year
Additional 8 yard commercial dumpster to same customer (one pick up per week)	-0-	-0-	-0-
8 yard commercial dumpster (two pick ups per week)	94,063.20 / Year	95,040.00 / Year	147,523.20 / Year
Additional 8 yard commercial dumpster to same customer (two pick ups per week)	3,860.64 / Year	4,320.00 / Year	6,705.60 / Year
8 yard commercial dumpster (three pick ups per week)	121,109.04 / Year	134,064.00 / Year	193,389.60 / Year
Additional 8 yard commercial dumpster to same customer (three pick ups per week)	5,752.56 / Year	6,240.00 / Year	10,178.40 / Year
8 yard commercial dumpster (four pick ups per week)	16,013.28 / Year	18,720.00 / Year	26,461.44 / Year
8 yard commercial dumpster (five pick ups per week)	35,009.52 / Year	38,640.00 / Year	59,404.80 / Year
Additional 8 yard commercial dumpster to same customer (five pick ups per week)	4,495.92 / Year	5,520.00 / Year	8,486.40 / Year
8 yard commercial dumpster (six pick ups per week)	41,991.60 / Year	47,040.00 / Year	65,503.20 / Year

City of Tomball, Texas

Project 2014-06
Solid Waste Collection and Disposal

Commercial Roll Offs and Temporary Containers

Description of Current Services	WCA Waste Corporation	Nexus	Waste Management, Inc.
20 yard commercial roll off (one year or more)			
Deliver Fee:	**$105.00**	**$65.00**	**$100.00**
Monthly Rental:	**$125.00**	**$137.64**	**$90.00**
Haul off and Disposal fee:	**$272.95**	**$255.00**	**$290.00**
30 yard commercial roll off (one year or more)			
Delivery Fee:	**$105.00**	**$65.00**	**$100.00**
Monthly Rental:	**$125.00**	**$137.64**	**$90.00**
Haul off and Disposal fee:	**$315.00**	**$290.00**	**$356.00**

Description of Current Services	WCA Waste Corporation	Nexus	Waste Management, Inc.
40 yard commercial roll off (one year or more)			
Delivery Fee:	**$105.00**	**$65.00**	**$100.00**
Monthly Rental:	**$125.00**	**$137.64**	**$90.00**
Haul off and Disposal fee:	**$355.00**	**$420.00**	**$409.00**
Compactor / roll off container / equipment			
Delivery Fee:	**$105.00**	**$65.00**	**$150.00**
Monthly Rental:	**N/A**	**N/A**	**N/A**
Haul Fee:	**$250.00**	**$200.00**	**$545.00**
Disposal Fee:	**$25.00 / Ton**	**$38.00 / Ton**	**$34.38 / Ton**

Description of Current Services	WCA Waste Corporation	Nexus	Waste Management, Inc.
Temporary 30 yard roll off container (Less than 12 months)			
Delivery Fee:	**$105.00**	**$65.00**	**$100.00**
Monthly Rental:	**$125.00**	**$137.64**	**$90.00**
Haul off and Disposal Fee:	**$315.00**	**$320.00**	**$356.00**
Temporary 40 yard roll off container (Less than 12 months)			
Delivery Fee:	**$105.00**	**$65.00**	**$100.00**
Monthly Rental:	**$125.00**	**$137.64**	**$90.00**
Haul off and Disposal Fee:	**$355.00**	**$420.00**	**$409.00**
20 Yard Recyclable Container (one year or more)			
Delivery Fee:	**$105.00**	**$65.00**	**$100.00**
Monthly Rental:	**$125.00**	**$137.64**	**$120.00**
Haul off and Disposal Fee:	**$273.00**	**$200.00**	**$275.00**

Description of Current Services	WCA Waste Corporation	Nexus	Waste Management, Inc.
20 Yard Recyclable Container (less than one year)			
Delivery Fee:	**$105.00**	**$65.00**	**$100.00**
Monthly Rental:	**$125.00**	**$137.64**	**$120.00**
Haul off and Disposal Fee:	**$273.00**	**$200.00**	**$275.00**
30 Yard Recyclable Container (one year or more)			
Delivery Fee:	**$105.00**	**$65.00**	**$100.00**
Monthly Rental:	**$125.00**	**$137.64**	**$120.00**
Haul off and Disposal Fee:	**$315.00**	**$265.00**	**$335.00**

Description of Current Service	WCA Waste Corporation	Nexus	Waste Management, Inc
30 Yard Recyclable Container (less than one year)			
Delivery Fee:	**$105.00**	**$65.00**	**$100.00**
Monthly Rental:	**$125.00**	**$137.64**	**$120.00**
Haul off and Disposal Fee:	**$315.00**	**$265.00**	**$335.00**
40 Yard Recyclable Container (one year or more)			
Delivery Fee:	**$105.00**	**$65.00**	**$100.00**
Monthly Rental:	**$125.00**	**$137.64**	**$120.00**
Disposal Fee:	**$355.00**	**$365.00**	**$380.00**
40 Yard Recyclable Container (less than one year)			
Delivery Fee:	**$105.00**	**$65.00**	**$100.00**
Monthly Rental:	**$125.00**	**$137.64**	**$120.00**
Disposal Fee:	**$355.00**	**$365.00**	**$380.00**

City of Tomball, Texas

Solid Waste Collection & Disposal

Comparison of Current Service Rate and Newly Proposed service Rate

Proposal Item	Description of Proposed Service	Pick Ups per Week	Estimated Number of Units	Customer Rate Under Current WCA Contract	Customer Rate Under Proposed WCA Contract
1	Residential curbside refuse collection and disposal consisting of plastic bags to be picked up twice per week and including curbside collection and disposal of 18 gallon recyclable container and green waste collection and disposal	2	2412	$14.74	$15.70
Alternate A	Residential curbside collection and disposal consisting of 95 gallon poly cart and including once per week curbside collection and disposal of 18 gallon recyclable container and green waste collection and disposal.	1	2412	N/A	$12.75
Alternate B	Residential curbside refuse collection and disposal consisting of 95 gallon poly cart and including once per week curbside collection and disposal of 95 gallon recyclable poly cart and green waste collection and disposal.	1	2412	N/A	$14.49
2	Residential curbside refuse collection and disposal. (Additional 95 Gallon Poly Cart to Same Customer)	1	100	N/A	$17.32
3	95 Gallon Poly Cart (Commercial)	1	130	$24.00	$24.87
4	Additional 95 Gallon Poly Cart to Same Commercial Customer	1	0	$21.00	$17.70

City of Tomball, Texas

Solid Waste Collection & Disposal

Comparison of Current Service Rate and Newly Proposed service Rate

Proposal Item	Description of Proposed Service	Pick Ups per Week	Estimated Number of Units	Customer Rate Under Current WCA Contract	Customer Rate Under Proposed WCA Contract
5	95 Gallon Poly Cart (Commercial)	2	59	$29.00	$25.52
6	Additional 95 Gallon Poly Cart to Same Customer (Commercial)	2	6	$24.00	$29.62
7	3 Yard Commercial Dumpster	1	55	$75.00	$79.04
8	3 Yard Commercial Dumpster	2	12	$119.00	$126.20
9	3 Yard Commercial Dumpster	3	4	$178.00	$189.96
10	3 Yard Commercial Dumpster	4	4	$224.00	$238.07
11	3 Yard Commercial Dumpster	5	1	$279.00	$290.50
12	3 Yard Commercial Dumpster	6	2	$335.00	$356.48
13	Additional 3Yard Commercial Dumpster to Same Customer	6	1	$298.00	$235.47
14	4 Yard Commercial Dumpster	1	40	$81.00	$85.84
15	Additional 4 Yard Commercial Dumpster to Same Customer	1	1	$72.00	$76.77
16	4 Yard Commercial Dumpster	2	13	$128.00	$136.61

City of Tomball, Texas

Solid Waste Collection & Disposal

Comparison of Current Service Rate and Newly Proposed service Rate

Proposal Item	Description of Proposed Service	Pick Ups per Week	Estimated Number of Units	Customer Rate Under Current WCA Contract	Customer Rate Under Proposed WCA Contract
17	Additional 4Yard Commercial Dumpster to Same Customer	2	1	$115.00	$122.28
18	4 Yard Commercial Dumpster	3	7	$192.00	$204.26
19	4 Yard Commercial Dumpster	4	3	$241.00	$256.30
20	4 Yard Commercial Dumpster	5	0	$299.00	$318.73
21	4 Yard Commercial Dumpster	6	0	$361.00	$383.80
22	6 Yard Commercial Dumpster	1	48	$105.00	$110.58
23	Additional 6 Yard Commercial Dumpster to Same Customer	1	4	$93.00	$98.86
24	6 Yard Commercial Dumpster	2	33	$164.00	$174.35
25	6 Yard Commercial Dumpster	3	24	$247.00	$262.69
26	Additional 6 Yard Commercial Dumpster to Same Customer	3	4	$222.00	$236.77
27	6 Yard Commercial Dumpster	4	2	$309.00	$329.16
28	6 Yard Commercial Dumpster	5	2	$386.00	$411.12

City of Tomball, Texas

Solid Waste Collection & Disposal

Comparison of Current Service Rate and Newly Proposed service Rate

Proposal Item	Description of Proposed Service	Pick Ups per Week	Estimated Number of Units	Customer Rate Under Current WCA Contract	Customer Rate Under Proposed WCA Contract
29	6 Yard Commercial Dumpster	6	5	$462.00	$491.80
30	8 Yard Commercial Dumpster	1	30	$126.00	$134.00
31	Additional 8 Yard Commercial Dumpster to same Customer	1	0	$114.00	$121.00
32	8 Yard Commercial Dumpster	2	44	$202.00	$214.67
33	Additional 8 Yard Commercial Dumpster to Same Customer	2	2	$178.00	$193.84
34	8 Yard Commercial Dumpster	3	38	$300.00	$320.04
35	Additional 8 Yard Commercial Dumpster to Same Customer	3	2	$271.00	$288.83
36	8 Yard Commercial Dumpster	4	4	$377.00	$402.00
37	8 Yard Commercial Dumpster	5	7	$463.00	$491.80
38	Additional 8 Yard Commercial Dumpster to Same Customer	5	1	$394.00	$442.10
39	8 Yard Commercial Dumpster	6	7	$565.00	$589.88

City of Tomball, Texas

Solid Waste Collection & Disposal

Comparison of Current Service Rate and Newly Proposed service Rate

City of Tomball
RFP #2014-06
Solid Waste Collection and Disposal
Annualized Tabulation of Proposals

	Annualized Contract Amount Curbside Bag service	Annualized Contract Amount 95 Gal. Carts / 18 gal Recycle	Annualized Contract Amount 95 Gal. Carts / 95 Gal. Recycle
WCA Waste Corporation	**$1,184,763.48**	**$1,110,956.28**	**$1,154,661.72**
Nexus	**$1,249,214.16**	**$1,293,209.04**	**$1,398,565.20**
Waste Management, Inc	**$1,601,028.56**	**$1,541,982.80**	**$1,585,977.68**

“SOLID WASTE COLLECTION AND DISPOSAL SERVICES FOR THE CITY OF TOMBALL, TEXAS

Service Contract “Draft “ Only

“Draft” Only

SOLID WASTE COLLECTION AND DISPOSAL SERVICES FOR THE CITY OF TOMBALL, TEXAS

SERVICE CONTRACT

This Contract is dated as of the ____ day of _____ in the year 2014, between the City of Tomball (hereinafter called the CITY) and _____ (hereinafter called the CONTRACTOR).

Witnesseth: the CITY and the CONTRACTOR, in consideration of mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1.0 – GENERAL DESCRIPTION OF SERVICES

For and in consideration of the compliance by the CONTRACTOR with the convenants and conditions herein set forth and the ordinances and regulations of the CITY governing the collection and disposal of solid waste, the CITY grants to the CONTRACTOR a franchise for use of designated public streets, alleys and access roadways within the corporate limits of the CITY for the purpose of providing collection services for residential, commercial and industrial waste except for hazardous waste and biosolids. The CONTRACTOR shall provide all supervision, materials, equipment, labor, insurance and all other skills and property required to fulfill each of its obligations under this agreement.

ARTICLE 2.0 – CONTRACT DOCUMENTS

The Contract documents, all of which are attached hereto and made a part hereof, comprise the entire Agreement between the CITY and the CONTRACTOR with respect to the transaction and services hereby contemplated. Execution of the Contract is a representation that the CONTRACTOR has become familiar with all laws, rules, regulations, ordinances and restrictions applicable to, governing or affecting the services to be provided by the CONTRACTOR hereunder.

ARTICLE 3.0 – CONTRACT TERM

The initial term of the Contract is for three (3) years and the CITY may, at its sole option, renew the contract for two one-year term extensions. The CITY shall give the CONTRACTOR written notice of its intention to extend the Contract a minimum of ninety (90) days before the expiration of the initial term or applicable extension.

ARTICLE 4.0 – STARTING DATE

The starting date for which the CONTRACTOR shall begin providing the services required hereunder shall be October 1, 2014.

ARTICLE 5.0 – DEFINITIONS

For purposes of this agreement, the following terms shall be defined as follows:

Bags – Plastic container designed to store refuse with sufficient wall strength to maintain physical integrity when lifted by the top. Total weight of bag and its contents shall not exceed 40 pounds.

Bin/dumpster – Metal collection receptacle designed to be lifted and emptied mechanically for use only at commercial and industrial units.

Biosolids – Solid, semi-solid or liquid residue generated during the treatment of domestic sewage in a treatment plant.

Bulky Waste – Furniture, appliances and other household items too large for a refuse container.

Commercial/Industrial Refuse – All bulky waste, construction debris, garbage, rubbish and other waste generated by a producer at a commercial or industrial unit.

Commercial/Industrial Unit – All premises, locations or entities, public or private, requiring refuse collection within the corporate limits of the CITY and not a residential unit as defined herein.

Construction Debris – Waste building materials resulting from construction, remodeling, repair or demolition operations.

Contract Area – The geographical boundaries of the CITY limits within which the CONTRACTOR will provide services.

Contractor – The Individual, Corporation or Partnership with whom the CITY has executed the service contract.

Customers – Those occupants of designated residential units and/or commercial and industrial units as defined herein, that are located within the CITY limits and the generated solid waste and/or recyclable materials, as defined herein.

Disposal Facility – A refuse depository, including but not limited to sanitary landfills, transfer stations, incinerators, and waste processing/separations centers, licensed, permitted or approved to receive municipal solid waste for processing or final disposal by Texas Commission on Environmental Quality and other agencies having jurisdiction and requiring such licenses, permits and approval.

Garbage – All normal and usual household and institutional waste products that are placed in approved containers for collection purposes and are usually a mixture of putrescrible, nonputrescrible, combustible, and incombustible materials, such as organic

wastes from food preparation and consumption, wrapping and packaging materials, metal, glass and plastic containers and other items. This definition also applies to similar waste products from commercial establishments such as restaurants, cafeterias, school and hospitals.

Green Waste – Grass, weeds, leaves, tree trimmings, plants, shrubbery pruning, and such other similar material, which are generated in the maintenance of yards and gardens, and are separated from other solid waste materials.

Hazardous Waste – Waste, in any amount, which is defined, characterized or designated as hazardous by the United States Environmental Protection Agency or appropriate State agency by or pursuant to Federal or State law, or waste, in any amount, which is regulated under Federal or State law.

Processing Facility – A facility capable of changing the nature of solid waste or separating solid waste to facilitate its re-use in lieu of disposal.

Recyclables – Materials recovered from the solid waste stream for the purposes of re-use of reclamation. Includes, but not limited to; newsprint, inserts, glass, food and beverage containers, plastic containers, aluminum and other commodities economically impacting waste reduction.

Residential Refuse – All garbage and rubbish generated at a residential unit.

Residential Unit – A dwelling occupied by a person or group of persons, including but not limited to apartments, condominiums, mobile homes and single-family dwellings, and receiving any utilities from the CITY. Each dwelling within any such residential unit, which is individually billed by the CITY for water and/or sewer services, shall be treated as a residential unit. Other multiple residential facilities not billed individually, such as apartment complexes, shall be considered as a commercial unit for the purposes of this contract.

Roll-Off Container – Large collection container with open or closed top that can be rolled onto the back of a truck. Generally, in excess of 20 cubic yards capacity.

Rubbish – All nonputrescrible solid waste including wood products, tree trimmings, grass cuttings, dead plants, weeds, leaves, sawdust, printed matter, paper, pasteboard, rags, straw, used and discarded clothing, used and discarded shoes and boots, and other products such as are used for packing, or wrapping crockery and glass, ashes, cinders, floor sweepings, glass, mineral or metallic substances, and any and all other waste materials not included in the definition of Construction Debris, Garbage or Hazardous Waste.

Solid Waste – Useless, unwanted or discarded materials with insufficient liquid content to be free flowing, that results from domestic, industrial, commercial, agricultural, governmental and community operations, which require proper storage, collection,

transportation and disposal to prevent environmental pollution unfavorable to public health, safety and welfare.

Stable Matter – All manure and other waste matter normally accumulated in or about a stable, or any animal, livestock or poultry enclosure, and resulting from the keeping of animals, poultry or livestock.

ARTICLE 6.0 – RESIDENTIAL REFUSE COLLECTION

6.1 Service Provided

A. The CONTRACTOR shall provide curbside collection service for residential refuse at each residential unit two times per week. Bags shall be placed at the curbside by 7:00 A.M. on the designated collection day. All refuse must be placed in bags except as noted within these documents and there will be a limit of 25 bags per collection day. Should a customer exceed the maximum limit, the contractor shall pick up the maximum limit and shall leave a printed explanation notice to the customer to explain why the excess was left.

B. The CONTRACTOR will provide front-door collection of garbage and/or recyclables for senior and disabled residents and will make this service available to any resident as requested by the CITY.

6.2 Location of Bags for Collection

Each bag containing residential refuse shall be placed at curbside for collection and not weigh more than forty (40) pounds. Curbside refers to that portion of right-of-way adjacent to paved or traveled CITY streets or roadways. Bags shall be placed as close to the roadway as practicable without interfering with or endangering the movement of vehicles or pedestrians. When construction work is being performed in the right-of-way, bags shall be placed as close as practicable to an access point for the collection vehicle. The CONTRACTOR may decline to collect any bag not so placed or any residential refuse not in a bag, except by prior written exception from the CITY.

6.3 Time of Collection

Collection of residential refuse shall not start before 7:00 A.M. and may not continue after 7:00 P.M. Exception to collection hours shall be effected only upon mutual agreement of the CITY and the CONTRACTOR, or when the CONTRACTOR reasonably determines that an exception is necessary in order to complete collection on an existing collection route due to unusual circumstances.

6.4 Routes of Collection

The CONTRACTOR shall establish residential unit collection routes. The CONTRACTOR shall submit a map designating the residential unit collection routes to the CITY for their approval, which approval shall not be unreasonably withheld. The CITY, at its option, may publish at its expense at least once during each calendar year, a map of such residential unit collection routes, in the newspapers published in the immediate area. The CONTRACTOR shall notify the CITY within thirty (30) days to implementation of any changes in route or schedules. All such changes must be approved by the CITY and documented in the same detail as the original maps supplied by the CONTRACTOR. Upon the CITY’s approval of the proposed changes, CONTRACTOR shall promptly give written or published notice to the affected residential units at its expense and in a manner that is acceptable to the CITY.

6.5 Days of Collection

The days of collection will be on a consistent schedule throughout the Contract area. Scheduled days of collection are limited to Monday through Saturday. No regularly scheduled collection shall be allowed on Sunday.

6.6 Holidays

The CONTRACTOR may decide to observe any holidays by suspension of collection service on the holiday, but such decision in no manner relieves the CONTRACTOR of the obligation to provide collection service at least twice per week. CONTRACTOR shall provide the City of Tomball with an annual schedule for pick up when observed holidays fall on a normal collection day.

ARTICLE 7.0 – RESIDENTIAL BRUSH AND TREE TRIMMING COLLECTION

7.1 Service Provided

A. The CONTRACTOR shall provide once per week curbside collection of brush and tree trimmings at residential units. The CONTRACTOR shall take all brush and tree limbs not longer than four (4) feet, and stacked in a pile not to exceed four (4) feet in height, and does not exceed four (4) feet in width. Tree limbs larger than four (4) inches in diameter will not be collected.

B. The CONTRACTOR shall collect all Christmas trees, no matter what size, placed for collection.

C. In the event that brush and/or tree trimming set out for collection do not meet the specification above, the CONTRACTOR shall leave a printed explanation notice for the customer.

7.2 Time and Place of Collection

Normal collection points for residential brush and tree trimmings shall be at curbside near the driveway. Brush and tree trimmings shall be placed as close to the roadway as practicable without interfering with or endangering the movement of vehicles or pedestrians or impeding the flow of storm water. All brush and tree trimmings will normally be picked up on the first scheduled collection day of the week.

ARTICLE 8.0 – RESIDENTIAL BULKY WASTE COLLECTION

8.1 Service Provided

A. The CONTRACTOR shall provide curbside collection of furniture, appliances and other items too large for residential refuse containers. All bulky items must be acceptable for disposal at a Type I municipal solid waste landfill.

B. Service shall be provided to all customers in residential units located within the Contract area, for the benefit of customers who are currently living in the unit or who have recently vacated the unit.

8.2 Time and Place of Collection

The CONTRACTOR shall provide curbside collection of residential bulky waste within one week of notification by customer at a designated toll-free number, provided to the CITY. The customer shall be given a date and time for which collection will occur.

ARTICLE 9.0 – RESIDENTIAL AND COMMERCIAL RECYCLABLE COLLECTION

9.1 Service Provided

A. The CONTRACTOR shall provide once per week curbside collection of recyclables from a recyclable container provided by the CONTRACTOR.

B. The CONTRACTOR will provide the initial recyclables containers to all residential units at no cost to the customers. Customers may purchase additional or replacement containers from the CONTRACTOR at cost. The CONTRACTOR will make this cost known to the CITY. The CONTRACTOR will deliver a recycle bin to new customers within one week of notification by the CITY.

C. The CONTRACTOR, at the request of the City, shall conduct and engage in recycling education to include, but not limited to, brochures and printed materials and public town hall meetings.

9.2 Time and Place of Collection

The CONTRACTOR shall provide curbside collection of recyclable commodities once per week within the Contract area. Normal collection points for residential recyclables shall be at curbside (adjacent to roadway). Recyclables containers will normally be picked up on the second scheduled collection day of the week.

9.3 Materials to be Collected

The CONTRACTOR shall furnish all labor, supervision, and equipment necessary to provide curbside recyclable collection for residential units within the Contract area as follows:

A. The CONTRACTOR shall collect all recyclables as determined by the CITY. The CONTRACTOR shall collect the following items: newspaper and inserts, aluminum cans, No. 1 (PET) plastic and No.2 (HDPE) plastic containers.

B. The CONTRACTOR shall collect all recyclables placed in a container provided by the CONTRACTOR. If unacceptable materials are placed in the container, the CONTRACTOR shall collect all acceptable materials and leave the unacceptable materials with a clearly explanatory printed notice to the customer.

C. The CONTRACTOR shall be responsible for collecting overflow recyclables placed on top of or beside the recyclables container.

D. The CONTRACTOR may add new recyclable materials only if it is demonstrated that an economical market exists for the material and with approval of City Council.

E. The CONTRACTOR shall not dispose recyclables in a landfill, without prior written consent by the CITY.

F. The CONTRACTOR understands that recyclable commodities service is provided to residents of the CITY of Tomball through the CITY billing and collection department. As new utility customers are added to the CITY’s billing, the CITY shall notify the CONTRACTOR of the additional customers who shall then become a designated residential unit for purposes of this agreement. The CONTRACTOR shall begin collection service for newly added designated household within one week of receipt of notice that the household has been added to the CITY’s utility billing. It shall be the CONTRACTOR’s responsibility to deliver a recyclable container to newly designated households in advance of the first collection date for each household.

9.4 Ownership of Recyclables

At any time after recyclable commodities have been placed outside for collection, such recyclable commodities shall be considered transferred to the CITY for the purpose of sale or other disposal pursuant to the terms of this agreement. Only the customer who placed said recyclable commodities outside of collection might take back such materials as the customer desires until such recyclable commodities have been collected by the CONTRACTOR. At the time that the recyclables are collected by the CONTRACTOR, ownership of said recyclables shall transfer from the CITY to the CONTRACTOR.

ARTICLE 10.0 – COMMERCIAL/INDUSTRIAL COLLECTION

10.1 Services Provided

A. The CONTRACTOR shall provide collection service for the collection of commercial/industrial refuses to all commercial/industrial units in accordance with individual agreements with generators at rates specified in the Proposal.

B. The CONTRACTOR shall provide initial bins or 95-gallon polycart containers specifically designed for commercial/industrial refuse collection at no cost. Bins and hand load container shall be covered or otherwise maintained to provide protection from weather and wind. Replacement 95-gallon polycart containers shall be purchased from the CONTACTOR at cost. The CONTRACTOR will make this cost known to the CITY.

10.2 Location of Bins and Containers

A. Each bin shall be placed in an accessible, outside location on a hard surface according to individual agreement. The CONTRACTOR may decline to collect refuse in bins not so placed. Bins can not block the visibility triangle at intersections.

B. Commercial 95-gallon polycart container shall be placed at curbside for collections. Curbside refers to that portion of right-of-way adjacent to paved or traveled public roadways including alleys. Containers with contents not weighing more than one hundred (100) pounds shall be placed as close to the roadway as practicable without interfering with or endangering the movement of vehicles or pedestrians. The CONTRACTOR may decline to collect any container not so placed.

10.3 Time of Collection

Collection of commercial/industrial refuse from bins and commercial 95 gallon polycart hand load containers shall take place according to individual agreements

with generators requiring such service. Establishments generating putrescible garbage or refuse shall receive a minimum of twice a week pickup. In no event, however, will collection service begin before 7:00 A.M. or after 7:00 P.M. where service is adjacent to residential units.

10.4 Roll-Off Container Service

The CONTRACTOR shall provide permanent or temporary roll-off containers and/or compactors for special collections of bulky waste, construction debris or stable matter when requested by commercial/industrial units at rates established in the attached Exhibit “A” and in accordance with individual agreement with generators.

10.5 City Facilities

The CONTRACTOR shall collect at no cost to the CITY all refuse generated by CITY facilities and placed for collection at identified CITY locations. The CITY agrees that the number of locations and facilities for which services are provided free of charge shall not exceed twenty-five (25) in any given year. The collection schedule for services provided at no charge shall be mutually agreed upon by the CITY and the CONTRACTOR.

10.6 Community Service

The CONTRACTOR will provide donated special collection services for important and community events including, but not limited to:

Tomball Spring and Fall Clean Up
Independence Day
Rotary Fish Fry
Tomball Night
Holiday Parade
Tomball German Heritage Festival
The Regional Arts Council Arts Festival
Tomball German Christmas Market
Rails and Tails (Crawfish Festival)
Bugs, Brew & BBQ (Car show and BBQ)
Honky Tonk Music Festival
Blue Grass Music Festival

These services will be provided as mutually agreed to be fair to the CONTRACTOR and the CITY.

ARTICLE 11.0 – COMPLIANTS REGARDING SERVICE/SPILLAGE

11.1 Complaint Receipt and Handling

A. All customer complaints shall be initially directed to the CONTRACTOR for handling. The CONTRACTOR shall make provisions for receiving and resolving customer complaints and service issues pertaining to all services under this agreement. Complaints received by the CITY shall be forwarded to the CONTRACTOR immediately and it shall be the duty of the CONTRACTOR to take whatever steps may be required to remedy the cause of the complaint and to notify the CITY of its disposition within twenty-four (24) hours after receipt. In the event of alleged missed scheduled collection, the CONTRACTOR shall investigate and, if such allegations are confirmed, shall arrange for the collection of the refuse within twenty-four (24) hours after receiving the complaint. The CONTRACTOR shall maintain a complaint log, which includes; name of complainant, date, address, nature of complaint, action taken and date complaint was resolved. Such logs shall be made available to the CITY each month on or before the 10th day of the month. All complaints shall be given prompt and courteous attention.

B. The CONTRACTOR shall maintain a toll-free telephone number, listed in the Tomball telephone directory in the name of the CONTRACTOR, and shall at all times during the hours of 8:00 A.M. and 5:00 P.M. of each normal working day, except Saturdays, Sundays, and holidays, have some person available at such number with whom the public, the CITY, its employee or agents may communicate, discuss and refer any complaint or inquiry arising in connection with such collection and disposal service.

C. The CONTRACTOR shall have his service personnel meet with the Permit/Utility Billing Supervisor at least twice per month or as needed to resolve open complaints.

11.2 Damage Claims Resolution

The CONTRACTOR shall provide the CITY with a full explanation of the disposition of any complaint involving a customer’s claim of damage to private property as the result of actions of the CONTRACTOR’s employees, agents or subcontractors.

11.3 Failure to Remedy Complaints

Failure to remedy the cause of the complaint as provided for in the paragraphs above shall be considered a breach of the contract.

ARTICLE 12.0 – COLLECTION AND TRANSPORT OF REFUSE

12.1 Appearance

The CONTRACTOR shall ensure that all collection and transport service equipment is in good condition and repair, and attractively painted and clean looking in appearance. The CITY shall have the right to inspect and approve appearance of collection service equipment.

12.2 Due Diligence

A. The CONTRACTOR shall exercise the utmost care and diligence in the performance of the work required by the Contract documents. Every effort must be made to prevent spillage during the collection process. However, in the event that solid waste is spilled, the collector shall immediately clean up the material before leaving the location of the spillage.

B. The CONTRACTOR shall be solely responsible for all damages to containers and property resulting from the CONTRACTOR’s actions or omissions.

12.3 Vehicles

A. The CONTRACTOR shall provide and maintain during the entire period of the Contract a fleet of solid waste collection vehicles sufficient in number and capacity to perform the work and render the service required by the contract. The vehicles must contain all residential and commercial/industrial refuse, bulky waste and recyclables so that no material is spilled, leaked, or blown from the vehicle during its transit to the identified disposal site.

B. The CONTRACTOR shall maintain collection vehicles in good repair at all times. All parts and systems of the collection vehicles shall be operated and maintained properly. Any leakage or spills of fuels, lubricants, or oil from or by collection vehicles shall be cleaned up immediately before leaving the location of the spill or leak and immediately reported to the CITY. It shall be the CONTRACTOR’s responsibility to repair or replace property damaged by the CONTRACTOR. The CONTRACTOR shall save, defend, indemnify, and hold the CITY harmless from and against any claims, demands, costs, suits, and liabilities asserted by an individual or entity for injuries to persons or damage to property arising in any way from or incident to the breakdown or disrepair of any of the CONTRACTOR’s vehicles and other equipment or any leakage, spills of fuels, lubricants, oil, chemicals, emissions, noise, or pollutants discharged therefore.

C. The CONTRACTOR’s vehicles and other equipment must be clearly identified. This identification shall be affixed to each vehicle and piece of equipment. All vehicles and equipment used in collection and transport service shall be in good repair, clean, well maintained and free of excessive noise, odor or emission.

ARTICLE 13.0 – PRICE AND METHOD OF PAYMENT

13.1 Contractor’s Compensation

A. On or before the 10th business day of each month after the work has been performed, the CONTACTOR shall submit to the CITY an invoice for all services rendered to residential, commercial/industrial units and other services provided at the rates and upon the terms provided in this agreement (see Exhibit “A”, Schedule of Fees, Unit Price)

B. The CONTRACTOR’s rate of compensation shall be determined based upon the unit prices stipulated in the CONTRACTOR’s Cost, attached hereto in Exhibit “A”. Within thirty (30) days of the CITY’s receipt of invoice and any supporting data requested by the CITY, the CITY will remit payment to the CONTRACTOR subject to the conditions of this Agreement and the CONTRACTOR’s compliance with the terms of this agreement. Any such payments by the CITY shall be reduced by such amounts as the CITY may otherwise withhold or retain as provided by the Contact documents, as well as the ten percent (10%) franchise fee being deducted from the invoice.

C. Information regarding the number of units in the Contract area shall be obtained from the CITY reports of additions, changes or deletions of units faxed or emailed by the CITY’s Utility Billing Department throughout each month. All invoices for payment submitted by the CONTRACTOR to the CITY shall refer to the proper number of units.

13.2 Collection Services

The CITY shall act as collector for all accounts and shall submit all statements to and collect from all occupied residential units and commercial/industrial units, which have contracted with the CONTRACTOR for services provided herein.

13.3 New Customers

New customers must come to the CITY requesting solid waste collection and disposal. The CITY will contact the CONTRACTOR to arrange for the specific services that will be required. The CITY shall receive all changes from commercial/industrial customers and such changes shall be faxed or emailed to the designated contact number or address provided by the CONTRACTOR. All customers who request temporary roll-off services must be processed through the CITY prior to any service by the CONTRACTOR.

13.4 Delinquent and Closed Accounts

A. The CITY shall notify the CONTRACTOR of any delinquency in the payment for collection services on the part of any unit. The CONTRACTOR shall discontinue refuse collection services at any unit upon receipt of written notice from the CITY that such unit is not occupied or is delinquent in payment for service. Upon further notification by the CITY, the CONTRACTOR shall resume refuse collection on the next regularly scheduled collection day.

B. The CITY shall remit payments to the CONTRACTOR for all occupied residential units and non-delinquent commercial/industrial units until such time the CONTRACTOR is notified to discontinue refuse collection services as provided by the contract documents.

ARTICLE 14.0 – MODIFICATION OF CONTRACT RATES

14.1 Contract Term

A. The unit prices specified in the CONTRACTOR's Cost, see attached Exhibit "A", shall not be subject to change during the first year of the term hereof. The Contract prices constitute the total compensation payable to the CONTRACTOR for services performed pursuant to the Contract documents.

B. The rates which may be charged for the second and subsequent years of the term of the Contract shall be adjusted upward or downward to reflect changes in the cost of operations as reflected by fluctuations in the Consumer Price Index for Urban Wage Earner and Clerical Workers (all items, Houston area), as published by the U.S. Department of Labor, Bureau of Labor Statistics.

C. It is the responsibility of the CONTRACTOR to initiate any and all rate modifications. No later than June 15th, the CONTRACTOR shall send to the CITY a comparative statement setting out for the index:

1. The index value for May of the current year;

2. The index value for May the previous year;

3. The net percentage change; and

4. The increase or decrease in the fees, which may be charged by the CONTRACTOR.

Changes in rates, either increases or decreases, will become effective as of the CITY's fiscal year start date, October 1st.

D. Any adjustments to change the rates charged for collection services shall be reviewed and considered by the CITY staff for recommendation to the City

Council. The CONTRACTOR may petition the CITY, in writing, for an increase in the rates established hereunder by submitting documentation to support the requested increase. The CONTRACTOR shall present its increase justification to the CITY Council at a duly scheduled Council meeting. The CONTRACTOR agrees to provide all documentation and information requested by the CITY staff and/or the CITY Council. Any increase must be approved by the CITY Council.

ARTICLE 15.0 – STREET USE/FRANCHISE FEE

The CITY recognizes that, as a franchisee, the CONTRACTOR must use street and alleys of the CITY. In order to assist in the maintenance of those streets and alleys and also, in order to compensate the CITY in the administration of this franchise, a ten percent (10%) franchise fee for all work performed under this Agreement for which the CONTRACTOR has been paid will be remitted to the CITY, by being deducted from the invoice.

ARTICLE 16.0 – TERMINATION FOR CAUSE

The CITY may terminate the Contract for cause upon any of the following events of default:

A. If, in the CITY’s sole discretion, the CONTRACTOR fails to fulfill or maintain in a timely and proper manner any obligations, duties or provisions of or under the Contract documents and, unless otherwise provided herein, the CONTRACTOR shall fail to cure such default within thirty (30) calendar days of its receipt of written notice from the CITY specifying the conditions in which the CONTRACTOR has failed to perform. Such termination may be stayed at the sole option of the CITY, pending cure of the default if action to cure begins during the thirty (30) day period and is successfully completed.

B. If the CONTRACTOR is adjudicated a voluntary or involuntary bankrupt, or a petition is filed by or against the CONTRACTOR to declare the CONTRACTOR bankrupt, or if the CONTRACTOR is subject to the appointment of a receiver or trustee and fails to have the receiver or trustee removed within sixty (60) days, or if any assignment of the CONTRACTOR’s becomes insolvent, or is unable to pay its debt as they become due.

C. If the CONTRACTOR fails to provide and maintain the performance bond as required by the contract; fails to obtain or maintain the insurance policies and endorsements as required by the contract; or fails to provide the proof of insurance as required by the contract.

ARTICLE 17.0 – BONDS AND INSURANCE

17.1 Performance Bond

Upon Contract execution, the CONTRACTOR shall furnish the CITY a bond with a corporate surety in the amount equal to one hundred percent (100%) of the annual Contract sum. The CONTRACTOR shall pay all premiums chargeable for the bond. The bond shall be valid and non-cancelable for the period of Contract and shall be renewed annually upon Contract renewal or extension.

17.2 Insurance

The CONTRACTOR shall comply with all applicable laws relating to Workmen’s Compensation and shall carry insurance, at its own expense, with responsible insurance companies acceptable to the CITY of the types and in the minimum amounts set forth in Exhibit “B” attached hereto. Unless prohibited by law, all policies of insurance held or obtained by the CONTRACTOR and each of its subcontractors, whether required by the Contract or not, shall be sufficiently endorsed to waive any and all claims by the underwriters or insurers against the CITY, their officers, directors, agents, employees, and invitees, for injuries, death, losses and/or damages covered by such policies. The CONTRACTOR shall have its insurance carriers deposit with the CITY before starting any work under this Contract certificates of insurance showing all insurance coverage and providing for not less than ten (10) days prior written notice of cancellation, reduction or other material change. Failure to maintain said insurance, approved as aforesaid, shall constitute sufficient grounds for immediate cancellation or suspension of this Contract by the CITY.

ARTICLE 18.0 – INDEMNIFICATION

The CONTRACTOR will indemnify, save harmless, and exempt the CITY, its officers, agents, servants, and employees from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, and attorneys’ fees incident to any work done in the performance of this Contract arising out of a willful or negligent act or omission of the CONTRACTOR, its officers, agents, servants, and employees; provided, however, that the CONTRACTOR shall not be liable for any suits, actions, legal proceeding, claims, demands, damages, cost, expenses, and attorneys’ fees arising out of a willful or negligent act or omission of the CITY, its officers, agents, servants and employees.

The CONTRACTOR shall assume all responsibilities for, including control and removal of, and indemnify and hold the CITY harmless against and from loss, cost of damage arising from pollution or contamination which originates above the surface of the land or water:

From spills or leaks of fuels, lubricants, motor oils, paints, solvents, garbage, rubbish, sewage, sludge and other materials in the CONTRACTOR’s possession and control, whether or not caused by the negligence of the CONTRACTOR.

18.1 Pollution Control and Removal

Without relieving the CONTRACTOR of any of its obligations above provided, it is agreed that the CITY may take part to any degree it deems necessary in the control and removal of any pollution or contamination which is the responsibility of the CONTRACTOR under the foregoing provisions; and the CONTRACTOR shall reimburse the CITY for the cost thereof.

ARTICLE 19.0 – REPRESENTATIONS AND RESPONSIBILITIES

It is the responsibility of the CONTRACTOR to be familiar with the nature and extent of the Contract documents, work, locality, and with all local conditions, regulations and laws that in any manner may affect cost, progress or performance of the work. The CONTRACTOR has made examinations, investigations and studies of all reports and related data as deemed necessary for the performance of the work at the Contract price, within the Contract term and in accordance with the other terms and conditions of the Contract documents; and no additional examination, investigations, reports or similar data are or will be required by the CONTRACTOR for such purpose.

19.1 Independent Contractor

The CONTRACTOR shall be an independent contractor with respect to all work done and services performed hereunder, and neither the CONTRACTOR nor anyone used or employed by the CONTRACTOR shall be deemed for any purpose to be the agent, servants or representative of the CITY in the performance of such work or services or any part thereof, or in any matter dealt with herein, and the CITY shall have no direction or control of the CONTRACTOR, or its employees and agents, except in the results to be obtained. It is understood that by this provision, neither party is assuming any liability for the actions or omission of the other party, except as is stated in this contract.

Should there be a change in the CONTRACTOR’s name or ownership by a merger or take-over by another entity, or any such event, this Contract is not subject to change and shall be upheld throughout the life of the agreement period or until the CITY so chooses to change.

19.2 Subcontractors and Assignments

A. The CONTRACTOR shall not subcontract any part of its responsibility under this Agreement without the approval of the CITY. All work performed for the CONTRACTOR by a subcontractor will be performed in accordance with the

Contract documents, and the rights of the CITY shall be preserved and protected so that subcontracting of the work under the Contract will not prejudice those rights.

B. The Obligations of the CONTRACTOR pursuant to the Contract documents are not to be transferred, or assigned to any person or organization without the express written consent of the CITY. In the event of any such assignment, the assignee shall comply with any conditions that the CITY may reasonably require. Any such assignment shall not relieve or excuse the CONTRACTOR from responsibility for performance to the CITY in the event the assignee does not fully perform all work and other obligations of the CONTRACTOR under the contract.

19.3 Inspection of Records and Operations

The CITY shall have the right from time to time during reasonable business hours to inspect and audit all of the CONTRACTOR’s books and records bearing directly or indirectly on the work and services performed hereunder. The CITY shall also have the right to inspect facilities, equipment, personnel and operations of the CONTRACTOR to assure itself of the appearance, sound business operations and compliance with contractual obligations by the CONTRACTOR.

The CONTRACTOR shall supply the CITY with monthly reports documenting the tonnage of all refuse, rubbish, construction debris, and any other waste collected for the CITY. This report is to be submitted to the Permits/Utility Billing Supervisor no later than the 10th day of the month following the month of collection.

The CONTRACTOR shall supply the CITY with monthly reports documenting the amount of tonnage for each category of recyclables and the dollar value of the gross revenues received for each category. This report is to be submitted to the Permits/Utility Billing Supervisor no later than the 10th day of the month following the month of collection.

19.4 Laws, Taxes and Fees

The CONTRACTOR agrees that it shall comply with all laws, policies, ordinances, codes, rules and regulations, and shall pay all taxes and fees which may be chargeable against the performance of the work or incidental to the contract.

19.5 Reports and Accidents

The CONTRACTOR shall report to the CITY as soon as practicable all accidents or occurrences resulting in injuries to the CONTRACTOR’s employees, agents, licensees, or invitees, or damage to property arising out of or during the course of

the work or services performed for the CITY by the CONTRACTOR or of any subcontractor of the CONTRACTOR, and when requested, shall furnish the CITY with a copy of reports made by the CONTRACTOR to the CONTRACTOR’s insurer or to others of such accidents or occurrences.

19.6 Captions and Headings

The captions, article numbers and other such designations appearing in the Agreement are inserted only as a matter of convenience and in no way define, limit, construe, or describe the scope of intent of such sections in this Agreement or in any way affect this agreement.

ARTICLE 20.0 – MISCELLANEOUS PROVISIONS

20.1 Force Majeure

This Contract is subject to all laws, orders, rules and regulations, and neither the CITY nor the CONTRACTOR shall be liable for any delay or damage due, occasioned or caused as a result of such laws, orders, rules or regulations, or by action of the elements, or causes beyond the control of the parties; and any delay due to above causes or any of them, shall not be deemed to be a breach of or failure to perform this contract, or any part thereof. In the event of such a force majeure, the CONTRACTOR shall give the CITY prompt telephone notification followed by written notice of the particulars and estimated duration of said force majeure. During such period or periods of time, a deduction in the proportional charge for collection and removal of refuse and/or recyclables at the prevailing rates shall be made. The CONTRACTOR must make a reasonable effort to resume service as soon as possible.

20.2 Storm Related Debris

The CONTRACTOR shall provide the CITY with additional services for the removal of storm related debris to include; bagged leaves and green waste; cut limbs and brush stacked in piles not to exceed four feet long and four feet wide; damaged fencing material; damaged carpet; and similar storm related debris. Additional services to be provided by the CONTRACTOR shall include; grapple trucks or similar equipment capable of self loading material; delivery, hauling, and removal of additional containers sufficient for containing and removing storm related debris. The total annual amount of storm related debris removal services shall not exceed 1,520 cubic yards.

CONTRACTOR and CITY agree that the CONTRACTOR may submit, as requested by CITY, a proposal for costs associated with removal of additional storm related debris for any volume that exceeds the specified annual amount. The CITY may, at its sole option, enter into a separate agreement with CONTRACTOR for the purpose of removing additional storm related debris.

However, the CONTRACTOR is under no obligation to provide services for the removal of storm related debris that exceeds the specified annual amount.

20.3 Notices

All notices required to be given by either party to the other party under the terms of this Contract shall be in writing and, unless written notice of a change of address is given, shall be sent to the parties at the addresses following:
CITY:

City Manager
City of Tomball
401 Market Street
Tomball, TX 77375

CONTRACTOR:

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All notices shall be deemed to have been properly served when delivered by the mail or delivered by confirmed facsimile.

20.4 Change Orders and Modifications

Any change order or modifications to the Contract must be mutually agreed upon by the parties and be incorporated by written amendment(s) to the contract. The City Manager and/or the CITY Council shall have the authority to change or modify the Contract on behalf of the CITY.

20.5 Ownership

Title to refuse, rubbish and other waste to be collected under the term of this Agreement shall pass to the CONTRACTOR when placed in the CONTRACTOR’s collection vehicle, removed by the CONTRACTOR from a bin or container, or removed by the CONTRACTOR from the customer’s premises, whichever first occurs.

20.6 Attorney’s Fees

On the event that the CITY is required to take any legal action to enforce the terms and conditions of any Agreement because of the breach of or failure to

perform any term or condition by the CONTRACTOR, the CONTRACTOR agrees to pay all costs expended by the CITY, including reasonable attorney fees.

20.7 Federal and State and Local Law to Apply

This Agreement shall be construed under and in accordance with Federal, State and Local Laws and all obligations of the parties created hereunder are performable in Tomball, Harris County, Texas

20.8 Entire Agreement

This instrument contains the entire Agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any oral representations or modifications concerning this instrument shall be of no force or effect and this Agreement may not be amended except by a subsequent modification in writing, signed by the parties hereto or by ordinance adopted by the CITY.

20.9 Severability

If any part of this Agreement for any reason is declared invalid, such decision shall not affect the validity of any remaining portion, which remaining portion shall remain in force and effect as if this Agreement had been executed with the invalid portion thereof eliminated. It is hereby declared the intention of the parties that they would have executed the remaining portion of this Agreement without any such part, parts or portions which may, for any reason, be hereafter declared invalid.

“Draft” Only

IN WITNESS WHEREOF, the parties hereto have executed the Contract on the day and year first written above.

The Contract will be effective on _____, 2014

ATTEST: CITY OF TOMBALL

_____ By: _____

Doris Speer, City Secretary George Shackelford, City Manager

ATTEST: ……..

_____ By: _____

_____ _____

(Title) (Title)

(Seal if bid is by a Corporation)