

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



MONDAY, NOVEMBER 5, 2012

6:00 P.M.

Notice is hereby given of a meeting of the Tomball City Council, to be held on Monday, November 5, 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 Reverend Tommy Lyles, Tomball United Methodist Church

3.0 Pledges to U.S. and Texas Flags

- Led by Members of the Tomball High School Student Council

4.0 Public Comments and Receipt of Petitions *[At this time, anyone will be allowed to speak on any matter other than personnel matters or matters under litigation, for length of time not to exceed three minutes. No Council/Board discussion or action may take place on a matter until such matter has been placed on an agenda and posted in accordance with law.]*

5.0 Presentations:

- ***New City of Tomball Fire Department Employees***

- *Firefighters:*
 - Joshua Brookshire
 - Christopher Camp
 - Ethan Grossman
 - David Hill
 - Steven McHenry
 - Kye Rymer
 - Gary Simpson
- *Driver/Operator:*
 - Brian Holasek
- *Lieutenant:*
 - Hubert (Joe) Sykora

6.0 Reports and Announcements

- November 10, 2012 – ***Woodforest Run at the Depot*** – 8:00 a.m.
- November 10, 2012 – ***2nd Saturday at the Depot*** – 5:00 p.m.
- November 10, 2012– ***Bugs, Brew & Barbecue, VW Show and MusicFest Re-Do*** – 9:00 a.m.-6:00 p.m.
- November 17, 2012– ***47th Annual Tomball Holiday Parade – “Candy Canes and Christmas Carols”*** – 10:00 a.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 - ***Tomball Art Walk***
 - Mike Baxter - ***Tomball Bluegrass Festival***
 - David Kauffman - Update on Left-turn Lanes at Traffic Signals on FM 2920 through Downtown Tomball
 - Doris Speer – City Secretary’s Office earns ***Exemplary Five Star Service Award for Excellence in Vital Registration***

7.0 Approve the Minutes of the October 15, 2012 Regular City Council Meeting

8.0 Old Business:

- 8.1 Adopt, on Second Reading, Ordinance No. 2012-20, an Ordinance Deleting Article IV., Electricity, of Chapter 14, Buildings and Building Regulations, of the Code of Ordinances of the City of Tomball, Texas, in Its Entirety and Substituting Therefor a New Article IV., Electricity, of Chapter 14, Buildings and Building Regulations; Repealing all Ordinances or Parts of Ordinances Inconsistent or in Conflict Herewith; Providing a Penalty in an Amount of Not More Than \$2,000 for Violation of Any Provision Hereof; Providing for Savings and Severability; Providing for Publication; and Making Other Provisions and Findings Related Thereto
- 8.2 Adopt, on Second Reading, Ordinance No. 2012-22, an Ordinance of the City of Tomball, Texas Amending the Code of Ordinances of the City by Amending and/or Adding Definitions of *Aircraft*, *Awning Sign*, *Bandit Sign*, *Banner Sign*,

Billboard, Flag Sign, Inflatable Sign, Living Or Human Sign, Marquee Sign, Message Board, Monument Sign, Pole Sign, Premises, Temporary Sign, Wayfinding Sign, and Window Sign to Section 60-1, Definitions, of Article I, In General, of Chapter 60, Signs; Amending Section 60-4, Sign Administrator and Enforcement, of Article I, In General, of Chapter 60, Signs, to Delete Reference to Rules and Regulations for Appeals to City Council; Amending Section 60-3, Classifications, of Article I, In General, of Chapter 60, Signs, to Add Window Sign as a Classification of Signage; Deleting Subsection (b)(3), Exceptions, Other Signs, from Section 60-5, Sign Permits and Fees, of Article I, In General, of Chapter 60, Signs, and Adding a New Subsection (b)(3), Exceptions, Other Signs, to Add to the Exceptions to the Permitting Requirements; Amending Subsection (c), Application Procedure, of Section 60-5, Sign Permits and Fees, of Article I, In General, of Chapter 60, Signs, by Adding Marquee and Projecting Signs to the Application Procedure; Amending Section 60-7, Miscellaneous Sign Provisions, of Article I, In General, of Chapter 60, Signs, to Limit Properties to One (1) On-Premise Temporary Banner or Flag Sign and Adding Regulations for Message Board and Marquee Signs; Amending Section 60-8, On-Premises Sign Provisions, of Article I, In General, of Chapter 60, Signs, to Provide that On-Premise Signs Shall Adhere to the Visibility Triangle Requirements of Chapter 66 of the Code of Ordinances; Amending Section 60-9, Off-Premises Sign Provisions, of Article I, In General, of Chapter 60, Signs, to Limit Properties to No More than Two (2) Off-Premise Signs; Adding a New Section 60-12, Attention-Getting Devices, to Article I, In General, of Chapter 60, Signs, to Prohibit Attention-Getting Devices as Defined Herein; Adding a New Section 60-13, Billboards, to Article I, In General, of Chapter 60, Signs, to Prohibit New Billboards within the City or Its Extraterritorial Jurisdiction and Providing Regulations for the Replacement or Restoration of Existing Billboards; Adding a Section 60-14, Prohibited Signage, to Article I, In General, of Chapter 60, Signs, Prohibiting the Types of Signs Described Therein; Amending Section 60-29, Height Limitations, of Article II, Design and Structural Requirements, of Chapter 60, Signs, to Limit On-Premise Signs to a Height No Greater than 42 Feet from the Natural Grade Level of the Ground Surface, Requiring that Projecting and Marquee Signs Shall not Exceed Eight (8) Feet Above the Roof Level, and Requiring that No Off-Premise Sign Shall Exceed a Height of 12 Feet from the Natural Grade Level of the Ground Surface; Deleting Section 60-30, Size Limitation, of Article II, Design and Structural Requirements, of Chapter 60, Signs, and Adding a New Section 60-30, Size Limitation, to Limit On-Premise Wall Signs to a Face Area of 300 Square Feet or Less per Building Face, to Limit CEVMS Signs to a Face Area of 32 Square Feet for a Single Business Use or 50 Square Feet for a Multi-Tenant Use, and Limiting Off-Premise Signs to a Face Area Not to Exceed 40 Square Feet; Deleting from Article II, Design and Structural Requirements of Chapter 60, Signs, Section 30-33, Portable Signs, in Its Entirety; Adding a New Section 60-33, Wayfinding Signs, to Article II, Design and Structural Requirements, of Chapter 60, Signs, to Limit On Premises Wayfinding Signs to a Maximum Sign Face Area of 12 Square Feet, to Limit Off Premises Wayfinding Signs to a Maximum Sign Face Area of 40 Square Feet, Requiring a Wayfinding Guide Sign Plan to be Approved by Sign Administrator and Providing Other Regulations Regarding Wayfinding Signs; Adding a New Section 60-34, Flags and Flag Signs, to Article II, Design and Structural Requirements, of Chapter 60, Signs, to Limit Flag Signs to a Maximum of Three (3) Flag Signs per Premises, Including One (1) Corporate Flag and Providing Other Regulations for the Height, Lighting and Other Matters Related to Flag Signs; Providing for Severability; Providing a Penalty of up to \$2,000.00 for Violations with Each Day Constituting a Separate Violation; Providing for the Publication of This Ordinance; and Making Other Findings

and Provisions Related Thereto.

9.0 New Business:

- 9.1 Approve Appointment of Blair Bruce as Alternate Municipal Court Judge for Term Expiring August 15, 2014, as Required by Government Code, Section 29.005
- 9.2 Presentation by Joe Morrow, First Southwest, regarding Refunding (Refinancing) of Series 2002 and Series 2003 Certificates of Obligation
- 9.3 Adopt, on First Reading and Only Reading, Ordinance No. 2012-46, an Ordinance Authorizing the Issuance of City of Tomball, Texas General Obligation Refunding Bonds, Series 2013; Levying a Tax in Payment Thereof; Setting Certain Parameters for the Bonds; Authorizing the Authorized Officer to Approve the Amount, the Interest Rate, Price and Certain Other Terms Thereof; Authorizing the Redemption prior to Maturity of Certain Outstanding Obligations; Authorizing the Execution and Delivery of a Bond Purchase Agreement, a Paying Agent/Registrar Agreement and an Escrow Agreement Relating to Such Bonds; Approving the Preparation and Distribution of an Official Statement; and Enacting Other Provisions Relating Thereto
- 9.4 Appoint/Reappoint Members to the Tourism Advisory Committee for Terms Expiring December 5, 2012
- 9.5 First Public Hearing 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 Cypressbook 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.

- 9.6 Approve Memorandum of Understanding between the City of Tomball and the Gulf Coast Chapter of the National Railway Historical Society regarding the Relocation of the Chapter's Houston Railroad Museum Collection to the City of Tomball
- 9.7 Adopt, on First 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
- 9.8 Adopt, on First 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
- 9.9 Approve **GRAND THREE FINAL PLAT:** Being a Subdivision of 0.4686 Acre of land situated in the Joseph House Survey, Abstract Number 34, of Harris County, Texas, and being the same land called 0.4689 Acre as described in deed recorded in Clerk's File Number K893680 of the Real Property Records of Harris County, Texas.
- 9.10 Executive Session as Authorized by Title 5, Chapter 551, Government Code, the Texas Open Meetings Act, for the Following Purpose(s):
- Sec. 551.072 – Deliberations Regarding Real Property

10.0 Adjournment

CERTIFICATION

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall, City of Tomball, Texas, a place readily accessible to the general public at all times, on the 1st 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: November 5, 2012

Topic:

- Led by Reverend Tommy Lyles, Tomball United Methodist 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: November 5, 2012

Topic:

- Led by Members of the Tomball High School Student Council

Background:

Origination:

Recommendation:

Funding:

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

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

Regular City Council

Agenda Item

Data Sheet

Meeting Date: November 5, 2012

Topic:

- *New City of Tomball Fire Department Employees*
 - *Firefighters:*
 - Joshua Brookshire
 - Christopher Camp
 - Ethan Grossman
 - David Hill
 - Steven McHenry
 - Kye Rymer
 - Gary Simpson
 - *Driver/Operator:*
 - Brian Holasek
 - *Lieutenant:*
 - Hubert (Joe) Sykora

Background:

Origination:

City Manager/Fire Chief

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: November 5, 2012

Topic:

- November 10, 2012 – *Woodforest Run at the Depot* – 8:00 a.m.
- November 10, 2012 – *2nd Saturday at the Depot* – 5:00 p.m.
- November 10, 2012– *Bugs, Brew & Barbecue, VW Show and MusicFest Re-Do* – 9:00 a.m.-6:00 p.m.
- November 17, 2012– *47th Annual Tomball Holiday Parade – “Candy Canes and Christmas Carols”* – 10:00 a.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 - *Tomball Art Walk*
 - Mike Baxter - *Tomball Bluegrass Festival*
 - David Kauffman - Update on Left-turn Lanes at Traffic Signals on FM 2920 through Downtown Tomball
 - Doris Speer – City Secretary’s Office earns *Exemplary Five Star Service Award for Excellence in Vital Registration*

Background:

Origination:

Various

Recommendation:

Funding:

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

City Secretary

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

ATTACHMENTS:

2nd Saturday at the Depot

Bugs, Brew & Barbecue, VW Show and MusicFest Re-Do

Exemplary Five Star Service Award for Excellence in Vital Registration

Criteria for Five Star Service Award for Excellence in Vital Registration

2nd Saturday

At the Depot in Tomball

November 10th starting at 5:00 p.m.



Rusty's Family Feature
On the giant inflatable screen

TOMBALL
TEXAN FOR FUN! ®

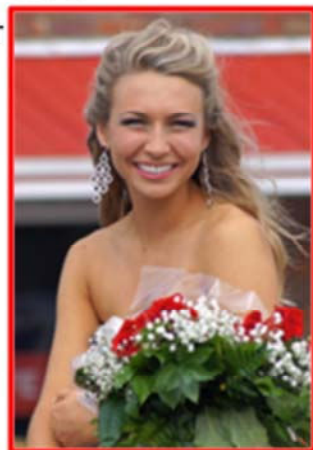
facebook

www.facebook.com/TomballTexanForFun

*In case of rain the event will take place
at the Tomball Community Center –
Market and South Cherry Streets.

"GIVE THANKS TOMBALL!"

- Music by Tori McClure
- Pony Rides By EJC Farms
- Big "Domino Toppling"
- Games & Kids' Crafts
- Former Astro and New York Yankee MBL ballplayer Charlie Hayes.
- Zumba demonstration by Body Therapy
- Bring food donations for TEAM and receive a gift while supplies last.
- Hamburgers, Hot Dogs, Nachos, Chili Pie and more



Meet Miss
Tomball 2012
Lacey Easley

The Depot is at 201 S. Elm Street in historic downtown Tomball, Texas. Call 281-351-5484 for information.

THIS INFORMATION IS BEING DISTRIBUTED AS A COMMUNITY SERVICE AND TOMBALL ISD IS NOT A SPONSORING ORGANIZATION

TOMBALL, TEXAS

NOVEMBER 10TH

2012

- Classic VW car show
- Performances by Unfortunate Sons and The Bottle Rockers
- Craft Brew from a dozen Texas Breweries
- BBQ from The Original Rib Tickler, Dickey's Barbecue Pit and more
- Kid's Zone and Vendors
- Free Admission and Parking
- New Location: Main & South Walnut Streets near the Depot

9A.M. - 6P.M.



**BUGS, BREW
AND BARBECUE
RE-DO**

VWS, TEXAS CRAFT BEER, BARBECUE & BANDS

Call 281-351-5484 or visit [facebook.com/TomballTexanForFun](https://www.facebook.com/TomballTexanForFun)



Congratulation To This Year's Winners!

Abilene/Taylor County Public Health District	City of Arlington Vital Statistics	City of Bryan Vital Statistics
City of Grapevine	City of McAllen	City of North Richland Hills
City of San Marcos City Clerks Office	City of Tomball	City of Victoria
Cooke County Clerk	Denton County Clerk	Guadalupe County Clerk
Hunt County Clerk	Kerr County Clerk	Rockwall County Clerk
Smith County Clerk	Tarrant County Clerk	Waco McLennan County Public Health District
Wichita Falls - Wichita County Public Health District	Wood County Clerk	
<i>Exemplary Five Star Award Winning Local Registrars</i>		

2012 Five Star Criteria for Local Registrars

Criteria for Qualification

- **Timeliness:**
Average no more than 20 days for all death registrations, including manual, drop-to-paper and fully electronic, from the date of the event to filing in the state office between January 1, 2012 and September 30, 2012.

Local registration offices averaging 10 days or less will qualify for an Exemplary Five-Star designation.

- **Managing Registration:**
Submit a fully completed local registrar self-assessment survey provided by the Vital Statistics Unit (VSU) no later than August 30, 2012. The survey will be available via www.texasvsu.org by spring of 2012.

- **Improvement**
Send a letter to area medical certifiers informing them of the law regarding the use the TER-Death Registration system. Include a copy of the letter and the list of medical certifiers that the letter was mailed to with your Local Registrar Self-Assessment Survey.

A sample letter will be located in the Resources section of the TexasVSU.org website

- **Training:**
Attend the 2011 Annual Vital Statistics Conference or one of the 2012 Regional Vital Statistics Conferences tentatively scheduled for June.

Local Registrars who attend both the 2011 Annual Conference and one of the 2012 Regional Conferences will qualify for an Exemplary Five-Star designation.

- **Birth Registration**
Register 85% of Birth records (if any) in Record Acceptance Queue within one BUSINESS day.

Local Registrars who register 98% or more birth records (if any) in Record Acceptance queue within one BUSINESS day will qualify for the Exemplary 5 Star Award.

Regular City Council

Agenda Item

Data Sheet

Meeting Date: November 5, 2012

Topic:

Approve the Minutes of the October 15, 2012 Regular City Council Meeting

Background:**Origination:**

City Secretary

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

City Secretary

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

ATTACHMENTS:

Draft Minutes - 10/15/2012 Regular City Council Meeting

being Generally Located Northerly of Alma Street, between Holderrieth Boulevard and Lawrence Avenue; Providing for the Amendment of the Official Zoning Map of the City; Providing for Severability; Providing for a Penalty of an Amount Not to Exceed \$2,000 for Each Day of Violation of Any Provision Hereof, Making Findings of Fact; and Providing for Other Related Matters. Vote was as follows:

Councilman Hudgens	<u>Nay</u>
Councilman Stoll	<u>Aye</u>
Councilman Brown	<u>Aye</u>
Councilman Townsend	<u>Nay</u>
Councilman Dodson	<u>Absent</u>

A tie vote resulting, Mayor Fagan cast vote:

Mayor Fagan	<u>Nay</u>
-------------	------------

Motion FAILED, 2 votes Aye, 3 votes Nay.

9.3 Rebeca Guerra presented the staff report on the Zoning Case P12-484 – Ordinance No. 2012-44 (Barbara & Lawrence).

- Mayor Fagan opened the Public Hearing on **ZONING CASE P12-484** at 7:11 p.m.; the following public comment was received:

Cameron Steiner 206 Lawrence, 77375	-	Not opposed to the zoning case, but fears that eminent domain may ultimately take his property, too.
--	---	--

Receiving no additional public comments, Mayor Fagan closed the public hearing at 7:13 p.m.

- Motion was made by Councilman Townsend, second by Councilman Stoll, to read Ordinance No. 2012-44 by caption only on First Reading.

Motion carried unanimously.

- Motion was made by Councilman Townsend, second by Councilman Stoll, to adopt, on First Reading, Ordinance No. 2012-44, an Ordinance of the City of Tomball, Texas, amending Its Comprehensive Zoning Ordinance by Changing the Zoning District Classification of Approximately 0.32 Acres of Land, Legally Described as Lots 11 and 12, Block 6, Main Street-Tomball, within the City of Tomball, Harris County, Texas, from the Single-Family Residential-6 District to the Commercial District; said Property being

Regular City Council

Agenda Item

Meeting Date: November 5, 2012

Data Sheet

Topic:

Adopt, on Second Reading, Ordinance No. 2012-20, an Ordinance Deleting Article IV., Electricity, of Chapter 14, Buildings and Building Regulations, of the Code of Ordinances of the City of Tomball, Texas, in Its Entirety and Substituting Therefor a New Article IV., Electricity, of Chapter 14, Buildings and Building Regulations; Repealing all Ordinances or Parts of Ordinances Inconsistent or in Conflict Herewith; Providing a Penalty in an Amount of Not More Than \$2,000 for Violation of Any Provision Hereof; Providing for Savings and Severability; Providing for Publication; and Making Other Provisions and Findings Related Thereto

Background:

In December 2004, in response to legislative changes made by the Texas Legislature to require electricians to be licensed by the State of Texas, City Council adopted Ordinance No. 2004-11, removing the requirements for electricians to be licensed through the City of Tomball. The purpose of the proposed Ordinance No. 2012-20, amending Sections 14-100 through 14-285 of Chapter 14 is to revise definitions and clear up inconsistencies remaining in the City's Code of Ordinances following the adoption of Ordinance No. 2004-11, to eliminate the Electrical Board, and to align the Code of Ordinances with the City's actual and current practices.

A red-lined version of the proposed changes is provided for Council's review:

- references to registration requirements with the City will be deleted;
- the appointment of a "chief electrical inspector" will be removed and replaced with the designation that the "electrical inspector shall be the City's Building Official or his designee", which is current City practice;
- additional references to a "chief electrical inspector" will be changed to "electrical inspector";
- references regarding appeals of decisions made by the electrical inspector will be amended to state that appeals will be made to the City Council, as the electrical board is no longer serving;
- the expiration date for electrical permits will be extended from 120 days to 180 days before a new permit is required;
- City Council can prohibit an electrical contractor, who has accepted payment for electrical work but refused to finish such work, from pulling permits or performing new work within the city limits until the incomplete project is finished;
- electrical work authorized and in progress under a master electrician's license may be completed by his/her employees following the death of the master electrician;
- references have been corrected for the specific National Electrical Code, to the version adopted by Council; and
- removes/eliminates the Electrical Board, which is no longer required due to State legislative changes.

Please note that the newly adopted Sec. 14-293 (Ordinance No. 2012-42) has been incorporated as well.

Origination:

City Secretary

Recommendation:

Adopt Ordinance No. 2012-20 on Second Reading

Funding:

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

City Secretary

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

ATTACHMENTS:

Ordinance No. 2012-20 - Chapter 14. Electricity

ORDINANCE NO. 2012-20

AN ORDINANCE DELETING ARTICLE IV., ELECTRICITY, OF CHAPTER 14, BUILDINGS AND BUILDING REGULATIONS, OF THE CODE OF ORDINANCES OF THE CITY OF TOMBALL, TEXAS, IN ITS ENTIRETY AND SUBSTITUTING THEREFOR A NEW ARTICLE IV., ELECTRICITY, OF CHAPTER 14, BUILDINGS AND BUILDING REGULATIONS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HEREWITH; PROVIDING A PENALTY IN AN AMOUNT OF NOT MORE THAN \$2,000 FOR VIOLATION OF ANY PROVISION HEREOF; PROVIDING FOR SAVINGS AND SEVERABILITY; PROVIDING FOR PUBLICATION; AND MAKING OTHER PROVISIONS AND FINDINGS RELATED THERETO.

* * * * *

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

Section 1. The Code of Ordinances of the City of Tomball is hereby amended by deleting Article IV, Electricity, of Chapter 14, Buildings and Building Regulations, in its entirety and substituting therefor a new Article IV, Electricity, of Chapter 14, Buildings and Building Regulations to read as follows:

“ARTICLE IV.

ELECTRICITY

DIVISION 1.

GENERALLY

Sec. 14-100. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Apprentice electrician means the person undertaking electrical work under the direct, constant, personal supervision and control of either a licensed master electrician or a licensed journeyman electrician.

Electrical inspector means the building official or his designee as electrical inspector of the city charged with the enforcement of this article and all provisions of this Code and the pertaining city ordinances.

Electrical work means the installing, maintaining, altering, repairing or erecting of any electrical wiring, apparatus, devices, appliances, fixtures or equipment for which a permit is required by the provisions of this article, except poles and guy anchors installed by any electric, telephone, telegraph, signal and/or public service company as a part of its distribution system.

Journeyman electrician means those persons with four years substantiated electrical experience undertaking electrical work under the supervision, direction, and control of a licensed master electrician and who has been properly registered with the city. The term "journeyman electrician," however, shall not include an "apprentice electrician," and nothing in this definition shall be construed as prohibiting an apprentice electrician from doing electrical work under the direct, constant, personal supervision and control of either a licensed master or a licensed journeyman electrician.

Master electrician means the holder of a master electrician's license as provided in this article.

Sec. 14-101. Liability for damages.

The provisions of this article shall not be construed to relieve from or lessen the responsibility of any party owning, operating, or controlling any electric wiring, apparatus, devices, appliances, fixtures or equipment for damages to person or property caused by any defect therein, nor shall the city be held as assuming by this section any such liability by reason of the inspection authorized in this article, or the certificates of approval issued as provided in this article, or otherwise.

Sec. 14-102. Reserved.

Sec. 14-103. Unfranchised public utilities.

(a) No person or public service company that does not operate under a franchise granted by the city shall have the right to install any electrical conduit, wires, ducts, poles or equipment of any character for the transmission, distribution or utilization of electric energy, or for the operation of signals or the transmission of intelligence on, over or under the streets, in the city, without first obtaining from the city council a franchise right or grant for the particular installation so desired to be made, and any such installation so made under such franchise or grant shall be in strict conformity with all pertaining rules, regulations and ordinances of the city.

(b) Any installation of duct, conduit or wires under the public streets shall be in accordance with this article and other city ordinances covering the use of public places and streets.

Sec. 14-104. Penalty for violation.

Any person who shall violate any provision of the code adopted by the provisions of this article shall be deemed guilty of an offense, and shall be punished as provided in section 1-14 of this Code. Each day such violation continues shall be deemed a separate offense.

Secs. 14-105--14-114. Reserved.

DIVISION 2.

ELECTRICAL INSPECTOR

Sec. 14-115. Office established.

The office of the electrical inspector is hereby established in and for the city and shall be the City's Building Official or his designee.

Sec. 14-116. Appointment.

The electrical inspector shall be the City's Building Official or his designee.

Sec. 14-117. Office may be combined.

The chief electrical inspector may be the same person as the city building official.

Sec. 14-118. Conflict of interest.

It shall be unlawful for the electrical inspectors to engage in the business of the sale, installation or maintenance of electrical wiring, apparatus, devices, appliances, fixtures or equipment either directly or indirectly. They shall have no financial interest in any concern engaged in such business in the city at any time while holding the office of electrical inspector for the city.

Sec. 14-119. Interfering with electricians in business.

(a) It shall be unlawful for any person connected with the electrical inspection department of the city in any way whatsoever to solicit business of any kind for any master electrician, or assist or encourage the solicitation of any business for any master electrician.

(b) It shall be unlawful for any person connected with the electrical inspection department of the city to prevent or to assist in preventing any person from doing business with any master electrician whose license has not been suspended or revoked.

Sec. 14-120. Duties generally.

The electrical inspector shall, upon application, cause to be issued permits for the installation and alteration of electrical wiring, devices, appliances, fixtures, apparatus and equipment, and final inspections, and shall be responsible for inspection of all new electrical installations and re-inspections of all electrical installations, as provided for in this article.

Sec. 14-121. Right of entry.

The electrical inspector or his designee shall have the right to enter any building in the discharge of his official duties or for the purpose of making any inspection or re-inspection of the installation of electrical electric wiring, apparatus, devices, appliances, fixtures, and electrical equipment.

Sec. 14-122. Disconnect service.

The electrical inspectors are hereby empowered, in emergencies, to disconnect and to order the discontinuance of electrical services to any electric wiring, apparatus, device, appliance, fixture or equipment found to be dangerous to life or property within the provisions of this article until such wiring, apparatus, device, appliance, fixture or equipment and its installation has been made safe.

Sec. 14-123. Decision of questions.

The electrical inspector shall decide all questions not provided for in this article pertaining to the installation, operation, or maintenance of electric wiring and apparatus, subject to appeal to the city council.

Sec. 14-124. Review of decisions.

Any person aggrieved by any action of an electrical inspector may within ten days after such action file a petition, in writing, with the city council and thereupon the city council will render a decision within 15 days. The city council shall have the right to sustain, modify or reverse the action of any electrical inspector, provided, that until such time as the electrical inspector's action is reversed or modified by the city council, such action shall remain in effect. The decision of the city council shall be final.

Sec. 14-125. Records.

The electrical inspector shall keep complete records of all permits issued, inspections and re-inspections made, and other official work performed in accordance with the provisions of this article.

Secs. 14-126--14-139. Reserved.

DIVISION 3.

ELECTRICIANS

Subdivision 1.

Generally

Sec. 14-140. Work restricted.

No electrical work shall be performed by any person not holding a license required by the provisions of this division.

Sec. 14-141. Homeowners.

A homeowner shall be permitted to do electrical work on the dwelling he resides in, provided a permit is acquired for such work and the work is inspected and approved by the electrical inspector.

Secs. 14-142--14-146. Reserved.

Sec. 14-147. Supervision of work.

All electrical work performed within the city shall be under the control, supervision, direction, and responsibility of a master electrician licensed by the state. A journeyman or apprentice electrician shall perform the actual work under the supervision, control and responsibility of a master electrician.

Secs. 14-148--14-164. Reserved.

Secs. 14-173. Reserved.

Secs. 14-175--14-184. Reserved.

Subdivision III.

Master Electrician

Sec. 14-185. License required.

Except as otherwise provided by this article, it shall be unlawful for any person to perform or contract for electrical work within the city unless such person is licensed by the state as a master electrician.

Secs. 14-186--14-193. Reserved.

Sec. 14-194. Issuance of permits restricted.

A master electrician shall take out electrical permits only under his own license, and shall supervise, direct and control the electrical work for which the electrical permit is obtained.

Sec. 14-195. Misuse of license.

No master electrician shall assign or in any other way convey his license, its use, or its rights, to anyone by power of attorney or any other process, or become involved in any type of agreement, assignment or use whereby the master electrician will not have supervision, direction and control of the electrical work for which he has obtained electrical permits.

Secs. 14-196--14-209. Reserved.

Subdivision IV.

Journeyman Electrician

Sec. 14-210. License required.

No person shall undertake any work as a journeyman electrician unless such person has first obtained the appropriate current state electrician license.

Secs. 14-211--14-214. Reserved.

Sec. 14-215. Display.

Every journeyman electrician shall carry his license while performing the acts which this license entitles him to perform.
(Ord. No. 2000-30, § 2, 1-2-01)

Secs. 14-216--14-229. Reserved.

Subdivision V.

Apprentice Electrician Registration

Sec. 14-230. License required.

No person shall undertake any work as an apprentice electrician unless such person has first obtained the appropriate current state electrician license.

Secs. 14-231--14-233. Reserved.

Sec. 14-233. Reserved.

Sec. 14-234. Display.

Every apprentice electrician shall carry his license while performing the acts which this license entitles him to perform.

Secs. 14-235--14-244. Reserved.

DIVISION 4.

PERMITS AND INSPECTIONS

Sec. 14-245. Permit required.

No wiring, poles, duct line, apparatus, devices, appliances, fixtures or equipment for the transmission, distribution or utilization of electrical energy for any purpose shall be installed within the city limits, nor shall any alteration or addition be made to any such existing wiring, poles, duct lines, apparatus, devices, appliances, fixtures or equipment without first securing a permit.

Sec. 14-246. Exceptions-enumerated.

(a) No permit shall be required for replacing fuses or lamps or the connection of portable equipment to suitable permanently installed receptacles or for repairs to portable appliances.

(b) No permit shall be required for replacing flush or snap switches, receptacles, light fixtures or minor repairs on permanently connected electrical appliances, replacement of small motors of same voltage, amperage, horsepower, but not to exceed three horsepower.

(c) No permit shall be required for the installation, maintenance or alteration of wiring poles and down guys, apparatus, devices, appliances or equipment for telegraph, telephone, signal service or central station protective service used in conveying signals or intelligence, except where electrical work is

done on the primary side of the source of power at a voltage over 50 volts and of more than 500 watts.

(d) No permit shall be required for the installation, maintenance or alteration of electric wiring, apparatus, devices, appliances or equipment to be installed by an electric public service company for the use of such company in the generation, transmission, distribution, sale or utilization of electrical energy. However, an electric public service company shall not do any wiring on a customer's premises other than wiring which is a part of the company's distribution system, including metering equipment wherever located and transformer vaults in which company's transformers are located, nor shall any of its employees do any work other than that done for such company as herein before provided for, by virtue of this exception.

(e) No permit shall be required for the installation of temporary wiring, apparatus, devices, appliances or equipment used by a recognized electrical training school or college.

(f) No permit shall be required for the installation and maintenance of railway crossing signal devices when such is performed by due authority of the railroad and in accordance with the standards of the American Railroad Association.

Sec. 14-247. Same-Compliance.

Where no permit is required for the installation or repair of wiring, apparatus, devices, or equipment for the transmission, distribution, or utilization of electrical energy for any purpose, the wiring, apparatus, devices or equipment shall be installed or repaired in conformity with the provisions of the version National Electric Code adopted by Council.

Secs. 14-248--14-250. Reserved.

Sec. 14-251. Emergencies.

The electrical inspector may issue and enforce any rules or regulations he may deem necessary covering the granting of emergency permits.

Sec. 14-252. Application.

To obtain an electrical permit, the applicant shall first file an application in writing. Each application shall:

- (1) Identify and describe the work to be covered by the permit.
- (2) Describe the location of the proposed work by street address.
- (3) Show the use or occupancy of the building.

(4) Be accompanied by plans and specifications as required by the electrical inspector. However, a permit may be issued covering part of a building or structure before the entire plans and specifications for the whole building or structure have been submitted or approved, provided adequate information and detailed statements have been made complying with all pertinent requirements of this article. The holder of such permit may proceed without assurance that the permit covering the work in the entire building or structure will be granted.

(5) Be signed by the master electrician.

(6) The permit, when issued, shall be issued to the applicant to cover the proposed work as described and detailed. Any changes or additions must be covered by additional permits at the time changes are made.

Sec. 14-253. Checking of plans and specifications.

The application, plans, and specifications filed by an applicant for an electrical permit shall be checked by the electrical inspector. The issuance of a permit based upon these plans and specifications shall not prevent the electrical inspector from requiring the correction of errors. Such plans may be reviewed by other departments of the city to check compliance with laws and ordinances under their jurisdiction.

Sec. 14-254. Fees.

(a) Before any permit shall be issued, under the provisions of this division, the applicant shall pay fees according to the established schedule.

(b) Ordinary fees will be doubled for any permit issued after the work has been started or after the work has been partially completed or concealed.

(c) In case it becomes necessary to make a re-inspection of any work, fees will be charged according to the established schedule.

Sec. 14-255. Temporary installations.

No permit for temporary use shall be valid for a longer period than 90 days unless required for construction purposes. At the end of 90 days, the electrical inspector may issue written instructions to the electric public service company to disconnect service to the temporary installation. A letter addressed to "occupant" at the address of the temporary installation shall be deemed as being sufficient to notify the owner, if name and address of owner is not known to the electrical inspector.

Secs. 14-256--14-260. Reserved.

Sec. 14-261. Display.

Any permit for electrical work shall be displayed in a visible location.

Sec. 14-262. Expiration.

Every permit issued shall expire and become null and void if the building or work authorized by such permit is not commenced within 60 days from the date of the permit or if the building or work authorized by the permit has been suspended for a period of 180 days. Before such work can be restarted, a new permit shall be obtained.

Sec. 14-263. Refusal to finish installation.

Any electrical contractor who accepts payment for electrical work, then refuses to finish the work for which a permit was issued, shall, after written notification by the electrical inspector, and after being reviewed by the city council, be prohibited from pulling permits or performing new work within the city limits until such work is completed.

Sec. 14-264. Suspension or revocation.

The electrical inspector may, in writing, suspend or revoke an electrical permit issued under the provisions of this division whenever the permit is issued in error or on the basis of incorrect information supplied or when in violation of any ordinance, regulation or any of the provisions of this article.

Secs. 14-265--14-268. Reserved.**Sec. 14-269. Certificate of approval.**

When the electrical work is found to be in compliance with this article, the electrical inspector shall give approval to the public utility company authorizing connection of the electrical service.

Secs. 14-270--14-271. Reserved.**Sec. 14-272. Death of master electrician.**

After the death of a master electrician, any person engaged in the electrical contractor business shall have the privilege of completing any work currently authorized under the master electrician's license.

Secs. 14-273--14-283. Reserved.

Sec. 14-284. Adoption.

(a) The latest edition of the National Electrical Code prepared by the National Fire Protection Association, Inc., as adopted by the city council, will be in effect, copies of which are available for review in the building official's office and the city secretary's office.

(b) In case of conflict between the provisions of the National Electrical Code and the provisions of this article, this article shall prevail.

Secs. 14-285--14-292. Reserved.

Sec. 14-293. Special provisions.

- (a) Temporary power poles shall have a minimum of two 120-volt duplex receptacles and one 240-volt receptacle.
- (b) Electrical metallic tubing (EMT) shall not be buried in ground nor embedded in concrete.
- (c) Aluminum conductors are only permitted to be installed in the following circumstances;
 - (i) overhead between poles, and
 - (ii) for new commercial buildings, 5,000 square feet or larger, on all service entrance conductors and feeder conductors, both interior and exterior, sized 4/0 and larger."

Secs. 14-294--14-314. Reserved."

Section 2. All ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

Section 3. It is the intent of the City that this Ordinance shall comply in all respects with the applicable provisions of the United States Constitution, the Texas Constitution, and the Charter of the City of Tomball. In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission

of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

Section 4. Any person, firm or corporation that knowingly violates any of the provisions or terms of this Ordinance shall be subject to the same penalty as provided for in the Code of Ordinances of the City of Tomball, Texas, and, upon conviction, shall be punished by a fine not to exceed five hundred (\$2,000.00) dollars for each offense.

Section 5. This Ordinance shall take effect immediately from and after its passage and the publication of the caption hereof, as provided by law and the City's home rule Charter.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 15TH DAY OF OCTOBER 2012.

COUNCILMAN HUDGENS	<u>AYE</u>
COUNCILMAN STOLL	<u>AYE</u>
COUNCILMAN BROWN	<u>AYE</u>
COUNCILMAN TOWNSEND	<u>AYE</u>
COUNCILMAN DODSON	<u>ABSENT</u>

SECOND READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 5TH DAY OF NOVEMBER 2012.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN BROWN	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DODSON	_____

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary

Regular City Council

Agenda Item

Meeting Date: November 5, 2012

Data Sheet

Topic:

Adopt, on Second Reading, Ordinance No. 2012-22, an Ordinance of the City of Tomball, Texas Amending the Code of Ordinances of the City by Amending and/or Adding Definitions of *Aircraft, Awning Sign, Bandit Sign, Banner Sign, Billboard, Flag Sign, Inflatable Sign, Living Or Human Sign, Marquee Sign, Message Board, Monument Sign, Pole Sign, Premises, Temporary Sign, Wayfinding Sign, and Window Sign* to Section 60-1, Definitions, of Article I, In General, of Chapter 60, Signs; Amending Section 60-4, Sign Administrator and Enforcement, of Article I, In General, of Chapter 60, Signs, to Delete Reference to Rules and Regulations for Appeals to City Council; Amending Section 60-3, Classifications, of Article I, In General, of Chapter 60, Signs, to Add Window Sign as a Classification of Signage; Deleting Subsection (b)(3), Exceptions, Other Signs, from Section 60-5, Sign Permits and Fees, of Article I, In General, of Chapter 60, Signs, and Adding a New Subsection (b)(3), Exceptions, Other Signs, to Add to the Exceptions to the Permitting Requirements; Amending Subsection (c), Application Procedure, of Section 60-5, Sign Permits and Fees, of Article I, In General, of Chapter 60, Signs, by Adding Marquee and Projecting Signs to the Application Procedure; Amending Section 60-7, Miscellaneous Sign Provisions, of Article I, In General, of Chapter 60, Signs, to Limit Properties to One (1) On-Premise Temporary Banner or Flag Sign and Adding Regulations for Message Board and Marquee Signs; Amending Section 60-8, On-Premises Sign Provisions, of Article I, In General, of Chapter 60, Signs, to Provide that On-Premise Signs Shall Adhere to the Visibility Triangle Requirements of Chapter 66 of the Code of Ordinances; Amending Section 60-9, Off-Premises Sign Provisions, of Article I, In General, of Chapter 60, Signs, to Limit Properties to No More than Two (2) Off-Premise Signs; Adding a New Section 60-12, Attention-Getting Devices, to Article I, In General, of Chapter 60, Signs, to Prohibit Attention-Getting Devices as Defined Herein; Adding a New Section 60-13, Billboards, to Article I, In General, of Chapter 60, Signs, to Prohibit New Billboards within the City or Its Extraterritorial Jurisdiction and Providing Regulations for the Replacement or Restoration of Existing Billboards; Adding a Section 60-14, Prohibited Signage, to Article I, In General, of Chapter 60, Signs, Prohibiting the Types of Signs Described Therein; Amending Section 60-29, Height Limitations, of Article II, Design and Structural Requirements, of Chapter 60, Signs, to Limit On-Premise Signs to a Height No Greater than 42 Feet from the Natural Grade Level of the Ground Surface, Requiring that Projecting and Marquee Signs Shall not Exceed Eight (8) Feet Above the Roof Level, and Requiring that No Off-Premise Sign Shall Exceed a Height of 12 Feet from the Natural Grade Level of the Ground Surface; Deleting Section 60-30, Size Limitation, of Article II, Design and Structural Requirements, of Chapter 60, Signs, and Adding a New Section 60-30, Size Limitation, to Limit On-Premise Wall Signs to a Face Area of 300 Square Feet or Less per Building Face, to Limit CEVMS Signs to a Face Area of 32 Square Feet for a Single Business Use or 50 Square Feet for a Multi-Tenant Use, and Limiting Off-Premise Signs to a Face Area Not to Exceed 40 Square Feet; Deleting from Article II, Design and Structural Requirements of Chapter 60, Signs, Section 30-33, Portable Signs, in Its Entirety; Adding a New Section 60-33, Wayfinding Signs, to Article II, Design and Structural Requirements, of Chapter 60, Signs, to Limit On Premises Wayfinding Signs to a Maximum Sign Face Area of 12 Square Feet, to Limit Off Premises Wayfinding Signs to a Maximum Sign Face Area of 40 Square Feet, Requiring a Wayfinding Guide Sign Plan to be Approved by Sign Administrator and Providing Other Regulations Regarding Wayfinding Signs; Adding a New Section 60-34, Flags and Flag Signs, to Article II, Design and Structural Requirements, of Chapter 60, Signs, to Limit Flag Signs to a Maximum of Three (3) Flag Signs per Premises, Including One (1) Corporate Flag and Providing Other Regulations for the Height, Lighting and Other Matters Related to Flag Signs; Providing for Severability; Providing a Penalty of up to \$2,000.00 for Violations with Each Day Constituting a Separate Violation; Providing for the Publication of This Ordinance; and Making Other Findings and Provisions Related Thereto.

Background:

This is a City-initiated amendment to Chapter 60 - Signs which seeks to add definitions, regulatory

standards, prohibitions, enforcements, and design & structural requirements.

The requested typographical errors and suggested modifications presented by the City Planner have been incorporated into the Ordinance.

Origination:

City Council

Recommendation:

Adopt Ordinance No. 2012-22 on Second Reading

Funding:

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

City Secretary

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

ATTACHMENTS:

Ordinance No. 2012-22

ORDINANCE NO. 2012-22

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS AMENDING THE CODE OF ORDINANCES OF THE CITY BY AMENDING AND/OR ADDING DEFINITIONS OF *AIRCRAFT*, *AWNING SIGN*, *BANDIT SIGN*, *BANNER SIGN*, *BILLBOARD*, *FLAG SIGN*, *INFLATABLE SIGN*, *LIVING OR HUMAN SIGN*, *MARQUEE SIGN*, *MESSAGE BOARD*, *MONUMENT SIGN*, *POLE SIGN*, *PREMISES*, *TEMPORARY SIGN*, *WAYFINDING SIGN*, AND *WINDOW SIGN* TO SECTION 60-1, DEFINITIONS, OF ARTICLE I, IN GENERAL, OF CHAPTER 60, SIGNS; AMENDING SECTION 60-4, SIGN ADMINISTRATOR AND ENFORCEMENT, OF ARTICLE I, IN GENERAL, OF CHAPTER 60, SIGNS, TO DELETE REFERENCE TO RULES AND REGULATIONS FOR APPEALS TO CITY COUNCIL; AMENDING SECTION 60-3, CLASSIFICATIONS, OF ARTICLE I, IN GENERAL, OF CHAPTER 60, SIGNS, TO ADD WINDOW SIGN AS A CLASSIFICATION OF SIGNAGE; DELETING SUBSECTION (b)(3), EXCEPTIONS, OTHER SIGNS, FROM SECTION 60-5, SIGN PERMITS AND FEES, OF ARTICLE I, IN GENERAL, OF CHAPTER 60, SIGNS, AND ADDING A NEW SUBSECTION (b)(3), EXCEPTIONS, OTHER SIGNS, TO ADD TO THE EXCEPTIONS TO THE PERMITTING REQUIREMENTS; AMENDING SUBSECTION (c), APPLICATION PROCEDURE, OF SECTION 60-5, SIGN PERMITS AND FEES, OF ARTICLE I, IN GENERAL, OF CHAPTER 60, SIGNS, BY ADDING MARQUEE AND PROJECTING SIGNS TO THE APPLICATION PROCEDURE; AMENDING SECTION 60-7, MISCELLANEOUS SIGN PROVISIONS, OF ARTICLE I, IN GENERAL, OF CHAPTER 60, SIGNS, TO LIMIT PROPERTIES TO ONE (1) ON-PREMISE TEMPORARY BANNER OR FLAG SIGN AND ADDING REGULATIONS FOR MESSAGE BOARD AND MARQUEE SIGNS; AMENDING SECTION 60-8, ON-PREMISES SIGN PROVISIONS, OF ARTICLE I, IN GENERAL, OF CHAPTER 60, SIGNS, TO PROVIDE THAT ON-PREMISE SIGNS SHALL ADHERE TO THE VISIBILITY TRIANGLE REQUIREMENTS OF CHAPTER 66 OF THE CODE OF ORDINANCES; AMENDING SECTION 60-9, OFF-PREMISES SIGN PROVISIONS, OF ARTICLE I, IN GENERAL, OF CHAPTER 60, SIGNS, TO LIMIT PROPERTIES TO NO MORE THAN TWO (2) OFF-PREMISE SIGNS; ADDING A NEW SECTION 60-12, ATTENTION-GETTING DEVICES, TO ARTICLE I, IN GENERAL, OF CHAPTER 60, SIGNS, TO PROHIBIT ATTENTION-GETTING DEVICES AS DEFINED HEREIN; ADDING A NEW SECTION 60-13, BILLBOARDS, TO ARTICLE I, IN GENERAL, OF CHAPTER 60, SIGNS, TO PROHIBIT NEW BILLBOARDS WITHIN THE CITY OR ITS EXTRATERRITORIAL JURISDICTION AND PROVIDING REGULATIONS FOR THE REPLACEMENT OR RESTORATION OF EXISTING BILLBOARDS; ADDING A SECTION 60-14, PROHIBITED SIGNAGE, TO ARTICLE I, IN GENERAL, OF CHAPTER 60, SIGNS, PROHIBITING THE TYPES OF SIGNS DESCRIBED THEREIN; AMENDING SECTION 60-29, HEIGHT LIMITATIONS, OF ARTICLE II,

DESIGN AND STRUCTURAL REQUIREMENTS, OF CHAPTER 60, SIGNS, TO LIMIT ON-PREMISE SIGNS TO A HEIGHT NO GREATER THAN 42 FEET FROM THE NATURAL GRADE LEVEL OF THE GROUND SURFACE, REQUIRING THAT PROJECTING AND MARQUEE SIGNS SHALL NOT EXCEED EIGHT (8) FEET ABOVE THE ROOF LEVEL, AND REQUIRING THAT NO OFF-PREMISE SIGN SHALL EXCEED A HEIGHT OF 12 FEET FROM THE NATURAL GRADE LEVEL OF THE GROUND SURFACE; DELETING SECTION 60-30, SIZE LIMITATION, OF ARTICLE II, DESIGN AND STRUCTURAL REQUIREMENTS, OF CHAPTER 60, SIGNS, AND ADDING A NEW SECTION 60-30, SIZE LIMITATION, TO LIMIT ON-PREMISE WALL SIGNS TO A FACE AREA OF 300 SQUARE FEET OR LESS PER BUILDING FACE, TO LIMIT CEVMS SIGNS TO A FACE AREA OF 32 SQUARE FEET FOR A SINGLE BUSINESS USE OR 50 SQUARE FEET FOR A MULTI-TENANT USE, AND LIMITING OFF-PREMISE SIGNS TO A FACE AREA NOT TO EXCEED 40 SQUARE FEET; DELETING FROM ARTICLE II, DESIGN AND STRUCTURAL REQUIREMENTS OF CHAPTER 60, SIGNS, SECTION 30-33, PORTABLE SIGNS, IN ITS ENTIRETY; ADDING A NEW SECTION 60-33, WAYFINDING SIGNS, TO ARTICLE II, DESIGN AND STRUCTURAL REQUIREMENTS, OF CHAPTER 60, SIGNS, TO LIMIT ON PREMISES WAYFINDING SIGNS TO A MAXIMUM SIGN FACE AREA OF 12 SQUARE FEET, TO LIMIT OFF PREMISES WAYFINDING SIGNS TO A MAXIMUM SIGN FACE AREA OF 40 SQUARE FEET, REQUIRING A WAYFINDING GUIDE SIGN PLAN TO BE APPROVED BY SIGN ADMINISTRATOR AND PROVIDING OTHER REGULATIONS REGARDING WAYFINDING SIGNS; ADDING A NEW SECTION 60-34, FLAGS AND FLAG SIGNS, TO ARTICLE II, DESIGN AND STRUCTURAL REQUIREMENTS, OF CHAPTER 60, SIGNS, TO LIMIT FLAG SIGNS TO A MAXIMUM OF THREE (3) FLAG SIGNS PER PREMISES, INCLUDING ONE (1) CORPORATE FLAG AND PROVIDING OTHER REGULATIONS FOR THE HEIGHT, LIGHTING AND OTHER MATTERS RELATED TO FLAG SIGNS; PROVIDING FOR SEVERABILITY; PROVIDING A PENALTY OF UP TO \$2,000.00 FOR VIOLATIONS WITH EACH DAY CONSTITUTING A SEPARATE VIOLATION; PROVIDING FOR THE PUBLICATION OF THIS ORDINANCE; AND MAKING OTHER FINDINGS AND PROVISIONS RELATED THERETO.

* * * * *

WHEREAS, the City Council of the City of Tomball, Texas adopted Ordinance No. 2002-12 on or about the 6th day of May, 2002 containing regulations for the permitting, installation and maintenance of signs within the City of Tomball, Texas; and

WHEREAS, due to the changing dynamics of the City of Tomball and the shifting of the types and usage of sign media, the City Council desires to amend its sign regulations; and

WHEREAS, the City Council of the City of Tomball, Texas finds that the amendments to the sign regulations contained herein are in the best interest of the health, safety and welfare of its citizens; now, therefore,

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

Section 1. The facts and matters contained in the preamble to this ordinance are hereby found to be true and correct.

Section 2. The Code of Ordinances of the City of Tomball, Texas is hereby amended by adding definitions for *aircraft*, *awning sign*, *bandit sign*, *banner sign*, *billboard*, *flag sign*, *inflatable sign*, *living or human sign*, *marquee sign*, *message board*, *monument sign*, *pole sign*, *premises*, *temporary sign*, *wayfinding sign*, and *window sign* to Section 60-1, Definitions, of Article I, In General, of Chapter 60, Signs, to read as follows:

“Sec. 60-1. Definitions.

.
Aircraft shall mean a vehicle capable of atmospheric flight due to interaction with the air, such as buoyancy or lift.

.
Awning sign shall mean any sign constructed of a plastic, fabric-type, or other material stretched over a rigid metal frame that is permanently attached to the wall, roof, or mansard of a building.

Bandit sign shall mean a sign having less than ten (10) square feet of advertising area.

Banner sign shall mean any sign constructed of cloth, canvas, light fabric or other flexible material; excluding awning signs, which is not rigidly and not

permanently attached to a building or the ground through a semi-permanent or permanent support structure.

Billboard shall mean a signage panel for the display of advertisements in public places, such as alongside highways.

.

Flag sign shall mean any device generally made of flexible material, such as cloth, paper, plastic, or other material, and displayed from a pole, cable, or rope. It may or may not include text.

Ground sign means a sign, which is supported by uprights or braces in or upon the ground, including portable signs as defined herein.

.

Inflatable sign shall mean a sign that gains its shape from inserting air or other gas.

.

Living or human sign shall mean a sign held by or attached to a human being or living creature for the purpose of advertising or otherwise drawing attention to an individual, business, commodity, service, or product. This can also include a person dressed in costume for the purpose of advertising or drawing attention to an individual, business, commodity, service, or product.

Marquee sign shall mean a type of projecting sign attached to or hung from a canopy or covered structure projecting from and supported by a frame or pipe support extending beyond the façade of a building, by no more than 18 inches, but not above its roofline.

Monument sign shall mean a permanent, freestanding sign mounted on a structural base and where the bottom of the sign base is located within two (2) feet of ground level.

Message board sign shall mean any sign or portion of a sign attached to a structure which contains a sign face designed to allow the removal or replacement of individual letters, words, or symbols on the sign face for the purpose of changing an advertising message.

.

Pole sign shall mean a permanent, freestanding sign that is mounted on a pole(s) or other support(s) that is placed on and anchored in the ground or on a base and that is independent from any building or other structure.

.

Premises shall mean a lot, tract, or parcel of land including all buildings and structures.

Temporary Sign shall mean a sign shall not be permitted for length of time longer than fourteen (14) consecutive calendar days.

Wayfinding Sign shall mean a systematic network of directional, on- and off-premises, signage installed and maintained by a public or private entity to guide vehicular or pedestrian movement to / through a residential subdivision or non-residential development.

Window Sign shall mean any sign painted or adhered on glass surface(s) of windows or doors.”

Section 3. The Code of Ordinances is further amended by adding to Section 60-3, Classifications, of Article I, In General, of Chapter 60, Signs, the language underscored below, to read as follows:

“Sec. 60-3. Classifications.

(b) All signs shall further be classified into one of the following type signs:

(6) Window sign.

Section 4. The Code of Ordinances is further amended by deleting subsection (b), Exceptions, (3) Other Signs, of Section 60-5, Sign Permits and Fees, of Article I, In General, of Chapter 60, Signs, and adding a new subsection (b), Exceptions, (3), Other Signs, to read as follows:

“Sec. 60-5. Sign permits and fees.

.

(b) *Exceptions.*

.

- (3) Other signs. On premises signs of the following descriptions; any sign listed hereunder shall be erected and maintained in a safe condition in conformity with section 60-7, all other city ordinances and building codes of the city:
- a. Signs painted or adhered on glass surfaces, windows, or doors;
 - b. Railroad signs;
 - c. Legal notices and address numbers;
 - d. A sign not over 32 square feet in area setting forth information concerning a building or other structure under repair or construction or advertising the sale or rental of the premises so long as the building or other structure is under repair or construction or so long as the premises is for sale or rent;
 - e. Temporary signs setting forth the location of or directions to parking or buildings located on the premises, or regulating of the flow of on-premises traffic. Such directional signs may be lighted, consistent with the other requirements for electrical signs in this chapter and with the requirements of the building code.
 - f. Signs displayed, designed, or used for or upon motor vehicles;
 - g. Signs designed and used for display upon or with lighter or heavier-than-aircraft; and
 - h. Garage sale signs. Such signs shall not be displayed for more than three (3) consecutive days for each sale and shall not be placed in right-of-ways or on telephone/power/light poles. The date of the initial posting shall be displayed on all garage sale signs.”

Section 5. The Code of Ordinances is hereby further amended by adding to Subsection (c), Application Procedure, of Section 60-5, Sign Permits and Fees, of Article I, In General, of Chapter 60, Signs, the language underscored below and deleting therefrom the language struck through below:

“Sec. 60-5. Sign permits and fees.

.

(c) *Application Procedure.*

(1) The application for a permit shall be submitted in such form as the sign administrator may prescribe and shall be accompanied by drawings and descriptive data to verify compliance with the provisions of this chapter. Construction permit applications for new ground signs when erected or constructed to heights exceeding ~~20~~ six (6) feet above ground level, or for new roof, marquee, and projecting signs when erected 20 feet above ground level, shall be accompanied by a drawing of the sign structure and the sign prepared by and certified by a professional engineer registered in the state; the sign administrator at his option may also require similar certification by a registered professional engineer where any unusual structural provisions of a proposed sign indicate such certification is necessary in the interest of public safety.

.”

Section 6. The Code of Ordinances is hereby further amended by adding to Section 60-7, Miscellaneous Sign Provisions, of Article I, In General, of Chapter 60, Signs, the language underscored below and deleting the language struck through below, to read as follows:

“Sec. 60-7. Miscellaneous sign provisions.

(a) ~~Christmas displays and similar temporary displays erected without advertising shall not be subject to the provisions of this chapter, but shall be subject to the fire code and rules and regulations for fire safety promulgated by the fire marshal and shall not violate article II of chapter 66.~~ Banner Signs. A property shall be limited to one (1) on-premises or one (1) off-premises banner signs. All banners signs shall be considered temporary in nature, as defined in this Chapter. Excluding signs as specified under Sections 60-5(b)(2) and 60-5(b)(3)d.

.

(l) Message Board Signs. Lettering on message board signs shall remain attached to the sign face at all times and shall spell out comprehensible message. If at any time the message board sign is found to be missing letters or spelling out an incomprehensible message, the Sign Administrator shall give written notice of the condition of the sign to the person owning, leasing, or responsible for the sign. Such person so notified shall correct the condition of the sign in a manner to be approved by the Sign Administrator in conformity with the provisions of this Chapter.

(m) Marquee Signs. Marquee signage shall only provide changeable copy that relates to the principle use on the premises whose message shall not be altered more than once in a 24-hour time period. The principle use on the premises shall be limited to a motion picture theater, museum, art gallery, convention center or hall, exhibition hall, or building for dramatical, musical, or cultural activity.”

Section 7. The Code of Ordinances is hereby further amended by adding to Section 60-8, On-Premises Sign Provisions, of Article I, In General, of Chapter 60, Signs, the language underscored below, to read as follows:

“**Sec. 60-8. On-premise sign provisions.**

.

(d) On-premises signs shall comply with the visibility triangle requirements of Chapter 66 of the Code of Ordinances.”

Section 8. The Code of Ordinances is further amended by adding to Section 60-9, Off-Premises Sign Provisions, of Article I, In General, of Chapter 60, Signs, the language underscored below, to read as follows:

“**Sec. 60-9. Off-premises sign provisions.**

.

(b) No new permits shall be issued for off-premises signs and no additional off-premises signs shall be erected except as authorized by this section. Off-premises ground signs shall be permitted upon compliance with the following standards:

.

(6) There shall not be more than two (2) off-premises signs per property.

.”

Section 9. The Code of Ordinances is further amended by adding a new Section 60-12, Attention-Getting Devices, to Article I, In General, of Chapter 60, Signs, the new Section 60-12 to read as follows:

“Sec. 60-12. Attention-Getting Devices.

- (a) As used in this section, attention-getting devices shall mean devices erected, placed or maintained outdoors so as to attract attention to any commercial business, or any goods, products or services available on the premises of a commercial business, including but not limited to the following devices: cut out figures; discs; festooning, including tinsel, strings of ribbons, and pinwheels; inflatable objects, including balloons; non-governmental flags; pennants; propellers; steam- or smoke-producing devices; streamers; whirligigs; wind devices; blinking, rotating, moving, chasing, flashing, glaring, strobe, scintillating, search, flood or spot lights; or similar devices, any of which are located or employed in connection with the conduct of a commercial business. Attention-getting devices shall not include any structure or device that is permitted under City Building Code.
- (b) It shall be unlawful for any person to place, erect, maintain, or display any attention-getting device on any private or public property within the City. No attention-getting device shall be eligible for a permit under this Chapter.
- (c) Enforcement of this section shall be the duty of the Sign Administrator.”

Section 10. The Code of Ordinances is further amended by adding a new Section 60-13, Billboards, to Article I, In General, of Chapter 60, Signs, the new Section 60-13 to read as follows:

“Section 60-13. Billboards.

- (a) No new billboards shall be permitted within the City Limits or the Extraterritorial Jurisdiction of the City.
- (b) Existing billboards:
 - (1) Sign face replacement shall be allowed without a permit to the extent that no structural modifications are required.
 - (2) In the event a billboard is damaged by any means or cause and the repair or reconstruction cost, whichever is applicable, equals or exceeds 50 percent of the cost of erecting a new sign of the same type at the same location, it must be removed.

Any billboard lawfully erected and maintained that has no copy, transcript, reproduction, model, likeness, image, advertisement or written material for a period of 120 consecutive days is hereby declared to be a violation of this section, and as such shall be restored to use or removed by the owner or permittee within 30 days after notice by the Sign Administrator of such violation.”

Section 11. The Code of Ordinances is hereby further amended by adding a new Section 60-14, Prohibited Signage, to Article I, In General, of Chapter 60, Signs, new Section 60-14 to read as follows:

“Sec. 60-14. Prohibited Signage

All signage listed in this section shall be prohibited within the City limits and its extraterritorial jurisdiction. All existing prohibited signage shall be removed within 120 calendar days from the effective date of this Chapter.

- (a) Inflatable Signs
- (b) Human or Living Signs
- (c) Freestanding temporary signage for non-civic events, except as otherwise exempted by this Chapter.
- (d) Attention-Getting Devices
- (e) Bandit Signs
- (f) Obscene Signs
- (g) Portable Signs
- (h) Any sign not specifically mentioned in this Chapter is prohibited unless approved by City Council.”

Section 12. The Code of Ordinances is hereby further amended by adding to Section 60-29, Height Limitations, of Article II, Design and Structural Requirements, of Chapter 60, Signs, the language underscored below and deleting the language struck through below, to read as follows:

“Sec. 60-29. Height Limitations.

- (a) No on-premises ground sign shall be established, constructed, or erected which exceeds an overall height of 42¹/₂ feet including cutouts extending above the rectangular border, measured from the highest point on the sign to the natural grade level of the ground surface in which the sign supports are placed.

- (b) Roof, wall, and projecting signs shall not at any point exceed eight (8) feet above the roof level.
- (c) No off-premises sign shall be established, constructed, or erected which exceeds an overall height of 12 feet measured from the highest point on the sign to the natural grade level of the ground surface.”

Section 13. The Code of Ordinances is further amended by deleting Section 60-30, Size Limitation, of Article II, Design and Structural Requirements, of Chapter 60, Signs, and adding a new Section 60-30, to read as follows:

“Sec. 60-30. Size limitation.

- (a) No on-premises wall sign shall be established which has a face area exceeding 300 square feet per building face.
- (b) No CEVMS shall be established which has a face area exceeding 32 square feet for a single-business or use and 50 square feet for a multi-tenant business or use.
- (c) All on-premises window signs shall maintain, at minimum, 50% transparency overall, unless otherwise noted in this Chapter.
- (d) No off-premises sign shall be established, constructed, or erected which has a face area exceeding 40 square feet, including cutouts, but excluding uprights.”

Section 14. The Code of Ordinances is hereby further amended by deleting from Article II, Design and Structural Requirements, of Chapter 60, Signs, Section 60-33, Portable Signs, in its entirety.

Section 15. The Code of Ordinances is hereby further amended by adding a new Section 60-33, Wayfinding Signs, to Article II, Design and Structural Requirements, of Chapter 60, Signs, new Section 60-33 to read as follows:

“Sec. 60-33. Wayfinding Signs.

- (a) On-Premises Wayfinding Signs shall have a maximum sign face area of 12 square feet.
- (b) Off-Premises Wayfinding Signs shall have a maximum sign face area of 40 square feet.

- (c) Wayfinding signage shall include only arrows, directions, and references to specific destinations or geographical areas.
- (d) A Wayfinding Guide Sign Plan shall be submitted to the Sign Administrator at the time of permitting. The Plan shall include:
 - (2) Sign detail with dimensions, colors and font size for each sign.
 - (3) Mounting height, type and location of mount.
 - (4) Distance to any existing adjacent traffic control devices, driveways or other physical roadway features.”

Section 16. The Code of Ordinances is hereby further amended by adding a new Section 60-34, Flags and Flag Signs, to Article II, Design and Structural Requirements, of Chapter 60, Signs, new Section 60-34 to read as follows:

“Sec. 60-34. Flags and Flag Signs.

- (a) No more than three (3) free-standing flagpoles may be allowed at any time on the premises, as defined and determined by the City. Federal, state, or local government flags, emblems and/or historical markers and any flags or insignia of a religious, charitable, fraternal, academic, or civic organization may be allowed.
- (b) A maximum of one (1) corporate flag and flagpole may be permitted if erected in conjunction with at least one (1) flagpole and flag consistent with subsection (a).
- (c) Official flags shall be flown in a manner that meets U.S. Congressional protocol. Failure to display flags in this manner shall be a violation of this Section. All flags shall be kept in good repair.
- (d) Flags may be permitted in all Zoning districts.
- (e) Design and lighting of the U.S. flag shall be consistent with the Federal Flag Code, 36 U.S.C. Section 173-8 as amended.
- (f) Flagpoles shall be black, brown, dark green, white, silver, or bronze in color.
- (g) Lighting may be allowed, but shall not direct glare onto any building on any other property.
- (h) Pole Heights, Flag Sizes, Minimum Distances, and Setbacks:

- (1) No side of any flag on a pole 35 feet or less in height shall be greater than six (6) feet in length.
- (2) Flags on poles over 35 feet in height may have a flag with a length of not more than 25% of the height of the pole.
- (3) No flagpole shall exceed 50 feet in height.
- (4) A minimum distance of six (6) feet shall be maintained between flagpoles. All flags shall maintain a minimum setback of eight (8) feet from all overhead power lines or easements and six (6) feet from a property line.

(i) Encroachments:

- (1) No flag may be erected within a utility easement.
- (2) Neither the flag, flagpole, nor other support structure may extend over a right-of-way.
- (3) Neither the flag, flagpole, nor any other support structure may extend over an adjoining property line.”

Section 17. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

Section 18. Any person who shall intentionally, knowingly, recklessly, or with criminal negligence, violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and

upon conviction, shall be fined in an amount not to exceed \$2,000. Each day of violation shall constitute a separate offense.

Section 19. This Ordinance shall become effective fourteen days after the final reading and adoption of this Ordinance when the caption hereof is caused to be published once in the official newspaper of the City, by the City Secretary, as required by law. The City Secretary is directed to publish the caption of this Ordinance in the City's official newspaper within 14 days after the passage of the ordinance.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 15TH DAY OF OCTOBER 2012.

COUNCILMAN HUDGENS	<u>AYE</u>
COUNCILMAN STOLL	<u>AYE</u>
COUNCILMAN BROWN	<u>AYE</u>
COUNCILMAN TOWNSEND	<u>NAY</u>
COUNCILMAN DODSON	<u>ABSENT</u>

SECOND READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE ____ DAY OF _____ 2012.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN BROWN	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DODSON	_____

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary

Regular City Council

Agenda Item

Meeting Date: November 5, 2012

Data Sheet

Topic:

Approve Appointment of Blair Bruce as Alternate Municipal Court Judge for Term Expiring August 15, 2014, as Required by Government Code, Section 29.005

Background:

Our Alternate Municipal Court Judges are appointed for two year terms that begin in August. The Alternate Judges are private vendors, not City employees. Our Presiding Judge, Andrea Walker, and staff reviewed submissions from interested applicants and conducted interviews.

The proposed candidate for Alternate Judge is Blair Bruce. Mr. Bruce has been a practicing attorney in the area for over a decade and his practice is currently located in Tomball.

Origination:

City Manager's Office

Recommendation:

Appoint Alternate Municipal Court Judge as proposed.

Funding:

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

Christal Kliewer Weber, Assistant City Manager

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

Regular City Council

Agenda Item

Data Sheet

Meeting Date: November 5, 2012

Topic:

Presentation by Joe Morrow, First Southwest, regarding Refunding (Refinancing) of Series 2002 and Series 2003 Certificates of Obligation

Background:

This item will include a presentation by Mr. Joe Morrow, of First Southwest Company, the financial advisory company representing us when we issue Certificates of Obligation, Revenue Bonds, or Refunding Bonds.

Mr. Morrow will discuss the refunding (refinancing) of the remaining debt on the Series 2002 and 2003 Certificates of Obligation.

The current principal amount remaining on the 2002 issue is \$1,090,000 which is the amount due in the 2013-2014 budget year. Since we have already levied a tax to pay the amount that is due in February 2013 (this year's budget), the tax law will not allow a debt service reduction to begin until the following year. Additionally, it would not be cost effective to refund just this issue since there is only one year remaining, but coupled with the 2003 issue, there will be an approximate net savings of \$26,500 for the 2002 issue.

The principal amount remaining on the 2003 issue is \$5,275,000 which represents principal payments for 2014 through 2023. The 2003 issue becomes callable in 2013 and its interest rates range from 3.70% to 4.50%; it is estimated that we will be able to receive around a 1.99% interest rate on the refinancing. With this lower interest rating, the gross savings will be approximately \$731,500 over the remaining term of the 2003 Certificates.

The cost of doing the refunding will be \$9,000 on the 2002 Series and \$85,000 on the 2003 issue with a net saving of \$758,000 for both issues combined.

It should be noted that this will be the third refunding that we have done in the past three years with a cumulative present value savings of \$1,717,689 over the term of the debt refinanced.

Origination:

Finance

Recommendation:

Presentation only.

Funding:

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

Glenn Windsor, CPA, CGFO Finance Director

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

ATTACHMENTS:

Tomball Refunding Presentation

Information Related to Proposed Refunding of the Series 2002 and 2003 Bonds

Joe Morrow

Senior Vice President

713.654.8690

joe.morrow@firstsw.com

REFUNDING OF SERIES 2002 AND 2003

Bond Issue to be Refunded

Series 2002

- ❑ Aggregate Callable Principal Amount: **\$1,090,000**
- ❑ Principal Maturity Dates: **2014**
- ❑ Interest Rates: **4.50%**
- ❑ Call Date: **February 15, 2013 @ Par**
- ❑ Final Maturity Date: **February 15, 2014**

Bond Issue to be Refunded

Series 2003

- ❑ Aggregate Callable Principal Amount: **\$5,275,000**
- ❑ Principal Maturity Dates: **2014 through 2023**
- ❑ Interest Rates: **3.70% - 4.50%**
- ❑ Call Date: **February 15, 2013 @ Par**
- ❑ Final Maturity Date: **February 15, 2024**

Current Market ¹

\$75,869 Projected Average Annual Savings in FY 2014-2023

¹ Preliminary rates 10/24/2012, subject to change.

A	B	C	D	E
Fiscal Year	Prior Debt Net Cash Flow	New Debt Cash Flow	Savings	Present Value to January 8, 2013 at 1.9928%
2013	\$ 78,851	\$ 78,851		
2014	1,740,960	1,665,313	\$ 75,648	\$ 73,510
2015	635,508	560,163	75,345	71,810
2016	638,345	560,763	77,583	72,543
2017	644,975	571,063	73,913	67,776
2018	649,999	576,013	73,986	66,560
2019	653,245	575,713	77,533	68,448
2020	659,863	584,438	75,425	65,326
2021	659,735	582,175	77,560	65,918
2022	663,115	589,575	73,540	61,327
2023	669,738	591,581	78,156	63,967
	\$ 7,694,332	\$ 6,935,645	\$ 758,688	\$ 677,186

Present Value Savings as a percent of refunded par value is 10.65%
All in True Interest Cost is 1.9928%

CITY OF TOMBALL

At 5.00% Minimum Present Value Savings¹

\$37,657 Projected Average Annual Savings in FY 2014-2024

¹ For illustration only, minimum subject to Council direction. Policy is 3.50%

A	B	C	D	E
Fiscal Year	Prior Debt Net Cash Flow	New Debt Cash Flow	Savings	Present Value to January 8, 2013 at 3.1190%
2013	\$ 121,816	\$ 121,816		
2014	1,740,960	1,703,377	\$ 37,583	\$ 35,957
2015	635,508	597,666	37,842	35,122
2016	638,345	598,438	39,907	35,952
2017	644,975	608,588	36,388	31,781
2018	649,999	613,038	36,961	31,336
2019	653,245	616,866	36,380	29,938
2020	659,863	624,300	35,563	28,404
2021	659,735	620,400	39,335	30,515
2022	663,115	625,828	37,287	28,082
2023	669,738	630,416	39,322	28,763
	<u>\$ 7,737,297</u>	<u>\$ 7,360,732</u>	<u>\$ 376,566</u>	<u>\$ 315,851</u>

Present Value Savings as a percent of refunded par value is 5.01%
All In True Interest Cost is 3.1190%

CITY OF TOMBALL

PARAMETER BOND SALE

Parameter Bond Sale

- ❑ **Council delegates final pricing authority to Pricing Officer(s)**
- ❑ **Council establishes bond sale parameters:**
 - ▶ Maximum Interest Rate
 - ▶ Minimum Savings Threshold for Refunding
 - ▶ Aggregate Principal Amount of Issue
 - ▶ Final Maturity Date
 - ▶ Expiration of Delegated Authority
 - 6 Months
- ❑ **Pricing Officer(s) can only approve sale if Council parameters are met**

Section 1207 of the Government Code allows refunding bonds via a Parameter Sale

Parameter Bond Sale

Reason for Parameter Bond Sale = FLEXIBILITY

Market Timing – Bond issue is in ‘Day-to-Day’ mode, meaning bonds can be priced at any time and in an interest rate environment that is advantageous rather than being locked into pricing on the date of a Council meeting.

Regular City Council

Agenda Item

Meeting Date: November 5, 2012

Data Sheet

Topic:

Adopt, on First Reading and Only Reading, Ordinance No. 2012-46, an Ordinance Authorizing the Issuance of City of Tomball, Texas General Obligation Refunding Bonds, Series 2013; Levying a Tax in Payment Thereof; Setting Certain Parameters for the Bonds; Authorizing the Authorized Officer to Approve the Amount, the Interest Rate, Price and Certain Other Terms Thereof; Authorizing the Redemption prior to Maturity of Certain Outstanding Obligations; Authorizing the Execution and Delivery of a Bond Purchase Agreement, a Paying Agent/Registrar Agreement and an Escrow Agreement Relating to Such Bonds; Approving the Preparation and Distribution of an Official Statement; and Enacting Other Provisions Relating Thereto

Background:

This item relates to the proposed refunding of the Series 2002 and Series 2003 Certificates of Obligation. Ordinance No. 2012-46, if approved, will authorize the refunding of both the Series 2002 and Series 2003 Certificates of Obligation and the issuance of Series 2013 Refunding Bonds at a lower interest rate.

The issuance of refunding bonds, if approved, will save the City of Tomball approximately \$758,000 because we will be repaying the remaining debt on the Series 2002 and Series 2003 Certificates of Obligation at an interest rate of 1.99% instead of the existing 3.7% to 4.5%.

Origination:

Finance

Recommendation:

Staff recommends approval of the ordinance on first reading.

Funding: Yes

Account Number: Debt Service Fund

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

Glenn Windsor, CPA, CGFO Finance Director

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

ATTACHMENTS:

Clean Version of Ordinance 2012-46, Series 2013 Refunding Bonds

Blacklined Version of Ordinance 2012-46, Series 2013 Refunding Bonds

ORDINANCE NO. 2012-46

AUTHORIZING THE
ISSUANCE OF

CITY OF TOMBALL, TEXAS
GENERAL OBLIGATION REFUNDING BONDS
SERIES 2013

Adopted: November 5, 2012

TABLE OF CONTENTS

	Page
Recitals.....	1

ARTICLE I

DEFINITIONS AND OTHER PRELIMINARY MATTERS

Section 1.01	Definitions.....	2
Section 1.02	Findings.....	5
Section 1.03	Table of Contents, Titles and Headings	5
Section 1.04	Interpretation	5

ARTICLE II

SECURITY FOR THE BONDS; INTEREST AND SINKING FUND

Section 2.01	Tax Levy	6
Section 2.02	Interest and Sinking Fund	6

ARTICLE III

AUTHORIZATION; GENERAL TERMS AND PROVISIONS REGARDING THE BONDS

Section 3.01	Authorization.....	7
Section 3.02	Date, Denomination, Maturities and Interest	7
Section 3.03	Medium, Method and Place of Payment	7
Section 3.04	Execution and Registration of Bonds.....	8
Section 3.05	Ownership	9
Section 3.06	Registration, Transfer and Exchange	9
Section 3.07	Cancellation.....	10
Section 3.08	Replacement Bonds.....	10
Section 3.09	Book-Entry Only System	11
Section 3.10	Successor Securities Depository; Transfer Outside Book-Entry Only System	12
Section 3.11	Payments to Cede & Co	13

ARTICLE IV

REDEMPTION OF BONDS BEFORE MATURITY

Section 4.01	Limitation on Redemption	13
Section 4.02	Optional Redemption	13
Section 4.03	Mandatory Redemption.....	13
Section 4.04	Partial Redemption.....	14
Section 4.05	Notice of Redemption to Owners.....	14
Section 4.06	Payment Upon Redemption	15

Section 4.07	Effect of Redemption	15
Section 4.08	Lapse of Payment	15

ARTICLE V

PAYING AGENT/REGISTRAR

Section 5.01	Appointment of Initial Paying Agent/Registrar	15
Section 5.02	Qualifications	16
Section 5.03	Maintaining Paying Agent/Registrar.....	16
Section 5.04	Termination	16
Section 5.05	Notice of Change to Owners	16
Section 5.06	Agreement to Perform Duties and Functions.....	16
Section 5.07	Delivery of Records to Successor	16

ARTICLE VI

FORM OF THE BONDS

Section 6.01	Form Generally	17
Section 6.02	CUSIP Registration.....	17
Section 6.03	Legal Opinion.....	17
Section 6.04	Bond Insurance.....	18

ARTICLE VII

DELEGATION OF AUTHORITY, SALE AND DELIVERY OF BONDS, DEPOSIT OF PROCEEDS

Section 7.01	Sale of Bonds; Official Statement.....	18
Section 7.02	Control and Delivery of Bonds	19
Section 7.03	Deposit of Proceeds; Transfer of Funds.....	20

ARTICLE VIII

REPRESENTATIONS AND COVENANTS

Section 8.01	Payment of the Bonds	20
Section 8.02	Other Representations and Covenants	20

ARTICLE IX

PROVISIONS CONCERNING FEDERAL INCOME TAX EXCLUSION

Section 9.01	General Tax Covenants	21
Section 9.02	No Private Use or Payment and No Private Loan Financing.....	21
Section 9.03	No Federal Guarantee	21
Section 9.04	Bonds are not Hedge Bonds.....	21
Section 9.05	No-Arbitrage	22
Section 9.06	Arbitrage Rebate	22
Section 9.07	Information Reporting.....	22

Section 9.08	Record Retention.....	22
Section 9.09	Registration	23
Section 9.10	Continuing Obligation.....	23

ARTICLE X

DISCHARGE

Section 10.01	Discharge.....	23
---------------	----------------	----

ARTICLE XI

CONTINUING DISCLOSURE UNDERTAKING

Section 11.01	Annual Reports	23
Section 11.02	Material Event Notices.....	24
Section 11.03	Limitations, Disclaimers and Amendments	25

ARTICLE XII

APPROVAL OF ESCROW AGREEMENT AND RELATED PROVISIONS

Section 12.01	Subscription for Securities	26
Section 12.02	Appointment of Escrow Agent; Approval of Escrow Agreement; Deposit with Paying Agent for Refunded Obligations	27
Section 12.03	Payment of Refunded Obligations; Redemption of Refunded Obligations	27

ARTICLE XIII

MISCELLANEOUS

Section 13.01	Bond Counsel	27
Section 13.02	Changes to Ordinance	27
Section 13.03	Related Matters	28
Section 13.04	Individuals Not Liable.....	28
Section 13.05	Severability and Savings	28
Section 13.06	Repealer.....	28
Section 13.07	Force and Effect	28

Schedule I – Refunded Obligation Candidates

Exhibit A – Form of Pricing Certificate

ORDINANCE NO. 2012-46

ORDINANCE AUTHORIZING THE ISSUANCE OF CITY OF TOMBALL, TEXAS GENERAL OBLIGATION REFUNDING BONDS, SERIES 2013; LEVYING A TAX IN PAYMENT THEREOF; SETTING CERTAIN PARAMETERS FOR THE BONDS; AUTHORIZING THE AUTHORIZED OFFICER TO APPROVE THE AMOUNT, THE INTEREST RATE, PRICE AND CERTAIN OTHER TERMS THEREOF; AUTHORIZING THE REDEMPTION PRIOR TO MATURITY OF CERTAIN OUTSTANDING OBLIGATIONS; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT, A PAYING AGENT/REGISTRAR AGREEMENT AND AN ESCROW AGREEMENT RELATING TO SUCH BONDS; APPROVING THE PREPARATION AND DISTRIBUTION OF AN OFFICIAL STATEMENT; AND ENACTING OTHER PROVISIONS RELATING THERETO

THE STATE OF TEXAS §
COUNTIES OF HARRIS AND MONTGOMERY §

WHEREAS, the City of Tomball, Texas (the “City”) desires to issue the bonds hereinafter authorized (the “Bonds”) for the purpose of refunding certain of its outstanding obligations as identified and described on Schedule I attached hereto (the “Refunded Obligation Candidates”) for the purpose of achieving debt service savings; and

WHEREAS, it is intended that all or a portion of the Refunded Obligation Candidates shall be designated as Refunded Obligations (as hereinafter defined) in the Pricing Certificate (as hereinafter defined) and shall be refunded pursuant to this Ordinance and the Pricing Certificate; and

WHEREAS, Chapter 1207, Texas Government Code, as amended (“Chapter 1207”) authorizes the City to issue refunding bonds for the purpose of refunding the Refunded Obligations in advance of their maturities, and to accomplish such refunding by depositing directly with a paying agent for the Refunded Obligations (or other qualified escrow agent), the proceeds of such refunding bonds, together with other available funds or securities, in an amount sufficient to provide for the payment or redemption of the Refunded Obligations, and provides that such deposit shall constitute the making of firm banking and financial arrangements for the discharge and final payment or redemption of the Refunded Obligations; and

WHEREAS, the City desires to authorize the execution of an escrow agreement, if necessary, in order to provide for the deposit of proceeds of the refunding bonds and, to the extent specified pursuant hereto, other lawfully available funds of the City, to pay the redemption price of the Refunded Obligations when due; and

WHEREAS, upon the issuance of the refunding bonds herein authorized and the deposit of funds referred to above, the Refunded Obligations shall no longer be regarded as being outstanding, except for the purpose of being paid pursuant to such deposit, and the pledges, liens, trusts and all other covenants, provisions, terms and conditions of the ordinances authorizing the

issuance of the Refunded Obligations shall be, with respect to the Refunded Obligations, discharged, terminated and defeased; and

WHEREAS, the City hereby finds and determines that the issuance and delivery of the refunding bonds hereinafter authorized is necessary and in the public interest and the use of the proceeds in the manner herein specified constitutes a valid public purpose; and

WHEREAS, the City hereby finds and determines that the refunding contemplated in this Ordinance will benefit the City by providing a present value saving in the debt service payable by the City, and that such benefit is sufficient consideration for the refunding of the Refunded Obligations; and

WHEREAS, the City hereby finds and determines that the manner in which the refunding is being executed does not make it practicable to make the determination described by Section 1207.008(a)(2) of Chapter 1207; and

WHEREAS, the meeting at which this Ordinance is being considered is open to the public as required by law, and the public notice of the time, place and purpose of said meeting was given as required by Chapter 551, Texas Government Code; Now, Therefore

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

ARTICLE I

DEFINITIONS AND OTHER PRELIMINARY MATTERS

Section 1.01 Definitions.

Unless otherwise expressly provided in this Ordinance or unless the context clearly requires otherwise, the following terms shall have the meanings specified below:

“Authorized Officer” means either the City Manager or the Director of Finance of the City, who are authorized to act on behalf of the City in selling and delivering the Bonds, or such other officers of the City as designated in writing.

“Bond” means any of the Bonds.

“Bonds” means the City’s bonds authorized to be issued by Section 3.01 of this Ordinance and designated as “City of Tomball, Texas, General Obligation Refunding Bonds, Series 2013” and such other series or subseries as may be designated in the Pricing Certificate.

“Bond Counsel” means Bracewell & Giuliani LLP.

“Business Day” means a day that is not a Saturday, Sunday, legal holiday or other day on which banking institutions in the city where the Designated Payment/Transfer Office is located are required or authorized by law or executive order to close.

“City” means the City of Tomball, Texas.

“Closing Date” means the date of the initial delivery of and payment for the Bonds.

“Code” means the Internal Revenue Code of 1986, as amended, including applicable regulations, published rulings and court decisions.

“Dated Date” means the date of the Bonds as designated in the Pricing Certificate.

“Designated Payment/Transfer Office” means (i) with respect to the initial Paying Agent/Registrar, the location designated in the Pricing Certificate, and (ii) with respect to any successor Paying Agent/Registrar, the office of such successor designated and located as may be agreed upon by the City and such successor.

“DTC” means The Depository Trust Company of New York, New York, or any successor securities depository.

“DTC Participant” means brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions among DTC Participants.

“Escrow Agent” means the entity identified in the Pricing Certificate, if any, and any successors and assigns.

“Escrow Agreement” means the escrow agreement by and between the City and the Escrow Agent relating to the Refunded Obligations.

“Escrow Fund” means the fund or funds established by the Escrow Agreement to hold cash and securities for the payment of debt service on the Refunded Obligations.

“Escrow Securities” means (1) direct noncallable obligations of the United States, including obligations that are unconditionally guaranteed by the United States; (2) noncallable obligations of an agency or instrumentality of the United States, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality and that, on the date of hereof, are rated as to investment quality by a nationally recognized investment rating firm not less than “AAA” or its equivalent; and (3) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date hereof, are rated as to investment quality by a nationally recognized investment rating firm not less than “AAA” or its equivalent.

“Fiscal Year” means such fiscal year of the City as shall be set from time to time by the City Council.

“Initial Bond” means the Initial Bond authorized by Section 3.04(d) of this Ordinance.

“Interest and Sinking Fund” means the interest and sinking fund established by Section 2.02 of this Ordinance.

“Interest Payment Date” means the date or dates on which interest on the Bonds is scheduled to be paid, as designated in the Pricing Certificate.

“Maturity” means the date on which the principal of the Bonds becomes due and payable according to the terms thereof, whether at Stated Maturity or by proceedings for prior redemption.

“MSRB” means the Municipal Securities Rulemaking Board.

“Ordinance” means this Ordinance.

“Owner” means the person who is the registered owner of a Bond or Bonds, as shown in the Register.

“Paying Agent/Registrar” means the Paying Agent/Registrar designated in the Pricing Certificate.

“Paying Agent Registrar Agreement” means the Paying Agent/Registrar Agreement between the Paying Agent/Registrar and the City relating to the Bonds.

“Pricing Certificate” means a certificate or certificates to be signed by the Authorized Officer, in substantially the form attached hereto as Exhibit A with such variations, omissions and insertions as are approved by the Authorized Officer as indicated by his/her signature.

“Purchase Agreement” means the Bond Purchase Agreement between the City and the Underwriter providing for the sale of the Bonds to the Underwriter.

“Record Date” means the close of business on the last Business Day of the month next preceding an Interest Payment Date.

“Refunded Obligation Candidates” mean the obligations of the City described in Schedule I attached hereto.

“Refunded Obligations” mean those obligations of the City designated as such in the Pricing Certificate from the list of Refunded Obligation Candidates.

“Register” means the bond register specified in Section 3.06(a).

“Representations Letter” means the Blanket Letter of Representations between the City and DTC.

“Rule” means Rule 15c2-12, as amended from time to time, adopted by the SEC under the Securities Exchange Act of 1934.

“SEC” means the United States Securities and Exchange Commission.

“Special Payment Date” means the date that is 15 days after the Special Record Date, as described in Section 3.03(e).

“Special Record Date” means the new record date for interest payment established in the event of a nonpayment of interest on a scheduled payment date, and for 30 days thereafter, as described in Section 3.03(e).

“State” means the State of Texas.

“Stated Maturity” means the respective stated maturity dates of the Bonds specified in the Pricing Certificate.

“Unclaimed Payments” means money deposited with the Paying Agent/Registrar for the payment of principal, premium, if any, or interest, or money set aside for the payment of Bonds duly called for redemption prior to Stated Maturity and remaining unclaimed by the Owners of such Bonds for 90 days after the applicable payment or redemption date.

“Underwriter” means the underwriter stated in the Purchase Agreement.

Section 1.02 Findings.

The declarations, determinations and findings declared, made and found in the preamble to this Ordinance are hereby adopted, restated and made a part of the operative provisions hereof.

Section 1.03 Table of Contents, Titles and Headings.

The table of contents, titles and headings of the articles and sections of this Ordinance have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof and shall never be considered or given any effect in construing this Ordinance or any provision hereof or in ascertaining intent, if any question of intent should arise. References to section numbers shall mean sections in this Ordinance.

Section 1.04 Interpretation.

(a) Unless the context requires otherwise, words of the masculine gender shall be construed to include correlative words of the feminine and neuter genders and vice versa, and words of the singular number shall be construed to include correlative words of the plural number and vice versa.

(b) Any action required to be taken on a date which is not a Business Day shall be taken on the next succeeding Business Day and have the same effect as if taken on the date so required.

(c) This Ordinance and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein and to sustain the validity of this Ordinance.

(d) References to section numbers shall mean sections in this Ordinance unless designated otherwise.

ARTICLE II

SECURITY FOR THE BONDS; INTEREST AND SINKING FUND

Section 2.01 Tax Levy.

(a) Pursuant to the authority granted by the Constitution and the laws of the State, there shall be levied and there is hereby levied for the current year and for each succeeding year hereafter while any part of the principal of the Bonds or any interest thereon is outstanding and unpaid, an ad valorem tax on all taxable property within the City, at a rate sufficient, within the limit prescribed by law, to pay the debt service requirements of the Bonds, being (i) the interest on the Bonds, and (ii) a sinking fund for their redemption at maturity or a sinking fund of two percent (2%) per annum (whichever amount is greater), when due and payable, full allowance being made for delinquencies and costs of collection.

(b) The ad valorem tax thus levied shall be assessed and collected each year against all taxable property appearing on the tax rolls of the City most recently approved in accordance with law, and the money thus collected shall be deposited as collected to the Interest and Sinking Fund.

(c) Said ad valorem tax, the collections therefrom, and all amounts on deposit in or required hereby to be deposited to the Interest and Sinking Fund are hereby pledged and committed irrevocably to the payment of the principal of and interest on the Bonds when and as due and payable in accordance with their terms and this Ordinance.

(d) To pay debt service on the Bonds coming due prior to receipt of the taxes levied to pay such debt service, if any, there is hereby appropriated from current funds on hand, which are hereby certified to be on hand and available for such purpose, an amount sufficient to pay such debt service, and such amount shall be used for no other purpose.

Section 2.02 Interest and Sinking Fund.

(a) The City hereby establishes a special fund or account to be designated the "City of Tomball, Texas, General Obligation Refunding Bonds, Series 2013, Interest and Sinking Fund" (the "Interest and Sinking Fund") said fund to be maintained at an official depository bank of the City separate and apart from all other funds and accounts of the City.

(b) Money on deposit in or required by this Ordinance to be deposited to the Interest and Sinking Fund shall be used solely for the purpose of paying the interest on and principal of the Bonds when and as due and payable in accordance with their terms and this Ordinance.

ARTICLE III

AUTHORIZATION; GENERAL TERMS AND PROVISIONS REGARDING THE BONDS

Section 3.01 Authorization.

The Bonds are hereby authorized to be issued and delivered in accordance with Chapter 1207. The Bonds shall be issued in an aggregate principal amount not to exceed the amount specified in Section 7.01 hereof, for the purpose of refunding the Refunded Obligations and paying the costs of issuing the Bonds.

Section 3.02 Date, Denomination, Maturities and Interest.

(a) The Bonds shall be dated the Dated Date as set forth in the Pricing Certificate, shall be issued in fully registered form, without coupons, in denominations of \$5,000 or any integral multiple thereof, and shall be numbered separately from one upward or such other designation acceptable to the City and the Paying Agent/Registrar, except the Initial Bond, which shall be numbered I-1. Bonds delivered on transfer of or in exchange for other Bonds shall be numbered in order of their authentication by the Paying Agent/Registrar, shall be in denominations of \$5,000 or any integral multiple thereof, and shall mature on the same date and bear interest at the same rate as the Bond or Bonds in lieu of which they are delivered.

(b) The Bonds shall mature on the same day in each of the years and in the principal amounts, and shall bear interest at the per annum rates, all as set forth in the Pricing Certificate.

(c) Interest shall accrue and be paid on each Bond, respectively, until the principal amount thereof has been paid or provision for such payment has been made, from the later of (i) the Dated Date or the Closing Date, as set forth in the Pricing Certificate, or (ii) the most recent Interest Payment Date to which interest has been paid or provided for at the rate per annum for each respective maturity specified in the Pricing Certificate. Such interest shall be payable on each Interest Payment Date until Maturity and shall be calculated on the basis of a 360-day year of twelve 30-day months.

Section 3.03 Medium, Method and Place of Payment.

(a) The principal of and interest on the Bonds shall be paid in lawful money of the United States of America.

(b) Interest on the Bonds shall be paid by check, dated as of the Interest Payment Date, and sent first class United States mail, postage prepaid, by the Paying Agent/Registrar to each Owner as shown in the Register at the close of business on the Record Date, at the address of each such Owner as it appears in the Register, or by such other customary banking arrangement acceptable to the Paying Agent/Registrar and the Owner; provided, however, that the Owner shall bear all risk and expense of such other banking arrangement.

(c) The principal of each Bond shall be paid without exchange or collection charges to the Owner thereof on the Maturity date thereof upon presentation and surrender of such Bond at the Designated Payment/Transfer Office.

(d) If the date for the payment of the principal of or interest on the Bonds is not a Business Day, then the date for such payment shall be the next succeeding Business Day, and payment on such date shall have the same force and effect as if made on the original date payment was due and no additional interest shall be due by reason of nonpayment on the date on which such payment is otherwise stated to be due and payable.

(e) In the event of a nonpayment of interest on a scheduled payment date, and for 30 days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the special payment date of the past due interest (the "Special Payment Date," which shall be 15 days after the Special Record Date) shall be sent at least five (5) Business Days prior to the Special Record Date by United States mail, first class, postage prepaid, to the address of each Owner of a Bond appearing on the books of the Paying Agent/Registrar at the close of business on the last Business Day next preceding the date of mailing of such notice.

(f) Unclaimed Payments shall be segregated in a special account and held in trust, uninvested by the Paying Agent/Registrar, for the account of the Owners of the Bonds to which such Unclaimed Payments pertain. Subject to Title 6, Texas Property Code, Unclaimed Payments remaining unclaimed by the Owners entitled thereto for three (3) years after the applicable payment or redemption date shall be applied to the next payment or payments on the Bonds thereafter coming due and, to the extent any such money remains three (3) years after the retirement of all outstanding Bonds, such money shall be paid to the City to be used for any lawful purpose. Thereafter, neither the City, the Paying Agent/Registrar nor any other person shall be liable or responsible to any Owners of such Bonds for any further payment of such unclaimed moneys or on account of any such Bonds, subject to Title 6, Texas Property Code.

Section 3.04 Execution and Registration of Bonds.

(a) The Bonds shall be executed on behalf of the City by the Mayor and City Secretary, by their manual or facsimile signatures, and the official seal of the City shall be impressed or placed in facsimile thereon. Such facsimile signatures on the Bonds shall have the same effect as if each of the Bonds had been signed manually and in person by each of said officers, and such facsimile seal on the Bonds shall have the same effect as if the official seal of the City had been manually impressed upon each of the Bonds.

(b) In the event that any officer of the City whose manual or facsimile signature appears on the Bonds ceases to be such officer before the authentication of such Bonds or before the delivery thereof, such signature nevertheless shall be valid and sufficient for all purposes as if such officer had remained in such office.

(c) Except as provided below, no Bond shall be valid or obligatory for any purpose or be entitled to any security or benefit of this Ordinance unless and until there appears thereon the

Certificate of Paying Agent/Registrar substantially in the form provided herein, duly authenticated by manual execution by an officer or duly authorized signatory of the Paying Agent/Registrar. It shall not be required that the same officer or authorized signatory of the Paying Agent/Registrar sign the Certificate of Paying Agent/Registrar on all of the Bonds. In lieu of the executed Certificate of Paying Agent/Registrar described above, the Initial Bond delivered at the Closing Date shall have attached thereto the Comptroller's Registration Certificate substantially in the form provided herein, manually executed by the Comptroller of Public Accounts of the State of Texas, or by her duly authorized agent, which certificate shall be evidence that the Bond has been duly approved by the Attorney General of the State, and that it is a valid and binding obligation of the City, and that it has been registered by the Comptroller of Public Accounts of the State.

(d) On the Closing Date, one Initial Bond representing the entire principal amount of the Bonds designated in the Pricing Certificate, payable in stated installments to the Underwriter or its designee, executed by the manual or facsimile signatures of the Mayor and City Secretary, approved by the Attorney General of the State, and registered and manually signed by the Comptroller of Public Accounts of the State, will be delivered to the Underwriter or its designee. Upon payment for the Initial Bond, the Paying Agent/Registrar shall cancel the Initial Bond and deliver registered definitive Bonds to DTC in accordance with Section 3.09 hereof. To the extent the Paying Agent/Registrar is eligible to participate in DTC's FAST System, as evidenced by an agreement between the Paying Agent/Registrar and DTC, the Paying Agent/Registrar shall hold the definitive Bonds in safekeeping for DTC.

Section 3.05 Ownership.

(a) The City, the Paying Agent/Registrar and any other person may treat the Owner as the absolute owner of such Bond for the purpose of making and receiving payment of the principal thereof for the further purpose of making and receiving payment of the interest thereon (subject to the provision herein that interest on the Bonds is to be paid to the person in whose name the Bond is registered on the Record Date or Special Record Date, as applicable), and for all other purposes, whether or not such Bond is overdue, and neither the City nor the Paying Agent/Registrar shall be bound by any notice or knowledge to the contrary.

(b) All payments made to the Owner of a Bond shall be valid and effectual and shall discharge the liability of the City and the Paying Agent/Registrar upon such Bond to the extent of the sums paid.

Section 3.06 Registration, Transfer and Exchange.

(a) So long as any Bonds remain outstanding, the City shall cause the Paying Agent/Registrar to keep at its Designated Payment/Transfer Office a bond register (the "Register") in which, subject to such reasonable regulations as it may prescribe, the Paying Agent/Registrar shall provide for the registration and transfer of Bonds in accordance with this Ordinance.

(b) The ownership of a Bond may be transferred only upon the presentation and surrender of the Bond to the Paying Agent/Registrar at the Designated Payment/Transfer Office

with such endorsement or other evidence of transfer acceptable to the Paying Agent/Registrar. No transfer of any Bond shall be effective until entered in the Register.

(c) The Bonds shall be exchangeable upon the presentation and surrender thereof at the Designated Payment/Transfer Office for a Bond or Bonds of the same maturity and interest rate and in any denomination or denominations of any integral multiple of \$5,000 and in an aggregate principal amount equal to the unpaid principal amount of the Bonds presented for exchange.

(d) The Paying Agent/Registrar is hereby authorized to authenticate and deliver Bonds transferred or exchanged in accordance with this Section. A new Bond or Bonds will be delivered by the Paying Agent/Registrar, in lieu of the Bond being transferred or exchanged, at the Designated Payment/Transfer, or sent by United States mail, first class, postage prepaid, to the Owner or his designee. Each Bond delivered by the Paying Agent/Registrar in accordance with this Section shall constitute an original contractual obligation of the City and shall be entitled to the benefits and security of this Ordinance to the same extent as the Bond or Bonds in lieu of which such Bond is delivered.

(e) No service charge shall be made to the Owner for the initial registration, any subsequent transfer, or exchange for a different denomination of any of the Bonds. The Paying Agent/Registrar, however, may require the Owner to pay a sum sufficient to cover any tax or other governmental charge that is authorized to be imposed in connection with the registration, transfer or exchange of a Bond.

(f) Neither the City nor the Paying Agent/Registrar shall be required to issue, transfer or exchange any Bond called for redemption, in whole or in part, within 45 days prior to the date fixed for redemption; provided, however, such limitation of transfer shall not be applicable to an exchange by the Owner of the uncalled principal balance of a Bond.

Section 3.07 Cancellation. All Bonds paid or redeemed before Stated Maturity in accordance with this Ordinance, and all Bonds in lieu of which exchange Bonds or replacement Bonds are authenticated and delivered in accordance with this Ordinance, shall be cancelled upon the making of proper records regarding such payment, redemption, exchange or replacement. The Paying Agent/Registrar shall dispose of such cancelled Bonds in the manner required by the Securities Exchange Act of 1934, as amended.

Section 3.08 Replacement Bonds.

(a) Upon the presentation and surrender to the Paying Agent/Registrar of a mutilated Bond, the Paying Agent/Registrar shall authenticate and deliver in exchange therefor a replacement Bond of like maturity, interest rate and principal amount, bearing a number not contemporaneously outstanding. The City or the Paying Agent/Registrar may require the Owner of such Bond to pay a sum sufficient to cover any tax or other governmental charge that is authorized to be imposed in connection therewith and any other expenses connected therewith.

(b) In the event that any Bond is lost, apparently destroyed or wrongfully taken, the Paying Agent/Registrar, pursuant to the applicable laws of the State and in the absence of notice or knowledge that such Bond has been acquired by a bona fide purchaser, shall authenticate and

deliver a replacement Bond of like maturity, interest rate and principal amount, bearing a number not contemporaneously outstanding, provided that the Owner first complies with the following requirements:

(i) furnishes to the Paying Agent/Registrar satisfactory evidence of his or her ownership of and the circumstances of the loss, destruction or theft of such Bond;

(ii) furnishes such security or indemnity as may be required by the Paying Agent/Registrar and the City to save them harmless;

(iii) pays all expenses and charges in connection therewith, including, but not limited to, printing costs, legal fees, fees of the Paying Agent/Registrar, and any tax or other governmental charge that is authorized to be imposed; and

(iv) satisfies any other reasonable requirements imposed by the City and the Paying Agent/Registrar.

(c) If, after the delivery of such replacement Bond, a bona fide purchaser of the original Bond in lieu of which such replacement Bond was issued presents for payment such original Bond, the City and the Paying Agent/Registrar shall be entitled to recover such replacement Bond from the person to whom it was delivered or any person taking therefrom, except a bona fide purchaser, and shall be entitled to recover upon the security or indemnity provided therefor to the extent of any loss, damage, cost, or expense incurred by the City or the Paying Agent/Registrar in connection therewith.

(d) In the event that any such mutilated, lost, apparently destroyed, or wrongfully taken Bond has become or is about to become due and payable, the Paying Agent/Registrar, in its discretion, instead of issuing a replacement Bond, may pay such Bond if it has become due and payable or may pay such Bond when it becomes due and payable.

(e) Each replacement Bond delivered in accordance with this Section shall constitute an original additional contractual obligation of the City and shall be entitled to the benefits and security of this Ordinance to the same extent as the Bond or Bonds in lieu of which such replacement Bond is delivered.

Section 3.09 Book-Entry Only System.

(a) Unless otherwise specified in the Pricing Certificate, the definitive Bonds shall be initially issued in the form of a separate fully registered Bond for each of the maturities thereof. Upon initial issuance, the ownership of each such Bond shall be registered in the name of Cede & Co., as nominee of DTC, and except as provided in Section 3.10 hereof, all of the outstanding Bonds shall be registered in the name of Cede & Co., as nominee of DTC.

(b) With respect to Bonds registered in the name of Cede & Co., as nominee of DTC, the City and the Paying Agent/Registrar shall have no responsibility or obligation to any DTC Participant or to any person on behalf of whom such a DTC Participant holds an interest in the Bonds, except as provided in this Ordinance. Without limiting the immediately preceding sentence, the City and the Paying Agent/Registrar shall have no responsibility or obligation with

respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any DTC Participant or any other person, other than an Owner of any notice with respect to the Bonds, or (iii) the payment to any DTC Participant or any other person, other than an Owner of any amount with respect to principal of or interest on the Bonds. Notwithstanding any other provision of this Ordinance to the contrary, the City and the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Bond is registered in the Register as the absolute owner of such Bond for the purpose of payment of principal of, premium, if any, and interest on the Bonds for the purpose of giving notices with respect to such Bond, and other matters with respect to such Bond, for the purpose of registering transfer with respect to such Bond, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of and interest on the Bonds only to or upon the order of the respective Owners, as shown in the Register, as provided in this Ordinance, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to payment of premium, if any, principal and interest on the Bonds to the extent of the sum or sums so paid. No person other than an Owner, as shown in the Register, shall receive a Bond evidencing the obligation of the City to make payments of amounts due pursuant to this Ordinance. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions of this Ordinance with respect to interest payments being mailed to the Owner as shown on the Register on the Record Date, the word "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

(c) The Representation Letter previously executed and delivered by the City, and applicable to the City's obligations delivered in book-entry-only form to DTC as securities depository, is hereby ratified and approved for the Bonds.

Section 3.10 Successor Securities Depository; Transfer Outside Book-Entry Only System.

In the event that the City determines that it is in the best interest of the City and of the beneficial owners of the Bonds that they be able to obtain certificated Bonds, or in the event DTC discontinues the services described herein, the City or the Paying Agent/Registrar shall (i) appoint a successor securities depository, qualified to act as such under Section 17(a) of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository and transfer one or more separate Bonds to such successor securities depository; or (ii) notify DTC and DTC Participants of the availability through DTC of certificated Bonds and cause the Paying Agent/Registrar to transfer one or more separate registered Bonds to DTC Participants having Bonds credited to their DTC accounts. In such event, the Bonds shall no longer be restricted to being registered in the Register in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names Owners transferring or exchanging Bonds shall designate, in accordance with the provisions of this Ordinance.

Section 3.11 Payments to Cede & Co.

Notwithstanding any other provision of this Ordinance to the contrary, so long as any Bonds are registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of, premium, if any, and interest on such Bonds, and all notices with respect to such Bonds, shall be made and given, respectively, in the manner provided in the Representation Letter of the City to DTC.

ARTICLE IV

REDEMPTION OF BONDS BEFORE MATURITY

Section 4.01 Limitation on Redemption.

The Bonds shall be subject to redemption before Stated Maturity only as provided in this Article IV and in the Pricing Certificate.

Section 4.02 Optional Redemption.

The Bonds shall be subject to redemption at the option of the City at such times, in such amounts, in such manner and at such redemption prices as may be designated and provided for in the Pricing Certificate.

Section 4.03 Mandatory Redemption.

(a) The Bonds designated as “Term Bonds” in the Pricing Certificate (“Term Bonds”), if any, are subject to scheduled mandatory redemption and will be redeemed by the City, in part, at a price equal to the principal amount thereof, without premium, plus accrued interest to the redemption date, out of moneys available for such purpose in the interest and sinking fund, on the dates and in the respective principal amounts as set forth in the Pricing Certificate.

(b) Prior to each scheduled mandatory redemption date, the Paying Agent/Registrar shall select for redemption by lot, or by any other customary method that results in a random selection, a principal amount of Term Bonds equal to the aggregate principal amount of such Term Bonds to be redeemed, shall call such Term Bonds for redemption on such scheduled mandatory redemption date, and shall give notice of such redemption, as provided in Section 4.05.

(c) The principal amount of the Term Bonds required to be redeemed on any redemption date pursuant to subparagraph (a) of this Section 4.03 shall be reduced, at the option of the City, by the principal amount of any Term Bonds which, at least 45 days prior to the mandatory sinking fund redemption date (i) shall have been acquired by the City at a price not exceeding the principal amount of such Term Bonds plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation, or (ii) shall have been redeemed pursuant to the optional redemption provisions hereof and not previously credited to a mandatory sinking fund redemption.

Section 4.04 Partial Redemption.

(a) If less than all of the Bonds are to be redeemed pursuant to Section 4.02, the City shall determine the maturities and the principal amount thereof to be redeemed and shall direct the Paying Agent/Registrar to call by lot or any other customary random selection method such Bonds for redemption.

(b) A portion of a single Bond of a denomination greater than \$5,000 may be redeemed, but only in a principal amount equal to \$5,000 or any integral multiple thereof. The Paying Agent/Registrar shall treat each \$5,000 portion of such Bond as though it were a single Bond for purposes of selection for redemption.

(c) Upon surrender of any Bond for redemption in part, the Paying Agent/Registrar, in accordance with Section 3.06 of this Ordinance, shall authenticate and deliver exchange Bonds in an aggregate principal amount equal to the unredeemed principal amount of the Bond so surrendered, such exchange being without charge.

Section 4.05 Notice of Redemption to Owners.

(a) The Paying Agent/Registrar shall give notice of any redemption of Bonds by sending notice by United States mail, first class, postage prepaid, not less than 30 days before the date fixed for redemption, to the Owner of each Bond (or part thereof) to be redeemed, at the address shown on the Register at the close of business on the Business Day next preceding the date of mailing such notice.

(b) The notice shall state the redemption date, the redemption price, the place at which the Bonds are to be surrendered for payment, and, if less than all the Bonds outstanding are to be redeemed, an identification of the Bonds or portions thereof to be redeemed.

(c) The City reserves the right to give notice of its election or direction to redeem Bonds under Section 4.02 conditioned upon the occurrence of subsequent events. Such notice may state (i) that the redemption is conditioned upon the deposit of moneys and/or authorized securities, in an amount equal to the amount necessary to effect the redemption, with the Paying Agent/Registrar, or such other entity as may be authorized by law, no later than the redemption date or (ii) that the City retains the right to rescind such notice at any time prior to the scheduled redemption date if the City delivers a certificate of the City to the Paying Agent/Registrar instructing the Paying Agent/Registrar to rescind the redemption notice, and such notice and redemption shall be of no effect if such moneys and/or authorized securities are not so deposited or if the notice is rescinded. The Paying Agent/Registrar shall give prompt notice of any such rescission of a conditional notice of redemption to the affected Owners. Any Bonds subject to conditional redemption where redemption has been rescinded shall remain Outstanding.

(d) Any notice given as provided in this Section shall be conclusively presumed to have been duly given, whether or not the Owner receives such notice.

Section 4.06 Payment Upon Redemption.

(a) Before or on each redemption date, the City shall deposit with the Paying Agent/Registrar money sufficient to pay all amounts due on the redemption date and the Paying Agent/Registrar shall make provision for the payment of the Bonds to be redeemed on such date by setting aside and holding in trust such amounts as are received by the Paying Agent/Registrar from the City and shall use such funds solely for the purpose of paying the principal of, redemption premium, if any, and accrued interest on the Bonds being redeemed.

(b) Upon presentation and surrender of any Bond called for redemption to the Paying Agent/Registrar on or after the date fixed for redemption, the Paying Agent/Registrar shall pay the principal of, redemption premium, if any, and accrued interest on such Bond to the date of redemption from the money set aside for such purpose.

Section 4.07 Effect of Redemption.

(a) When Bonds have been called for redemption in whole or in part and due provision has been made to redeem same as herein provided, the Bonds or portions thereof so redeemed shall no longer be regarded as outstanding except for the purpose of receiving payment solely from the funds so provided for redemption, and the rights of the Owners to collect interest which would otherwise accrue after the redemption date on any Bond or portion thereof called for redemption shall terminate on the date fixed for redemption.

(b) If the City shall fail to make provision for payment of all sums due on a redemption date, then any Bond or portion thereof called for redemption shall continue to bear interest at the rate stated on the Bond until due provision is made for the payment of same by the City.

Section 4.08 Lapse of Payment. Money set aside for the redemption of the Bonds and remaining unclaimed by the Owners thereof shall be subject to the provisions of Section 3.03(f) hereof.

ARTICLE V

PAYING AGENT/REGISTRAR

Section 5.01 Appointment of Initial Paying Agent/Registrar.

(a) The form of Paying Agent/Registrar Agreement is hereby approved. The Mayor and City Secretary are hereby authorized and directed to execute and deliver the Paying Agent/Registrar Agreement.

(b) The Authorized Officer is hereby authorized to select and appoint the initial Paying Agent/Registrar for the Bonds, and the initial Paying Agent/Registrar shall be designated in the Pricing Certificate.

Section 5.02 Qualifications.

Each Paying Agent/Registrar shall be a commercial bank or trust company organized under the laws of the State, or any other entity duly qualified and legally authorized to serve as and perform the duties and services of paying agent and registrar for the Bonds.

Section 5.03 Maintaining Paying Agent/Registrar.

(a) At all times while any of the Bonds are outstanding, the City will maintain a Paying Agent/Registrar that is qualified under Section 5.02 of this Ordinance.

(b) If the Paying Agent/Registrar resigns or otherwise ceases to serve as such, the City will promptly appoint a replacement, provided no such resignation shall be effective until a successor Paying Agent/Registrar has accepted the duties of Paying Agent/Registrar for the Bonds.

Section 5.04 Termination.

The City reserves the right to terminate the appointment of any Paying Agent/Registrar by delivering to the entity whose appointment is to be terminated (i) 45 days written notice of the termination of the appointment and of the Paying Agent/Registrar Agreement, stating the effective date of such termination, and (ii) appointing a successor Paying Agent/Registrar; provided that, no such termination shall be effective until a successor Paying Agent/Registrar has been appointed and has accepted the duties of Paying Agent/Registrar for the Bonds.

Section 5.05 Notice of Change to Owners.

Promptly upon each change in the entity serving as Paying Agent/Registrar, the City will cause notice of the change to be sent to each Owner by first class United States mail, postage prepaid, at the address thereof in the Register, stating the effective date of the change and the name and mailing address of the replacement Paying Agent/Registrar.

Section 5.06 Agreement to Perform Duties and Functions.

By accepting the appointment as Paying Agent/Registrar, and by executing the Paying Agent/Registrar Agreement, the Paying Agent/Registrar is deemed to have agreed to the provisions of this Ordinance and that it will perform the duties and functions of Paying Agent/Registrar prescribed herein.

Section 5.07 Delivery of Records to Successor.

The Paying Agent/Registrar, promptly upon the appointment of a successor, will deliver the Register (or a copy thereof) and all other pertinent books and records relating to the Bonds to the successor Paying Agent/Registrar.

ARTICLE VI

FORM OF THE BONDS

Section 6.01 Form Generally.

(a) The Bonds, including the Registration Certificate of the Comptroller of Public Accounts of the State to accompany the Initial Bond, the Certificate of the Paying Agent/Registrar, and the Assignment form which shall accompany, appear on or be attached or affixed to each of the Bonds, (i) shall be substantially in the form set forth in the Pricing Certificate, with such appropriate insertions, omissions, substitutions, and other variations as may be necessary or desirable and not prohibited by this Ordinance and the Pricing Certificate, and (ii) may have such letters, numbers, or other marks of identification (including identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American Bankers Association) and such legends and endorsements (including any legend relating to bond insurance for the Bonds or reproduction of an opinion of counsel) as, consistently herewith, may be determined by the Authorized Officer or by the officers executing such Bonds, as evidenced by their execution thereof.

(b) Any portion of the text of any Bonds may be set forth on the reverse side thereof, with an appropriate reference thereto on the face of the Bonds.

(c) The definitive Bonds shall be typewritten, photocopied, printed, lithographed, or engraved, and may be produced by any combination of these methods or produced in any other similar manner, all as determined by the officers executing such Bonds, as evidenced by their execution thereof.

(d) The Initial Bond submitted to the Attorney General of the State may be typewritten and photocopied or otherwise reproduced.

Section 6.02 CUSIP Registration.

The City may secure identification numbers through the CUSIP Global Services, managed by Standard & Poor's Financial Services LLC and may authorize the printing of such numbers on the face of the Bonds. It is expressly provided, however, that the presence or absence of CUSIP numbers on the Bonds shall be of no significance or effect as regards the legality thereof and neither the City nor bond counsel to the City are to be held responsible for CUSIP numbers incorrectly printed on the Bonds.

Section 6.03 Legal Opinion.

The approving legal opinion of Bond Counsel may be attached to or printed on the reverse side of each Bond.

Section 6.04 Bond Insurance.

If it is determined that the purchase of bond insurance would result in savings to the City, the Authorized Officer is hereby authorized to approve the purchase of and payment of the premium for bond insurance by the City and the terms of commitment for such insurance, if any. All officials and representatives of the City are authorized and directed to execute such documents and to do any and all things necessary or desirable to obtain such insurance. A statement relating to the bond insurance obtained for the Bonds, if any, may be printed on or attached to each Bond.

ARTICLE VII

DELEGATION OF AUTHORITY, SALE AND DELIVERY OF BONDS, DEPOSIT OF
PROCEEDS

Section 7.01 Sale of Bonds; Official Statement.

(a) The Bonds shall be sold to the Underwriter in accordance with the terms of this Ordinance. As authorized by Chapter 1207, the Authorized Officer is authorized to act on behalf of the City in selling and delivering the Bonds and in carrying out the other procedures specified in this Ordinance, including determining whether the Bonds will be sold in a negotiated or competitive sale, the price at which each of the Bonds will be sold, the number and designation of each series or subseries of Bonds to be issued, the form in which the Bonds shall be issued, the years and dates on which the Bonds will mature, the principal amount to mature in each of such years, the aggregate principal amount of the Bonds to be issued by the City, the rate of interest to be borne by each maturity of the Bonds, the Interest Payment Dates, the Record Dates, the dates, prices and terms upon and at which the Bonds shall be subject to redemption prior to maturity at the option of the City and shall be subject to mandatory redemption, the designation of the Refunded Obligations from the Schedule of Refunded Obligation Candidates, the selection of a paying agent/registrar, escrow agent, verification agent and bond insurer, if any, whether the Bonds shall be issued as bank qualified, and all other matters relating to the issuance, sale and delivery of the Bonds and the refunding of the Refunded Obligations, all of which shall be specified in the Pricing Certificate; subject to the following conditions:

(i) the price to be paid for the Bonds shall not be less than 90% of the aggregate original principal amount of the Bonds plus accrued interest thereon from their date to their delivery;

(ii) the Bonds shall not bear interest at a rate greater than the maximum rate allowed by Chapter 1204, Texas Government Code, as amended;

(iii) the aggregate principal amount of the Bonds authorized to be issued for the purposes described in Section 3.01 shall not exceed \$6,500,000;

(iv) the refunding of the Refunded Obligations shall produce a present value debt service savings of at least 5% of the principal amount of the Refunded Obligations;

(v) no Bond shall mature more than 40 years from the date of delivery thereof; and

(vi) the terms of sale for the Bonds will be found and determined to be the most advantageous reasonably obtainable by the City.

(b) The Authorized Officer is hereby authorized and directed to execute and deliver on behalf of the City a Purchase Agreement providing for the sale of the Bonds to the Underwriter, in such form as determined by the Authorized Officer. The Authorized Officer is hereby authorized and directed to approve the final terms and provisions of the Purchase Agreement in accordance with the terms of the Pricing Certificate and this Ordinance, which final terms shall be determined to be the most advantageous reasonably attainable by the City, such approval and determination being evidenced by its execution thereof by the Authorized Officer. All officers, agents and representatives of the City are hereby authorized to do any and all things necessary or desirable to satisfy the conditions set out therein and to provide for the issuance and delivery of the Bonds. The Initial Bond shall initially be registered in the name of the Underwriter or such other entity as may be specified in the Purchase Agreement.

(c) The authority granted to the Authorized Officer under Sections 7.01(a) through Section 7.01(c) shall expire on a date 180 days from the date of this Ordinance, unless otherwise extended by the City by separate action.

(d) The City hereby authorizes the Authorized Officer to approve the form and content and distribution of the Preliminary Official Statement, and to deem the Preliminary Official Statement (with such addenda, supplements or amendments as may be approved by the Authorized Officer and the Underwriter) final within the meaning and for the purposes of paragraph (b)(1) of Rule 15c2-12 under the Securities Exchange Act of 1934. The City hereby authorizes the preparation of a final Official Statement reflecting the terms of the Purchase Agreement and other relevant information. The use of such final Official Statement by the Underwriter (with such appropriate variations as shall be approved by the Authorized Officer and the Underwriter) is hereby approved and authorized and the proper officials of the City are authorized to sign such Official Statement and deliver a certificate pertaining to such Official Statement, if necessary.

(e) The Authorized Officer and all other officers of the City are authorized to take such actions, to obtain such consents or approvals and to execute such documents, certificates and receipts as they may deem necessary and appropriate in order to consummate the delivery of the Bonds, pay the costs of issuance of the Bonds, and effectuate the terms and provisions of this Ordinance.

Section 7.02 Control and Delivery of Bonds.

(a) The Mayor is hereby authorized to have control of the Initial Bond and all necessary records and proceedings pertaining thereto pending investigation, examination, and approval of the Attorney General of the State of Texas, registration by the Comptroller of Public Accounts of the State of Texas and registration with, and initial exchange or transfer by, the Paying Agent/Registrar.

(b) After registration by the Comptroller of Public Accounts, delivery of the Bonds shall be made to either the Underwriter or the Purchaser under and subject to the general supervision and direction of the Authorized Officer, against receipt by the City of all amounts due to the City under the terms of sale.

Section 7.03 Deposit of Proceeds; Transfer of Funds.

(a) All amounts received on the Closing Date as accrued interest on the Bonds from the Dated Date to the Closing Date shall be deposited to the Interest and Sinking Fund.

(b) A portion of the proceeds from the sale of the Bonds, together with other funds of the City, if any, shall be applied as set forth in the Pricing Certificate to provide for the refunding of Refunded Obligations and, to the extent not otherwise provided for, to pay all costs and expenses arising in connection with the establishment of the Escrow Fund, and the refunding of the Refunded Obligations. Any proceeds remaining after the accomplishment of such purposes, including interest earnings on the investment of such proceeds, shall be deposited to the Interest and Sinking Fund.

ARTICLE VIII

REPRESENTATIONS AND COVENANTS

Section 8.01 Payment of the Bonds.

On or before each date on which principal, premium, if any, or interest is due on the Bonds, there shall be made available to the Paying Agent/Registrar, out of the Interest and Sinking Fund, money sufficient to pay such principal, premium, if any, or interest when due.

Section 8.02 Other Representations and Covenants.

(a) The City will faithfully perform at all times any and all covenants, undertakings, stipulations, and provisions contained in this Ordinance and in each Bond; the City will promptly pay or cause to be paid the principal of and interest on each Bond on the dates and at the places and manner prescribed in such Bond; and the City will, at the times and in the manner prescribed by this Ordinance, deposit or cause to be deposited the amounts of money specified by this Ordinance.

(b) The City is duly authorized under the laws of the State to issue the Bonds; all action on its part for the creation and issuance of the Bonds has been or will be duly and effectively taken; and the Bonds in the hands of the Owners thereof are and will be valid and enforceable obligations of the City in accordance with their terms.

ARTICLE IX

PROVISIONS CONCERNING FEDERAL INCOME TAX EXCLUSION

Section 9.01 General Tax Covenants.

The City intends that the interest on the Bonds will be excludable from gross income for purposes of federal income taxation pursuant to sections 103 and 141 through 150 of the Code and the applicable regulations promulgated thereunder (the “Regulations”). The City covenants and agrees not to take any action, or knowingly omit to take any action within its control, that if taken or omitted, respectively, would (i) cause the interest on the Bonds to be includable in the gross income, as defined in section 61 of the Code, of the holders thereof for purposes of federal income taxation or (ii) result in the violation of or failure to satisfy any provision of Section 103 and 141 through 150 of the code and the applicable Regulation that is applicable to the Bonds. In particular, the City covenants and agrees to comply with each requirement of this Article IX, provided, however, that the City will not be required to comply with any particular requirement of this Article IX if the City has received an opinion of nationally recognized bond counsel (“Counsel’s Opinion”) that (i) such noncompliance will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Bonds or (ii) if the City has received a Counsel’s Opinion to the effect that compliance with some other requirement set forth in this Article IX will satisfy the applicable requirements of the Code, in which case compliance with such other requirement specified in such Counsel’s Opinion will constitute compliance with the corresponding requirement specified in this Article.

Section 9.02 No Private Use or Payment and No Private Loan Financing.

The City will certify, through an authorized officer, employee or agent, that, based upon all facts and estimates known or reasonably expected to be in existence on the date the Bonds are delivered, the proceeds of the Refunded Bonds have not been and the proceeds of the Bonds will not be used in a manner that would cause the Bonds to be “private activity bonds” within the meaning of section 141 of the Code and the Regulations. The City covenants and agrees that it will make such use of the proceeds of the Bonds, including interest or other investment income derived from Bond proceeds, regulate the use of property financed, directly or indirectly, with such proceeds, and take such other and further action as may be required so that the Bonds will not be “private activity bonds” within the meaning of section 141 of the Code and the Regulations.

Section 9.03 No Federal Guarantee.

The City covenants and agrees not to take any action, or knowingly omit to take any action within its control, that, if taken or omitted, respectively, would cause the Bonds to be “federally guaranteed” within the meaning of section 149(b) of the Code and the Regulations, except as permitted by section 149(b)(3) of the Code and the Regulations.

Section 9.04 Bonds are not Hedge Bonds.

The City covenants and agrees not to take any action, or knowingly omit to take any action, and has not knowingly omitted and will not knowingly omit to take any action, within its

control, that, if taken or omitted, respectively, would cause the Bonds to be “hedge bonds” within the meaning of section 149(g) of the Code and the Regulations.

Section 9.05 No-Arbitrage.

The City covenants and agrees that it will make such use of the proceeds of the Bonds including interest or other investment income derived from Bond proceeds, regulate investments of proceeds of the Bonds, and take such other and further action as may be required so that the Bonds will not be “arbitrage bonds” within the meaning of section 148(a) of the Code and the Regulations. The City will certify, through an authorized officer, employee or agent that based upon all facts and estimates known or reasonably expected to be in existence on the date the Bonds are delivered, the City will reasonably expect that the proceeds of the Bonds will not be used in a manner that would cause the Bonds to be “arbitrage bonds” within the meaning of section 148(a) of the Code and the Regulations.

Section 9.06 Arbitrage Rebate.

If the City does not qualify for an exception to the requirements of section 148(f) of the Code, the City will take all necessary steps to comply with the requirement that certain amounts earned by the City on the investment of the “gross proceeds” of the Bonds (within the meaning of section 148(f)(6)(B) of the Code) be rebated to the federal government. Specifically, the City will (i) maintain records regarding the investment of the gross proceeds of the Bonds as may be required to calculate the amount earned on the investment of the gross proceeds of the Bonds separately from records of amounts on deposit in the funds and accounts of the City allocable to other bond issue of the City or moneys that do not represent gross proceeds of any bonds of the City, (ii) calculate at such times as are required by the Regulations, the amount earned from the investment of the gross proceeds of the Bonds that is required to be rebated to the federal government, and (iii) pay, not less often than every fifth anniversary date of the delivery of the Bonds or on such other dates as may be permitted under the Regulations, all amounts required to be rebated to the federal government. Further, the City will not indirectly pay any amount otherwise payable to the federal government pursuant to the foregoing requirements to any person other than the federal government by entering into any investment arrangement with respect to the gross proceeds of the Bonds that might result in a reduction in the amount required to be paid to the federal government because such arrangement results in a smaller profit or a larger loss than would have resulted if the arrangement had been at arm’s length and had the yield on the issue not been relevant to either party.

Section 9.07 Information Reporting.

The City covenants and agrees to file or cause to be filed with the Secretary of the Treasury, not later than the 15th day of the second calendar month after the close of the calendar quarter in which the Bonds are issued, an information statement concerning the Bonds, all under and in accordance with section 149(e) of the Code and the Regulations.

Section 9.08 Record Retention.

The City will retain all pertinent and material records relating to the use and expenditure of the proceeds of the Bonds until three years after the last Bond is redeemed, or such shorter

period as authorized by subsequent guidance issued by the Department of Treasury, if applicable. All records will be kept in a manner that ensures their complete access throughout the retention period. For this purpose, it is acceptable that such records are kept either as hardcopy books and records or in an electronic storage and retrieval system, provided that such electronic system includes reasonable controls and quality assurance programs that assure the ability of the City to retrieve and reproduce such books and records in the event of an examination of the Bonds by the Internal Revenue Service.

Section 9.09 Registration.

The Bonds will be issued in registered form.

Section 9.10 Continuing Obligation.

Notwithstanding any other provision of this Ordinance, the City's obligations under the covenants and provisions of this Article will survive the defeasance and discharge of the Bonds for as long as such matters are relevant to the exclusion from gross income of interest on the Bonds for federal income tax purposes.

ARTICLE X

DISCHARGE

Section 10.01 Discharge.

The Bonds may be refunded, discharged or defeased in any manner now or hereafter permitted by applicable law.

ARTICLE XI

CONTINUING DISCLOSURE UNDERTAKING

Section 11.01 Annual Reports.

(a) The City will provide certain updated financial information and operating data to the MSRB annually in an electronic format as prescribed by the MSRB. The information to be updated includes certain updated financial information and operating data with respect to the City of the general type included in the final Official Statement, being the information described in the Pricing Certificate. The City will update and provide this information within six (6) months of the end of its fiscal years ending on or after September 30, 2013. Financial statements so to be provided shall be prepared in accordance with the accounting principles described in the notes to the financial statements for the most recently concluded Fiscal Year, and, audited, if the City commissions an audit of such statements and the audit is completed within the period during which they must be provided. If the audit of such financial statements is not complete within such period, the City shall provide notice that audited financial statements are not available and shall provide unaudited financial statements for such Fiscal Year to the MSRB. Thereafter, when and if audited financial statements become available, the City shall provide such audited financial statements as required to the MSRB.

(b) If the City changes its Fiscal Year, it will notify the MSRB of the change (and of the date of the new Fiscal Year end) prior to the next date by which the City otherwise would be required to provide financial information and operating data pursuant to this Section.

(c) The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any document, including an official statement or other offering document, if it is available from the MSRB, that theretofore has been provided to the MSRB or filed with the SEC.

Section 11.02 Material Event Notices.

(a) The City shall provide the following to the MSRB, in an electronic format as prescribed by the MSRB, in a timely manner not in excess of 10 business days after the occurrence of the event, notice of any of the following events with respect to the Bonds:

- (1) Principal and interest payment delinquencies;
- (2) Non-payment related defaults, if material;
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) Substitution of credit or liquidity providers, or their failure to perform;
- (6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
- (7) Modifications to rights of the holders of the Bonds, if material;
- (8) Bond calls, if material, and tender offers;
- (9) Defeasances;
- (10) Release, substitution, or sale of property securing repayment of the Bonds, if material;
- (11) Rating changes;
- (12) Bankruptcy, insolvency, receivership or similar event of the City;

Note to paragraph 12: For the purposes of the event identified in paragraph 12 of this section, the event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar

officer for the City in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City.

- (13) The consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
- (14) Appointment of successor or additional paying agent/registrar or the change of name of a paying agent/registrar, if material.

(b) The City shall provide to the MSRB, in an electronic format as prescribed by the MSRB, in a timely manner, notice of a failure by the City to provide required annual financial information and notices of material events in accordance with Section 11.01 and section (a) above, respectively. All documents provided to the MSRB pursuant to this section shall be accompanied by identifying information as prescribed by the MSRB.

Section 11.03 Limitations, Disclaimers and Amendments.

(a) The City shall be obligated to observe and perform the covenants specified in this Article for so long as, but only for so long as, the City remains an “obligated person” with respect to the Bonds within the meaning of the Rule, except that the City in any event will give notice of any bond calls and any defeasances that cause the City to be no longer an “obligated person”.

(b) The provisions of this Article are for the sole benefit of the Owners and beneficial owners of the Bonds, and nothing in this Article, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Article and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the City’s financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Article or otherwise, except as expressly provided herein. The City does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE OWNER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR

TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE CITY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS ARTICLE, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

(c) No default by the City in observing or performing its obligations under this Article shall constitute a breach of or default under the Ordinance for purposes of any other provisions of this Ordinance.

(d) Nothing in this Article is intended or shall act to disclaim, waive, or otherwise limit the duties of the City under federal and state securities laws.

(e) The provisions of this Article may be amended by the City from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (i) the provisions of this Article, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (ii) either (A) the Owners of a majority in aggregate principal amount (or any greater amount required by any other provisions of this Ordinance that authorizes such an amendment) of the Outstanding Bonds consent to such amendment or (B) an entity or individual person that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the Owners and beneficial owners of the Bonds. The provisions of this Article may also be amended from time to time or repealed by the City if the SEC amends or repeals the applicable provisions of the Rule or a court of final jurisdiction determines that such provisions are invalid, but only if and to the extent that reservation of the City's right to do so would not prevent underwriters of the initial public offering of the Bonds from lawfully purchasing or selling Bonds in such offering. If the City so amends the provisions of this Article, it shall include with any amended financial information or operating data next provided in accordance with Section 11.01 an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in the type of financial information or operating data so provided.

ARTICLE XII

APPROVAL OF ESCROW AGREEMENT AND RELATED PROVISIONS

Section 12.01 Subscription for Securities.

The Authorized Officer is authorized to make necessary arrangements for and to execute such documents and agreements in connection with the purchase of the Escrow Securities required by and referenced in the Escrow Agreement, if any, as may be necessary for the Escrow Fund and the application for the acquisition of the Escrow Securities is hereby approved and ratified.

Section 12.02 Appointment of Escrow Agent; Approval of Escrow Agreement; Deposit with Paying Agent for Refunded Obligations.

The Authorized Officer is hereby authorized to select and appoint the Escrow Agent for the Bonds, if any, and the Escrow Agent shall be designated in the Pricing Certificate. The Authorized Officer is hereby authorized to execute and deliver, or cause the execution and delivery by the Mayor and City Secretary, an Escrow Agreement, having such terms and provisions as are approved by the Authorized Officer as evidenced by his execution thereof or the execution thereof by other appropriate City officials. Alternatively, the Authorized Officer may elect to deposit directly with the paying agent for the Refunded Obligations the proceeds of the Bonds, together with other available funds, in an amount sufficient to provide for the payment or redemption of the Refunded Obligations.

Section 12.03 Payment of Refunded Obligations; Redemption of Refunded Obligations.

Following the deposit to the Escrow Fund or with the paying agent for the Refunded Obligations as herein specified, the Refunded Obligations shall be payable solely from and secured by the cash and securities on deposit in the Escrow Fund or such other fund held by the paying agent for the Refunded Obligations for the purpose of refunding the Refunded Obligations and shall cease to be payable from ad valorem taxes. The Refunded Obligations are hereby called for redemption prior to maturity on the dates and at the redemption prices set forth in the Pricing Certificate. The City Secretary is hereby authorized and directed to cause to be delivered to the paying agent/registrar for the Refunded Obligations a certified copy of this Ordinance calling the Refunded Obligations for redemption and a copy of the Pricing Certificate. The delivery of this Ordinance and the Pricing Certificate to the paying agent for the Refunded Obligations shall constitute the giving of notice of redemption to the paying agent for the Refunded Obligations and such paying agent is hereby authorized and directed to give notice of redemption to the owners of the Refunded Obligations in accordance with the requirements of the ordinance(s) authorizing the issuance thereof.

ARTICLE XIII

MISCELLANEOUS

Section 13.01 Bond Counsel. City Council hereby authorizes the engagement of Bracewell & Giuliani LLP as Bond Counsel for the City. The Mayor is hereby authorized to execute an engagement letter from Bracewell & Giuliani LLP regarding its representation of the City as Bond Counsel.

Section 13.02 Changes to Ordinance. Bond Counsel is hereby authorized to make changes to the terms of this Ordinance if necessary or desirable to carry out the purposes hereof or in connection with the approval of the issuance of the Bonds by the Attorney General of Texas.

Section 13.03 Related Matters. To satisfy in a timely manner all of the City's obligations under this Ordinance, the Mayor, the City Manager, the Finance Director, the City Secretary and all other appropriate officers and agents of the City are hereby authorized and directed to do any and all things necessary and/or convenient to carry out the terms and purposes of this Ordinance.

Section 13.04 Individuals Not Liable. No covenant, stipulation, obligation or agreement herein contained shall be deemed to be a covenant, stipulation, obligation or agreement of any member of City Council or agent or employee of City Council or of the City in his or her individual capacity and neither the members of City Council nor any officer thereof, nor any agent or employee of City Council or of the City, shall be liable personally on the Bonds, or be subject to any personal liability or accountability by reason of the issuance thereof.

Section 13.05 Severability and Savings. If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

Section 13.06 Repealer. All ordinances or resolutions, or parts thereof, heretofore adopted by the City and inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

Section 13.07 Force and Effect. This Ordinance shall be in full force and effect from and after its final passage, and it is so ordained.

[Execution Page Follows]

FIRST AND FINAL READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF
THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 5TH DAY OF
NOVEMBER 2012.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN BROWN	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DODSON	_____

City Secretary
City of Tomball, Texas

Mayor
City of Tomball, Texas

[SEAL]

Signature Page to Ordinance No. 2012-__

SCHEDULE I

SCHEDULE OF REFUNDED OBLIGATION CANDIDATES

Combination Tax and Revenue Certificates of Obligation, Series 2002

Combination Tax and Revenue Certificates of Obligation, Series 2003

General Obligation Refunding Bonds, Series 2010

General Obligation Refunding Bonds, Series 2011

Combination Tax and Revenue Certificates of Obligation, Series 2012

EXHIBIT A

FORM OF PRICING CERTIFICATE

Re: City of Tomball, Texas General Obligation Refunding Bonds, Series 2013 (the “Bonds”)

I, the undersigned officer of the City of Tomball, Texas (the “City”), do hereby make and execute this Pricing Certificate pursuant to an ordinance adopted by the City Council of the City on November 5, 2012 (the “Ordinance”) captioned as follows:

ORDINANCE NO. 2012-46

ORDINANCE AUTHORIZING THE ISSUANCE OF CITY OF TOMBALL, TEXAS GENERAL OBLIGATION REFUNDING BONDS, SERIES 2013; LEVYING A TAX IN PAYMENT THEREOF; SETTING CERTAIN PARAMETERS FOR THE BONDS; AUTHORIZING THE AUTHORIZED OFFICER TO APPROVE THE AMOUNT, THE INTEREST RATE, PRICE AND CERTAIN OTHER TERMS THEREOF; AUTHORIZING THE REDEMPTION PRIOR TO MATURITY OF CERTAIN OUTSTANDING OBLIGATIONS; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT, A PAYING AGENT/REGISTRAR AGREEMENT AND AN ESCROW AGREEMENT RELATING TO SUCH BONDS; APPROVING THE PREPARATION AND DISTRIBUTION OF AN OFFICIAL STATEMENT; AND ENACTING OTHER PROVISIONS RELATING THERETO

authorizing the issuance of the referenced Bonds. Capitalized terms used in this Pricing Certificate shall have the meanings given such terms in the Ordinance.

A. As authorized by Section 7.01 of the Ordinance, I have acted on behalf of the City in selling the Bonds to _____ (the “Underwriter”) pursuant to the terms of the Purchase Agreement dated as of the date hereof. The Bonds shall have the terms set forth in this Pricing Certificate.

B. The Bonds shall have a Dated Date of _____, 20__, and shall be issued in the aggregate principal amount of \$_____, for the purposes specified in Section 3.01 in the Ordinance. The Bonds shall have a Closing Date of _____, 20__.

C. The interest on the Bonds shall accrue from the Dated Date and is payable on each _____ and _____, commencing _____, 20__, until stated maturity or prior redemption thereof. The Bonds shall mature on _____ in each of the years, in the principal amounts and shall bear interest at the per annum rates set forth in the following schedule:

Stated Maturity	Principal Amount	Interest Rate	Stated Maturity	Principal Amount	Interest Rate
20__	\$_____	_____%	20__	\$_____	_____%
20__	_____	_____	20__	_____	_____
20__	_____	_____	20__	_____	_____
20__	_____	_____	20__	_____	_____
20__	_____	_____	20__	_____	_____

D. The Bonds shall be substantially in the form set forth in Exhibit A hereto with such insertions, changes and modifications as are required to conform the bond form to the terms of this Pricing Certificate.

E. [The Bonds are not subject to optional redemption prior to maturity. / The Bonds are subject to optional redemption as set forth in Exhibit A attached hereto.]

F. [The Bonds are subject to mandatory redemption as set forth in Exhibit A attached hereto.]

G. The yield on the Bonds as calculated for federal arbitrage purposes is approximately _____%, as determined by the City's financial advisor, First Southwest Company.

H. The Refunded Obligation Candidates to be refunded with a portion of the proceeds of the Bonds are set forth in Schedule I hereto. The Refunded Obligations are hereby called for redemption on redemption dates specified in Schedule I. The Refunded Obligations shall be redeemed at a redemption price equal to the principal amount thereof plus interest accrued thereon to the redemption date therefor.

I. In accordance with Section 7.01 of the Ordinance, the refunding of the Refunded Obligations results in a debt service savings of approximately \$_____. A copy of the table provided by the City's financial advisor, First Southwest Company, and showing the debt service savings is attached hereto as Exhibit B.

J. In accordance with the other parameters contained in Section 7.01 of the Ordinance, the undersigned does hereby find, certify and represent that the foregoing terms of the Bonds satisfy the following requirements and parameters contained within such Section 7.01:

(i) the price to be paid for the Bonds is not less than 90% of the aggregate original principal amount of the Bonds plus accrued interest thereon from their date to their delivery;

(ii) the Bonds do not bear interest at a rate greater than the maximum rate allowed by Chapter 1204, Texas Government Code, as amended;

(iii) the aggregate principal amount of the Bonds authorized to be issued for the purposes described in Section 3.01 of the Ordinance does not exceed \$6,500,000;

(iv) the refunding of the Refunded Obligations produces a present value debt service savings greater than 5% of the principal amount of the Refunded Obligations, as shown on Schedule of Present Value Savings prepared by First Southwest Company and attached hereto as Exhibit B;

(v) no Bond will mature more than 40 years from the date of delivery thereof; and

(vi) the terms of sale for the Bonds is hereby found and determined to be the most advantageous reasonably obtainable by the City.

K. The proceeds of the Bonds [and other available funds of the City] shall be applied as follows:

(i) The amount of \$_____, consisting of \$_____ principal amount of Bond proceeds, plus \$_____ premium received from the sale of the Bonds, [plus available funds of the City in the amount of \$_____,] shall be deposited to the Escrow Fund in the form of cash or securities purchased with such proceeds and used to pay the redemption price of the Refunded Obligations;

(ii) Premium received from the sale of the Bonds in the amount of \$_____ shall be used to pay the costs of issuance.

(iii) Premium received from the sale of the Bonds in the amount of \$_____ shall be used to pay the underwriters' discount.

(iv) Accrued interest on the Bonds in the amount of \$_____ shall be deposited to the Interest and Sinking Fund for the Bonds;

(v) Accrued interest in the amount of \$_____ shall be deposited into the Interest and Sinking Fund.

(vi) Any amounts remaining shall be deposited to the Interest and Sinking Fund.

L. [Grant Thornton LLP is hereby designated as the verification agent.]

M. [Insurance]

N. [The City hereby designates the Bonds as "qualified tax-exempt obligations" for purposes of section 265(b) of the Code. In connection therewith, the City represents (a) that the aggregate amount of tax-exempt obligations issued by the City during calendar year 2013, including the Bonds, which have been designated as "qualified tax-exempt obligations" under section 265(b)(3) of the Code does not exceed \$10,000,000, and (b) that the reasonably anticipated amount of tax-exempt obligations which will be issued by the City during calendar year 2013, including the Bonds, will not exceed \$10,000,000. For purposes of this Section, the term "tax-exempt obligation" does not include "private activity bonds" within the meaning of section 141 of the Code, other than "qualified 501(c)(3) bonds" within the meaning of section

145 of the Code. In addition, for purposes of this Section, the City includes all entities which are aggregated with the City under the Code.

O. In accordance with Section 11.01 of the Ordinance, the City will provide certain updated financial information and operating data to the MSRB annually in an electronic format as prescribed by the MSRB. The information to be provided includes certain updated financial information and operating data with respect to the City of the general type included in the final Official Statement in _____ to the Official Statement.

P. The form of Pricing Certificate attached to the Ordinance shall be replaced with this Pricing Certificate.

[Signature Page Follows]

This Pricing Certificate for the City of Tomball, Texas, General Obligation Refunding Bonds, Series 2013, is executed on the ____ day of _____, 20__.

Authorized Officer
City of Tomball, Texas

Signature Page to Pricing Certificate

EXHIBIT A

FORM OF THE BONDS

(i) Form of Bond.

REGISTERED
No. _____

REGISTERED
\$ _____

United States of America
State of Texas
Counties of Harris and Montgomery

CITY OF TOMBALL, TEXAS
GENERAL OBLIGATION REFUNDING BOND
SERIES 2013

<u>INTEREST RATE:</u>	<u>MATURITY DATE:</u>	<u>[CLOSING/DATED]</u> <u>DATE:</u>	<u>CUSIP NO.:</u>
_____ %	_____, ____	_____, 20__	_____

The City of Tomball, Texas (the "City"), in the Counties of Harris and Montgomery, Texas, for value received, hereby promises to pay to

or registered assigns, on the maturity date specified above, the sum of

_____ DOLLARS

unless the payment of the principal hereof shall have been paid or provided for, and to pay interest on such principal amount from the [Closing/Dated] Date specified above or the most recent interest payment date to which interest has been paid or provided for until payment of such principal amount has been paid or provided for, at the per annum rate of interest specified above, computed on the basis of a 360-day year of twelve 30-day months, such interest to be paid semiannually on _____ and _____ of each year, commencing _____, 20__.

The principal of this Bond shall be payable without exchange or collection charges in lawful money of the United States of America upon presentation and surrender of this Bond at the corporate trust office of _____, _____, or such other location designated by the Paying Agent/Registrar (the "Designated Payment/Transfer Office"), of the Paying Agent/Registrar or, with respect to a successor paying agent/registrar, at the Designated Payment/Transfer Office of such successor. Interest on this Bond is payable by check dated as of the interest payment date, mailed by the Paying Agent/Registrar to the registered owner at the address shown on the registration books kept by the Paying Agent/Registrar, or by such other customary banking arrangements acceptable to the Paying Agent/Registrar and the person to

whom interest is to be paid; provided, however, that such person shall bear all risk and expense of such other customary banking arrangements. For the purpose of the payment of interest on this Bond, the registered owner shall be the person in whose name this Bond is registered at the close of business on the "Record Date," which shall be the last business day of the month next preceding such interest payment date. In the event of a nonpayment of interest on a scheduled payment date, and for thirty days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the special payment date of the past due interest (the "Special Payment Date," which date shall be fifteen days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by United States mail, first class, postage prepaid, to the address of each owner of a Bond appearing on the books of the Paying Agent/Registrar at the close of business on the fifteenth day next preceding the date of mailing of such notice.

If the date for the payment of the principal of or interest on this Bond shall be a Saturday, Sunday, legal holiday, or day on which banking institutions in the city where the Paying Agent/Registrar is located are required or authorized by law or executive order to close, the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday, or day on which banking institutions are required or authorized to close, and payment on such date shall for all purposes be deemed to have been made on the original date payment was due.

This Bond is one of a series of fully registered bonds specified in the title hereof, dated as of _____, 20__, issued in the aggregate principal amount of \$_____ (herein referred to as the "Bonds"), pursuant to a certain ordinance (the "Bond Ordinance") adopted by the City Council of the City and a pricing certificate executed pursuant thereto (the "Pricing Certificate," and together with the Bond Ordinance, the "Ordinance"), for the purposes of refunding certain outstanding obligations of the City and paying the costs of issuing the Bonds.

The Bonds and the interest thereon are payable from the proceeds of a direct and continuing ad valorem tax levied, within the limits prescribed by law, against all taxable property in the City sufficient, together with certain available funds of the City on deposit in the interest and sinking fund for the Bonds, to provide for the payment of the principal of and interest on the Bonds, as described and provided in the Ordinance.

[The Bonds are not subject to optional redemption prior to maturity. / The City has reserved the option to redeem the Bonds maturing on and after _____, 20__, in whole or in part before their respective scheduled maturity dates, on _____, 20__, on any date thereafter, at a redemption price equal to the principal amount thereof plus accrued interest to the date of redemption. If less than all of the Bonds are to be redeemed, the City shall determine the maturity or maturities and the amounts thereof to be redeemed and shall direct the Paying Agent/Registrar to call by lot the Bonds, or portions thereof, within such maturity and in such principal amounts, for redemption.]

[The Bonds maturing on _____ and _____ (the "Term Bonds") are subject to mandatory sinking fund redemption prior to their scheduled maturity, and will be redeemed by the City, in part at a redemption price equal to the principal amount thereof, without premium,

plus interest accrued to the redemption date, on the dates and in the principal amounts shown in the following schedule:

<u>\$ Term Bonds Maturing , 20</u>	
<u>Redemption Date</u>	<u>Principal Amount</u>
_____ 15, 20__	\$ _____
_____ 15, 20__ (Maturity)	\$ _____

The Paying Agent/Registrar will select by lot or by any other customary method that results in a random selection the specific Term Bonds (or with respect to Term Bonds having a denomination in excess of \$5,000, each \$5,000 portion thereof) to be redeemed by mandatory redemption. The principal amount of Term Bonds required to be redeemed on any redemption date pursuant to the foregoing mandatory sinking fund redemption provisions hereof shall be reduced, at the option of the City, by the principal amount of any Term Bonds which, at least 45 days prior to the mandatory sinking fund redemption date (i) shall have been acquired by the City at a price not exceeding the principal amount of such Term Bonds plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation, or (ii) shall have been redeemed pursuant to the optional redemption provisions hereof and not previously credited to a mandatory sinking fund redemption.]

[Not less than 30 days prior to a redemption date for the Bonds, the City shall cause a notice of redemption to be sent by United States mail, first class, postage prepaid, to the Owners of the Bonds to be redeemed at the address of the Owner appearing on the registration books of the Paying Agent/Registrar at the close of business on the business day next preceding the date of mailing such notice.]

[In the Ordinance, the City reserves the right, in the case of an optional redemption, to give notice of its election or direction to redeem Bonds conditioned upon the occurrence of subsequent events. Such notice may state (i) that the redemption is conditioned upon the deposit of moneys and/or authorized securities, in an amount equal to the amount necessary to effect the redemption, with the Paying Agent/Registrar, or such other entity as may be authorized by law, no later than the redemption date, or (ii) that the City retains the right to rescind such notice at any time on or prior to the scheduled redemption date if the City delivers a certificate of the City to the Paying Agent/Registrar instructing the Paying Agent/Registrar to rescind the redemption notice, and such notice and redemption shall be of no effect if such moneys and/or authorized securities are not so deposited or if the notice is rescinded. The Paying Agent/Registrar shall give prompt notice of any such rescission of a conditional notice of redemption to the affected Owners. Any Bond subject to conditional redemption for which such redemption has been rescinded shall remain outstanding.]

[Any notice so mailed shall be conclusively presumed to have been duly given, whether or not the registered owner receives such notice. Notice having been so given and subject, in the case of an optional redemption, to any rights or conditions reserved by the City in the notice, the Bonds called for redemption shall become due and payable on the specified redemption date, and notwithstanding that any Bond or portion thereof has not been surrendered for payment, interest on such Bonds or portions thereof shall cease to accrue.]

As provided in the Ordinance, and subject to certain limitations therein set forth, this Bond is transferable upon surrender of this Bond for transfer at the Designated Payment/Transfer Office of the Paying Agent/Registrar with such endorsement or other evidence of transfer as is acceptable to the Paying Agent/Registrar; thereupon, one or more new fully registered Bonds of the same stated maturity, of authorized denominations, bearing the same rate of interest, and for the same aggregate principal amount will be issued to the designated transferee or transferees.

The City, the Paying Agent/Registrar, and any other person may treat the person in whose name this Bond is registered as the owner hereof for the purpose of receiving payment as herein provided (except interest shall be paid to the person in whose name this Bond is registered on the Record Date) and for all other purposes, whether or not this Bond be overdue, and neither the City nor the Paying Agent/Registrar shall be affected by notice to the contrary.

IT IS HEREBY CERTIFIED AND RECITED that the issuance of this Bond and the series of which it is a part is duly authorized by law; that all acts, conditions and things required to be done precedent to and in the issuance of the Bonds have been properly done and performed and have happened in regular and due time, form and manner, as required by law; that sufficient and proper provision for the levy and collection of taxes has been made, within the limits prescribed by law, which when collected shall be appropriated exclusively to the timely payment of the principal of and interest on the Bonds; and that the total indebtedness of the City, including the Bonds, does not exceed any constitutional or statutory limitation.

IN WITNESS WHEREOF, the City has caused this Bond to be duly executed under its official seal in accordance with law.

City Secretary
City of Tomball, Texas

Mayor
City of Tomball, Texas

[SEAL]

(ii) Form of Certificate of Paying Agent/Registrar

CERTIFICATE OF PAYING AGENT/REGISTRAR

This is one of the Bonds referred to in the within mentioned Ordinance. The series of Bonds of which this Bond is a part was originally issued as one Initial Bond which was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas.

as Paying Agent/Registrar

Date: _____

By: _____
Authorized Signatory

(iii) Form of Assignment

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns, and transfers unto (print or typewrite name, address and Zip Code of transferee): _____

(Social Security or other identifying number: _____) the within Bond and all rights hereunder and hereby irrevocably constitutes and appoints _____ attorney to transfer the within Bond on the books kept for registration hereof, with full power of substitution in the premises.

Dated: _____

Signature Guaranteed By:

Authorized Signatory

NOTICE: The signature on this Assignment must correspond with the name of the registered owner as it appears on the face of the within Bond in every particular and must be guaranteed in a manner acceptable to the Paying Agent/Registrar.

(iv) Initial Bond Insertions

(A) The Initial Bond shall be in the form set forth in paragraph (i) of this Section, except that, in the event there is more than one maturity of Bonds:

(1) immediately under the name of the Bond, the headings "INTEREST RATE" and "MATURITY DATE" shall both be completed with the words "As Shown Below" and "CUSIP NO. _____" deleted;

(2) in the first paragraph the words "on the Maturity Date specified above, the sum of _____ DOLLARS" shall be deleted and the following will be inserted: "on _____ in the years, in the principal installments and bearing interest at the per annum rates set forth in the following schedule:

(Information to be inserted from the Pricing Certificate); and

(3) the Initial Bond shall be numbered I-1.

(B) The following Registration Certificate of Comptroller of Public Accounts shall appear on the Initial Bond:

REGISTRATION CERTIFICATE OF
COMPTROLLER OF PUBLIC ACCOUNTS

OFFICE OF THE COMPTROLLER	§	
OF PUBLIC ACCOUNTS	§	REGISTER NO. _____
THE STATE OF TEXAS	§	

I HEREBY CERTIFY THAT there is on file and of record in my office a certificate to the effect that the Attorney General of the State of Texas has approved this Bond, and that this Bond has been registered this day by me.

WITNESS MY SIGNATURE AND SEAL OF OFFICE this _____.

[SEAL]

Comptroller of Public Accounts
of the State of Texas

EXHIBIT B
SCHEDULE OF SAVINGS

THE STATE OF TEXAS §
COUNTIES OF HARRIS AND MONTGOMERY §

1. The City Council of Tomball, Texas convened in a regular meeting the 5th day of November, 2012, at the regular meeting place thereof within said City, and the roll was called of the duly constituted officers and members of said City, to wit:

and all of said persons were present, except for the following absentee(s): _____, thus constituting a quorum. Whereupon, among other business, the following was transacted at said meeting: a written

ORDINANCE AUTHORIZING THE ISSUANCE OF CITY OF TOMBALL, TEXAS GENERAL OBLIGATION REFUNDING BONDS, SERIES 2013; LEVYING A TAX IN PAYMENT THEREOF; SETTING CERTAIN PARAMETERS FOR THE BONDS; AUTHORIZING THE AUTHORIZED OFFICER TO APPROVE THE AMOUNT, THE INTEREST RATE, PRICE AND CERTAIN OTHER TERMS THEREOF; AUTHORIZING THE REDEMPTION PRIOR TO MATURITY OF CERTAIN OUTSTANDING OBLIGATIONS; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT, A PAYING AGENT/REGISTRAR AGREEMENT AND AN ESCROW AGREEMENT RELATING TO SUCH BONDS; APPROVING THE PREPARATION AND DISTRIBUTION OF AN OFFICIAL STATEMENT; AND ENACTING OTHER PROVISIONS RELATING THERETO

was duly introduced for the consideration of said City Council and read in full. It was then duly moved and seconded that said ordinance be adopted; and, after due discussion, said motion, carrying with it the adoption of said ordinance, prevailed and carried by the following vote:

NOES: Member(s) of City Council shown present above voted “No”.

2. A true, full and correct copy of the aforesaid ordinance adopted at the meeting described in the above and foregoing paragraph is attached to and follows this certificate; that said ordinance has been duly recorded in the City Council's minutes of said meeting; that the above and foregoing paragraph is a true, full and correct excerpt from the City Council's minutes of said meeting pertaining to the adoption of said ordinance; that the persons named in the above and foregoing paragraph are the duly chosen, qualified and acting officers and members of the City Council as indicated therein; that each of the officers and members of the City Council was duly and sufficiently notified officially and personally, in advance, of the date, hour, place and purpose of the aforesaid meeting, and that said ordinance would be introduced and considered for adoption at said meeting, and each of said officers and members consented, in advance, to the holding of said meeting for such purpose; that said meeting was open to the public as required by law; and that public notice of the date, hour, place and subject of said meeting was given as required by Chapter 551, Texas Government Code.

SIGNED AND SEALED this 5th day of November, 2012.

City Secretary
City of Tomball, Texas

Mayor
City of Tomball, Texas

[SEAL]

Signature Page to Certificate for Ordinance

ORDINANCE NO. 2012-46

AUTHORIZING THE
ISSUANCE OF

CITY OF TOMBALL, TEXAS
GENERAL OBLIGATION REFUNDING BONDS
SERIES 2013

Adopted: November 5, 2012

TABLE OF CONTENTS

	Page
Recitals.....	1

ARTICLE I

DEFINITIONS AND OTHER PRELIMINARY MATTERS

Section 1.01	Definitions.....	2
Section 1.02	Findings.....	5
Section 1.03	Table of Contents, Titles and Headings	5
Section 1.04	Interpretation	5

ARTICLE II

SECURITY FOR THE BONDS; INTEREST AND SINKING FUND

Section 2.01	Tax Levy	6
Section 2.02	Interest and Sinking Fund	6

ARTICLE III

AUTHORIZATION; GENERAL TERMS AND PROVISIONS REGARDING THE BONDS

Section 3.01	Authorization.....	7
Section 3.02	Date, Denomination, Maturities and Interest	7
Section 3.03	Medium, Method and Place of Payment	7
Section 3.04	Execution and Registration of Bonds.....	8
Section 3.05	Ownership	9
Section 3.06	Registration, Transfer and Exchange	9
Section 3.07	Cancellation.....	10
Section 3.08	Replacement Bonds.....	10
Section 3.09	Book-Entry Only System	11
Section 3.10	Successor Securities Depository; Transfer Outside Book-Entry Only System	12
Section 3.11	Payments to Cede & Co	13

ARTICLE IV

REDEMPTION OF BONDS BEFORE MATURITY

Section 4.01	Limitation on Redemption	13
Section 4.02	Optional Redemption	13
Section 4.03	Mandatory Redemption.....	13
Section 4.04	Partial Redemption.....	14
Section 4.05	Notice of Redemption to Owners.....	14
Section 4.06	Payment Upon Redemption	15

Section 4.07	Effect of Redemption	15
Section 4.08	Lapse of Payment	15

ARTICLE V

PAYING AGENT/REGISTRAR

Section 5.01	Appointment of Initial Paying Agent/Registrar	15
Section 5.02	Qualifications	16
Section 5.03	Maintaining Paying Agent/Registrar.....	16
Section 5.04	Termination	16
Section 5.05	Notice of Change to Owners	16
Section 5.06	Agreement to Perform Duties and Functions.....	16
Section 5.07	Delivery of Records to Successor	16

ARTICLE VI

FORM OF THE BONDS

Section 6.01	Form Generally	17
Section 6.02	CUSIP Registration.....	17
Section 6.03	Legal Opinion.....	17
Section 6.04	Bond Insurance.....	18

ARTICLE VII

DELEGATION OF AUTHORITY, SALE AND DELIVERY OF BONDS, DEPOSIT OF PROCEEDS

Section 7.01	Sale of Bonds; Official Statement.....	18
Section 7.02	Control and Delivery of Bonds	19
Section 7.03	Deposit of Proceeds; Transfer of Funds.....	20

ARTICLE VIII

REPRESENTATIONS AND COVENANTS

Section 8.01	Payment of the Bonds	20
Section 8.02	Other Representations and Covenants	20

ARTICLE IX

PROVISIONS CONCERNING FEDERAL INCOME TAX EXCLUSION

Section 9.01	General Tax Covenants	21
Section 9.02	No Private Use or Payment and No Private Loan Financing.....	21
Section 9.03	No Federal Guarantee	21
Section 9.04	Bonds are not Hedge Bonds.....	21
Section 9.05	No-Arbitrage	22
Section 9.06	Arbitrage Rebate	22
Section 9.07	Information Reporting.....	22

Section 9.08	Record Retention.....	22
Section 9.09	Registration	23
Section 9.10	Continuing Obligation.....	23

ARTICLE X

DISCHARGE

Section 10.01	Discharge.....	23
---------------	----------------	----

ARTICLE XI

CONTINUING DISCLOSURE UNDERTAKING

Section 11.01	Annual Reports	23
Section 11.02	Material Event Notices.....	24
Section 11.03	Limitations, Disclaimers and Amendments	25

ARTICLE XII

APPROVAL OF ESCROW AGREEMENT AND RELATED PROVISIONS

Section 12.01	Subscription for Securities	26
Section 12.02	Appointment of Escrow Agent; Approval of Escrow Agreement; Deposit with Paying Agent for Refunded Obligations	27
Section 12.03	Payment of Refunded Obligations; Redemption of Refunded Obligations	27

ARTICLE XIII

MISCELLANEOUS

Section 13.01	<u>Bond Counsel</u>	<u>27</u>
<u>Section 13.02</u>	Changes to Ordinance	27
Section 13.02 <u>13.03</u>	 Related Matters	27 <u>28</u>
Section 13.03 <u>13.04</u>	 Individuals Not Liable	28
Section 13.04 <u>13.05</u>	 Severability and Savings	28
Section 13.05 <u>13.06</u>	 Repealer	28
Section 13.06 <u>13.07</u>	 Force and Effect	28

Schedule I – Refunded Obligation Candidates

Exhibit A – Form of Pricing Certificate

ORDINANCE NO. 2012-46

ORDINANCE AUTHORIZING THE ISSUANCE OF CITY OF TOMBALL, TEXAS GENERAL OBLIGATION REFUNDING BONDS, SERIES 2013; LEVYING A TAX IN PAYMENT THEREOF; SETTING CERTAIN PARAMETERS FOR THE BONDS; AUTHORIZING THE AUTHORIZED OFFICER TO APPROVE THE AMOUNT, THE INTEREST RATE, PRICE AND CERTAIN OTHER TERMS THEREOF; AUTHORIZING THE REDEMPTION PRIOR TO MATURITY OF CERTAIN OUTSTANDING OBLIGATIONS; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT, A PAYING AGENT/REGISTRAR AGREEMENT AND AN ESCROW AGREEMENT RELATING TO SUCH BONDS; APPROVING THE PREPARATION AND DISTRIBUTION OF AN OFFICIAL STATEMENT; AND ENACTING OTHER PROVISIONS RELATING THERETO

THE STATE OF TEXAS §
COUNTIES OF HARRIS AND MONTGOMERY §

WHEREAS, the City of Tomball, Texas (the “City”) desires to issue the bonds hereinafter authorized (the “Bonds”) for the purpose of refunding certain of its outstanding obligations as identified and described on Schedule I attached hereto (the “Refunded Obligation Candidates”) for the purpose of achieving debt service savings; and

WHEREAS, it is intended that all or a portion of the Refunded Obligation Candidates shall be designated as Refunded Obligations (as hereinafter defined) in the Pricing Certificate (as hereinafter defined) and shall be refunded pursuant to this Ordinance and the Pricing Certificate; and

WHEREAS, Chapter 1207, Texas Government Code, as amended (“Chapter 1207”) authorizes the City to issue refunding bonds for the purpose of refunding the Refunded Obligations in advance of their maturities, and to accomplish such refunding by depositing directly with a paying agent for the Refunded Obligations (or other qualified escrow agent), the proceeds of such refunding bonds, together with other available funds or securities, in an amount sufficient to provide for the payment or redemption of the Refunded Obligations, and provides that such deposit shall constitute the making of firm banking and financial arrangements for the discharge and final payment or redemption of the Refunded Obligations; and

WHEREAS, the City desires to authorize the execution of an escrow agreement, if necessary, in order to provide for the deposit of proceeds of the refunding bonds and, to the extent specified pursuant hereto, other lawfully available funds of the City, to pay the redemption price of the Refunded Obligations when due; and

WHEREAS, upon the issuance of the refunding bonds herein authorized and the deposit of funds referred to above, the Refunded Obligations shall no longer be regarded as being outstanding, except for the purpose of being paid pursuant to such deposit, and the pledges, liens, trusts and all other covenants, provisions, terms and conditions of the ordinances authorizing the

issuance of the Refunded Obligations shall be, with respect to the Refunded Obligations, discharged, terminated and defeased; and

WHEREAS, the City hereby finds and determines that the issuance and delivery of the refunding bonds hereinafter authorized is necessary and in the public interest and the use of the proceeds in the manner herein specified constitutes a valid public purpose; and

WHEREAS, the City hereby finds and determines that the refunding contemplated in this Ordinance will benefit the City by providing a present value saving in the debt service payable by the City, and that such benefit is sufficient consideration for the refunding of the Refunded Obligations; and

WHEREAS, the City hereby finds and determines that the manner in which the refunding is being executed does not make it practicable to make the determination described by Section 1207.008(a)(2) of Chapter 1207; and

WHEREAS, the meeting at which this Ordinance is being considered is open to the public as required by law, and the public notice of the time, place and purpose of said meeting was given as required by Chapter 551, Texas Government Code; Now, Therefore

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

ARTICLE I

DEFINITIONS AND OTHER PRELIMINARY MATTERS

Section 1.01 Definitions.

Unless otherwise expressly provided in this Ordinance or unless the context clearly requires otherwise, the following terms shall have the meanings specified below:

“Authorized Officer” means either the City Manager or the Director of Finance of the City, who are authorized to act on behalf of the City in selling and delivering the Bonds, or such other officers of the City as designated in writing.

“Bond” means any of the Bonds.

“Bonds” means the City’s bonds authorized to be issued by Section 3.01 of this Ordinance and designated as “City of Tomball, Texas, General Obligation Refunding Bonds, Series 2013” and such other series or subseries as may be designated in the Pricing Certificate.

“Bond Counsel” means Bracewell & Giuliani LLP.

“Business Day” means a day that is not a Saturday, Sunday, legal holiday or other day on which banking institutions in the city where the Designated Payment/Transfer Office is located are required or authorized by law or executive order to close.

“City” means the City of Tomball, Texas.

“Closing Date” means the date of the initial delivery of and payment for the Bonds.

“Code” means the Internal Revenue Code of 1986, as amended, including applicable regulations, published rulings and court decisions.

“Dated Date” means the date of the Bonds as designated in the Pricing Certificate.

“Designated Payment/Transfer Office” means (i) with respect to the initial Paying Agent/Registrar, the location designated in the Pricing Certificate, and (ii) with respect to any successor Paying Agent/Registrar, the office of such successor designated and located as may be agreed upon by the City and such successor.

“DTC” means The Depository Trust Company of New York, New York, or any successor securities depository.

“DTC Participant” means brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions among DTC Participants.

“Escrow Agent” means the entity identified in the Pricing Certificate, if any, and any successors and assigns.

“Escrow Agreement” means the escrow agreement by and between the City and the Escrow Agent relating to the Refunded Obligations.

“Escrow Fund” means the fund or funds established by the Escrow Agreement to hold cash and securities for the payment of debt service on the Refunded Obligations.

“Escrow Securities” means (1) direct noncallable obligations of the United States, including obligations that are unconditionally guaranteed by the United States; (2) noncallable obligations of an agency or instrumentality of the United States, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality and that, on the date of hereof, are rated as to investment quality by a nationally recognized investment rating firm not less than “AAA” or its equivalent; and (3) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date hereof, are rated as to investment quality by a nationally recognized investment rating firm not less than “AAA” or its equivalent.

“Fiscal Year” means such fiscal year of the City as shall be set from time to time by the City Council.

“Initial Bond” means the Initial Bond authorized by Section 3.04(d) of this Ordinance.

“Interest and Sinking Fund” means the interest and sinking fund established by Section 2.02 of this Ordinance.

“Interest Payment Date” means the date or dates on which interest on the Bonds is scheduled to be paid, as designated in the Pricing Certificate.

“Maturity” means the date on which the principal of the Bonds becomes due and payable according to the terms thereof, whether at Stated Maturity or by proceedings for prior redemption.

“MSRB” means the Municipal Securities Rulemaking Board.

“Ordinance” means this Ordinance.

“Owner” means the person who is the registered owner of a Bond or Bonds, as shown in the Register.

“Paying Agent/Registrar” means the Paying Agent/Registrar designated in the Pricing Certificate.

“Paying Agent Registrar Agreement” means the Paying Agent/Registrar Agreement between the Paying Agent/Registrar and the City relating to the Bonds.

“Pricing Certificate” means a certificate or certificates to be signed by the Authorized Officer, in substantially the form attached hereto as Exhibit A with such variations, omissions and insertions as are approved by the Authorized Officer as indicated by his/her signature.

“Purchase Agreement” means the Bond Purchase Agreement between the City and the Underwriter providing for the sale of the Bonds to the Underwriter.

“Record Date” means the close of business on the last Business Day of the month next preceding an Interest Payment Date.

“Refunded Obligation Candidates” mean the obligations of the City described in Schedule I attached hereto.

“Refunded Obligations” mean those obligations of the City designated as such in the Pricing Certificate from the list of Refunded Obligation Candidates.

“Register” means the bond register specified in Section 3.06(a).

“Representations Letter” means the Blanket Letter of Representations between the City and DTC.

“Rule” means Rule 15c2-12, as amended from time to time, adopted by the SEC under the Securities Exchange Act of 1934.

“SEC” means the United States Securities and Exchange Commission.

“Special Payment Date” means the date that is 15 days after the Special Record Date, as described in Section 3.03(e).

“Special Record Date” means the new record date for interest payment established in the event of a nonpayment of interest on a scheduled payment date, and for 30 days thereafter, as described in Section 3.03(e).

“State” means the State of Texas.

“Stated Maturity” means the respective stated maturity dates of the Bonds specified in the Pricing Certificate.

“Unclaimed Payments” means money deposited with the Paying Agent/Registrar for the payment of principal, premium, if any, or interest, or money set aside for the payment of Bonds duly called for redemption prior to Stated Maturity and remaining unclaimed by the Owners of such Bonds for 90 days after the applicable payment or redemption date.

“Underwriter” means the underwriter stated in the Purchase Agreement.

Section 1.02 Findings.

The declarations, determinations and findings declared, made and found in the preamble to this Ordinance are hereby adopted, restated and made a part of the operative provisions hereof.

Section 1.03 Table of Contents, Titles and Headings.

The table of contents, titles and headings of the articles and sections of this Ordinance have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof and shall never be considered or given any effect in construing this Ordinance or any provision hereof or in ascertaining intent, if any question of intent should arise. References to section numbers shall mean sections in this Ordinance.

Section 1.04 Interpretation.

(a) Unless the context requires otherwise, words of the masculine gender shall be construed to include correlative words of the feminine and neuter genders and vice versa, and words of the singular number shall be construed to include correlative words of the plural number and vice versa.

(b) Any action required to be taken on a date which is not a Business Day shall be taken on the next succeeding Business Day and have the same effect as if taken on the date so required.

(c) This Ordinance and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein and to sustain the validity of this Ordinance.

(d) References to section numbers shall mean sections in this Ordinance unless designated otherwise.

ARTICLE II

SECURITY FOR THE BONDS; INTEREST AND SINKING FUND

Section 2.01 Tax Levy.

(a) Pursuant to the authority granted by the Constitution and the laws of the State, there shall be levied and there is hereby levied for the current year and for each succeeding year hereafter while any part of the principal of the Bonds or any interest thereon is outstanding and unpaid, an ad valorem tax on all taxable property within the City, at a rate sufficient, within the limit prescribed by law, to pay the debt service requirements of the Bonds, being (i) the interest on the Bonds, and (ii) a sinking fund for their redemption at maturity or a sinking fund of two percent (2%) per annum (whichever amount is greater), when due and payable, full allowance being made for delinquencies and costs of collection.

(b) The ad valorem tax thus levied shall be assessed and collected each year against all taxable property appearing on the tax rolls of the City most recently approved in accordance with law, and the money thus collected shall be deposited as collected to the Interest and Sinking Fund.

(c) Said ad valorem tax, the collections therefrom, and all amounts on deposit in or required hereby to be deposited to the Interest and Sinking Fund are hereby pledged and committed irrevocably to the payment of the principal of and interest on the Bonds when and as due and payable in accordance with their terms and this Ordinance.

(d) To pay debt service on the Bonds coming due prior to receipt of the taxes levied to pay such debt service, if any, there is hereby appropriated from current funds on hand, which are hereby certified to be on hand and available for such purpose, an amount sufficient to pay such debt service, and such amount shall be used for no other purpose.

Section 2.02 Interest and Sinking Fund.

(a) The City hereby establishes a special fund or account to be designated the "City of Tomball, Texas, General Obligation Refunding Bonds, Series 2013, Interest and Sinking Fund" (the "Interest and Sinking Fund") said fund to be maintained at an official depository bank of the City separate and apart from all other funds and accounts of the City.

(b) Money on deposit in or required by this Ordinance to be deposited to the Interest and Sinking Fund shall be used solely for the purpose of paying the interest on and principal of the Bonds when and as due and payable in accordance with their terms and this Ordinance.

ARTICLE III

AUTHORIZATION; GENERAL TERMS AND PROVISIONS REGARDING THE BONDS

Section 3.01 Authorization.

The Bonds are hereby authorized to be issued and delivered in accordance with Chapter 1207. The Bonds shall be issued in an aggregate principal amount not to exceed the amount specified in Section 7.01 hereof, for the purpose of refunding the Refunded Obligations and paying the costs of issuing the Bonds.

Section 3.02 Date, Denomination, Maturities and Interest.

(a) The Bonds shall be dated the Dated Date as set forth in the Pricing Certificate, shall be issued in fully registered form, without coupons, in denominations of \$5,000 or any integral multiple thereof, and shall be numbered separately from one upward or such other designation acceptable to the City and the Paying Agent/Registrar, except the Initial Bond, which shall be numbered I-1. Bonds delivered on transfer of or in exchange for other Bonds shall be numbered in order of their authentication by the Paying Agent/Registrar, shall be in denominations of \$5,000 or any integral multiple thereof, and shall mature on the same date and bear interest at the same rate as the Bond or Bonds in lieu of which they are delivered.

(b) The Bonds shall mature on the same day in each of the years and in the principal amounts, and shall bear interest at the per annum rates, all as set forth in the Pricing Certificate.

(c) Interest shall accrue and be paid on each Bond, respectively, until the principal amount thereof has been paid or provision for such payment has been made, from the later of (i) the Dated Date or the Closing Date, as set forth in the Pricing Certificate, or (ii) the most recent Interest Payment Date to which interest has been paid or provided for at the rate per annum for each respective maturity specified in the Pricing Certificate. Such interest shall be payable on each Interest Payment Date until Maturity and shall be calculated on the basis of a 360-day year of twelve 30-day months.

Section 3.03 Medium, Method and Place of Payment.

(a) The principal of and interest on the Bonds shall be paid in lawful money of the United States of America.

(b) Interest on the Bonds shall be paid by check, dated as of the Interest Payment Date, and sent first class United States mail, postage prepaid, by the Paying Agent/Registrar to each Owner as shown in the Register at the close of business on the Record Date, at the address of each such Owner as it appears in the Register, or by such other customary banking arrangement acceptable to the Paying Agent/Registrar and the Owner; provided, however, that the Owner shall bear all risk and expense of such other banking arrangement.

(c) The principal of each Bond shall be paid without exchange or collection charges to the Owner thereof on the Maturity date thereof upon presentation and surrender of such Bond at the Designated Payment/Transfer Office.

(d) If the date for the payment of the principal of or interest on the Bonds is not a Business Day, then the date for such payment shall be the next succeeding Business Day, and payment on such date shall have the same force and effect as if made on the original date payment was due and no additional interest shall be due by reason of nonpayment on the date on which such payment is otherwise stated to be due and payable.

(e) In the event of a nonpayment of interest on a scheduled payment date, and for 30 days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the special payment date of the past due interest (the "Special Payment Date," which shall be 15 days after the Special Record Date) shall be sent at least five (5) Business Days prior to the Special Record Date by United States mail, first class, postage prepaid, to the address of each Owner of a Bond appearing on the books of the Paying Agent/Registrar at the close of business on the last Business Day next preceding the date of mailing of such notice.

(f) Unclaimed Payments shall be segregated in a special account and held in trust, uninvested by the Paying Agent/Registrar, for the account of the Owners of the Bonds to which such Unclaimed Payments pertain. Subject to Title 6, Texas Property Code, Unclaimed Payments remaining unclaimed by the Owners entitled thereto for three (3) years after the applicable payment or redemption date shall be applied to the next payment or payments on the Bonds thereafter coming due and, to the extent any such money remains three (3) years after the retirement of all outstanding Bonds, such money shall be paid to the City to be used for any lawful purpose. Thereafter, neither the City, the Paying Agent/Registrar nor any other person shall be liable or responsible to any Owners of such Bonds for any further payment of such unclaimed moneys or on account of any such Bonds, subject to Title 6, Texas Property Code.

Section 3.04 Execution and Registration of Bonds.

(a) The Bonds shall be executed on behalf of the City by the Mayor and City Secretary, by their manual or facsimile signatures, and the official seal of the City shall be impressed or placed in facsimile thereon. Such facsimile signatures on the Bonds shall have the same effect as if each of the Bonds had been signed manually and in person by each of said officers, and such facsimile seal on the Bonds shall have the same effect as if the official seal of the City had been manually impressed upon each of the Bonds.

(b) In the event that any officer of the City whose manual or facsimile signature appears on the Bonds ceases to be such officer before the authentication of such Bonds or before the delivery thereof, such signature nevertheless shall be valid and sufficient for all purposes as if such officer had remained in such office.

(c) Except as provided below, no Bond shall be valid or obligatory for any purpose or be entitled to any security or benefit of this Ordinance unless and until there appears thereon the

Certificate of Paying Agent/Registrar substantially in the form provided herein, duly authenticated by manual execution by an officer or duly authorized signatory of the Paying Agent/Registrar. It shall not be required that the same officer or authorized signatory of the Paying Agent/Registrar sign the Certificate of Paying Agent/Registrar on all of the Bonds. In lieu of the executed Certificate of Paying Agent/Registrar described above, the Initial Bond delivered at the Closing Date shall have attached thereto the Comptroller's Registration Certificate substantially in the form provided herein, manually executed by the Comptroller of Public Accounts of the State of Texas, or by her duly authorized agent, which certificate shall be evidence that the Bond has been duly approved by the Attorney General of the State, and that it is a valid and binding obligation of the City, and that it has been registered by the Comptroller of Public Accounts of the State.

(d) On the Closing Date, one Initial Bond representing the entire principal amount of the Bonds designated in the Pricing Certificate, payable in stated installments to the Underwriter or its designee, executed by the manual or facsimile signatures of the Mayor and City Secretary, approved by the Attorney General of the State, and registered and manually signed by the Comptroller of Public Accounts of the State, will be delivered to the Underwriter or its designee. Upon payment for the Initial Bond, the Paying Agent/Registrar shall cancel the Initial Bond and deliver registered definitive Bonds to DTC in accordance with Section 3.09 hereof. To the extent the Paying Agent/Registrar is eligible to participate in DTC's FAST System, as evidenced by an agreement between the Paying Agent/Registrar and DTC, the Paying Agent/Registrar shall hold the definitive Bonds in safekeeping for DTC.

Section 3.05 Ownership.

(a) The City, the Paying Agent/Registrar and any other person may treat the Owner as the absolute owner of such Bond for the purpose of making and receiving payment of the principal thereof for the further purpose of making and receiving payment of the interest thereon (subject to the provision herein that interest on the Bonds is to be paid to the person in whose name the Bond is registered on the Record Date or Special Record Date, as applicable), and for all other purposes, whether or not such Bond is overdue, and neither the City nor the Paying Agent/Registrar shall be bound by any notice or knowledge to the contrary.

(b) All payments made to the Owner of a Bond shall be valid and effectual and shall discharge the liability of the City and the Paying Agent/Registrar upon such Bond to the extent of the sums paid.

Section 3.06 Registration, Transfer and Exchange.

(a) So long as any Bonds remain outstanding, the City shall cause the Paying Agent/Registrar to keep at its Designated Payment/Transfer Office a bond register (the "Register") in which, subject to such reasonable regulations as it may prescribe, the Paying Agent/Registrar shall provide for the registration and transfer of Bonds in accordance with this Ordinance.

(b) The ownership of a Bond may be transferred only upon the presentation and surrender of the Bond to the Paying Agent/Registrar at the Designated Payment/Transfer Office

with such endorsement or other evidence of transfer acceptable to the Paying Agent/Registrar. No transfer of any Bond shall be effective until entered in the Register.

(c) The Bonds shall be exchangeable upon the presentation and surrender thereof at the Designated Payment/Transfer Office for a Bond or Bonds of the same maturity and interest rate and in any denomination or denominations of any integral multiple of \$5,000 and in an aggregate principal amount equal to the unpaid principal amount of the Bonds presented for exchange.

(d) The Paying Agent/Registrar is hereby authorized to authenticate and deliver Bonds transferred or exchanged in accordance with this Section. A new Bond or Bonds will be delivered by the Paying Agent/Registrar, in lieu of the Bond being transferred or exchanged, at the Designated Payment/Transfer, or sent by United States mail, first class, postage prepaid, to the Owner or his designee. Each Bond delivered by the Paying Agent/Registrar in accordance with this Section shall constitute an original contractual obligation of the City and shall be entitled to the benefits and security of this Ordinance to the same extent as the Bond or Bonds in lieu of which such Bond is delivered.

(e) No service charge shall be made to the Owner for the initial registration, any subsequent transfer, or exchange for a different denomination of any of the Bonds. The Paying Agent/Registrar, however, may require the Owner to pay a sum sufficient to cover any tax or other governmental charge that is authorized to be imposed in connection with the registration, transfer or exchange of a Bond.

(f) Neither the City nor the Paying Agent/Registrar shall be required to issue, transfer or exchange any Bond called for redemption, in whole or in part, within 45 days prior to the date fixed for redemption; provided, however, such limitation of transfer shall not be applicable to an exchange by the Owner of the uncalled principal balance of a Bond.

Section 3.07 Cancellation. All Bonds paid or redeemed before Stated Maturity in accordance with this Ordinance, and all Bonds in lieu of which exchange Bonds or replacement Bonds are authenticated and delivered in accordance with this Ordinance, shall be cancelled upon the making of proper records regarding such payment, redemption, exchange or replacement. The Paying Agent/Registrar shall dispose of such cancelled Bonds in the manner required by the Securities Exchange Act of 1934, as amended.

Section 3.08 Replacement Bonds.

(a) Upon the presentation and surrender to the Paying Agent/Registrar of a mutilated Bond, the Paying Agent/Registrar shall authenticate and deliver in exchange therefor a replacement Bond of like maturity, interest rate and principal amount, bearing a number not contemporaneously outstanding. The City or the Paying Agent/Registrar may require the Owner of such Bond to pay a sum sufficient to cover any tax or other governmental charge that is authorized to be imposed in connection therewith and any other expenses connected therewith.

(b) In the event that any Bond is lost, apparently destroyed or wrongfully taken, the Paying Agent/Registrar, pursuant to the applicable laws of the State and in the absence of notice or knowledge that such Bond has been acquired by a bona fide purchaser, shall authenticate and

deliver a replacement Bond of like maturity, interest rate and principal amount, bearing a number not contemporaneously outstanding, provided that the Owner first complies with the following requirements:

(i) furnishes to the Paying Agent/Registrar satisfactory evidence of his or her ownership of and the circumstances of the loss, destruction or theft of such Bond;

(ii) furnishes such security or indemnity as may be required by the Paying Agent/Registrar and the City to save them harmless;

(iii) pays all expenses and charges in connection therewith, including, but not limited to, printing costs, legal fees, fees of the Paying Agent/Registrar, and any tax or other governmental charge that is authorized to be imposed; and

(iv) satisfies any other reasonable requirements imposed by the City and the Paying Agent/Registrar.

(c) If, after the delivery of such replacement Bond, a bona fide purchaser of the original Bond in lieu of which such replacement Bond was issued presents for payment such original Bond, the City and the Paying Agent/Registrar shall be entitled to recover such replacement Bond from the person to whom it was delivered or any person taking therefrom, except a bona fide purchaser, and shall be entitled to recover upon the security or indemnity provided therefor to the extent of any loss, damage, cost, or expense incurred by the City or the Paying Agent/Registrar in connection therewith.

(d) In the event that any such mutilated, lost, apparently destroyed, or wrongfully taken Bond has become or is about to become due and payable, the Paying Agent/Registrar, in its discretion, instead of issuing a replacement Bond, may pay such Bond if it has become due and payable or may pay such Bond when it becomes due and payable.

(e) Each replacement Bond delivered in accordance with this Section shall constitute an original additional contractual obligation of the City and shall be entitled to the benefits and security of this Ordinance to the same extent as the Bond or Bonds in lieu of which such replacement Bond is delivered.

Section 3.09 Book-Entry Only System.

(a) Unless otherwise specified in the Pricing Certificate, the definitive Bonds shall be initially issued in the form of a separate fully registered Bond for each of the maturities thereof. Upon initial issuance, the ownership of each such Bond shall be registered in the name of Cede & Co., as nominee of DTC, and except as provided in Section 3.10 hereof, all of the outstanding Bonds shall be registered in the name of Cede & Co., as nominee of DTC.

(b) With respect to Bonds registered in the name of Cede & Co., as nominee of DTC, the City and the Paying Agent/Registrar shall have no responsibility or obligation to any DTC Participant or to any person on behalf of whom such a DTC Participant holds an interest in the Bonds, except as provided in this Ordinance. Without limiting the immediately preceding sentence, the City and the Paying Agent/Registrar shall have no responsibility or obligation with

respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any DTC Participant or any other person, other than an Owner of any notice with respect to the Bonds, or (iii) the payment to any DTC Participant or any other person, other than an Owner of any amount with respect to principal of or interest on the Bonds. Notwithstanding any other provision of this Ordinance to the contrary, the City and the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Bond is registered in the Register as the absolute owner of such Bond for the purpose of payment of principal of, premium, if any, and interest on the Bonds for the purpose of giving notices with respect to such Bond, and other matters with respect to such Bond, for the purpose of registering transfer with respect to such Bond, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of and interest on the Bonds only to or upon the order of the respective Owners, as shown in the Register, as provided in this Ordinance, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to payment of premium, if any, principal and interest on the Bonds to the extent of the sum or sums so paid. No person other than an Owner, as shown in the Register, shall receive a Bond evidencing the obligation of the City to make payments of amounts due pursuant to this Ordinance. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions of this Ordinance with respect to interest payments being mailed to the Owner as shown on the Register on the Record Date, the word "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

(c) The Representation Letter previously executed and delivered by the City, and applicable to the City's obligations delivered in book-entry-only form to DTC as securities depository, is hereby ratified and approved for the Bonds.

Section 3.10 Successor Securities Depository; Transfer Outside Book-Entry Only System.

In the event that the City determines that it is in the best interest of the City and of the beneficial owners of the Bonds that they be able to obtain certificated Bonds, or in the event DTC discontinues the services described herein, the City or the Paying Agent/Registrar shall (i) appoint a successor securities depository, qualified to act as such under Section 17(a) of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository and transfer one or more separate Bonds to such successor securities depository; or (ii) notify DTC and DTC Participants of the availability through DTC of certificated Bonds and cause the Paying Agent/Registrar to transfer one or more separate registered Bonds to DTC Participants having Bonds credited to their DTC accounts. In such event, the Bonds shall no longer be restricted to being registered in the Register in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names Owners transferring or exchanging Bonds shall designate, in accordance with the provisions of this Ordinance.

Section 3.11 Payments to Cede & Co.

Notwithstanding any other provision of this Ordinance to the contrary, so long as any Bonds are registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of, premium, if any, and interest on such Bonds, and all notices with respect to such Bonds, shall be made and given, respectively, in the manner provided in the Representation Letter of the City to DTC.

ARTICLE IV

REDEMPTION OF BONDS BEFORE MATURITY

Section 4.01 Limitation on Redemption.

The Bonds shall be subject to redemption before Stated Maturity only as provided in this Article IV and in the Pricing Certificate.

Section 4.02 Optional Redemption.

The Bonds shall be subject to redemption at the option of the City at such times, in such amounts, in such manner and at such redemption prices as may be designated and provided for in the Pricing Certificate.

Section 4.03 Mandatory Redemption.

(a) The Bonds designated as “Term Bonds” in the Pricing Certificate (“Term Bonds”), if any, are subject to scheduled mandatory redemption and will be redeemed by the City, in part, at a price equal to the principal amount thereof, without premium, plus accrued interest to the redemption date, out of moneys available for such purpose in the interest and sinking fund, on the dates and in the respective principal amounts as set forth in the Pricing Certificate.

(b) Prior to each scheduled mandatory redemption date, the Paying Agent/Registrar shall select for redemption by lot, or by any other customary method that results in a random selection, a principal amount of Term Bonds equal to the aggregate principal amount of such Term Bonds to be redeemed, shall call such Term Bonds for redemption on such scheduled mandatory redemption date, and shall give notice of such redemption, as provided in Section 4.05.

(c) The principal amount of the Term Bonds required to be redeemed on any redemption date pursuant to subparagraph (a) of this Section 4.03 shall be reduced, at the option of the City, by the principal amount of any Term Bonds which, at least 45 days prior to the mandatory sinking fund redemption date (i) shall have been acquired by the City at a price not exceeding the principal amount of such Term Bonds plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation, or (ii) shall have been redeemed pursuant to the optional redemption provisions hereof and not previously credited to a mandatory sinking fund redemption.

Section 4.04 Partial Redemption.

(a) If less than all of the Bonds are to be redeemed pursuant to Section 4.02, the City shall determine the maturities and the principal amount thereof to be redeemed and shall direct the Paying Agent/Registrar to call by lot or any other customary random selection method such Bonds for redemption.

(b) A portion of a single Bond of a denomination greater than \$5,000 may be redeemed, but only in a principal amount equal to \$5,000 or any integral multiple thereof. The Paying Agent/Registrar shall treat each \$5,000 portion of such Bond as though it were a single Bond for purposes of selection for redemption.

(c) Upon surrender of any Bond for redemption in part, the Paying Agent/Registrar, in accordance with Section 3.06 of this Ordinance, shall authenticate and deliver exchange Bonds in an aggregate principal amount equal to the unredeemed principal amount of the Bond so surrendered, such exchange being without charge.

Section 4.05 Notice of Redemption to Owners.

(a) The Paying Agent/Registrar shall give notice of any redemption of Bonds by sending notice by United States mail, first class, postage prepaid, not less than 30 days before the date fixed for redemption, to the Owner of each Bond (or part thereof) to be redeemed, at the address shown on the Register at the close of business on the Business Day next preceding the date of mailing such notice.

(b) The notice shall state the redemption date, the redemption price, the place at which the Bonds are to be surrendered for payment, and, if less than all the Bonds outstanding are to be redeemed, an identification of the Bonds or portions thereof to be redeemed.

(c) The City reserves the right to give notice of its election or direction to redeem Bonds under Section 4.02 conditioned upon the occurrence of subsequent events. Such notice may state (i) that the redemption is conditioned upon the deposit of moneys and/or authorized securities, in an amount equal to the amount necessary to effect the redemption, with the Paying Agent/Registrar, or such other entity as may be authorized by law, no later than the redemption date or (ii) that the City retains the right to rescind such notice at any time prior to the scheduled redemption date if the City delivers a certificate of the City to the Paying Agent/Registrar instructing the Paying Agent/Registrar to rescind the redemption notice, and such notice and redemption shall be of no effect if such moneys and/or authorized securities are not so deposited or if the notice is rescinded. The Paying Agent/Registrar shall give prompt notice of any such rescission of a conditional notice of redemption to the affected Owners. Any Bonds subject to conditional redemption where redemption has been rescinded shall remain Outstanding.

(d) Any notice given as provided in this Section shall be conclusively presumed to have been duly given, whether or not the Owner receives such notice.

Section 4.06 Payment Upon Redemption.

(a) Before or on each redemption date, the City shall deposit with the Paying Agent/Registrar money sufficient to pay all amounts due on the redemption date and the Paying Agent/Registrar shall make provision for the payment of the Bonds to be redeemed on such date by setting aside and holding in trust such amounts as are received by the Paying Agent/Registrar from the City and shall use such funds solely for the purpose of paying the principal of, redemption premium, if any, and accrued interest on the Bonds being redeemed.

(b) Upon presentation and surrender of any Bond called for redemption to the Paying Agent/Registrar on or after the date fixed for redemption, the Paying Agent/Registrar shall pay the principal of, redemption premium, if any, and accrued interest on such Bond to the date of redemption from the money set aside for such purpose.

Section 4.07 Effect of Redemption.

(a) When Bonds have been called for redemption in whole or in part and due provision has been made to redeem same as herein provided, the Bonds or portions thereof so redeemed shall no longer be regarded as outstanding except for the purpose of receiving payment solely from the funds so provided for redemption, and the rights of the Owners to collect interest which would otherwise accrue after the redemption date on any Bond or portion thereof called for redemption shall terminate on the date fixed for redemption.

(b) If the City shall fail to make provision for payment of all sums due on a redemption date, then any Bond or portion thereof called for redemption shall continue to bear interest at the rate stated on the Bond until due provision is made for the payment of same by the City.

Section 4.08 Lapse of Payment. Money set aside for the redemption of the Bonds and remaining unclaimed by the Owners thereof shall be subject to the provisions of Section 3.03(f) hereof.

ARTICLE V

PAYING AGENT/REGISTRAR

Section 5.01 Appointment of Initial Paying Agent/Registrar.

(a) The form of Paying Agent/Registrar Agreement is hereby approved. The Mayor and City Secretary are hereby authorized and directed to execute and deliver the Paying Agent/Registrar Agreement.

(b) The Authorized Officer is hereby authorized to select and appoint the initial Paying Agent/Registrar for the Bonds, and the initial Paying Agent/Registrar shall be designated in the Pricing Certificate.

Section 5.02 Qualifications.

Each Paying Agent/Registrar shall be a commercial bank or trust company organized under the laws of the State, or any other entity duly qualified and legally authorized to serve as and perform the duties and services of paying agent and registrar for the Bonds.

Section 5.03 Maintaining Paying Agent/Registrar.

(a) At all times while any of the Bonds are outstanding, the City will maintain a Paying Agent/Registrar that is qualified under Section 5.02 of this Ordinance.

(b) If the Paying Agent/Registrar resigns or otherwise ceases to serve as such, the City will promptly appoint a replacement, provided no such resignation shall be effective until a successor Paying Agent/Registrar has accepted the duties of Paying Agent/Registrar for the Bonds.

Section 5.04 Termination.

The City reserves the right to terminate the appointment of any Paying Agent/Registrar by delivering to the entity whose appointment is to be terminated (i) 45 days written notice of the termination of the appointment and of the Paying Agent/Registrar Agreement, stating the effective date of such termination, and (ii) appointing a successor Paying Agent/Registrar; provided that, no such termination shall be effective until a successor Paying Agent/Registrar has been appointed and has accepted the duties of Paying Agent/Registrar for the Bonds.

Section 5.05 Notice of Change to Owners.

Promptly upon each change in the entity serving as Paying Agent/Registrar, the City will cause notice of the change to be sent to each Owner by first class United States mail, postage prepaid, at the address thereof in the Register, stating the effective date of the change and the name and mailing address of the replacement Paying Agent/Registrar.

Section 5.06 Agreement to Perform Duties and Functions.

By accepting the appointment as Paying Agent/Registrar, and by executing the Paying Agent/Registrar Agreement, the Paying Agent/Registrar is deemed to have agreed to the provisions of this Ordinance and that it will perform the duties and functions of Paying Agent/Registrar prescribed herein.

Section 5.07 Delivery of Records to Successor.

The Paying Agent/Registrar, promptly upon the appointment of a successor, will deliver the Register (or a copy thereof) and all other pertinent books and records relating to the Bonds to the successor Paying Agent/Registrar.

ARTICLE VI

FORM OF THE BONDS

Section 6.01 Form Generally.

(a) The Bonds, including the Registration Certificate of the Comptroller of Public Accounts of the State to accompany the Initial Bond, the Certificate of the Paying Agent/Registrar, and the Assignment form which shall accompany, appear on or be attached or affixed to each of the Bonds, (i) shall be substantially in the form set forth in the Pricing Certificate, with such appropriate insertions, omissions, substitutions, and other variations as may be necessary or desirable and not prohibited by this Ordinance and the Pricing Certificate, and (ii) may have such letters, numbers, or other marks of identification (including identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American Bankers Association) and such legends and endorsements (including any legend relating to bond insurance for the Bonds or reproduction of an opinion of counsel) as, consistently herewith, may be determined by the Authorized Officer or by the officers executing such Bonds, as evidenced by their execution thereof.

(b) Any portion of the text of any Bonds may be set forth on the reverse side thereof, with an appropriate reference thereto on the face of the Bonds.

(c) The definitive Bonds shall be typewritten, photocopied, printed, lithographed, or engraved, and may be produced by any combination of these methods or produced in any other similar manner, all as determined by the officers executing such Bonds, as evidenced by their execution thereof.

(d) The Initial Bond submitted to the Attorney General of the State may be typewritten and photocopied or otherwise reproduced.

Section 6.02 CUSIP Registration.

The City may secure identification numbers through the CUSIP Global Services, managed by Standard & Poor's Financial Services LLC and may authorize the printing of such numbers on the face of the Bonds. It is expressly provided, however, that the presence or absence of CUSIP numbers on the Bonds shall be of no significance or effect as regards the legality thereof and neither the City nor bond counsel to the City are to be held responsible for CUSIP numbers incorrectly printed on the Bonds.

Section 6.03 Legal Opinion.

The approving legal opinion of Bond Counsel may be attached to or printed on the reverse side of each Bond.

Section 6.04 Bond Insurance.

If it is determined that the purchase of bond insurance would result in savings to the City, the Authorized Officer is hereby authorized to approve the purchase of and payment of the premium for bond insurance by the City and the terms of commitment for such insurance, if any. All officials and representatives of the City are authorized and directed to execute such documents and to do any and all things necessary or desirable to obtain such insurance. A statement relating to the bond insurance obtained for the Bonds, if any, may be printed on or attached to each Bond.

ARTICLE VII

DELEGATION OF AUTHORITY, SALE AND DELIVERY OF BONDS, DEPOSIT OF PROCEEDS

Section 7.01 Sale of Bonds; Official Statement.

(a) The Bonds shall be sold to the Underwriter in accordance with the terms of this Ordinance. As authorized by Chapter 1207, the Authorized Officer is authorized to act on behalf of the City in selling and delivering the Bonds and in carrying out the other procedures specified in this Ordinance, including determining whether the Bonds will be sold in a negotiated or competitive sale, the price at which each of the Bonds will be sold, the number and designation of each series or subseries of Bonds to be issued, the form in which the Bonds shall be issued, the years and dates on which the Bonds will mature, the principal amount to mature in each of such years, the aggregate principal amount of the Bonds to be issued by the City, the rate of interest to be borne by each maturity of the Bonds, the Interest Payment Dates, the Record Dates, the dates, prices and terms upon and at which the Bonds shall be subject to redemption prior to maturity at the option of the City and shall be subject to mandatory redemption, the designation of the Refunded Obligations from the Schedule of Refunded Obligation Candidates, the selection of a paying agent/registrar, escrow agent, verification agent and bond insurer, if any, whether the Bonds shall be issued as bank qualified, and all other matters relating to the issuance, sale and delivery of the Bonds and the refunding of the Refunded Obligations, all of which shall be specified in the Pricing Certificate; subject to the following conditions:

(i) the price to be paid for the Bonds shall not be less than 90% of the aggregate original principal amount of the Bonds plus accrued interest thereon from their date to their delivery;

(ii) the Bonds shall not bear interest at a rate greater than the maximum rate allowed by Chapter 1204, Texas Government Code, as amended;

(iii) the aggregate principal amount of the Bonds authorized to be issued for the purposes described in Section 3.01 shall not exceed \$6,500,000;

(iv) the refunding of the Refunded Obligations shall produce a present value debt service savings of at least 5% of the principal amount of the Refunded Obligations;

(v) no Bond shall mature more than 40 years from the date of delivery thereof; and

(vi) the terms of sale for the Bonds will be found and determined to be the most advantageous reasonably obtainable by the City.

(b) The Authorized Officer is hereby authorized and directed to execute and deliver on behalf of the City a Purchase Agreement providing for the sale of the Bonds to the Underwriter, in such form as determined by the Authorized Officer. The Authorized Officer is hereby authorized and directed to approve the final terms and provisions of the Purchase Agreement in accordance with the terms of the Pricing Certificate and this Ordinance, which final terms shall be determined to be the most advantageous reasonably attainable by the City, such approval and determination being evidenced by its execution thereof by the Authorized Officer. All officers, agents and representatives of the City are hereby authorized to do any and all things necessary or desirable to satisfy the conditions set out therein and to provide for the issuance and delivery of the Bonds. The Initial Bond shall initially be registered in the name of the Underwriter or such other entity as may be specified in the Purchase Agreement.

(c) The authority granted to the Authorized Officer under Sections 7.01(a) through Section 7.01(c) shall expire on a date 180 days from the date of this Ordinance, unless otherwise extended by the City by separate action.

(d) The City hereby authorizes the Authorized Officer to approve the form and content and distribution of the Preliminary Official Statement, and to deem the Preliminary Official Statement (with such addenda, supplements or amendments as may be approved by the Authorized Officer and the Underwriter) final within the meaning and for the purposes of paragraph (b)(1) of Rule 15c2-12 under the Securities Exchange Act of 1934. The City hereby authorizes the preparation of a final Official Statement reflecting the terms of the Purchase Agreement and other relevant information. The use of such final Official Statement by the Underwriter (with such appropriate variations as shall be approved by the Authorized Officer and the Underwriter) is hereby approved and authorized and the proper officials of the City are authorized to sign such Official Statement and deliver a certificate pertaining to such Official Statement, if necessary.

(e) The Authorized Officer and all other officers of the City are authorized to take such actions, to obtain such consents or approvals and to execute such documents, certificates and receipts as they may deem necessary and appropriate in order to consummate the delivery of the Bonds, pay the costs of issuance of the Bonds, and effectuate the terms and provisions of this Ordinance.

Section 7.02 Control and Delivery of Bonds.

(a) The Mayor is hereby authorized to have control of the Initial Bond and all necessary records and proceedings pertaining thereto pending investigation, examination, and approval of the Attorney General of the State of Texas, registration by the Comptroller of Public Accounts of the State of Texas and registration with, and initial exchange or transfer by, the Paying Agent/Registrar.

(b) After registration by the Comptroller of Public Accounts, delivery of the Bonds shall be made to either the Underwriter or the Purchaser under and subject to the general supervision and direction of the Authorized Officer, against receipt by the City of all amounts due to the City under the terms of sale.

Section 7.03 Deposit of Proceeds; Transfer of Funds.

(a) All amounts received on the Closing Date as accrued interest on the Bonds from the Dated Date to the Closing Date shall be deposited to the Interest and Sinking Fund.

(b) A portion of the proceeds from the sale of the Bonds, together with other funds of the City, if any, shall be applied as set forth in the Pricing Certificate to provide for the refunding of Refunded Obligations and, to the extent not otherwise provided for, to pay all costs and expenses arising in connection with the establishment of the Escrow Fund, and the refunding of the Refunded Obligations. Any proceeds remaining after the accomplishment of such purposes, including interest earnings on the investment of such proceeds, shall be deposited to the Interest and Sinking Fund.

ARTICLE VIII

REPRESENTATIONS AND COVENANTS

Section 8.01 Payment of the Bonds.

On or before each date on which principal, premium, if any, or interest is due on the Bonds, there shall be made available to the Paying Agent/Registrar, out of the Interest and Sinking Fund, money sufficient to pay such principal, premium, if any, or interest when due.

Section 8.02 Other Representations and Covenants.

(a) The City will faithfully perform at all times any and all covenants, undertakings, stipulations, and provisions contained in this Ordinance and in each Bond; the City will promptly pay or cause to be paid the principal of and interest on each Bond on the dates and at the places and manner prescribed in such Bond; and the City will, at the times and in the manner prescribed by this Ordinance, deposit or cause to be deposited the amounts of money specified by this Ordinance.

(b) The City is duly authorized under the laws of the State to issue the Bonds; all action on its part for the creation and issuance of the Bonds has been or will be duly and effectively taken; and the Bonds in the hands of the Owners thereof are and will be valid and enforceable obligations of the City in accordance with their terms.

ARTICLE IX

PROVISIONS CONCERNING FEDERAL INCOME TAX EXCLUSION

Section 9.01 General Tax Covenants.

The City intends that the interest on the Bonds will be excludable from gross income for purposes of federal income taxation pursuant to sections 103 and 141 through 150 of the Code and the applicable regulations promulgated thereunder (the “Regulations”). The City covenants and agrees not to take any action, or knowingly omit to take any action within its control, that if taken or omitted, respectively, would (i) cause the interest on the Bonds to be includable in the gross income, as defined in section 61 of the Code, of the holders thereof for purposes of federal income taxation or (ii) result in the violation of or failure to satisfy any provision of Section 103 and 141 through 150 of the code and the applicable Regulation that is applicable to the Bonds. In particular, the City covenants and agrees to comply with each requirement of this Article IX, provided, however, that the City will not be required to comply with any particular requirement of this Article IX if the City has received an opinion of nationally recognized bond counsel (“Counsel’s Opinion”) that (i) such noncompliance will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Bonds or (ii) if the City has received a Counsel’s Opinion to the effect that compliance with some other requirement set forth in this Article IX will satisfy the applicable requirements of the Code, in which case compliance with such other requirement specified in such Counsel’s Opinion will constitute compliance with the corresponding requirement specified in this Article.

Section 9.02 No Private Use or Payment and No Private Loan Financing.

The City will certify, through an authorized officer, employee or agent, that, based upon all facts and estimates known or reasonably expected to be in existence on the date the Bonds are delivered, the proceeds of the Refunded Bonds have not been and the proceeds of the Bonds will not be used in a manner that would cause the Bonds to be “private activity bonds” within the meaning of section 141 of the Code and the Regulations. The City covenants and agrees that it will make such use of the proceeds of the Bonds, including interest or other investment income derived from Bond proceeds, regulate the use of property financed, directly or indirectly, with such proceeds, and take such other and further action as may be required so that the Bonds will not be “private activity bonds” within the meaning of section 141 of the Code and the Regulations.

Section 9.03 No Federal Guarantee.

The City covenants and agrees not to take any action, or knowingly omit to take any action within its control, that, if taken or omitted, respectively, would cause the Bonds to be “federally guaranteed” within the meaning of section 149(b) of the Code and the Regulations, except as permitted by section 149(b)(3) of the Code and the Regulations.

Section 9.04 Bonds are not Hedge Bonds.

The City covenants and agrees not to take any action, or knowingly omit to take any action, and has not knowingly omitted and will not knowingly omit to take any action, within its

control, that, if taken or omitted, respectively, would cause the Bonds to be “hedge bonds” within the meaning of section 149(g) of the Code and the Regulations.

Section 9.05 No-Arbitrage.

The City covenants and agrees that it will make such use of the proceeds of the Bonds including interest or other investment income derived from Bond proceeds, regulate investments of proceeds of the Bonds, and take such other and further action as may be required so that the Bonds will not be “arbitrage bonds” within the meaning of section 148(a) of the Code and the Regulations. The City will certify, through an authorized officer, employee or agent that based upon all facts and estimates known or reasonably expected to be in existence on the date the Bonds are delivered, the City will reasonably expect that the proceeds of the Bonds will not be used in a manner that would cause the Bonds to be “arbitrage bonds” within the meaning of section 148(a) of the Code and the Regulations.

Section 9.06 Arbitrage Rebate.

If the City does not qualify for an exception to the requirements of section 148(f) of the Code, the City will take all necessary steps to comply with the requirement that certain amounts earned by the City on the investment of the “gross proceeds” of the Bonds (within the meaning of section 148(f)(6)(B) of the Code) be rebated to the federal government. Specifically, the City will (i) maintain records regarding the investment of the gross proceeds of the Bonds as may be required to calculate the amount earned on the investment of the gross proceeds of the Bonds separately from records of amounts on deposit in the funds and accounts of the City allocable to other bond issue of the City or moneys ~~which~~that do not represent gross proceeds of any bonds of the City, (ii) calculate at such times as are required by the Regulations, the amount earned from the investment of the gross proceeds of the Bonds ~~which~~that is required to be rebated to the federal government, and (iii) pay, not less often than every fifth anniversary date of the delivery of the Bonds or on such other dates as may be permitted under the Regulations, all amounts required to be rebated to the federal government. Further, the City will not indirectly pay any amount otherwise payable to the federal government pursuant to the foregoing requirements to any person other than the federal government by entering into any investment arrangement with respect to the gross proceeds of the Bonds that might result in a reduction in the amount required to be paid to the federal government because such arrangement results in a smaller profit or a larger loss than would have resulted if the arrangement had been at arm’s length and had the yield on the issue not been relevant to either party.

Section 9.07 Information Reporting.

The City covenants and agrees to file or cause to be filed with the Secretary of the Treasury, not later than the 15th day of the second calendar month after the close of the calendar quarter in which the Bonds are issued, an information statement concerning the Bonds, all under and in accordance with section 149(e) of the Code and the Regulations.

Section 9.08 Record Retention.

The City will retain all pertinent and material records relating to the use and expenditure of the proceeds of the Bonds until ~~six~~three years after the last Bond is redeemed, or such shorter

period as authorized by subsequent guidance issued by the Department of Treasury, if applicable. All records will be kept in a manner that ensures their complete access throughout the retention period. For this purpose, it is acceptable that such records are kept either as hardcopy books and records or in an electronic storage and retrieval system, provided that such electronic system includes reasonable controls and quality assurance programs that assure the ability of the City to retrieve and reproduce such books and records in the event of an examination of the Bonds by the Internal Revenue Service.

Section 9.09 Registration.

The Bonds will be issued in registered form.

Section 9.10 Continuing Obligation.

Notwithstanding any other provision of this Ordinance, the City's obligations under the covenants and provisions of this Article will survive the defeasance and discharge of the Bonds for as long as such matters are relevant to the exclusion from gross income of interest on the Bonds for federal income tax purposes.

ARTICLE X

DISCHARGE

Section 10.01 Discharge.

The Bonds may be refunded, discharged or defeased in any manner now or hereafter permitted by applicable law.

ARTICLE XI

CONTINUING DISCLOSURE UNDERTAKING

Section 11.01 Annual Reports.

(a) The City will provide certain updated financial information and operating data to the MSRB annually in an electronic format as prescribed by the MSRB. The information to be updated includes certain updated financial information and operating data with respect to the City of the general type included in the final Official Statement, being the information described in the Pricing Certificate. The City will update and provide this information within six (6) months of the end of its fiscal years ending on or after September 30, 2013. Financial statements so to be provided shall be prepared in accordance with the accounting principles described in the notes to the financial statements for the most recently concluded Fiscal Year, and, audited, if the City commissions an audit of such statements and the audit is completed within the period during which they must be provided. If the audit of such financial statements is not complete within such period, the City shall provide notice that audited financial statements are not available and shall provide unaudited financial statements for such Fiscal Year to the MSRB. Thereafter, when and if audited financial statements become available, the City shall provide such audited financial statements as required to the MSRB.

(b) If the City changes its Fiscal Year, it will notify the MSRB of the change (and of the date of the new Fiscal Year end) prior to the next date by which the City otherwise would be required to provide financial information and operating data pursuant to this Section.

(c) The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any document, including an official statement or other offering document, if it is available from the MSRB, that theretofore has been provided to the MSRB or filed with the SEC.

Section 11.02 Material Event Notices.

(a) The City shall provide the following to the MSRB, in an electronic format as prescribed by the MSRB, in a timely manner not in excess of 10 business days after the occurrence of the event, notice of any of the following events with respect to the Bonds:

- (1) Principal and interest payment delinquencies;
- (2) Non-payment related defaults, if material;
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) Substitution of credit or liquidity providers, or their failure to perform;
- (6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
- (7) Modifications to rights of the holders of the Bonds, if material;
- (8) Bond calls, if material, and tender offers;
- (9) Defeasances;
- (10) Release, substitution, or sale of property securing repayment of the Bonds, if material;
- (11) Rating changes;
- (12) Bankruptcy, insolvency, receivership or similar event of the City;

Note to paragraph 12: For the purposes of the event identified in paragraph 12 of this section, the event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar

officer for the City in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City.

- (13) The consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
- (14) Appointment of successor or additional paying agent/registrar or the change of name of a paying agent/registrar, if material.

(b) The City shall provide to the MSRB, in an electronic format as prescribed by the MSRB, in a timely manner, notice of a failure by the City to provide required annual financial information and notices of material events in accordance with Section 11.01 and section (a) above, respectively. All documents provided to the MSRB pursuant to this section shall be accompanied by identifying information as prescribed by the MSRB.

Section 11.03 Limitations, Disclaimers and Amendments.

(a) The City shall be obligated to observe and perform the covenants specified in this Article for so long as, but only for so long as, the City remains an “obligated person” with respect to the Bonds within the meaning of the Rule, except that the City in any event will give notice of any bond calls and any defeasances that cause the City to be no longer an “obligated person”.

(b) The provisions of this Article are for the sole benefit of the Owners and beneficial owners of the Bonds, and nothing in this Article, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Article and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the City’s financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Article or otherwise, except as expressly provided herein. The City does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE OWNER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR

TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE CITY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS ARTICLE, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

(c) No default by the City in observing or performing its obligations under this Article shall constitute a breach of or default under the Ordinance for purposes of any other provisions of this Ordinance.

(d) Nothing in this Article is intended or shall act to disclaim, waive, or otherwise limit the duties of the City under federal and state securities laws.

(e) The provisions of this Article may be amended by the City from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (i) the provisions of this Article, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (ii) either (A) the Owners of a majority in aggregate principal amount (or any greater amount required by any other provisions of this Ordinance that authorizes such an amendment) of the Outstanding Bonds consent to such amendment or (B) an entity or individual person that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the Owners and beneficial owners of the Bonds. The provisions of this Article may also be amended from time to time or repealed by the City if the SEC amends or repeals the applicable provisions of the Rule or a court of final jurisdiction determines that such provisions are invalid, but only if and to the extent that reservation of the City's right to do so would not prevent underwriters of the initial public offering of the Bonds from lawfully purchasing or selling Bonds in such offering. If the City so amends the provisions of this Article, it shall include with any amended financial information or operating data next provided in accordance with Section 11.01 an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in the type of financial information or operating data so provided.

ARTICLE XII

APPROVAL OF ESCROW AGREEMENT AND RELATED PROVISIONS

Section 12.01 Subscription for Securities.

The Authorized Officer is authorized to make necessary arrangements for and to execute such documents and agreements in connection with the purchase of the Escrow Securities required by and referenced in the Escrow Agreement, if any, as may be necessary for the Escrow Fund and the application for the acquisition of the Escrow Securities is hereby approved and ratified.

Section 12.02 Appointment of Escrow Agent; Approval of Escrow Agreement; Deposit with Paying Agent for Refunded Obligations.

The Authorized Officer is hereby authorized to select and appoint the Escrow Agent for the Bonds, if any, and the Escrow Agent shall be designated in the Pricing Certificate. The Authorized Officer is hereby authorized to execute and deliver, or cause the execution and delivery by the Mayor and City Secretary, an Escrow Agreement, having such terms and provisions as are approved by the Authorized Officer as evidenced by his execution thereof or the execution thereof by other appropriate City officials. Alternatively, the Authorized Officer may elect to deposit directly with the paying agent for the Refunded Obligations the proceeds of the Bonds, together with other available funds, in an amount sufficient to provide for the payment or redemption of the Refunded Obligations.

Section 12.03 Payment of Refunded Obligations; Redemption of Refunded Obligations.

Following the deposit to the Escrow Fund or with the paying agent for the Refunded Obligations as herein specified, the Refunded Obligations shall be payable solely from and secured by the cash and securities on deposit in the Escrow Fund or such other fund held by the paying agent for the Refunded Obligations for the purpose of refunding the Refunded Obligations and shall cease to be payable from ad valorem taxes. The Refunded Obligations are hereby called for redemption prior to maturity on the dates and at the redemption prices set forth in the Pricing Certificate. The City Secretary is hereby authorized and directed to cause to be delivered to the paying agent/registrar for the Refunded Obligations a certified copy of this Ordinance calling the Refunded Obligations for redemption and a copy of the Pricing Certificate. The delivery of this Ordinance and the Pricing Certificate to the paying agent for the Refunded Obligations shall constitute the giving of notice of redemption to the paying agent for the Refunded Obligations and such paying agent is hereby authorized and directed to give notice of redemption to the owners of the Refunded Obligations in accordance with the requirements of the ordinance(s) authorizing the issuance thereof.

ARTICLE XIII

MISCELLANEOUS

Section 13.01 Bond Counsel. City Council hereby authorizes the engagement of Bracewell & Giuliani LLP as Bond Counsel for the City. The Mayor is hereby authorized to execute an engagement letter from Bracewell & Giuliani LLP regarding its representation of the City as Bond Counsel.

Section 13.02 ~~Section 13.01~~ Changes to Ordinance. Bond Counsel is hereby authorized to make changes to the terms of this Ordinance if necessary or desirable to carry out the purposes hereof or in connection with the approval of the issuance of the Bonds by the Attorney General of Texas.

[Section 13.03](#) ~~Section 13.02~~ Related Matters. To satisfy in a timely manner all of the City's obligations under this Ordinance, the Mayor, the City Manager, the Finance Director, the City Secretary and all other appropriate officers and agents of the City are hereby authorized and directed to do any and all things necessary and/or convenient to carry out the terms and purposes of this Ordinance.

[Section 13.04](#) ~~Section 13.03~~ Individuals Not Liable. No covenant, stipulation, obligation or agreement herein contained shall be deemed to be a covenant, stipulation, obligation or agreement of any member of City Council or agent or employee of City Council or of the City in his or her individual capacity and neither the members of City Council nor any officer thereof, nor any agent or employee of City Council or of the City, shall be liable personally on the Bonds, or be subject to any personal liability or accountability by reason of the issuance thereof.

[Section 13.05](#) ~~Section 13.04~~ Severability and Savings. If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

[Section 13.06](#) ~~Section 13.05~~ Repealer. All ordinances or resolutions, or parts thereof, heretofore adopted by the City and inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

[Section 13.07](#) ~~Section 13.06~~ Force and Effect. This Ordinance shall be in full force and effect from and after its final passage, and it is so ordained.

[Execution Page Follows]

FIRST AND FINAL READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF
THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 5TH DAY OF
NOVEMBER 2012.

COUNCILMAN HUDGENS
COUNCILMAN STOLL
COUNCILMAN BROWN
COUNCILMAN TOWNSEND
COUNCILMAN DODSON

City Secretary
City of Tomball, Texas

Mayor
City of Tomball, Texas

[SEAL]

SCHEDULE I

SCHEDULE OF REFUNDED OBLIGATION CANDIDATES

Combination Tax and Revenue Certificates of Obligation, Series 2002

Combination Tax and Revenue Certificates of Obligation, Series 2003

General Obligation Refunding Bonds, Series 2010

General Obligation Refunding Bonds, Series 2011

Combination Tax and Revenue Certificates of Obligation, Series 2012

EXHIBIT A

FORM OF PRICING CERTIFICATE

Re: City of Tomball, Texas General Obligation Refunding Bonds, Series 2013 (the “Bonds”)

I, the undersigned officer of the City of Tomball, Texas (the “City”), do hereby make and execute this Pricing Certificate pursuant to an ordinance adopted by the City Council of the City on November 5, 2012 (the “Ordinance”) captioned as follows:

ORDINANCE NO. 2012-46

ORDINANCE AUTHORIZING THE ISSUANCE OF CITY OF TOMBALL, TEXAS GENERAL OBLIGATION REFUNDING BONDS, SERIES 2013; LEVYING A TAX IN PAYMENT THEREOF; SETTING CERTAIN PARAMETERS FOR THE BONDS; AUTHORIZING THE AUTHORIZED OFFICER TO APPROVE THE AMOUNT, THE INTEREST RATE, PRICE AND CERTAIN OTHER TERMS THEREOF; AUTHORIZING THE REDEMPTION PRIOR TO MATURITY OF CERTAIN OUTSTANDING OBLIGATIONS; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT, A PAYING AGENT/REGISTRAR AGREEMENT AND AN ESCROW AGREEMENT RELATING TO SUCH BONDS; APPROVING THE PREPARATION AND DISTRIBUTION OF AN OFFICIAL STATEMENT; AND ENACTING OTHER PROVISIONS RELATING THERETO

authorizing the issuance of the referenced Bonds. Capitalized terms used in this Pricing Certificate shall have the meanings given such terms in the Ordinance.

A. As authorized by Section 7.01 of the Ordinance, I have acted on behalf of the City in selling the Bonds to _____ (the “Underwriter”) pursuant to the terms of the Purchase Agreement dated as of the date hereof. The Bonds shall have the terms set forth in this Pricing Certificate.

B. The Bonds shall have a Dated Date of _____, 20__, and shall be issued in the aggregate principal amount of \$_____, for the purposes specified in Section 3.01 in the Ordinance. The Bonds shall have a Closing Date of _____, 20__.

C. The interest on the Bonds shall accrue from the Dated Date and is payable on each _____ and _____, commencing _____, 20__, until stated maturity or prior redemption thereof. The Bonds shall mature on _____ in each of the years, in the principal amounts and shall bear interest at the per annum rates set forth in the following schedule:

Stated Maturity	Principal Amount	Interest Rate	Stated Maturity	Principal Amount	Interest Rate
20__	\$_____	_____%	20__	\$_____	_____%
20__	_____	_____	20__	_____	_____
20__	_____	_____	20__	_____	_____
20__	_____	_____	20__	_____	_____
20__	_____	_____	20__	_____	_____

D. The Bonds shall be substantially in the form set forth in Exhibit A hereto with such insertions, changes and modifications as are required to conform the bond form to the terms of this Pricing Certificate.

E. [The Bonds are not subject to optional redemption prior to maturity. / The Bonds are subject to optional redemption as set forth in Exhibit A attached hereto.]

F. [The Bonds are subject to mandatory redemption as set forth in Exhibit A attached hereto.]

G. The yield on the Bonds as calculated for federal arbitrage purposes is approximately _____%, as determined by the City's financial advisor, First Southwest Company.

H. The Refunded Obligation Candidates to be refunded with a portion of the proceeds of the Bonds are set forth in Schedule I hereto. The Refunded Obligations are hereby called for redemption on redemption dates specified in Schedule I. The Refunded Obligations shall be redeemed at a redemption price equal to the principal amount thereof plus interest accrued thereon to the redemption date therefor.

I. In accordance with Section 7.01 of the Ordinance, the refunding of the Refunded Obligations results in a debt service savings of approximately \$_____. A copy of the table provided by the City's financial advisor, First Southwest Company, and showing the debt service savings is attached hereto as Exhibit B.

J. In accordance with the other parameters contained in Section 7.01 of the Ordinance, the undersigned does hereby find, certify and represent that the foregoing terms of the Bonds satisfy the following requirements and parameters contained within such Section 7.01:

(i) the price to be paid for the Bonds is not less than 90% of the aggregate original principal amount of the Bonds plus accrued interest thereon from their date to their delivery;

(ii) the Bonds do not bear interest at a rate greater than the maximum rate allowed by Chapter 1204, Texas Government Code, as amended;

(iii) the aggregate principal amount of the Bonds authorized to be issued for the purposes described in Section 3.01 of the Ordinance does not exceed \$6,500,000;

(iv) the refunding of the Refunded Obligations produces a present value debt service savings greater than 5% of the principal amount of the Refunded Obligations, as shown on Schedule of Present Value Savings prepared by First Southwest Company and attached hereto as Exhibit B;

(v) no Bond will mature more than 40 years from the date of delivery thereof; and

(vi) the terms of sale for the Bonds is hereby found and determined to be the most advantageous reasonably obtainable by the City.

K. The proceeds of the Bonds [and other available funds of the City] shall be applied as follows:

(i) The amount of \$_____, consisting of \$_____ principal amount of Bond proceeds, plus \$_____ premium received from the sale of the Bonds, [plus available funds of the City in the amount of \$_____,] shall be deposited to the Escrow Fund in the form of cash or securities purchased with such proceeds and used to pay the redemption price of the Refunded Obligations;

(ii) Premium received from the sale of the Bonds in the amount of \$_____ shall be used to pay the costs of issuance.

(iii) Premium received from the sale of the Bonds in the amount of \$_____ shall be used to pay the underwriters' discount.

(iv) Accrued interest on the Bonds in the amount of \$_____ shall be deposited to the Interest and Sinking Fund for the Bonds;

(v) Accrued interest in the amount of \$_____ shall be deposited into the Interest and Sinking Fund.

(vi) Any amounts remaining shall be deposited to the Interest and Sinking Fund.

L. [Grant Thornton LLP is hereby designated as the verification agent.]

M. [Insurance]

N. [The City hereby designates the Bonds as "qualified tax-exempt obligations" for purposes of section 265(b) of the Code. In connection therewith, the City represents (a) that the aggregate amount of tax-exempt obligations issued by the City during calendar year 2013, including the Bonds, which have been designated as "qualified tax-exempt obligations" under section 265(b)(3) of the Code does not exceed \$10,000,000, and (b) that the reasonably anticipated amount of tax-exempt obligations which will be issued by the City during calendar year 2013, including the Bonds, will not exceed \$10,000,000. For purposes of this Section, the term "tax-exempt obligation" does not include "private activity bonds" within the meaning of section 141 of the Code, other than "qualified 501(c)(3) bonds" within the meaning of section

145 of the Code. In addition, for purposes of this Section, the City includes all entities which are aggregated with the City under the Code.

O. In accordance with Section 11.01 of the Ordinance, the City will provide certain updated financial information and operating data to the MSRB annually in an electronic format as prescribed by the MSRB. The information to be provided includes certain updated financial information and operating data with respect to the City of the general type included in the final Official Statement in _____ to the Official Statement.

P. The form of Pricing Certificate attached to the Ordinance shall be replaced with this Pricing Certificate.

[Signature Page Follows]

This Pricing Certificate for the City of Tomball, Texas, General Obligation Refunding Bonds, Series 2013, is executed on the ____ day of _____, 20__.

Authorized Officer
City of Tomball, Texas

Signature Page to Pricing Certificate

EXHIBIT A

FORM OF THE BONDS

(i) Form of Bond.

REGISTERED
No. _____

REGISTERED
\$ _____

United States of America
State of Texas
Counties of Harris and Montgomery

CITY OF TOMBALL, TEXAS
GENERAL OBLIGATION REFUNDING BOND
SERIES 2013

<u>INTEREST RATE:</u>	<u>MATURITY DATE:</u>	<u>[CLOSING/DATED]</u> <u>DATE:</u>	<u>CUSIP NO.:</u>
_____ %	_____, ____	_____, 20__	_____

The City of Tomball, Texas (the "City"), in the Counties of Harris and Montgomery, Texas, for value received, hereby promises to pay to

or registered assigns, on the maturity date specified above, the sum of

_____ DOLLARS

unless the payment of the principal hereof shall have been paid or provided for, and to pay interest on such principal amount from the [Closing/Dated] Date specified above or the most recent interest payment date to which interest has been paid or provided for until payment of such principal amount has been paid or provided for, at the per annum rate of interest specified above, computed on the basis of a 360-day year of twelve 30-day months, such interest to be paid semiannually on _____ and _____ of each year, commencing _____, 20__.

The principal of this Bond shall be payable without exchange or collection charges in lawful money of the United States of America upon presentation and surrender of this Bond at the corporate trust office of _____, _____, or such other location designated by the Paying Agent/Registrar (the "Designated Payment/Transfer Office"), of the Paying Agent/Registrar or, with respect to a successor paying agent/registrar, at the Designated Payment/Transfer Office of such successor. Interest on this Bond is payable by check dated as of the interest payment date, mailed by the Paying Agent/Registrar to the registered owner at the address shown on the registration books kept by the Paying Agent/Registrar, or by such other customary banking arrangements acceptable to the Paying Agent/Registrar and the person to

whom interest is to be paid; provided, however, that such person shall bear all risk and expense of such other customary banking arrangements. For the purpose of the payment of interest on this Bond, the registered owner shall be the person in whose name this Bond is registered at the close of business on the "Record Date," which shall be the last business day of the month next preceding such interest payment date. In the event of a nonpayment of interest on a scheduled payment date, and for thirty days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the special payment date of the past due interest (the "Special Payment Date," which date shall be fifteen days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by United States mail, first class, postage prepaid, to the address of each owner of a Bond appearing on the books of the Paying Agent/Registrar at the close of business on the fifteenth day next preceding the date of mailing of such notice.

If the date for the payment of the principal of or interest on this Bond shall be a Saturday, Sunday, legal holiday, or day on which banking institutions in the city where the Paying Agent/Registrar is located are required or authorized by law or executive order to close, the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday, or day on which banking institutions are required or authorized to close, and payment on such date shall for all purposes be deemed to have been made on the original date payment was due.

This Bond is one of a series of fully registered bonds specified in the title hereof, dated as of _____, 20__, issued in the aggregate principal amount of \$_____ (herein referred to as the "Bonds"), pursuant to a certain ordinance (the "Bond Ordinance") adopted by the City Council of the City and a pricing certificate executed pursuant thereto (the "Pricing Certificate," and together with the Bond Ordinance, the "Ordinance"), for the purposes of refunding certain outstanding obligations of the City and paying the costs of issuing the Bonds.

The Bonds and the interest thereon are payable from the proceeds of a direct and continuing ad valorem tax levied, within the limits prescribed by law, against all taxable property in the City sufficient, together with certain available funds of the City on deposit in the interest and sinking fund for the Bonds, to provide for the payment of the principal of and interest on the Bonds, as described and provided in the Ordinance.

[The Bonds are not subject to optional redemption prior to maturity. / The City has reserved the option to redeem the Bonds maturing on and after _____, 20__, in whole or in part before their respective scheduled maturity dates, on _____, 20__, on any date thereafter, at a redemption price equal to the principal amount thereof plus accrued interest to the date of redemption. If less than all of the Bonds are to be redeemed, the City shall determine the maturity or maturities and the amounts thereof to be redeemed and shall direct the Paying Agent/Registrar to call by lot the Bonds, or portions thereof, within such maturity and in such principal amounts, for redemption.]

[The Bonds maturing on _____ and _____ (the "Term Bonds") are subject to mandatory sinking fund redemption prior to their scheduled maturity, and will be redeemed by the City, in part at a redemption price equal to the principal amount thereof, without premium,

plus interest accrued to the redemption date, on the dates and in the principal amounts shown in the following schedule:

<u>\$ Term Bonds Maturing , 20</u>	
<u>Redemption Date</u>	<u>Principal Amount</u>
_____ 15, 20__	\$ _____
_____ 15, 20__ (Maturity)	\$ _____

The Paying Agent/Registrar will select by lot or by any other customary method that results in a random selection the specific Term Bonds (or with respect to Term Bonds having a denomination in excess of \$5,000, each \$5,000 portion thereof) to be redeemed by mandatory redemption. The principal amount of Term Bonds required to be redeemed on any redemption date pursuant to the foregoing mandatory sinking fund redemption provisions hereof shall be reduced, at the option of the City, by the principal amount of any Term Bonds which, at least 45 days prior to the mandatory sinking fund redemption date (i) shall have been acquired by the City at a price not exceeding the principal amount of such Term Bonds plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation, or (ii) shall have been redeemed pursuant to the optional redemption provisions hereof and not previously credited to a mandatory sinking fund redemption.]

[Not less than 30 days prior to a redemption date for the Bonds, the City shall cause a notice of redemption to be sent by United States mail, first class, postage prepaid, to the Owners of the Bonds to be redeemed at the address of the Owner appearing on the registration books of the Paying Agent/Registrar at the close of business on the business day next preceding the date of mailing such notice.]

[In the Ordinance, the City reserves the right, in the case of an optional redemption, to give notice of its election or direction to redeem Bonds conditioned upon the occurrence of subsequent events. Such notice may state (i) that the redemption is conditioned upon the deposit of moneys and/or authorized securities, in an amount equal to the amount necessary to effect the redemption, with the Paying Agent/Registrar, or such other entity as may be authorized by law, no later than the redemption date, or (ii) that the City retains the right to rescind such notice at any time on or prior to the scheduled redemption date if the City delivers a certificate of the City to the Paying Agent/Registrar instructing the Paying Agent/Registrar to rescind the redemption notice, and such notice and redemption shall be of no effect if such moneys and/or authorized securities are not so deposited or if the notice is rescinded. The Paying Agent/Registrar shall give prompt notice of any such rescission of a conditional notice of redemption to the affected Owners. Any Bond subject to conditional redemption for which such redemption has been rescinded shall remain outstanding.]

[Any notice so mailed shall be conclusively presumed to have been duly given, whether or not the registered owner receives such notice. Notice having been so given and subject, in the case of an optional redemption, to any rights or conditions reserved by the City in the notice, the Bonds called for redemption shall become due and payable on the specified redemption date, and notwithstanding that any Bond or portion thereof has not been surrendered for payment, interest on such Bonds or portions thereof shall cease to accrue.]

As provided in the Ordinance, and subject to certain limitations therein set forth, this Bond is transferable upon surrender of this Bond for transfer at the Designated Payment/Transfer Office of the Paying Agent/Registrar with such endorsement or other evidence of transfer as is acceptable to the Paying Agent/Registrar; thereupon, one or more new fully registered Bonds of the same stated maturity, of authorized denominations, bearing the same rate of interest, and for the same aggregate principal amount will be issued to the designated transferee or transferees.

The City, the Paying Agent/Registrar, and any other person may treat the person in whose name this Bond is registered as the owner hereof for the purpose of receiving payment as herein provided (except interest shall be paid to the person in whose name this Bond is registered on the Record Date) and for all other purposes, whether or not this Bond be overdue, and neither the City nor the Paying Agent/Registrar shall be affected by notice to the contrary.

IT IS HEREBY CERTIFIED AND RECITED that the issuance of this Bond and the series of which it is a part is duly authorized by law; that all acts, conditions and things required to be done precedent to and in the issuance of the Bonds have been properly done and performed and have happened in regular and due time, form and manner, as required by law; that sufficient and proper provision for the levy and collection of taxes has been made, within the limits prescribed by law, which when collected shall be appropriated exclusively to the timely payment of the principal of and interest on the Bonds; and that the total indebtedness of the City, including the Bonds, does not exceed any constitutional or statutory limitation.

IN WITNESS WHEREOF, the City has caused this Bond to be duly executed under its official seal in accordance with law.

City Secretary
City of Tomball, Texas

Mayor
City of Tomball, Texas

[SEAL]

(ii) Form of Certificate of Paying Agent/Registrar

CERTIFICATE OF PAYING AGENT/REGISTRAR

This is one of the Bonds referred to in the within mentioned Ordinance. The series of Bonds of which this Bond is a part was originally issued as one Initial Bond which was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas.

as Paying Agent/Registrar

Date: _____

By: _____
Authorized Signatory

(iii) Form of Assignment

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns, and transfers unto (print or typewrite name, address and Zip Code of transferee): _____

(Social Security or other identifying number: _____) the within Bond and all rights hereunder and hereby irrevocably constitutes and appoints _____ attorney to transfer the within Bond on the books kept for registration hereof, with full power of substitution in the premises.

Dated: _____

Signature Guaranteed By:

Authorized Signatory

NOTICE: The signature on this Assignment must correspond with the name of the registered owner as it appears on the face of the within Bond in every particular and must be guaranteed in a manner acceptable to the Paying Agent/Registrar.

(iv) Initial Bond Insertions

(A) The Initial Bond shall be in the form set forth in paragraph (i) of this Section, except that, in the event there is more than one maturity of Bonds:

(1) immediately under the name of the Bond, the headings "INTEREST RATE" and "MATURITY DATE" shall both be completed with the words "As Shown Below" and "CUSIP NO. _____" deleted;

(2) in the first paragraph the words "on the Maturity Date specified above, the sum of _____ DOLLARS" shall be deleted and the following will be inserted: "on _____ in the years, in the principal installments and bearing interest at the per annum rates set forth in the following schedule:

(Information to be inserted from the Pricing Certificate); and

(3) the Initial Bond shall be numbered I-1.

(B) The following Registration Certificate of Comptroller of Public Accounts shall appear on the Initial Bond:

REGISTRATION CERTIFICATE OF
COMPTROLLER OF PUBLIC ACCOUNTS

OFFICE OF THE COMPTROLLER §
OF PUBLIC ACCOUNTS § REGISTER NO. _____
THE STATE OF TEXAS §

I HEREBY CERTIFY THAT there is on file and of record in my office a certificate to the effect that the Attorney General of the State of Texas has approved this Bond, and that this Bond has been registered this day by me.

WITNESS MY SIGNATURE AND SEAL OF OFFICE this _____.

[SEAL]

Comptroller of Public Accounts
of the State of Texas

EXHIBIT B
SCHEDULE OF SAVINGS

THE STATE OF TEXAS §
COUNTIES OF HARRIS AND MONTGOMERY §

1. The City Council of Tomball, Texas convened in a regular meeting the 5th day of November, 2012, at the regular meeting place thereof within said City, and the roll was called of the duly constituted officers and members of said City, to wit:

and all of said persons were present, except for the following absentee(s): _____, thus constituting a quorum. Whereupon, among other business, the following was transacted at said meeting: a written

ORDINANCE AUTHORIZING THE ISSUANCE OF CITY OF TOMBALL, TEXAS GENERAL OBLIGATION REFUNDING BONDS, SERIES 2013; LEVYING A TAX IN PAYMENT THEREOF; SETTING CERTAIN PARAMETERS FOR THE BONDS; AUTHORIZING THE AUTHORIZED OFFICER TO APPROVE THE AMOUNT, THE INTEREST RATE, PRICE AND CERTAIN OTHER TERMS THEREOF; AUTHORIZING THE REDEMPTION PRIOR TO MATURITY OF CERTAIN OUTSTANDING OBLIGATIONS; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT, A PAYING AGENT/REGISTRAR AGREEMENT AND AN ESCROW AGREEMENT RELATING TO SUCH BONDS; APPROVING THE PREPARATION AND DISTRIBUTION OF AN OFFICIAL STATEMENT; AND ENACTING OTHER PROVISIONS RELATING THERETO

was duly introduced for the consideration of said City Council and read in full. It was then duly moved and seconded that said ordinance be adopted; and, after due discussion, said motion, carrying with it the adoption of said ordinance, prevailed and carried by the following vote:

NOES: Member(s) of City Council shown present above voted “No”.

2. A true, full and correct copy of the aforesaid ordinance adopted at the meeting described in the above and foregoing paragraph is attached to and follows this certificate; that said ordinance has been duly recorded in the City Council's minutes of said meeting; that the above and foregoing paragraph is a true, full and correct excerpt from the City Council's minutes of said meeting pertaining to the adoption of said ordinance; that the persons named in the above and foregoing paragraph are the duly chosen, qualified and acting officers and members of the City Council as indicated therein; that each of the officers and members of the City Council was duly and sufficiently notified officially and personally, in advance, of the date, hour, place and purpose of the aforesaid meeting, and that said ordinance would be introduced and considered for adoption at said meeting, and each of said officers and members consented, in advance, to the holding of said meeting for such purpose; that said meeting was open to the public as required by law; and that public notice of the date, hour, place and subject of said meeting was given as required by Chapter 551, Texas Government Code.

SIGNED AND SEALED this 5th day of November, 2012.

City Secretary
City of Tomball, Texas

Mayor
City of Tomball, Texas

[SEAL]

Signature Page to Certificate for Ordinance

Document comparison by Workshare Compare on Wednesday, October 31, 2012 3:52:49 PM

Input:	
Document 1 ID	PowerDocs://HOUSTON/4193916/1
Description	HOUSTON-#4193916-v1-City_Comments_to_Ordinance
Document 2 ID	PowerDocs://HOUSTON/4191662/3
Description	HOUSTON-#4191662-v3-City_of_Tomball_- Bond_Ordinance_(2012_Ref_Adv)
Rendering set	Standard

Legend:	
<u>Insertion</u>	
Deletion	
Moved from	
<u>Moved to</u>	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	30
Deletions	27
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	57

Regular City Council

Agenda Item

Data Sheet

Meeting Date: November 5, 2012

Topic:

Appoint/Reappoint Members to the Tourism Advisory Committee for Terms Expiring December 5, 2012

Background:

The Tourism Advisory Committee (TAC) consists of nine (9) positions. City residents were appointed to Positions 1, 2, and 3, city business owners or employees were appointed to Positions 4, 5, and 6, and members of the hotel industry were appointed to Positions 7, 8, and 9.

The appointments in each category were made for 1-, 2-, and 3-year terms in order to create staggered expiration dates. The 2-year terms are now expiring and appointments/reappointments must be made for the following positions:

- Representing Tomball Residents: Mary Harvey - Position 2
- Representing Businesses located within Tomball: Beverly Leday - Position 5
- Representing a Hotel or Motel located within Tomball: Prakash Patel, Executive Inn - Position 8

Mrs. Harvey and Mr. Patel have requested reappointment to the Tourism Advisory Committee. Appointees to Positions 2, 5 and 8 will now serve for three years, with terms expiring December 1, 2015. Attached are Mrs. Harvey and Mr. Patel's applications, along with attendance records of the TAC board members.

We have received an application from Laura Wilson for Position 5, representing businesses located within Tomball. Mrs. Leday does not wish to be reappointed at this time.

As Mayor, I would like to recommend reappointment of Mary Harvey and Prakash Patel to their respective positions and appointment of Laura Wilson to Position 5. Nominations for these positions will also be accepted at the Council meeting.

Origination:

Mayor

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	

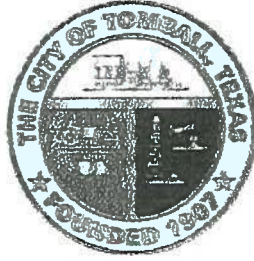
ATTACHMENTS:

Mary Harvey - Application

Prakash Patel - Application

Laura Wilson - Application

TAC Attendance List



11/22/10 20

CITY OF TOMBALL

2010 APPLICATION FOR THE TOURISM ADVISORY COMMITTEE

As an Applicant for the Tourism Advisory Committee, your application will be available to the public. All appointments are made by the Tomball City Council. Incumbents whose terms expire are automatically considered for reappointment unless they indicate non-interest or have been appointed to two (2) consecutive terms. A member who is absent for more than 25% of called meetings in any twelve consecutive months or absent from more than two consecutive meetings, for other than medical reasons, will be automatically removed from service. Applicant must be a citizen of the United States and must reside within the city limits of Tomball unless otherwise stated in the position announcement. 2010 applications expire on December 31, 2012; a new application will be required in 2013.

Please Type or Print Clearly:

Date: 11-9-10

Name: MARY HARVEY

Phone: 713 582 5139

Address: 201 MARKET

(Home)
Phone: 281 351 8903
(Work)

Email: GRANNYSKORNER.TOMBALL@HOTMAIL.COM

I have lived in Tomball 15 years.

I am ☒ am not ☐ a U.S. Citizen

I am applying as (please check all that apply):

☒ Owner

a Tomball Resident, residing within the city limits of Tomball
an Employee, Owner, Officer or Director of a business, other than
a hotel or motel, with offices within the city limits of Tomball
an Employee, Owner, or Officer of a hotel or motel located in the
city limits of Tomball

Occupation: OWN Grannys Korner - Present Location - 11 yrs
@ 201 MARKET
PREVIOUS LOCATION on Commerce @ N. WALNUT
4 yrs
I am the largest shop in the Town Center Area
have been very successful with my
marketing.

Professional and/or Community Activities:

President of Tomball Business Assoc. /
Creates
Tomball Area Chamber, Rotary,
ESD Board, EMS Board, P+Z Board,
Chair Tomball Night, have chaired Chamber Holiday
Parade, was on City Council, Citizen of Year 2008

Additional Pertinent Information/References:

City Council Pos 4, Managed Holiday Inn for 1 yr.

Applications for the Tourism Advisory Committee will be kept on file in the City Secretary's office (281-290-1002) for two years.

I AM INTERESTED IN SERVING ON THE TOURISM ADVISORY COMMITTEE.


Signature of Applicant

Please return this application to:

City Secretary
City of Tomball
401 Market Street
Tomball, TX 77375
dspeer@ci.tomball.tx.us
fax: 281-351-6256

If Chosen for this, I will resign from
P+Z.
Thank you in Advance for your
Consideration



CITY OF TOMBALL

2010 APPLICATION FOR THE TOURISM ADVISORY COMMITTEE

As an Applicant for the **Tourism Advisory Committee**, your application will be available to the public. All appointments are made by the Tomball City Council. Incumbents whose terms expire are automatically considered for reappointment unless they indicate non-interest or have been appointed to two (2) consecutive terms. A member who is absent for more than 25% of called meetings in any twelve consecutive months or absent from more than two consecutive meetings, for other than medical reasons, will be automatically removed from service. Applicant must be a citizen of the United States and must reside within the city limits of Tomball unless otherwise stated in the position announcement. 2010 applications expire on December 31, 2012; a new application will be required in 2013.

Please Type or Print Clearly:

Date: 11.8.2010

Name: Prakash Patel

Phone: 281.252.9075

(Home)

Address: 603. W. MAIN STREET TOMBALL, TX 77375

Phone: 281.797.5378

(Work)

Email: PRAKASH1970@MSN.COM

I have lived in Tomball 30 years.

I am ☒ am not ☐ a U.S. Citizen

I am applying as (please check all that apply):

☒
☐
☐
☐

a Tomball Resident, residing within the city limits of Tomball
an Employee, Owner, Officer or Director of a business, other than
a hotel or motel, with offices within the city limits of Tomball
an Employee, Owner, or Officer of a hotel or motel located in the
city limits of Tomball

Occupation: RESTAURANT OWNER DENNY'S - TOMBALL

Professional and/or Community Activities: _____

Additional Pertinent Information/References: _____

Applications for the Tourism Advisory Committee will be kept on file in the City Secretary's office (281-290-1002) for two years.

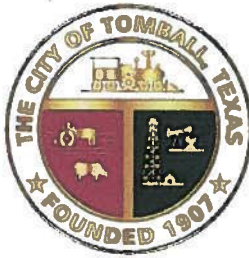
I AM INTERESTED IN SERVING ON THE TOURISM ADVISORY COMMITTEE.



Signature of Applicant

Please return this application to:

City Secretary
City of Tomball
401 Market Street
Tomball, TX 77375
dspeer@ci.tomball.tx.us
fax: 281-351-6256



CITY OF TOMBALL

2010 APPLICATION FOR THE TOURISM ADVISORY COMMITTEE

As an Applicant for the **Tourism Advisory Committee**, your application will be available to the public. All appointments are made by the Tomball City Council. Incumbents whose terms expire are automatically considered for reappointment unless they indicate non-interest or have been appointed to two (2) consecutive terms. A member who is absent for more than 25% of called meetings in any twelve consecutive months or absent from more than two consecutive meetings, for other than medical reasons, will be automatically removed from service. Applicant must be a citizen of the United States and must reside within the city limits of Tomball unless otherwise stated in the position announcement. 2010 applications expire on December 31, 2012; a new application will be required in 2013.

Please Type or Print Clearly:

Date: 10/15/12

Name: Laura Wilson

Phone: 832-642-0116

Address: 209 Commerce St Tomball 77375

Phone: 281-351-7572 (Home)

Email: Ciscosalsa@hotmail.com

(Work)

I have lived in Tomball 2 years. I am ☒ am not ☐ a U.S. Citizen
18 years + in Tomball zip code.

I am applying as (please check all that apply):

- ☒ a Tomball Resident, residing within the city limits of Tomball
☐ an Employee, Owner, Officer or Director of a business, other than a hotel or motel, with offices within the city limits of Tomball
☐ an Employee, Owner, or Officer of a hotel or motel located in the city limits of Tomball

Occupation: Owner/operator Ciscos Salsa Company

Professional and/or Community Activities: Tomball Chamber, TBPWT,
Active in community events.

Additional Pertinent Information/References: active in promoting Special events
in Tomball esp. "Oldtown" Historic district

Applications for the Tourism Advisory Committee will be kept on file in the City Secretary's office (281-290-1002) for two years.

I AM INTERESTED IN SERVING ON THE TOURISM ADVISORY COMMITTEE.


Signature of Applicant

Please return this application to:

City Secretary
City of Tomball
401 Market Street
Tomball, TX 77375
dspeer@ci.tomball.tx.us
fax: 281-351-6256

Tourism Advisory Committee Attendance

January 23, 2012 (Regular)

Holly Cook
Ken Shuman
Mary Harvey
Jeffie Cappadonna
Beverly Leday
Rodney Hutson - [absent](#)
Kevin Lala
LeMar Barr
Ronald Tocci - [absent](#)

July 23, 2012 (Regular)

Holly Cook - [absent](#)
Ken Shuman
Mary Harvey
Jeffie Cappadonna
Beverly Leday
Rodney Hutson
Kevin Lala - [absent](#)
Prakash Patel - [absent](#)
Ronald Tocci

April 23, 2012 (Regular)

Holly Cook
Ken Shuman
Mary Harvey
Jeffie Cappadonna
Beverly Leday - [absent](#)
Rodney Hutson
Kevin Lala - [absent](#)
Prakash Patel
Ronald Tocci

October 22, 2012 (Regular)

Holly Cook
Ken Shuman - [absent](#)
Mary Harvey
Jeffie Cappadonna
Beverly Leday
Rodney Hutson
Kevin Lala
Prakash Patel
Ronald Tocci - [absent](#)

Regular City Council

Agenda Item

Meeting Date: November 5, 2012

Data Sheet

Topic:

First Public Hearing 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 Cypressbook 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.

Background:

This public hearing is the first of two public hearings required by the Local Government Code, Section 43.063. Hearings must be conducted on or after the 40th day but before the 20th day before the date of the first reading of the ordinance (21-39 day timeframe). Because of publication time constraints and our meeting schedule, Council set the hearing dates for the regular Council meetings on November 5, 2012 (35 days) and November 19, 2012 (21 days) at 6:00 p.m..

Water, sewer and gas utilities have been extended along FM 2978 and FM 2920; sewer is available on the east side of FM 2978 and north of FM 2920, and water and gas are available on the west side of FM 2978 and north of FM 2920 in anticipation of future development.

The first readings of each ordinance will be held at a special Council meeting on December 10, 2012 and the second readings of each ordinance will be held at the regular Council meeting on December 17, 2012.

Origination:

Engineering and Planning Department (Tract 1B), Mary Criner Blake, Trustee (Tract One), Ronald J. Collins, Donald Claude Childress, Roy A. Johlke and Susan Lorraine Dietz Varsel, Trustees (Tract 2), Cypressbrook 2920, LP (Tract 3), and ABCO Land Corporation (Tract 4)

Recommendation:

N/A; Public Hearing Only

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:

Notice of Public Hearings - November 5 and November 19, 2012

Map - Tracts 1B, 1, 2, 3, and 4

NOTICE OF PUBLIC HEARINGS
CITY OF TOMBALL, TEXAS



MONDAY, NOVEMBER 5, 2012
AND
MONDAY, NOVEMBER 19, 2012

6:00 P.M.

Notice is hereby given that **PUBLIC HEARINGS** will be held by the Tomball City Council, as the Governing Body of the City of Tomball, at Regularly Scheduled Council Meetings on Monday, November 5, 2012 at 6:00 p.m., and Monday, November 19, 2012 at 6:00 p.m., City Hall, 401 Market Street, Tomball, Texas 77375, for the purpose of considering the following Five (5) Annexations:

ANNEXATION – 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, said 0.610 acre tract of land being more particularly described by metes and bounds as follows:

BEGINNING at a 5/8 inch iron rod with cap stamped "TERRA" found at the point of 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 line of said 30 foot wide unnamed road, said 5/8 inch iron rod with cap stamped "TERRA" being the most westerly southwest corner of 49.547 acre tract of land (by deed) deeded 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, a/k/a Adell G. Johlke Dietz, deceased, as recorded in Cause No. 407636 of the Probate Records of Harris County, Texas;

THENCE North 87 degrees 23 minutes 55 seconds East, with the north right-of-way line of said 30 foot wide unnamed road, with the south line of said Lot 459, with the south line of said Lot 460, with the south line of said Lot 461, with an interior line of said Lot 462, and with an interior line of said 49.547 acre tract of land, a distance of 883.14 feet to a 5/8 inch iron rod found for the northeast corner of said 30 foot wide unnamed road and being an interior corner of said Lot 462, said 5/8 inch iron rod also being an interior corner of said 49.547 acre tract of land;

THENCE South 02 degrees 31 minutes 47 seconds East, with the east end of said 30 foot wide unnamed road, with an interior line of said Lot 462, and with an interior line of said 49.547 acre tract of land, a distance of 30.00 feet to a 5/8 inch iron rod found for the southeast corner of said 30 foot wide unnamed road and for the northeast corner of said Lot 466, said 5/8 inch iron rod also being an interior corner of said 49.547 acre tract of land;

THENCE South 87 degrees 23 minutes 55 seconds West, with the south right-of-way line of said 30 foot wide unnamed road, with the north line of said Lot 466, with the north line of said Lot 465, with the north line of said Lot 464, with the north line of said Lot 463, and with an interior line of said 49.547 acre tract of land, a distance of 889.59 feet to a 5/8 inch iron rod with cap stamped "TERRA" found at the intersection of the south right-of-way line of said 30 foot wide unnamed road with the east right-of-

Notice of Public Hearings - City of Tomball City Council
Monday, November 5, 2012 and Monday, November 19, 2012
Page 2 of 7

way line of said F. M. Highway No. 2978;

THENCE North 09 degrees 36 minutes 44 seconds East, a distance of 30.69 feet to the **POINT OF BEGINNING**, and containing 0.610 acre of land, more or less;

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

All distances and areas are surface.

ANNEXATION - 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, said 3.143 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 59 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, 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";

THENCE, North 09 degrees 36 minutes 44 seconds East, 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, a distance of **COUNTY, TEXAS** 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 and also being in the north line of said Lot 463 and in the south line of an 30 foot wide unnamed road as shown on said plat of Tomball Townsite;

THENCE, North 87 degrees 23 minutes 55 seconds East, with the north line of said 3.1378 acre tract of land, with the north line of said Lot 463, and with the south line of said 30 foot wide unnamed road, a distance of 114.65 feet to a 1 inch iron pipe found for the northeast corner of said 3.1378 acre tract of land and for an exterior ell corner of a 49.547 acre tract of land (by probate) 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, a/k/a Adell G. Johlke Dietz, deceased, as recorded in Cause No. 407636 of the Probate Records of Harris County, Texas, said 1 inch iron pipe being the northeast corner of said Lot 463 and the northwest corner of Lot 464, of said Tomball Townsite;

THENCE, South 02 degrees 35 minutes 43 seconds East, with the east line of said 3.1378 acre tract of land, with an interior line of said 49.547 acre tract of land, with the east line of said Lot 463, and with the west line of said Lot 464, a distance of 751.36 feet to a 1 inch iron pipe found in the north right-of-way line of F. M. Highway No. 2920, for the southeast corner of said 3.1378 acre tract of land and the most southerly southwest corner of said 49.547 acre tract of land;

Notice of Public Hearings - City of Tomball City Council
Monday, November 5, 2012 and Monday, November 19, 2012
Page 3 of 7

THENCE, South 87 degrees 22 minutes 55 seconds West, with the south line of said 3.1378 acre tract of land and with the north right-of-way line of F. M. Highway No. 2920, a distance of 232.84 feet to the **POINT OF BEGINNING**, and containing 3.143 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.

ANNEXATION - 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, said 49.544 acre tract of land being more particularly described by metes and bounds as follows:

BEGINNING at a 5/8 inch iron rod with cap stamped "TERRA" found at the point of 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 line of an 30 foot wide unnamed road as shown on said Tomball Townsite plat, said 5/8 inch iron rod with cap stamped "TERRA" being the most westerly southwest corner of said 49.547 acre tract of land;

THENCE North 09 degrees 36 minutes 44 seconds East, with the east right-of-way line of F. M. Highway No. 2978 and with the west line of said 49.547 acre tract of land, a distance of 1238.24 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 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 at the point of intersection of the east right-of-way line of F. M. Highway No. 2978, with 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.

Notice of Public Hearings - City of Tomball City Council
Monday, November 5, 2012 and Monday, November 19, 2012
Page 4 of 7

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 a 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;

THENCE South 87 degrees 15 minutes 43 seconds West, with an interior line of said 49.547 acre tract of land, with the south line of said Lot 449, and with the north line of said 23.5935 acre tract of land, a distance of 5.31 feet to a 5/8 inch iron rod with cap stamped "TERRA" found for an interior ell corner of said 49.547 acre tract of land and for the northwest corner of said 23.5935 acre tract of land, said 5/8 inch iron rod with cap stamped "TERRA" also being the northeast corner of said Lot 462;

THENCE South 02 degrees 31 minutes 00 seconds East, with an easterly line of said 49.547 acre tract of land, with the east line of said Lot 462, and with the west line of said 23.5935 acre tract of land, a distance of 1602.09 feet to a 5/8 inch iron rod found in the north right-of-way line of F. M. Highway No. 2920 (a 120 foot wide right-of-way) for the southeast corner of said 49.547 acre tract of land and for the southwest corner of said 23.5935 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 49.547 acre tract of land, a distance of 933.70 feet to 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 a 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;

THENCE North 02 degrees 35 minutes 43 seconds West, with an interior line of said 49.547 acre tract of land and with the east line of said 3.1378 acre tract of land, a distance of 751.36 feet to a 1 inch iron pipe found in the south right-of-way line of said 30 foot wide unnamed road, for an exterior ell corner of said 49.547 acre tract of land and for the northeast corner of said 3.1378 acre tract of land;

THENCE North 87 degrees 23 minutes 55 seconds East, with the south right-of-way line of said 30 foot wide unnamed road, with the north line of said Lot 464, with the north line of said Lot 465, with the north line of said Lot 466, and with an interior line of said 49.547 acre tract of land, a distance of 774.86 feet to a 5/8 inch iron rod found for an interior ell corner of said 49.547 acre tract of land and for the southeast corner of said 30 foot wide unnamed road, said 5/8 inch iron rod also being the northeast corner of said Lot 466 and being in an interior line of said Lot 462;

THENCE North 02 degrees 31 minutes 47 seconds West, with an interior line of said 49.547 acre tract of land, with an interior line of said Lot 462, and with the east end of said 30 foot wide unnamed road, a distance of 30.00 feet to a 5/8 inch iron rod found for an interior ell corner of said 49.547 acre tract of land and for the northeast corner of said 30 foot wide unnamed road, said 5/8 inch iron rod also being an interior ell corner of said Lot 462;

THENCE South 87 degrees 23 minutes 55 seconds West, with an interior line of said 49.547 acre tract of land and with the north right-of-way line of said 30 foot wide unnamed road, a distance of 883.14 feet to the **POINT OF BEGINNING**, and containing 49.544 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.

Notice of Public Hearings - City of Tomball City Council
Monday, November 5, 2012 and Monday, November 19, 2012
Page 5 of 7

ANNEXATION – 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 Cypressbook 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:

BEGINNING at a 5/8 inch iron rod found in the north right-of-way line of F. M. Highway No. 2920 (a 120 foot wide right-of-way), for the southwest corner of said 23.5935 acre tract of land and for the southeast corner of a 49.547 acre tract of land (by probate) 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, a/k/a Adell G. Johlke Dietz, deceased, as recorded in Cause No. 407636 of the Probate Records of Harris County, Texas, said 5/8 inch iron rod also being in the east line of Lot 462, Tomball Townsite, as recorded in Volume 2, Page 65 of the Map Records of Harris County, Texas;

THENCE North 02 degrees 31 minutes 00 seconds West, with the west line of said 23.5935 acre tract of land, with an easterly line of said 49.547 acre tract of land, and with the east line of said Lot 462, a distance of 1602.09 feet to a 5/8 inch iron rod with cap stamped “TERRA” found for the northwest corner of said 23.5935 acre tract of land and for an interior corner of said 49.547 acre tract of land, said 5/8 inch iron rod with cap stamped “TERRA” being the northeast corner of said Lot 462 and also being in the south line of Lot 449, of said Tomball Townsite;

THENCE North 87 degrees 15 minutes 43 seconds East, with the north line of said 23.5935 acre tract of land, with an interior line of said 49.547 acre tract of land, and with the south line of said Lot 449, passing at a distance of 5.31 feet, 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 the southeast corner of said Lot 449, said 5/8 inch iron rod with cap stamped “TERRA” being the southwest corner of Lot 450, of said Tomball Townsite and for 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, 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, and with the south line of said Lot 450, passing at a distance of 214.10, 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, in all, a distance of 640.16 feet to 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 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;

THENCE South 02 degrees 39 minutes 05 seconds East, with the east line of said 23.5935 acre tract of land and with the west line of said 23.6963 acre tract of land, a distance of 1603.43 feet to a 1/2 inch iron rod found in the north right-of-way line of F. M. Highway No. 2920, for the southeast corner of said 23.5935 acre tract of land and for the southwest corner of the remainder 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 23.5935 acre tract of land, passing at a distance of 429.22 feet, a 5/8 inch iron rod found, continuing in all, a distance of 643.93 feet to the **POINT OF BEGINNING**, and containing 23.624 acres of land, more or less;

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

Notice of Public Hearings - City of Tomball City Council
Monday, November 5, 2012 and Monday, November 19, 2012
Page 6 of 7

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

All distances and areas are surface.

ANNEXATION – 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, said 20.021 acre tract of land being more particularly described by metes and bounds as follows:

BEGINNING at 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 Lots 454 and 455, Tomball Townsite, as recorded in Volume 2, Page 65 of the Map Records of Harris County, Texas, 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 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, for corner;

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, a distance of 318.60 feet to 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 a 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;

THENCE North 02 degrees 39 minutes 05 seconds West, with the west line of said 23.6963 acre tract of land and with the east line of said 23.5935 acre tract of land, a distance of 1603.43 feet to a 5/8 inch iron rod with cap stamped "GORRONDONA" set for the northwest corner of said 23.6963 acre tract of land and for the northeast corner of said 23.5935 acre tract of land, said 5/8 inch iron rod with cap stamped "GORRONDONA" also being in the south line of Lot 452, of said Tomball Townsite;

THENCE North 87 degrees 15 minutes 43 seconds East, 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 said Lot 454, a distance of 644.08 feet to the **POINT OF BEGINNING**, and containing 20.021 acres of land, more or less;

Notice of Public Hearings - City of Tomball City Council
Monday, November 5, 2012 and Monday, November 19, 2012
Page 7 of 7

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.

Persons interested in the above-proposed Annexation will be given an opportunity to be heard. Legal descriptions and maps of said property are available for inspection at the office of the City Secretary, 401 Market Street, Tomball, Texas.

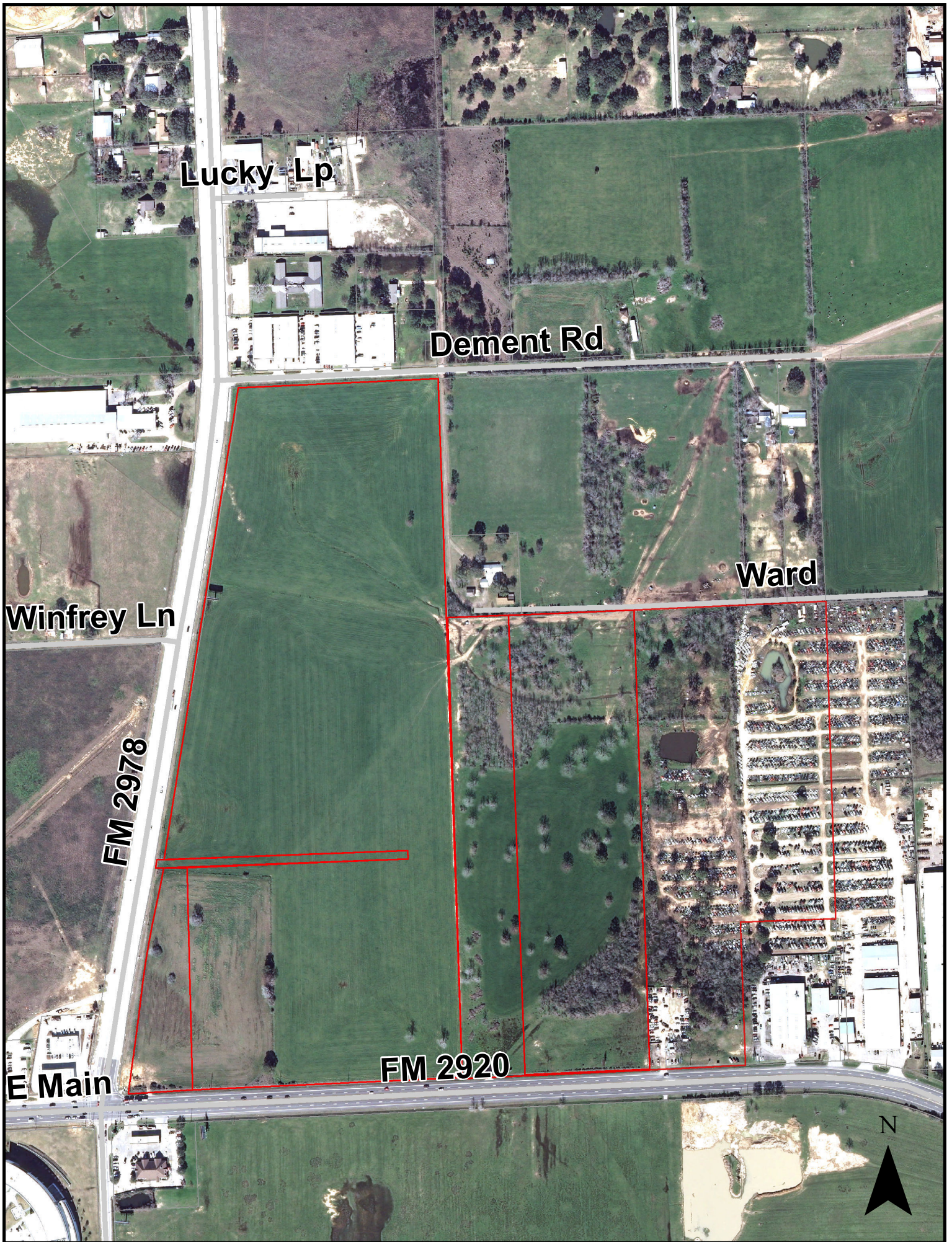
C E R T I F I C A T I O N

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 9th day of October 2012 by 4:00 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

Meeting Date: November 5, 2012

Data Sheet

Topic:

Approve Memorandum of Understanding between the City of Tomball and the Gulf Coast Chapter of the National Railway Historical Society regarding the Relocation of the Chapter's Houston Railroad Museum Collection to the City of Tomball

Background:

A Memorandum of Understanding between the City of Tomball and the Gulf Coast Chapter of the National Railway Historical Society regarding the relocation of the Chapter's Houston Railroad Museum collection to the City of Tomball, near the Depot area, is presented for Council consideration.

A proposed site plan and layout are also attached for Council consideration. For additional information, please visit the Houston Railroad Museum Master Plan link at <http://www.houstonrrmuseum.org/masterplan/Masterplan%20Document.pdf>.

Origination:

Gulf Coast Chapter of the National Railway Historical Society

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:

Memorandum of Understanding

Tomball Layout - Map

Site Plan

MEMORANDUM OF UNDERSTANDING

Between

GULF COAST CHAPTER OF THE NATIONAL RAILWAY HISTORICAL SOCIETY

And

CITY OF TOMBALL

1. Introduction: Whereas, the City of Tomball (the "City") began as a railroad town and wants to expand on the heritage of railroading in its community and whereas the mission of the Gulf Coast Chapter, National Railway Historical Society, Inc., a 501 (c)3 organization (the "Chapter") is to preserve, enjoy and share with the public the memory, history and experience of railroading, particularly Texas railroading, as it has been and as it is now, the Chapter and the City are interested in relocating the Chapter's museum collection to the City of Tomball, hereby agree to the following terms pursuant to which the Chapter will relocate its museum collection to a site or sites in the City of Tomball.
2. Land Requirements: The Chapter requires a minimum space of 50,000 square feet at or near the Depot located at 201 South Elm, Tomball TX with a long term lease with a rate to be negotiated. The Chapter would request that the City research and assist with the possible purchase of the land within the boundaries of N Elm St., E. Huffsmith Road, Peach St. and Houston St.
3. Site Design, Engineering and Track Work: The design and implementation of the Site Improvements will be prepared by the Chapter with City input and approval by the City Council. Site design and engineering work should consider access to the BNSF Railway mainline via a rail switch along with continued necessary access to the rail car collection for maintenance and restoration work in the future. The Chapter will install a minimum of 1,400 linear feet of standard railroad track behind a security fence; such tracks will be no less than 25 feet apart, measured center to center. Long term plans will be to have an onsite facility where the Chapter can restore existing cars with storage for the tools and supplies needed to do the restoration; a visitor's center/office/library/gift shop/meeting room; and a themed children's play and picnic area. In the case that this is an optional location by the City ballpark, the City will install sidewalks, lights and other needed infrastructure between the two sites.
4. Access to Railroad mainline: The City and Chapter will negotiate with BNSF Railway for installation of a switch that will allow occasional access to its freight railroad mainline for addition and removal of rail cars belonging to the Chapter collection transported by BNSF Railway to and from that location.
5. Utilities Serving the Collection: The City will assist the Chapter in establishing utility service for the Museum's collection. Chapter will bear the installation and usage cost of such utilities.
6. Security: The City will provide surveillance cameras during the construction phase. Chapter requests that Tomball's Police Department make best efforts to patrol the museum site(s), Chapter

reserves the right to enhance security for its Collection (e.g. additional lighting, possible onsite resident security) at its sole expense.

7. Marketing: The City and Chapter will partner as appropriate to leverage marketing efforts.

8. Visitor experience: The City has aggressively worked to enhance the aesthetics of the City and especially the Depot area, and has developed additional avenues to draw visitors to the area. The Chapter will also develop standards for their collection and exhibits to ensure that visitors have a safe, visually memorable, hands-on learning experience. The standards shall be approved by the City Council.

9. Insurance: Chapter and City will be separately responsible for analyzing their own organizational risks and insurance needs, and for paying the cost of such insurance.

10. Coordination between the Chapter and City: For the duration of this agreement, the City Manager and appropriate city staff and the Chapter's Executive Director will coordinate activities and communicate such with the Tomball City Council and Museum Board of Directors.

10. Subsequent Agreement: It is understood by both parties that this Memorandum of Understanding will be replaced by a binding agreement once placement of a switch on the railway's track giving access to a selected museum site is approved by BNSF Railway.

Agreed to on the 5th day of November, 2012

Gretchen Fagan, Mayor
Railway
City of Tomball

Gulf Coast Chapter, National

Historical Society
Jerry Dorcz, President

Doris Speer, City Secretary
Attest

POSSIBLE TRACK ALIGNMENT FOR RR MUSEUM

BNSF MAIN

Note: Entry track could be reversed

MARKET STREET

DEPOT

CABOOSE

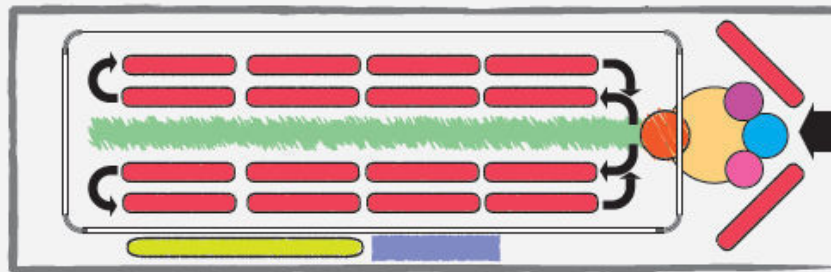
TRACK 1

TRACK 2

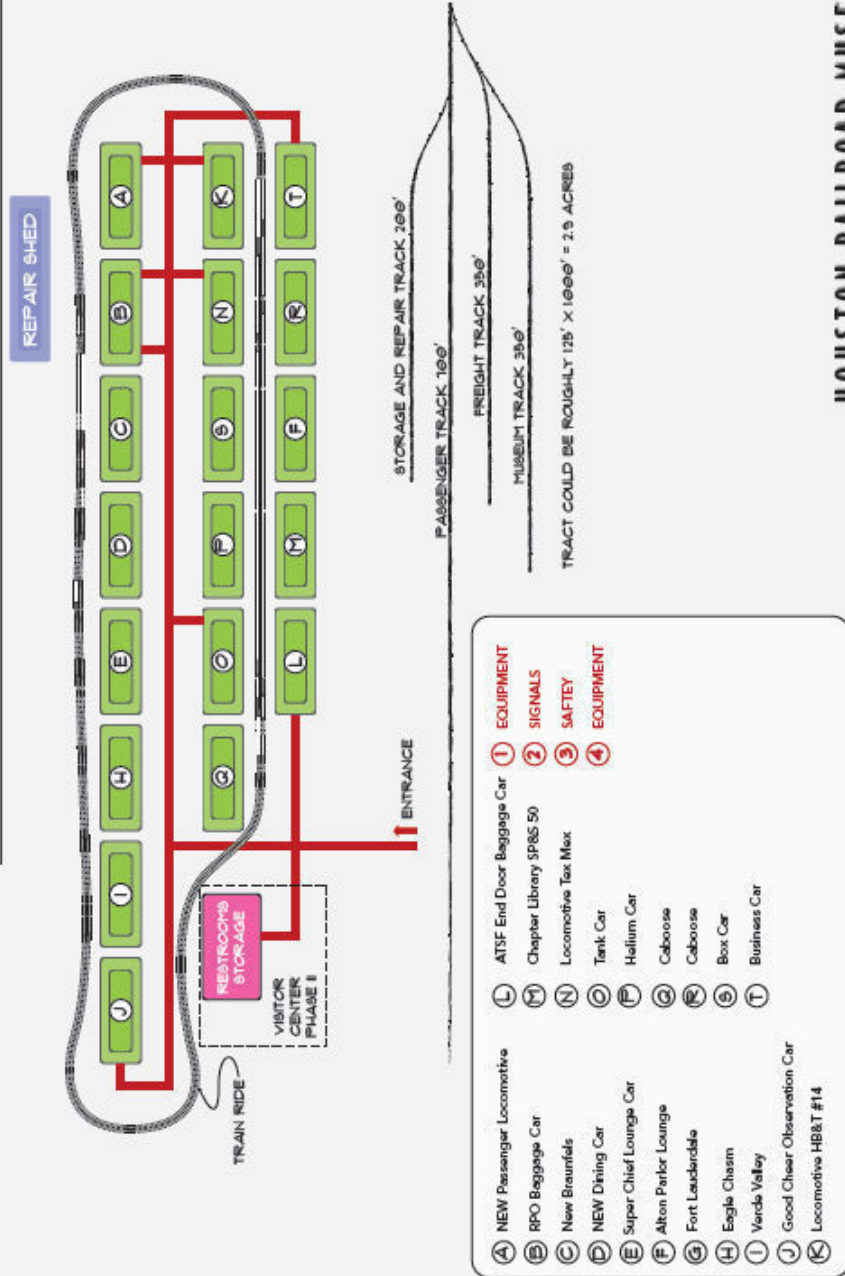
TRACK 3

APPROXIMATE CAPACITY
 TRACK 1 ~ 650'
 TRACK 2 ~ 650'
 TRACK 3 ~ 490'
 TOTAL ~ 1,790'

LENGTH OF CURRENT COLLECTION 1,090 ft.
 CURRENT COLLECTION PLUS ADDITIONS 1,380 ft.
 TRACK 3 COULD BE BUILT LATER



PHASED IMPROVEMENTS



19

HOUSTON RAILROAD MUSEUM

DIG STUDIOS

APRIL 2012

MASTERPLAN DOCUMENT

Regular City Council

Agenda Item

Data Sheet

Meeting Date: November 5, 2012

Topic:

Adopt, on First 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

Background:

The City currently regulates tow companies, solicitors, and taxi cab companies, as a means of enhancing quality of life and safety throughout our community, yet there is no ordinance governing the operation of ambulance service companies. As a result a number of issues have been identified, such as:

- Loitering ambulances (e.g. found operators sleeping in area parking lots in the back of ambulances);
- Code 3 (lights and sirens) driving in the COT without emergent need (e.g. late for doctor's appointment);
- Marketing as emergency service provider when they are not. (only ESD 8 can be provider);
- No insurance requirements;
- No training requirements;
- No back ground requirements;
- No vehicle inspection/safety standards;
- No Code 3 (lights and siren) usage standards;
- No quality control to ensure the safety of Tomball community members, who believe that all ambulances are the same;
- COT/ESD 8 have no enforcement mechanism unless COT ordinance is enacted.

Origination:

Robert S. Hauck, Chief of Police; Randy Parr, Fire Chief; Brian Petrilla, EMS Chief

Recommendation:

Adopt Ordinance No. 2012-47 on First Reading.

Funding: No

Funds will be transferred from Account: to Account:

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

Robert S. Hauck, Chief of Police; Randy Parr, Fire Chief; Brian Petrilla, EMS Chief

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

ATTACHMENTS:

Ordinance No. 2012-47

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.

* * * * *

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

Section 1. The Code of Ordinances of the City Of Tomball, Texas is hereby amended by adding a new Chapter 27, Emergency Medical Services and Ambulance Regulations, to read as follows:

“CHAPTER 27 EMERGENCY MEDICAL SERVICES AND AMBULANCE REGULATIONS

ARTICLE I. IN GENERAL

Sec. 27-1. Definitions.

For the purposes of this chapter, certain words and phrases are defined as follows:

Ambulance shall mean any privately or publicly-owned motor vehicle used, designed or redesigned and equipped for the primary purpose of the transportation of the sick or injured persons, whether functioning as a basic life support, advanced life support, or mobile intensive care unit service level as provided by state law.

City shall mean the “City of Tomball, Texas.”

City Limits shall mean the area in the City within the corporate City limits.

Department shall mean the designated Emergency Medical Service for the City of Tomball, as authorized by Harris County Emergency Services District 8.

DSHS shall mean the Texas Department of State Health Services as presently constituted, or a successor agency.

Direct Call shall mean a request for ambulance service made by telephone or other means directly to an ambulance operator, his agents or employees.

EMS Chief shall mean the Department Head of the Emergency Medical Service, as authorized by Harris County Emergency Services District 8.

Emergency Ambulance shall mean an ambulance used, designed, redesigned or equipped for the purpose of transporting sick or injured persons under emergency circumstances, and the rendering of first aid.

Emergency Circumstance shall mean the existence of circumstances in which the element of time in expeditiously transporting a sick or injured person for medical or surgical treatment is essential to the health or life of such person, and in which rescue operations or competent first aid or both, at the place of emergency, may be essential to the health or life of such person.

ETJ shall mean the City's extra-territorial jurisdiction.

Non-Emergency Transfer Services shall mean a pre-scheduled response made by an ambulance for the transportation of individuals to or from a medical facility, a nursing home, an assisted living facility, dialysis center, or residence under circumstances, which do not constitute an emergency.

Non-Emergency Transfer Service Permit shall mean a certificate of authorization issued by the City to the owner allowing such owner to operate an ambulance for Non-Emergency medical transfer services within the City limits.

Non-Emergency Transfer Service Provider shall mean a person providing Non-Emergency medical transfer services and holding a valid Non-Emergency Transfer Service Permit.

Sec. 27-2. Interference with Department personnel, equipment.

It shall be unlawful for any person to intentionally or knowingly physically obstruct any Department personnel proceeding to the scene or reported scene of any accident or emergency call, or to physically obstruct any Department personnel in the course of treating the sick or injured at any such scene. It shall be unlawful for any person to intentionally or knowingly fail or refuse to surrender any sick or injured person to the care of any Department personnel at the scene of any accident or emergency call. It shall be unlawful for any person to intentionally or knowingly damage, destroy or deface any attached or unattached apparatus or equipment belonging to the Department or any structure used to house or protect such apparatus or equipment.

Sec. 27-3. Penalty.

Any person, firm or corporation who violates or fails to comply with the requirements or provisions of this chapter shall be deemed guilty of a misdemeanor and shall, upon conviction by a court of competent jurisdiction, be punished by assessment of a fine of not less than one dollar (\$1.00) nor more than two thousand dollars (\$2,000.00), and each instance such a violation or failure to comply is allowed to exist shall constitute a separate and distinct offense. In addition, the City Attorney is authorized to file suit in any court of competent jurisdiction to enjoin any person from violating or causing to be violated any of the sections of this article.

Sec. 27-4 – 27.10 reserved.

ARTICLE II. AMBULANCES

Sec. 27-11. Personnel required during operation of an ambulance.

It shall be unlawful to operate or drive or cause to be operated or driven an ambulance on a public street of the City when furnishing ambulance service, including emergency ambulances operated by the emergency medical service Department of the City, unless such ambulance on each trip meets the minimum staffing requirements as set out in Section 157.11 (a) of Emergency Medical Services rules adopted by the DSHS under Section 773.050 of the Texas Emergency Medical Services Act, V.T.C.A., Health and Safety Code, ch. 773.

Sec. 27.12. Licensing and operating condition requirements for ambulances.

No ambulance shall be operated upon the streets of the City for the purpose of furnishing ambulance service unless and until such ambulance has a valid license issued by the DSHS.

Sec. 27.13. Safety and first-aid equipment required.

No ambulance shall be operated upon the streets of the City for the purpose of furnishing ambulance service unless such ambulance is equipped as set out in Section 157.11 of Emergency Medical Services Rules adopted by the DSHS under Section 773.050 of the Texas Emergency Medical Services Act, V.T.C.A., Health and Safety Code, ch. 773. Additionally, ambulances shall also meet the minimum requirements as outlined, in writing, by the physician medical director of record for the licensed ambulance service provider and as outlined by the city as required equipment.

Sec. 27.14. Operation of emergency ambulances, generally.

The operation of any emergency ambulance or emergency ambulance service within the territorial limits of the City is hereby declared to be a governmental function of the City, to be performed in accordance with the terms and provisions of this chapter.

Sec. 27.15. Certain operations unlawful; exceptions.

It shall be unlawful for any person, other than a member of the Department, while driving an ambulance as defined herein, to furnish or attempt to furnish emergency ambulance service, or to drive or operate, or to cause to be driven or operated, any ambulance within the territorial limits of the City for the purpose of furnishing emergency ambulance service, except as otherwise provided herein.

- (a) A person may operate an ambulance in emergency ambulance service to a hospital when such person at the time has an established place of business at a permanent address outside the City and when:

(1) The place of emergency at which the sick or injured patient was picked up by such ambulance is outside the City; and

(2) The ambulance performing such emergency ambulance service is, at the time of such performance, duly licensed and being operated in accordance with the Texas Emergency Services Act, V.T.C.A., Health and Safety Code, ch. 773.

(b) A person may operate an ambulance in emergency ambulance service when, by reason of Department ambulances not being available, the Department calls upon such person to furnish standby or backup emergency ambulance service within the City.

(c) A person may operate an ambulance in emergency ambulance service when, in the course of a non-emergency transport allowed in (a) above, a medical emergency arises in which the individual being transported requires emergency medical service after the transportation of the individual has begun.

In each instance set out in subsections (a) through (c) above, the driver or operator of such ambulance shall notify the Tomball EMS/Fire dispatcher of the conditions requiring the operation of his vehicle in emergency ambulance service, the location from which he is proceeding and the location to which he is proceeding under emergency ambulance service. Each ambulance being operated under the provisions of this section shall comply with all general requirements of this chapter regarding emergency ambulances of every nature. Upon arriving at his destination, the ambulance driver or ambulance operator will again notify the Tomball EMS/Fire that he has arrived and is no longer in emergency ambulance service. When the driver or operator of an ambulance is responding to a direct call for ambulance service, either under emergency conditions or otherwise, he shall inform the Tomball EMS/Fire dispatcher of the location of such call and such information as he may have concerning the circumstances surrounding the request for service, and if the Tomball EMS/Fire dispatcher reports that a City designated ambulance is either en route to the same location, has arrived there or is closer and instructs such ambulance driver or operator not to respond to such call, it shall be unlawful for such driver or operator to so respond when instructed not to do so by the Tomball EMS/Fire dispatcher.

Sec. 27.16. Duty to render aid.

It shall be the duty of the driver or the attendant of any ambulance to render first aid and assistance to the sick or injured at the place of emergency. It shall further be the duty of the driver or attendant of any ambulance to notify the Tomball EMS/Fire dispatcher and to remain on the scene until relieved by the designated provider.

Sec. 27.17. Solicitation unlawful.

It shall be unlawful for any person, other than a member, officer or employee of the Department, while operating or accompanying an ambulance within the territorial limits of the

City, to solicit the business of providing emergency or non-emergency medical service or transporting the sick or injured.

Sec. 27.18 – 27.20 reserved.

ARTICLE III. NON-EMERGENCY TRANSFER SERVICES

Sec. 27.21. Permit required; exception.

- (a) *Required.* No person shall furnish, operate, conduct, maintain, advertise or otherwise be engaged in the operation of medical transfer services upon or over any public street within the City limits without having first obtained a transfer services permit.
- (b) *Exception.* A transfer services permit shall not be required for:
 - (1) Emergency Medical Service vehicles or ambulances owned or operated by or designated by a governmental entity; or
 - (2) Emergency Medical Service vehicles or ambulances operating at the request of the City or the designated Emergency Medical Service provider for the City or in cases of a mutual aid, disaster, or system overload; or
 - (3) Emergency Medical Service vehicles or ambulances operating from a location outside the city limits and who are transporting patients from a location outside the limits of the city to a location within the city or through the city to some other location.

An application for license to operate an ambulance on the public streets of the City for the purpose of providing ordinary and/or non-emergency ambulance service within the City shall be made by the owner thereof for each ambulance so used or to be so used, or an agent authorized in writing by such owner to make such application, on forms obtained from the City Secretary, which shall contain at minimum the following:

- a. the name, address and telephone number of the owner;
- b. any trade or other fictitious name used or to be used by the owner when providing ambulance service;
- c. the make, model, year of manufacture, motor and chassis number, and current state license number of each ambulance;
- d. the length of time each ambulance has been in service;
- e. the color scheme, insignia, name, monogram or other distinguishing characteristics used or to be used by the owner to designate such ambulance together with an accurate photograph of each ambulance to be permitted;
- f. A list of all current employees of the ambulance service including name and date of birth for each employee; and

- g. Each application for a permit required by the City shall be accompanied by a non-refundable permit fee, payable to the City Of Tomball, as established by resolution of City Council.

Sec. 27.22. Insurance Requirements.

(a) Any applicant for a permit under this division shall, before the permit can be issued, procure, maintain, and furnish proof of financial responsibility as required by law and as prescribed in this section. The applicant shall keep in full force and effect during the entire term of this permit, the required insurance coverage for commercial general liability, automobile liability and professional liability in the minimum limits listed:

(1) Automobile liability insurance in the amount of not less than one hundred thousand dollars (\$100,000.00) for each person and five hundred thousand dollars (\$500,000.00) for each accident for personal injuries, and one hundred thousand dollars (\$100,000.00) for property damage. This automobile liability insurance shall not contain passenger liability exclusion. A written statement from an authorized agent of the ambulance operator's insurance carrier shall provide for a thirty day cancellation notice to the City of Tomball.

(2) Commercial general liability insurance with a minimum aggregate of three million dollars (\$3,000,000.00) and a minimum per occurrence of one million dollars (\$1,000,000.00).

(3) Professional liability insurance in an amount of not less than one million dollars (\$1,000,000).

(4) Workers' Compensation Insurance.

(5) Applicant must agree to indemnify, defend, and hold harmless the City, its officers, employees and agents, and Department, for any and all claims arising from applicant's acts or omissions. Additionally, the City shall be added as an additional insured on the policies, and the coverage shall contain no special limitation on the scope of protection afforded to the City.

(b) The insurance company shall be of sufficient assets, with an agent in the State of Texas upon whom service of the process may be made, and shall be approved by the City Attorney. Every insurance policy and certificate of insurance must contain a provision or an endorsement requiring that the policy will not be cancelled, suspended, voided, or reduced until at least thirty days (30) days prior written notice has been given to the City via certified mail, return receipt requested. If the policy does not provide coverage for "any auto" then a schedule of the covered autos is required to be submitted and filed with the City Secretary. Only those covered autos will be permitted to operate within the City.

(c) If the City Attorney determines that the insurance coverage required in subsection (a) of this section become so impaired as to require new and additional insurance, the City Attorney shall require such additional insurance in such company as he may feel is

necessary to ensure faithful performance by the operator of ambulances, his agents, servants, and employees.

(d) If the insurance policy is cancelled and no insurance policy is filed by the owner or ambulance operators before the cancellation, the permit to operate ambulances granted to such person shall be immediately and automatically revoked.

Sec. 27.23. Inspection.

(a) The Tomball Fire Chief or designee, or the police department, shall have the right to inspect, at any time, all ambulances permitted or to be permitted under this division to determine if such vehicles meet the following minimum standards:

- (1) Each vehicle shall be equipped according to the Texas DSHS equipment standards, and as determined by the ambulance service Medical Director, and as identified by the City as required equipment;
- (2) Each vehicle shall be free from dirt or rubbish and shall be otherwise clean and sanitary;
- (3) Each vehicle shall meet the general standards and requirements of this article;
- (4) Each vehicle shall have the company name displayed on each side of the vehicle and on the rear;
- (5) Each vehicle shall be inspected each year by a person authorized to conduct vehicle safety inspections by the State of Texas; and
- (6) No vehicle shall display the identification "Emergency Ambulance", "Emergency", "911", or similar marking.

(b) At no time shall any ambulance that is found to be unsafe by the Tomball Fire Chief or designee, or the police department be operated on the streets of the City. Nothing in this section however shall prevent the Tomball Fire Chief or designee, or the police department from inspecting any ambulance at any time. If the inspector finds that any ambulance is out of compliance, the Tomball Fire Chief or designee, shall order the use of the ambulance discontinued until the ambulance is re-inspected and approved.

(c) At no time shall a person operating a permitted transfer ambulance in the City, respond to or from a direct call for a medical transfer service, operate such ambulance under emergency conditions, using emergency equipment, until notifying Tomball EMS/Fire Dispatcher. The operator of the ambulance shall notify dispatch of the reason for emergency traffic, where responding from and destination.

Sec. 27.24. Payment of Ad valorem taxes.

It shall be the duty of every medical transfer services provider to pay all ad valorem taxes assessed by the City against such vehicle and all other personal and real property used in such business and to provide to the City a certificate demonstrating that ad valorem taxes have been

paid. The failure to pay such ad valorem taxes before they become ninety (90) days delinquent shall result in revocation of the permit issued in accordance with this chapter.

Sec. 27.25. Special requirements for transfer ambulances.

(a) *Staffing.* No transfer ambulance vehicle shall ever be operated upon the streets, highways or other public places of the city unless such vehicle is operated by at least two validly permitted ambulance attendants, each of whom must possess a current emergency medical technician basic certificate.

(b) *Posting of fee schedule.* All transfer ambulance vehicles shall have a current fee schedule conspicuously posted in the patient's compartment.

Sec. 27.26. Issuance of permits.

(a) The City Secretary, or designee, shall issue to each applicant a permit for each vehicle upon the applicant's filing of written proof of insurance as required in this division, upon ensuring that all City taxes on each vehicle and all other personal and real property used in such business have been paid and upon determination that all requirements of this chapter and all applicable state and federal statutes and regulations have been satisfied.

(b) Permits shall be issued for a twelve-month period. Such period shall run from January 1 to December 31 of each year. Any new permit issued during the year shall begin on the date of issuance and shall end on December 31 of that year. The permit shall state the period for which the permit is issued, the name of the owner, the make of the vehicle(s), the vehicle identification number(s), and the current license number(s).

Sec. 27.27. Renewal.

(a) An application for renewal of an existing permit shall be filed on or before November 15 for the renewal period covering the following calendar year. The application process shall be the same as specified in this chapter for initial permits.

(b) The City Secretary shall issue a Non-Emergency Transfer Service Permit for each ambulance for which it has received a renewal application upon the applicant's filing of written proof of insurance as required in this chapter, upon ensuring that all City taxes on each vehicle and on all other personal and real property used in such business have been paid, upon each vehicle passing the inspection required by this Chapter, and upon determination that all requirements of this chapter and all applicable state and federal statutes and regulations have been satisfied.

(c) If a permit has been suspended during the permit year, re-issuance of such permit will be reviewed by the Tomball Fire Chief, or designee, during December of the same year. The re-issuance of such permit shall be denied if the Fire Chief or designee determines that the provisions of this ordinance have not been met.

Sec. 27.28. Transferability.

A permit issued under this chapter shall be specific to both the permittee as well as the permitted vehicle, and shall not be transferable.

Sec. 27.29. Alterations of terms by City Council.

The City Council expressly reserves the right to modify, amend, change, or eliminate any of the provisions of any permit issued under this chapter, during the life of the permit, to:

- (a) Eliminate or delegate any conditions that might prove obsolete or impractical; or
- (b) Impose any additional conditions upon any owner as may be just and reasonable, and which are deemed necessary for the purpose of promoting adequate, efficient, and safe ambulance to the public.

Sec. 27.30. Requirements for business location.

If the business location of the ambulance service, firm or organization is located within the City limits, the building must be in compliance with all City ordinances, state and federal laws. Pursuant to this specific chapter, no such ambulance service, firm or organization can operate as its main place of business or a storage supply facility in a private residence. The Tomball Fire Chief or designee, or police department, has the right to inspect such locations as often as deemed necessary to ensure compliance with all provisions of this chapter. The refusal of any ambulance operator, with a business office located within the City limits, to allow the Tomball Fire Chief or designee, or police department, to inspect such premises shall be considered a violation of this chapter and may be subject to forfeiture of the Non-Emergency ambulance permits.

Sec. 27.31. Revocation.

- (a) In addition to the penalties as provided in the Code for violations of this article, a non-emergency transfer service provider or any of its officers, agents and/or employees who violate any section of this chapter, including allowing drivers to operate or drive any vehicle while not properly licensed or while intoxicated/incapacitated, is subject to immediate suspension of its medical non-emergency transfer service permit to operate within the City limits by the Tomball Fire Chief designee. Any violation of this chapter may subject the transfer service provider to suspension or revocation of its Non-Emergency Transfer Service Permit. However, not less than ten (10) days before any revocation or suspension for other than operating a vehicle while not properly licensed or while intoxicated/incapacitated, the owner shall be given written notice, by either personal delivery or certified mail to the permittee's address as shown on the permit application, and an opportunity to be heard before the Tomball Fire Chief or designee as to why the permit should not be revoked or suspended. No such notice or hearing shall be deemed necessary prior to the revocation of a permit for failure to maintain proper insurance as required. Additionally, the permittee shall notify the City of any state or

federal investigation, or conviction of violation of any state or federal law within ten (10) days of such investigation or conviction.

(b) If the Tomball Fire Chief or designee's decision is not acceptable to applicant or permittee he may, within ten (10) days of that decision, file an appeal in writing with the City Manager. During the pendency of the appeal, the permit shall be suspended. Such a written appeal shall set forth the specific grounds therefore. The City Manager shall notify the appellant within ten (10) days after the receipt of appeal as to the time and place of the hearing, which shall be within thirty (30) days of receipt of such appeal. The determination of the City Manager on any appeal pursuant to this chapter shall be final.

(c) Upon suspension or revocation of an ambulance permit, such medical transfer service shall cease operations in the City and no person shall permit such medical transfer service to continue such operations."

Section 2. **Penalty.** Any person who violates any provision of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed \$2,000.00. Each violation occurrence shall constitute a separate offense.

Section 3. **Repealer.** All ordinances or parts of ordinances inconsistent or in conflict herewith, are, to the extent of such inconsistency or conflict, hereby repealed.

Section 4. **Severability.** In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

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 5TH DAY OF NOVEMBER 2012.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN BROWN	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DODSON	_____

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 19TH DAY OF NOVEMBER 2012.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN BROWN	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DODSON	_____

Gretchen Fagan, Mayor

ATTEST:

Doris Speer
City Secretary

Regular City Council

Agenda Item

Meeting Date: November 5, 2012

Data Sheet

Topic:

Adopt, on First 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

Background:

Corral RV Park requests that the City of Tomball amend the electrical code to allow aluminum conductors underground installation between poles or between poles and an outside electrical box that is not attached to a building or structure. The Building Official has reviewed the request and does not have any issues with the aluminum conductors being used for these circumstances.

Origination:

Corral RV Park, Mike O'Brien

Recommendation:

Funding:

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

Christal Kliewer Weber, Assistant City Manager

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

ATTACHMENTS:

Ordinance No. 2012-49

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.

* * * * *

WHEREAS, the City Council of the City of Tomball finds it to be in the best interest of the health, safety and welfare of its citizens to modify the City's electrical regulations to allow for aluminum conductors underground from pole to pole or from pole to outside electrical box that is not attached to a building or structure; now, therefore:

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

Section 1. The facts and matters contained in the preamble to this ordinance are hereby found to be true and correct.

Section 2. The Code of Ordinances of the City of Tomball, Texas is hereby amended by adding the language underscored below to Section 14-293, Special Provisions, of Division 4, Permits and Inspections, of Article IV, Electricity, of Chapter 14, Buildings and Building Regulations, Section 14-293 to be amended as follows:

“Sec. 14-293. Special Provisions.

- (a) Temporary power poles shall have a minimum of two 120-volt duplex receptacles and one 240-volt receptacle.

- (b) Electrical metallic tubing (EMT) shall not be buried in ground nor embedded in concrete.
- (c) Aluminum conductors are only permitted to be installed in the following circumstances;
 - (i) overhead between poles, and
 - (ii) for new commercial buildings, 5,000 square feet or larger, on all service entrance conductors and feeder conductors, both interior and exterior, sized 4/0 and larger; and
 - (iii) underground from pole to pole or from pole to outside electrical box that is not attached to a building or structure.”

Section 3. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

Section 4. Any person who shall intentionally, knowingly, recklessly, or with criminal negligence, violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction, shall be fined in an amount not to exceed \$2,000. Each day of violation shall constitute a separate offense.

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

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF
THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE ____ DAY OF
_____ 2012.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN BROWN	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DODSON	_____

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
_____ 2012.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN BROWN	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DODSON	_____

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary

Regular City Council

Agenda Item

Meeting Date: November 5, 2012

Data Sheet

Topic:

Approve **GRAND THREE FINAL PLAT**: Being a Subdivision of 0.4686 Acre of land situated in the Joseph House Survey, Abstract Number 34, of Harris County, Texas, and being the same land called 0.4689 Acre as described in deed recorded in Clerk's File Number K893680 of the Real Property Records of Harris County, Texas.

Background:

The Planning and Zoning Commission approved the Grand Three Final Plat on Monday, October 8, 2012 with contingencies. Comments have been addressed and the plat is being forwarded to City Council for approval consideration.

Origination:

Recommendation:

Funding:

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

Brandy Pate - Engineering and Planning

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

ATTACHMENTS:

Grand Three Final Plat

Harris County Clerk Certificate of Filing:

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 _____, 2012, at _____ o'clock ____ M., and duly recorded on _____, 2012, 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.

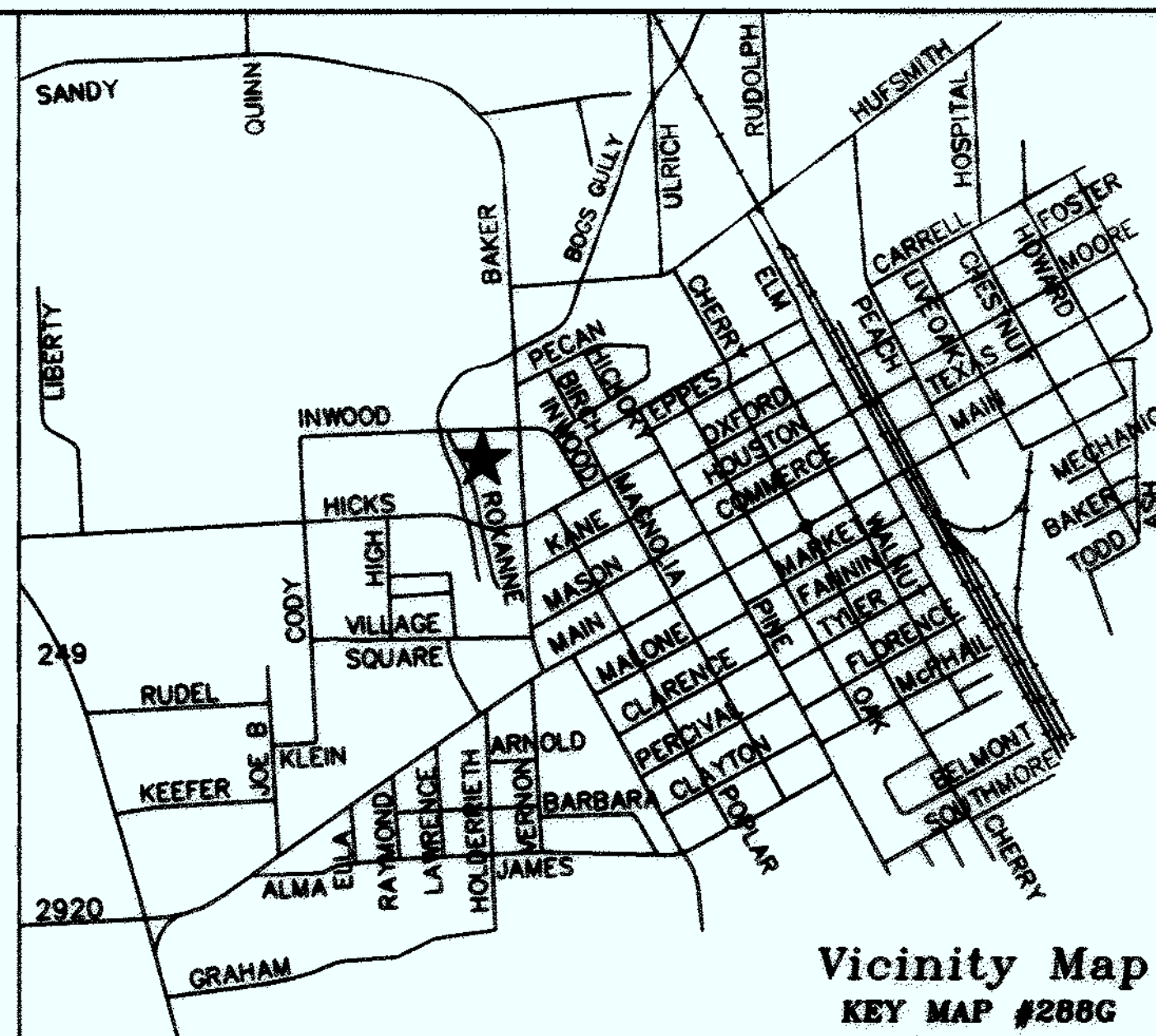
Stan Stanart
County Clerk
of Harris County, Texas

By: _____
Deputy

SCALE: 1" = 30 Ft.
0" 25 15 22 30

I, Tony P. Swonke, am authorized 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 all boundary corners, angle points, points of curvature, and other points of reference not found have been marked with iron 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.

Tony P. Swonke
Texas Registration Number 4767



Vicinity Map
KEY MAP #288G

HARRIS COUNTY FLOOD CONTROL DISTRICT
DRAINAGE DITCH J131-00-00
CF NO. M201069
R.P.R.H.C.T.

Tract 2

COFFMAN AMENDED
FC NO. 383100
M.R.H.C.T.

Tract 1

R. HUBBARD
SURVEY, A-383

JOSEPH HOUSE
SURVEY, A-34

WILLIAM HURD
SURVEY, A-371

INWOOD STREET

50' R.O.W.
VOL. 92, PG. 122
D.R.H.C.T.

Due EAST ~ 95.00'

1550 +/-

Notes:
Public Easements:
Public Easements denoted on this plat are hereby dedicated to the public forever. Any public utility, including the City of Tomball, shall have the right at all times, of ingress and egress to and from and upon said easement 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 its 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.

Flood Information:
According to FEMA Firm Panel No. 48201C0230-L (Effective Date June 18, 2007), this property is in Zone "X" and is not in the 0.2% Annual Chance Flood Plain.

Note #1:
All oil/gas pipelines or pipeline easements with ownership through the subdivision have been shown.

Note #2:
All oil/gas wells with ownership (plugged, abandoned, and/or active) through the subdivision have been shown.

Note #3:
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.

Note #4:
This plat does not attempt to amend or remove any valid covenants or restrictions.

Note #5:
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.

Note #6:
The Basis of Bearings for this plat is the Recorded Deed.

D.R.H.C.T. = DEED RECORDS OF HARRIS COUNTY TEXAS
M.R.H.C.T. = MAP RECORDS OF HARRIS COUNTY TEXAS
R.P.R.H.C.T. = REAL PROPERTY RECORDS OF HARRIS COUNTY TEXAS
CF NO. = CLERK'S FILE NUMBER
B.L. = BUILDING LINE
C.D.T.U.E. = UTILITY EASEMENT DEDICATED TO THE CITY OF TOMBALL
VOL. = VOLUME
PG. = PAGE

TED D. MIELKE
CALLED 1.714 ACRES
CF NO. 20120220294
R.P.R.H.C.T.

PAUL G. & ROSA I. WITT
CALLED 1.909 ACRES
CF NO. T302450
R.P.R.H.C.T.

THE STATE OF TEXAS
COUNTY OF HARRIS

I, Ernest Grandinetti, owner hereinafter referred to as owner of the 0.4686 acre tract described in the above and foregoing plat of GRAND THREE, do hereby make and establish said subdivision of said property according to all laws, 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 myself, my heirs, successors and assigns to warrant and forever defend the title to the land so dedicated.

FURTHER, owners have dedicated and by these presents do dedicate to the use of the public for public utility purposes forever an unobstructed aerial easement five feet (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 dedicate to the public a strip of land fifteen feet (15') wide on each side of the center line of any and all bayous, creeks, gullies, ravines, draws, sloughs, or other natural drainage courses located and depicted upon in said plat, as easements for drainage purposes, giving the City of Tomball, Harris County, or any other governmental agency, the right to enter upon said easement at any and all times for the purpose of construction and maintenance of drainage facilities and structures.

FURTHER, owners do hereby covenant and agree that all of the property within the boundaries of this plat and adjacent to any drainage easement, ditch, gully, creek or natural drainage way shall hereby be restricted to keep such drainage ways and easements clear of fences, buildings, planting, and other obstructions to the 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 my hand in the City of Tomball, Texas, this 19 day of Oct, 2012.

By: Ernest Grandinetti
Ernest Grandinetti

THE STATE OF TEXAS
COUNTY OF HARRIS

BEFORE ME, the undersigned authority, on this day personally appeared Ernest Grandinetti, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and considerations therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 19 day of Oct, 2012.

Notary Public in and for the State of Texas

My Commission Expires: 4/6/2013

Surveyor:
TONY SWONKE
LAND SURVEYING
700 Kane Street, Tomball, Texas 77375
Office: 281-351-7789

Owner:
ERNEST GRANDINETTI
23091 Plantation Lake Drive
Hempstead, Texas 77445
281-733-6086

This is to certify that the Planning and Zoning Commission of the City of Tomball, Texas, has approved this plat and subdivision of GRAND THREE in conformance with the laws of the State of Texas and the ordinances of the City of Tomball as shown hereon and authorized the recording of this plat this _____ day of _____, 2012.

By: Lori Wallace
Chairman

By: Evelyn Chervenak
Vice Chairman

We, the City Manager and the 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.
Acting 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 _____, 2012.

By: Gretchen Fagan, Mayor

Doris Speer, City Secretary

FINAL PLAT OF
GRAND THREE

Being a subdivision of 0.4686 acre of land situated in the Joseph House Survey, Abstract Number 34, of Harris County, Texas, and being the same land called 0.4689 acre as described in deed recorded in Clerk's File Number K893680 of the Real Property Records of Harris County, Texas.

3 LOTS, 1 BLOCK

October 2012
Sheet 1 of 1

Regular City Council

Agenda Item

Data Sheet

Meeting Date: November 5, 2012

Topic:

Executive Session as Authorized by Title 5, Chapter 551, Government Code, the Texas Open Meetings Act, for the Following Purpose(s):

- Sec. 551.072 – Deliberations Regarding Real Property

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	