

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



MONDAY, DECEMBER 3, 2012

6:00 P.M.

Notice is hereby given of a meeting of the Tomball City Council, to be held on Monday, December 3, 2012 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 James Clark, First Baptist Church

3.0 Pledges to U.S. and Texas Flags

- Led by Members of the Tomball High School Student Council or Boy Scout Troop #471

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:

- ***Certificate of Achievement for Excellence in Financial Reporting for Fiscal Year ending September 30, 2011***

6.0 Reports and Announcements

- **December 7-9, 2012 – 2012 Tomball German Christmas Market** – 10:00 a.m.- 8:00 p.m.
- **December 8, 2012 – Christmas on Commerce – 2nd Saturday** – 10:00 a.m.- 6:00 p.m.
- **December 10, 2012 – Special Meeting of City Council** – 5 p.m.
- **Walk Tomball!** – Every Saturday at 9:00 a.m. at the Depot
- Reports by City staff and members of Council about items of community interest on which no action will be taken

7.0 Approve the Minutes of the November 19, 2012 Regular City Council Meeting

8.0 New Business:

8.1 Appoint Three Directors and One Alternate Director to the 249 Partnership Board

8.2 Approve Professional Services Agreement with CLR, Inc. for Update of the Infrastructure Master Plan, E&P Project Number 2012-10017, in the Amount of \$151,000.00

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 28th day of November 2012 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: December 3, 2012

Topic:

- Led by Pastor James Clark, First Baptist Church

Background:

Origination:

Recommendation:

Funding:

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

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

Regular City Council
Agenda Item
Data Sheet

Meeting Date: December 3, 2012

Topic:

- Led by Members of the Tomball High School Student Council or Boy Scout Troop #471

Background:

Origination:

Recommendation:

Funding:

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

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

Regular City Council
Agenda Item
Data Sheet

Meeting Date: December 3, 2012

Topic:

- *Certificate of Achievement for Excellence in Financial Reporting for Fiscal Year ending September 30, 2011*

Background:

Origination:

Glenn Windsor

Recommendation:

N/A

Funding:

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

City Secretary

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

Regular City Council

Agenda Item

Data Sheet

Meeting Date: December 3, 2012

Topic:

- **December 7-9, 2012 – 2012 Tomball German Christmas Market** – 10:00 a.m.-8:00 p.m.
- **December 8, 2012 – Christmas on Commerce – 2nd Saturday** – 10:00 a.m.-6:00 p.m.
- **December 10, 2012 – Special Meeting of City Council** – 5 p.m.
- **Walk Tomball!** – Every Saturday at 9:00 a.m. at the Depot
- Reports by City staff and members of Council about items of community interest on which no action will be taken

Background:

Origination:

Various

Recommendation:

N/A

Funding:

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

City Secretary

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

ATTACHMENTS:

Christmas on Commerce – 2nd Saturday

Notice of Public Hearing - December 10, 2012

Christmas On Commerce

2nd Saturday Event

December 8th from 10:00 a.m. to 8:00 p.m.

Visit Santa & Mrs. Claus
at *Quilters Crossing*
from 3 – 5 p.m. presented by
Louetta Foot & Ankle Specialists

Watch the holiday movie
“Arthur Christmas” at 6:00 p.m.
outdoors on the giant screen, too!



Shop the Commerce
Street merchants and
holiday street vendors
for holiday gifts!

Fun Family Activities . . .

- Free Pony Rides and Petting Zoo
- Free Train Ride sponsored by *Element Dental*
- Free crafts at Santa's Workshop sponsored by *Wigs with Style*
- Bounce House and Games
- Eats by Cisco Salsa Company, The Whistle Stop Tea Room and Original Rib Tickler

Christmas Performances by . . .

- 11:00 a.m. Timber Creek Elementary Choir
- 12 noon TBA
- 1:00 p.m. Tomball Elementary Cougar Cub Choir
- 2:00 p.m. Tomball Junior High School Orchestra
- 3:00 p.m. Salem Lutheran School Children's Choir
- 4:00 p.m. Tomball High School Orchestra

FREE ADMISSION AND
FREE PARKING

*Enter the “Ugliest” Christmas Sweater Contest at 2:30, too, for prizes!
Be sure to visit the “German Christmas Market” December 7th, 8th and 9th.

CORRECTED
NOTICE OF PUBLIC HEARING

**ON PROPOSAL TO CREATE CITY OF TOMBALL, TEXAS,
REINVESTMENT ZONE NO. 4**



MONDAY, DECEMBER 10, 2012

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, Texas, at a Regularly Scheduled Council Meeting on Monday, December 10, 2012 at 5:00 p.m., in the Council Chamber, City Hall, 401 Market Street, Tomball, Texas, to Consider the Following:

**A Proposal to Adopt an Ordinance creating Reinvestment Zone No. 4.
Said Reinvestment Zone No. 4 is Proposed to Include a Tract of Land
Containing 96.942 Acres, More or Less, more Specifically Described as Follows:**

PROPERTY DESCRIPTION

Being a 96.942 acre tract of land out of the Jesse Pruitt Survey, Abstract No. 629 in Harris County, Texas, said 96.942 acre tract of land being all of that 3.1378 acre tract of land (by deed) deeded to Mary McGill Criner Adickes, Trustee, as recorded in Clerk's File No. H271449 of the Official Public Records of Real Property of Harris County, Texas, said 96.942 acre tract of land being all of that 49.547 acre tract of land (by probate) conveyed to Ronald J. Collins, Donald Claude Childress, Roy A. Johlke, and Susan Lorraine Dietz Varsel, Individually and as Administrator of the Estate of Adell G. Dietz, also known as Adell G. Johlke Dietz, deceased, by Cause No. 407636 of the Probate Records of Harris County, Texas, said 96.942 acre tract of land being all of that 23.5935 acre tract of land (by deed) deeded to Cypressbook 2920, LP, as recorded in Document No. 20070522269 of the Official Public Records of Real Property of Harris County, Texas, said 96.942 acre tract of land being the remainder of a 23.6963 acre tract of land (by deed) deeded to ABCO Land Corporation as recorded in Document No. 200265255 of the Official Public Records of Real Property of Harris County, Texas, said 96.942 acre tract of land also being all of Lot 448, Lot 449, Lot 460, Lot 461, the remainder of Lot 447, the remainder of Lot 459, the remainder of Lot 462, the remainder of Lot 463, the remainder of Lot 464, the remainder of Lot 465, and the remainder of Lot 466 and the portion of the 30' wide unnamed roadway (0.610acre) located on the south side of said Lots 459, 460 and 461 and located on the north side of said Lots 463, 464, 465 and 466, all in Tomball Townsite, as recorded in Volume 2, Page 65 of the Map Records of Harris County, Texas, said 96.942 acre tract of land being more particularly described by metes and bounds as follows:

BEGINNING at a Texas Department of Transportation (TxDOT) concrete monument found for the southwest corner of said 3.1378 acre tract of land and at the intersection of the east right-of-way line of F. M. Highway No. 2978, a/k/a Huffsmith – Kohrville Road (a variable width right-of-way) with the north right-of-way line of F. M. Highway No. 2920 (a 120 foot wide right-of-way), for the beginning of a non-tangent curve to the right, having a radius of 5669.65 feet, a central angle of 07 degrees 05 minutes 30 seconds, and whose chord bears North 06 degrees 03 minutes 35 seconds East, a distance of 701.29 feet;

THENCE, with said curve to the right, with the west line of said 3.1378 acre tract of land, and with the east right-of-way line of F. M. Highway No. 2978, passing at an arc length of 568.08 feet, a TxDOT concrete monument with brass disk found, continuing with said curve to the right, with the west line of said 3.1378 acre tract of land, and with the east right-of-way line of F. M. Highway No. 2978, in all, an arc length of 701.74 feet to a 5/8 inch iron rod with cap stamped "TERRA" found for the end of the curve;

THENCE North 09 degrees 36 minutes 44 seconds East, continuing with the west line of said 3.1378 acre tract of land and with the east right-of-way line of F. M. Highway No. 2978, at a distance of 59.49 feet to a 5/8 inch iron rod with cap stamped "TERRA" found for the northwest corner of said 3.1378 acre tract of land, said 5/8 inch iron rod with cap stamped "TERRA" also being in the north line of said Lot 463 and being in the south line of a 30 foot wide unnamed road as shown on said Tomball Townsite, continuing with said east right-of-way line of F. M. Highway No. 2978, at a distance of 90.18 feet passing a 5/8 inch iron rod with cap stamped "TERRA" being in the south line of Lot 459 and being in the north line of said 30 foot wide unnamed road as shown on said Tomball Townsite, continuing with said east right-of-way line of F. M. Highway No. 2978 and with the west line of said 49.547 acre tract of land, in all a distance of 1328.43 feet to a broken Texas Department of Transportation (TxDOT) concrete monument found for the beginning of a curve to the left, having a radius of 3879.77 feet, a central angle of 06 degrees 48 minutes 43 seconds, and whose chord bears North 06 degrees 12 minutes 23 seconds East, a distance of 461.00 feet;

- THENCE,** continuing with the east right-of-way line of F. M. Highway No. 2978, with the west line of said 49.547 acre tract of land, and with said curve to the left, an arc length of 461.27 feet to a TxDOT concrete monument with brass disk found in the south right-of-way line of Dement Lane (a 30 foot wide right-of-way), said TxDOT concrete monument with brass disk also being the northwest corner of said 49.547 acre tract of land and being in the north line of said Lot 447;
- THENCE** North 87 degrees 01 minute 05 seconds East, with the south right-of-way line of Dement Lane, with the north line of said 49.547 acre tract of land, with the north line of said Lot 447, with the north line of said Lot 448, and with the north line of said Lot 449, a distance of 722.72 feet to a 5/8 inch iron rod with cap stamped “TERRA” found for the northeast corner of said 49.547 acre tract of land and for the northeast corner of said Lot 449, said 5/8 inch iron rod with cap stamped “TERRA” also being the northwest corner of Lot 450, of said Tomball Townsite;
- THENCE** South 02 degrees 12 minutes 58 seconds East, with an easterly line of said 49.547 acre tract of land, with the east line of said Lot 449, and with the west line of said Lot 450, a distance of 849.59 feet to a 5/8 inch iron rod with cap stamped “TERRA” found for an exterior ell corner of said 49.547 acre tract of land and for the southeast corner of said Lot 449, said 5/8 inch iron rod with cap stamped “TERRA” being the southwest corner of said Lot 450 and being the southwest corner of a 1.681 acre tract of land (by deed) deeded to Jim K. Seber and Kelli A. Seber, as recorded in Document No. 20080008347 of the Official Public Records of Real Property of Harris County, Texas, said 5/8 inch iron rod with cap stamped “TERRA” also being in the north line of said 23.5935 acre tract of land;
- THENCE** North 87 degrees 15 minutes 43 seconds East, with the north line of said 23.5935 acre tract of land, with the south line of said 1.681 acre tract of land, and with the south line of said Lot 450, passing at a distance of 208.79 feet, a 1/2 inch iron rod found, continuing with the north line of said 23.5935 acre tract of land, with the south line of said 1.681 acre tract of land, with the south line of said Lot 450, with the south line of Lot 451, of said Tomball Townsite, and with the south line of Lot 452, of said Tomball Townsite, passing at a distance of 634.85 feet, a 5/8 inch iron rod with cap stamped “GORRONDONA” set for the northeast corner of said 23.5935 acre tract of land and for the northwest corner of said 23.6963 acre tract of land, continuing with the north line of said 23.6963 acre tract of land, with the south line of said Lot 452, with the south line of Lot 453, of said Tomball Townsite, and with the south line of Lot 454, of said Tomball Townsite, in all, a distance of 1278.93 feet to a 5/8 inch iron rod found for the northeast corner of said 23.6963 acre tract of land and for the northwest corner of a 10.70836 acre tract of land (by deed) deeded to ABCO Land Corporation, as recorded in Clerk’s File No. W000422 of the Official Public Records of Real Property of Harris County, Texas, said 5/8 inch iron rod being the common south corner of said Lot 454 and Lot 455, of said Tomball Townsite, said 5/8 inch iron rod being in the east line of said Jesse Pruitt Survey and also being in the west line of the John S. Smith Survey, Abstract No. 730 in Harris County, Texas;
- THENCE** South 02 degrees 37 minutes 44 seconds East, with the east line of said 23.6963 acre tract of land, with the west line of said 10.70836 acre tract of land, with the west line of a 1.31 acre tract of land (by deed) deeded to ABCO Land Corporation, as recorded in Clerk’s File No. W409549 of the Official Public Records of Real Property of Harris County, Texas, with the east line of said Jesse Pruitt Survey, and with the west line of John S. Smith Survey, a distance of 1110.53 feet to a 5/8 inch iron rod with cap stamped “GORRONDONA” set for corner, from which a mag nail found in the north right-of-way line of F. M. Highway No. 2920, for the southeast corner of said 23.6963 acre tract of land and for the southwest corner of said 1.31 acre tract of land, bears, South 02 degrees 37 minutes 44 seconds East, a distance of 499.35 feet;
- THENCE** South 87 degrees 22 minutes 16 seconds West, a distance of 324.85 feet to a 5/8 inch iron rod with cap stamped “GORRONDONA” set for corner;
- THENCE** South 02 degrees 37 minutes 44 seconds East, a distance of 494.19 feet to a 5/8 inch iron rod with cap stamped “GORRONDONA” set for corner in the north right-of-way line of F. M. Highway No. 2920 and in the south line of said 23.6963 acre tract of land;
- THENCE** South 87 degrees 22 minutes 55 seconds West, with the north right-of-way line of F. M. Highway No. 2920 and with the south line of said 23.6963 acre tract of land, passing at a distance of 318.60 feet, a 1/2 inch iron rod found for the southwest corner of said 23.6963 acre tract of land and for the southeast corner of said 23.5935 acre tract of land, continuing with the north right-of-way line of F. M. Highway No. 2920 and with the south line of said 23.5935 acre tract of land, passing at a distance of 747.82 feet, a 5/8 inch iron rod found, continuing with the north right-of-way line of F. M. Highway No. 2920 and with the south line of said 23.5935 acre tract of land, passing at a distance of 962.53 feet, a 5/8 inch iron rod found for southwest corner of said 23.5935 acre tract of land and for the southeast corner of said 49.547 acre tract of land, continuing with the north right-of-way line of F. M. Highway No. 2920 and with the south line of said 49.547 acre tract of land, passing at a distance of 1896.23 feet, a 1 inch iron pipe found for the most southerly southwest corner of said 49.547 acre tract of land and for the southeast corner of said 3.1378 acre tract of land, continuing with the north right-of-way line of F. M. Highway No. 2920 and with the south line of said 3.1378 acre tract of land, in all, a distance of 2129.07 feet to the **POINT OF BEGINNING**, and containing 96.942 acres of land, more or less;

This property description is accompanied by a separate plat of even date.

All bearings are referenced to the Texas State Plane Coordinate System, Central Zone, NAD83.

All distances and areas are surface.

10-23-2012 CORRECTED ACREAGE

Pursuant to the terms of such proposed ordinance, improvements constructed, erected, or placed on the property within such proposed Reinvestment Zone No. 4 will be eligible to receive tax abatement.

All persons desiring to address Council regarding the adoption of such proposed ordinance creating Reinvestment Zone No. 4 will be given an opportunity to be heard.

The City Council will, in addition, receive written comments if filed with the City Secretary prior to commencement of the public hearing. Legal descriptions and maps of said property are available for inspection at the office of the City Secretary, 401 Market Street, Tomball, Texas.

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 26th day of November 2012 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, CMC

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: December 3, 2012

Topic:

Approve the Minutes of the November 19, 2012 Regular City Council Meeting

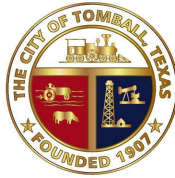
Background:**Origination:****Recommendation:****Funding:****Party(ies) responsible for placing this item on agenda:**

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

ATTACHMENTS:

Draft Minutes - November 19, 2012 Regular City Council Meeting

MINUTES OF REGULAR CITY COUNCIL MEETING CITY OF TOMBALL, TEXAS



**MONDAY, NOVEMBER 19, 2012
6:00 P.M.**

1.0 Call to Order

The Council meeting was called to order at 6:00 p.m. by Mayor Pro Tem Rick Brown.
Other members present were:

Councilman Stoll
Councilman Townsend
Councilman Dodson

Excused absence: Mayor Gretchen Fagan
Councilman Hudgens

Others present:

City Manager – George Shackelford
Assistant City Manager – Christal Weber
City Secretary – Doris Speer
City Attorney – Loren Smith
Fire Chief – Randy Parr
Police Chief – Robert Hauck
Director of Public Works – David Kauffman
Finance Director – Glenn Windsor
Marketing Director – Mike Baxter
City Planner – Rebeca Guerra
Assistant City Engineer – Lori Lakatos
Community Events Coordinator – Rosalie Dillon
Chief-NWEMS – Brian Petrilla

2.0 Invocation

- Led by Pastor Richard Jennings, River of Praise

3.0 Pledges to U. S. and Texas Flags

- Led by Members of the Tomball High School Student Council

4.0 The following public comments were received:

- | | |
|---|---|
| Bruce Hillegeist
Greater Tomball Area Chamber of
Commerce
20339 Telge, 77377 | - Expressed his appreciation for the support of
City Council and City personnel in making the
47 th Annual Holiday Parade a huge success.
Introduced Rachel Ann Shah, Miss Tomball
2013. |
| Rachel Ann Shah
Miss Tomball 2013 | - Expressed her appreciation for being named
Miss Tomball 2013. |

5.0 Mayor Pro Tem Brown and Chief Hauck announced that the following new employees will be introduced to Council in December:

- ***New City of Tomball Police Department Employees***
 - *Police Officers:*
 - Tomeko Henagan
 - Tuan-Anh Nguyen
 - *Public Service Officers:*
 - Crystal Garrett
 - Joshua Littell
 - *Dispatchers:*
 - Shaunna Cundiff
 - Patrick Tompkins

6.0 Reports and Announcements:

- **December 7-9, 2012 – 2012 Tomball German Christmas Market**
- **December 8, 2012 – Christmas on Commerce – 2nd Saturday – 10:00 a.m.- 6:00 p.m.**
- ***Walk Tomball!*** – Every Saturday at 9:00 a.m. at the Depot
- Reports by City staff and members of council about items of community interest on which no action will be taken:
 - Mike Baxter provided a report on the success of the ***Bugs, Brew & Barbecue, VW Show and MusicFest Re-Do***
 - Glenn Windsor presented the Quarterly Investment Report for Period Ending September 30, 2012 - The Public Funds Investment Act requires that a report of the City's investments be presented to Council on a quarterly basis. The investment report includes a listing of all investments together with information relating to diversification, cost vs.

market values, yield information, and weighted average maturities. On September 30, 2012, the City had total cash equivalents and investments totaling \$40,442,678.

- 7.0 Motion was made by Councilman Dodson, second by Councilman Townsend, to approve the Minutes of the November 5, 2012 Regular City Council Meeting

Motion carried unanimously.

8.0 Old Business:

- 8.1 Mayor Pro Tem Brown opened the Public Hearing at 6:14 p.m. to consider the annexation of the following tracts of land:

- **TRACT ONE(B):** Being a 0.610 acre tract of land out of the Jesse Pruitt Survey, Abstract No. 629 in Harris County, Texas, said 0.610 acre tract of land being all of the remainder of that 30 foot wide unnamed road lying between Lot 459, Lot 460, Lot 461, Lot 462, Lot 463, Lot 464, Lot 465, and Lot 466, as shown on said Tomball Townsite, as recorded in Volume 2, Page 65 of the Map Records of Harris County, Texas;
- **TRACT ONE:** Being a 3.143 acre tract of land out of the Jesse Pruitt Survey, Abstract No. 629 in Harris County, Texas, said 3.143 acre tract of land being all of that 3.1378 acre tract of land (by deed) deeded to Mary McGill Criner Adickes, Trustee, as recorded in Clerk's File No. H271449 of the Official Public Records of Real Property of Harris County, Texas, said 3.143 acre tract of land also being a portion of Lot 463, Tomball Townsite as recorded in Volume 2, Page 65 of the Map Records of Harris County, Texas;
- **TRACT TWO:** Being a 49.544 acre tract of land out of the Jesse Pruitt Survey, Abstract No. 629 in Harris County, Texas, said 49.544 acre tract of land being all of that 49.547 acre tract of land (by probate) conveyed to Ronald J. Collins, Donald Claude Childress, Roy A. Johlke, and Susan Lorraine Dietz Varsel, Individually and as Administrator of the Estate of Adell G. Dietz, also known as Adell G. Johlke Dietz, deceased, by Cause No. 407636 of the Probate Records of Harris County, Texas, said 49.544 acre tract of land also being a portion of Lot 448, Lot 449, Lot 460, Lot 461, the remainder of Lot 447, the remainder of Lot 459, the remainder of Lot 462, the remainder of Lot 464, the remainder of Lot 465, and the remainder of Lot 466, Tomball Townsite, as recorded in Volume 2, Page 65 of the Map Records of Harris County, Texas;

- **TRACT THREE:** Being a 23.624 acre tract of land out of the Jesse Pruitt Survey, Abstract No. 629 in Harris County, Texas, said 23.624 acre tract of land being all of that 23.5935 acre tract of land (by deed) deeded to Cypressbrook 2920, LP, as recorded in Document No. 20070522269 of the Official Public Records of Real Property of Harris County, Texas, said 23.624 acre tract of land being more particularly described by metes and bounds as follows; and
- **TRACT FOUR:** Being a 20.021 acre tract of land out of the Jesse Pruitt Survey, Abstract No. 629 in Harris County, Texas, said 20.021 acre tract of land being a portion of the remainder of a 23.6963 acre tract of land (by deed) deeded to ABCO Land Corporation as recorded in Document No. 200265255 of the Official Public Records of Real Property of Harris County, Texas.

Receiving no public comments, Mayor Pro Tem Brown closed the public hearing at 6:14 p.m.

- 8.2 Motion was made by Councilman Townsend, second by Councilman Stoll, to adopt, on Second Reading, Ordinance No. 2012-47, an Ordinance Amending the Code of Ordinances of the City of Tomball, Texas, by Adding a New Chapter 27. Establishing Emergency Medical Services and Ambulance Regulations; Providing a Penalty in an Amount Not to Exceed \$2,000.00 for Any Violation of Any Provision of This Ordinance; Repealing All Ordinances or Parts of Ordinances Inconsistent or in Conflict Herewith; and Providing for Severability. Vote was as follows:

Councilman Townsend	<u>Aye</u>
Councilman Dodson	<u>Aye</u>
Councilman Hudgens	<u>Absent</u>
Councilman Stoll	<u>Aye</u>
Mayor Pro Tem Brown	<u>Aye</u>

Motion carried unanimously.

- 8.3 Motion was made by Councilman Townsend, second by Councilman Dodson, to adopt, on Second Reading, Ordinance No. 2012-49, an Ordinance Amending the Code of Ordinances of the City of Tomball, Texas, by Amending Section 14-293, Special Provisions, of Division 4, Permits and Inspections, of Article IV, Electricity, of Chapter 14, Buildings and Building Regulations, to Allow Aluminum Conductors to be Installed Underground from Pole to Pole or from Pole to Outside Electrical Box Not Attached to a Structure; Providing a Penalty of Up to \$2,000.00 for Each Violation of Any Provision Hereof; Providing for

Severability; Providing for the Publication of This Ordinance; and Making Other Findings and Provisions Related Thereto. Vote was as follows:

Councilman Dodson	<u>Aye</u>
Councilman Hudgens	<u>Absent</u>
Councilman Stoll	<u>Aye</u>
Mayor Pro Tem Brown	<u>Aye</u>
Councilman Townsend	<u>Aye</u>

Motion carried unanimously.

9.0 New Business:

- 9.1 George Shackelford presented information regarding the proposed direct connector over Holderrieth Road at SH 249 Business. Motion was made by Councilman Townsend, second by Councilman Stoll, to approve request by City of Tomball to Harris County Toll Road Authority for the removal of the direct connector over Holderrieth Road at SH 249 Business, to amend the letter to include a request that the funds saved by not building the direct connector over Holderrieth Road at SH 249 Business be applied to the construction of a bridge at Medical Complex, and to authorize the City Manager to issue the letter on behalf of the City.

Motion carried unanimously.

- 9.2 Rebeca Guerra presented the staff report on ZONING **CASE P12-510**: City-initiated text amendment to the Tomball Comprehensive Zoning Ordinance (Ordinance No. 2008-01) to amend Section 42.4 (“Fences in Residential Areas”).

- Mayor Pro Tem Brown opened the Public Hearing on **ZONING CASE P12-510** at 6:33 p.m.; receiving no public comments, Mayor Pro Tem Brown closed the public hearing at 6:33 p.m.
- Motion was made by Councilman Stoll, second by Councilman Townsend, to read Ordinance No. 2012-51 by caption only on First Reading.

Motion carried unanimously.

- Motion was made by Councilman Stoll, second by Councilman Townsend to adopt, on First Reading, Ordinance No. 2012-51, an Ordinance of The City of Tomball, Texas, Amending Its Comprehensive Zoning Ordinance by Amending Section 42.4 (“Fences In Residential Areas”); 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.

Motion was made by Councilman Dodson, second by Councilman Townsend, to Lay the Question on the Table regarding consideration of Ordinance No. 2012-51, to provide additional time for City staff to research, re-work, and provide information to Council regarding prohibited types of fencing, coordinating/matching aesthetics and characteristics of fencing with gates, tapering heights of side fencing, special exceptions or variances for hardship cases, conflicts between the zoning ordinance and the building codes, etc.

Motion to Lay the Question on the Table carried unanimously.

- 9.3 Motion was made by Councilman Townsend, second by Councilman Dodson, to approve the recommended fees for Ambulance Permitting and Inspection Processes.

Motion carried unanimously.

- 9.4 Motion was made by Councilman Stoll, second by Councilman Townsend, to approve Purchase of Kubota 4WD Cab Tractor with Terrain King 5' Slope Mower for the Street Department, from Kubota Tractor Corporation in the Amount of \$78,655.20.

Motion carried unanimously.

- 9.5 Motion was made by Councilman Townsend, second by Councilman Stoll, to approve **VALLEY TREE SUBDIVISION FINAL PLAT**: A 16.9782-Acre Tract of Land Situated in the John S. Smith Survey, Abstract No. 730, in Harris County, Texas, Being out of a Certain 21.9206 Acre Tract; Being Part of a 52.0-Acre Tract described in Volume 1720, Page 43 of the Harris County Deed Records, Harris County, Texas.

Motion carried unanimously.

- 9.6 Executive Session: The Tomball City Council recessed at 7:03 p.m. to meet in Executive Session as Authorized by Title 5, Chapter 551, Government Code, the Texas Open Meetings Act, for the Following Purpose(s):

- Sec. 551.071 – Consultation with Attorney regarding Potential Litigation
- Sec. 551.072 – Deliberations regarding Real Property

Upon reconvening into Regular Session at 7:51 p.m., no action was taken.

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

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this _____ day of _____ 2012.

Doris Speer, TRMC, CMC
City Secretary

Gretchen Fagan
Mayor

Regular City Council

Agenda Item

Data Sheet

Meeting Date: December 3, 2012

Topic:

Appoint Three Directors and One Alternate Director to the 249 Partnership Board

Background:

At the June 12, 2012 Board meeting held in Navasota, the Interim Board adopted the 249 Partnership Bylaws. The Cities of Tomball, Magnolia, and Navasota may appoint three (3) Directors each to serve on the 249 Partnership Board. The initial appointments will take their positions at the Annual Meeting of the 249 Partnership to be held December 11, 2012.

Each City must appoint one Director for a term of one (1) year, one for two (2) years, and one for three (3) years, with the term of each Director specifically designated. As each of these terms expires, replacement appointments will be for three (3) years, as provided in these Bylaws.

Each City may also appoint one (1) Alternate Director to attend and vote at Board meetings in place of a Director not present at the meeting. While acting for a Director not in attendance at the Board meeting, the Alternate Director shall have all the same rights, privileges and powers as the absent Director would have if at the meeting. Each of the cities have been notified to make their appointments.

The Bylaws also state that members of the Board shall be appointed by the respective governing bodies of the Cities of Tomball, Magnolia, and Navasota, with the goal of including both public (Cities and Counties) and private (companies, entities and individuals) representation in each City's appointments to the Board of Directors.

Recommendations:

It is recommended that Lamar Casparis (on-year term), Gretchen Fagan (two-year term), Rick Pritchett (three-year term) and Steve Vaughan, as Tomball's alternative Board member, be appointed to be the City of Tomball's representatives to the 249 Partnership Board of Directors.

Origination:

George Shackelford, City Manager

Recommendation:

N/A

Funding:

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

City Secretary

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

ATTACHMENTS:

249 Partnership Bylaws - Approved 6/12/12

Bylaws of the 249 Partnership

An Unincorporated Texas Nonprofit Association

Table of Contents

- I. Name
- II. Purpose
- III. Offices and Agents
- IV. Membership
- V. Board of Directors
- VI. Officers
- VII. Committees
- VIII. Staff, Contracts, Salaries and Compensation
- IX. Conflict of Interest
- X. Fiscal Policies
- XI. Prohibited Acts
- XII. Miscellaneous
- XIII. Amendments

Article I – Name of Organization

The name of this organization shall be “249 Partnership”.

Article II – Purpose

The 249 Partnership was founded to address a regional need for an action-oriented and unified advocacy organization focused on current and future infrastructure issues. The 249 Partnership seeks to represent the interests of the Region’s stakeholders to decision making bodies and funding agencies.

Mission Statement—The 249 Partnership is a regional advocate for building a sound, unified transportation infrastructure promoting regional mobility and connectivity creating sustainable economic growth and improved quality of life.

Article III – Offices and Agents

Principal Office: The principal office of this organization shall be located at the following address: 29201 Quinn Road Suite B, Tomball TX 77375..

Article IV – Membership

Any individual person, organization, corporation or agency may be admitted to membership in the organization by the Board of Directors. Membership, other than Officers and Directors of the organization, shall be non-voting. The membership must be approved by majority vote of the Board of Directors

Article V – Board of Directors

General Powers: Management of the affairs of the organization shall be vested in the Board of Directors, comprised of 9 Directors, and executed by the Officers as defined in Article VI of these Bylaws.

The Board of Directors: Upon approval of these Bylaws by a two-thirds vote of a quorum of the organization's Interim Board of Directors, the then sitting Interim Board members of the organization shall serve as the Board of Directors until new Directors are appointed. The Board of Directors shall elect from its members Officers to carry on the business of the organization until a new Board of Directors is appointed at the next Annual Meeting in December, 2012. Members of the Board shall be appointed by the respective governing bodies of the Cities of Tomball, Magnolia, and Navasota, with the goal of including both public (Cities and Counties) and private (companies, entities and individuals) representation in each City's appointments to the Board of Directors. Each City may appoint three (3) Directors. For the initial appointments in December, 2012, each City must appoint one Director for a term of one (1) year, one for two (2) years, and one for three (3) years, with the term of each Director specifically designated. As each of these terms expires, replacement appointments will be for three (3) years, as provided in these Bylaws. Each City may also appoint one (1) Alternate Director to attend and vote at Board meetings in place of a Director not present at the meeting. While acting for a Director not in attendance at the Board meeting, the Alternate Director shall have all the same rights, privileges and powers as the absent Director would have if at the meeting. The appointment and term for an Alternate Director, including filling vacancies, shall be the same as for a Director, except Alternate Directors need not serve staggered terms.

Terms and Term Limits for Directors: Terms for serving as a Director shall be three (3) years.

Annual Meeting: The annual meeting of the Board of Directors shall be held during the month of December at which time corporate business shall be conducted. In the event that the meeting cannot be held in December, the Chair shall schedule the annual meeting as close as possible to the December date.

Regular Meetings: The Board of Directors may provide for regular meetings. Notice of regular meetings of the Board is required. The Officers, by majority vote, shall set the schedule for regular meetings.

Special Meetings: Special meetings of the Board of Directors may be called by or at the request of the Chair, or any two Officers, or any four Directors.

Notice: Board members will be notified of all meetings in writing delivered personally or sent by mail, e-mail message, or facsimile transmittal (FAX) at least five (5) business days in advance of the annual and regular meetings and at least forty-eight (48) hours in advance of a special meeting. Such notice shall state the place, day, and time of the meeting as well as the general purpose for which the meeting is called.

Quorum and Action: At all meetings of the Board, the presence of a majority of the Directors shall be necessary and sufficient to constitute a quorum for the transaction of business, provided each of the regional areas of Tomball, Magnolia, and Navasota is represented by a Director in attendance at the meeting. The act of a majority of the Directors at any meeting at which a quorum is present shall be the act of the Board of Directors unless the act of a greater number is required by law or these Bylaws. If a quorum shall not be present at any meeting of

Directors, the Directors present may adjourn the meeting without notice other than announcement at the meeting until a quorum shall be present. Directors may designate ex-officio members to represent in their absence as they deem necessary.

Vacancies: Vacancies in the Board of Directors shall be filled, as soon as practical, for the balance of the term by the City that appointed the Director being replaced.

Compensation: Directors as such shall not receive any stated salaries for their services.

Article VI – Officers

The Officers of the Board shall consist of three (3) positions which will include a Chair, Vice Chair, and Secretary/Treasurer. The offices of Chair and Secretary/Treasurer may not be held simultaneously by the same person.

Meetings and Actions: The Officers should meet quarterly, unless special meetings are called by the majority of the Officers. Further, emergency meetings of the Officers can be held with notice sent by mail, e-mail message, or facsimile transmittal (FAX) at least eight (8) hours in advance of the scheduled meeting. At all Officer meetings, a quorum (a majority of the total Officers of the organization) of the Officers must be present to vote and the act of a majority of the Officers at any meeting at which a quorum is present shall be the act of the Officers.

Term: Officers will serve a term of two (2) years.

Vacancies: A vacancy in any office because of death, resignation, disqualification or otherwise, may be filled by the Board of Directors for the unexpired portion of the term. In this event, the Officers shall call for nominations for the vacancy from the Board of Directors and schedule a special meeting of the Board of Directors to vote.

Chair: The Chair shall preside at all Board meetings, appoint committee members, and perform other duties as associated with the office. The Chair shall, by virtue of his office, be Chairman of the Board of Directors. The Chair or his/her designee shall present at each annual meeting of the organization an annual report of the work of the organization. The Chair shall see that all books, reports and certificates required by law are properly kept or filed. The Chair shall be one of the Officers who may sign the checks or drafts of the organization. The Chair shall have such powers as may be reasonably construed as belonging to the chief executive of any organization.

Vice Chair: The Vice Chair shall, in the event of the absence or inability of the Chair to exercise his/her office, become acting Chair of the organization with all the rights, privileges and powers as if he/she had been the duly elected Chair.

Secretary/Treasurer: It shall be the Secretary's duty to file any certificate required by any statute, federal or state. The Secretary/Treasurer shall give and serve all notices to members of this organization. The Secretary/Treasurer shall be the official custodian of the records and minutes of this organization. The Secretary/Treasurer may be one of the Officers required to sign the checks and drafts of the organization. The Secretary/Treasurer shall present to the membership at any meetings any communication addressed to him/her as Secretary/Treasurer of the organization. The Secretary/Treasurer shall attend to all correspondence of the organization and shall exercise all duties incident to the office of Secretary/Treasurer.

The Secretary/Treasurer shall have the care and custody of all monies belonging to the organization and shall be solely responsible for such monies or securities of the organization. The Secretary/Treasurer must be one of the Officers who shall sign checks or drafts of the organization. No special fund may be set aside that shall make it unnecessary for the Secretary/Treasurer to sign the checks issued upon it. The Secretary/Treasurer shall render at stated periods as the Board of Directors shall determine a written account of the finances of the organization and such report shall be physically affixed to the minutes of the Board of Directors of such meeting. The Secretary/Treasurer shall exercise all duties incident to the office of Secretary/Treasurer.

Advisory Board: An Advisory Board shall be formed to provide advice and guidance to the Officers of the Board of Directors. The Advisory Board shall consist of the County Judges (or his/her representative) of the respective counties represented by this organization. Additional members can be added to the Advisory Board by the majority vote of the Board of Directors. The Advisory Board shall be notified of all meetings of the Officers forty-eight (48) hours in advance of all meetings except for emergency meetings, in which the Advisory Board shall receive notice eight (8) hours before the emergency meeting. The Advisory Board is not a voting body of this organization.

Article VII – Committees

All committees of this organization shall be defined in scope and the members nominated to serve on the committee by the Officers and approved by the Board of Directors. Members of such committees may, but need not be, Directors. No committee shall have or exercise any authority of the Board of Directors in the management of the organization but only act in an advisory capacity to the Board of Directors. Committee chairs will be Directors but will not be Officers of the organization.

Article VIII – Staff, Contracts, Salaries and Compensation

The Board of Directors may hire and/or contract with and fix the compensation of any and all employees and contractors which they in their discretion may determine to be necessary for the conduct of the business of the organization.

Termination: Termination of employment and/or contract shall be at the by majority vote of the entire Board of Directors.

Article IX – Conflict of Interest

Any member of the Board who has a financial, personal, or official interest in, or conflict (or appearance of a conflict) with any matter pending before the Board, of such nature that it prevents or may prevent that member from acting on the matter in an impartial manner, will offer to the Board to voluntarily excuse him/herself and will vacate his seat and refrain from discussion and voting on said item.

Article X – Fiscal Policies

The fiscal year of the organization shall begin on the first day of January and end on the last day of December in each year.

Article XI – Prohibited Acts

As long as the organization is in existence, no member, Director, Officer, or committee member of the organization shall:

- (a) Do any act in violation of the Bylaws or a binding obligation of the organization.
- (b) Do any act with the intention of harming the organization or any of its operations.
- (c) Do any act that would make it impossible or unnecessarily difficult to carry on the intended or ordinary business of the organization.
- (d) Receive an improper personal benefit from the operation of the organization.

Article XII– Miscellaneous

Lobbying: The Board of Directors, by majority vote, may choose to endorse or lobby for any issue, project, and/or subject which is to be determined within the goals and objectives of the organization. However, the organization will not participate in lobbying for or endorse or contribute to any particular candidate and/or his/her campaign.

Removal: The Board of Directors may vote to remove a Director or Officer at any time with cause by a majority of the Board or without cause by a super majority vote of the Board (2/3rds vote).

Article XIII – Amendments

These bylaws may be amended by a super majority vote of the Board (2/3rds vote), on the condition that at least one Director from each of the 3 areas represented votes for the amendment(s), and a copy of the proposed amendment(s) are provided to each Board member at least one week prior to said meeting.

Adopted and Approved by the Interim Board of Directors June 12, 2012 in Navasota TX.

Regular City Council

Agenda Item

Meeting Date: December 3, 2012

Data Sheet

Topic:

Approve Professional Services Agreement with CLR, Inc. for Update of the Infrastructure Master Plan, E&P Project Number 2012-10017, in the Amount of \$151,000.00

Background:

The Infrastructure Master Plan is a planning tool to estimate growth within the City limits & ETJ and at ultimate buildout. This helps establish the infrastructure needs to accommodate growth and provides a means of revenue planning for the improvements.

A budgeted amount of \$150k has been allocated for FY2013 and will be funded through the following accounts:

\$50,000 - Capital Projects Fund, Sewer, Professional Services Other, 400-614-6304

\$50,000 - Water Capital Recovery, Professional Services Other, 730-731-6304

\$50,000 - Sewer Capital Recovery, Professional Services Other, 740-741-6304

The last Infrastructure Master Plan was presented and accepted by the City Council on June 1, 2009. On June 11, 2012, the Capital Improvement Plan Advisory Committee recommended to update Land Use Assumptions, Capital Improvement Plan and Impact Fees.

This Infrastructure Master Plan update would incorporate the land use assumptions in conformance with the Comprehensive Plan and the Zoning Ordinance. An infrastructure plan will define the City's needs for future capital improvement plans in response to anticipated growth and shall allow City staff to provide timely responses to potential development.

In addition to general planning needs, the Infrastructure Master Plan will keep the City in compliance with Section 395.052 of Local Government Code, Periodic Update of Land Use Assumptions and Capital Improvements Plan Required, in the event that the City wishes to maintain the option of impact fees. This has been a statute requirement since 1989. The requested impact fee report will be presented at the January 7, 2013 City Council Meeting.

The City has conducted formal infrastructure planning on a periodic basis since 1969.

A Request for Qualification was requested from six engineering firms. After review of all submittals, City staff has accepted CLR, Inc. based on their experience and project approach. Their approach includes partnering with other engineering firms to capitalize the firms existing knowledge regarding City projects.

City Council authorized negotiations and preparation of professional services agreement for the update to the Infrastructure Master Plan on October 1, 2012.

Origination:

Recommendation:

Engineering and Planning recommends approval.

Funding:

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

Lori Lakatos, Engineering and Planning Department

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

ATTACHMENTS:

CLR Pprofessional Agreement - Infrastructure Master Plan

Scope of Work - Infrastructure Master Plan

**PROFESSIONAL SERVICES AGREEMENT
FOR
ENGINEERING SERVICES
RELATED TO
ENGINEERING & PLANNING PROJECT NO. 2012-10017
CITY OF TOMBALL INFRASTRUCTURE MASTER PLAN
AND
CAPITAL RECOVERY FEE DETERMINATION**

**THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §**

THIS AGREEMENT made on the _____ day of _____, 2012 entered into, and executed by and between the City of Tomball, Texas (the "City"), a municipal corporation of the State of Texas, and CLR, Inc. ("Engineer").

WITNESSETH:

WHEREAS, the City desires to update the City of Tomball Infrastructure Master Plan and Capital Recovery Fee Determination. (the "Project"); and

WHEREAS, the services of a professional engineering firm are necessary to provide land surveying, project planning, project design, and preparation of construction documents, and

WHEREAS, the Engineer represents that it is fully capable and qualified to provide professional services to the City related to professional engineering and professional land surveying;

NOW, THEREFORE, the City and Engineer, in consideration of the mutual covenants and agreements herein contained, do mutually agree as follows:

**SECTION I
SCOPE OF AGREEMENT**

Engineer agrees to perform certain professional engineering services as defined in Attachment "A" attached hereto and made a part hereof for all purposes, hereinafter sometimes referred to as "Scope of Work," and for having rendered such services, the City agrees to pay Engineer compensation as stated in Section VII.

**SECTION II
CHARACTER AND EXTENT OF SERVICES**

Engineer shall do all things necessary to render the engineering services and perform the Scope of Work in a professional and workmanlike manner. It is expressly

understood and agreed that Engineer is an Independent Contractor in the performance of the services agreed to herein. It is further understood and agreed that Engineer shall not have the authority to obligate or bind the City, or make representations or commitments on behalf of the City or its officers or employees without the express prior approval of the City. The City shall be under no obligation to pay for services rendered not identified in Attachment "A" without prior written authorization from the City.

SECTION III OWNERSHIP OF WORK PRODUCT

Engineer agrees that the City shall have the right to use all exhibits, maps, reports, analyses and other documents prepared or compiled by Engineer pursuant to this Agreement. The City shall be the absolute and unqualified owner of all studies, exhibits, maps, reports, analyses, determinations, recommendations, computer files, and other documents prepared or acquired pursuant to this Agreement with the same force and effect as if the City had prepared or acquired the same.

SECTION IV TIME FOR PERFORMANCE

The time for performance of the Scope of Work is ninety-days (90) days beginning from the execution date of this Agreement. Upon written request of Engineer, the City may grant time extensions to the extent of any delays caused by the City or other agencies with which the work must be coordinated and over which Engineer has no control.

SECTION V COMPLIANCE AND STANDARDS

Engineer agrees to perform the work hereunder in accordance with generally accepted standards applicable thereto and shall use that degree of care and skill commensurate with the applicable profession to comply with all applicable state, federal, and local laws, ordinances, rules, and regulations relating to the work to be performed hereunder and Engineer's performance.

SECTION VI INDEMNIFICATION

To the fullest extent permitted by Texas Local Government Code Section 271.904, Engineer shall and does hereby agree to indemnify, hold harmless and defend the City, its officers, agents, and employees against liability for damage caused by or resulting from an act of negligence, intentional tort, intellectual property infringement, or failure to pay a subcontractor or supplier committed by the Engineer, the Engineer's agent, consultant under contract, or another entity over which the Engineer exercises control.

SECTION VII ENGINEER'S COMPENSATION

For and in consideration of the services rendered by Engineer pursuant to this Agreement, the City shall pay Engineer only for the actual work performed under the Scope of Work, on the basis set forth in Attachment "A," up to an amount not to exceed \$151,000, including reimbursable expenses as identified in Attachment "A."

SECTION VIII TERMINATION

The City may terminate this Agreement at any time by giving written notice to Engineer. Upon receipt of such notice, Engineer shall discontinue all services in connection with the performance of this Agreement and shall proceed to promptly cancel all existing orders and contracts insofar as such orders or contracts are chargeable to the Agreement. As soon as practicable after receipt of notice of termination, Engineer shall submit a sworn statement, showing in detail the services performed under this Agreement to the date of termination. The City shall then pay Engineer for such services performed under this Agreement as those services bear to the total services called for under this Agreement, less such payments on account of the charges as have been previously made. Copies of all completed or partially completed designs, maps, studies, documents and other work product prepared under this Agreement shall be delivered to the City when and if this Agreement is terminated.

SECTION IX ADDRESSES, NOTICES AND COMMUNICATIONS

All notices and communications under this Agreement shall be mailed by certified mail, return receipt requested, to Engineer at the following address:

CLR, Inc.
19530 FM 362
P.O. Box 450
Waller, Texas 77484
Attn: Kyle A. Bertrand, P.E., Senior Vice President

All notices and communications under this Agreement shall be mailed by certified mail, return receipt requested, to the City at the following address:

City of Tomball
501 W. Market Street
Tomball, Texas 77375
Attn: Director of Engineering and Planning

SECTION X LIMIT OF APPROPRIATION

Prior to the execution of this Agreement, Engineer has been advised by the City and Engineer clearly understands and agrees, such understanding and agreement being of the absolute essence to this Agreement, that the City shall have available only those sums as expressly provided for under this Agreement to discharge any and all liabilities which may be incurred by the City and that the total compensation that Engineer may become entitled to hereunder and the total sum that the City shall become liable to pay to Engineer hereunder shall not under any conditions, circumstances, or interpretations hereof exceed the amounts as provided for in this Agreement.

SECTION XI SUCCESSORS AND ASSIGNS

The City and Engineer bind themselves and their successors and assigns to the other party of this Agreement and to the successors and assigns of such other party, in respect to all covenants of this Agreement. Engineer shall not assign, sublet, or transfer its interest in this Agreement without the written consent of the City. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the City or any public body which may be a party hereto.

SECTION XII MODIFICATIONS

This instrument, including Attachment "A," contains the entire Agreement between the parties relating to the rights herein granted and the obligations herein assumed. To the extent there is a conflict between the provisions of this Agreement and the provisions of Attachment "A," this Agreement shall control. Any oral or written representations or modifications concerning this instrument shall be of no force and effect excepting a subsequent modification in writing signed by both parties hereto.

SECTION XIII ADDITIONAL SERVICES OF ENGINEER

If authorized in writing by the City, Engineer shall furnish, or obtain from others, Additional Services that may be required because of significant changes in the scope, extent or character of the portions of the Project designed or specified by the Engineer, as defined in Attachment "A." These Additional Services, plus reimbursable expenses, will be paid for by the Owner on the basis set forth in Attachment "A," up to the amount authorized in writing by the City.

SECTION XIV CONFLICTS OF INTEREST

Pursuant to the requirements of the Chapter 176 of the Texas Local Government Code, Engineer shall fully complete and file with the City Secretary a Conflict of Interest Questionnaire.

SECTION XV PAYMENT TO ENGINEER FOR SERVICES AND REIMBURSABLE EXPENSES

Invoices for Basic and Additional Services and reimbursable expenses will be prepared in accordance with Engineer's standard invoicing practices and will be submitted to the City by Engineer at least monthly. Invoices are due and payable thirty (30) days after receipt by the City.

SECTION XVI INSURANCE

Engineer shall procure and maintain insurance in accordance with the terms and conditions set forth in Attachment "B," for protection from workers' compensation claims, claims for damages because of bodily injury, including personal injury, sickness or disease or death, claims or damages because of injury to or destruction of property including loss of use resulting therefrom, and claims of errors and omissions.

SECTION XVII MISCELLANEOUS PROVISIONS

A. This Agreement is subject to the provisions of the Texas Prompt Payment Act, Chapter 2250 of the Texas Government Code. The approval or payment of any invoice shall not be considered to be evidence of performance by Engineer or of the receipt of or acceptance by the City of the work covered by such invoice.

B. Venue for any legal actions arising out of this Agreement shall lie exclusively in the federal and state courts of Harris County, Texas.

C. This Agreement is for sole benefit of the City and Engineer, and no provision of this Agreement shall be interpreted to grant or convey to any other person any benefits or rights.

D. Contractor further covenants and agrees that it does not and will not knowingly employ an undocumented worker. An "undocumented worker" shall mean an individual who, at the time of employment, is not (a) lawfully admitted for permanent residence to the United States, or (b) authorized by law to be employed in that manner in the United States.

IN WITNESS WHEREOF, the City of Tomball has lawfully caused this Agreement to be executed by the City Manager of said City and attested by the City Secretary and CLR, Inc., acting by and through its duly authorized officer/representative, does now sign, execute, and deliver this instrument.

EXECUTED on this _____ day of _____, 2012.

ENGINEER:

By: _____ CLR, Inc.
Name: _____ Kyle Bertrand, P.E.
Title: _____ Senior Vice President

CITY OF TOMBALL, TEXAS

George Shackelford, City Manager

ATTEST:

Doris Speer, City Secretary

ATTACHMENT "A"
SCOPE OF SERVICES
AND
BASIS OF COMPENSATION AND REIMBURSABLE EXPENSES

ATTACHMENT “B”

INSURANCE

ATTACHMENT A
(To Professional Engineering Agreement)

PART A - SCOPE OF SERVICES AND DELIVERABLE DOCUMENTS

**CITY OF TOMBALL INFRASTRUCTURE MASTER PLAN
AND
CAPITAL RECOVERY FEE DETERMINATION**

ENGINEERING & PLANNING PROJECT NO. 2012-10017

1.0 GENERAL

The Engineer shall provide professional engineering services as described in the Contract and as further defined by this Attachment A, Scope of Services. Reference to Director throughout Attachment A refers to the Director of Engineering & Planning or the City appointed representative.

Description of Project

The Project generally is described as, providing engineering and planning services required for updating the City of Tomball's Infrastructure Master Plan and Capital Recovery Fee Determination for the years 2013-2023 Infrastructure Master Plan. This effort shall be in conformance 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.

2.0 Scope of Services

The services to be provided will include the necessary effort required to update: population and land use projections, improvement plans for transportation, drainage, water systems, wastewater systems, park facilities, and preparation of estimates of probable costs for implementation to be utilized to establish the City of Tomball's maximum impact fees if the City elects to adopt same.

A. General - the scope of services will include:

1. Gathering existing data previously completed and/or available from the City such as record documents, reports, drawings, and studies. Electronic data prepared for the previously completed 2007-2017 Infrastructure Master Plan shall be provided by the City of Tomball. Data provided by this report shall be assumed to be the baseline data for the update.
2. Review and analysis of the assembled existing data, necessary for providing recommended revisions and updates, estimates of probable costs for recommended infrastructure improvements, and identification of recommended future infrastructure improvements eligible for assessment of capital recovery fees by the City if desired.
3. Coordination meetings with City staff and other consultants deemed appropriate by the Director.

4. Preparation of a preliminary and final report containing the findings, recommendations, exhibits, tables, and other relevant appendices necessary and required for adoption of the Updated Infrastructure Master Plan.
5. All documentation shall be provided to the City of Tomball in electronic format including Adobe Portable Document Format (PDF), Microsoft Word, Microsoft Excel, AutoCAD, and or Geographic Information System formats as appropriate. In addition, three hard copies of the draft report and three copies of the final report will be provided by this scope.
6. Engineer shall assist the City with preparation and/or participation in meetings for presentation of data developed by the scope of this agreement with City staff, elected and appointed officials, and the public as deemed appropriate by the Director. Preparation shall include development of presentations slides, exhibits, notices, questionnaires, and compiling, analysis, and summary of comments received.
7. Review and identification of the public infrastructure management software and applications for integration into the existing City GIS system. The goal of this effort will be to identify tools to improve access to infrastructure data in the current system and add/expand management capabilities of the system to improvement scheduling, planning, loading, reporting, and expenditures.

B. Subject Areas - More specifically, this scope of services will include the review and update of the following key areas of concern:

- 1. Population Projections and Land Use Projections** – The previously completed IMP did not utilize the City of Tomball Zoning Districts and/or Comprehensive Plan. It is understood that the City currently has Rydan & Associates LLC assembling population and land use data for the City's corporate boundary and ETJ and that this data will be provided for use in the studies provided by this report. Therefore this scope of services includes coordination of this data with the Rydan & Associates LLC, City staff, and review of other publicly available data sets for final determination and validity for use in the update. It is assumed that this IMP update will be based on the content of these documents and/or revisions known/pending at the time this agreement is approved by the City. Revisions during the course of this study will be integrated at the discretion of the City as an additional service amendment to this agreement.
- 2. Traffic and Transportation Planning** – Gunda Corporation, LLC (GUNDA) will support the Engineer in the Update of 2007 Tomball Infrastructure Master Plan for City of Tomball. Primary GUNDA efforts will include: (1) Update of Traffic & Transportation section; (2) Evaluate Hike & Bike Needs, (3) Update Major Thoroughfare Plan; and (4) Analyze traffic issues along Main Street (FM 2920).

Task 1 - Traffic & Transportation Section Update

As part of Task 1, GUNDA will:

- a. Collect existing reports and traffic data from previous studies and HGAC travel demand model.
- b. Analyze changes in traffic patterns due to proposed SH 249 Tollway improvements and Grand Parkway improvements.
- c. Qualitatively analyze the traffic demands and need for capacity and locations.

d. Update Traffic & Transportation Section of the Infrastructure Master Plan.

Task 2 - Evaluate Hike & Bike Needs

As part of this task, GUNDA will:

- a. Review Citywide Park plans and identify Hike & Bike opportunities.
- b. Develop Hike & Bike plan that connects community and Parks/Recreational facilities.

Task 3 - Update Major Thoroughfare Plan

As part of this task, GUNDA will:

- a. Update existing Major Thoroughfare Plan based on project population, transportation needs.
- b. Overlay Hike & Bike plan on Major Thoroughfare Plan

Task 4 - Analysis of traffic issues along main street (FM 2920) *(To be authorized by City separately in needed)*

As part of this task, GUNDA will:

- a. Review previous studies including FM 2920 Access Management Study Report.
- b. Observe traffic patterns in the peak period and gather traffic data.
- c. Analyze the left turn challenges on Main Street between Quinn Road and BNSF Railroad.
- d. Develop recommendations to address the traffic issues.

3. Drainage Planning – It is understood that the City currently has Rydan & Associates LLC preparing a Master Drainage Plan for the City’s corporate boundary and ETJ and that the relevant data from that effort will be provided for use as the studies required for the IMP update. In addition, Rydan & Associates LLC will provide supplemental costs and other pertinent data necessary under this authorization. Therefore this scope of services will include necessary additional effort by Rydan & Associates LLC as well as the Engineer’s coordination of this data with the Rydan & Associates LLC, City staff, and review of other publicly available data sets for final determination of validity for use in the update.

4. Potable Water System – The Engineer shall review available documentation of existing facilities and provide recommendations for future improvements of the City’s potable water system. The system components to be addressed will include:

- a. Review of existing available documentation of the supply, storage, distribution system, and corresponding water model.
- b. Updating the existing water model to incorporate recently constructed and/or planned improvements. If required, additional improvements will be identified and incorporated into the system model based on newly created City planning documents, known future improvements, and updated population and land use data.

- c. Investigate and/or quantify the impacts of potential connection to the North Harris County Regional Water Authority (NHCRWA) for receiving surface water supply. This task will include an initial consultation with NHCRWA to assess feasibility of connection and projected availability. Following these initial discussions with the NHCRWA, Engineer will meet with City staff to determine the relevance and/or probability of establishing a connection for surface water before proceeding with any further analysis and/or investigation in this regard. If deemed appropriate, impacts of a connection will be identified, modeled, and associated cost will be estimated accordingly. *(To be authorized by City separately in needed)*
5. **Wastewater System** – The Engineer shall review available documentation of existing facilities and provide recommendations for future improvements of the City’s wastewater conveyance and treatment systems. This review does not include detailed, on-site inventory of existing facilities and/or assessment of existing facilities condition. Inventory and/or assessment of facilities condition necessary for the report will be based on interviews conducted with City staff deemed appropriate by the Director.
6. **Parks and Recreation** – The Engineer shall review available documentation of existing park and recreation facilities and provide recommendations for future improvements. This review does not include detailed, on-site inventory of existing facilities and/or assessment of existing facilities condition. Inventory, assessment of facilities condition, and improvement recommendations necessary for the report will be based on interviews conducted with City staff deemed appropriate by the Director, previously completed planning documents, and public comments received by the City. No direct solicitation public comment is anticipated in the scope of services.
7. **Maximum Impact Fee Determination** – Engineer shall prepare estimates of probable costs for improvements identified by the scope of services defined in this agreement. Maximum impact fees will be calculated for those improvements eligible for assessment of fees in accordance with applicable state statutes.
8. **GIS Database Integration** – It is understood that the City currently has a consultant working on update and refinement of the City’s GIS database. Exhibit data prepared by the scope of services included in this agreement will be prepared for inclusion by the City’s GIS consultant. Engineer shall coordinate format and necessary data required for delivery of the data files and for future utilization of the data for modeling and/or analysis of the data on the City’s system. Purchase of additional commercial software and/or programming of custom applications are considered outside of this scope of services. If commercial software and/or custom applications are identified in the course of performing this scope of services, supplemental authorization and fee will need to be authorized prior to commencement.

C. Other

1. The Engineer shall reference the City’s Project Title and City’s Project File Numbers on all correspondence and submittals.
2. The Engineer shall manage the efforts of the Project team members and Consultants, assign manpower, delegate responsibilities, review work progress, monitor conformance to the scope regarding the budget and schedule, and otherwise direct the progress of the work.

3. Periodic meetings shall be held to review the progress of the engineering effort, or to address other issues which may arise. The Director shall initiate meetings that include the Engineer and his Consultants, and if necessary, the Director and other applicable parties. The Engineer shall prepare and deliver meeting record memorandum of decisions and action items to the City within 3 working days after each meeting.
4. The Engineer shall notify the Director immediately of any deviation from the Scope of Engineering Services and Fee agreed to in this Scope of Services. The Engineer shall not perform services outside of the Contract scope without an Amendment to this Contract.
5. Invoices shall be submitted on City's standard form to document and present the current status of each milestone noted to record activities and deliverables completed within the month, and to note activities planned for next month.

PART B – BASIS OF COMPENSATION AND REIMBURSABLE EXPENSES

CITY OF TOMBALL INFRASTRUCTURE MASTER PLAN AND CAPITAL RECOVERY FEE DETERMINATION

ENGINEERING & PLANNING PROJECT NO. 2012-10017

The following represents the estimated maximum compensation for the scope of services documented in Attachment A, Part A of this agreement. If services beyond those specifically identified are determined necessary during the project, Engineer shall not proceed with those services until such time as written approval of the scope and any additional fees are approved by the City of Tomball.

Services to be Provided	Basis	Estimated Cost
Project Management and Coordination	Lump Sum	\$5,000
Population Projections and Land Use Projections	Lump Sum	\$5,000
Traffic and Transportation Planning		
Task 1 - Traffic & Transportation Section Update	Lump Sum	\$22,000
Task 2 - Evaluate Hike & Bike Needs	Lump Sum	\$8,250
Task 3 - Update Major Thoroughfare Plan	Lump Sum	\$11,000
Task 4 - Analysis of traffic issues along Main Street (FM 2920) <i>(To be authorized by City separately in needed)</i>	Lump Sum	\$7,750
Drainage Planning	Lump Sum	\$15,000
Portable Water System		
Review Existing Documentation	Lump Sum	\$7,500
Update Water Model	Lump Sum	\$25,000
NHCRWA Investigation <i>(To be authorized by City separately in needed)</i>	Lump Sum	\$5,000
Wastewater System	Lump Sum	\$12,500
Parks and Recreation	Lump Sum	\$7,500
Maximum Capital Recovery Fee Determination	Lump Sum	\$10,000
GIS Database Integration	Lump Sum	\$3,500
Public Meetings, Preparation, and Presentations	Lump Sum	\$3,500
Reimbursable Expenses (Cost + 10%)	Cost Plus	\$2,500
Recommended Total Consultant Fees Budget		\$151,000

Notes:

1. Reimbursable Expenses shall be invoiced and paid based on cost of service provided plus 10% markup. These services include travel, deliveries, postage, graphical reproduction, etc...