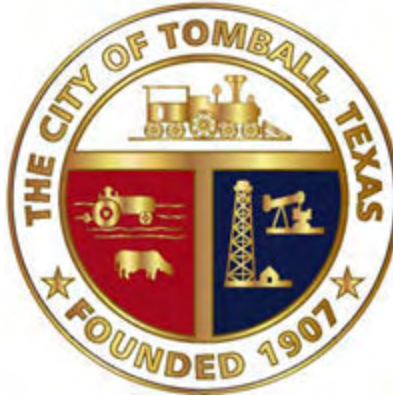


**NOTICE OF REGULAR CITY COUNCIL MEETING
CITY OF TOMBALL, TEXAS**



MONDAY, SEPTEMBER 19, 2011

6:00 P.M.

Notice is hereby given of a meeting of the Tomball City Council, to be held on Monday, September 19, 2011 at 6:00 P.M., City Hall, 401 Market Street, Tomball, Texas 77375, for the purpose of considering the following agenda items. All agenda items are subject to action. The Tomball City Council reserves the right to meet in a closed session for consultation with attorney on any agenda item should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

1.0 Call to Order

2.0 Invocation

- Led by Pastor Denny Dillon, NewLife Community 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:

- Proclamation - *Tomball Charter Chapter American Business Women's Association Day* - September 22, 2011
- Swearing In Ceremony for New Tomball Police Officers - Keith Ferguson, Alfred Hernandez, Brandon Patin, and Alex Ramsey
- Presentation by Mayor Fagan to the Tomball Fire Department, Winners of the Annual Mayor's Challenge Community Blood Drive
- Al Rendl, Board of Directors, North Harris County Regional Water Authority

6.0 Reports and Announcements

- **Farmers Market** – 9 a.m.-1:00 p.m. (Every Saturday, September 24-November 12)
- September 28, 2011 – **Homecoming Parade and Rally at the Depot**, 6:00 p.m.–8:00 p.m.
- October 1, 2011 – **Bugs, Brew and Barbecue at the Depot**, 12:30 p.m.–6:00 p.m.
- October 8, 2011 – **Open House at the Central Fire Station**, 10:00 a.m.–3:00 p.m.
- October 8, 2011 – **2nd Saturday at the Depot "Spooktacular Bash"**– 5:00 p.m.
- October 10, 2011 – **Fall Cleanup Week**
- October 15, 2011 – **E-Waste and Shredding Event**
- October 15, 2011 – **Tomball Art Walk**, 2:00 p.m.–6:00 p.m.; Free Concert at the Depot, 5:00 p.m.–7:30 p.m.
- October 22, 2011 - **Special Walk Tomball** to support American Heart Association – 9:30 a.m.; Heart Walk routes begin at The Heart Center at Tomball Regional (north entrance; use free parking garage or adjacent lots)
- October 28-29, 2011 – **Fire Department Fall Festival** – 6:00 p.m.
- November 1, 2011 – **Mayor's Coffee**, 5:30 p.m.–7:00 p.m., **Nona's Italian Grill**
- November 12, 2011 – **2nd Saturday at the Depot** – 5:00 p.m.
- November 19, 2011 – **46th Annual Holiday Parade** – 10:00 a.m.
- November 19, 2011 - **Special Walk Tomball** in the **Holiday Parade** behind the **Walk Tomball! It's a Wonderful Life** banner – 10:00 a.m.
- November 19, 2011 – **Tomball Art Walk**, 2:00 p.m.–6:00 p.m.; Free Concert at the Depot, 5:00 p.m.–7:30 p.m.
- **Walk Tomball!** (Every Saturday at 8:00 a.m. at the Depot)
- Reports by City staff and members of Council about items of community interest on which no action will be taken
 - In order to assist the Tri-County Fire victims in their recovery efforts, the City of Tomball will provide a single copy of a Tomball-born birth certificate, from May 1980 to present, for \$5.00; acceptable proof of loss must be presented with application. Birth certificates for those born outside of Tomball or before May 1980 will still cost \$23.00, as required under the Health and Safety Code, as these records are held by the State.

7.0 Approve the Minutes of the Following City Council Meetings:

- September 6, 2011 Special Council and Planning and Zoning Meeting
- September 6, 2011 Regular Council Meeting

8.0 Old Business:

- 8.1 Ratify the FY 2012 Budget and Find that the Proposed Tax Rate of \$.341455/\$100 Generates More Property Tax Revenue than the FY 2011 Budget
- 8.2 Set the Dates for Public Hearings on Proposed Tax Rate
- 8.3 Approve, on Second Reading, Resolution No. 2011-17-TEDC, a Resolution of the City Council of the City of Tomball, Texas, authorizing and approving the Tomball Economic Development Corporation's Project to Expend Funds in accordance with an Economic Development Agreement by and between the Corporation and the City of Tomball to Make Direct Incentives to, or Expenditures for, the Expansion and Development of Medical Complex Drive; Containing Other Provisions Relating to the Subject; and Providing for Severability, Approving, as a Project of the Corporation, an agreement with the City of Tomball to make direct incentives to or expenditures for, the expansion and development of Medical Complex Drive in the City of Tomball. The estimated amount of expenditures for such project is \$850,000
- 8.4 Approve Revised Concept Plan and Contract with Aquascapes Pool & Spas, LLC for the Construction of an Entry Fountain and Splash Pad at Depot Plaza, in the Amount of \$67,435 plus \$4,200 for Additional Pavers to Create a Walkway from the Driveway Area on the South Side, for a Total Estimated Cost of \$71,635, of Which a Portion will be Offset by Selling Pavers and Other Possible Donations

9.0 New Business:

- 9.1 Set October 17, 2011 at 6:00 p.m. and October 24, 2011 at 5:30 p.m. as the Dates for Vote on Tax Rate
- 9.2 Approve Request from Tomball Regional Hospital for City Support of the "2011 Heart Walk" on Saturday, October 22, 2011, to Support the American Heart Association
- 9.3 Approve Request by WCA Waste Corporation (WCA) for an Annual CPI Adjustment, to become effective October 1, 2011
- 9.4 Approve Proposed First Amendment to Solid Waste Collection and Disposal Service Contract between the City of Tomball and WCA Waste Corporation (WCA).
- 9.5 Approve the Following Plats, as recommended by Planning and Zoning Commission:
 - **THE POINT FINAL PLAT:** Being a subdivision of 6.3637 acres of land out of the Claude M. Pillot Survey, Abstract No. 632, in the City of Tomball, Harris County, Texas.
 - **KLEIN ISD BERNSHAUSEN ELEMENTARY SCHOOL SEC. 1:** Being a Replat of Lots 485, 486 and part of lot 484 of the five acre

tracts Tomball Townsite Vol. 2, Pg. 65 H.C.M.R., a subdivision of 13.8198 acres out of the J. Pruitt Survey, Abstract No. 629 Harris County, Texas.

- **ROSE GARDENS REPLAT:** Being a subdivision of 0.5062 acre tract, 22, 049.39 Square Feet, Being a Replat of New Lot 25, Block 82 of Kana Industrial Park, as recorded in Film Code No. 437064 Harris County Map Records and 7,827.73 Square Feet of Abandoned Ash Street and Timkin Road Right of Way Situated in the William Hurd Survey a-371, Harris County, Texas.

- 9.6 Consideration to approve ZONING CASE P11-347: Request by John Thomas, on behalf of R.K. McGaughy, to amend the City's Comprehensive Zoning Ordinance to rezone approximately 3.9078 acres of land, legally described as Tract 2AA out of the C.N. Pillot Survey, Abstract Number 632, within the City of Tomball, Harris County, Texas, generally located on the westerly side of State Highway 249, northerly of Holderrieth Road, from the AG-Agricultural District to the C-Commercial District.

- Conduct a Public Hearing on ZONING CASE P11-347
- Adopt on First Reading, Ordinance 2011-21, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by changing the Zoning District Classification of approximately 3.9078 acres of land, legally described as Tract 2AA out of the C.N. Pillot Survey, Abstract Number 632, within the City of Tomball, Harris County, Texas, from the AG-Agricultural District to the C-Commercial District; said property being generally located on the westerly side of State Highway 249, northerly of Holderrieth Road; providing for the Amendment of the Official Zoning Map of the City; providing for severability; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters

- 9.7 Consideration to approve ZONING CASE P11-348: Request by the Tomball Economic Development Corporation, on behalf of Capital One, National Association, to amend the City's Comprehensive Zoning Ordinance to rezone approximately 97.48 acres of land, legally described as Lots 386 and 387 and Tract 385 out of the Tomball Outlots and Tract 4 out of the Elizabeth Smith Survey, Abstract 70, within the City of Tomball, Harris County, Texas, generally located on the westerly side of Hufsmith-Kohrville Road, northerly of Holderrieth Road, from the SF-6 - Single-Family Residential-6 District and C -Commercial District to the LI - Light Industrial District.

- Conduct a Public Hearing on ZONING CASE P11-348
- Adopt on First Reading, Ordinance 2011-22, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by changing the Zoning District Classification of approximately 97.48 acres of land, legally described as lots 386 and 387 and tract 385 out of the Tomball Outlots and tract 4 out of the Elizabeth Smith Survey, Abstract 70, within the City of Tomball, Harris County, Texas, from the SF-6 - Single-Family Residential-6 District and C-Commercial District to the LI-Light Industrial District; Said property being generally located on the westerly side of Hufsmith-Kohrville Road, northerly of Holderrieth Road; Providing for the Amendment of the Official Zoning Map of the City; Providing for severability; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any

provision hereof, making findings of fact; and providing for other related matters

9.8 Consideration to approve **ZONING CASE P11-349**: Request by Peter and Sylvia Hildreth to amend the City's Comprehensive Zoning Ordinance to rezone approximately 6.928 acres of land, legally described as Lots 36, 43, 44, and 45 out of the Tomball Hills Addition Plat, within the City of Tomball, Harris County, Texas, generally located on the easterly side of State Highway 249, northerly of Zion Road, from the SF-9 - Single-Family Residential-9 District to the C - Commercial District.

- Conduct a Public Hearing on **ZONING CASE P11-349**
- Adopt of First Reading, Ordinance 2011-23, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by changing the Zoning District Classification of approximately 6.928 acres of land, legally described as lots 36, 43, 44, and 45 out of the Tomball Hills Addition Plat, Within the City of Tomball, Harris County, Texas, from the SF-9 - Single-Family Residential-9 District to the C -Commercial District; Said property being generally located on the easterly side of State Highway 249, northerly of Zion Road; Providing for the Amendment of the Official Zoning Map of the City; Providing for severability; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters

9.9 Approve 2011-2016 Strategic Plan

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

10.0 Adjournment

CERTIFICATION

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall, City of Tomball, Texas, a place readily accessible to the general public at all times, on the 16th day of September 2011 by 5:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Doris Speer
Doris Speer
City Secretary, TRMC

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

AGENDAS MAY ALSO BE VIEWED ONLINE AT www.ci.tomball.tx.us.

Regular City Council

Agenda Item

Data Sheet

Meeting Date: September 19, 2011

Topic:

- Proclamation - ***Tomball Charter Chapter American Business Women's Association Day*** - September 22, 2011
- Swearing In Ceremony for New Tomball Police Officers - Keith Ferguson, Alfred Hernandez, Brandon Patin, and Alex Ramsey
- Presentation by Mayor Fagan to the Tomball Fire Department, Winners of the Annual Mayor's Challenge Community Blood Drive
- Al Rendl, Board of Directors, North Harris County Regional Water Authority

Background:

Mayor Fagan will administer the oath of office to Tomball's new Police Officers and present the Challenge Cup to the Tomball Fire Department, winners of the Annual Mayor's Challenge Community Blood Drive.

Al Rendl, President of North Harris County Regional Water Authority and Representative for District 4, will present information regarding the purpose and responsibility of NHCRWA in assuring control by North Harris County residents over future water supplies and the City of Tomball's participation in those efforts.

Origination:

Mayor and Council

Recommendation:

N/A

Funding:

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

City Secretary

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

ATTACHMENTS:

Proclamation - Tomball Charter Chapter American Business Women's Association Day - September 22, 2011

Office of the Mayor
Tomball, Texas

Proclamation



- WHEREAS,** the mission of the American Business Women's Association, founded on September 22, 1949 by Mr. Hilary A. Bufton, Jr. and three businesswomen in Kansas City, Missouri, is to bring together business women of diverse occupations and to provide opportunities for them to help themselves and others grow personally and professionally through leadership, education, networking support and national recognition; and
- WHEREAS,** American Business Women's Day was initiated in 1982 by the American Business Women's Association as a national day on which Americans could recognize the achievements of not only Association members, but also those of the more than 54 million employed women in the United States, and in both 1983 and 1986, joint Congressional Resolutions were passed designating a national observance of September 22 as American Business Women's Day and following both of said Resolutions, President Ronald Reagan issued a similar Presidential proclamation; and
- WHEREAS,** the American Business Women's Association celebrated 60 years in 2009 and continues to thrive each day, and local members attend ABWA's National Women's Leadership Conference each September to commemorate National American Business Women's Day on the 22nd with thousands of other women; and
- WHEREAS,** there are more than 90,000 active members in over 1,600 chapters of this organization throughout the country, including the Tomball Charter Chapter, which was formed in Tomball in July, 1994, chartering with 47 women, and joining a network of women across the nation that were 90,000 women strong; and
- WHEREAS,** over the past 17 years, the Tomball Chapter has given thousands of dollars in scholarships to women of various ages and various stages in their lives, has actively participated in the community through its involvement in the Holiday parade, The Regional Arts Council Art Walks and Shows, Tomball Night, Centennial events, and many other events.
- WHEREAS,** the Tomball Chapter of ABWA is a robust Tomball organization, meeting the second Thursday evening each month and always having an open door for newcomers;

NOW, THEREFORE, I, Gretchen Fagan, Mayor of the City of Tomball, do hereby proclaim Thursday, September 22, 2011:

**"TOMBALL CHARTER CHAPTER
AMERICAN BUSINESS WOMEN'S ASSOCIATION DAY"**

*In witness whereof I have hereunto set my
hand and caused this seal to be affixed.*

ATTEST:

DATE:

Don Spier

September 15, 2011



Regular City Council

Agenda Item

Data Sheet

Meeting Date: September 19, 2011

Topic:

- **Farmers Market** – 9 a.m.-1:00 p.m. (Every Saturday, September 24-November 12)
- September 28, 2011 – **Homecoming Parade and Rally at the Depot**, 6:00 p.m.–8:00 p.m.
- October 1, 2011 – **Bugs, Brew and Barbecue at the Depot**, 12:30 p.m.–6:00 p.m.
- October 8, 2011 – **Open House at the Central Fire Station**, 10:00 a.m.–3:00 p.m.
- October 8, 2011 – **2nd Saturday at the Depot “Spooktacular Bash”**– 5:00 p.m.
- October 10, 2011 – **Fall Cleanup Week**
- October 15, 2011 – **E-Waste and Shredding Event**
- October 15, 2011 – **Tomball Art Walk**, 2:00 p.m.–6:00 p.m.; Free Concert at the Depot, 5:00 p.m.–7:30 p.m.
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- November 19, 2011 - **Special Walk Tomball** in the **Holiday Parade** behind the *Walk Tomball! It’s a Wonderful Life* banner – 10:00 a.m.
- November 19, 2011 – **Tomball Art Walk**, 2:00 p.m.–6:00 p.m.; Free Concert at the Depot, 5:00 p.m.–7:30 p.m.
- **Walk Tomball!** (Every Saturday at 8:00 a.m. at the Depot)
- Reports by City staff and members of Council about items of community interest on which no action will be taken
 - In order to assist the Tri-County Fire victims in their recovery efforts, the City of Tomball will provide a single copy of a Tomball-born birth certificate, from May 1980 to present, for \$5.00; acceptable proof of loss must be presented with application. Birth certificates for those born outside of Tomball or before May 1980 will still cost \$23.00, as required under the Health and Safety Code, as these records are held by the State.

Background:

Origination:

Various

Recommendation:

N/A

Funding:

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

City Secretary

ACTION TAKEN

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

Open House at the Central Fire Station

2nd Saturday at the Depot

Fall Cleanup Week

E-Waste and Shredding Event

Special Walk Tomball to Support American Heart Association

Mayor's Coffee



Tomball Fire Department



Go To: FirePreventionWeek.org

Protect Your Family From Fire

October 9–15, 2011 • It's Fire Prevention Week



OPEN HOUSE

Saturday October 8, 2011

10:00am - 3:00pm



- **Free Food & Drinks**
- **Meet our Firefighters**
- **See our Fire Trucks**
- **Fire Dog Bounce House**
- **See a "Jaws of Life" Demonstration**
- **Fire Extinguisher Demonstrations**
- **Smoke Alarms & More**



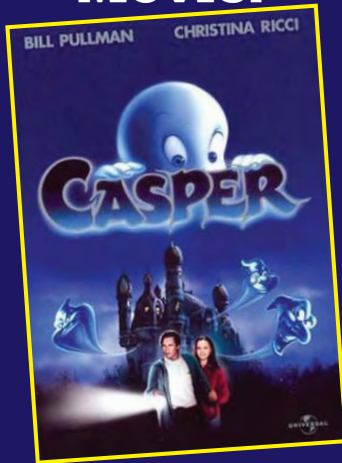
1200 Rudel Road

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

**For more info
Call 281-351-7101**

2nd Saturday at the Depot
October 8 **Tomball, TX**
Spooktacular Bash!

Movie:



- **Trick-or-treating at Downtown Shops**
- **Creepy Caboose**
- **Ghostly Gazebo**
- **Monster Maze**
- **Concessions - G Que BBQ**
- **Decorate a Pumpkin** donated by
- **Games Galore**
- **Spooktacular Candy** donated by



**Come dressed in your costume
to receive a special prize!
(while supplies last)**

HISTORIC TOMBALL DEPOT PLAZA
201 South Elm ~ One block south of Main Street
Opens at 5:00 PM ~ Movie begins at dark
Free family entertainment for all ages
Bring your lawn chairs
No Glass Containers!
For more information, please call
Rosalie at 281-610-2595

In case of rain, event will be held at the Tomball Community Center, 221 Market Street.

City of Tomball

Fall Clean up

Week of October 10 to October 15, 2011

Monday – Saturday - 8:00 am - 4:30 pm

Objective:

Provide the citizens of Tomball the opportunity to dispose of large, hard-to-handle items that cannot be collected under the normal garbage service. ** (Remember this is for residents of Tomball only (must have **City utility bill** as proof); NO COMMERCIAL BUSINESS OPERATORS).**

Roll Offs will be available at the City Landfill Site (0.4 miles north of E. Hufsmith on Rudolph) to dispose of the acceptable items. See map to landfill site below.

Acceptable Items:

- Lumber
- Bicycle parts
- Plywood (4 cubic yd. max)
- Rugs/carpet
- Siding
- Clothing
- Box springs and mattresses
- Bricks (small amount)
- Empty buckets or pails
- Rocks (small amount)
- Washing machines
- Dryers
- Water heaters
- Furniture
- Gutter material
- Cardboard boxes
- Lawn mowers (oil & gas removed)
- Dishwashers

Not Acceptable:

- Tree trimmings
- Limbs or stumps
- Tires
- Engine blocks
- Structural steel
- Equipment with oil or gasoline
- Fertilizers
- Pool chemicals
- Batteries
- Oil filters
- Insecticides
- Container with unmarked labels holding liquids
- Sealed containers of any type
- Large amounts of construction or demolition material
- Smoke detectors
- Pressurized vessels
- Flammable, combustible or corrosive products
- Raw meats, food products or byproducts
- Televisions
- Computers
- Refrigerators
- AC units
- Appliances with Freon or fluids
- Paint

All appliances must be drained and tagged by a licensed technician.

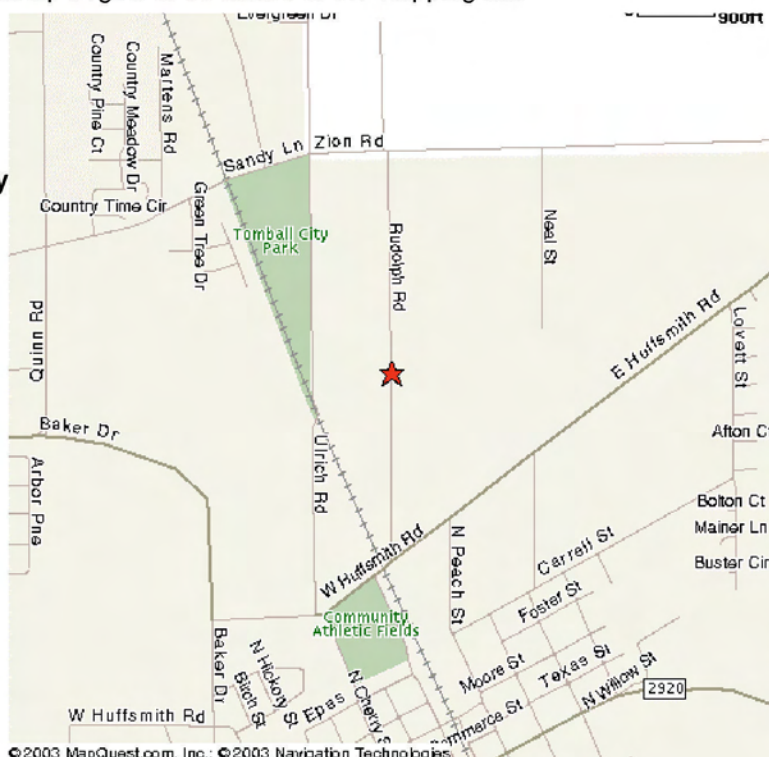
Acceptable items are anything that is inert and would not harm the environment before or after disposal into a landfill.

The City of Tomball will provide a free chipping service for brush and small limbs during the week of Tomball Cleanup. To participate, please call **(281) 290-1400** the week before the cleanup begins to be added to the chipping list.

CHIPPING SPECIFICATIONS:

- Turn all big ends toward road or in one direction
- Limit size to 6 ft.-8 ft., maximum
- Keep logs separate from limbs, nothing over 6" dia.
- Place limbs & brush near roadside and not on property
- Leaves, please bag for regular garbage pickup

Map to Tomball landfill site





E-WASTE RECYCLING DAY

OCTOBER 15, 2011

9 AM to 1 PM



OBJECTIVE:

To provide a convenient e-waste recycling program to the residents of the City of Tomball in the form of an e-waste collection event. ****You must present a city utility bill as proof of residency.**** This event is sponsored by the City of Tomball, Waste Corporation of America, and CompuCycle.

PROGRAM:

CompuCycle will process all e-waste generated by the residents of the City of Tomball at no charge. CompuCycle adheres to the Responsible Recycling (R2) practices. The drive-thru e-waste drop off service will be located at **TBD...**

ITEMS ACCEPTED – COMPUTER- RELATED ELECTRONICS:

Computers	Monitors & TVs	Keyboards
Routers	Hubs	Computer Mice
Laptops	Printers	Switches
Power Cords	Cables	Fax Machines
UPS	Servers	Cell Phones
Cellular Phones	DVD Players	Telephones
VCRs	Cable Boxes	Gaming Consoles
Clocks	Batteries	Radios
Toner Cartridges	Ink Jet Cartridges	Copiers

ITEMS NOT ACCEPTED:

Vacuum Cleaners	Refrigerators	Washing Machines
Weed - Eaters		

ABOUT CompuCycle:

CompuCycle, Houston's first EPA - accredited, R2 Certified responsible e-cycling solutions provider focuses on refurbishing equipment for resale, reuse of components, and environmentally responsible e-waste recycling.



7700 Kempwood Dr.
Houston, TX 77055



TOMBALL REGIONAL
HOSPITAL

August 28, 2011

Dear Mayor Fagan and Councilmen Hudgens, Stoll, Brown, Townsend, and Dodson,

I am writing to formally request the Council's approval to host the 2nd Annual American Heart Association's Northwest Harris County Virtual Heart Walk on the campus of Tomball Regional Medical Center and surrounding public streets as indicated on the map attached. This family-friendly, free and non-competitive 5k Walk (with 1 mile alternative loop) is planned to begin at 9:30 am on Saturday, October 22nd at Robert F. Shaper Heart Center. In addition to raising funds for the American Heart Association, my purpose of the walk is to provide our city and surrounding communities with educational opportunities to learn about heart disease and stroke prevention. Furthermore, we see this as an excellent opportunity to showcase our city and our award-winning hospital to the anticipated 300- 350 visitors from our region.

We are formally requesting Council's approval to host this event and to provide the necessary support services for approximately a four-hour duration as determined through coordination and consultation with the city's Special Events Committee. The requested services will include:

- Rolling support from Tomball Police Department for traffic control and safety that may include partial road closures with use of barricades on Medical Complex Drive as determined by TPD
- EMS support to be on stand-by during the 4- hour event
- Permission to use the city right of way to place temporary directional routing signs the day of the event- to be removed by our volunteers
- Permission to utilize the Main Street banner advertising free of charge with hospital provided banner.
- Consent to place accessible Port-o-let on TRH property (in TRH Home Health parking lot) for duration of event- we will secure and fund rental
- Assistance with city volunteers possibly including VIP's and/or Explorers for assistance with parking control.

We welcome any suggestions you may have regarding the utilization of city resources for this event and we would like to partner with the efforts of Walk Tomball to ensure the success of this worthwhile event. We look forward to the opportunity to collaborate with the city in this endeavor.

Sincerely,



Keith Barber
Executive Vice President/COO/CFO
Tomball Regional Medical Center

Heart Walk Tomball 2011

Red Route: 5K
Purple Route: 1 Mile

2nd Annual Heart Walk
benefiting the American Heart
Association Hosted by Tomball
Regional Medical Center

October 22
5K and 1-mile loop
9:30am



November 3, 2011
5:30 P.M.
Nonna's Italian Grill
1025 Alma

Mayor's Coffee

Stop by to get in
touch with Tomball!



Gretchen Fagan
Mayor

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

Regular City Council Agenda Item Data Sheet

Meeting Date: September 19, 2011

Topic:

Approve the Minutes of the Following City Council Meetings:

- September 6, 2011 Special Council and Planning and Zoning Meeting
- September 6, 2011 Regular Council Meeting

Background:**Origination:**

City Secretary

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

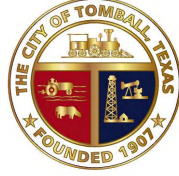
ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

September 6, 2011 Special Council and Planning and Zoning Meeting

September 6, 2011 Regular Council Meeting

**MINUTES OF SPECIAL TOMBALL CITY COUNCIL AND
PLANNING AND ZONING COMMISSION MEETING
CITY OF TOMBALL, TEXAS**



**TUESDAY, SEPTEMBER 6, 2011
4:00 P.M.**

1.0 Call to Order

The meeting was called to order at 4:02 p.m. by Mayor Gretchen Fagan.

Council members present were:

Councilman Stoll
Councilman Brown
Councilman Townsend
Councilman Dodson
Councilman Hudgens

Planning and Zoning Commission Members present:

Commissioner Lori Wallace
Commissioner Barbara Tague
Commissioner James Kendler
Commissioner Michelle Beauvais
Commissioner Evelyn Torres-Chervenak

Others present:

City Manager – George Shackelford
Assistant City Manager – Christal Weber
Assistant City Secretary – Betsy Gates
Assistant City Engineer – Lori Lakatos
Assistant City Planner – Rodney Schmidt
Partners for Strategic Action - Peggy Fiandaca
Kimley Horn & Associates – Joe Willhite

Draft

2.0 The following public comments were received:

Kathleen Truex
Cut-A-Rug Dance Studio
703 Malone, Tomball 77375

- Letter was read on her behalf requesting council to
reconsider proposed zoning for her property

3.0 Workshop Session:

3.1 The Tomball City Council and the Planning and Zoning Commission entered into a workshop session to review the Downtown Specific Plan, as presented by Partners for Strategic Action (PSA).

4.0 Motion was made by Councilman Dodson, second by Councilman Townsend, to adjourn the meeting.

Motion carried unanimously.

Meeting adjourned at 5:52 p.m.

PASSED AND APPROVED this _____ day of _____ 2011.

Betsy Gates
Assistant City Secretary

Gretchen Fagan
Mayor

MINUTES OF REGULAR CITY COUNCIL MEETING CITY OF TOMBALL, TEXAS



**TUESDAY, SEPTEMBER 6, 2011
6:00 P.M.**

1.0 Call to Order

The Council meeting was called to order by Mayor Gretchen Fagan. Other members present were:

Councilman Stoll
Councilman Brown
Councilman Townsend
Councilman Dodson
Councilman Hudgens

Others present:

City Manager – George Shackelford
Assistant City Manager – Christal Weber
Assistant City Secretary – Betsy Gates
City Attorney – Loren Smith
Police Chief – Robert Hauck
Finance Director – Glenn Windsor
Fire Chief – Randy Parr
Assistant City Engineer – Lori Lakatos
Marketing Director – Mike Baxter

draft

- 2.0** The invocation was led by Pastor Bill Rasco, Spring Creek Church of Christ
- 3.0** Pledges to U. S. and Texas Flags were led by Members of the Tomball High School Student Council, HEB Buddy, and Buffalo Wild Wings

4.0 The following public comments were received:

Ken Shuman - Announced a new mentorship program, *Mentor Tomball*, in
611 Clayton, 77375 Tomball ISD, for 3rd to 6th grade

5.0 Mayor Fagan presented Certificates of Appreciation to representatives of HEB,
Buffalo Wild Wings, TISD Student Council, and Tomball Bible Church for their
support and contributions to the success of **Tomball Kids Club 2011**

6.0 Reports and Announcements:

- **Farmers Market** – 9 a.m.-1:00 p.m. (Every Saturday, September 10-November 12)
- September 7, 2011 – **Planning and Zoning Commission Public Workshop** to review the Downtown Specific Plan – 6:00 p.m. at the Community Center
- September 9, 2011 – **Annual Mayor’s Challenge Community Blood Drive** – Hosted by NWEMS
- September 10, 2011 – **2nd Saturday at the Depot** – 6:00 p.m.
- September 11, 2011 – **“Stop & Remember” – 12:00 p.m. (1:00 p.m. EDT) – September 11 National Moment of Remembrance**
- September 17, 2011 – **Tomball Art Walk** – 2:00 p.m.-6:00 p.m.; Free Live Jazz at the Depot (Gary Michael Dahl Band) – 5:00 p.m.-7:30 p.m.
- September 28, 2011 – **Homecoming Parade and Rally at the Depot** – 6:00 p.m.-8:00 p.m.
- October 1, 2011 – **Bugs, Brew and Barbecue** at the Depot – 9:00 a.m. – 6:00 p.m.
- October 8, 2011 – **Open House at the Central Fire Station** – 10:00 a.m.-3:00 p.m.
- October 8, 2011 – **2nd Saturday at the Depot “Spooktacular Bash” – 5:00 p.m.**
- October 10, 2011 – **Fall Cleanup Week**
- October 15, 2011 – **E-Waste Recycling Day**
- October 15, 2011 – **Tomball Art Walk** – 2:00 p.m.-6:00 p.m.; Free Live Jazz at the Depot – 5:00 p.m.-7:30 p.m.
- October 28-29, 2011 – **Fire Department Fall Festival** – 6:00 p.m.
- November 1, 2011 – **Mayor’s Coffee** – 5:30 p.m.-7:00 p.m., Nona’s Italian Grill
- November 12, 2011 – **2nd Saturday at the Depot – 5:00 p.m.**
- November 19, 2011 – **46th Annual Holiday Parade** – 10:00 a.m.
- November 19, 2011 - **Special Walk Tomball** in the **Holiday Parade** behind the *Walk Tomball! It’s a Wonderful Life* banner – 10:00 a.m.
- November 19, 2011 – **Tomball Art Walk** – 2:00 p.m.-6:00 p.m.; Free Live Jazz at the Depot – 5:00 p.m.-7:30 p.m.
- **Walk Tomball!** (Every Saturday at 8:00 a.m. at the Depot)
- Reports by City staff and members of Council about items of community interest on which no action will be taken
 - Randy Parr updated Council on the status of the Montgomery, Waller and Grimes County Fire. Over 30 agencies have responded and Tomball Police Department has assisted in traffic control, as it will take several more days to contain the fire

- Rob Hauck commented on the excellent job that Randy Parr, the firefighters and emergency personnel were providing to the community during the fire emergency. He sent the entire police patrol to Magnolia and brought all management in to cover city patrol. Northwest EMS also took satellite up to Magnolia. The gyroplane went up to report back to incident management and to take photos of fire.

7.0 Motion was made by Councilman Townsend, second by Councilman Dodson, to approve the minutes of the following meetings:

- August 15, 2011 Special Council Meeting
- August 15, 2011 Regular Council Meeting
- August 22, 2011 Special Council Meeting

Motion carried unanimously.

8.0 Old Business:

8.1 George Shackelford presented the proposed ordinance. Motion was made by Councilman Dodson, second by Councilman Brown, to adopt, on Second Reading, Ordinance No. 2011-18, an Ordinance of the City Council of the City of Tomball, Texas, Adopting the Budget for the City of Tomball, Texas, for Fiscal Year 2011-2012; and Authorizing the City Manager to Approve Intra-departmental (within the same Department only) Transfers of Budgeted Funds; and Providing other Details Relating to the Passage of This Ordinance. Vote was as follows:

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

Motion carried, 3 votes Aye, 2 votes Nay.

9.0 New Business:

9.1 George Shackelford suggested postponing the vote to Ratify the FY 2012 Budget and Find that the Proposed Tax Rate of \$.341455/\$100 Generates **More** Property Tax Revenue than the FY 2011 Budget because Harris County has not provided the final figures.

Consensus of Council was unanimous to postpone consideration of Item 9.1.

9.2 George Shackelford presented the dates of September 26 and October 3, 2011 for Public Hearings on Proposed Tax Rate. Motion was made by Councilman Stoll, second by Councilman Brown, to approve September 26 and October 3, 2011 for the public hearings.

Motion carried unanimously.

- 9.3 Mike Baxter presented an overview of the scheduled events. Motion was made by Councilman Dodson, second by Councilman Stoll, to approve the Sale of Wine and Beer at Depot Plaza for City-Sponsored Tomball Art Walks on September 17, October 15, and November 19 and for the Bugs, Brew, and Barbecue on October 1, 2011. Vote was as follows:

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

Motion carried, 4 votes Aye, 1 vote Nay.

- 9.4 Kelly Violette presented the proposed TEDC Budget. Motion was made by Councilman Townsend, second by Councilman Dodson, to approve the Tomball Economic Development Corporation (TEDC) 2011-2012 Fiscal Year Budget

Motion carried unanimously.

- 9.5 George Shackelford presented proposed Resolution No. 2011-14; Councilman Townsend provided an overview of the responsibilities of the H-GAC representatives. Motion was made by Councilman Dodson, second by Councilman Hudgens, to approve Resolution No. 2011-14, a Resolution of the City Council of the City of Tomball, Texas for the Designation of a Representative and Alternate for the Houston-Galveston Area Council 2012 General Assembly, reappointing Councilman Townsend and Councilman Stoll as the Representative and Alternate, respectively.

Motion carried unanimously.

- 9.6 George Shackelford presented proposed Resolution No. 2011-15 and a letter from Ed Heathcott asking City of Tomball to re-elect him to the position. Motion was made by Councilman Townsend, second by Councilman Stoll, to approve Resolution No. 2011-15, a Resolution of the City Council of the City of Tomball, Texas, Nominating Ed Heathcott for a position on the Board of Directors of the Harris County Appraisal District.

Motion carried unanimously.

- 9.7 Lori Lakatos presented proposed Resolution No. 2011-16. Motion was made by Councilman Brown, second by Councilman Townsend, to approve Resolution No. 2011-

16, a Resolution of the City Council of the City of Tomball, Texas, Adopting the City of Tomball Minimum Standards for Stormwater Drainage System Design Manual

Motion carried unanimously.

- 9.8 Kelly Violette presented proposed Resolution No. 2011-17-TEDC. Motion was made by Councilman Dodson, second by Councilman Stoll, to approve Resolution No. 2011-17-TEDC, a Resolution of the City Council of the City of Tomball, Texas, authorizing and approving the Tomball Economic Development Corporation's Project to Expend Funds in accordance with an Economic Development Agreement by and between the Corporation and the City of Tomball to Make Direct Incentives to, or Expenditures for, the Expansion and Development of Medical Complex Drive; Containing Other Provisions Relating to the Subject; and Providing for Severability, Approving, as a Project of the Corporation, an agreement with the City of Tomball to make direct incentives to or expenditures for, the expansion and development of Medical Complex Drive in the City of Tomball. The estimated amount of expenditures for such project is \$850,000.

Motion carried unanimously.

- 9.9 Kelly Violette presented proposed Resolution No. 2011-18-TEDC. Motion was made by Councilman Townsend, second by Councilman Stoll, to approve Resolution No. 2011-18-TEDC, a Resolution of the City Council of the City of Tomball, Texas, authorizing and approving the Tomball Economic Development Corporation's Project to Expend Funds in accordance with an Economic Development Agreement by and between the Corporation and Spring Creek County Historical Association to make Direct Incentives to, or Expenditures for, Signage and/or Improvements for the Tomball Museum; Containing Other Provisions Relating to the Subject; and Providing for Severability, Approving, as a Project of the Corporation, an agreement with Spring Creek County Historical Association to make direct incentives to, or expenditures for, signage and/or improvements for The Tomball Museum located at 510 North Pine Street in the City of Tomball. The estimated amount of expenditures for such project is an amount not to exceed \$500.00.

Motion carried unanimously.

- 9.10 Kelly Violette presented proposed Resolution No. 2011-19-TEDC. Motion was made by Councilman Brown, second by Councilman Hudgens, to approve Resolution No. 2011-19-TEDC, a Resolution of the City Council of the City of Tomball, Texas, Authorizing and Approving the Tomball Economic Development Corporation's Project to Expend Funds to Commission the Proposed Fountain at the Historic Depot Plaza; Containing Other Provisions relating to the Subject; and Providing for Severability, Approving, as a Project of the Tomball Economic Development Corporation, an agreement with the City of Tomball to make direct incentives to or expenditures for, improvements including a proposed Fountain at the Historic Depot Plaza located at 201 South Elm Street in the City

of Tomball. The estimated amount of expenditures for such project is an amount not to exceed \$25,000.

Motion carried unanimously.

- 9.11 Lori Lakatos presented proposed Resolution No. 2011-20. Motion was made by Councilman Dodson, second by Councilman Hudgens, to approve Resolution No. 2011-20, a Resolution of the City of Tomball, Texas, Adopting a Fee to Allow Joinder of Lots Under Common Ownership Without Requiring a Plat Provided that the Joinder of Lots Does Not Require the Dedication or Removal of Any Public Rights-of-Way, Public Easements or Public Improvements

Motion carried unanimously.

- 9.12 Glenn Windsor presented proposed Resolution No. 2011-21. Motion was made by Councilman Stoll, second by Councilman Hudgens, to approve Resolution No. 2011-21, a Resolution of the City of Tomball, Texas, adopting the City of Tomball's Investment Policy, as set forth in the City's Administrative Policy No. 13, entitled "Investment Policy".

Motion carried unanimously.

- 9.13 George presented information regarding the proposed new position and transfer of funds within the department. Motion was made by Councilman Brown, second by Councilman Townsend, to approve Adding Full-Time Position in IT Department.

Motion carried unanimously.

- 9.14 Mayor Fagan presented the current requirements to receive a Service Flag. Motion was made by Councilman Dodson, second by Councilman Stoll, to table Item 9.14 until more information is gathered regarding geographical data emailed to the Mayor from the other Council members.

No action taken.

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

- Section 551.071 Consultation with Attorney regarding Litigation

Councilman Dodson stated that he would abstain from participation in the Executive Session, based on the Conflict of Interest Affidavit previously filed with the City Secretary.

Upon reconvening into regular session at 8:01 p.m., no action was taken.

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

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this _____ day of _____ 2011.

Betsy Gates, TRMC
Assistant City Secretary

Gretchen Fagan
Mayor

Regular City Council

Agenda Item

Data Sheet

Meeting Date: September 19, 2011

Topic:

Ratify the FY 2012 Budget and Find that the Proposed Tax Rate of \$.341455/\$100 Generates More Property Tax Revenue than the FY 2011 Budget

Background:

Truth-in-Taxation laws require that prior to a Council adopting a tax rate, the Council must first ratify the already adopted budget for the ensuing fiscal year and "find" that the proposed tax rate will generate more or less property tax revenue than the concluding year's adopted budget. Once Council has ratified the budget and found that the proposed tax rate will generate more or less tax revenue than the previous year's budget, Council must set the dates for the public hearings.

For Tomball, the proposed rate of \$.341455 per \$100 of assessed value will generate more property tax revenue than was generated in the FY 2011 Budget due to the proposed \$0.09 increase in the tax rate to provide debt service for M121 Drainage Channel and Medical Complex Drive Phase 3.

On September 6, 2011, this item was tabled because the Harris County Tax Assessor-Collector had not provided the effective tax rate for Tomball. The effective tax rate was received on September 7, 2011 and was published in the official newspaper on September 12, 2011, as required by state law.

Origination:

Glenn Windsor, Director of Finance

Recommendation:

Staff recommends that Council ratify the FY 2012 Budget and find that the proposed tax rate of \$.341455 generates more property tax revenue than the FY 2011 Budget.

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:

2011 Effective Tax Rate for the City of Tomball, Texas

2011 Property Tax Rates in City of Tomball

This notice concerns the 2011 property tax rates for City of Tomball. It presents information about three tax rates. Last year's tax rate is the actual tax rate the taxing unit used to determine property taxes last year. This year's *effective* tax rate would impose the same total taxes as last year if you compare properties taxed in both years. This year's rollback tax rate is the highest tax rate the taxing unit can set before taxpayers start *rollback* procedures. In each case these rates are found by dividing the total amount of taxes by the tax base (the total value of taxable property) with adjustments as required by state law. The rates are given per \$100 of property value.

Last year's tax rate:

Last year's operating taxes	\$1,259,474
Last year's debt taxes	\$1,582,040
Last year's total taxes	\$2,841,514
Last year's tax base	\$1,130,028,832
Last year's total tax rate	\$0.251455/\$100

This year's effective tax rate:

Last year's adjusted taxes (after subtracting taxes on lost property), ÷ This year's adjusted tax base (after subtracting value of new property) = This year's effective tax rate (Maximum rate unless unit publishes notices and holds hearings.)	\$2,831,781 \$1,096,751,677 \$0.25819/\$100
---	---

This year's rollback tax rate:

Last year's adjusted operating taxes (after subtracting taxes on lost property and adjusting for any transferred function, tax increment financing, state criminal justice mandate, and/or enhanced indigent healthcare expenditures) ÷ This year's adjusted tax base = This year's effective operating rate x 1.08= this year's maximum operating rate + This year's debt rate = This year's total rollback rate - Sales tax adjustment rate = Rollback tax rate	\$3,529,105 \$1,096,751,677 \$0.321778/\$100 \$0.347520/\$100 0.230000/\$100 \$0.577520/\$100 \$0.204690/\$100 \$0.372830/\$100
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Statement of Increase/Decrease

If City of Tomball adopts a 2011 tax rate equal to the effective tax rate of \$0.258197 per \$100 of value, taxes would increase compared to 2010 taxes by \$26,858.

Schedule A - Unencumbered Fund Balance

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

Type of Property Tax Fund	Balance
General Fund	10,606,990
Debt Service Fund	755,676
Special Revenue Fund	1,388,102
Enterprise Fund	14,517,084
Fleet Replacement Fund	1,966,355
Health Insurance Trust Fund	297,852

Schedule B - 2011 Debt Service

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

Description of Debt	Principle or Contract Payment to be Paid from Property Taxes	Interest to be Paid from Property Taxes	Other Amounts to be Paid	Total Payment
Tax and Revenue Certificates of Obligation, Series 2003	375,000	239,895	0	614,895
Tax and Revenue Certificates of Obligation, Series 2010 Refunding	250,000	32,970	0	282,970
Bonds				
Tax and Revenue Certificates of Obligation,	490,500	54,078	0	544,578
Series 2002				
Series 2011 General	15,750	134,122	0	149,872
Obligation Refunding Bonds				
2011 Lease Purchase Fire	60,807	27,912	0	88,719
Truck				
Tax Certificates of Obligation, Series 2011	422,255	451,836	0	874,091
Total required for 2011 debt service				\$2,555,125
- Amount (if any) paid from Schedule A				\$0
- Amount (if any) paid from other resources				\$0
- Excess collections last year				\$0
= Total to be paid from taxes in 2011				\$2,555,125
+ Amount added in anticipation that the unit will collect only 100.00% of its taxes in 2011				\$0
= Total debt levy				\$2,555,125

Schedule C - Expected Revenue from Additional Sales Tax

In calculating its effective and rollback tax rates, the unit estimated that it will receive \$2,273,946 in additional sales and use tax revenues.

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

Name of person preparing this notice: Don Sumners CPA, RTA

Title: Tax Assessor-Collector

Date Prepared: 09/07/2011

Regular City Council

Agenda Item

Data Sheet

Meeting Date: September 19, 2011

Topic:

Set the Dates for Public Hearings on Proposed Tax Rate

Background:

The Harris County Tax Assessor-Collector has provided Tomball's effective and rollback tax rates for 2011 and we have published the notice of effective tax rate in the official newspaper (see attached).

The effective tax rate would provide approximately the same amount of revenue as received in 2010; the rollback rate will provide approximately the same amount of tax revenue as received in 2010 plus sufficient funds to pay anticipated debt in the coming year.

Under the State's Truth-in-Taxation laws (Chapter 26, Tax Code, Section 26.06), the City must publish special notices regarding the tax rate and must hold two public hearings before adopting a tax rate that exceeds the lower of the rollback rate or the effective tax rate, with a minimum of seven (7) days' notice for each public hearing. While the proposed tax rate of \$0.341455/\$100 does not exceed the rollback tax rate of \$0.372830/\$100, it does exceed the effective tax rate of \$0.258190/\$100; therefore, two public hearings are required before Council's vote on the tax rate.

Due to the delay in receiving the effective and rollback tax rates from Harris County, the dates now recommended for the public hearings on the proposed tax rate are October 3, 2011 (regular meeting) and October 10, 2011 (special meeting), at 6:00 p.m.; a draft of the notice of the public hearings comparing 2010 and 2011 tax rates, without including the City's \$90,000 exemption, is attached.

Origination:

City Secretary

Recommendation:

Set October 3, 2011 at 6:00 p.m. and October 10, 2011 at 6:00 p.m. as the dates for the public hearings on the proposed tax rate.

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:

2011 Property Tax Rates in City of Tomball

Notice of Public Hearing on Tax Increase_9-16-11_HCty

Summary of Residential Homesteads_Taxable Value

Notice of Public Hearing on Tax Increase

The _____ City of Tomball, Texas _____ will hold two public hearings on a proposal to increase total tax revenues from properties on the tax roll in the preceding tax year by 32.25 percent (percentage by which proposed tax rate exceeds lower of rollback tax rate or effective tax calculated under Chapter 26, Tax Code). Your individual taxes may increase at a greater or lesser rate, or even decrease, depending on the change in the taxable value of your property in relation to the change in taxable value of all other property and the tax rate that is adopted.

The first public hearing will be held on October 3, 2011, 6:00 PM at City Hall, 401 Market Street, Tomball, TX 77375.

The second public hearing will be held on October 10, 2011, 6:00PM at City Hall, 401 Market Street, Tomball, TX 77375.

The members of the governing body voted on the proposal to consider the tax increase as follows:

FOR:

AGAINST:

PRESENT and not voting:

ABSENT:

The average taxable value of a residence homestead in the City of Tomball, Texas last year was \$ 166,526 (average taxable value of a residence homestead in the taxing unit for the preceding tax year, disregarding residence homestead exemptions available only to disabled persons or persons 65 years of age or older). Based on last year's tax rate of \$ 0.251455 (preceding year's adopted tax rate) per \$100 of taxable value, the amount of taxes imposed last year on the average home was \$ 418.74 (tax on average taxable value of a residence homestead in the taxing unit for the preceding tax year, disregarding residence homestead exemptions available only to disabled persons or persons 65 years of age or older).

The average taxable value of a residence homestead in the City of Tomball, Texas this year is \$ 147,746 (average taxable value of a residence homestead in the taxing unit for the current tax year, disregarding residence homestead exemptions available only to disabled persons or persons 65 years of age or older). If the governing body adopts the effective tax rate for this year of \$ 0.258197 per \$100 of taxable value, the amount of taxes imposed this year on the average home would be \$ 381.48 (tax on average taxable value of a residence homestead in the taxing unit for the current tax year, disregarding residence homestead exemptions available only to disabled persons or persons 65 years of age or older).

If the governing body adopts the proposed tax rate of \$ 0.341455 per \$100 of taxable value, the amount of taxes imposed this year on the average home would be \$ 504.49 (tax on the average taxable value of a residence homestead in the taxing unit for the current tax year, disregarding residence homestead exemptions available only to disabled persons or persons 65 years of age or older).

Members of the public are encouraged to attend the hearings and express their views.

083 CITY OF TOMBALL
TAX YEAR: 2010

HARRIS COUNTY APPRAISAL DISTRICT
SUMMARY OF RESIDENTIAL HOMESTEADS SUBJECT TO 10% CAP
CERTIFIED TO DATE ROLL 11

LAST UPDATED: 07/15/2011
DELY DATE: 07/29/2011

UNITS	MARKET	CAPPED	LOSS
199	\$35,219,028	\$32,000,725	\$3,218,303

SUMMARY FOR AVERAGE RESIDENTIAL VALUES - (A1 & A2)

	UNITS		MARKET	APPRAISED(CAP)	TAXABLE
ALL RESIDENCES	2,357	TOTAL	\$359,576,847	\$356,515,982	\$303,057,981
		AVERAGE	\$152,556	\$151,258	\$128,577
HOMESTEAD RESIDENCES	1,707	TOTAL	\$287,320,800	\$284,259,935	\$230,948,363
		AVERAGE	\$168,319	\$166,526	\$135,294

SUMMARY FOR AVERAGE RESIDENTIAL VALUES - (M3 Mobile Homes)

	UNITS		MARKET	APPRAISED(CAP)	TAXABLE
ALL RESIDENCES	52	TOTAL	\$668,824	\$668,824	\$484,613
		AVERAGE	\$12,862	\$12,862	\$9,319
HOMESTEAD RESIDENCES	21	TOTAL	\$292,881	\$292,881	\$108,670
		AVERAGE	\$13,946	\$13,946	\$5,174

083 CITY OF TOMBALL
TAX YEAR: 2011

HARRIS COUNTY APPRAISAL DISTRICT
SUMMARY OF RESIDENTIAL HOMESTEADS SUBJECT TO 10% CAP
UNCERTIFIED ROLL 01

LAST UPDATED: 08/12/2011
DELV DATE: 08/26/2011

	UNITS	MARKET	CAPPED	LOSS
	9	\$1,434,554	\$1,176,818	\$257,736

SUMMARY FOR AVERAGE RESIDENTIAL VALUES - (A1 & A2)

	UNITS	MARKET	APPRAISED(CAP)	TAXABLE
ALL RESIDENCES	115	\$13,985,005 \$121,608	\$13,831,905 \$120,277	\$12,527,105 \$108,931
HOMESTEAD RESIDENCES	56	\$8,426,918 \$150,480	\$8,273,818 \$147,746	\$6,969,018 \$124,446

SUMMARY FOR AVERAGE RESIDENTIAL VALUES - (M3 Mobile Homes)

	UNITS	MARKET	APPRAISED(CAP)	TAXABLE
ALL RESIDENCES	2	\$26,477 \$13,238	\$26,477 \$13,238	\$26,477 \$13,238
HOMESTEAD RESIDENCES				

Regular City Council

Agenda Item

Data Sheet

Meeting Date: September 19, 2011

Topic:

Approve, on Second Reading, Resolution No. 2011-17-TEDC, a Resolution of the City Council of the City of Tomball, Texas, authorizing and approving the Tomball Economic Development Corporation's Project to Expend Funds in accordance with an Economic Development Agreement by and between the Corporation and the City of Tomball to Make Direct Incentives to, or Expenditures for, the Expansion and Development of Medical Complex Drive; Containing Other Provisions Relating to the Subject; and Providing for Severability, Approving, as a Project of the Corporation, an agreement with the City of Tomball to make direct incentives to or expenditures for, the expansion and development of Medical Complex Drive in the City of Tomball. The estimated amount of expenditures for such project is \$850,000

Background:

All expenditures of the Tomball Economic Development Corporation (TEDC) sales tax revenue must first be approved as a "Project." At its regular meeting on August 23, 2011, the TEDC Board of Directors did take formal action to approve, as a Project of the Corporation, an agreement with the City of Tomball to fund expenditures related to the expansion and development of Medical Complex Drive. Council approved the first reading of Resolution No. 2011-17-TEDC on September 6, 2011.

The City Council of Tomball has final approval authority over all projects and agreements of the TEDC.

Origination:

Tomball Economic Development Corporation Board of Directors

Recommendation:

Adopt by Resolution, as a Project of the TEDC, the attached agreement with the City of Tomball.

Funding:

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

City Secretary

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

ATTACHMENTS:

Resolution No.. 2011-17-TEDC

Project Materials

RESOLUTION NO. 2011-17-TEDC

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS, AUTHORIZING AND APPROVING THE TOMBALL ECONOMIC DEVELOPMENT CORPORATION'S PROJECT TO EXPEND FUNDS IN ACCORDANCE WITH AN ECONOMIC DEVELOPMENT AGREEMENT BY AND BETWEEN THE CORPORATION AND THE CITY OF TOMBALL TO MAKE DIRECT INCENTIVES TO, OR EXPENDITURES FOR, THE EXPANSION AND DEVELOPMENT OF MEDICAL COMPLEX DRIVE; CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT; AND PROVIDING FOR SEVERABILITY.

* * * * *

WHEREAS, the Tomball Economic Development Corporation (the "TEDC"), created pursuant to the Development Corporation Act, now Chapter 501 of the Texas Local Government Code, as amended (the "Act"), desires to adopt projects and provide incentives for economic development within the City; and

WHEREAS, the Board of Directors of the TEDC had adopted as a specific project the expenditure of the estimated amount of Eight Hundred and Fifty Thousand Dollars (\$850,000) found by the Board to be required or suitable for, the expansion and development of Medical Complex Drive in the City Limits of Tomball; and

WHEREAS, pursuant to the Act, the TEDC may not undertake such project without the approval of Tomball City Council; and

WHEREAS, City Council finds and determines that such project is authorized by Subchapter C, Chapter 501, Section 505.155, and Section 505.158 of the Act and promotes new or expanded business development that create or retain primary jobs and is in the best interests of the citizenry; now, therefore,

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

Section 1. The facts and matters set forth in the preamble of this Resolution are hereby found to be true and correct.

Section 2. The City Council hereby authorizes and approves the adoption, by the Board of Directors of the Tomball Economic Development Corporation, as a specific project for the economic development of the City, an expenditure of the estimated amount of Eight Hundred and Fifty Thousand Dollars (\$850,000) to the City of Tomball, in accordance with an economic development agreement by and between the TEDC and the City of Tomball, to make direct incentives to, or expenditures for, the expansion and development of Medical Complex Drive in the City of Tomball.

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

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

PASSED AND APPROVED on first reading this 6th day of September, 2011.

PASSED, APPROVED, AND RESOLVED on second and final reading this ____ day of _____, 2011.

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary



TO: Board of Directors
Tomball Economic Development Corporation

FROM: Kelly Violette
Executive Director

MEETING DATE: August 23, 2011

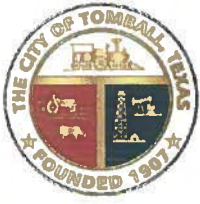
SUBJECT: Expansion of Medical Complex Drive-Segment 3

On December 7, 2010 the Tomball Economic Development Corporation entered into a Letter Agreement with the City of Tomball to fund \$850,000 for costs associated with design and land acquisition related to the extension of Medical Complex Drive. City staff and I have reviewed and evaluated the options for moving forward with the project and have identified Segment 3 as the best viable option at this time. Segment 3 extends from Tomball Parkway to South Cherry Street. The Preliminary Engineering Report that was completed in 2009 provided a cost estimate of \$4.6 million for Segment 3; of that amount \$788,249.48 was for right-of-way acquisition.

On August 1, 2011, the Tomball City Council approved a Professional Services Agreement with Cobb Fendley & Associates, Inc., in the amount of \$630,560.00 for services related to design and land acquisition (i.e. design, surveying, appraisals, etc.) for the extension of Medical Complex Drive, Segment 3. The design will focus on the unimproved portion within this segment; however the contract does not include the cost of acquiring the 11 parcels necessary to construct Segment 3. City staff anticipates that \$106,000 of the \$630,560.00 contract will be expended from TEDC's current budget, leaving \$524,560 in the Grants Designated account for this project for FY 2011-2012.

George Shackelford, City Manager, has formally requested TEDC funding in an amount not to exceed \$850,000 for FY 2011-2012 to continue to move this project forward. If approved, the funds would be utilized for land acquisition for Segment 3. His request letter is included with this agenda item.

This is an eligible project under the legislation that governs Type B sales tax corporations. If you approve this Project and Letter Agreement, it will go to the City Council for final approval by resolution.



City of Tomball

Gretchen Fagan
Mayor

George Shackelford
City Manager

August 11, 2011

Ms Kelly Violette
Tomball Economic Development Corporation
P.O. Box 820
Tomball TX 77377

RE: City of Tomball request for funding of projects for FY2012

Dear Kelly

The City of Tomball would like to request financial assistance from the Tomball Economic Development Corporation for the following projects:

1. Medical Complex Drive Segment 3
 - a. Segment 3 commences at SH 249 Business and continues easterly to South Cherry Street

The City of Tomball through previous funding from the TEDC has approved Professional Services Agreement with Cobb Fendley & Associates, Inc., in the amount of \$630,560.00 for professional services related to complete design and land acquisition for the extension of Medical Complex, Segment 3, including utilities.

The City Council through budget discussions has given instructions to the staff to proceed with the funding opportunities for the construction of this Segment 3 portion. The opening of this area would provide a much needed east/west corridor from the current end of Medical Complex by Tomball Regional Hospital east to Cherry Street. If the VA Clinic locates in the hospital complex location, it makes this project even more necessary. The City would request \$850,000 for land acquisition for certain portions of Medical Complex Drive Segment 3.

2. Fountain at the Historic Depot Plaza
 - a. In accordance with Livable Center Study funded by the City of Tomball and H-GAC, one of the recommendations is to construct an entry fountain and an interactive play fountain in the Depot Plaza area. The Tourism Advisory Board

- b. has approved funding up to the maximum allowed by the hotel/motel tax dollars. Three vendors have presented the TAC Board presentations on design and cost estimates. The TAC has recommended to the City Council the firm of Aquascapes Pool & Spas to do the construction of a combined entry fountain and small water feature. Final design discussions are ongoing. The City would request \$25,000 to help with construction of the entry fountain and water feature.

We thank the Board of Directors and staff of the TEDC for their continued service and for their interest in encouraging additional growth in the City of Tomball and the entire region.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'G. Shackelford', enclosed within a circular scribble.

George T. Shackelford
City Manager



August 23, 2011

The Honorable Mayor and City Council
City of Tomball
401 West Market Street
Tomball, Texas 77375

Re: Letter of Agreement for Funding for land acquisition for the Medical
Complex Drive Improvement Project (Segment 3)

Dear Mayor and Councilmembers:

The Tomball Economic Development Corporation ("TEDC") agrees to fund land acquisition costs associated with Segment 3 of the Medical Complex Drive Improvement Project ("the Project") in an amount not to exceed \$850,000.00. Segment 3 is defined as that portion of Medical Complex Drive commencing at SH 249 Business and continuing easterly to South Cherry Street.

The TEDC's agreement to fund such portion of the Project cost is subject to the agreement of the City of Tomball (the "City") to comply with the following conditions:

- (1) The TEDC agrees to contribute to the City the costs incurred for land acquisition necessary for construction of Segment 3 of the Project, up to \$850,000.
- (2) The City may request the funds for the Project when it enters into a contract for acquisition of land for the Project.
- (3) The funds shall be deposited in a separate city account and shall not be commingled with any other city funds.

The Honorable Mayor and City Council
City of Tomball
August 23, 2011
Page 2

- (4) The funds shall only be used to pay all or a portion of the TEDC's share of the cost of the Project.
- (5) The City shall keep a complete and accurate accounting of each expenditure of the funds and make such records available to the TEDC.
- (6) In the event the total amount of the funds transferred by the TEDC to the City under this Letter of Agreement are not used to pay the TEDC's share of costs of the Project, upon completion of the Project, the City shall remit the remaining funds to the TEDC.

If the above terms and conditions are acceptable to the City, please have an authorized officer of the City sign below acknowledging the City's agreement and return this Letter of Agreement to the undersigned. Upon receipt of this signed Letter of Agreement, the TEDC's Treasurer will be directed to transfer the funds as provided above.

Yours very truly,

By: _____

Name: _____
Vice President, Board of Directors

The Honorable Mayor and City Council
City of Tomball
August 23, 2011
Page 3

AGREED AND ACCEPTED:

City of Tomball, Texas

By: Gretchen Fagan
Mayor

Attest:

Doris Speer
City Secretary

Regular City Council

Agenda Item

Data Sheet

Meeting Date: September 19, 2011

Topic:

Approve Revised Concept Plan and Contract with Aquascapes Pool & Spas, LLC for the Construction of an Entry Fountain and Splash Pad at Depot Plaza, in the Amount of \$67,435 plus \$4,200 for Additional Pavers to Create a Walkway from the Driveway Area on the South Side, for a Total Estimated Cost of \$71,635, of Which a Portion will be Offset by Selling Pavers and Other Possible Donations

Background:

On August 15, 2011, Council tabled consideration and approval of the construction of an entry fountain at Depot Plaza, pending receipt of additional information and a revised concept plan to remove the pool and create a splash pad, separated from the fountain area. The revised concept plan is presented for Council consideration. The overall design is much better and we still will need to make a few minor changes to the overall layout once the derrick location and the splash pad are located on the ground.

On September 6, 2011, Council approved Resolution No. 2011-19-TEDC, entering into an agreement with the Tomball Economic Development Corporation to expend TEDC funds, in an amount not to exceed \$25,000, for the proposed fountain at the Historic Depot Plaza. The Tourism Advisory Committee has approved funding up to the maximum allowed in HOT funds for the remainder of fiscal year 2011 (\$34,500) and the necessary amount required for fiscal year 2012 for the total construction costs.

A copy of the Historic Depot Plaza Masterplan from the Livable Centers/Downtown Plan is also included for Council reference, along with a copy of the City Manager's memo containing the Tourism Advisory Committee's recommendations.

Origination:

Mayor, Tourism Advisory Committee

Recommendation:

Approve revised concept plan and contract.

Funding:

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

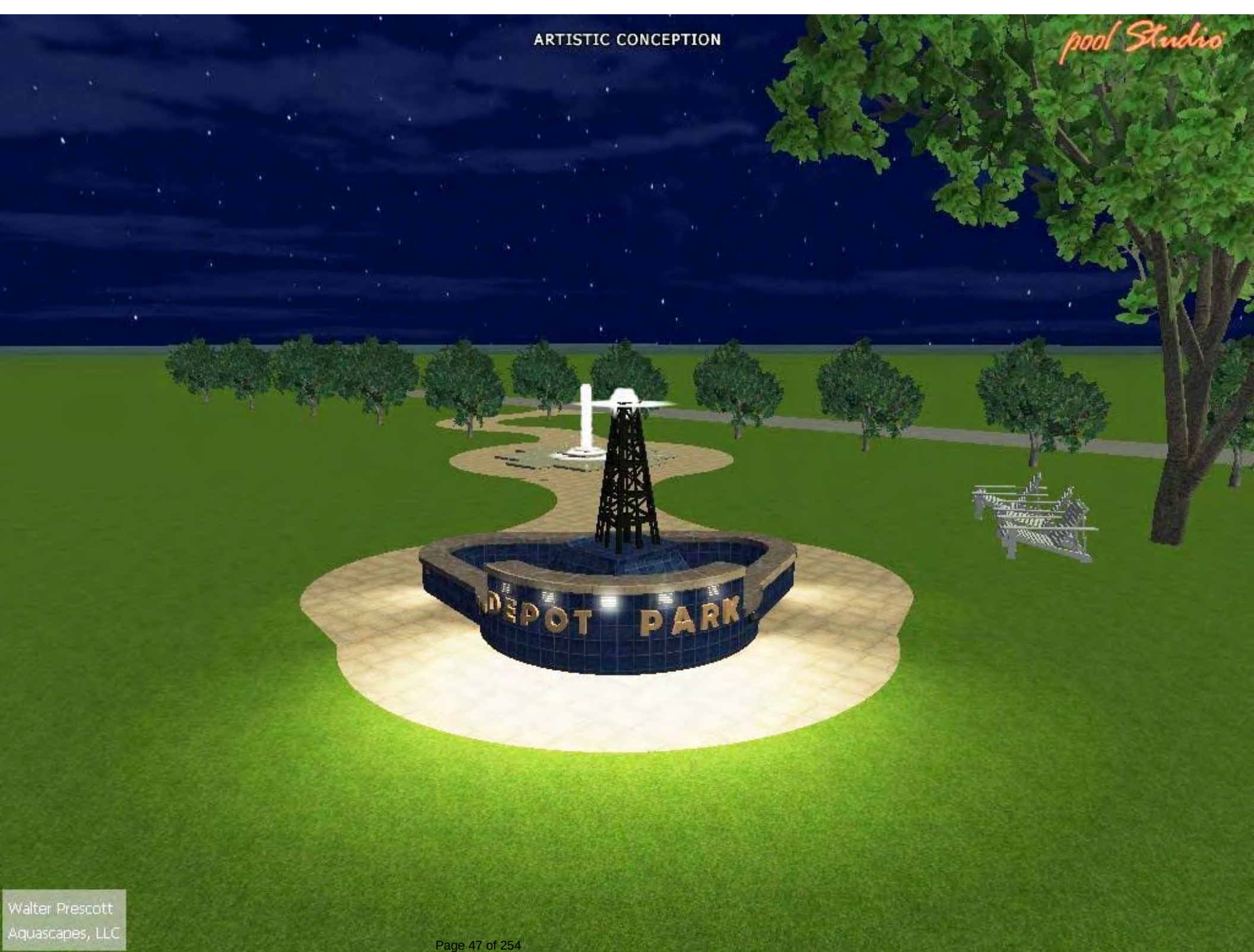
City Secretary

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

ATTACHMENTS:

COT Fountain - Revised Concept Plan_9-6-11_Day
COT Fountain - Revised Concept Plan_9-6-11_Night
COT Fountain - Revised Concept Plan_9-6-11_Aerial
Historic Depot Plaza Plan
Shackelford Fountain Memo_8-11-11









MASTERPLAN

The City of Tomball is often referred to as "A hometown with a heart". The Historic Depot Plaza will serve as the "cultural heart" within the heart of Downtown Tomball. Building upon the continued success of the site as a major gathering space for events and festivals, the vision for the Depot Plaza is to create a series of active and passive spaces and structures into a multi-use downtown park that celebrates the history and social fabric of the community.



Farmer's Market



Perennial Garden

The master plan design incorporates a versatile arrangement of spaces to easily adapt to a variety of gatherings, celebrations and performances. Equally, the plaza site is envisioned to serve as a daily space of rest and recreation for Downtown residents, employees, and visitors alike. Continuing the traditions of yearly celebrations, festivals, holidays, and events will continue to develop a deep social and cultural sense of place to the heart of the downtown fabric.

Key Elements to Promote as Defined by the Public (in addition to the programmed elements of the masterplan)

- Preserve an Open View to the Depot Facade
- Frame the View to the Gazebo
- Create a Large Open Venue
- Create Smaller Intimate Spaces
- Promote Active Daily Use / Night Use / Place for all Ages
- Promote both Yearly Festivals and Performances (Germanfest)
- Promote Seasonal Repetitive Events (Farmer's Market)



Interactive Play Fountain



Artist's Rendering



LEGEND

- A Existing Historic Train Depot
- B Existing Gazebo
- C Existing Historic Caboose
- D Existing Structures (future acquisition and structure reuse)
- E Existing Detention Pond
- F Proposed Detention Pond
- G Existing Flag Poles
- H Existing Concrete Pad with Proposed Improvements
- I Event Lawn
- J Proposed Entry Fountain (with wall signage)
- K Proposed Interactive Play Fountain
- L Proposed Fire Pit Ring with Seat Wall
- M Proposed South Parking Lot (future acquisition to connect to Tyler Street)
- N Proposed West Parking Lot (future acquisition)
- O Proposed Ornamental Fencing with Masonry Columns
- P Proposed Park Entry Signage Wall
- Q Proposed Perennial Bed

	Stone Patterned Concrete		Event Lawn
	Slate Patterned Concrete		Turf
	Standard Concrete		Shrubs
	Decomposed Granite		Perennial Bed

- Proposed Statue
- Existing Thomas Ball Statue
- Bench
- Pedestrian Lamp



MEMORANDUM

TO: Honorable Mayor and Council

FROM: George T. Shackelford

SUBJECT: Entry fountain at Depot Plaza

DATE: August 11, 2011

In accordance with Livable Center Study funded by the City of Tomball and H-GAC unanimously approved by the City Council on September 2009, one of the recommendations is to construct an entry fountain and an interactive play fountain in the Depot Plaza area.

On July 5, 2011 and the July 18, 2011 Special Tourism Advisory Board meetings, the Board heard presentations of prospective designs for a fountain at the Tomball Depot made by The Pool Man, Aquascapes Pool & Spas, LLC, and Tomball Pool and Spa. At the July 25, 2011 meeting the Tourism Advisory Board was advised that fifteen (15%) of the hotel/motel tax funds can be spent on encouragement, promotion, improvement and application of the arts which totals an estimated \$45,000 in FY 2011. Year to date, \$10,500 dollars had already been spent from the Arts Category of the hotel/motel tax leaving \$34,500 remaining in that category for the rest of this fiscal year. The TAC Board approved funding up to the maximum allowed by the hotel/motel tax dollars for the remaining of fiscal year 2011 (\$34,500) and the necessary amount required for fiscal year 2012 for the total construction cost.

The TAC Board has recommended to the City Council the firm of Aquascapes Pool & Spas to do the construction of a combined entry fountain and small water feature for a price of \$56,152. In addition a local Tomball artist Brett Farley will be donating his talent to create a seven (7) foot oil derrick structure depicting the oil history of Tomball in conjunction with the entry fountain. The city will only pay for the necessary materials including, but not limited to, steel and powder coating at a cost not to exceed \$3,000.

Although there are sufficient funding in the hotel/motel tax funds, it is the intent that pavers will be sold, donations will be accepted and a request to the TEDC for \$25,000 to help with construction of the entry fountain and water feature if needed.

Regular City Council

Agenda Item

Data Sheet

Meeting Date: September 19, 2011

Topic:

Set October 17, 2011 at 6:00 p.m. and October 24, 2011 at 5:30 p.m. as the Dates for Vote on Tax Rate

Background:

Council is requested to set the dates for the vote on the proposed tax rate. Under the State's Truth-in-Taxation laws (Chapter 26, Tax Code), the City must publish special notices regarding the vote on the proposed tax rate and must vote no less than 3 days and no more than 14 days after the second public hearing.

The dates recommended for the vote on the proposed tax rate are October 17, 2011 (regular meeting) at 6:00 p.m. and October 24, 2011 (special meeting), at 5:30 p.m., as part of the Special Council and Planning and Zoning Commission meeting. The Harris County Tax Assessor-Collector's office issued Tomball's certified tax roll on August 25, 2011 and has requested adoption of the tax levy ordinance by October 24, 2011, which is the last day of the 60-day deadline (Chapter 26, Tax Code, Section 26.05).

Origination:

City Secretary

Recommendation:

Set October 17, 2011 at 6:00 p.m. and October 24, 2011 at 5:30 p.m. as the Dates for Vote on Tax Rate

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: September 19, 2011

Topic:

Approve Request from Tomball Regional Hospital for City Support of the "2011 Heart Walk" on Saturday, October 22, 2011, to Support the American Heart Association

Background:

The City was approached by Tomball Regional Hospital to approve and provide City support for its Heart Walk on October 22, 2011. The 5K Walk (with 1 mile alternate route) will begin at 9:30 a.m. and continue until 1:00 p.m.; Tomball Hospital is expecting approximately 350 walkers from across the region.

The event is designed to promote the excellent care provided by Tomball Regional Hospital and to raise funds for the American Heart Association and awareness on how to prevent heart disease and strokes.

The hospital will meet with the City's Special Events Team prior to the Council meeting. The hospital is requesting the same support approved by Council last year:

1. Police Support for control of traffic along the route
2. Use of City barricades to close streets along route if determined necessary by TPD
3. Permission to place temporary directional signs in the City Right-of-Way along the routes
4. Consent to place accessible port-o-lets on TRH property (at hospital cost)
5. Possible assistance from City volunteers to aid in parking control.

Based on previous walks and events, staff estimates an approximate cost of \$3,000 for in-kind services.

Origination:

Tomball Regional Hospital

Recommendation:

N/A

Funding:

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

Mike Baxter, Marketing Coordinator

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

ATTACHMENTS:

Request Letter

TOMBALL REGIONAL
HOSPITAL

August 28, 2011

Dear Mayor Fagan and Councilmen Hudgens, Stoll, Brown, Townsend, and Dodson,

I am writing to formally request the Council's approval to host the 2nd Annual American Heart Association's Northwest Harris County Virtual Heart Walk on the campus of Tomball Regional Medical Center and surrounding public streets as indicated on the map attached. This family-friendly, free and non-competitive 5k Walk (with 1 mile alternative loop) is planned to begin at 9:30 am on Saturday, October 22nd at Robert F. Shaper Heart Center. In addition to raising funds for the American Heart Association, my purpose of the walk is to provide our city and surrounding communities with educational opportunities to learn about heart disease and stroke prevention. Furthermore, we see this as an excellent opportunity to showcase our city and our award-winning hospital to the anticipated 300- 350 visitors from our region.

We are formally requesting Council's approval to host this event and to provide the necessary support services for approximately a four-hour duration as determined through coordination and consultation with the city's Special Events Committee. The requested services will include:

- Rolling support from Tomball Police Department for traffic control and safety that may include partial road closures with use of barricades on Medical Complex Drive as determined by TPD
- EMS support to be on stand-by during the 4- hour event
- Permission to use the city right of way to place temporary directional routing signs the day of the event- to be removed by our volunteers
- Permission to utilize the Main Street banner advertising free of charge with hospital provided banner.
- Consent to place accessible Port-o-let on TRH property (in TRH Home Health parking lot) for duration of event- we will secure and fund rental
- Assistance with city volunteers possibly including VIP's and/or Explorers for assistance with parking control.

We welcome any suggestions you may have regarding the utilization of city resources for this event and we would like to partner with the efforts of Walk Tomball to ensure the success of this worthwhile event. We look forward to the opportunity to collaborate with the city in this endeavor.

Sincerely,



Keith Barber
Executive Vice President/COO/CFO
Tomball Regional Medical Center

Heart Walk Tomball 2011

Red Route: 5K
Purple Route: 1 Mile

2nd Annual Heart Walk
benefiting the American Heart
Association Hosted by Tomball
Regional Medical Center

October 22
5K and 1-mile loop
9:30am



Regular City Council

Agenda Item

Data Sheet

Meeting Date: September 19, 2011

Topic:

Approve Request by WCA Waste Corporation (WCA) for an Annual CPI Adjustment, to become effective October 1, 2011

Background:

The current service contract between the City and WCA was executed on October 1, 2009. The initial term of the contract is for three years, and the City may renew the contract for up to two one-year extensions.

Article 14.0 – Section 14.2 of the contract provides that the rates which may be charged for the second and subsequent years of the term of the contract shall be adjusted upward or downward to reflect changes in the cost of operations as reflected by fluctuations in the Consumer Price Index for Urban Wage Earner and Clerical Workers (all items, Houston Area), as published by the U.S. Department of Labor, Bureau of Labor Statistics.

WCA is requesting a rate increase based on changes in the cost of operations as reflected by fluctuations in the reference CPI, which reflects a 3.4% increase for the most recent reporting period of June 2010 – June 2011. There is no request for fuel or other adjustments for this adjustment period.

Origination:

WCA

Recommendation:

Staff recommends approval of request by WCA for an annual CPI adjustment to become effective October 1, 2011.

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

Director of Public Works

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

ATTACHMENTS:

WCA CPI Request Letter

CPI Posting for June 2010 - June 2011

WCA Contract

**City of Tomball
c/o Julie Stafford, Utility Billing Supervisor
501 James Street
Tomball, TX 77375**

August 22, 2011

RE: 2011 Rate Increase for City of Tomball

WCA Waste is proud to be City of Tomball's solid waste collection contractor. We are committed to providing you with the most professional and reliable services available.

A component of our mutual contract calls for an annual rate adjustment on the anniversary date of the contract based on the most recently published CPI-Urban Wage Earners and Clerical Workers (all items, Houston area). The CPI-U data indicates a rate increase of 3.4% as of June 2011. The new rates are reflected in exhibit "A". These rates will take effect the billing cycle of October 2011 and continue through September 2012.

WCA's goal is to be able to continue to provide you with high quality, trash-hauling services at a competitive rate. Should you have any questions or require additional information, please do not hesitate to contact me.

We appreciate the opportunity to include you as one of our valued customers and consider it our privilege to serve you!

Sincerely,



**Matt Goehring
Regional Controller
WCA of Texas**

Exhibit "A"
WCA Waste Corporation Rates
October 1, 2011

Front Load Dumpsters

Bin Size	Frequency per Week					
	1	2	3	4	5	6
New 3 Yard Dumpster	\$ 63.96	\$ 101.68	\$ 153.05	\$ 191.82	\$ 239.02	\$ 287.22
Additional 3 Yard Dumpster to the Same Customer	\$ 33.54	\$ 72.30	\$ 101.31	\$ 134.22	\$ 162.45	\$ 189.72
4	\$ 69.17	\$ 110.07	\$ 164.58	\$ 206.51	\$ 256.81	\$ 309.24
Additional 4 Yard Dumpster to the Same Customer	\$ 61.86	\$ 98.53	\$ 148.83	\$ 185.55	\$ 231.66	\$ 262.91
6	\$ 89.10	\$ 140.48	\$ 211.74	\$ 265.21	\$ 331.25	\$ 396.25
Additional 6 Yard Dumpster to the Same Customer	\$ 79.66	\$ 126.81	\$ 190.77	\$ 239.02	\$ 297.70	\$ 357.44
8	\$ 107.98	\$ 172.97	\$ 257.86	\$ 323.90	\$ 404.65	\$ 485.34
Additional 8 Yard Dumpster to the Same Customer	\$ 97.50	\$ 156.18	\$ 232.71	\$ 291.40	\$ 363.75	\$ 437.10

95 Gallon Commercial Poly Carts

	Frequency per Week	
	1	2
95 Gallon Commercial Poly Carts	\$ 20.57	\$ 24.74
Additional 95 Gallon Poly Cart to Same Customer	\$ 18.48	\$ 22.29

Twice per Week Residential Curbside Garbage Collection & Once per Week Recycling and Green Waste Collection

New Residential: \$ 13.20 per Month

Roll Off Containers With Open Tops

	Delivery Charge	Monthly Rental	Haul and Disposal Fee
20 Yard Container (One Year or More)	\$ 104.74	N/A	\$ 265.00
Temp 20 Yard Container (Less than One Year)	\$ 104.74	\$ 125.69	\$ 265.00
30 Yard Container (One Year or More)	\$ 104.74	N/A	\$ 305.85
Temp 30 Yard Container (Less than One Year)	\$ 104.74	\$ 125.69	\$ 305.85
40 Yard Container (One Year or More)	\$ 104.74	N/A	\$ 346.70
Temp 40 Yard Container (Less than One Year)	\$ 104.74	\$ 125.69	\$ 346.70
Compactor/Roll Off Container/Equipment	\$ 104.74	N/A	Haul: \$246.15
		Disposal	\$24.62/Ton

Economic News Release

CPI  FONT SIZE: 33 PRINT: 

Table 3. Consumer Price Index for All Urban Consumers (CPI-U): Selected areas, all items index

Table 3. Consumer Price Index for All Urban Consumers (CPI-U): Selected areas, all items index

(1982-84=100, unless otherwise noted)

CPI-U	Pricing schedule (1)	Indexes				Percent change to July2011 from--				Percent change to June2011 from--	
		Apr. 2011	May 2011	June 2011	July 2011	July 2010	May 2011	June 2011	June 2010	Apr. 2011	May 2011
U.S. city average.....	M	224.906	225.964	225.722	225.922	3.6	0.0	0.1	3.6	0.4	-0.1
Region and area size(2)											
Northeast urban.....	M	240.267	241.566	241.690	242.282	3.6	0.3	0.2	3.4	0.6	0.1
Size A - More than 1,500,000.....	M	241.626	242.976	243.257	243.806	3.4	0.3	0.2	3.2	0.7	0.1
Size B/C - 50,000 to 1,500,000 (3).....	M	143.987	144.697	144.525	144.952	4.1	0.2	0.3	3.9	0.4	-0.1
Midwest urban.....	M	214.535	215.899	215.954	216.099	3.8	0.1	0.1	3.9	0.7	0.0
Size A - More than 1,500,000.....	M	214.878	216.376	216.290	216.350	3.7	0.0	0.0	3.8	0.7	0.0
Size B/C - 50,000 to 1,500,000 (3).....	M	138.005	138.827	139.115	139.222	3.8	0.3	0.1	3.9	0.8	0.2
Size D - Nonmetropolitan (less than 50,000).....	M	211.314	212.210	211.717	212.261	4.1	0.0	0.3	3.9	0.2	-0.2
South urban.....	M	218.820	219.820	219.318	219.682	4.1	-0.1	0.2	3.8	0.2	-0.2
Size A - More than 1,500,000.....	M	219.944	220.982	220.481	220.897	3.9	0.0	0.2	3.5	0.2	-0.2
Size B/C - 50,000 to 1,500,000 (3).....	M	139.177	139.833	139.639	139.783	4.2	0.0	0.1	4.1	0.3	-0.1
Size D - Nonmetropolitan (less than 50,000).....	M	224.716	225.416	223.675	224.681	4.7	-0.3	0.4	3.9	-0.5	-0.8
West urban.....	M	227.837	228.516	228.075	227.805	2.9	-0.3	-0.1	3.1	0.1	-0.2
Size A - More than 1,500,000.....	M	231.808	232.393	232.010	231.666	2.7	-0.3	-0.1	3.0	0.1	-0.2
Size B/C - 50,000 to 1,500,000 (3).....	M	138.174	138.598	138.269	138.128	3.3	-0.3	-0.1	3.5	0.1	-0.2
Size classes											
A (4).....	M	204.963	205.944	205.792	205.928	3.4	0.0	0.1	3.3	0.4	-0.1
B/C (3).....	M	139.413	140.062	139.935	140.057	3.9	0.0	0.1	3.9	0.4	-0.1
D.....	M	218.920	219.873	218.862	219.465	4.1	-0.2	0.3	3.7	0.0	-0.5
Selected local areas(5)											
Chicago-Gary-Kenosha, IL-IN-WI.....	M	218.762	220.094	220.182	219.277	3.2	-0.4	-0.4	3.8	0.6	0.0
Los Angeles-Riverside-Orange County, CA....	M	233.319	233.367	232.328	231.303	2.4	-0.9	-0.4	2.9	-0.4	-0.4
New York-Northern N.J.-Long Island, NY-NJ-CT-PA.....	M	246.489	248.073	248.505	249.164	3.3	0.4	0.3	3.2	0.8	0.2
Boston-Brockton-Nashua, MA-NH-ME-CT.....	1	-	244.574	-	244.256	3.4	-0.1	-	-	-	-
Cleveland-Akron, OH.....	1	-	212.175	-	211.686	3.8	-0.2	-	-	-	-
Dallas-Fort Worth, TX.....	1	-	208.794	-	208.602	4.2	-0.1	-	-	-	-
Washington-Baltimore, DC-MD-VA-WV (6).....	1	-	147.554	-	147.747	4.1	0.1	-	-	-	-
Atlanta, GA.....	2	209.215	-	211.074	-	-	-	-	3.1	0.9	-
Detroit-Ann Arbor-Flint, MI.....	2	211.673	-	213.506	-	-	-	-	4.2	0.9	-
Houston-Galveston-Brazoria, TX.....	2	201.624	-	201.309	-	-	-	-	3.4	-0.2	-
Miami-Fort Lauderdale, FL.....	2	231.503	-	231.197	-	-	-	-	4.0	-0.1	-
Philadelphia-Wilmington-Atlantic City, PA-NJ-DE-MD.....	2	233.143	-	234.463	-	-	-	-	2.8	0.6	-
San Francisco-Oakland-San Jose, CA.....	2	234.121	-	233.646	-	-	-	-	2.4	-0.2	-
Seattle-Tacoma-Bremerton, WA.....	2	231.314	-	233.250	-	-	-	-	3.2	0.8	-

1 Areas on pricing schedule 2 (see Table 10) will appear next month.

2 Regions defined as the four Census regions. See technical notes.

3 Indexes on a December 1996=100 base.

4 Indexes on a December 1986=100 base.

5 In addition, the following metropolitan areas are published semiannually and appear in Tables 34 and 39 of the January and July issues of the CPI Detailed Report: Anchorage, AK; Cincinnati-Hamilton, OH-KY-IN; Denver-Boulder-Greeley, CO; Honolulu, HI; Kansas City, MO-KS; Milwaukee-Racine, WI; Minneapolis-St. Paul, MN-WI; Phoenix-Mesa, AZ; Pittsburgh, PA; Portland-Salem, OR-WA; St. Louis, MO-IL; San Diego, CA; Tampa-St. Petersburg-Clearwater, FL.

6 Indexes on a November 1996=100 base.

- Data not available.

NOTE: Index applies to a month as a whole, not to any specific date.

SOLID WASTE COLLECTION AND DISPOSAL SERVICES FOR THE CITY OF TOMBALL, TEXAS

SERVICE CONTRACT

This Contract is dated as of the 1st day of October in the year 2009, between the City of Tomball (hereinafter called the CITY) and Waste Corporation of Texas, L.P. (hereinafter called "WCA").

The CITY and WCA, in consideration of mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1.0 – GENERAL DESCRIPTION OF SERVICES

For and in consideration of the compliance by WCA with the covenants and conditions herein set forth and the ordinances and regulations of the CITY governing the collection and disposal of solid waste, the CITY grants to WCA permission to use the City's designated public streets, alleys and access roadways within the corporate limits of the CITY for the purpose of providing collection services for residential, commercial and industrial waste except for hazardous waste and biosolids. WCA shall provide all supervision, materials, equipment, labor, insurance and all other skills and property required to fulfill each of its obligations under this agreement.

ARTICLE 2.0 – CONTRACT DOCUMENTS

The Contract documents, all of which are attached hereto and made a part hereof, comprise the entire Agreement between the CITY and WCA with respect to the transaction and services hereby contemplated. Execution of the Contract is a representation that WCA has become familiar with all laws, rules, regulations, ordinances and restrictions applicable to, governing or affecting the services to be provided by WCA hereunder.

ARTICLE 3.0 – CONTRACT TERM

The initial term of the Contract is for three (3) years and the CITY may, at its sole option, renew the contract for two one-year term extensions. The CITY shall give WCA written notice of its intention to extend, or not to extend, the Contract a minimum of ninety (90) days before the expiration of the initial three year term or any applicable on year extension.

ARTICLE 4.0 – STARTING DATE

The starting date for which WCA shall begin providing the services required hereunder shall be October 1, 2009.

ARTICLE 5.0 – DEFINITIONS

For purposes of this agreement, the following terms shall be defined as follows:

Bags – Plastic container designed to store refuse with sufficient wall strength to maintain physical integrity when lifted by the top. Total weight of bag and its contents shall not exceed 40 pounds.

Bin/dumpster – Metal collection receptacle designed to be lifted and emptied mechanically for use only at commercial and industrial units.

Biosolids – Solid, semi-solid or liquid residue generated during the treatment of domestic sewage in a treatment plant.

Bulky Waste – Furniture, appliances and other household items too large for a refuse container.

Commercial/Industrial Refuse – All bulky waste, construction debris, garbage, rubbish and other waste generated by a producer at a commercial or industrial unit.

Commercial/Industrial Unit – All premises, locations or entities, public or private, requiring refuse collection within the corporate limits of the CITY and not a residential unit as defined herein.

Construction Debris – Waste building materials resulting from construction, remodeling, repair or demolition operations.

Contract Area – The geographical boundaries of the CITY limits within which WCA will provide services.

Contractor or WCA – The Individual, Corporation or Partnership with whom the CITY has executed the service contract.

Customers – Those occupants of designated residential units and/or commercial and industrial units as defined herein, that are located within the City's corporate limits and the generated solid waste and/or recyclable materials, as defined herein.

Disposal Facility – A refuse depository, including but not limited to sanitary landfills, transfer stations, incinerators, and waste processing/separations centers, licensed, permitted or approved to receive municipal solid waste for processing or final disposal by Texas Commission on Environmental Quality and other agencies having jurisdiction and requiring such licenses, permits and approval.

Garbage – All normal and usual household and institutional waste products that are placed in approved containers for collection purposes and are usually a mixture of putrescible, nonputrescible, combustible, and incombustible materials, such as organic

wastes from food preparation and consumption, wrapping and packaging materials, metal, glass and plastic containers and other items. This definition also applies to similar waste products from commercial establishments such as restaurants, cafeterias, school and hospitals.

Green Waste – Grass, weeds, leaves, tree trimmings, plants, shrubbery pruning, and such other similar material, which are generated in the maintenance of yards and gardens, and are separated from other solid waste materials.

Hazardous Waste – Waste, in any amount, which is defined, characterized or designated as hazardous by the United States Environmental Protection Agency or appropriate State agency by or pursuant to Federal or State law, or waste, in any amount, which is regulated under Federal or State law.

Processing Facility – A facility capable of changing the nature of solid waste or separating solid waste to facilitate its re-use in lieu of disposal.

Recyclables – Materials recovered from the solid waste stream for the purposes of re-use or reclamation. Includes, but not limited to; newsprint, inserts, glass, food and beverage containers, plastic containers, aluminum and other commodities economically impacting waste reduction.

Residential Refuse – All garbage and rubbish generated at a residential unit.

Residential Unit – A dwelling occupied by a person or group of persons, including but not limited to apartments, condominiums, mobile homes and single-family dwellings, and receiving any utilities from the CITY. Each dwelling within any such residential unit, which is individually billed by the CITY for water and/or sewer services, shall be treated as a residential unit. Other multiple residential facilities not billed individually, such as apartment complexes, shall be considered as a commercial unit for the purposes of this contract.

Roll-Off Container – Large collection container with open or closed top that can be rolled onto the back of a truck. Generally, in excess of 20 cubic yards capacity.

Rubbish – All nonputrescible solid waste including wood products, tree trimmings, grass cuttings, dead plants, weeds, leaves, sawdust, printed matter, paper, pasteboard, rags, straw, used and discarded clothing, used and discarded shoes and boots, and other products such as are used for packing, or wrapping crockery and glass, ashes, cinders, floor sweepings, glass, mineral or metallic substances, and any and all other waste materials not included in the definition of Construction Debris, Garbage or Hazardous Waste.

Solid Waste – Useless, unwanted or discarded materials with insufficient liquid content to be free flowing, that results from domestic, industrial, commercial, agricultural, governmental and community operations, which require proper storage, collection,

transportation and disposal to prevent environmental pollution unfavorable to public health, safety and welfare.

Stable Matter – All manure and other waste matter normally accumulated in or about a stable, or any animal, livestock or poultry enclosure, and resulting from the keeping of animals, poultry or livestock.

ARTICLE 6.0 – RESIDENTIAL REFUSE COLLECTION

6.1 Service Provided

- A. WCA shall provide curbside collection service for residential refuse at each residential unit two times per week, except for weeks that include holidays. Bags shall be placed at the curbside by 7:00 A.M. on the designated collection day. All refuse must be placed in bags except as noted within these documents and there will be a limit of 25 bags per collection day. Should a customer exceed the maximum limit, WCA shall pick up the maximum limit and shall leave a printed explanation notice to the customer to explain why the excess was left.
- B. WCA will provide front-door collection of garbage and/or recyclables for senior and disabled residents and will make this service available to any resident as requested by the CITY.

6.2 Location of Bags for Collection

Each bag containing residential refuse shall be placed at curbside for collection and not weigh more than forty (40) pounds. Curbside refers to that portion of right-of-way adjacent to paved or traveled CITY streets or roadways. Bags shall be placed as close to the roadway as practicable without interfering with or endangering the movement of vehicles or pedestrians. When construction work is being performed in the right-of-way, bags shall be placed as close as practicable to an access point for the collection vehicle. WCA may decline to collect any bag not so placed or any residential refuse not in a bag, except by prior written exception from the CITY.

6.3 Time of Collection

Collection of residential refuse shall not start before 7:00 A.M. and may not continue after 7:00 P.M. Exception to collection hours shall be effected only upon mutual agreement of the CITY and WCA, or when WCA reasonably determines that an exception is necessary in order to complete collection on an existing collection route due to unusual circumstances.

6.4 Routes of Collection

WCA shall establish residential unit collection routes. WCA shall submit a map designating the residential unit collection routes to the CITY for their approval, which approval shall not be unreasonably withheld. The CITY, at its option, may publish at its expense at least once during each calendar year, a map of such residential unit collection routes, in the newspapers published in the immediate area. WCA shall notify the CITY within thirty (30) days to implementation of any changes in route or schedules. All such changes must be approved by the CITY and documented in the same detail as the original maps supplied by WCA. Upon the CITY's approval of the proposed changes, WCA shall promptly give written or published notice to the affected residential units at its expense and in a manner that is acceptable to the CITY.

6.5 Days of Collection

The days of collection will be on a consistent schedule throughout the Contract area. Scheduled days of collection are limited to Monday through Saturday. No regularly scheduled collection shall be allowed on Sunday.

6.6 Holidays

WCA may decide to observe any holidays by suspension of collection service on the holiday and shall not be required to provide collection service to affected residents, commercial or industrial businesses or the CITY until the next scheduled service day. WCA must notify the CITY in writing in regard to observing a holiday no less than thirty (30) days, with the alternate pickup date or dates clearly specified.

ARTICLE 7.0 – RESIDENTIAL BRUSH AND TREE TRIMMING COLLECTION

7.1 Service Provided

- A. WCA shall provide once per week curbside collection of brush and tree trimmings at residential units. WCA shall take all reasonably placed brush and tree limbs not longer than four (4) feet, and stacked in a pile not to exceed four (4) feet in height, and does not exceed four (4) feet in width. Tree limbs larger than four (4) inches in diameter will not be collected.
- B. WCA shall collect all Christmas trees, no matter what size, placed for collection.
- C. In the event that brush and/or tree trimming set out for collection do not meet the specification above, WCA shall leave a printed explanation notice for the customer.

7.2 Time and Place of Collection

Normal collection points for residential brush and tree trimmings shall be at curbside near the driveway. Brush and tree trimmings shall be placed as close to the roadway as practicable without interfering with or endangering the movement of vehicles or pedestrians or impeding the flow of storm water. All brush and tree trimmings will normally be picked up on the second scheduled collection day of the week.

ARTICLE 8.0 – RESIDENTIAL BULKY WASTE COLLECTION

8.1 Service Provided

- A. WCA shall provide curbside collection of furniture, appliances and other items too large for residential refuse containers. All bulky items must be acceptable for disposal at a Type I municipal solid waste landfill. Appliances shall only be collected and disposed of by WCA if they have been certified by an authorized technician as having been drained of all Freon and fluids.
- B. Service shall be provided to all customers in residential units located within the Contract area, for the benefit of customers who are currently living in the unit or who have recently vacated the unit.

8.2 Time and Place of Collection

WCA shall provide curbside collection of residential bulky waste within one week of notification by customer at a designated toll-free number, provided to the CITY. The customer shall be given a date and time for which collection will occur.

ARTICLE 9.0 – RESIDENTIAL RECYCLABLE COLLECTION

9.1 Service Provided

- A. WCA shall provide once per week curbside collection of recyclables from a recyclable container provided by WCA.
- B. WCA will provide the initial recyclables containers to all residential units at no cost to the customers. Customers may purchase additional or replacement containers from WCA at cost. WCA will make this cost known to the CITY. WCA will deliver a recycle bin to new customers within one week of notification by the CITY.

9.2 Time and Place of Collection

WCA shall provide curbside collection of recyclable commodities once per week within the Contract area. Normal collection points for residential recyclables shall be at curbside (adjacent to roadway). Recyclables containers will normally be picked up on the second scheduled collection day of the week.

9.3 Materials to be Collected

WCA shall furnish all labor, supervision, and equipment necessary to provide curbside recyclable collection for residential units within the Contract area as follows:

- A. WCA shall collect all recyclables as determined by the CITY. WCA shall collect the following items: newspaper and inserts, aluminum cans, No. 1 (PET) plastic and No.2 (HDPE) plastic containers.
- B. WCA shall collect all recyclables placed in a container provided by WCA. If unacceptable materials are placed in the container, WCA shall collect all acceptable materials and leave the unacceptable materials with a clearly explanatory printed notice to the customer.
- C. WCA shall be responsible for collecting overflow recyclables placed on top of or beside the recyclables container.
- D. WCA may add new recyclable materials only if it is demonstrated that an economical market exists for the material and with approval of City Council.
- E. WCA shall not dispose recyclables in a landfill, without prior written consent by the CITY.
- F. WCA understands that recyclable commodities service is provided to residents of the CITY of Tomball through the CITY billing and collection department. As new utility customers are added to the CITY's billing, the CITY shall notify WCA of the additional customers who shall then become a designated residential unit for purposes of this agreement. WCA shall begin collection service for newly added designated household within one week of receipt of notice that the household has been added to the CITY's utility billing. It shall be WCA's responsibility to deliver a recyclable container to newly designated households in advance of the first collection date for each household.

9.4 Ownership of Recyclables

At any time after recyclable commodities have been placed outside for collection, such recyclable commodities shall be considered transferred to the CITY for the purpose of sale or other disposal pursuant to the terms of this agreement. Only the customer who placed said recyclable commodities outside of collection might take back such materials as the customer desires until such recyclable commodities have been collected by WCA. At the time that the recyclables are collected by WCA, ownership of said recyclables shall transfer from the CITY to WCA.

ARTICLE 10.0 – COMMERCIAL/INDUSTRIAL COLLECTION

10.1 Services Provided

- A. WCA shall provide collection service for the collection of commercial/industrial refuses to all commercial/industrial units in accordance with individual agreements with generators at rates specified in the Proposal.
- B. WCA shall provide initial bins or 95-gallon polycart containers specifically designed for commercial/industrial refuse collection at no cost. Bins and hand load container shall be covered or otherwise maintained to provide protection from weather and wind. Replacement 95-gallon polycart containers shall be purchased from the CONTACTOR at cost. WCA will make this cost known to the CITY.

10.2 Location of Bins and Containers

- A. Each bin shall be placed in an accessible, outside location on a hard surface according to individual agreement. WCA may decline to collect refuse in bins not so placed. Bins can not block the visibility triangle at intersections.
- B. Commercial 95-gallon polycart container shall be placed at curbside for collections. Curbside refers to that portion of right-of-way adjacent to paved or traveled public roadways including alleys. Containers with contents not weighing more than one hundred (100) pounds shall be placed as close to the roadway as practicable without interfering with or endangering the movement of vehicles or pedestrians. WCA may decline to collect any container not so placed.

10.3 Time of Collection

Collection of commercial/industrial refuse from bins and commercial 95 gallon polycart hand load containers shall take place according to individual agreements with generators requiring such service. Establishments generating putrescible

garbage or refuse shall receive a minimum of twice a week pickup. In no event, however, will collection service begin before 7:00 A.M. or after 7:00 P.M. where service is adjacent to residential units.

10.4 Roll-Off Container Service

WCA shall provide permanent or temporary roll-off containers and/or compactors for special collections of bulky waste, construction debris or stable matter when requested by commercial/industrial units at rates established in the attached Exhibit "A" and in accordance with individual agreement with generators.

10.5 City Facilities

WCA shall collect at no cost to the CITY all refuse generated by CITY facilities and placed for collection at identified CITY locations. The CITY agrees that the number of locations and facilities for which services are provided free of charge shall not exceed twenty-five (25) in any given year. The collection schedule for services provided at no charge shall be mutually agreed upon by the CITY and WCA.

10.6 Community Service

WCA will provide donated special collection services for important and community events including, but not limited to:

- Tomball Spring and Fall Clean Up
- Independence Day
- Rotary Fish Fry
- Tomball Go Texas
- Tomball Night
- Holiday Parade
- Tomball High School FFA Project
- Tomball German Heritage Festival
- The Regional Arts Council Arts Festival

Subject to the requirements of Article 20.2, these services will be provided as mutually agreed to be fair to WCA and the CITY. The Solid Waste collected by WCA from any community service events is referred to herein as "Community Service Waste."

ARTICLE 11.0 – COMPLIANTS REGARDING SERVICE/SPILLAGE

11.1 Complaint Receipt and Handling

A. All customer complaints shall be initially directed to WCA for handling. WCA shall make provisions for receiving and resolving customer complaints

and service issues pertaining to all services under this agreement. Complaints received by the CITY shall be forwarded to WCA immediately and it shall be the duty of WCA to take whatever steps may be required to remedy the cause of the complaint and to notify the CITY of its disposition within twenty-four (24) hours after receipt. In the event of alleged missed scheduled collection, WCA shall investigate and, if such allegations are confirmed, shall arrange for the collection of the refuse within twenty-four (24) hours after receiving the complaint. WCA shall maintain a complaint log, which includes; name of complainant, date, address, nature of complaint, action taken and date complaint was resolved. Such logs shall be made available to the CITY each month on or before the 10th day of the month. All complaints shall be given prompt and courteous attention.

- B. WCA shall maintain a toll-free telephone number, listed in the Tomball telephone directory in the name of WCA, and shall at all times during the hours of 8:00 A.M. and 5:00 P.M. of each normal working day, except Saturdays, Sundays, and holidays, have some person available at such number with whom the public, the CITY, its employee or agents may communicate, discuss and refer any complaint or inquiry arising in connection with such collection and disposal service.
- C. WCA shall have his service personnel meet with the Permit/Utility Billing Supervisor at least twice per month or as needed to resolve open complaints.

11.2 Damage Claims Resolution

WCA shall provide the CITY with a full explanation of the disposition of any complaint involving a customer's claim of damage to private property as the result of actions of WCA's employees, agents or subcontractors.

11.3 Failure to Remedy Complaints

Failure to remedy the cause of the complaint as provided for in the paragraphs above shall be considered a breach of the contract.

ARTICLE 12.0 – COLLECTION AND TRANSPORT OF REFUSE

12.1 Appearance

WCA shall ensure that all collection and transport service equipment is in good condition and repair, and attractively painted and clean looking in appearance. The CITY shall have the right to inspect and approve appearance of collection service equipment.

12.2 Due Diligence

- A. WCA shall exercise the utmost care and diligence in the performance of the work required by the Contract documents. Every effort must be made to prevent spillage during the collection process. However, in the event that solid waste is spilled, the collector shall immediately clean up the material before leaving the location of the spillage.
- B. WCA shall be solely responsible for all damages to containers and property resulting from WCA's actions or omissions.

12.3 Vehicles

- A. WCA shall provide and maintain during the entire period of the Contract a fleet of solid waste collection vehicles sufficient in number and capacity to perform the work and render the service required by the contract. The vehicles must contain all residential and commercial/industrial refuse, bulky waste and recyclables so that no material is spilled, leaked, or blown from the vehicle during its transit to the identified disposal site.
- B. WCA shall maintain collection vehicles in good repair at all times. All parts and systems of the collection vehicles shall be operated and maintained properly. Any leakage or spills of fuels, lubricants, or oil from or by collection vehicles shall be cleaned up immediately before leaving the location of the spill or leak and immediately reported to the CITY. It shall be WCA's responsibility to repair or replace property damaged by WCA. WCA shall save, defend, indemnify, and hold the CITY harmless from and against any claims, demands, costs, suits, and liabilities asserted by an individual or entity for injuries to persons or damage to property arising in any way from or incident to the breakdown or disrepair of any of WCA's vehicles and other equipment or any leakage, spills of fuels, lubricants, oil, chemicals, emissions, noise, or pollutants discharged therefore.
- C. WCA's vehicles and other equipment must be clearly identified. This identification shall be affixed to each vehicle and piece of equipment. All vehicles and equipment used in collection and transport service shall be in good repair, clean, well maintained and free of excessive noise, odor or emission.

ARTICLE 13.0 – PRICE AND METHOD OF PAYMENT

13.1 WCA's Compensation

- A. On or before the 10th business day of each month after the work has been performed, the CONTACTOR shall submit to the CITY an invoice for all

services rendered to residential, commercial/industrial units and other services provided at the rates and upon the terms provided in this agreement (see Exhibit "A", Schedule of Fees, Unit Price)

- B. WCA's rate of compensation shall be determined based upon the unit prices stipulated in WCA's Cost, attached hereto in Exhibit "A". Within thirty (30) days of the CITY's receipt of invoice and any supporting data requested by the CITY, the CITY will remit payment to WCA subject to the conditions of this Agreement and WCA's compliance with the terms of this agreement. Any such payments by the CITY shall be reduced by such amounts as the CITY may otherwise withhold or retain as provided by the Contract documents, as well as the ten percent (10%) street use fee being deducted from the invoice.
- C. Information regarding the number of units in the Contract area shall be obtained from the CITY reports of additions, changes or deletions of units faxed or emailed by the CITY's Utility Billing Department throughout each month. All invoices for payment submitted by WCA to the CITY shall refer to the proper number of units.

13.2 Collection Services

The CITY shall act as collector for all accounts and shall submit all statements to and collect from all occupied residential units and commercial/industrial units, which have contracted with WCA for services provided herein.

13.3 New Customers

New customers must come to the CITY requesting solid waste collection and disposal. The CITY will contact WCA to arrange for the specific services that will be required. The CITY shall receive all changes from commercial/industrial customers and such changes shall be faxed or emailed to the designated contact number or address provided by WCA. All customers who request temporary roll-off services must be processed through the CITY prior to any service by WCA.

13.4 Delinquent and Closed Accounts

- A. The CITY shall notify WCA of any delinquency in the payment for collection services on the part of any unit. WCA shall discontinue refuse collection services at any unit upon receipt of written notice from the CITY that such unit is not occupied or is delinquent in payment for service. Upon further notification by the CITY, WCA shall resume refuse collection on the next regularly scheduled collection day.

- B. The CITY shall remit payments to WCA for all occupied residential units and non-delinquent commercial/industrial units until such time WCA is notified to discontinue refuse collection services as provided by the contract documents.

ARTICLE 14.0 – MODIFICATION OF CONTRACT RATES

14.1. Year One Rates. The unit prices specified in WCA's Cost, see attached Exhibit "A", shall not be subject to change during the first year of the term hereof. The Contract prices constitute the total compensation payable to WCA for services performed pursuant to the Contract documents.

14.2 Permitted CPI Adjustments. The rates which may be charged for the second and subsequent years of the term of the Contract shall be adjusted upward or downward to reflect changes in the cost of operations as reflected by fluctuations in the Consumer Price Index for Urban Wage Earner and Clerical Workers (all items, Houston area), as published by the U.S. Department of Labor, Bureau of Labor Statistics; provided, however, that the amount of any annual CPI adjustment shall not exceed five percent (5%) and no rate adjustment shall be made below the base unit prices reflected on attached Exhibit "A."

14.3 Fuel and other Adjustments. With the approval of the City and WCA, the above defined rates may also be adjusted upward or downward annually in accordance with Article 14.3 – 14.5, in the event of changes in WCA's costs of doing business, such as increases or decreases in fuel, disposal, or equipment costs or burdensome changes in laws, ordinances, taxes, fees or regulations relating to waste management, collection or disposal; provided, however, no downward adjustment shall be made below the base unit prices reflected on attached Exhibit "A". The requesting party shall provide the other party with reasonable and written support for any such requested rate adjustment. Any request for rate adjustments related to fuel costs shall be based on the Department of Energy's ON Highway Retail, Gulf Coast Region averaged monthly price for the period commencing September 1st of the prior year and ending on August 31st of the current year for which any such rate adjustment is requested (the "Adjustment Period"). Each party agrees that it will not unreasonably deny a request for any annual rate adjustment that is based upon one or more of the events or factors described in this paragraph. Any rate adjustment related to fuel costs is not subject to the limitation set forth in Article 14.2.

14.4 Responsibility for Initiation of Adjustments. It is the responsibility of WCA to initiate any and all upward rate modifications and the responsibility of the City to initiate any downward rate modifications. In order to initiate any

rate modification, the requesting party shall send to the other party a comparative statement setting out for the index:

- 1) The applicable index value at the commencement of the Adjustment Period;
- 2) The applicable index value at the end of the Adjustment Period;
- 3) The net percentage change in the index; and
- 4) The increase or decrease in the fees that which may be charged by WCA.

Changes in rates, either increases or decreases, will become effective as of October 1st of such year..

14.5. Presentment of Adjustments. The CITY shall use its best efforts to submit any rate adjustments to the City Council at its next scheduled meeting more than seven days following the receipt of the information required by Article 14.4. Each party agrees to provide to the other party all documentation and information reasonably requested to justify the proposed rate increase or decrease. Any increase or decrease must be approved by the City Council at a duly scheduled council meeting.

ARTICLE 15.0 – STREET USE FEE

The CITY recognizes that WCA must use street and alleys of the CITY. In order to assist in the maintenance of those streets and alleys and also, in order to compensate the CITY in the administration of this Agreement, a ten percent (10%) street use fee for all work performed under this Agreement for which WCA has been paid will be remitted to the CITY, by being deducted from the invoice.

ARTICLE 16.0 – TERMINATION FOR CAUSE

The CITY may terminate the Contract for cause upon any of the following events of default:

- A. If, in the CITY's sole discretion, WCA fails to fulfill or maintain in a timely and proper manner any obligations, duties or provisions of or under the Contract documents and, unless otherwise provided herein, WCA shall fail to cure such default within thirty (30) calendar days of its receipt of written notice from the CITY specifying the conditions in which WCA has failed to perform. Such termination may be stayed at the sole option of the CITY, pending cure of the default if action to cure begins during the thirty (30) day period and is successfully completed.

- B. If WCA is adjudicated a voluntary or involuntary bankrupt, or a petition is filed by or against WCA to declare WCA bankrupt, or if WCA is subject to the appointment of a receiver or trustee and fails to have the receiver or trustee removed within sixty (60) days, or if any assignment of WCA's becomes insolvent, or is unable to pay its debt as they become due.
- C. If WCA fails to provide and maintain the performance bond as required by the contract; fails to obtain or maintain the insurance policies and endorsements as required by the contract; or fails to provide the proof of insurance as required by the contract.

ARTICLE 17.0 – BONDS AND INSURANCE

17.1 Performance Bond

Upon Contract execution, WCA shall furnish the CITY a bond with a corporate surety in the amount equal to one hundred percent (100%) of the annual Contract sum. WCA shall pay all premiums chargeable for the bond. The bond shall be valid and non-cancelable for the period of Contract and shall be renewed annually upon Contract renewal or extension.

17.2 Insurance

WCA shall comply with all applicable laws relating to Workers' Compensation and shall carry insurance, at its own expense, with responsible insurance companies acceptable to the CITY of the types and in the minimum amounts set forth in Exhibit "B" attached hereto. Unless prohibited by law, all policies of insurance held or obtained by WCA and each of its subcontractors, whether required by the Contract or not, shall be sufficiently endorsed to waive any and all claims by the underwriters or insurers against the CITY, their officers, directors, agents, employees, and invitees, for injuries, death, losses and/or damages covered by such policies. WCA shall have its insurance carriers deposit with the CITY before starting any work under this Contract certificates of insurance showing all insurance coverage and providing for not less than ten (10) days prior written notice of cancellation, reduction or other material change. Failure to maintain said insurance, approved as aforesaid, shall constitute sufficient grounds for immediate cancellation or suspension of this Contract by the CITY.

ARTICLE 18.0 – INDEMNIFICATION

WCA will indemnify, save harmless, and exempt the CITY, its officers, agents, servants, and employees from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, and attorneys' fees incident to any work done in the performance of this Contract arising out of a willful or negligent act or omission of WCA, its officers, agents, servants, and employees; provided, however, that WCA shall not be liable for any suits, actions, legal proceeding, claims, demands, damages, cost,

expenses, and attorneys' fees arising out of a willful or negligent act or omission of the CITY, its officers, agents, servants and employees.

WCA shall assume all responsibilities for, including control and removal of, and indemnify and hold the CITY harmless against and from loss, cost of damage arising from pollution or contamination which originates above the surface of the land or water:

From spills or leaks of fuels, lubricants, motor oils, paints, solvents, garbage, rubbish, sewage, sludge and other materials in WCA's possession and control, whether or not caused by the negligence of WCA.

18.1 Pollution Control and Removal

Without relieving WCA of any of its obligations above provided, it is agreed that the CITY may take part to any degree it deems necessary in the control and removal of any pollution or contamination which is the responsibility of WCA under the foregoing provisions; and WCA shall reimburse the CITY for the cost thereof.

ARTICLE 19.0 – REPRESENTATIONS AND RESPONSIBILITIES

It is the responsibility of WCA to be familiar with the nature and extent of the Contract documents, work, locality, and with all local conditions, regulations and laws that in any manner may affect cost, progress or performance of the work. WCA has made examinations, investigations and studies of all reports and related data as deemed necessary for the performance of the work at the Contract price, within the Contract term and in accordance with the other terms and conditions of the Contract documents; and no additional examination, investigations, reports or similar data are or will be required by WCA for such purpose.

19.1 Independent Contractor

WCA shall be an independent contractor with respect to all work done and services performed hereunder, and neither WCA nor anyone used or employed by WCA shall be deemed for any purpose to be the agent, servants or representative of the CITY in the performance of such work or services or any part thereof, or in any matter dealt with herein, and the CITY shall have no direction or control of WCA, or its employees and agents, except in the results to be obtained. It is understood that by this provision, neither party is assuming any liability for the actions or omissions of the other party, except as is stated in this contract.

Should there be a change in WCA's name or ownership by a merger or take-over by another entity, or any such event, this Contract is not subject to change and shall be upheld throughout the life of the agreement period or until the CITY so chooses to change.

19.2 Subcontractors and Assignments

- A. WCA shall not subcontract any part of its responsibility under this Agreement without the approval of the CITY. All work performed for WCA by a subcontractor will be performed in accordance with the Contract documents, and the rights of the CITY shall be preserved and protected so that subcontracting of the work under the Contract will not prejudice those rights.
- B. The Obligations of WCA pursuant to the Contract documents are not to be transferred, or assigned to any person or organization without the express written consent of the CITY. In the event of any such assignment, the assignee shall comply with any conditions that the CITY may reasonably require. Any such assignment shall not relieve or excuse WCA from responsibility for performance to the CITY in the event the assignee does not fully perform all work and other obligations of WCA under the contract.

19.3 Inspection of Records and Operations

The CITY shall have the right from time to time during reasonable business hours to inspect and audit all of WCA's books and records bearing directly or indirectly on the work and services performed hereunder. The CITY shall also have the right to inspect facilities, equipment, personnel and operations of WCA to assure itself of the appearance, sound business operations and compliance with contractual obligations by WCA.

WCA shall supply the CITY with monthly reports documenting the tonnage of all refuse, rubbish, construction debris, and any other waste collected for the CITY. This report is to be submitted to the Permits/Utility Billing Supervisor no later than the 10th day of the month following the month of collection.

WCA shall supply the CITY with monthly reports documenting the amount of tonnage for each category of recyclables and the dollar value of the gross revenues received for each category. This report is to be submitted to the Permits/Utility Billing Supervisor no later than the 10th day of the month following the month of collection.

19.4 Laws, Taxes and Fees

WCA agrees that it shall comply with all laws, policies, ordinances, codes, rules and regulations, and shall pay all taxes and fees which may be chargeable against the performance of the work or incidental to the contract.

19.5 Reports and Accidents

WCA shall report to the CITY as soon as practicable all accidents or occurrences resulting in injuries to WCA's employees, agents, licensees, or invitees, or

damage to property arising out of or during the course of the work or services performed for the CITY by WCA or of any subcontractor of WCA, and when requested, shall furnish the CITY with a copy of reports made by WCA to WCA's insurer or to others of such accidents or occurrences.

19.6 Captions and Headings

The captions, article numbers and other such designations appearing in the Agreement are inserted only as a matter of convenience and in no way define, limit, construe, or describe the scope of intent of such sections in this Agreement or in any way affect this agreement.

ARTICLE 20.0 – MISCELLANEOUS PROVISIONS

20.1 Force Majeure

This Contract is subject to all laws, orders, rules and regulations, and neither the CITY nor WCA shall be liable for any delay or damage due, occasioned or caused as a result of such laws, orders, rules or regulations, or by action of the elements, or causes beyond the control of the parties; and any delay due to above causes or any of them, shall not be deemed to be a breach of or failure to perform this contract, or any part thereof. In the event of such a force majeure, WCA shall give the CITY prompt telephone notification followed by written notice of the particulars and estimated duration of said force majeure. During such period or periods of time, a deduction in the proportional charge for collection and removal of refuse and/or recyclables at the prevailing rates shall be made. WCA must make a reasonable effort to resume service as soon as possible.

20.2 Storm Related Debris

WCA shall provide the CITY with additional services for the removal of storm related debris to include: bagged leaves and green waste; cut limbs and brush stacked in piles not to exceed four feet long and four feet wide; damaged fencing material; damaged carpet; and similar storm related debris. Additional services to be provided by WCA shall include; grapple trucks or similar equipment capable of self loading material; delivery, hauling, and removal of additional containers sufficient for containing and removing storm related debris. The total annual amount of storm related debris removal services, together with Community Service Waste collected by WCA on an annual basis, shall not exceed 1,600 cubic yards.

WCA and CITY agree that WCA may submit, as requested by CITY, a proposal for costs associated with removal of additional storm related debris for any volume that exceeds the specified annual amount, inclusive of Community Service Waste. The CITY may, at its sole option, enter into a separate agreement with WCA for the purpose of removing additional storm related debris and/or

Community Service Waste. However, WCA is under no obligation to provide services for the removal of storm related debris or Community Service Waste that exceeds the specified annual amount.

20.3 Notices

All notices required to be given by either party to the other party under the terms of this Contract shall be in writing and, unless written notice of a change of address is given, shall be sent to the parties at the addresses following:

CITY:

City Manager
City of Tomball
401 Market Street
Tomball, TX 77375

WCA:

Waste Corporation of Texas, L.P.
One Riverway, Suite 1400
Houston, TX 77056
Attn: Jerry Kruszka, President

All notices shall be deemed to have been properly served when delivered by the mail or delivered by confirmed facsimile.

20.4 Change Orders and Modifications

Any change order or modifications to the Contract must be mutually agreed upon by the parties and be incorporated by written amendment(s) to the contract. The City Manager and/or the CITY Council shall have the authority to change or modify the Contract on behalf of the CITY.

20.5 Ownership

Title to refuse, rubbish and other waste to be collected under the term of this Agreement shall pass to WCA when placed in WCA's collection vehicle, removed by WCA from a bin or container, or removed by WCA from the customer's premises, whichever first occurs.

20.6 Attorney's Fees

On the event that the CITY is required to take any legal action to enforce the terms and conditions of any Agreement because of the breach of or failure to perform any term or condition by WCA, WCA agrees to pay all costs expended by the CITY, including reasonable attorney fees.

20.7 Federal and State and Local Law to Apply

This Agreement shall be construed under and in accordance with Federal, State and Local Laws and all obligations of the parties created hereunder are performable in Tomball, Harris County, Texas

20.8 Entire Agreement

This instrument contains the entire Agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any oral representations or modifications concerning this instrument shall be of no force or effect and this Agreement may not be amended except by a subsequent modification in writing, signed by the parties hereto or by ordinance adopted by the CITY.

20.9 Severability

If any part of this Agreement for any reason is declared invalid, such decision shall not affect the validity of any remaining portion, which remaining portion shall remain in force and effect as if this Agreement had been executed with the invalid portion thereof eliminated. It is hereby declared the intention of the parties that they would have executed the remaining portion of this Agreement without any such part, parts or portions which may, for any reason, be hereafter declared invalid.

IN WITNESS WHEREOF, the parties hereto have executed the Contract on the day and year first written above.

The Contract will be effective on October 1, 2009.

ATTEST:

CITY OF TOMBALL



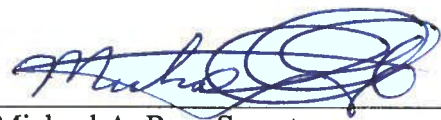
Doris Speer, City Secretary

By: 

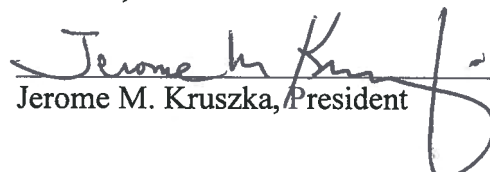
Jan Belcher, City Manager

ATTEST:

WASTE CORPORATION OF
TEXAS, L.P.



Michael A. Roy, Secretary

By: 

Jerome M. Kruszka, President

Exhibit "A"
WCA Waste Corporation Rates
October 1, 2009

Front Load Dumpsters

Size	Days per Week					
	1	2	3	4	5	6
New 3 Yard Dumpster	\$61.06	\$97.07	\$146.12	\$183.13	\$228.19	\$274.21
Additional 3 Yard Dumpster to Same Customer	\$32.02	\$69.03	\$96.72	\$128.14	\$155.09	\$181.13
New 4 Yard Dumpster	\$66.04	\$105.08	\$157.13	\$197.16	\$245.18	\$295.23
Additional 4 Yard Dumpster to Same Customer	\$59.06	\$94.07	\$142.09	\$177.15	\$221.17	\$251.00
New 6 Yard Dumpster	\$85.06	\$134.12	\$202.15	\$253.20	\$316.25	\$378.30
Additional 6 Yard Dumpster to Same Customer	\$76.05	\$121.07	\$182.13	\$228.19	\$284.22	\$341.25
New 8 Yard Dumpster	\$103.09	\$165.14	\$246.18	\$309.23	\$386.32	\$463.36
Additional 8 Yard Dumpster to Same Customer	\$93.08	\$149.11	\$222.17	\$278.20	\$347.27	\$417.30

95 Gallon Commercial Poly Carts

	Days per Week	
	1	2
95 Gallon Commercial Poly Cart	\$19.63	\$23.62
Additional 95 Gallon Poly Cart to Same Customer	\$17.64	\$21.28

Twice per Week Residential Curbside Garbage Collection & Once per Week Recyclable and Green Waste Collection

New Residential: \$12.61 per Month

Roll Off Containers With Open Tops

	Delivery Charge	Monthly Rental	Haul and Disposal Fee
20 Yard Container (One Year or More)	\$100.00	N/A	\$253.00
Temp. 20 Yard Container (Less than One Year)	\$100.00	\$120.00	\$253.00
30 Yard Container (One Year or More)	\$100.00	N/A	\$292.00
Temp. 30 Yard Container (Less than One Year)	\$100.00	\$120.00	\$292.00
40 Yard Container (One Year or More)	\$100.00	N/A	\$331.00
Temp. 40 Yard Container (Less than One Year)	\$100.00	\$120.00	\$331.00
Compactor / Roll Off Container/ Equipment	\$100.00	N/A	Haul: \$235.00 Disposal: \$23.50 / Ton

DE-MJ JB

Exhibit "B"

INSURANCE

At any and all times during the term of this Contract, Contractor agrees to carry insurance at its own expense with responsible insurance companies acceptable to City of the types and in the minimum amounts set forth below. Unless prohibited by law, all policies of insurance held or obtained by Contractor and each Subcontractor, whether required by this Contract or not, shall be sufficiently endorsed to waive any and all claims by the underwriters or insurers against City, their officers, directors, agents, employees, and invitees, for injuries, death, losses and damages covered by such policies. Contractor shall have its insurance carrier deposit with City before starting any work under this Contract certificates of insurance showing all insurance coverage and providing for not less than ten (10) days prior written notice of cancellation, reduction or other material change. Contractor will promptly following the execution of this Contract obtain from its insurers a Waiver of Subrogation against City, their officers, directors, agents, employees, and invitees.

- A. Workmen's Compensation — In accordance with the laws of the State of Texas (see attached)
 - 1. Employees Liability subject to a limit of not less than \$500,000.
- B. Comprehensive Automobile Liability — With limits not less than \$1,000,000 Combined Single Limit Per Occurrence for both Bodily Injury and Property Damage.
- C. Comprehensive General Liability — Including Contractual and completed operations — Products Liability and Independent Contractors Coverage with limits not less than \$1,000,000 Combined Single Limit Per Occurrence for both Bodily Injury and Property Damage, and Excess Liability Umbrella for \$5,000,000. Also, the City of Tomball should be named as an additional insured on all Contractors general liability policies.

Performance Bond

Bond No: 851883

KNOW ALL MEN BY THESE PRESENTS, that we Waste Corporation of Texas, LP, One Riverway, Suite 1400, Houston, TX 77056, the Principal, and Evergreen National Indemnity Company, 6140 Parkland Boulevard, Suite 321, Cleveland, Ohio 44124, the Surety, are held and firmly bound unto the City of Tomball, 401 Market St., Tomball, TX 77375, as Obligee, in the penal sum of One Million Five Hundred Seventy Thousand Six Hundred Eight and 00/100 Dollars (\$1,570,608.00) for the payment of which we bind ourselves, our heirs, administrators, executors, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written Contract for the Solid Waste Collection and Disposal Contract for the City of Tomball, with the above mentioned Obligee, dated the 1st day of October 2009, which contract is hereby incorporated herein as if fully rewritten:

NOW, THEREFORE, the condition of the above obligation is such that if the Principal shall promptly and faithfully perform this Contract, then this obligation shall be null and void; subject, however, to the following conditions:

1. This bond is for the term beginning October 1, 2009, and ending October 1, 2010.
2. If there is no breach or default on the part of the Obligee, then the Surety's performance obligation under the bond shall arise after:
 - a. The Obligee has notified the Principal and the Surety in writing at their respective addresses of the alleged breach, and has requested and attempted to arrange a conference with the Principal and the Surety to be held not later than fifteen (15) days after receipt of such notice to discuss methods of performing the Contract; and has made available during notice period all books, records, and accounts relevant to the Contract which may be requested by the Principal or Surety. If the Obligee, Principal and Surety agree, the Principal shall be allowed a reasonable time to perform the Contract; but such an agreement shall not waive the Obligee's right, if any subsequently to declare a Principal default;
 - b. The Obligee has declared the Principal in default and formally terminated the Principal's right to complete the Contract, provided, however, that such default shall not be declared earlier than twenty (20) days after the Principal and the Surety have received the notice as provided in "a" above; and
 - c. The Obligee has agreed to pay the balance of the Contract price to the Surety in accordance with the terms of the Contract or to the such contractor as may be tendered by the Surety to the Obligee.
3. No claim, action, suit or proceeding, except as hereinafter set forth, shall be had or maintained against the Surety of this instrument unless same be brought or instituted and process served upon the Surety within six months after the expiration of the bond. The parties hereto expressly acknowledge and agree that no liquidated damages shall be claimed, due or payable by Surety pursuant to this Bond.
4. The bond may be extended for additional terms at the option of the Surety, by Continuation Certificate executed by the Surety.
5. Neither non-renewal by the Surety, nor failure, nor inability of the Principal to file a replacement bond shall constitute loss to the Obligee recoverable under this bond.
6. In no event shall the liability of the Surety hereunder exceed the penal sum hereof.

Signed, sealed and executed this 1st day of October 2009.

Waste Corporation of Texas, LP

Principal

Evergreen National Indemnity Company

Surety

By: _____

Title

(Corporate Seal)

By: _____

Nicole Skedel, Attorney-In-Fact

(Corporate Seal)

Witness: _____

Witness: _____

Maria Jackson

EVERGREEN NATIONAL INDEMNITY COMPANY

COLUMBUS, OHIO
POWER OF ATTORNEY

PRINCIPAL Waste Corporation of Texas, LP

EFFECTIVE DATE October 1, 2009

CONTRACT AMOUNT _____

AMOUNT OF BOND \$ 1,570,608.00

POWER NO. **851883**

KNOW ALL MEN BY THESE PRESENTS: That the Evergreen National Indemnity Company, a corporation in the State of Ohio does hereby nominate, constitute and appoint

*****Nicole Skedel*****

its true and lawful Attorney(s)-In-Fact to make, execute, attest, seal and deliver for and on its behalf, as Surety, and as its act and deed, where required, any and all bonds, undertakings, recognizances and written obligations in the nature thereof, PROVIDED, however, that the obligation of the Company under this Power of Attorney shall not exceed

One Million Five Hundred Seventy Thousand Six Hundred Eight and NO/100 Dollars

This Power of Attorney is granted and is signed by facsimile pursuant to the following Resolution adopted by its Board of Directors on the 23rd day of July, 2004:

"RESOLVED, That any two officers of the Company have the authority to make, execute and deliver a Power of Attorney constituting as Attorney(s)-in-fact such persons, firms, or corporations as may be selected from time to time.

FURTHER RESOLVED, that the signatures of such officers and the Seal of the Company may be affixed to any such Power of Attorney or any certificate relating thereto by facsimile; and any such Power of Attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Company; and any such powers so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached."

IN WITNESS WHEREOF, the Evergreen National Indemnity Company has caused its corporate seal to be affixed hereunto, and these presents to be signed by its duly authorized officers this 15th day of March, 2007.

EVERGREEN NATIONAL INDEMNITY COMPANY



Charles D. Hamm, Jr.

Charles D. Hamm, Jr., President

Timothy C. Ellis

Timothy C. Ellis, Vice President

Notary Public)
State of Ohio)

SS:

On this 15th day of March, 2007, before the subscriber, a Notary for the State of Ohio, duly commissioned and qualified, personally came Charles D. Hamm, Jr. and Timothy C. Ellis of the Evergreen National Indemnity Company, to me personally known to be the individuals and officers described herein, and who executed the preceding instrument and acknowledged the execution of the same and being by me duly sworn, deposed and said that they are the officers of said Company aforesaid, and that the seal affixed to the preceding instrument is the Corporate Seal of said Company, and the said Corporate Seal and signatures as officers were duly affixed and subscribed to the said instrument by the authority and direction of said Corporation, and that the resolution of said Company, referred to in the preceding instrument, is now in force.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal at Columbus, Ohio, the day and year above written.



SUE E. DUFFY
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES AUG. 5, 2009

Sue E. Duffy

Notary Public State of Ohio
My Commission expires August 5, 2009

State of Ohio)

SS:

I, the undersigned, Secretary of the Evergreen National Indemnity Company, a stock corporation of the State of Ohio, DO HEREBY CERTIFY that the foregoing Power of Attorney remains in full force and has not been revoked; and furthermore that the Resolution of the Board of Directors, set forth herein above, is now in force.

Signed and sealed in Columbus, Ohio this 1st day of October 2009



Charles D. Hamm, Jr.

Charles D. Hamm, Jr., Secretary
Any reproduction or facsimile of this form is void and invalid.

Texas Department of Insurance



Certificate No. 11142

Company No. 08-006062

Certificate of Authority

THIS IS TO CERTIFY THAT

EVERGREEN NATIONAL INDEMNITY COMPANY

COLUMBUS, OHIO

has complied with the laws of the State of Texas applicable thereto and is hereby authorized to transact the business of

Fire; Allied Coverages; Inland Marine; Automobile--Liability & Physical Damage; Liability other than Automobile; Fidelity & Surety; Burglary & Theft; Boiler & Machinery and Reinsurance on all lines authorized to be written on a direct basis

insurance within the state of Texas. This Certificate of Authority shall be in full force and effect until it is revoked, canceled or suspended according to law.

IN TESTIMONY WHEREOF, witness my hand and seal of office at Austin, Texas, this

26th day of April A.D. 1996

ELTON BOMER
COMMISSIONER OF INSURANCE

BY

A handwritten signature in cursive script, appearing to read "Kathy A. Wilcox".

Kathy A. Wilcox
Director
Insurer Services





Evergreen National Indemnity Company

Certificate

2008

The following financial information was excerpted from the Statutory Annual Statement filed by Evergreen National Indemnity Company with the Ohio Department of Insurance.

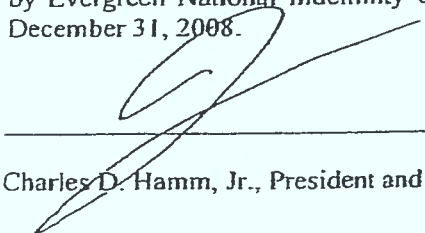
STATEMENT OF INCOME

Direct Written Premium	\$ 36,533,007
Reinsurance Assumed	3,800,266
Reinsurance Ceded	(29,140,334)
Net Written Premium	11,192,939
Change in Unearned	(369,518)
Net Earned Premium	10,823,421
Losses & LAE Incurred	608,279
Net Commission Expense	4,729,395
Other Expenses	3,157,893
Underwriting Gain/ (Loss)	2,327,854
Investment Gain	887,605
Other Income/ (Expense)	21,686
Income Before FIT	3,237,145
Federal Income Tax	1,295,568
Net Income	1,941,577

BALANCE SHEET

<u>Assets</u>	
Invested Assets	45,257,280
Agent's Balances (net of Reins.)	2,507,054
Reinsurance Recoverable	241,033
Other Assets	2,046,719
Total Assets	50,052,086
<u>Liabilities & Surplus</u>	
Unearned Premium Reserve	4,613,285
Loss & LAE Reserves	4,089,551
Other Liabilities	9,536,437
Total Liabilities	18,239,273
Surplus	31,812,813

I hereby certify that the above information is that contained in the Statutory Annual Statement filed by Evergreen National Indemnity Company with the Ohio Department of Insurance for the year ending December 31, 2008.


Charles D. Hamm, Jr., President and Secretary

Regular City Council

Agenda Item

Data Sheet

Meeting Date: September 19, 2011

Topic:

Approve Proposed First Amendment to Solid Waste Collection and Disposal Service Contract between the City of Tomball and WCA Waste Corporation (WCA).

Background:

The purpose of the proposed contract amendment is to provide a time period which requests for allowable rate modifications are made. Under the current contract, rate changes have an effective date of Oct. 1 each contract year, but no time period for submitting requests. This causes a timing issue as City Staff generally begins preparing budgets in June of each year. The amendment provides an adjustment request period of June 1 – May 31 of each contract year, with the effective date for rate adjustments to remain as Oct. 1.

Origination:

Public Works

Recommendation:

Staff recommends approval of the proposed contract amendment.

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

Director of Public Works

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

ATTACHMENTS:

WCA Contract - First Amendment

**FIRST AMENDMENT TO
SOLID WASTE COLLECTION AND DISPOSAL SERVICES CONTRACT**

This First Amendment to Solid Waste Collection and Disposal Services Contract is entered into as of the ____ of October, 2011, by and between the City of Tomball (hereinafter called the "CITY") and Waste Corporation of Texas, L.P. (hereinafter called "WCA").

RECITALS:

WHEREAS, the CITY and WCA entered into that certain Service Contract dated October 1, 2009, which governs WCA's provision of solid waste collection and disposal services to the CITY (the "Service Contract"); and

WHEREAS, the CITY and WCA desire to amend and modify the Service Contract with respect to the timing of any contract rate modifications under Article 14.0 of the Service Contract;

NOW, THEREFORE, in consideration of the foregoing recitals and good and valuable consideration, which the parties hereby acknowledge has been received, the CITY and WCA agree as follows:

1. Effective June 1, 2012 and during the remaining term of the Service Contract, the CPI, fuel and any other adjustments, whether upward or downward, in the contract rates shall be evaluated and determined annually based on changes in CPI, fuel, other operating costs of doing business, or burdensome changes in laws, ordinances, taxes, fees or regulations for the period commencing on June 1st and ending on May 31st (with the next determination being made for June 1, 2011 through May 31, 2012).
2. The procedures set forth in Sections 14.4 and 14.5 shall remain in full force and effect and are not modified by this Amendment. Any change in contract rates shall continue to become effective as of October 1st of the year for which each such adjustment is made in accordance with Article 14.0 as amended hereby.
3. Except as amended and modified by the Amendment, all other terms and provisions of the Service Contract shall be unaffected by this Amendment and remain in full force and effect.

This First Amendment has been duly executed by the authorized representatives of the CITY and WCA effective as of the date first above written.

ATTEST:

CITY OF TOMBALL

Doris Speer, City Secretary

By: _____
George Shackelford, City Manager

ATTEST:

WASTE CORPORATION OF
TEXAS, L.P.

Michael A. Roy, Secretary

By: _____
Jerome M. Kruszka, President

Regular City Council

Agenda Item

Data Sheet

Meeting Date: September 19, 2011

Topic:

Approve the Following Plats, as recommended by Planning and Zoning Commission:

- **THE POINT FINAL PLAT:** Being a subdivision of 6.3637 acres of land out of the Claude M. Pillot Survey, Abstract No. 632, in the City of Tomball, Harris County, Texas.
- **KLEIN ISD BERNSHAUSEN ELEMENTARY SCHOOL SEC. 1:** Being a Replat of Lots 485, 486 and part of lot 484 of the five acre tracts Tomball Townsite Vol. 2, Pg. 65 H.C.M.R., a subdivision of 13.8198 acres out of the J. Pruitt Survey, Abstract No. 629 Harris County, Texas.
- **ROSE GARDENS REPLAT:** Being a subdivision of 0.5062 acre tract, 22, 049.39 Square Feet, Being a Replat of New Lot 25, Block 82 of Kana Industrial Park, as recorded in Film Code No. 437064 Harris County Map Records and 7,827.73 Square Feet of Abandoned Ash Street and Timkin Road Right of Way Situated in the William Hurd Survey a-371, Harris County, Texas.

Background:

The Planning and Zoning Commission approved The Point Final Plat on Monday, August 8, 2011. The plat is being presented to City Council for approval consideration.

The Planning and Zoning Commission approved the Klein ISD Bernshausen Elementary School Sec. 1 Replat, with contingencies on Monday, September 12, 2011. Corrections have been made and the Replat is being presented to City Council for approval consideration.

The Planning and Zoning Commission approved the Rose Gardens Replat, with contingencies on Monday, September 12, 2011. Corrections have been made and the Replat is being presented to City Council for approval consideration.

Origination:

Engineering and Planning

Recommendation:

Funding:

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

Engineering and Planning

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

ATTACHMENTS:

The Point Final Plat

Klein ISD Bernshausen Elementary School Sec 1

Rose Gardens Replat

RALPH LEWIS FRAPART, ET AL
RESIDUE OF 145.78 ACRES
TRACT 6
(C.C.F. NO. F014298 R.P.R.H.C.)

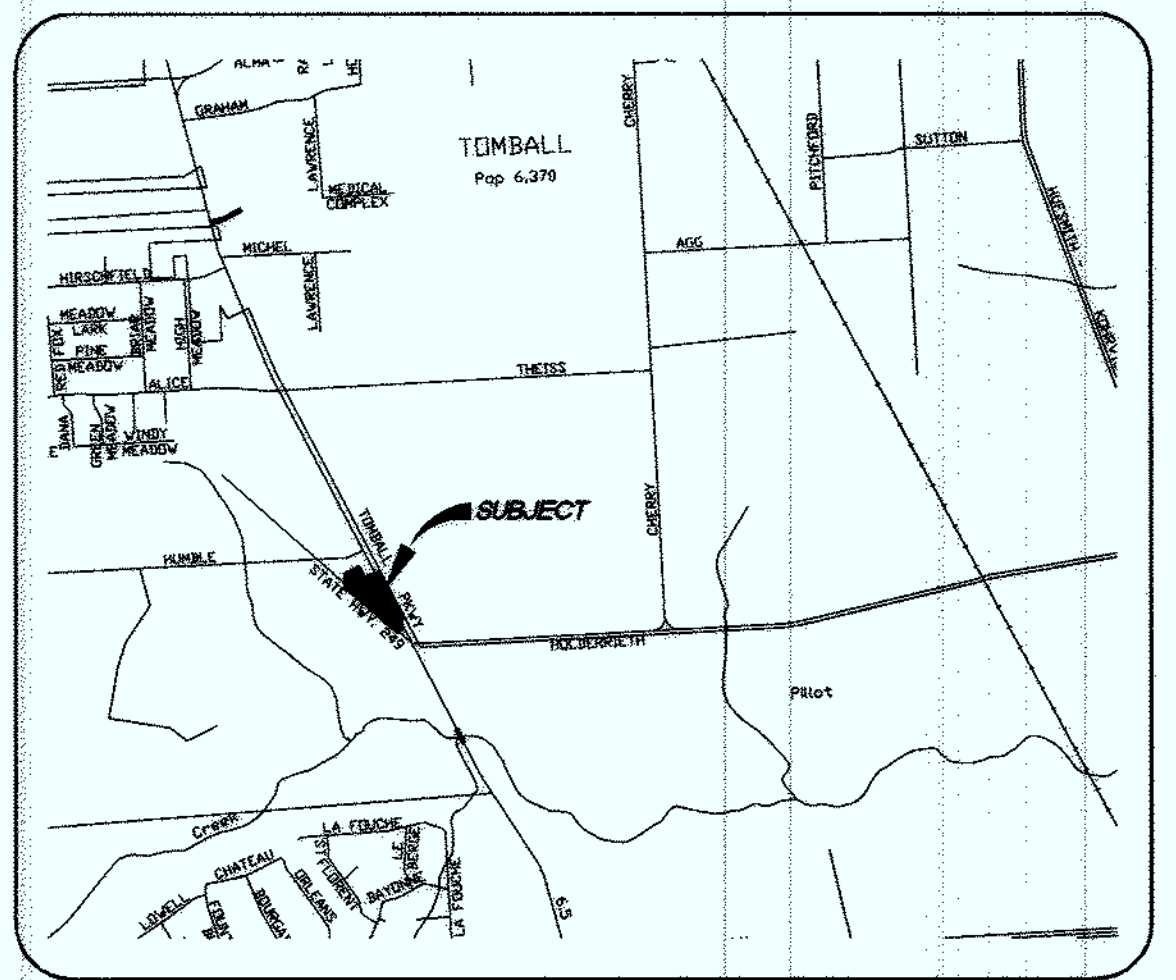
GREGORY D. KITCHENS ET UX
1.2618 ACRES
(C.C.F. NO. T027655 R.P.R.H.C.)

MORRIS W. KITCHENS
VERGIE F. KITCHENS
1.0127 ACRES
C.C.F. NO. G716425
R.P.R.H.C.

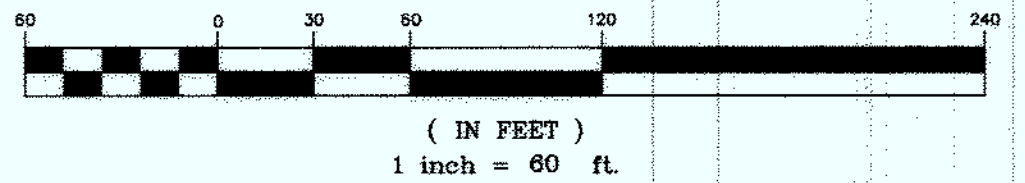
Δ -043212'
A-964472
L-288.59
CHB-N 465410' W
CHL-288.52

LOT A
6.3637 ACRES
277,201.10 SQ. FT.

CLAUDE M. PILOT SURVEY
ABSTRACT NO. 632
STATE HIGHWAY NO. 249 (300.00' R.O.W.)
FRONTAGE ROAD
STATE HIGHWAY NO. 249 (300.00' R.O.W.)



GRAPHIC SCALE



LEGEND	
—	CLEAN OUT
—	PIPELINE MARKER
—	POWER POLE
—	MANHOLE
—	FIRE HYDRANT
—	PIPELINE VENT
—	WATER METER
—	GAS METER
—	WATER VALVE
—	GAS VALVE
—	SERVICE POLE
—	BOARD FENCE (UNLESS OTHERWISE NOTED)
—	BARBED WIRE FENCE (UNLESS OTHERWISE NOTED)
—	WATER LINE
—	STORM SEWER LINE
—	CANITARY SEWER LINE
—	GAS LINE
—	SURVEY BOUNDARY LINE

M.R.H.C. = MAP RECORDS OF HARRIS COUNTY
R.P.R.H.C. = REAL PROPERTY RECORDS OF HARRIS COUNTY
D.R.H.C. = DEED RECORDS OF HARRIS COUNTY
C.C.F. = COUNTY CLERK'S FILE
C.O.P. = POINT OF COMMENCING
P.O.B. = PLACE OF BEGINNING
R.O.W. = RIGHT-OF-WAY
VOL. = VOLUME
PAGE = PAGE
H.C.F.C.D. = HARRIS COUNTY FLOOD CONTROL DISTRICT

Notes:

- All oil/gas pipelines or pipeline easements with ownership through the subdivision have been shown.
- All oil/gas wells with ownership (plugged, abandoned, and/or active) through the subdivision have been shown.
- No building or structure shall be constructed across any pipelines, building lines, and/or easements. Building setback lines will be required adjacent to oil/gas pipelines. The setbacks at a minimum should be 15 feet off centerline of low pressure gas lines, and 30 feet off centerline of high pressure gas lines.
- This plat does not attempt to amend or remove any valid restrictions or covenants.
- The building lines shown on this plat shall be in addition to, and shall not limit or replace, any building lines required by the City of Tomball Code of Ordinances at the time of the development of the property.
- The following unlocated pipeline easements do not affect this plat.

Easement as granted to Magnolia Pipe Line Company by instrument(s) recorded in Volume 923, Page 739 of the DeedRecords of Harris County, Texas.
Easement as granted to Humble Oil and Refining Company by instrument(s) recorded in Volume 934, Page 199 of the DeedRecords of Harris County, Texas.
Easement as granted to Humble Oil and Refining Company by instrument(s) recorded in Volume 1073, Page 650 of the DeedRecords of Harris County, Texas.
Easement as granted to Shell Oil Company by instrument(s) recorded in Volume 3431, Page 480 of the DeedRecords of Harris County, Texas.
Easement as granted to Humble Pipe Line Company by instrument recorded in Volume 1055, Page 560 of the DeedRecords of Harris County, Texas.
Easement as granted to Texaco, Inc. by instrument recorded in Volume 8471, Page 621 of the DeedRecords of Harris County, Texas.

Public Easements:

Public easements denoted on this plat are hereby dedicated to the public forever. Any public utility, including the City of Tomball, shall have the right at all times, of ingress and egress to and from and upon said easements for the purpose of construction, reconstruction, inspection, patrolling, maintaining and adding to or removing all or part of its respective systems without the necessity of any time of procuring the permission of the property owner. Any public utility, including the City of Tomball, shall have the right to move and keep moved all or part of any building, fences, trees, shrubs, other growths or improvements that in any way endanger or interfere with the construction, maintenance or efficiency of its respective systems on any of the easements shown on this plat. Neither the City of Tomball or any public utility shall be responsible for the replacing or reimbursing the property owner due to removal or relocation of any obstruction on the public easements.

Flood Information:

According to FEMA Firm Panel No. 4803160210L (Effective Date June 18, 2007), a portion of this property is in Zone "X", areas determined to be outside the 0.2 % Annual Chance Flood, and is partially in Zone "X", areas of 0.2 % Annual Chance Flood, a very small portion at the south end of the property is in Zone AE areas of a 1 % Annual Chance Flood Plain.

THE POINT
FINAL PLAT

BEING A SUBDIVISION OF 6.3637 ACRES OF
LAND OUT OF THE CLAUDE M. PILOT SURVEY,
ABSTRACT NO. 632, IN THE CITY OF TOMBALL,
HARRIS COUNTY, TEXAS.

1 LOT 1 BLOCK

DATE: 7/27/2011 SCALE: 1" = 60'
COPYRIGHT 2011

OWNER/DEVELOPER: R.K. MCGAUGHEY, TRUSTEE
PETER S. TERPSTRA, TRUSTEE
14343-B TORREY CHASE
HOUSTON, TEXAS 77014
PHONE : (281) 580-4855
FAX : (281) 580-3808

SURVEYOR: THOMAS LAND SURVEYING
14340 Torrey Chase, Suite 270
Houston, Texas 77014
PHONE : (281) 440-7730
FAX : (281) 440-7737
thomas@thomaslandsurveying.com

JOB NO: 14367/12764

STATE OF TEXAS
COUNTY OF HARRIS

WE, R.K. McGaughey, Trustee, and Peter S. Terpstra, Trustee, owners, hereinafter referred to as Owners of the 6.3637 acre tract described in the above and foregoing plat of THE POINT, do hereby make and establish said subdivision and development plan of said property according to all liens, dedications, restrictions and notations on said map or plat and hereby dedicate to the use of the public forever, all streets, alleys, parks, water courses, drains, easements and public places shown thereon for the purposes and considerations therein expressed; and do hereby bind ourselves, our heirs, successors and assigns to warrant and 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 unobscured serial easement five feet in width from a plane twenty feet (20') above the ground level upward, located adjacent to all public utility easements shown hereon.

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

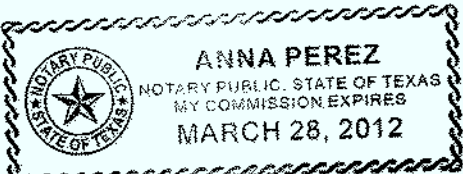
Witness our hand, in the City of Tomball, Texas this the 14th day of September, 2011

By: R.K. McGaughey, Trustee
R.K. McGaughey, Trustee
By: Peter S. Terpstra, Trustee
Pete S. Terpstra, Trustee

STATE OF TEXAS
COUNTY OF HARRIS

BEFORE ME, the undersigned authority, on this day personally appeared R.K. McGaughey, Trustee 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 the 14th day of September, 2011.

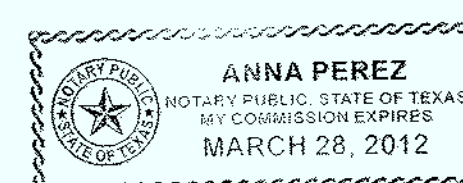


Anna Perez
Notary Public, State of Texas
ANNA PEREZ 3-28-2012
My Commission Expires: 3-28-2012

STATE OF TEXAS
COUNTY OF HARRIS

BEFORE ME, the undersigned authority, on this day personally appeared Peter S. Terpstra, Trustee 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 the 14th day of September, 2011.



Anna Perez
Notary Public, State of Texas
ANNA PEREZ
My Commission Expires: 3-28-2012

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 _____ 2011 at _____ o'clock _____ M., and duly recorded on _____ 2011 at _____ o'clock _____ M., and at Film Code No. _____ of the Map Records of Harris County for said county.

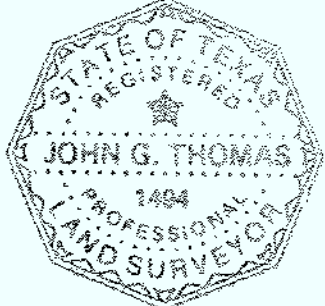
WITNESS my hand and seal of office at Harris County, Texas, the day and date last above written.

Stan Stanart
County Clerk of
Harris County, Texas

By: _____
Deputy

I, John G. Thomas, am authorized (or registered) under the laws of the State of Texas to practice the profession of civil engineering (or surveying) and hereby certify that the above subdivision is true and correct; was prepared from an actual survey of the property made under my supervision on the ground; that all boundary corners, angle points, points of curvature, and other points of reference have been marked with iron (or other suitable permanent metal) pipes or rods having an outside diameter of not less than three quarter inch (3/4") and a length of not less than three feet (3'); and that the plat boundary corners have been tied to the nearest street intersection.

John G. Thomas
John G. Thomas, R.P.L.S. #1494



This is to certify that the Planning and Zoning Commission of the City of Tomball, Texas, has approved this plat and subdivision of THE POINT 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 _____, 2011.

BY: _____
Lori Wallace, Chair

BY: _____
Evelyn Chervenak, Vice Chair

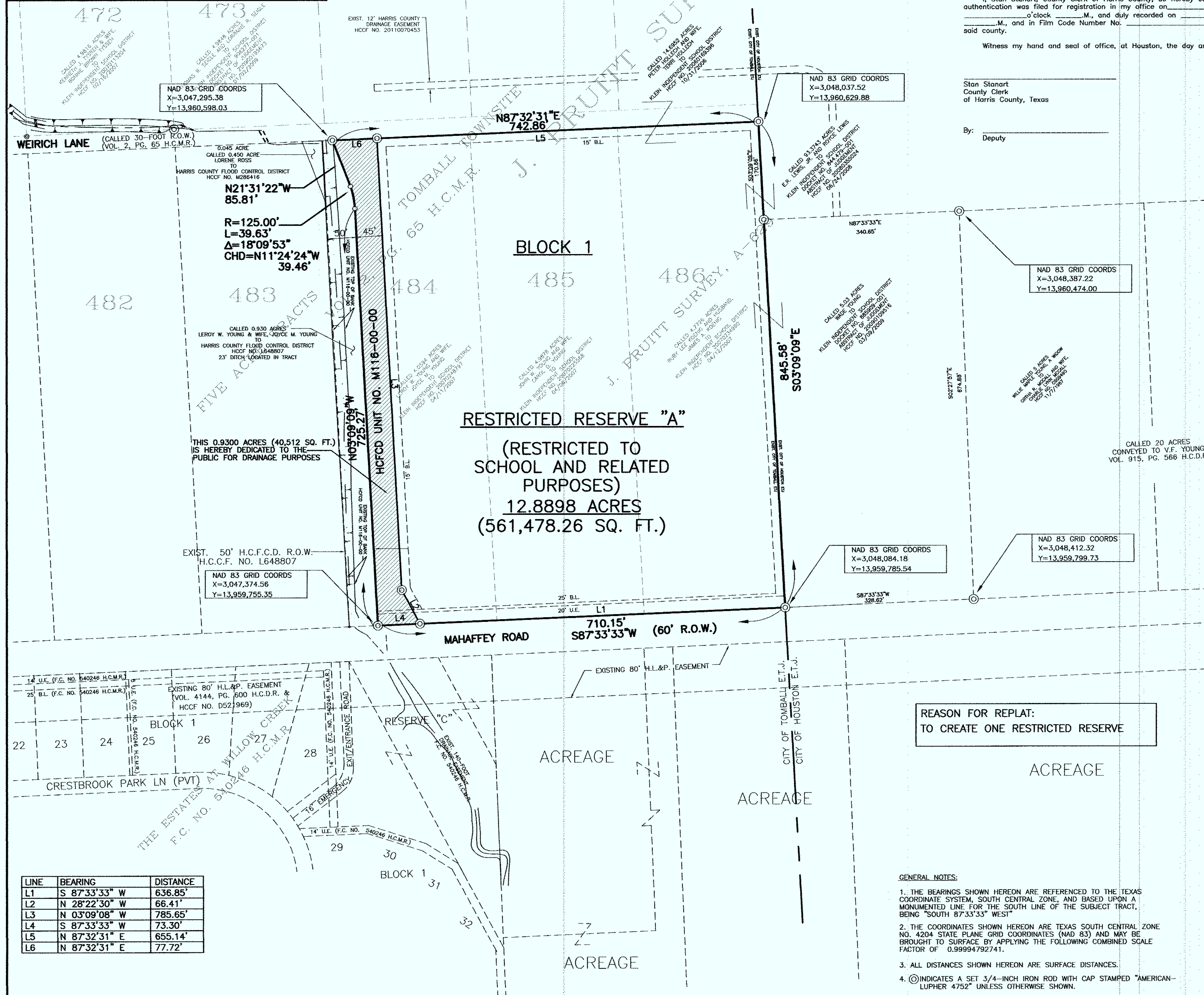
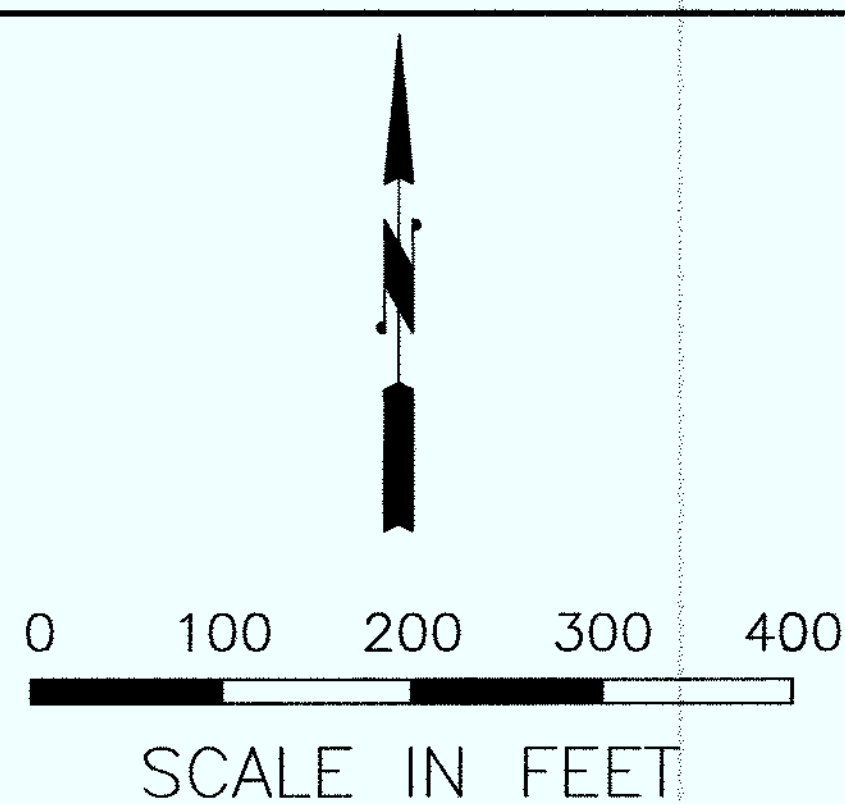
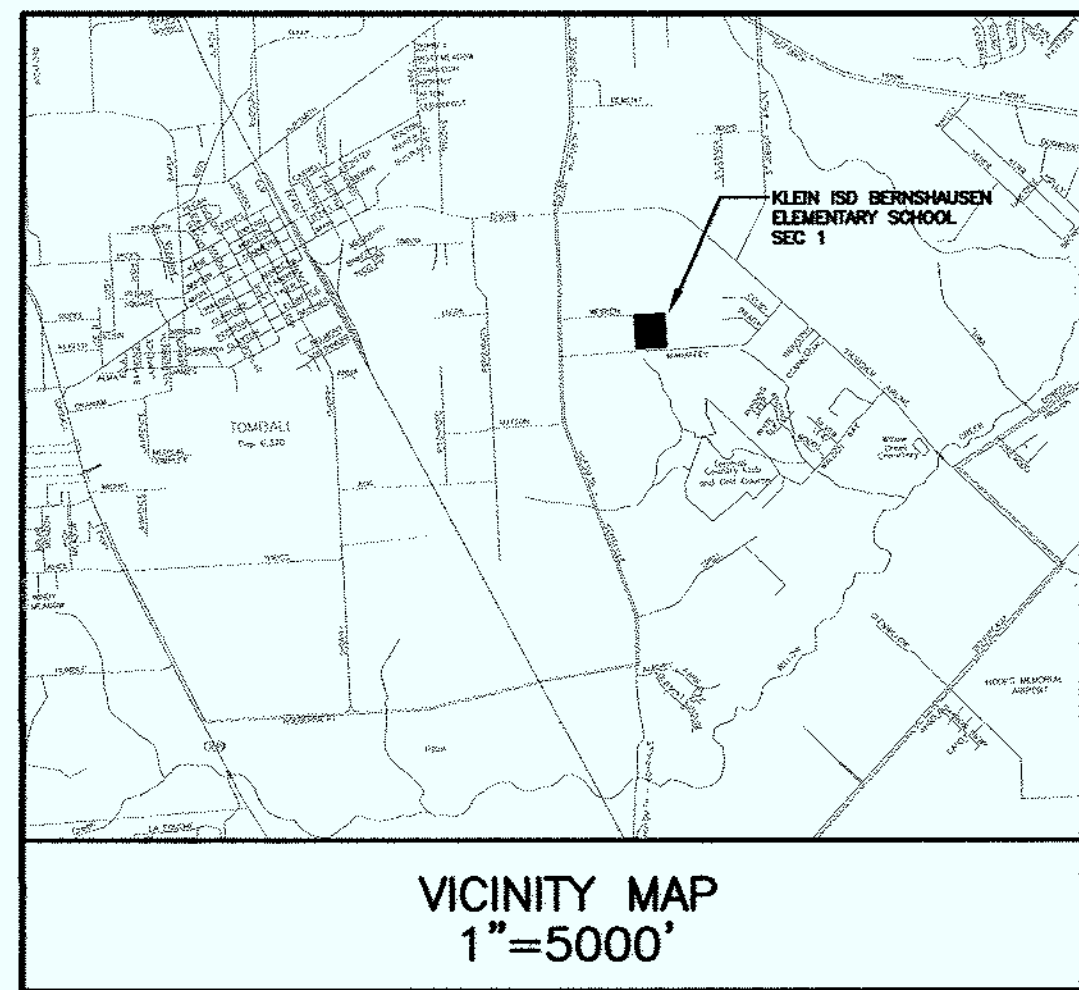
We the City Manager and City Engineer for the City of Tomball, do hereby certify that this plat complies with the City of Tomball Ordinances.

George Shackelford, City Manager
Lori Lakatos, P.E.
Acting City Engineer
Engineering & Planning

This is to certify that the City accepts the Planning and Zoning Commission's authorized approval and acceptance of all dedicated public easements 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 _____, 2011.

By: _____
Gretchen Fagan, Mayor

By: _____
Doris Spear, City Secretary



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

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

I, Stan Stanart, County Clerk of Harris County and ex officio clerk of the Harris County Commissioners' Court, do hereby certify that the within instrument was approved at a legally convened meeting of the Harris County Commissioners' Court held on _____, 20____, by an order entered into the minutes of the court.

Stan Stanart
County Clerk
of Harris County, Texas

By: Deputy

I, Stan Stanart, County Clerk of Harris County, do hereby certify that the within instrument with its certificate of authentication was filed for registration in my office on _____, 20____, at _____ o'clock _____ M., and duly recorded on _____, 20____, at _____ o'clock _____ M., and in Film Code Number 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

THE STATE OF TEXAS §

COUNTY OF HARRIS §

We, Klein Independent School District, acting by and through Georgann Reitmeier, President, and Ronnie K. Anderson, Secretary, being officers of Klein Independent School District, owner hereinafter referred to as owners (whether one or more) of the 13.8198 acre tract described in the above and foregoing plat of Klein ISD Bernshausen Elementary School Sec 1, do hereby make and establish said subdivision of said property according to all liens, dedications, restrictions and notations on said plat and hereby dedicate to the use of the public forever, all streets, alleys, parks, watercourses, drains, easements, and public places shown thereon for the purposes and considerations therein expressed; and do hereby bind ourselves, our heirs, successors and assigns to warrant and forever defend the title to the land so dedicated.

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

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

FURTHER, owners do hereby dedicate to the public a strip of land fifteen 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.

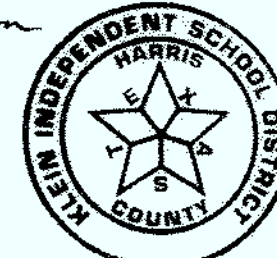
FURTHER, owners do hereby covenant and agree that all of the property within the boundaries of this plat and adjacent to any drainage easement, ditch, gully, creek, or natural drainage way shall hereby be restricted to keep such drainage ways and easements clear of fences, buildings, planting, and other 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.

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

IN TESTIMONY WHEREOF, the Klein Independent School District has caused these presents to be signed by Georgann Reitmeier, its President, thereunto authorized, attested by its Secretary, Ronnie K. Anderson, and its common seal hereunto affixed this _____ day of September, 2011.

Klein Independent School District

ATTEST: *Ronnie K. Anderson*
Ronnie K. Anderson
Secretary



By: *Georgann Reitmeier*
Georgann Reitmeier
President

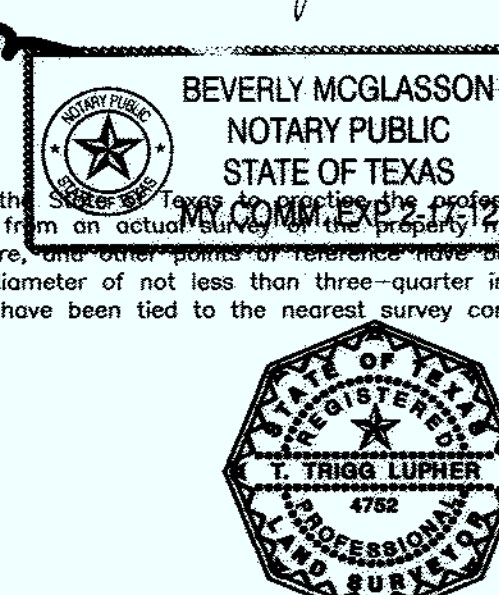
THE STATE OF TEXAS §

COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared Georgann Reitmeier, President, and Ronnie K. Anderson, Secretary, known to me to be the persons whose names are subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and considerations therein expressed and in the capacity therein and herein stated, and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of September, 2011.

Beverly McGlasson
Beverly McGlasson
Notary Public in and for the State of Texas
My Commission Expires: _____



I, T. Trigg Luper, am registered under the laws of the State of Texas as a Professional Land Surveyor 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, or other points of reference have been marked with iron (or other suitable) pipes or rods having an outside diameter of not less than three-quarter inch (3/4") and a length of not less than three feet; and that the boundary corners have been tied to the nearest survey corner.

T. Trigg Luper
Texas Registration No. 4752

This is to certify that the Planning and Zoning Commission of the City of Tomball, Texas, has approved this plat and subdivision of Klein ISD Bernshausen Elementary School Sec 1 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 _____, 2011.

By: *Lori Wallace*
Lori Wallace
Chairman

By: *Evelyn Chervenak*
Evelyn Chervenak
Vice Chairman

This is to certify that the City Council for the City of Tomball, Texas has approved this plat and subdivision of Klein ISD Bernshausen Elementary School Sec 1 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 _____, 2011.

By: *Gretchen Fagan*
Gretchen Fagan
Mayor

By: *Doris Speer*
Doris Speer
City Secretary

We, the City Manager and the City Engineer for the City of Tomball, do hereby certify that this plat of Klein ISD Bernshausen Elementary School Sec 1 is in conformance with the City of Tomball ordinances.

By: *George Shackelford*
George Shackelford
City Manager

By: *Lori Lakatos*
Lori Lakatos, P.E., C.E.M.
Acting City Engineer

City of Tomball Minimum 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 easements for the purposes of construction, reconstruction, inspection, patrolling, maintaining and adding to or removing all or part of its respective system 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 system 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 removal or relocation of any obstruction in the public easement.

Flood Information:
According to FEMA Firm Panel No. 48201C0230 L (Effective Date June 16, 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, buildings lines, and/or easements. Building setback lines will be required adjacent to oil/gas pipelines. The setback 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 additions 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.

REASON FOR REPLAT:
TO CREATE ONE RESTRICTED RESERVE

GENERAL NOTES:

- THE BEARINGS SHOWN HEREON ARE REFERENCED TO THE TEXAS COORDINATE SYSTEM, SOUTH CENTRAL ZONE, AND BASED UPON A MONUMENTED LINE FOR THE SOUTH LINE OF THE SUBJECT TRACT, BEING "SOUTH 87°33'33" WEST".
- THE COORDINATES SHOWN HEREON ARE TEXAS SOUTH CENTRAL ZONE, NO. 4204 STATE PLANE GRID COORDINATES (NAD 83) AND MAY BE BROUGHT TO SURFACE BY APPLYING THE FOLLOWING COMBINED SCALE FACTOR OF 0.99994792741.
- ALL DISTANCES SHOWN HEREON ARE SURFACE DISTANCES.
- ⊙ INDICATES A SET 3/4-INCH IRON ROD WITH CAP STAMPED "AMERICAN-LUPHER 4752" UNLESS OTHERWISE SHOWN.
- THIS PLAT REQUIRES COMPLIANCE WITH LANDSCAPING REQUIREMENTS PRIOR OCCUPANCY OF STRUCTURES AS MANDATED IN "REGULATIONS OF HARRIS COUNTY, TEXAS FOR THE APPROVAL AND ACCEPTANCE OF INFRASTRUCTURE."

KLEIN ISD BERNSHAUSEN ELEMENTARY SCHOOL SEC 1

BEING A REPLAT OF LOTS 485, 486 &

PART OF LOT 484 OF THE

FIVE ACRE TRACTS TOMBALL TOWNSITE

VOL. 2, PG. 65 H.C.M.R.

A SUBDIVISION OF 13.8198 ACRES

OUT OF THE

J. PRUITT SURVEY, ABSTRACT NO. 629

HARRIS COUNTY, TEXAS

1 BLOCK 1 RESERVE

SCALE: 1" = 100' DATE: SEPTEMBER 2011

OWNER: KLEIN INDEPENDENT SCHOOL DISTRICT

DR. JIM CAIN, SUPERINTENDENT

7200 SPRING CYPRESS ROAD, KLEIN, TEXAS 77379, 832-249-4170

**AMERICAN
LUPHER**
LAND SURVEYORS, INC.

6800 WILLOW PLACE SOUTH, SUITE 540 HOUSTON, TEXAS 77070
OFFICE: (281)617-0808 FAX: (281)617-0708

THE STATE OF TEXAS
COUNTY OF HARRIS

We, ROSE LAND VENTURES, LLC, Acting By Phillip O'Sullivan, President and Phillip O'Sullivan hereinafter referred to as Owner of the 0.5062 Acre Tract described in the above and foregoing plat of Rose Gardens, do hereby make and establish of said subdivision property according to all lines, 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 and unobstructed aerial easement five feet in width from a plane twenty feet (20') above the ground level upward, located adjacent to all public utility easements shown hereon .

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

FURTHER, owners do hereby covenants 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 .

FOR 7827.73 SQ. FT.

WITNESS MY HANDS, This 15 day of Sept, 2011.

By: Phillip O'Sullivan
Phillip O'Sullivan

THE STATE TEXAS
COUNTY OF HARRIS

Before me the undersigned authority, on this day personally appeared, _____ known to me the persons whose name is subscribed to the foregoing instrument and acknowledge to me that they excuted the same for the purposes and considerations therein expressed and in the capacity therein and herein, and as the act and Deed of said Corporation .

Given under my hand and seal of office this 15th day of September, 2011 .



Janice H. Haddad
Notary Public in and for the State of Texas
My Commission expires : 2-13-2014

FOR LOTS 25 AND 26, BLOCK 82

IN TESTIMONY WHEREOF, the Rose Land Ventures, LLC., has caused these presents to be signed by Phillip O'Sullivan, President, hereunto approved
This 15 Day of Sept, 2011.

By: Phillip O'Sullivan
Phillip O'Sullivan, President

THE STATE TEXAS
COUNTY OF HARRIS

Before me the undersigned authority, on this day personally appeared, _____ known to me the persons whose name is subscribed to the foregoing instrument and acknowledge to me that they excuted the same for the purposes and considerations therein expressed and in the capacity therein and herein, and as the act and Deed of said Corporation .

Given under my hand and seal of office this 15th day of September, 2011 .



Janice H. Haddad
Notary Public in and for the State of Texas
My Commission expires : 2-13-2014

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

BY: _____
George Shakelford, City Manager

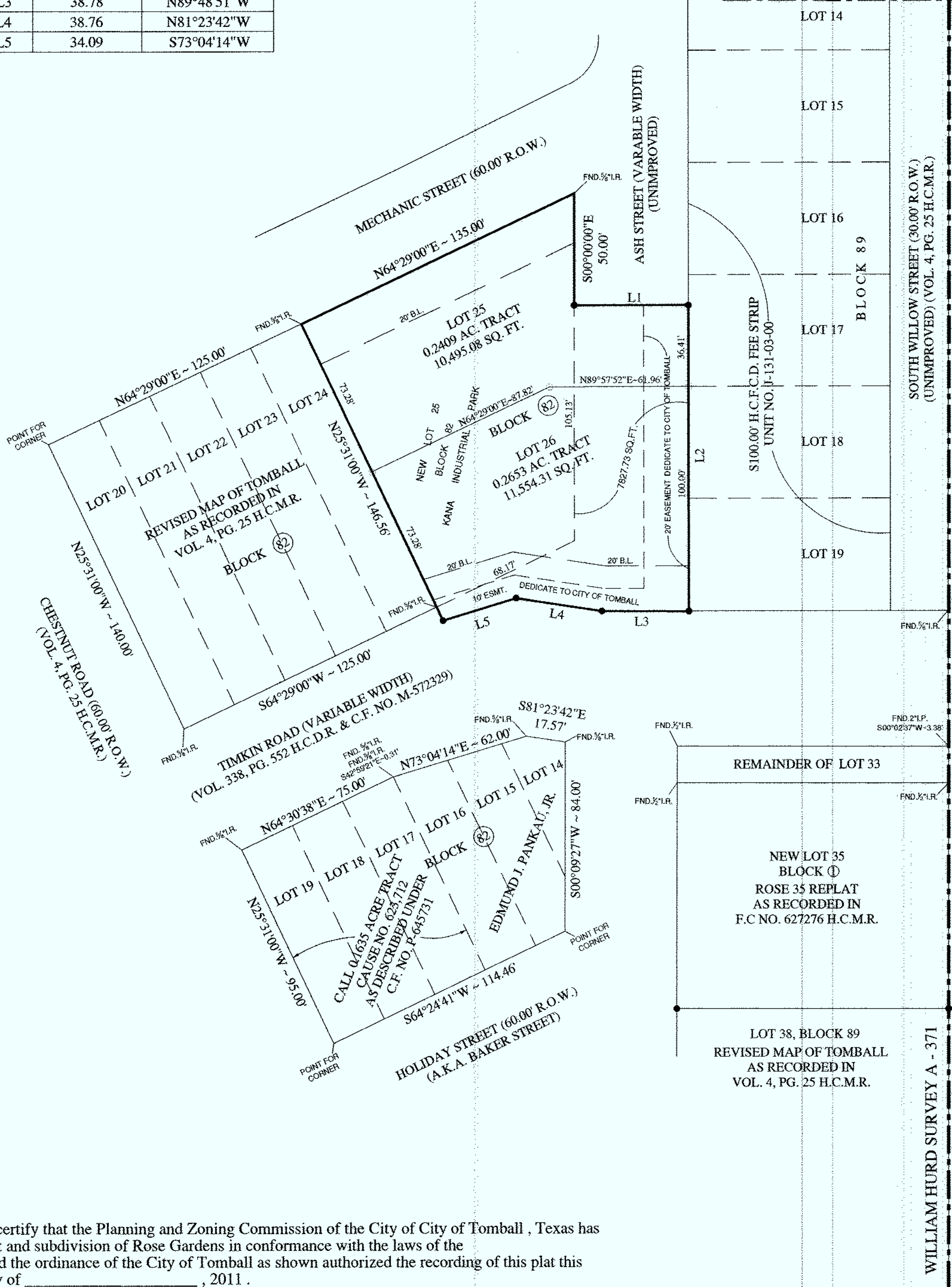
BY: Lori Lakatos
Lori Lakatos, P.E., CFM, Acting City Engineer

This is to certify that the City accepts the Planning and 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 _____, 2011 .

BY: _____
Gretchen Fagan, Mayor

BY: _____
Dorris Speer, City Secretary

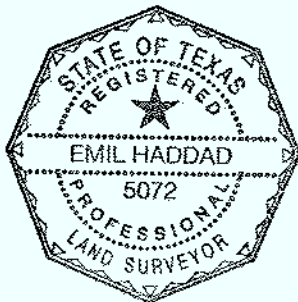
LINE TABLE		
LINE	LENGTH	BEARING
L1	50.93	N90°00'00"E
L2	136.41	S00°02'08"E
L3	38.78	N89°48'51"W
L4	38.76	N81°23'42"W
L5	34.09	S73°04'14"W



BY: _____
Lori Wallace, Chair

BY: _____
Evelyn Chervenak, Vice Chairman

I, Emil Haddad, am registered under the laws of the State of Texas to practice the profession of Surveying and hereby certify that the above subdivision is true and correct ; was prepared from an actual survey of the property made under my supervision on the ground ; that all boundary corners, angle points, points of curvature, and other points of reference have been marked with iron (or suitable permanent metal) pipes or rods having an outside diameter of not less than three-quarter inch (3/4") and a length of not less than three feet (3'), and that the plat boundary corners have been tied to the nearest survey corner.



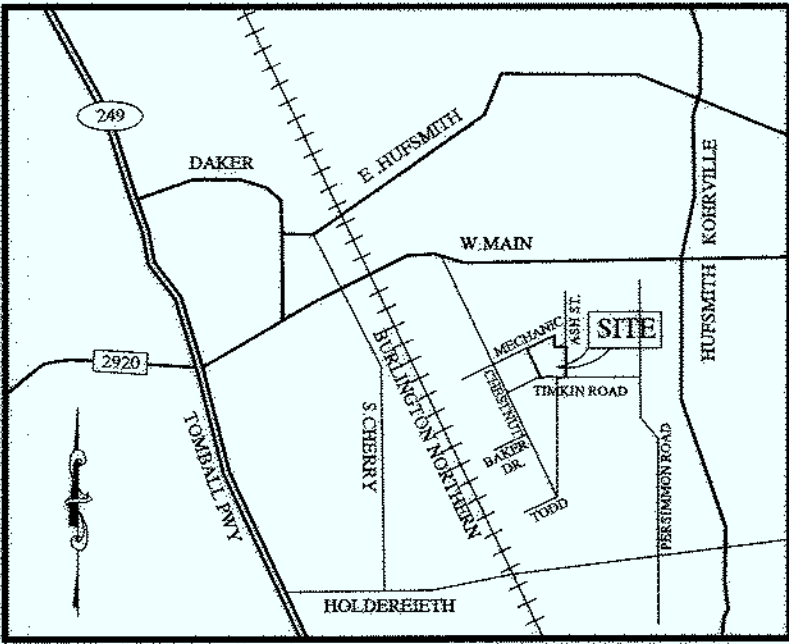
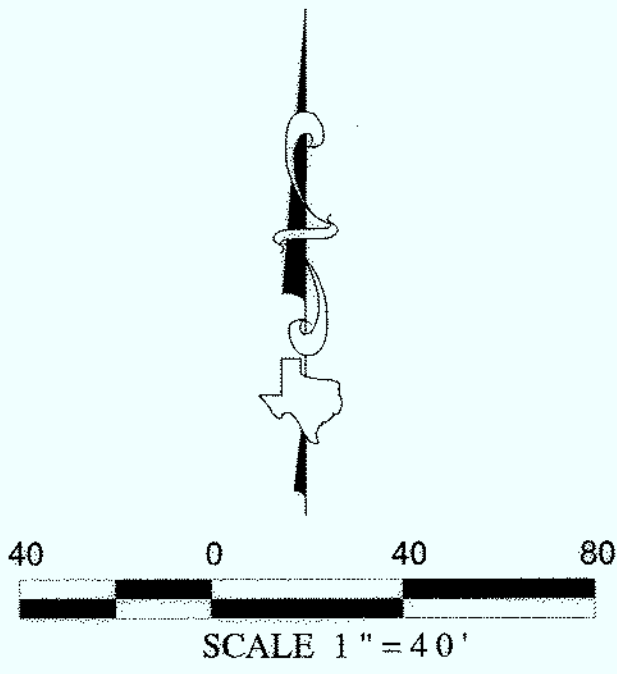
Emil Haddad
Emil Haddad, R.P.L.S.
Texas Registration No. 5072

I, Stan Stanart, County Clerk of Harris County, do hereby certify that the within instrument with it's certificate of authentication was filed for registration in my office on _____, 2011 at _____ o'clock _____, and duly recorded on _____, 2011, at _____ o'clock _____ and under film code number _____ of the map records of Harris County for said County .

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

Stan Stanart
County Clerk
of Harris County, Texas

By: _____
DEPUTY



VICINITY MAP
NOT TO SCALE

REPLAT
ROSE GARDENS
BEING A SUBDIVISION OF 0.5062 ACRE TRACT,
22,049.39 SQUARE FEET,
BEING A REPLAT OF
NEW LOT 25, BLOCK 82
OF KANA INDUSTRIAL PARK
AS RECORDED IN FILM CODE NO. 437064
HARRIS COUNTY MAP RECORDS
AND 7,827.73 SQUARE FEET OF ABANDONED
ASH STREET AND TIMKIN ROAD RIGHT OF WAY,
SITUATED IN THE WILLIAM HURD, SURVEY A-371
HARRIS COUNTY, TEXAS

CONTAINING
2 LOTS 1 BLOCK

SEPTEMBER 2011

OWNER
ROSE LAND VENTURES, LLC. 16014 BIRCHVIEW DRIVE
TOMBALL, TEXAS 77377
(832) 603 - 2725

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

LEGEND	
B.L.	Indicates " Building Line "
U.E.	Indicates " Utility Easement "
R.O.W.	Indicates " Right-of Way "
AC	Indicates " Acre "
SQ.FT.	Indicates " Square Feet "
FND.	Indicates " Found "
I.R.	Indicates " Iron Rod "
VOL.	Indicates " Volume "
PG.	Indicates " Page "
H.C.M.R.	Indicates " Harris County Map Records "
H.C.D.R.	Indicates " Harris County Deed Records "
C.F.#	Indicates " Clerk's File Number "
●	Indicates " Found 5/8" Iron Rod with E.I.C. CAP "
○	Indicates " Set 5/8" Iron Rod with E.I.C. CAP "

GENERAL NOTES

- Public easements denoted on this plat are hereby dedicated to the public forever. Any public utility, including the City of Tomball, shall have the right at all times, of ingress and egress to and from and upon said easements for the purpose of construction, reconstruction, inspection, patrolling, maintaining and adding to or removing all or part of its respective systems without the necessity of any time of procuring the permission of the property owner. Any public utility, including the City of Tomball, shall have the right to move and keep moved all or part of any building, fences, trees, shrubs, other growths or improvements that in any way endanger or interfere with the construction, maintenance or efficiency of it's respective systems on any of the easements shown on this plat. Neither the City of Tomball nor any other public utility shall be responsible for any damages to property within an easement arising out of the removal or relocation of any obstruction in the public easement.
- According to the FEMA Firm Panel No. 4803150230L (Effective Date June 18, 2007), this property is in Zone "X" and is not in the 0.2% Annual Chance Flood Plain.
- All oil/ gas pipelines or pipeline easements with ownership through the subdivision have been shown.
- All oil/ gas wells with ownership (plugged, abandoned, and/ or active) through the subdivision have been shown.
- No Building or structure shall be constructed across any pipelines, building lines, and/ or easements. Building setback lines will be required adjacent to oil/ gas pipelines. The setback at a minimum should be 15 feet off centerline of low pressure gas lines, and 30 feet off centerline of high pressure gas line.
- This plat does not attempt to amend or remove any valid covenants or restrictions.
- The building lines shown in this plat shall be in addition to, and shall not limit or replace, any building lines required by the City of Tomball Code of Ordinances at the time of the development of the property.
- Unlocated pipeline, telegraph, telephone, and power line easement in favor of Humble Oil and Refining Company recorded in Vol. 932, Pg. 579 & Vol. 1055, Pg. 560 H.C.D.R. is not visible crossing subject tract.
- Unlocated pipeline, telegraph, telephone, and power line easement in favor of Magnolia Pipeline Company recorded in Vol. 926, Pg. 488 H.C.D.R. and assigned to Humble Pipe Line Company in Vol. 7504, Pg. 561 H.C.D.R. not visible crossing subject tract.
- Unlocated pipeline right-of-way easement in favor of Shell Oil Company recorded in Vol. 3431, Pg. 479 & Vol. 3431, Pg. 480 H.C.D.R. not visible crossing subject tract.
- Variances for Building Line were approved based on BOA Case No. P11-336.

Regular City Council

Agenda Item

Meeting Date: September 19, 2011

Data Sheet

Topic:

Consideration to approve ZONING CASE P11-347: Request by John Thomas, on behalf of R.K. McGaughy, to amend the City's Comprehensive Zoning Ordinance to rezone approximately 3.9078 acres of land, legally described as Tract 2AA out of the C.N. Pillot Survey, Abstract Number 632, within the City of Tomball, Harris County, Texas, generally located on the westerly side of State Highway 249, northerly of Holderrieth Road, from the AG-Agricultural District to the C-Commercial District.

- Conduct a Public Hearing on ZONING CASE P11-347
- Adopt on First Reading, Ordinance 2011-21, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by changing the Zoning District Classification of approximately 3.9078 acres of land, legally described as Tract 2AA out of the C.N. Pillot Survey, Abstract Number 632, within the City of Tomball, Harris County, Texas, from the AG-Agricultural District to the C-Commercial District; said property being generally located on the westerly side of State Highway 249, northerly of Holderrieth Road; providing for the Amendment of the Official Zoning Map of the City; providing for severability; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters

Background:

On August 1, 2011, the Engineering and Planning Department received an application to rezone the subject site from the Agricultural District to the Commercial District. The rezoning application states the proposed use of the property will be for "Office, Restaurants, Service Stations, etc." The property is currently undeveloped.

The site was annexed into the City of Tomball as part of the 172.812-acre Tomball Expressway Road right-of-way annexation in December 2008. At the time of annexation, the property was given an interim zoning classification of Agricultural District.

The uses along the State Highway 249 corridor through Tomball are predominately commercial and retail related. As such, the rezoning and permitted land uses in the Commercial District would be in keeping with the existing and intended land uses in the vicinity.

After reviewing the rezoning request, staff prepared a report to the Planning and Zoning Commission recommending approval. On September 12, 2011, the Planning and Zoning Commission, after conducting a public hearing on this request, voted to recommend approval of Zoning Case P11-347. This case is now being forwarded to City Council for consideration and possible action.

Origination:

John Thomas, on behalf of R.K. McGaughy

Recommendation:

In its formal recommendation to City Council, the Planning and Zoning Commission voted to approve Zoning Case P11-347.

Funding:

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

Engineering and Planning

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

ATTACHMENTS:

Notice of Public Hearing

Property Owner Notification Letter

P11-347 Staff Report

Ordinance 2011-21

**NOTICE OF PUBLIC HEARINGS
CITY OF TOMBALL
PLANNING & ZONING COMMISSION
SEPTEMBER 12, 2011
&
CITY COUNCIL
SEPTEMBER 19, 2011**



Notice is Hereby Given that Public Hearings will be held by the Planning & Zoning Commission of the City of Tomball on **Monday, September 12, 2011, at 6:00 P.M.**, and by the City Council of the City of Tomball on **Monday, September 19, 2011, at 6:00 P.M.** at Regular Meetings, in the City Council Chambers of the City of Tomball at City Hall, 401 Market Street, Tomball, Texas. On such dates, the Planning & Zoning Commission and City Council will consider the following:

ZONING CASE P11-347: Request by John Thomas, on behalf of R.K. McGaughy, to amend the City's Comprehensive Zoning Ordinance to rezone approximately 3.9078 acres of land, legally described as Tract 2AA out of the C.N. Pillot Survey, Abstract Number 632, within the City of Tomball, Harris County, Texas, generally located on the westerly side of State Highway 249, northerly of Holderrieth Road, from the AG-Agricultural District to the C-Commercial District.

ZONING CASE P11-348: Request by the Tomball Economic Development Corporation, on behalf of Capital One, National Association, to amend the City's Comprehensive Zoning Ordinance to rezone approximately 97.48 acres of land, legally described as Lots 386 and 387 and Tract 385 out of the Tomball Outlots and Tract 4 out of the Elizabeth Smith Survey, Abstract 70, within the City of Tomball, Harris County, Texas, generally located on the westerly side of Hufsmith-Kohrville Road, northerly of Holderrieth Road, from the SF-6 - Single-Family Residential-6 District and C - Commercial District to the LI - Light Industrial District.

ZONING CASE P11-349: Request by Peter and Sylvia Hildreth to amend the City's Comprehensive Zoning Ordinance to rezone approximately 6.928 acres of land, legally described as Lots 36, 43, 44, and 45 out of the Tomball Hills Addition Plat, within the City of Tomball, Harris County, Texas, generally located on the easterly side of State Highway 249, northerly of Zion Road, from the SF-9 - Single-Family Residential-9 District to the C - Commercial District.

Persons interested in these cases will be given an opportunity to be heard. Action by the Planning and Zoning Commission serves as a recommendation to the City Council and is not a final action on the request. Should the Planning & Zoning Commission vote to table a decision/recommendation on one or more of the above cases, the date and time of a future meeting will be specified and the City Council will not review the subject case until such a decision/recommendation is forwarded to the City Council by the Planning and Zoning Commission. The application is available for public inspection Monday through Friday, holidays excepted, between the hours of 8:00 a.m. and 5:00 p.m. in the Engineering & Planning Department office, located at 501 James Street, Tomball, TX 77375. **Contact Assistant City Planner** Rodney Schmidt, (281) 290-1410, rschmidt@ci.tomball.tx.us

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 **8th** day of **September** 2011 by **5:00** p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Brandy Pate
Brandy Pate
Senior Administrative Assistant

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



Notice of Public Hearing

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

CASE NUMBER: P11-347

APPLICANT: John Thomas, on behalf of R.K. McGaughy

LOCATION: Westerly side of State Highway 249, northerly of Holderrieth Road

PROPOSAL: Request to amend the City's Comprehensive Zoning Ordinance to rezone approximately 3.9078 acres of land, legally described as Tract 2AA out of the C.N. Pillot Survey, Abstract Number 632, within the City of Tomball, Harris County, Texas, from the AG-Agricultural District to the C-Commercial District.

* * *

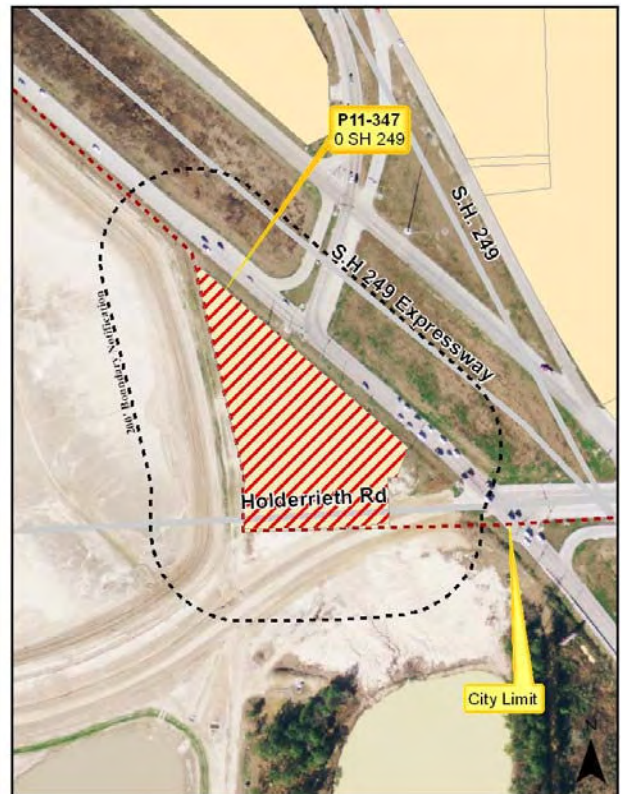
CONTACT PLANNER: Rodney Schmidt

PHONE: (281) 290-1410

E-MAIL: rschmidt@ci.tomball.tx.us

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

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



**Planning and Zoning Commission
Public Hearing:
Monday, September 12, 2011, 6:00 PM**

**City Council Public Hearing:
*Monday, September 19, 2011, 6:00 PM**

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

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



Rezoning Staff Report

Planning and Zoning Commission Hearing Date: September 12, 2011

Rezoning Case: P11-347
Property Owner(s): R.K. McGaughy
Applicant(s): John Thomas
Legal Description: Tract 2AA out of the C.N. Pillot Survey, Abstract Number 632, within the City of Tomball, Harris County, Texas
Location: Generally located on the westerly side of State Highway 249, northerly of Holderrieth Road
Area: 3.9078 acres
Present Zoning and Use: AG-Agricultural District / Undeveloped
Comp Plan Designation: Commercial
Proposed Zoning and Use: C-Commercial District / Office, restaurants, service station, etc.

It should be noted, that any use permitted in the proposed district would be allowed at this location if the zoning is changed. Furthermore, the Planning & Zoning Commission may consider zoning classifications other than that sought by the applicant for this property.

Adjacent Zoning & Land Uses:

North: C-Commercial District / SH 249 Expressway ROW and undeveloped land
South: ETJ (unzoned) / Undeveloped land and Harris County Flood Control District detention facility
East: C-Commercial District / SH 249 ROW
West: ETJ (unzoned) / Harris County Flood Control District detention facility

BACKGROUND

The subject site is 3.9078 acres of land legally described as Tract 2AA out of the C.N. Pillot Survey, Abstract Number 632, within the City of Tomball, Harris County, Texas. The site is generally located on the westerly side of State Highway 249 (SH 249), northerly of Holderrieth Road (Exhibit "A"). The entire site is currently undeveloped.

The property was annexed into the City of Tomball on December 1, 2008 as part of the 172.812 acre SH 249 Bypass (Tomball Expressway) Road Right-of-Way annexation (Exhibit "B"). Because the subject site was annexed after the passage of the Zoning Ordinance and because a concurrent rezoning request was not filed by the property owner, the subject site was given a

zoning classification of AG-Agricultural District. Section 6.1 of the Zoning Ordinance states, “For any period of time following official annexation by the City until a zoning action has been officially adopted to zone the land, the interim zoning of the land shall be considered to be Agricultural (‘AG’), and all zoning and development regulations of the ‘AG’ zoning district shall be adhered to with respect to the development and use of the land.”

On August 1, 2011, the applicant submitted a rezoning application and letter (Exhibits “C” and “D”) to rezone the subject site from the AG-Agricultural District to the C-Commercial District in order to allow land uses such as “office, restaurants, service stations, etc.”

ANALYSIS

According to the Tomball Zoning Ordinance, the C-Commercial District “is intended to provide a location for commercial and service-related establishments, such as wholesale product sales, welding/contractors shops, automotive repair services, upholstery shops, and other similar commercial uses. Some light manufacturing may also be allowed with certain conditions. The uses envisioned for the district will typically utilize smaller sites and have operation characteristics which are generally not compatible with residential uses and some nonresidential uses. Convenient access to thoroughfares and collector streets is also a primary consideration.”

The uses along the SH 249 corridor through Tomball are predominately commercial and retail related. However, much of the land in the immediate vicinity of the subject site is currently undeveloped. To the north of the subject site is SH 249 Expressway ROW and undeveloped land within the Commercial District, to the south is undeveloped land and a Harris County Flood Control District detention facility within the unzoned extraterritorial jurisdiction of Tomball, to the east is SH 249 ROW within the Commercial District, and to the west is a Harris County Flood Control District detention facility within the unzoned extraterritorial jurisdiction of Tomball (Exhibits “A” and “E”).

The proposed rezoning to the C-Commercial District is consistent with the “Commercial” Comprehensive Plan land use designation (Exhibit “F”). The Comprehensive Plan states that the Commercial land use designation “is where retail sales and service activities should occur. These uses include, but are not limited to, shopping centers, convenience stores, auto dealers, department stores, grocery and drug stores, entertainment facilities, food and beverage purveyors, salons, and small repair shops.” Additionally, the “Commercial Planning Guidelines” outlined in the Comprehensive Plan provide that commercial development is to be compatible with surrounding land uses and that consideration for the impacts of commercial development on the local and regional roadway network shall be determined.

Due to the fact the requested rezoning is consistent with the Comprehensive Plan’s Future Land Use Plan Map, is consistent with the intended uses in the area, and will help support the commercial development pattern along the SH 249 corridor, staff is supportive of the rezoning request.

As a matter of information, the future development of this site will require the applicant to comply with the City’s platting requirements as well as the use and area regulations outlined in the Zoning Ordinance. A site plan application, which require civil drawings, including all proposed grading, paving, drainage, and utility plans, building elevations and landscape plans, are required to be submitted and approved by the Engineering & Planning Department and Fire Marshal’s Office prior to a building permit application submittal.

ZONING CONSIDERATIONS

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

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

The uses along the SH 249 corridor through Tomball are predominately commercial and retail related. However, much of the land in the immediate vicinity of the subject site is currently undeveloped. To the north of the subject site is SH 249 Expressway ROW and undeveloped land within the Commercial District, to the south is undeveloped land and a Harris County Flood Control District detention facility within the unzoned extraterritorial jurisdiction of Tomball, to the east is SH 249 ROW within the Commercial District, and to the west is a Harris County Flood Control District detention facility within the unzoned extraterritorial jurisdiction of Tomball. See site photos (Exhibit “G”).

Staff feels the rezoning and permitted land uses in the C-Commercial District would be in keeping with the existing and intended land uses in the vicinity.

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

There is currently sufficient water, sewer, and gas capacity in the area to service this site. The future development of the site may require the extension of utilities to and through the site.

SH 249 and SH 249 Expressway are designated as “State Highways” on the adopted Major Thoroughfare Plan (MTP). The MTP states, “The main purpose of State Highways and FM Roadways is to move large volumes of traffic through urban areas and provide direct access to local freeways, while also providing controlled access to adjacent businesses.” The right-of-way for State Highway 249 and State Highway 249 Expressway has been acquired in the vicinity and the impacts to these roadways due to the rezoning of the site are anticipated to be minimal.

The development of the site for commercial purposes would not impact the public school system as it would not increase attendance to the school system.

As a matter of information, the future development of the site will likely result in increased impervious area, thereby altering absorption rates and increasing surface runoff. Drainage improvements shall comply with the requirements of the City’s Engineering and Planning Department.

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

There are a limited number of undeveloped properties zoned Commercial District in the immediate vicinity. However, there is a large amount of vacant land available along Holderrieth Road and in the rest of the City of Tomball zoned Commercial District. Most of the undeveloped acreage along SH 249 and SH 249 Expressway (within the City of Tomball) is zoned Agricultural District because of the December 2008 annexation, however it is anticipated that these properties will be rezoned at some point in the future to accommodate future commercial growth.

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

The subject property is located along the SH 249 corridor which is extensively developed with commercial and retail uses. The surrounding commercial and retail uses have developed steadily for a number of years due to the high traffic volumes and visibility on SH 249.

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

If the proposed zoning change were approved, there should be few, if any, affects on other areas designated for similar developments.

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

The proposed zone change is not anticipated to adversely affect health, safety, morals, or general welfare.

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

According to the Comprehensive Plan, rezonings are “to conform to the intended future land use pattern shown on the Future Land Use Plan and should occur only when economic, physical, social, and other factors will allow the proposed land use to be developed:

- Within the capacities of existing or funded infrastructure and public facilities and services;
- In a compatible manner with surrounding land uses;
- To standards specified for and appropriate to the proposed land use; and,
- In a way that furthers or helps achieve the goals of the Plan.”

The request is consistent with the Comprehensive Plan’s land use designation. The Comprehensive Plan states that the Commercial land use “is where retail sales and service activities should occur. These uses include but are not limited to shopping centers, convenience stores, auto dealers, department stores, grocery and drug stores, entertainment facilities, food and beverage purveyors, salons, and small repair shops. Small professional office uses such as physicians, accountants, or therapy offices would be permitted.”

Additionally, the “Commercial Planning Guidelines” aim to ensure commercial development compatibility with surrounding land uses and provide proper transitions, buffers, or architectural reliefs to minimize negative impacts to adjacent uses.” The proposed rezoning of the property to the Commercial District is consistent with the Comprehensive Plan’s Future Land Use Plan Map, will help to ensure commercial land use consistency along the SH 249 corridor, and will enhance the area’s long-term economic viability.

PUBLIC COMMENT

Property owners within 200 feet of the project site were mailed notification of this proposal on September 1, 2011 and, as of the writing of this report, no public comment forms were received.

RECOMMENDATION

That the Planning and Zoning Commission recommend:

1. APPROVAL of Zoning Case P11-347 based on the following:
 - a. The proposed zoning of Commercial District will be compatible with the land uses along the SH 249 corridor.
 - b. The proposed zoning of Commercial District is compatible with the Tomball Comprehensive Plan.
 - c. The proposed zoning of Commercial District will not negatively impact public schools, streets, water supply, sanitary sewers, or other utilities to the area.
 - d. There is sufficient utility capacity to service commercial uses on this site.
2. APPROVAL of the staff report as the Planning and Zoning Commission’s final recommendation to the City Council.

EXHIBITS

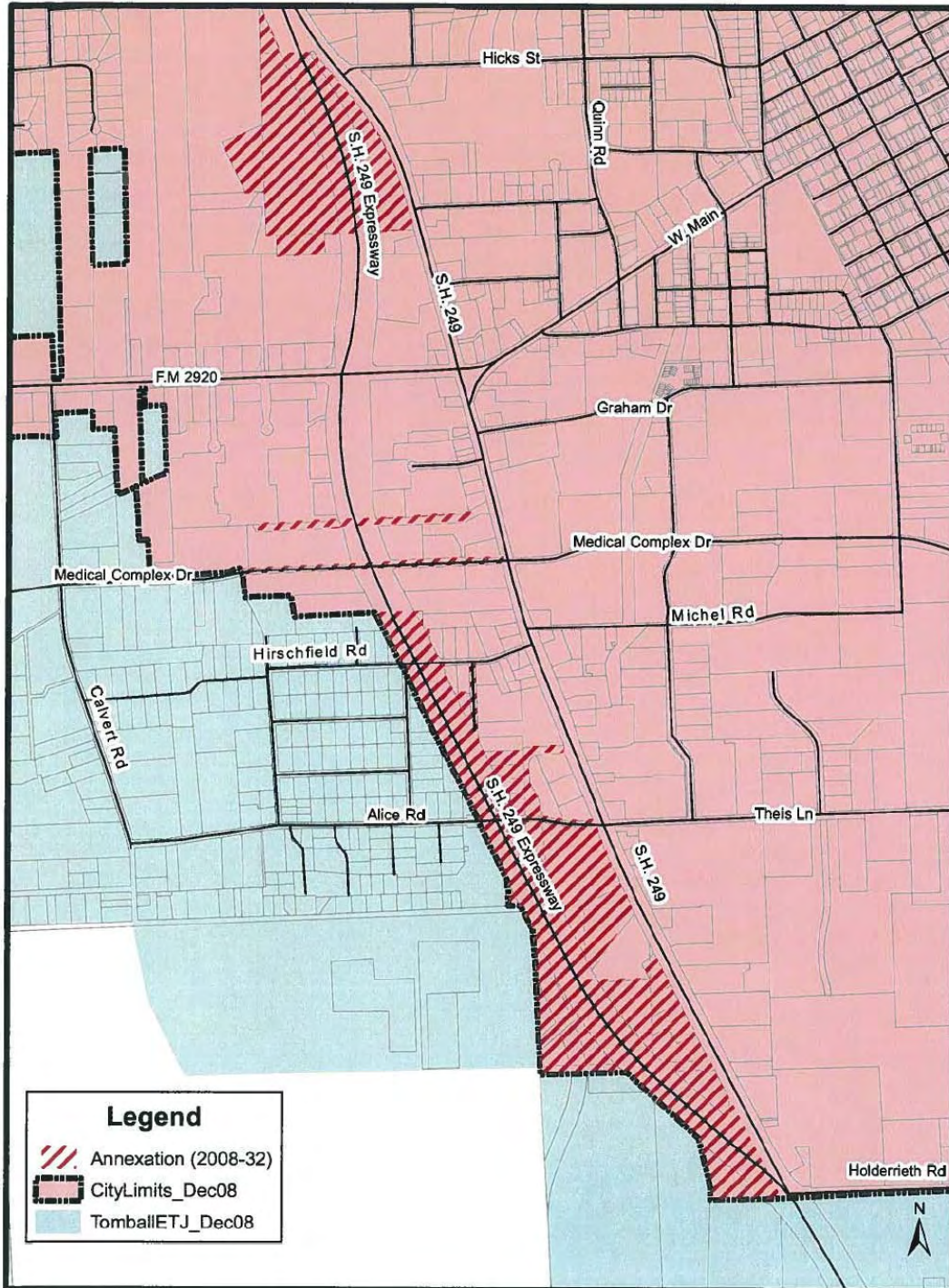
- A. Aerial Photo
- B. Ordinance 2008-32 Annexation Map
- C. Rezoning Application
- D. Rezoning Request Letter
- E. Location/Zoning Map
- F. Comprehensive Plan Future Land Use Map
- G. Site Photos

Exhibit "A"
Aerial Photo



Exhibit "B"
Ordinance 2008-32 Annexation Map

City of Tomball Annexation (Ordinance #:2008-32)



Date Created: 2/26/09
Map Created By: City of Tomball
Engineering & Planning Dept.

Exhibit "C"
Rezoning Application



Revised 1/20/09

APPLICATION FOR REZONING
Engineering & Planning Department



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

Applicant

Name: John G. Thomas Title: Surveyor
Mailing Address: 14340 Torrey Chase Blvd. City: Houston State: Texas
Zip: 77014
Phone: (281) 440-7730 Fax: (281) 440-7737 Email: john@thomaslandsurveyin.com

Owner

Name: R.K. McGaughey, Trustee Title: _____
Mailing Address: 14343-B Torrey Chase Blvd. City: Houston State: Texas
Zip: 77014
Phone: (281) 580-4859 Fax: (281) 580-3808 Email: terprealestate@mindspring.com

Engineer/Surveyor (if applicable)

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

Description of Proposed Project: Vacant property - proposed Commercial development
Physical Location of Property: West Side St. Hwy 249 Bypass 900ft North of Willowick.
[General Location - approximate distance to nearest existing street corner]

Legal Description of Property: Claude Pillat Survey, A-632
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]

Current Zoning District: Agricultural District

Current Use of Property: NA

Proposed Zoning District: Commercial District

Proposed Use of Property: Office, Restaurants, Service Stations, etc.

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

www.ci.tomball.tx.us

044-058-000-0290
HCAD Identification Number: 044-058-000-029 Acreage: 3.9078 Acres

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

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

X John H. Thomas 7/27/11
Signature of Applicant Date

X R. B. McLaughlin, Jr. 7/27/11
Signature of Owner Date

Exhibit "D"
Rezoning Request Letter



July 29, 2011

Reference: 3.9078 Acres
Claude M. Pillot Survey, A-632
Tomball, Harris County, Texas

To Whom It May Concern:

We have requested a zoning change on the referenced tract from ag zoning to Commercial zoning as the tract is proposed to be used for commercial purposes.

Respectfully


John G. Thomas

14340 Torrey Chase Boulevard · Suite 270 · Houston, Texas 77014
(281) 440-7730 · Fax (281) 440-7737
www.thomaslandsurveying.com

Exhibit "E"
Location/Zoning Map



Exhibit “F”
Comprehensive Plan Future Land Use Map



**Exhibit “G”
Site Photos**



Figure 1: Southwesterly view of subject site.



Figure 2: Southeasterly view down S.H. 249 Expressway. Subject site on right.



Figure 3: Northwesterly view up S.H. 249 Expressway. Subject site on left.



Figure 4: Northeasterly view. Subject site on left.

ORDINANCE NO. 2011-21

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING ITS COMPREHENSIVE ZONING ORDINANCE BY CHANGING THE ZONING DISTRICT CLASSIFICATION OF APPROXIMATELY 3.9078 ACRES OF LAND, LEGALLY DESCRIBED AS TRACT 2AA OUT OF THE C.N. PILLOT SURVEY, ABSTRACT NUMBER 632, WITHIN THE CITY OF TOMBALL, HARRIS COUNTY, TEXAS, FROM THE AG-AGRICULTURAL DISTRICT TO THE C-COMMERCIAL DISTRICT; SAID PROPERTY BEING GENERALLY LOCATED ON THE WESTERLY SIDE OF STATE HIGHWAY 249, NORTHERLY OF HOLDERRIETH ROAD; PROVIDING FOR THE AMENDMENT OF THE OFFICIAL ZONING MAP OF THE CITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR A PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF, MAKING FINDINGS OF FACT; AND PROVIDING FOR OTHER RELATED MATTERS

* * * * *

Whereas, the owner(s) of 3.9078 acres of land, legally described as Tract 2AA out of the C.N. Pillot Survey, Abstract Number 632, generally located on the westerly side of State Highway 249, northerly of Holderrieth Road, from the AG-Agricultural District to the C-Commercial District; and

Whereas, at least eight (8) days after publication in the official newspaper of the City of the time and place of a public hearing and at least ten (10) days written notice of that hearing to the owners of land within two hundred feet of the Property in the manner required by law, the Planning & Zoning Commission held a public hearing on the proposal to change the zoning for the Property from AG-Agricultural District to the C-Commercial District; and

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

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

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

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

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

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

Section 2. The zoning classification of 3.9078 acres of land, legally described as Tract 2AA out of the C.N. Pillot Survey, Abstract Number 632, within the City of Tomball, Harris County, Texas, is hereby changed from the AG-Agricultural District to the C-Commercial District subject to the regulations, restrictions, and conditions hereafter set forth.

Section 3. The Official Zoning Map of the City of Tomball, Texas-Ordinance 2008-01, (“Zoning District Map”), shall be revised and amended to show the designation of 3.9078 acres of land, legally described as Tract 2AA out of the C.N. Pillot Survey, Abstract Number 632, generally located on the westerly side of State Highway 249, northerly of Holderrieth Road, as C-Commercial District, with the appropriate reference thereon to the number and effective date of this Ordinance and a brief description of the nature of the change.

Section 4. This Ordinance shall in no manner amend, change, supplement, or revise any provision of any ordinance of the City of Tomball, save and except the change in zoning classification for 3.9078 acres of land, legally described as Tract 2AA out of the C.N. Pillot Survey, Abstract Number 632, generally located on the westerly side of State Highway 249, northerly of Holderrieth Road, to C-Commercial District as described above.

Section 5. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

Section 6. Any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction, shall be fined in an amount not to exceed \$2,000. Each day of violation shall constitute a separate offense.

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

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 19TH DAY OF SEPTEMBER 2011.

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 3RD DAY OF OCTOBER 2011.

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: September 19, 2011

Data Sheet

Topic:

Consideration to approve ZONING CASE P11-348: Request by the Tomball Economic Development Corporation, on behalf of Capital One, National Association, to amend the City's Comprehensive Zoning Ordinance to rezone approximately 97.48 acres of land, legally described as Lots 386 and 387 and Tract 385 out of the Tomball Outlots and Tract 4 out of the Elizabeth Smith Survey, Abstract 70, within the City of Tomball, Harris County, Texas, generally located on the westerly side of Hufsmith-Kohrville Road, northerly of Holderrieth Road, from the SF-6 - Single-Family Residential-6 District and C -Commercial District to the LI - Light Industrial District.

- Conduct a Public Hearing on ZONING CASE P11-348
- Adopt on First Reading, Ordinance 2011-22, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by changing the Zoning District Classification of approximately 97.48 acres of land, legally described as lots 386 and 387 and tract 385 out of the Tomball Outlots and tract 4 out of the Elizabeth Smith Survey, Abstract 70, within the City of Tomball, Harris County, Texas, from the SF-6 - Single-Family Residential-6 District and C-Commercial District to the LI-Light Industrial District; Said property being generally located on the westerly side of Hufsmith-Kohrville Road, northerly of Holderrieth Road; Providing for the Amendment of the Official Zoning Map of the City; Providing for severability; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters

Background:

On August 3, 2011, the Engineering and Planning Department received an application to rezone the subject site from the Single-Family Residential-6 and Commercial Districts to the Light Industrial District. The rezoning application states the proposed use of the property will be for a "Business Park." The property is currently undeveloped.

On May 24, 2011, the Tomball Economic Development Corporation (TEDC) Board of Directors approved the designation of the subject site as a possible location for a business and technology park. On July 18, 2011, Tomball City Council approved the business and technology park project and the acquisition of the subject site.

After reviewing the rezoning request, staff prepared a report to the Planning and Zoning Commission recommending approval. On September 12, 2011, the Planning and Zoning Commission, after conducting a public hearing on this request, voted to recommend approval of Zoning Case P11-348. This case is now being forwarded to City Council for consideration and possible action.

Origination:

Tomball Economic Development Corporation, on behalf of Capital One, National Association

Recommendation:

In its formal recommendation to City Council, the Planning and Zoning Commission voted to recommend approval of Zoning Case P11-348.

Funding:

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

Engineering and Planning

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

ATTACHMENTS:

Notice of Public Hearing

Property Owner Notification Letter

P11-348 Staff Report

Ordinance 2011-22

Public Comment Form - Lorie Rabalais

**NOTICE OF PUBLIC HEARINGS
CITY OF TOMBALL
PLANNING & ZONING COMMISSION
SEPTEMBER 12, 2011
&
CITY COUNCIL
SEPTEMBER 19, 2011**



Notice is Hereby Given that Public Hearings will be held by the Planning & Zoning Commission of the City of Tomball on **Monday, September 12, 2011, at 6:00 P.M.**, and by the City Council of the City of Tomball on **Monday, September 19, 2011, at 6:00 P.M.** at Regular Meetings, in the City Council Chambers of the City of Tomball at City Hall, 401 Market Street, Tomball, Texas. On such dates, the Planning & Zoning Commission and City Council will consider the following:

ZONING CASE P11-347: Request by John Thomas, on behalf of R.K. McGaughy, to amend the City's Comprehensive Zoning Ordinance to rezone approximately 3.9078 acres of land, legally described as Tract 2AA out of the C.N. Pillot Survey, Abstract Number 632, within the City of Tomball, Harris County, Texas, generally located on the westerly side of State Highway 249, northerly of Holderrieth Road, from the AG-Agricultural District to the C-Commercial District.

ZONING CASE P11-348: Request by the Tomball Economic Development Corporation, on behalf of Capital One, National Association, to amend the City's Comprehensive Zoning Ordinance to rezone approximately 97.48 acres of land, legally described as Lots 386 and 387 and Tract 385 out of the Tomball Outlots and Tract 4 out of the Elizabeth Smith Survey, Abstract 70, within the City of Tomball, Harris County, Texas, generally located on the westerly side of Hufsmith-Kohrville Road, northerly of Holderrieth Road, from the SF-6 - Single-Family Residential-6 District and C - Commercial District to the LI - Light Industrial District.

ZONING CASE P11-349: Request by Peter and Sylvia Hildreth to amend the City's Comprehensive Zoning Ordinance to rezone approximately 6.928 acres of land, legally described as Lots 36, 43, 44, and 45 out of the Tomball Hills Addition Plat, within the City of Tomball, Harris County, Texas, generally located on the easterly side of State Highway 249, northerly of Zion Road, from the SF-9 - Single-Family Residential-9 District to the C - Commercial District.

Persons interested in these cases will be given an opportunity to be heard. Action by the Planning and Zoning Commission serves as a recommendation to the City Council and is not a final action on the request. Should the Planning & Zoning Commission vote to table a decision/recommendation on one or more of the above cases, the date and time of a future meeting will be specified and the City Council will not review the subject case until such a decision/recommendation is forwarded to the City Council by the Planning and Zoning Commission. The application is available for public inspection Monday through Friday, holidays excepted, between the hours of 8:00 a.m. and 5:00 p.m. in the Engineering & Planning Department office, located at 501 James Street, Tomball, TX 77375. **Contact Assistant City Planner** Rodney Schmidt, (281) 290-1410, rschmidt@ci.tomball.tx.us

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 **8th** day of **September** 2011 by **5:00** p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Brandy Pate
Brandy Pate
Senior Administrative Assistant

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



Notice of Public Hearing

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

CASE NUMBER: P11-348

APPLICANT: Tomball Economic Development Corporation, on behalf of Capital One, National Association

LOCATION: Westerly side of Hufsmith-Kohrville Road, northerly of Holderrieth Road

PROPOSAL: Request to amend the City's Comprehensive Zoning Ordinance to rezone approximately 97.48 acres of land, legally described as Lots 386 and 387 and Tract 385 out of the Tomball Outlots and Tract 4 out of the Elizabeth Smith Survey, Abstract 70, within the City of Tomball, Harris County, Texas, from the SF-6 - Single-Family Residential-6 District and C-Commercial District to the LI - Light Industrial District.

* * *

CONTACT PLANNER: Rodney Schmidt

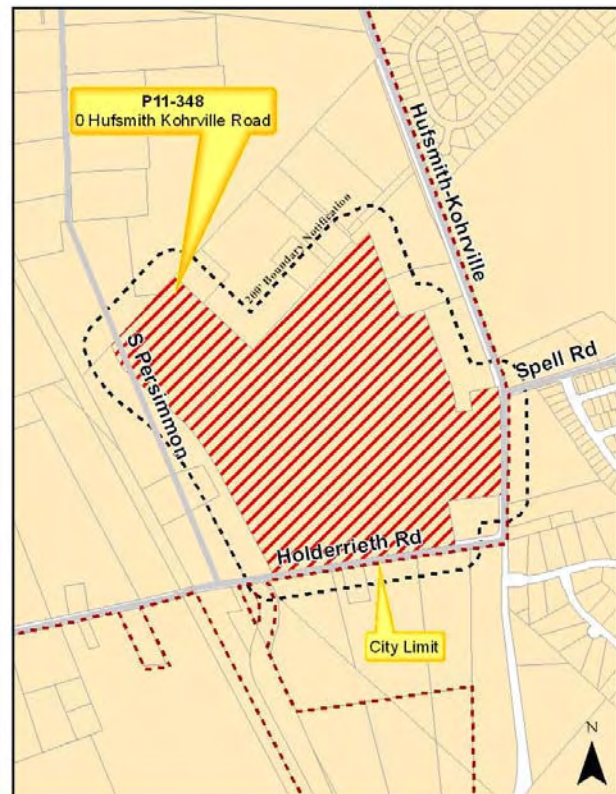
PHONE: (281) 290-1410

E-MAIL: rschmidt@ci.tomball.tx.us

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

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

City of Tomball Engineering and Planning Department – 501 James Street – Tomball, TX 77375



**Planning and Zoning Commission
Public Hearing:**

Monday, September 12, 2011, 6:00 PM

City Council Public Hearing:

***Monday, September 19, 2011, 6:00 PM**

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

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



Rezoning Staff Report

Planning and Zoning Commission Hearing Date: September 12, 2011

Rezoning Case:	P11-348
Property Owner(s):	Capital One, National Association
Applicant(s):	Tomball Economic Development Corporation
Legal Description:	Lots 385, 386 and 387 out of the Tomball Outlots and Tract 4 out of the Elizabeth Smith Survey, Abstract 70
Location:	Generally located on the westerly side of Hufsmith-Kohrville Road, northerly of Holderrieth Road
Area:	97.48 acres
Present Zoning and Use:	Single-Family Residential-6 and Commercial Districts / Undeveloped
Comp Plan Designation:	Business/Industrial and Rural Residential
Proposed Zoning and Use:	Light Industrial District / Business and technology park

It should be noted, that any use permitted in the proposed district would be allowed at this location if the zoning is changed. Furthermore, the Planning & Zoning Commission may consider zoning classifications other than that sought by the applicant for this property.

Adjacent Zoning & Land Uses:

North:	Single-Family Estate Residential-20 and Agricultural Districts / Undeveloped, Residential, and Agricultural
South:	General Retail District and Unzoned ETJ / Retail, Undeveloped, Commercial, Industrial, and Residential
East:	Agricultural District and Unzoned ETJ / Commercial, Undeveloped, and Residential
West:	Agricultural, Single-Family Estate Residential-20, and Light Industrial Districts / Undeveloped and Industrial

BACKGROUND

The subject site is legally described as Lots 385, 386 and 387 (Exhibit "A") out of the Tomball Outlots and Tract 4 out of the Elizabeth Smith Survey, Abstract 70 within the City of Tomball, Harris County, Texas totaling approximately 97.48 acres. The site is generally located on the westerly side of Hufsmith-Kohrville Road, northerly of Holderrieth Road and is currently undeveloped (Exhibit "B").

On May 24, 2011, the Tomball Economic Development Corporation (TEDC) Board of Directors approved the designation of the subject site as a possible location for a business and technology park. On July 18, 2011, Tomball City Council approved the business and technology park project and the acquisition of the subject site.

On August 3, 2011, the Engineering & Planning Department received a rezoning application and letter for the subject site (Exhibits “C” and “D”). As part of their due diligence phase, the applicant is requesting to rezone the property from the Single-Family Residential-6 and Commercial Districts to the Light Industrial District to properly zone the subject site for their intended business and technology park.

ANALYSIS

According to the Tomball Zoning Ordinance, “The LI, Light Industrial, district is intended primarily for the conduct of light manufacturing, assembling and fabrication activities, and for warehousing, research and development, wholesaling and service operations that do not typically depend upon frequent customer or client visits. Such uses do require accessibility to major thoroughfares, major highways, and/or other means of transportation such as the railroad.”

There is a mixture of land uses in the vicinity (Exhibits “B” and “E”). To the north of the subject site is undeveloped, residential, and agricultural land in the Single-Family Estate Residential-20 and Agricultural Districts; to the south is a retail, undeveloped, commercial, industrial, and residential land within the General Retail District and Tomball’s unzoned extraterritorial jurisdiction; to the east is commercial, undeveloped, and residential land in the Agricultural District and Tomball’s unzoned extraterritorial jurisdiction; and to the west is undeveloped and industrial land in the Agricultural, Single-Family Estate Residential-20, and Light Industrial Districts.

The proposed rezoning to the Light Industrial District is generally consistent with the Comprehensive Plan land use designations (Exhibit “F”). The majority of the site is designated as “Business/Industrial” with the northern tip designated as “Rural Residential.” The Comp Plan states, “Boundary lines are to be considered approximate and discretion may be used in determining them. Variations, particularly where significant natural or manmade features are present, may be acceptable. It will be the responsibility of the Tomball City Council, with the recommendation of the Planning & Zoning Commission, city planning staff, and guidance provided by the Comprehensive Plan to establish and more accurately define the boundaries if questions arise.”

The Comprehensive Plan states the Business/Industrial land use designation is “where industrial and intensive employment activities should occur. Activities that will require unenclosed assembly, repair and/or storage and require heavy truck or rail transportation support are acceptable. Also included would be warehousing and distribution facilities, as well as offices and showrooms.” The business and technology park proposed by the TEDC will be generally consistent with the land uses envisioned for Business/Industrial areas.

The business and technology park is anticipated to accomplish the following items from the Comp Plan’s “Business/Industrial Planning Guidelines”:

- Locate employment designated land uses with access to major transportation corridors.

- Ensure that truck traffic associated with employment-related land uses do not use residential streets for access.
- Encourage high intensity employment in campus or urbanized areas that are adjacent to collector or arterial roadways with access to transit and an integrated pedestrian environment.

The proposed project also meets Goal EO 1 of Chapter 6 (Economic Opportunity) of the Comprehensive Plan, which states "Grow, diversify, and evolve Tomball's economy to raise the standard of living, create new employment opportunities, and generate revenues so the City can provide quality public services and amenities." The ability to offer sites zoned for employment-type land uses will help to attract companies looking to locate and/or expand in the area. Additionally, the location provides direct access to SH 249 and FM 2920, and will be in close proximity to the future Grand Parkway, enabling park occupants to have easy access to major thoroughfares with little impact to the community and residential neighborhoods.

As a matter of information, the future development of this site will require the applicant to comply with the City's platting requirements as well as the use and area regulations outlined in the Zoning Ordinance. A site plan application, which will require civil drawings, including all proposed grading, paving, drainage, and utility plans, building elevations and landscape plans, is required to be submitted and approved by the Engineering & Planning Department and Fire Marshal's Office prior to a building permit application submittal.

ZONING CONSIDERATIONS

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

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

There is a mixture of land uses in the vicinity. To the north of the subject site is undeveloped, residential, and agricultural land in the Single-Family Estate Residential-20 and Agricultural Districts; to the south is a retail, undeveloped, commercial, industrial, and residential land within the General Retail District and Tomball's unzoned extraterritorial jurisdiction; to the east is commercial, undeveloped, and residential land in the Agricultural District and Tomball's unzoned extraterritorial jurisdiction; and to the west is undeveloped and industrial land in the Agricultural, Single-Family Estate Residential-20, and Light Industrial Districts. See site photos (Exhibit "G").

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

The proposed rezoning is not anticipated to negatively impact public schools, streets, water supply, sanitary sewers, or other utilities to the area.

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

There is no vacant land currently classified for similar development in the immediate vicinity of the subject site. However, there are several undeveloped properties zoned Light Industrial within the City of Tomball, particularly south of Mechanic Street between the Burlington Northern Santa Fe railway and South Chestnut Street and on the west side of South Persimmon south of Lizzie Lane.

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

There has been limited Light Industrial District development city-wide and within the vicinity.

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

If the proposed zoning change were approved, there should be few if any affects on other areas designated for similar developments.

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

The proposed zone change is not anticipated to adversely affect health, safety, morals, or general welfare.

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

According to the Comprehensive Plan, rezonings are “to conform to the intended future land use pattern shown on the Future Land Use Plan and should occur only when economic, physical, social, and other factors will allow the proposed land use to be developed:

- Within the capacities of existing or funded infrastructure and public facilities and services;
- In a compatible manner with surrounding land uses;
- To standards specified for and appropriate to the proposed land use; and
- In a way that furthers or helps achieve the goals of the Plan.”

The proposed rezoning to the Light Industrial District is generally consistent with the Comprehensive Plan land use designations. The majority of the site is designated as “Business/Industrial” with the northern tip designated as “Rural Residential.” The Comp Plan states, “Boundary lines are to be considered approximate and discretion may be used in determining them. Variations, particularly where significant natural or manmade features are present, may be acceptable. It will be the responsibility of the Tomball City Council, with the recommendation of the Planning & Zoning Commission, city planning staff, and guidance provided by the Comprehensive Plan to establish and more accurately define the boundaries if questions arise.”

The Comprehensive Plan states the Business/Industrial land use designation is “where industrial and intensive employment activities should occur. Activities that will require unenclosed assembly, repair and/or storage and require heavy truck or rail transportation support are acceptable. Also included would be warehousing and distribution facilities, as well as offices and showrooms.” The business and technology park proposed by the TEDC will be generally consistent with the land uses envisioned for Business/Industrial areas.

The business and technology park is anticipated to accomplish the following items from the Comp Plan’s “Business/Industrial Planning Guidelines”:

- Locate employment designated land uses with access to major transportation corridors.
- Ensure that truck traffic associated with employment-related land uses do not use residential streets for access.
- Encourage high intensity employment in campus or urbanized areas that are adjacent to collector or arterial roadways with access to transit and an integrated pedestrian environment.

The proposed project also meets Goal EO 1 of Chapter 6 (Economic Opportunity) of the Comprehensive Plan, which states "Grow, diversify, and evolve Tomball's economy to raise the standard of living, create new employment opportunities, and generate revenues so the City can provide quality public services and amenities." The ability to offer sites zoned for employment-type land uses will help to attract companies looking to locate and/or expand in the area. Additionally, the location provides direct access to SH 249 and FM 2920, and will be in close proximity to the future Grand Parkway, enabling park occupants to have easy access to major thoroughfares with little impact to the community and residential neighborhoods.

PUBLIC COMMENT

Property owners within 200 feet of the project site were mailed notification of this proposal on September 1, 2011 and, as of the writing of this report, no public comment forms were received.

RECOMMENDATION

That the Planning and Zoning Commission recommend:

1. APPROVAL of Zoning Case P11-348 based on the following:
 - a. The proposed zoning of Light Industrial District is compatible with the Tomball Comprehensive Plan.
 - b. The proposed zoning of Light Industrial District will not negatively impact public schools, streets, water supply, sanitary sewers, or other utilities to the area.
 - c. There is sufficient utility capacity to service light industrial uses on this site.

2. APPROVAL of the staff report as the Planning and Zoning Commission's final recommendation to the City Council.

EXHIBITS

- A. Property Survey
- B. Aerial Photo
- C. Rezoning Application
- D. Rezoning Request Letter
- E. Location/Zoning Map
- F. Comprehensive Plan Future Land Use Map
- G. Site Photos

Exhibit "A" Property Survey

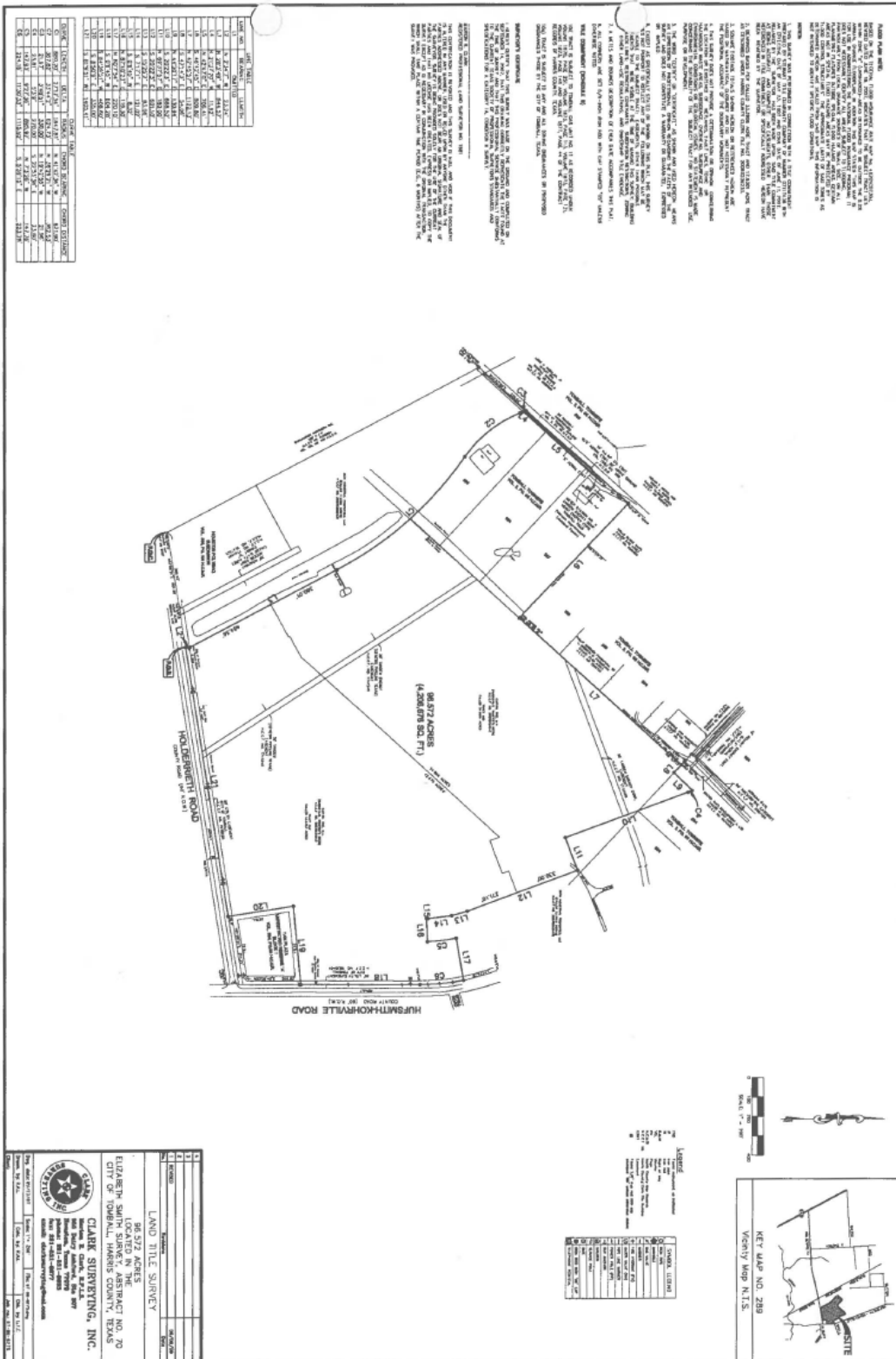


Exhibit "B"
Aerial Photo



Exhibit "C"
Rezoning Application

Revised 1/20/09



APPLICATION FOR REZONING
Engineering & Planning Department



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

Applicant

Name: Tomball Economic Development Corporation Title: _____
Mailing Address: P.O. Box 820 City: Tomball State: TX
Zip: 77377
Phone: (281) 401-4088 Fax: (281) 351-7223 Email: kviolette@tomballtxedc.org

Owner

Name: Capital One, National Association Title: _____
Mailing Address: P.O. Box 61540 City: New Orleans State: LA
Zip: 70161
Phone: (504) 533-2188 Fax: 504 533-5210 Email: debbie.pitter@capitalonebank.com

Engineer/Surveyor (if applicable)

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

Description of Proposed Project: Business Park

Physical Location of Property: NW corner of Holderrieth & Hufsmith-Kohrville Roads
[General Location – approximate distance to nearest existing street corner]

Legal Description of Property: TR 4, Abstract 70 E Smith & LT 386 & 387 & TR 385 of the Tomball Outlots
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]

Current Zoning District: SF-6 & C-Commercial

Current Use of Property: Vacant Land

Proposed Zoning District: LI- Light Industrial

Proposed Use of Property: Business Park

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

HCAD Identification Number: 0410260000020 & 0352920000384 Acreage: 96.572

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

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

Kelly Viollette Executive Director
x Tomball EDC 8/2/11
Signature of Applicant Date

Capital One, N.A.
x *Raymond D. Potter* 7-28-11
Signature of Owner Date

**Exhibit “D”
Rezoning Request Letter**



August 3, 2011

Mr. Rodney Schmidt
Assistant City Planner
Engineering & Planning Department
501 James Street
Tomball, TX 77375

RE: Rezoning request for approximately 97.5 acres of land located at the northwest corner of Holderrieth & Hufsmith-Kohrville Roads

Dear Mr. Schmidt,

The Tomball Economic Development Corporation (TEDC) is under contract to purchase approximately 97.5 acres of land located at the northwest corner of Holderrieth and Hufsmith-Kohrville Roads for purposes of developing a business/technology park to support the creation and retention of primary jobs in the City of Tomball. A primary job is defined as a job available at a company that exports a majority of its products or services to markets outside the local region, infusing new dollars into the local economy.

The TEDC Board of Directors approved the designation of the business park as a Project of the Corporation on May 24, 2011, and City Council subsequently approved the project and property acquisition on July 18, 2011. We are currently in our due diligence phase and as part of that process are submitting this rezoning application to request that the site be rezoned from the SF-6 and C-Commercial Districts to the LI-Light Industrial District.

It is the intent of the TEDC to acquire the land and construct the public infrastructure, including roadways, utilities, and drainage facilities in order to offer “fully improved” sites. All future potential businesses to be located within the business park will be required to be reviewed and approved by the TEDC Board of Directors and Tomball City Council, thereby ensuring that the uses are compatible with the vision for and purpose of the business/technology park.

The requested rezoning is generally consistent with the Future Land Use Plan Map Designation of Business Industrial which supports industrial and intensive employment related activities. Although the northern portion of the site is shown as Rural Residential on the Future Land Use Plan Map, the Comprehensive Plan states that the “boundary lines are to be considered approximate and discretion may be used in determining them.”

The existing configuration of the site is irregular in shape and borders primarily commercial developments on the east, south, and west. As such, we believe that the proposed project will be compatible with the long-term vision for the area as an employment activity center.

Additionally, the proposed project meets the following Business Industrial Planning Guidelines outlined in the Comprehensive Plan:

- Locate employment designated land uses with access to major transportation corridors.
- Ensure that truck traffic associated with employment-related land uses do not use residential streets for access.
- Encourage high intensity employment in campus or urbanized areas that are adjacent to collector or arterial roadways with access to transit and an integrated pedestrian environment.

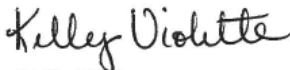
The proposed project also meets Goal E0 1 of Chapter 6 (Economic Opportunity) of the Comprehensive Plan, which states “Grow, diversify, and evolve Tomball’s economy to raise the standard of living, create new employment opportunities, and generate revenues so the City can provide quality public services and amenities.” The ability to offer “fully-improved” sites that are zoned for employment-type land uses will enable Tomball to become a regional and statewide competitor for companies looking to locate and/or expand in the area thereby increasing employment opportunities for our residents and growing the economic base of our City. Additionally, the location provides direct access to SH 249 and FM 2920, and will be in close proximity to the future Grand Parkway, enabling park occupants to have easy access to major thoroughfares with little impact to the community and residential neighborhoods.

The development of a planned business park would be a unique asset for the City of Tomball and would have a positive economic impact on the City. In addition to the standards outlined in the Zoning Ordinance, the TEDC intends to develop deed restrictions for the park in order to maintain property values, ensure a campus-like environment, uphold property maintenance standards, and attract high quality businesses and industries.

The TEDC respectfully requests consideration of this rezoning in order to complete the property acquisition and begin the development of the park.

Please don’t hesitate to contact me at 281-401-4086 should you have any questions.

Sincerely,



Kelly Violette
Executive Director

**Exhibit “E”
Location/Zoning Map**

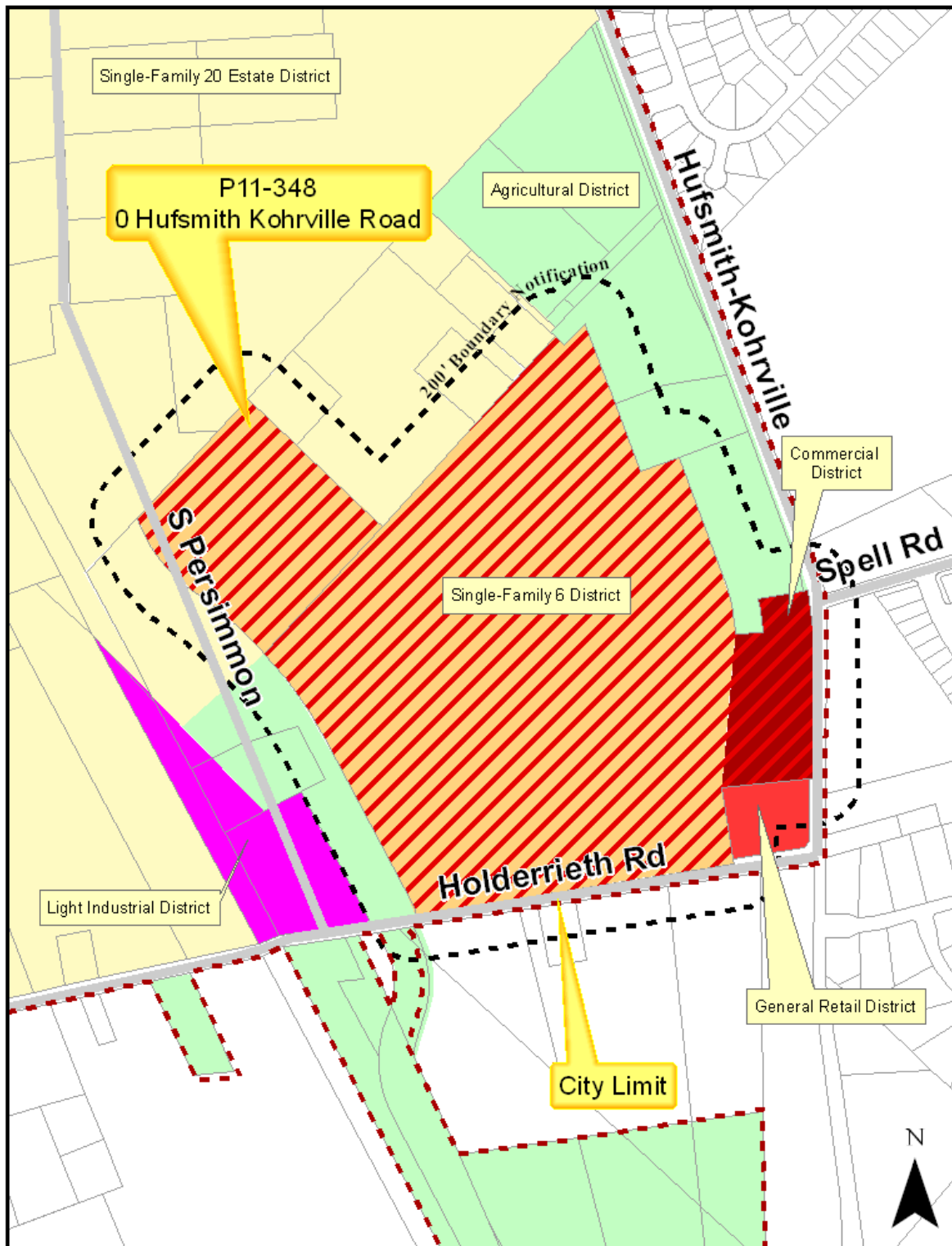
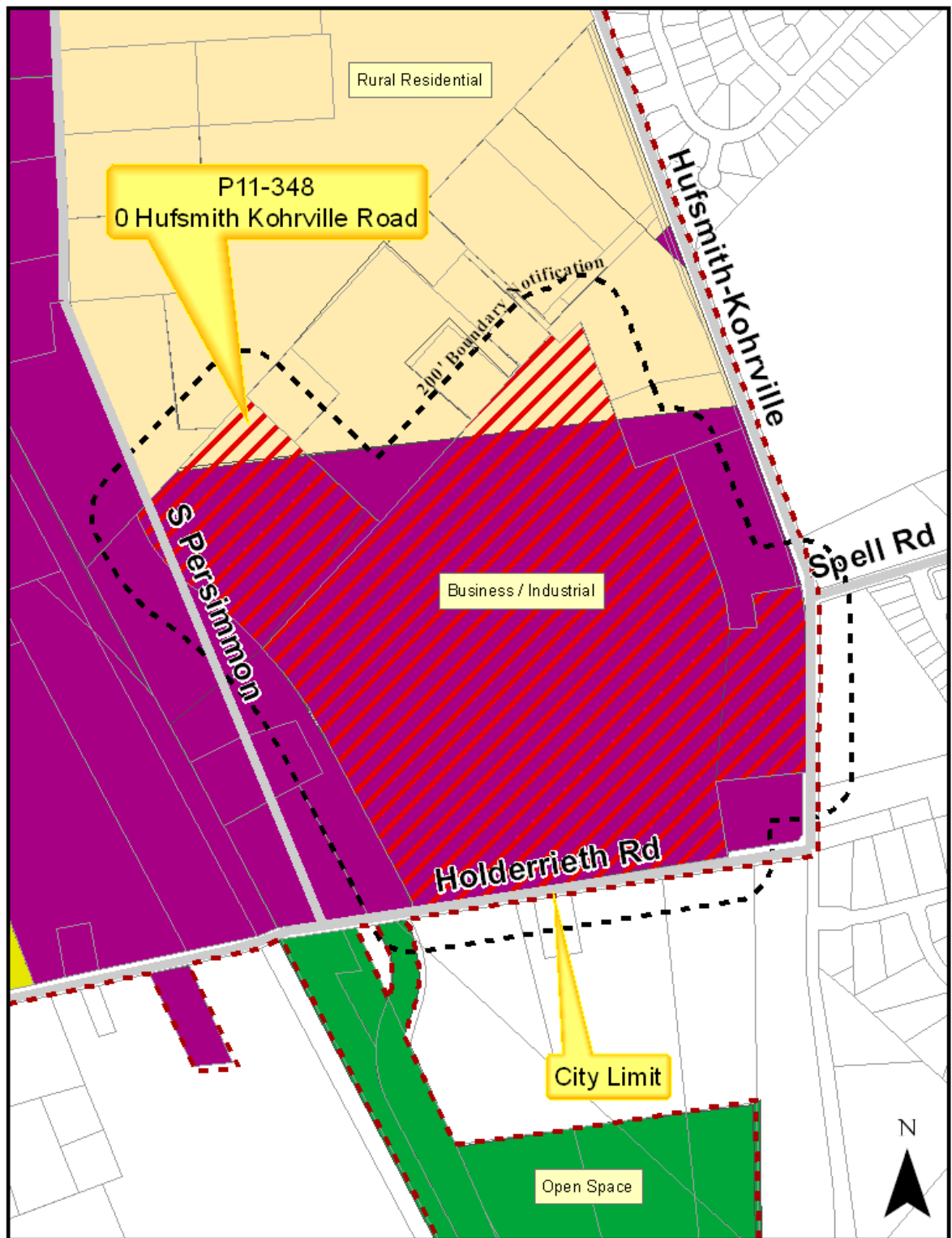


Exhibit “F”
Comprehensive Plan Future Land Use Map



**Exhibit “G”
Site Photos**



Figure 1: Northerly view of subject site.



Figure 2: Houston Poly Bag to the west of subject site.



Figure 3: Tomball Fire Department Station #2 south of subject site.



Figure 4: Residence to the south of subject site.



Figure 5: Mustang/Cat, SAI Power Systems, and Cnrg Facilities to the southeast of subject site.



Figure 6: Convenience store to the southeast of subject site.



Figure 7: Residence to the east of subject site.



Figure 8: Creacom facility east of the subject site.

ORDINANCE NO. 2011-22

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING ITS COMPREHENSIVE ZONING ORDINANCE BY CHANGING THE ZONING DISTRICT CLASSIFICATION OF APPROXIMATELY 97.48 ACRES OF LAND, LEGALLY DESCRIBED AS LOTS 386 AND 387 AND TRACT 385 OUT OF THE TOMBALL OUTLOTS AND TRACT 4 OUT OF THE ELIZABETH SMITH SURVEY, ABSTRACT 70, WITHIN THE CITY OF TOMBALL, HARRIS COUNTY, TEXAS, FROM THE SF-6 - SINGLE-FAMILY RESIDENTIAL-6 DISTRICT AND C-COMMERCIAL DISTRICT TO THE LI-LIGHT INDUSTRIAL DISTRICT; SAID PROPERTY BEING GENERALLY LOCATED ON THE WESTERLY SIDE OF HUFSMITH-KOHRVILLE ROAD, NORTHERLY OF HOLDERRIETH ROAD; PROVIDING FOR THE AMENDMENT OF THE OFFICIAL ZONING MAP OF THE CITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR A PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF, MAKING FINDINGS OF FACT; AND PROVIDING FOR OTHER RELATED MATTERS

* * * * *

Whereas, the owner(s) of 97.48 acres of land, legally described as Lots 386 and 387 and Tract 385 out of the Tomball Outlots and Tract 4 out of the Elizabeth Smith Survey, Abstract 70, generally located on the westerly side of Hufmsith-Kohrville Road, northerly of Holderrieth Road, from the SF-6 - Single-Family Residential-6 District and C-Commercial District to the LI-Light Industrial District; and

Whereas, at least eight (8) days after publication in the official newspaper of the City of the time and place of a public hearing and at least ten (10) days written notice of that hearing to the owners of land within two hundred feet of the Property in the manner required by law, the Planning & Zoning Commission held a public hearing on the proposal to change the zoning for the Property from SF-6 - Single-Family Residential-6 District and C-Commercial District to the LI-Light Industrial District; and

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

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

Whereas, at least fifteen (15) days after publication in the official newspaper of the City of the time and place of a public hearing on the proposal to change the zoning district classification for the Property from SF-6 - Single-Family Residential-6 District and C-Commercial District to the LI-Light Industrial District, the City Council held the public hearing on the proposal to change the zoning for the Property and the City Council considered the final report of the Planning & Zoning

Commission regarding the change of zoning district classification, and,

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

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

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

Section 2. The zoning classification of 97.48 acres of land, legally described as Lots 386 and 387 and Tract 385 out of the Tomball Outlots and Tract 4 out of the Elizabeth Smith Survey, Abstract 70, within the City of Tomball, Harris County, Texas, is hereby changed from the SF-6 - Single-Family Residential-6 District and C-Commercial District to the LI-Light Industrial District subject to the regulations, restrictions, and conditions hereafter set forth.

Section 3. The Official Zoning Map of the City of Tomball, Texas-Ordinance 2008-01, ("Zoning District Map"), shall be revised and amended to show the designation of 97.48 acres of land, legally described as Lots 386 and 387 and Tract 385 out of the Tomball Outlots and Tract 4 out of the Elizabeth Smith Survey, Abstract 70, generally located on the westerly side of Hufmsith-Kohrville Road, northerly of Holderrieth Road, as LI-Light Industrial District, with the appropriate reference thereon to the number and effective date of this Ordinance and a brief description of the nature of the change.

Section 4. This Ordinance shall in no manner amend, change, supplement, or revise any provision of any ordinance of the City of Tomball, save and except the change in zoning classification for 97.48 acres of land, legally described as Lots 386 and 387 and Tract 385 out of the Tomball Outlots and Tract 4 out of the Elizabeth Smith Survey, Abstract 70, generally located on the westerly side of Hufmsith-Kohrville Road, northerly of Holderrieth Road, to LI-Light Industrial District as described above.

Section 5. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

Section 6. Any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction, shall be fined in an amount not to exceed \$2,000. Each day of violation shall constitute a separate offense.

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

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF
THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 19TH DAY OF
SEPTEMBER 2011.

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

SECOND READING:

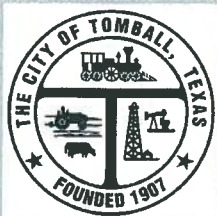
READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF
THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 3RD DAY OF
OCTOBER 2011.

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

ATTEST:

Gretchen Fagan, Mayor

Doris Speer, City Secretary



Public Comment Form

(Please type or use black ink)

All submitted forms will become a part of the public record.

Please return to:

City of Tomball

Department of Engineering & Planning

Attn: Rodney Schmidt

501 James Street

Tomball, TX 77375



Name:

LORIE Rabalais

(please print)

Address:

315 JANET DR

Pineville, LA 71360

Signature:

LORIE Rabalais

Date:

9/7/2011



I am **FOR** the requested rezoning as explained on the attached public notice for **Zoning Case P11-348**. (Please state reasons below)

I am **AGAINST** the requested rezoning as explained on the attached public notice for **Zoning Case P11-348**. (Please state reasons below)

Date, Location & Time of **Planning & Zoning Commission** meeting:

Monday, September 12, 2011, 6:00 PM

City Council Chambers of the City of Tomball, City Hall

401 Market Street, Tomball, Texas

Date, Location & Time of **City Council** meeting:

Monday, September 19, 2011, 6:00 PM

City Council Chambers of the City of Tomball, City Hall

401 Market Street, Tomball, Texas

COMMENTS:

With railroad near the land could be made into industrial park for warehouse which would produce more jobs

You may also comment via email to rschmidt@ci.tomball.tx.us. Please reference the Zoning Case number in the subject line.

For questions regarding this request please call 281-290-1410.

Regular City Council

Agenda Item

Meeting Date: September 19, 2011

Data Sheet

Topic:

Consideration to approve **ZONING CASE P11-349**: Request by Peter and Sylvia Hildreth to amend the City's Comprehensive Zoning Ordinance to rezone approximately 6.928 acres of land, legally described as Lots 36, 43, 44, and 45 out of the Tomball Hills Addition Plat, within the City of Tomball, Harris County, Texas, generally located on the easterly side of State Highway 249, northerly of Zion Road, from the SF-9 - Single-Family Residential-9 District to the C - Commercial District.

- Conduct a Public Hearing on **ZONING CASE P11-349**
- Adopt of First Reading, Ordinance 2011-23, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by changing the Zoning District Classification of approximately 6.928 acres of land, legally described as lots 36, 43, 44, and 45 out of the Tomball Hills Addition Plat, Within the City of Tomball, Harris County, Texas, from the SF-9 - Single-Family Residential-9 District to the C -Commercial District; Said property being generally located on the easterly side of State Highway 249, northerly of Zion Road; Providing for the Amendment of the Official Zoning Map of the City; Providing for severability; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters

Background:

We have received a request from Otis Bakke, attorney for Pete Hildreth, requesting continuance or postponement to a later date. Mr. Hildreth is proposing to amend the designation from C-Commercial District to GR-General Retail District.

On August 3, 2011, the Engineering and Planning Department received an application to rezone the subject site from the Single-Family Residential-9 District to the Commercial District. The proposed use of the property will be for Hilltop Tool Rental. The subject site is partly undeveloped and partly used by Hilltop Tool Rental as a "Tool and Machinery Rental (with Outdoor Storage)" land use.

There are a number of land uses in the vicinity including undeveloped land, a retail strip center, single-family residences, Hilltop Tool Rental, State Highway 249 right-of-way, Lone Star College, and a City of Tomball lift station. The subject site is identified on the Comprehensive Plan future land use map as "Medium Density Residential" and "Open Space."

On September 12, 2011, the Planning and Zoning Commission, after conducting a public hearing on this request, voted to recommend denial of Zoning Case P11-349. This case is being forwarded to City Council for consideration and possible action.

Origination:

Peter and Sylvia Hildreth

Recommendation:

In its formal recommendation to City Council, the Planning and Zoning Commission voted to recommend denial of Zoning Case P11-349.

Funding:

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

Engineering and Planning

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

ATTACHMENTS:

Bakke Request for Continuance or Postponement

Notice of Public Hearing

Property Owner Notification Letter

P11-349 Staff Report

Ordinance 2011-23

P11-349 Public Comments

O. Otis Bakke
Attorney at Law
1272 Handkerchief Way
Haslet, Texas 76052

(817) 437-1729 Telephone
(817) 439-1322 Facsimile
otishbakke@shcglobal.net

September 15, 2011

Mr. Scott Bounds
Tomball City Attorney
% Olson & Olson, L.L.P.
2727 Allen Parkway, Suite 600
Houston, Texas 77019

Facsimile (713) 533-3888

Re: Hilltop Tool Rental Rezoning Case No. P11-349
Lots 36,43, 44 and 45 out of the Tomball Hills Addition Plat

Dear Mr. Bounds:

On behalf of Peter Hildreth and Sylvia Hildreth, the owners of the above referenced property generally we wish to request the following actions by the City of Tomball Planning and Zoning Commission.

1. We request that the City Counsel Hearing scheduled for September 19, 2011 at 6 P.M. be continued and rescheduled for a later date in Mid October if possible.
2. We wish to amend the designation of the requested rezoning of the subject property from C-Commercial District to a **G R General Retail District**

The change on the category of zoning request is to more correctly identify the intended and historical use of the property. The historic use has been the retail sale and rental of tools and equipment. Hilltop has never been in the business of manufacturing any product. The mechanics shop associated with the business is used to assemble some of the equipment that is delivered with some assembly required and to make in house repairs to and conduct maintenance upon Hilltop equipment. While these activities are needed to maintain Hilltop's retail business they do not constitute manufacturing.

Further my clients feel that a retail sales designation may be more acceptable to the residents of Tomball Hills Subdivision.

The delay in the hearing is sought to have the opportunity to present the revised rezoning

request to the Tomball Hills neighborhood and to prepare the necessary evidence for the hearing on the revised rezoning application.

Your consideration of this request is appreciated.

Respectfully,



O. Orla Bakke
Attorney for Peter and Sylvia Hildreth

Copies by e-mail to the following:

George Shackelford (gshackelford@c.i.Tomball.tx.us)

Peter & Sylvia Hildreth (hilltoppeter@yahoo.com)

David Broussard (davidsb1950@yahoo.com)

**NOTICE OF PUBLIC HEARINGS
CITY OF TOMBALL
PLANNING & ZONING COMMISSION
SEPTEMBER 12, 2011
&
CITY COUNCIL
SEPTEMBER 19, 2011**



Notice is Hereby Given that Public Hearings will be held by the Planning & Zoning Commission of the City of Tomball on **Monday, September 12, 2011, at 6:00 P.M.**, and by the City Council of the City of Tomball on **Monday, September 19, 2011, at 6:00 P.M.** at Regular Meetings, in the City Council Chambers of the City of Tomball at City Hall, 401 Market Street, Tomball, Texas. On such dates, the Planning & Zoning Commission and City Council will consider the following:

ZONING CASE P11-347: Request by John Thomas, on behalf of R.K. McGaughy, to amend the City's Comprehensive Zoning Ordinance to rezone approximately 3.9078 acres of land, legally described as Tract 2AA out of the C.N. Pillot Survey, Abstract Number 632, within the City of Tomball, Harris County, Texas, generally located on the westerly side of State Highway 249, northerly of Holderrieth Road, from the AG-Agricultural District to the C-Commercial District.

ZONING CASE P11-348: Request by the Tomball Economic Development Corporation, on behalf of Capital One, National Association, to amend the City's Comprehensive Zoning Ordinance to rezone approximately 97.48 acres of land, legally described as Lots 386 and 387 and Tract 385 out of the Tomball Outlots and Tract 4 out of the Elizabeth Smith Survey, Abstract 70, within the City of Tomball, Harris County, Texas, generally located on the westerly side of Hufsmith-Kohrville Road, northerly of Holderrieth Road, from the SF-6 - Single-Family Residential-6 District and C - Commercial District to the LI - Light Industrial District.

ZONING CASE P11-349: Request by Peter and Sylvia Hildreth to amend the City's Comprehensive Zoning Ordinance to rezone approximately 6.928 acres of land, legally described as Lots 36, 43, 44, and 45 out of the Tomball Hills Addition Plat, within the City of Tomball, Harris County, Texas, generally located on the easterly side of State Highway 249, northerly of Zion Road, from the SF-9 - Single-Family Residential-9 District to the C - Commercial District.

Persons interested in these cases will be given an opportunity to be heard. Action by the Planning and Zoning Commission serves as a recommendation to the City Council and is not a final action on the request. Should the Planning & Zoning Commission vote to table a decision/recommendation on one or more of the above cases, the date and time of a future meeting will be specified and the City Council will not review the subject case until such a decision/recommendation is forwarded to the City Council by the Planning and Zoning Commission. The application is available for public inspection Monday through Friday, holidays excepted, between the hours of 8:00 a.m. and 5:00 p.m. in the Engineering & Planning Department office, located at 501 James Street, Tomball, TX 77375. **Contact Assistant City Planner** Rodney Schmidt, (281) 290-1410, rschmidt@ci.tomball.tx.us

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 **8th** day of **September** 2011 by **5:00** p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Brandy Pate
Brandy Pate
Senior Administrative Assistant

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



Notice of Public Hearing

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

CASE NUMBER: P11-349

APPLICANT: Peter and Sylvia Hildreth

LOCATION: Easterly side of State Highway 249, northerly of Zion Road

PROPOSAL: Request to amend the City's Comprehensive Zoning Ordinance to rezone approximately 6.928 acres of land, legally described as Lots 36, 43, 44, and 45 out of the Tomball Hills Addition Plat, within the City of Tomball, Harris County, Texas, from the SF-9 - Single-Family Residential-9 District to the C - Commercial District.

* * *

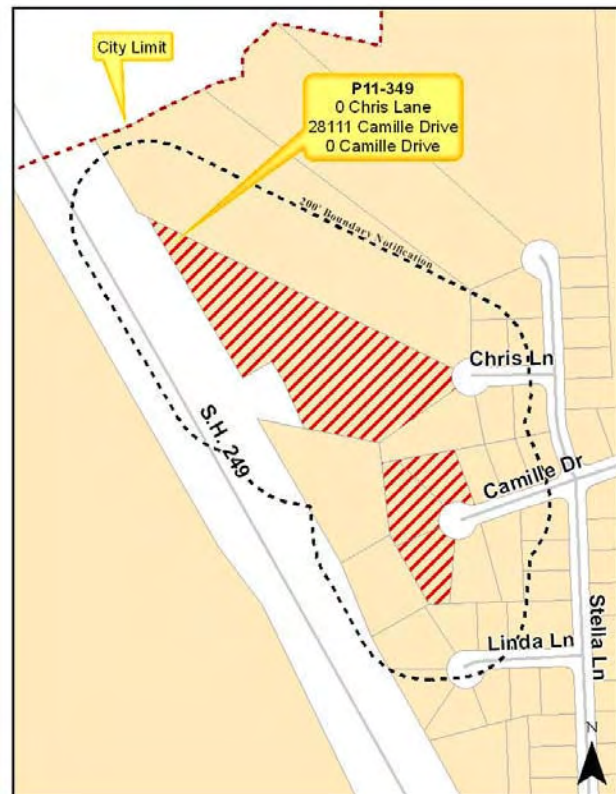
CONTACT PLANNER: Rodney Schmidt

PHONE: (281) 290-1410

E-MAIL: rschmidt@ci.tomball.tx.us

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

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



**Planning and Zoning Commission
Public Hearing:
Monday, September 12, 2011, 6:00 PM**

**City Council Public Hearing:
*Monday, September 19, 2011, 6:00 PM**

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

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



Rezoning Staff Report

Planning and Zoning Commission Hearing Date: September 12, 2011

Rezoning Case: P11-349
Property Owner(s): Peter and Sylvia Hildreth
Applicant(s): Peter and Sylvia Hildreth
Legal Description: Lots 36, 43, 44, and 45 out of the Tomball Hills Addition Plat
Location: Generally located on the easterly side of State Highway 249, northerly of Zion Road
Area: 6.928 acres
Present Zoning and Use: Single-Family Residential-9 District / Undeveloped and Tool and Machinery Rental (with Outdoor Storage)
Comp Plan Designation: Medium Density Residential and Open Space
Proposed Zoning and Use: C-Commercial District / Tool and Machinery Rental (with Outdoor Storage)

It should be noted, that any use permitted in the proposed district would be allowed at this location if the zoning is changed. Furthermore, the Planning & Zoning Commission may consider zoning classifications other than that sought by the applicant for this property.

Adjacent Zoning & Land Uses:

North: Single-Family Residential-9 District / Undeveloped
South: Single-Family Residential-9 and Commercial Districts / Residential and Retail
East: Single-Family Residential-9 / Residential
West: Commercial District / Hilltop Tool Rental, SH 249 ROW, and Lone Star College

BACKGROUND

The subject site is legally described as Lots 36, 43, 44, and 45 out of the Tomball Hills Addition Plat within the City of Tomball, Harris County, Texas totaling approximately 6.928 acres (Exhibit "A"). The site is generally located on the easterly side of State Highway 249, northerly of Zion Road (Exhibit "B"). The subject site is partly undeveloped and partly used by Hilltop Tool Rental as a "Tool and Machinery Rental (with Outdoor Storage)" land use.

According to the applicants' attorney, Otis Bakke (Exhibit "C"):

"The Hildreths have acquired and used this property over the past 18 years. During that time span the entire tract has been utilized as a commercial property and used in the operation of Hilltop Tool Rental and Supply which entity is owned and operated as a sole proprietorship by Mr. Hildreth. The entire property is debt free and all property taxes are paid current.

Mr. Hildreth's business operations involve all of the subject property to one extent or another. His rental inventory consists of small and very large pieces of equipment. The equipment is located all about the property according to size, type and use.

When Mr. Hildreth first acquired the property, zoning was not in effect in the City of Tomball. Most of the property was designated as "Unrestricted Reserve" in the subdivision dedication plat. The property was considered as Unrestricted Reserve property until the City of Tomball adopted the Zoning Ordinance. Yielding to the vociferous demands of neighbors in the Tomball Hills Subdivision, the City elected to zone the subject property as residential, notwithstanding its historical use.

Mr. Hildreth would show that the facts and physical attributes of the subject property will show that its highest and best use (if not its only viable use) is as a commercially zoned property. The following points are illustrative of this point.

- The zoning of the subject lots as residential properties did not follow the historical use of the property. There has never been a residential use of these lots. The only development of the lots has been by Mr. Hildreth in conjunction with his tool rental business.
- The property is on a sharp incline and the terrain makes the construction of a single family residence impossible from a practical engineering point of view. There is not enough surface area available to create feasible building sites.
- The property is located adjacent to the flood plain where no permanent structures can be built. There is not enough lot area outside the flood plain area to permit the construction of a single family residence.
- The City of Tomball is proceeding with a sewer lift station on Lot 37 of the Tomball Hills Subdivision. The presence of that facility will deter prospective homeowners from using any of the surrounding lots for home sites.
- The property has been dedicated to commercial uses only for about twenty years. In *City of Corpus Christi v. J Wallen*, 52 Tex 137; 254 SW2d 759 the Texas Supreme Court declared that property could not be changed from its historical use by the zoning process. Mr. Hildreth proposes to construct an eight foot fence along the boundary between his business and the Tomball Hills Subdivision and further to create a green belt of hedges

for security purposes and to isolate his business from the homes in the subdivision.”

ANALYSIS

On August 3, 2011, the Engineering & Planning Department received the rezoning application (Exhibit “D”) for the subject site. The applicant is requesting to rezone the property from the Single-Family Residential-9 District to the C - Commercial District to allow the “Tool and Machinery Rental (with Outdoor Storage)” use on the subject sites. If the entire property is rezoned, the applicant has indicated a desire to replat the property into one overall tract. Accordingly, the Applicant is also preparing for approval of the Planning Commission a proposed replat of the properties.

Lots 36, 43, 44, and 45 out of the Tomball Hills Addition Plat were originally platted and restricted as residential lots.

According to the Tomball Zoning Ordinance, “The C, Commercial, district is intended to provide a location for commercial and service related establishments, such as wholesale product sales, welding/contractors shops, automotive repair services, upholstery shops, and other similar commercial uses. Some light manufacturing may also be allowed with certain conditions. The uses envisioned for the district will typically utilize smaller sites and have operation characteristics which are generally not compatible with residential uses and some nonresidential uses. Convenient access to thoroughfares and collector streets is also a primary consideration.”

There are a number of land uses in the vicinity (Exhibits “B” and “E”). To the north of the subject site is undeveloped land in the SF-9 District; to the south is a retail strip center (including a church and restaurant uses) and single-family residences in the Commercial and SF-9 Districts; to the east are single-family residences in the SF-9 District; and to the west is Hilltop Tool Rental, SH 249 ROW, and Lone Star College in the Commercial District.

The subject site is identified on the Comprehensive Plan future land use map as “Medium Density Residential” and “Open Space” (Exhibit “F”). The proposed rezoning to the Commercial District is not consistent with the “Medium Density Residential” land use designation. The Comprehensive Plan’s land use designations are intended to provide direction in determining future growth patterns and development intensities.

The “Medium Density Residential” land use designation “includes suburban-type development that is intended to be single family detached residential development. Residential lots sizes range from 6,000 and 20,000 square feet. This designation may also include such supporting land uses as neighborhood shops and services, parks and recreation amenities, religious institutions, small offices and schools to serve local residents where deemed appropriate by the City.” The “Open Space” land use designation is described in the Comprehensive Plan as area to “be left in a natural state due to topographic, drainage, vegetative, and landform constraints or the need to provide permanent buffers between potentially incompatible land uses.” A portion of the properties proposed to be included in the commercial zone includes property that lies with the floodplain, and will be used as detention facilities in a commercial setting.

ZONING CONSIDERATIONS

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

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

There are a number of land uses in the vicinity. A portion of the property proposed to be rezoned is already used for commercial purposes and lies adjacent to a major state highway. To the north of the subject site is undeveloped land and a tract the City has acquired for use as a sewer lift station site in the SF-9 District; to the south is a retail strip center (including a church and restaurant uses) and single-family residences in the Commercial and SF-9 Districts; to the east are single-family residences in the SF-9 District; and to the west is Hilltop Tool Rental, SH 249 ROW, and Lone Star College in the Commercial District. See site photos (Exhibit "G").

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

The proposed rezoning is not anticipated to negatively impact public schools, streets, water supply, sanitary sewers, or other utilities to the area.

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

There is little vacant land in the immediate vicinity zoned Commercial District. However, there are numerous vacant parcels within the City of Tomball zoned Commercial District.

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

There has been steady development throughout the City in the Commercial District. Within the immediate vicinity and within the Commercial District, Lone Star College is finishing construction on their Performing Arts Center and Veterinary Technology Building.

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

If the proposed zoning change were approved, there should be few if any affects on other areas designated for similar developments.

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

The proposed zone change is not anticipated to adversely affect health, safety, morals, or general welfare.

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

According to the Comprehensive Plan, rezonings are “to conform to the intended future land use pattern shown on the Future Land Use Plan and should occur only when economic, physical, social, and other factors will allow the proposed land use to be developed:

- Within the capacities of existing or funded infrastructure and public facilities and services;
- In a compatible manner with surrounding land uses;
- To standards specified for and appropriate to the proposed land use; and,
- In a way that furthers or helps achieve the goals of the Plan.”

The proposed rezoning to the Commercial District is not consistent with the “Medium Density Residential” land use designation.

However, the Comprehensive Plan states, “At times, the City will likely encounter development proposals that do not directly reflect the purpose and intent of the Comprehensive Plan. The Planning & Zoning Commission and City Council may find that a request for a zoning amendment is not consistent with the Future Land Use Plan but should be approved due to changed circumstances or additional, relevant information affecting the appropriate use of the parcel. Review of such development proposals should include the following considerations:

- Will the proposed development enhance the City economically?
- Will the proposed development enhance the City aesthetically?
- Is the proposed development consistent with the City’s Goals, Objectives, and Actions?
- Is the proposed development a better use of land/property, both for the owner/developer and the City, than that recommended by the Plan?
- Will the proposed development impact adjacent residential areas in a positive or negative manner?
- Will the proposed development have adequate access; have considerations been made for roadway capacity, ingress and egress, traffic impact?

- Are uses adjacent to the proposed development similar in nature in terms of appearance, hours of operation, and other general aspects of compatibility?
- Does the proposed development present a significant benefit to the public health, safety and welfare of the community?

Development proposals inconsistent with the Comprehensive Plan or that do not meet its general intent should be reviewed based up the criteria above. Such proposals should also be evaluated on their individual merit, on a case-by-case basis.

PUBLIC COMMENT

Property owners within 200 feet of the project site were mailed notification of this proposal on September 1, 2011 and, as of the writing of this report, two written public comment forms were received in opposition to the request (Exhibit “H”):

- Libby Tompkins (31313 Stella Lane)
- Don & Marilyn Tobola (31307 Stella Lane)

RECOMMENDATION

The City Staff presently has insufficient information to recommend that the property be rezoned in accordance with the above criteria.

EXHIBITS

- A. Property Survey
- B. Aerial Photo
- C. Rezoning Request Letter
- D. Rezoning Application
- E. Location/Zoning Map
- F. Comprehensive Plan Future Land Use Map
- G. Site Photos
- H. Public Comment Forms

Exhibit “A” Property Survey

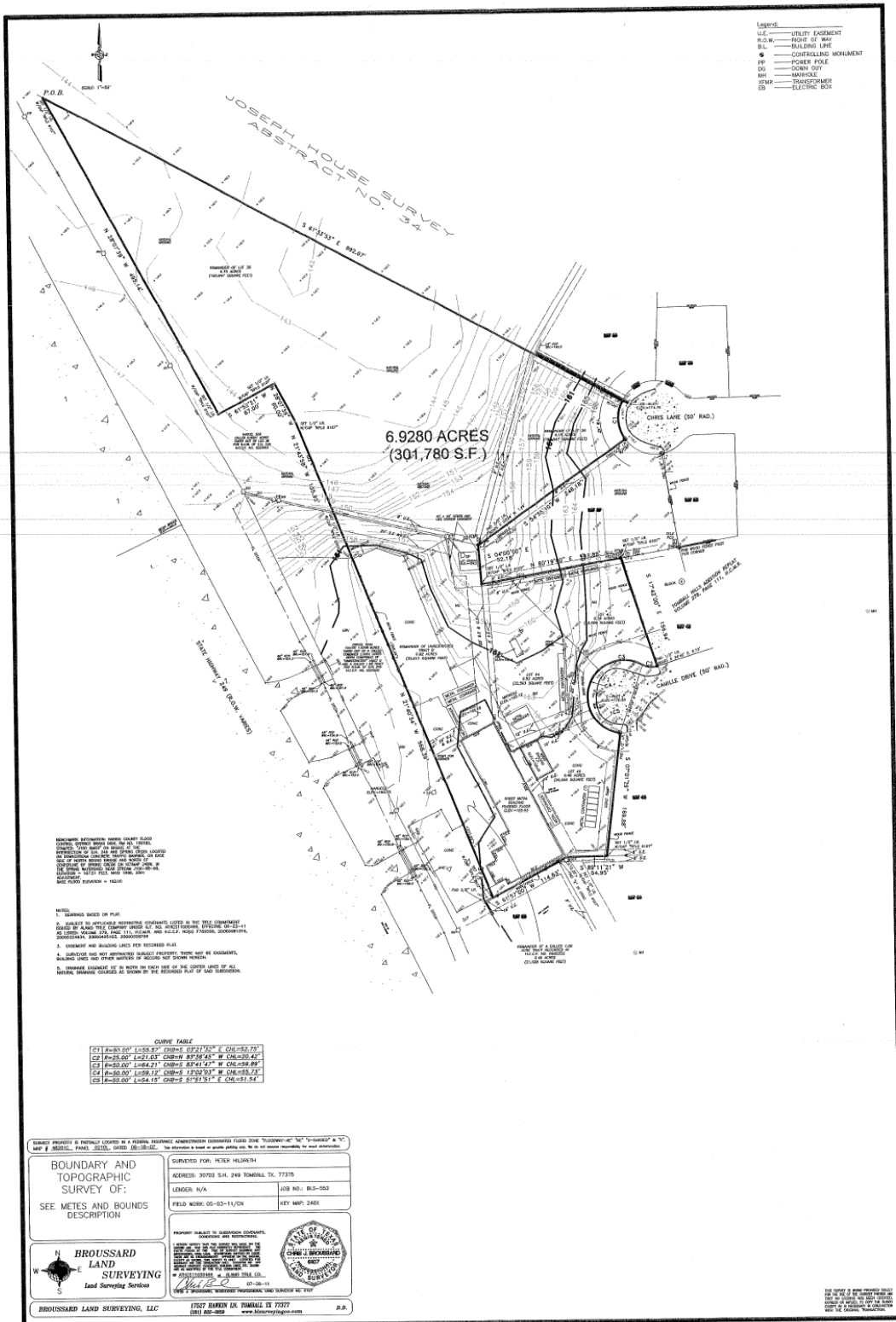


Exhibit "B"
Aerial Photo



Exhibit "C"
Rezoning Request Letter

O. Otis Bakke
Attorney at Law
1272 Handkerchief Way
Haslet, Texas 76052

(817) 437-1729 Telephone
(817) 439-1322 Facsimile
otisbakke@ahcglobal.net

August 2, 2011

The Honorable Gretchen Fagan
Mayor
City of Tomball
Tomball, Texas 77375

Mr. Warren Driver
City Councilman
City of Tomball
Tomball, Texas 77375

Mr. David Quinn
City Councilman
City of Tomball
Tomball, Texas 77375

Mr. Mark Stoll
City Councilman
City of Tomball
Tomball, Texas 77375

Mr. David Townsend
City Councilman
City of Tomball
Tomball, Texas 77375

Mr. Bill Webb
Mayor Pro-Tem
City of Tomball
Tomball, Texas 77375

Mr. Scott Bounds
Tomball City Attorney
Olson & Olson. LLP
2727 Allen Parkway, Suite 600
Houston, Texas 77019

Ms. Lori Lakatos, P.E., C.F. M.
Tomball City Engineer
501 James Street
Tomball, Texas 77375

RE: Lots 36,43, 44,45, and Unrestricted Tract "D" in Block 4 of the Tomball Hills Addition, Tomball, Texas according to the map or plat thereof recorded in Volume 279, Page 111 of the Map Records of Harris County, Texas

Ladies and Gentlemen:

This law firm represents Peter R. Hildreth and his wife, Mrs. Sylvia Hildreth who are the owners of the above referenced property. The Hildreths now petition the City of Tomball, Texas to rezone this property from a residential zoning to a commercial zoning.

The Hildreths have acquired and used this property over the past 18 years. During that time span the entire tract has been utilized as a commercial property and used in the operation of Hilltop Tool Rental and Supply which entity is owned and operated as a sole proprietorship by Mr. Hildreth. The entire property is debt free and all property taxes are paid current,

Mr. Hildreth's business operations involve all of the subject property to one extent or another. His rental inventory consists of small and very large pieces of equipment. The equipment is located all about the property according to size, type and use.

When Mr. Hildreth first acquired the property, zoning was not in effect in the City of Tomball. Most of the property was designated as "Unrestricted Reserve" in the subdivision dedication plat. The property was considered as Unrestricted Reserve property until the City of Tomball adopted the Zoning Ordinance. Yielding to the vociferous demands of neighbors in the Tomball Hills Subdivision, the City elected to zone the subject property as residential, notwithstanding its historical use.

Mr. Hildreth would show that the facts and physical attributes of the subject property will show that its highest and best use (if not its only viable use) is as a commercially zoned property. The following points are illustrative of this point.

- The zoning of the subject lots as residential properties did not follow the historical use of the property. There has never been a residential use of these lots. The only development of the lots has been by Mr. Hildreth in conjunction with his tool rental business.
- The property is on a sharp incline and the terrain makes the construction of a single family residence impossible from a practical engineering point of view. There is not enough surface area available to create feasible building sites.
- The property is located adjacent to the flood plain where no permanent structures can be built. There is not enough lot area outside the flood

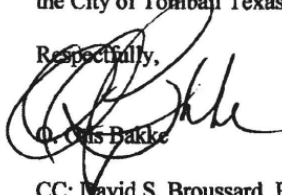
plain area to permit the construction of a single family residence.

- The City of Tomball is proceeding with a sewer lift station on Lot 37 of the Tomball Hills Subdivision. The presence of that facility will deter prospective homeowners from using any of the surrounding lots for home sites.
- The property has been dedicated to commercial uses only for about twenty years. In City of Corpus Christi v. J W Allen, 52 Tex 137; 254 SW2d 759 the Texas Supreme Court declared that property could not be changed from its historical use by the zoning process.

Mr. Hildreth proposes to construct an eight foot fence along the boundary between his business and the Tomball Hills Subdivision and further to create a green belt of hedges for security purposes and to isolate his business from the homes in the subdivision.

Wherefore, premises considered, Peter R. Hildreth and Sylvia Hildreth respectfully urge the City of Tomball Texas to rezone this property as a commercial property,

Respectfully,



D. Chris Bakke
CC: David S. Broussard, P.E.
17527 Hawkin Lane
Tomball, Texas 77377

CC: Peter R and Sylvia Hildreth
30702 State Highway 249
Tomball, Texas 77375

Exhibit "D"
Rezoning Application



APPLICATION FOR REZONING
Engineering & Planning Department



Revised 1/20/09

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

Applicant

Name: HILLTOP TOOL RENTAL Title: _____
Mailing Address: 30702 SH 249 City: TOMBALL State: TX
Zip: 77375
Phone: (281) 351-2211 Fax: (281) 255-9100 Email: HILLTOPPETER@yahoo.com

Owner

Name: PETER R. HILDRETH Title: OWNER
Mailing Address: 30702 SH 249 City: TOMBALL State: TX
Zip: 77375
Phone: (281) 351-2211 Fax: (281) 255-9100 Email: HILLTOPPETER@yahoo.com

Engineer/Surveyor (if applicable)

Name: DAVID S. BROUSSARD, PE Title: CONSULTANT
Mailing Address: 17527 HAWKIN LANE City: TOMBALL State: TX
Zip: 77377
Phone: (281) 351-0803 Fax: () N/A Email: DAVIDSB1950@yahoo.com

Description of Proposed Project: RE-ZONING OF EXIST RES. to COMMERCIAL PROPERTY

Physical Location of Property: SE CORNER OF SH 249 & SPRING CREEK

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

Legal Description of Property: JOSEPH HOUSE SURVEY, ABSTRACT - 34
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]

Current Zoning District: RES & Com.

Current Use of Property: COMMERCIAL

Proposed Zoning District: ~~RES~~ & C

Proposed Use of Property: COMMERCIAL

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

www.ci.tomball.tx.us

-0063
-0045
-0044
-0067

HCAD Identification Number: 112-957-000-0036 Acreage: 6.9280 A.

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

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

X	<u>Peter R. Helbert</u>	<u>8-3-2011</u>
Signature of Applicant	<u>Sylvia Helbert</u>	Date
<u>Peter R. Helbert</u>	<u>8-3-2011</u>	
Signature of Owner	<u>Sylvia Helbert</u>	Date

**Exhibit “E”
Location/Zoning Map**

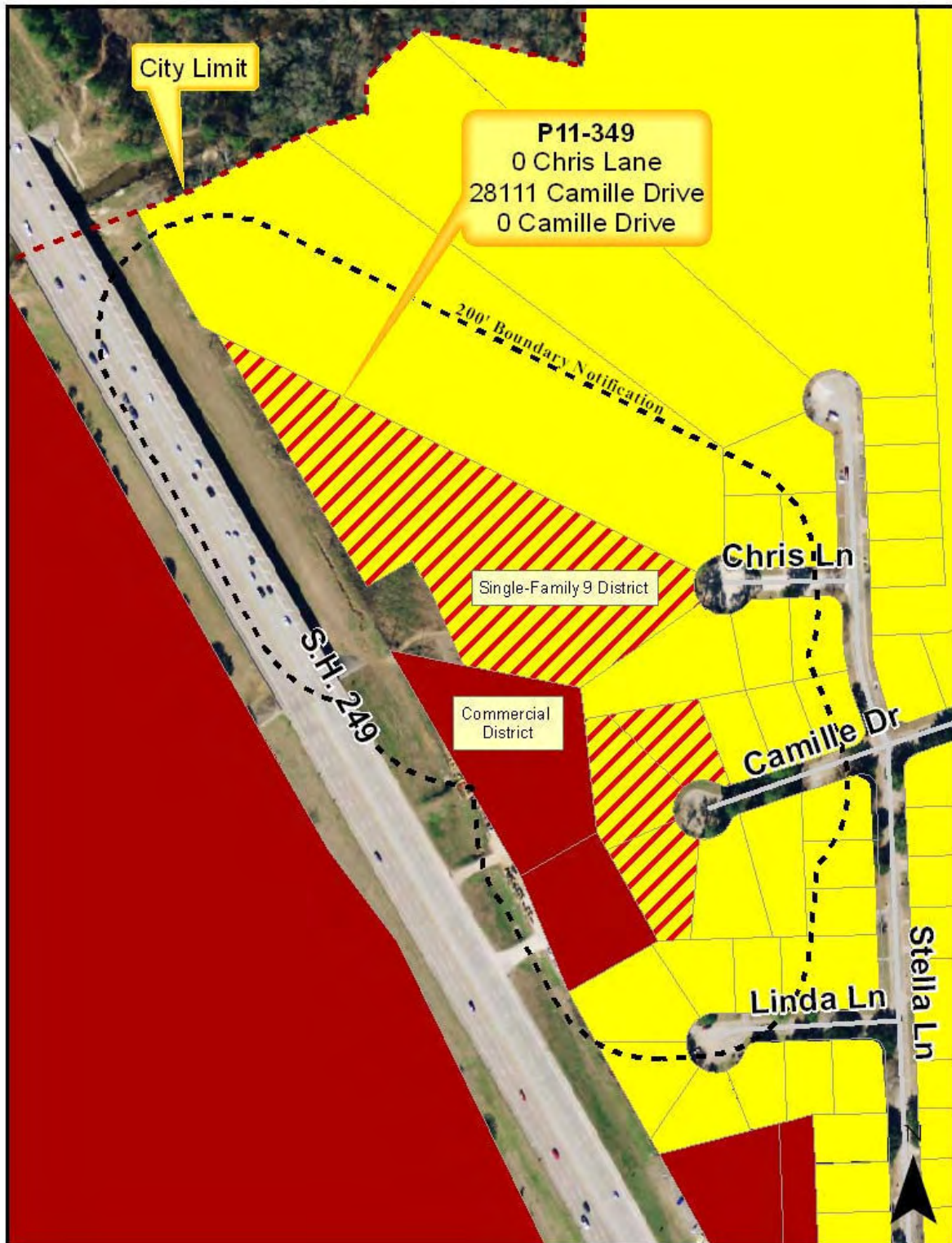
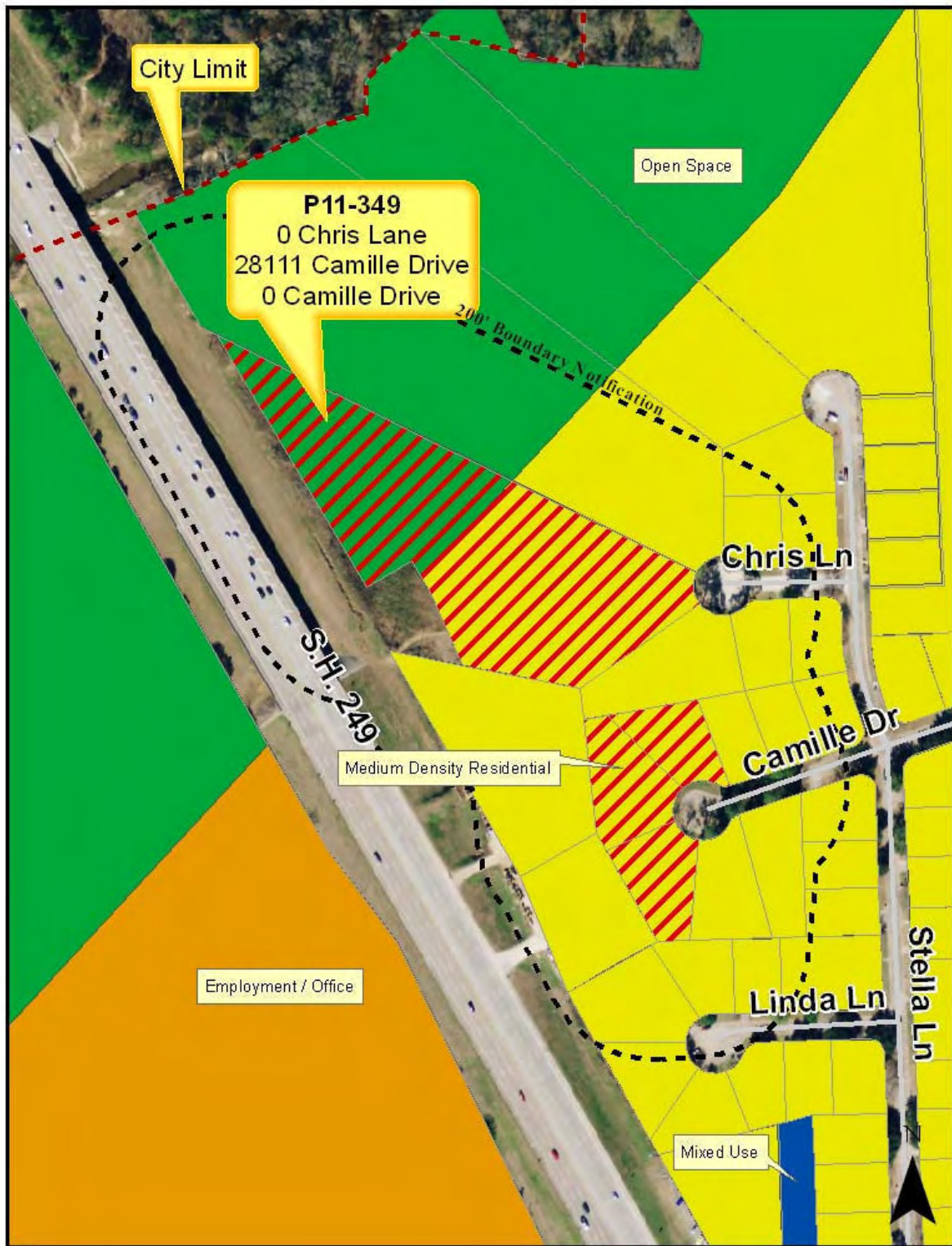


Exhibit "F"
Comprehensive Plan Future Land Use Map



**Exhibit “G”
Site Photos**



Figure 1: Hilltop Tool Rental



Figure 2: Subject site (Tract 36).



Figure 3: Subject site (Lot 43).



Figure 4: Subject site (Lots 44 and 45).



Figure 5: Single-family residence within Tomball Hills Subdivision to the east of subject site.



Figure 6: City of Tomball lift station being constructed on Lot 37 near subject site.

Exhibit "H"
Public Comment Forms

	Engineering and Planning Department Public Comment Form (Please type or use black ink)
---	---

All submitted forms will become a part of the public record.

Please return to:
City of Tomball
Department of Engineering & Planning
Attn: Rodney Schmidt
501 James Street
Tomball, TX 77375

Name: Libby D. Tompkins
(please print)
Address: 31313 Stella Lane
Tomball, Tx. 77375
Signature: Libby D. Tompkins
Date: 9-6-11

☐ I am FOR the requested rezoning as explained on the attached public notice for Zoning Case P11-349. (Please state reasons below)

☒ I am AGAINST the requested rezoning as explained on the attached public notice for Zoning Case P11-349. (Please state reasons below)

Date, Location & Time of Planning & Zoning Commission meeting:
Monday, September 12, 2011, 6:00 PM
City Council Chambers of the City of Tomball, City Hall
401 Market Street, Tomball, Texas

Date, Location & Time of City Council meeting:
Monday, September 19, 2011, 6:00 PM
City Council Chambers of the City of Tomball, City Hall
401 Market Street, Tomball, Texas

COMMENTS:
Rezoning would necessitate, in removing the large number of trees behind our house. This would hurt our property value and cause a significant noise level increase due to then traffic on 249. It is already noisy from all the traffic, and this would make it much worse. Families that may want to move to this area would be less likely to move here. Nobody wants to hear traffic and look out their windows and see only buildings.

You may also comment via email to rschmidt@ci.tomball.tx.us. Please reference the Zoning Case number in the subject line.

For questions regarding this request please call 281-290-1410.



Engineering and Planning Department

Public Comment Form

(Please type or use black ink)

All submitted forms will become a part of the public record.

Please return to:

City of Tomball
Department of Engineering & Planning
Attn: Rodney Schmidt
501 James Street
Tomball, TX 77375

Name:
(please print)

DON & MARILYN TOBOLA

Address:

31307 STELLA LANE

TOMBALL, TEXAS 77375

Signature:

[Handwritten Signature]

Date:

9/4/11

—

I am **FOR** the requested rezoning as explained on the attached public notice for Zoning Case P11-349. (Please state reasons below)

X

I am **AGAINST** the requested rezoning as explained on the attached public notice for Zoning Case P11-349. (Please state reasons below)

Date, Location & Time of Planning & Zoning Commission meeting:

Monday, September 12, 2011, 6:00 PM

City Council Chambers of the City of Tomball, City Hall
401 Market Street, Tomball, Texas

Date, Location & Time of City Council meeting:

Monday, September 19, 2011, 6:00 PM

City Council Chambers of the City of Tomball, City Hall
401 Market Street, Tomball, Texas

COMMENTS:

THE COMMERCIAL PROPERTY AT THE END OF LINDA LANE HAS ALREADY DEPRECIATED THE SELLING VALUE OF HOMES IN TOMBALL HILLS. BRINGING COMMERCIAL PROPERTY INTO TOMBALL HILLS WILL FURTHER DECREASE PROPERTY VALUE AND REDUCE THE PROPERTY SALEABILITY. THE NOISE ON 249 IS BAD ENOUGH ALREADY WITHOUT ADDING COMMERCIAL NOISE ALSO.

You may also comment via email to rschmidt@ci.tomball.tx.us. Please reference the Zoning Case number in the subject line.

For questions regarding this request please call 281-290-1410.

ORDINANCE NO. 2011-23

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING ITS COMPREHENSIVE ZONING ORDINANCE BY CHANGING THE ZONING DISTRICT CLASSIFICATION OF APPROXIMATELY 6.928 ACRES OF LAND, LEGALLY DESCRIBED AS LOTS 36, 43, 44, AND 45 OUT OF THE TOMBALL HILLS ADDITION PLAT, WITHIN THE CITY OF TOMBALL, HARRIS COUNTY, TEXAS, FROM THE SF-9 - SINGLE-FAMILY RESIDENTIAL-9 DISTRICT TO THE C -COMMERCIAL DISTRICT; SAID PROPERTY BEING GENERALLY LOCATED ON THE EASTERLY SIDE OF STATE HIGHWAY 249, NORTHERLY OF ZION ROAD; PROVIDING FOR THE AMENDMENT OF THE OFFICIAL ZONING MAP OF THE CITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR A PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF, MAKING FINDINGS OF FACT; AND PROVIDING FOR OTHER RELATED MATTERS

* * * * *

Whereas, the owner(s) of 6.928 acres of land, legally described as Lots 36, 43, 44, and 45 out of the Tomball Hills Addition Plat, generally located on the easterly side of State Highway 249, northerly of Zion Road, from the SF-9 - Single-Family Residential-9 District to the C-Commercial District; and

Whereas, at least eight (8) days after publication in the official newspaper of the City of the time and place of a public hearing and at least ten (10) days written notice of that hearing to the owners of land within two hundred feet of the Property in the manner required by law, the Planning & Zoning Commission held a public hearing on the proposal to change the zoning for the Property from SF-9 - Single-Family Residential-9 District to the C-Commercial District; and

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

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

Whereas, at least fifteen (15) days after publication in the official newspaper of the City of the time and place of a public hearing on the proposal to change the zoning district classification for the Property from SF-9 - Single-Family Residential-9 District to the C-Commercial District, the City Council held the public hearing on the proposal to change the zoning for the Property and the City Council considered the final report of the Planning & Zoning Commission regarding the change of zoning district classification, and,

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

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

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

Section 2. The zoning classification of 6.928 acres of land, legally described as Lots 36, 43, 44, and 45 out of the Tomball Hills Addition Plat, within the City of Tomball, Harris County, Texas, is hereby changed from the SF-9 - Single-Family Residential-9 District to the C-Commercial District subject to the regulations, restrictions, and conditions hereafter set forth.

Section 3. The Official Zoning Map of the City of Tomball, Texas-Ordinance 2008-01, ("Zoning District Map"), shall be revised and amended to show the designation of 6.928 acres of land, legally described as Lots 36, 43, 44, and 45 out of the Tomball Hills Addition Plat, generally located on the easterly side of State Highway 249, northerly of Zion Road, as C-Commercial District, with the appropriate reference thereon to the number and effective date of this Ordinance and a brief description of the nature of the change.

Section 4. This Ordinance shall in no manner amend, change, supplement, or revise any provision of any ordinance of the City of Tomball, save and except the change in zoning classification for 6.928 acres of land, legally described as Lots 36, 43, 44, and 45 out of the Tomball Hills Addition Plat, generally located on the easterly side of State Highway 249, northerly of Zion Road, to C-Commercial District as described above.

Section 5. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

Section 6. Any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction, shall be fined in an amount not to exceed \$2,000. Each day of violation shall constitute a separate offense.

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

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 19TH DAY OF SEPTEMBER 2011.

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 3RD DAY OF OCTOBER 2011.

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

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary

The following notification was sent to all property owners within 200 feet of Hilltop Too! Rental, at 30702 Tomball Parkway (Highway 249); however, this is an item of interest to all of the residents of our Tomball Hills.

You are invited to attend Public Hearings before the Planning and Zoning Commission and City Council of the City of Tomball regarding the following item:

Case Number: P11-349

Applicant: Peter and Sylvia Hildreth

Location: Easterly side of State Highway 249, northerly of Zion Road

Proposal: Request to amend the City's Comprehensive Zoning Ordinance to rezone approximately 6.928 acres of land, legally described as Lots 36, 43, 44, and 45 out of the Tomball Hills Addition Plat, within the City of Tomball, Harris County, Texas, from the SF-9-Single-Family Residential-9 District to the C-Commercial District.

A Planning and Zoning Commission Public Hearing will be held Monday, September 12, 2011, at 6:00 PM, in the City Council Chambers, City Hall, at 401 Market Street, Tomball, Texas.

If you would like the City to continue to honor the original commitment to the developers and residents of Tomball Hills by restricting subdivision lots to single family dwellings, please sign below.

City Planners: Please do not grant the request to rezone Tomball Hills lots from the SF-9-Single-Family Residential-9 District to the C-Commercial District (Case Number: P11-349).

Printed Name

Address

Signature

1. Judy Cooper 31106 Stella Judy Cooper
2. Penny Cathcart 31110 Stella Penny Cathcart
3. Keith Cathcart 31110 Stella Keith Cathcart
4. Jackie Barnett 31214 Stella Jackie Barnett
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____

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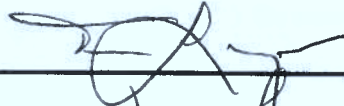
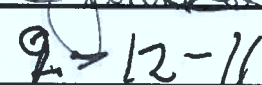
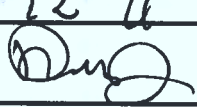
Location: Easterly side of State Highway 249, northerly of Zion Road

Proposal: Request to amend the City's Comprehensive Zoning Ordinance to rezone approximately 6.928 acres of land, legally described as Lots 36, 43, 44, and 45 out of the Tomball Hills Addition Plat, within the City of Tomball, Harris County, Texas, from the SF-9-Single-Family Residential-9 District to the C-Commercial District.

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If you would like the City to continue to honor the original commitment to the residents of Tomball Hills by upholding the restriction of subdivision lots to single family dwellings, please sign below.

Planning and Zoning Commission and City Council: Please do not grant the request to rezone Tomball Hills lots from the SF-9-Single-Family Residential-9 District to the C-Commercial District (Case Number: P11-349).

Printed Name	Address	Signature	Date
1. Tim Lovergne	28106 Linda Lane		9-12-11
2. Janice Leung	28106 Linda Lane		9-12-11
3. Tom Weaver	28118 Heidi		9-12-11
4. D.W. Diaprey	31114 Antonia Ln		9-12-11
5.			
6.			
7.			
8.			
9.			
10.			

The following notification was sent to all property owners within 200 feet of Hilltop Tool Rental, at 30702 Tomball Parkway (Highway 249); however, this is an item of interest to all of the residents of Tomball Hills.

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Applicant: Peter and Sylvia Hildreth

Location: Easterly side of State Highway 249, northerly of Zion Road

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Planning and Zoning Commission and City Council: Please do not grant the request to rezone Tomball Hills lots from the SF-9-Single-Family Residential-9 District to the C-Commercial District (Case Number: P11-349).

Printed Name	Address	Signature	Date
1. Mary Pichl	28111 Linda Ln.	Mary Pichl	9/11/11
2. DON TOBOLA	31307 STELLA LN	Don Tobola	9/11/11
3. GARY HENNEKE	31210 STELLA	Gary Henneke	9/11/11
4. Twane Henneke	31210 Stella	Twane Henneke	9/11/11
5. TIM Barnett	31214 Stella Lane	Tim Barnett	9/11/11
6. JOAN DeVaney	31202 Stella Lane	Joan DeVaney	9/11/11
7. Robert Carrillo	28114 Linda Ln	Robert Carrillo	9-11-11
8. Mary Ann Duncan	28110 Linda Ln	Mary Ann Duncan	9/11/11
9.			
10.			

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City Planners: Please do not grant the request to rezone Tomball Hills lots from the SF-9-Single-Family Residential-9 District to the C-Commercial District (Case Number: P11-349).

Printed Name

Address

Signature

1. JUDY COOPER 31106 STELLA LN Judy Cooper
2. Penny Cathcart 31110 Stella Penny Cathcart
3. Keith Cathcart 31110 Stella Keith Cathcart
4. Gertie Chensard 31310 Antonio Gertie Chensard
5. JESSICA PURSELL 31223 ANTONIA Jessica Purcell
6. PATTY HARLEWOOD 31418 Stella LN Patty Harlewood
7. PAT WILCOX 28114 CHRIS LN Pat Wilcox
8. _____
9. _____
10. _____

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If you would like the City to continue to honor the original commitment to the residents of Tomball Hills by upholding the restriction of subdivision lots to single family dwellings, please sign below.

City Planners: Please do not grant the request to rezone Tomball Hills lots from the SF-9-Single-Family Residential-9 District to the C-Commercial District (Case Number: P11-349).

Printed Name

Address

Signature

9-11-11	1. Everett Benignus	31202 Antonia Ln	Everett Benignus
9-11-11	2. Lorraine Benignus	31202 Antonia Ln	Lorraine Benignus
9-12-11	3. Todd & Suzanne Rogers	31123 Antonia Ln	Todd Rogers
9-12-11	4. Josephine Leonard	31123 Alice Lane	Josephine Leonard
	5.		
	6.		
	7.		
	8.		
	9.		
	10.		

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Printed Name

Address

Signature

- | DATE | Printed Name | Address | Signature |
|-----------|---------------------------|--------------------------------|---------------------|
| 9-11-2011 | 1. JAMES R. WRENTZ | 31203 ANTONIA LN | James R. Wrentz |
| 9-11-2011 | 2. Linda Wrentz | 31203 Antonia Ln | Linda Wrentz |
| 9-11-2011 | 3. Margie Stone | 31222 Alice Lane | Margie R. Stone |
| 9-11-2011 | 4. PEGGY DAILEY NORMAN | -31127 ANTONIA LA. | Peggy Norman |
| 9-11-2011 | 5. Kimberly VanVeen | -31119 Antonia Lane | Kimberly VanVeen |
| 9-11-2011 | 6. Marcia Swinchart | 31118 Antonia Lane Tomball, TX | Marcia Swinchart |
| 9-11-2011 | 7. Steve Swinchart | 31118 Antonia Ln Tomball TX | Steve Swinchart |
| 9-11-2011 | 8. Ken Burckfield | 31122 Antonia Ln Tomball TX | Ken Burckfield |
| 9-11-2011 | 9. HELEN BURCKFIELD | 31122 ANTONIA LN | Helen B. Burckfield |
| 9-11-11 | 10. Sandy Anderson | 31126 ANTONIA LN | Sandy Anderson |
| 9-11-11 | 11. Bob Anderson | 31126 ANTONIA LN | Bob Anderson |
| 9-11-11 | 12. Teresa Bruckly-Noblet | 31130 ANTONIA | Teresa B. Noblet |
| 9-11-11 | 13. Tom Bruckly-Noblet | " " | Tom B. Noblet |

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City Planners: Please do not grant the request to rezone Tomball Hills lots from the SF-9-Single-Family Residential-9 District to the C-Commercial District (Case Number: P11-349).

Printed Name

Address

Signature

1.	Carrie Gracey	31303 Antonia Ln.	Carrie L Gracey
2.			
3.			
4.			
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6.			
7.			
8.			
9.			
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Applicant: Peter and Sylvia Hildreth

Location: Easterly side of State Highway 249, northerly of Zion Road

Proposal: Request to amend the City's Comprehensive Zoning Ordinance to rezone approximately 6.928 acres of land, legally described as Lots 36, 43, 44, and 45 out of the Tomball Hills Addition Plat, within the City of Tomball, Harris County, Texas, from the SF-9-Single-Family Residential-9 District to the C-Commercial District.

A Planning and Zoning Commission Public Hearing will be held Monday, September 12, 2011, at 6:00 PM, in the City Council Chambers, City Hall, at 401 Market Street, Tomball, Texas.

If you would like the City to continue to honor the original commitment to the residents of Tomball Hills by upholding the restriction of subdivision lots to single family dwellings, please sign below.

City Planners: Please do not grant the request to rezone Tomball Hills lots from the SF-9-Single-Family Residential-9 District to the C-Commercial District (Case Number: P11-349).

Printed Name	Address	Signature
1. Craig Gracey	31303 ANTONIA LN, Tomball,	Craig Gracey
2. JONATHAN YEREX	31231 ANTONIA LN, TOMBALL,	Jonathan Yerex
3. Nanette Bell	31245 Antonia Lane Tomball	Nanette Bell
4. Steve Bushong	31211 Antonia Lane Tomball	Steve Bushong
5. Wesley Johnston		Wesley Johnston
6. Dan Coffey		
7. JAMES COFFEY	31218 ANTONIO LN	James R. Coffey
8. Deborah Coffey	31218 Antonia Ln	Deborah Coffey
9. Danny Williams	31222 Antonia Ln	Danny Williams
10.		

The following notification was sent to all property owners within 200 feet of Hilltop Tool Rental, at 30702 Tomball Parkway (Highway 249); however, this is an item of interest to all of the residents of our Tomball Hills.

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	Printed Name	Address	Signature
9-12-11	1. Barbara Scherer	31303 STELLA LN,	Barbara Scherer
9-12-11	2. LOYD H. SCHERER	31303 STELLA LN.	Lloyd H. Scherer
	3.		
	4.		
	5.		
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	7.		
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	10.		

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Printed Name

Address

Signature

9-11-11

1. Gertrude A. Henneke, 31306 Stella Ln Tomball TX 77375 Gertrude A. Henneke

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Printed Name

Address

Signature

9-11-11 Herbert A. Henneke 31306 Stella Ln. Tomball TX 77375 Herbert A. Henneke

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Printed Name

Address

Signature

9-11-11

1. FRANK A RACHAC 31307 ANTONIA LN 

2.

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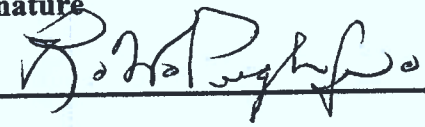
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Printed Name

Address

Signature

9-11-2011

1. ROBERT W PUGH JR 31310 STELLA LANE 
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
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10. _____

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Printed Name

Address

Signature

1. SAM E. MURRAY JR. 31314 STELLA LN. Sam E. Murray 9/11/11
2. _____
3. _____
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Printed Name

Address

Signature

1. PAMELA MURRAY

31314 STELLA LN

Pamela Murray 9/11/11

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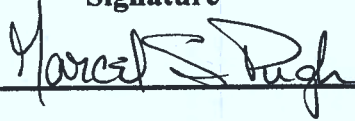
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Printed Name	Address	Signature
1. MARCEL S PUGH	31310 STELLA LANE	
2.		
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Printed Name

Address

Signature

9-11-2011	1. Paul Burke	28111 CAMILLA	Paul Burke
9-11-2011	2. Ron Miesner	31317 Stella	Ron Miesner
9-11-2011	3. Jay Criner	31419 Stella	Jay Criner
9-11-2011	4. Roy Johike	31314 Patricia Ln.	Roy Johike
9-11-2011	5. CHRIS KETTENBURG	31662 ANTONIA LN.	Chris Kettenburg
9-11-11	6. Marybeth Bosworth	31321 Stephen	Marybeth Bosworth
9-11-11	7. Skip (F.E.) Bosworth	31321 Stephen	Skip Bosworth
	8.		
	9.		
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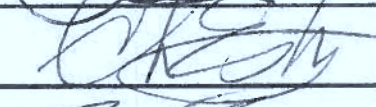
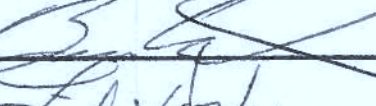
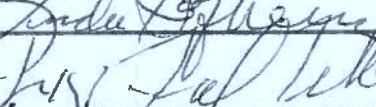
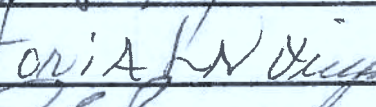
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	Printed Name	Address	Signature
9/11/11	1. Rhenda Bolton	28111 Camile Dr.	
9-11-11	2. Christa Eshelman	31414 Stella Ln	
9-11-11	3. BRUCE LESLIE	31414 Stella Ln	
9-11-11	4. Linda Stephens	31422 Stella Ln	
9-11-11	5. Ted Miller	31315 Antoria Ln	
9-11-11	6. VIRGINIA MILLER	31315 Antoria Ln	
9-11-11	7. EDWARD B BUTTRON	31311 Antoria Ln	
	8.		
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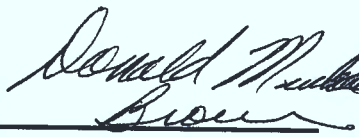
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Printed Name

Address

Signature

1. DONALD MARSHALL BROWN 31319 ALICE LN Tomball TX 77375 

2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____

Rodney Schmidt

From: CHRISTAL ESHELMAN [caeshelman@gmail.com]

Sent: Monday, September 12, 2011 1:27 PM

To: Rodney Schmidt

Subject: REZONING

Dear Mr. Schmidt,

I respectfully request that you recommend to City Council to deny Zoning case P11-349 for rezoning. This is a quiet, wonderful neighborhood subdivision and we DO NOT want any commercial properties tied to it. Thank you for your time.

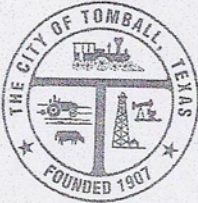
Sincerely,

Christal & Bruce Eshelman

31414 Stella Lane

Tomball, Tx 77375

(832-524-7850)



Public Comment Form

(Please type or use black ink)

All submitted forms will become a part of the public record.

Please return to:

City of Tomball

Department of Engineering & Planning

Attn: Rodney Schmidt

501 James Street

Tomball, TX 77375

Name:

(please print)

Address:

David Ward, - Word - Brown Partners

28103 Linda Ln, Tomball, Tx. 77375

Signature:

Date:

9/16/11

I am **FOR** the requested rezoning as explained on the attached public notice for **Zoning Case P11-349**. (Please state reasons below)

☒ I am **AGAINST** the requested rezoning as explained on the attached public notice for **Zoning Case P11-349**. (Please state reasons below)

Date, Location & Time of **Planning & Zoning Commission** meeting:

Monday, September 12, 2011, 6:00 PM

City Council Chambers of the City of Tomball, City Hall

401 Market Street, Tomball, Texas

Date, Location & Time of **City Council** meeting:

Monday, September 19, 2011, 6:00 PM

City Council Chambers of the City of Tomball, City Hall

401 Market Street, Tomball, Texas

COMMENTS:

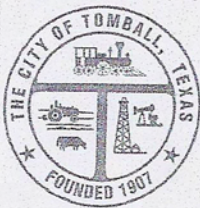
The Need to protect the residential base exceeds the need to relinquish areas to Commercial with an already expansive regional commercial base in place that is underperforming.

It takes a strong residential base to justify the performance of Commercial applications.

I am opposed to expanding the commercial Area here.

You may also comment via email to rschmidt@ci.tomball.tx.us. Please reference the Zoning Case number in the subject line.

For questions regarding this request please call 281-290-1410.



Notice of Public Hearing

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

CASE NUMBER: P11-349

APPLICANT: Peter and Sylvia Hildreth

LOCATION: Easterly side of State Highway 249, northerly of Zion Road

PROPOSAL: Request to amend the City's Comprehensive Zoning Ordinance to rezone approximately 6.928 acres of land, legally described as Lots 36, 43, 44, and 45 out of the Tomball Hills Addition Plat, within the City of Tomball, Harris County, Texas, from the SF-9 - Single-Family Residential-9 District to the C - Commercial District.

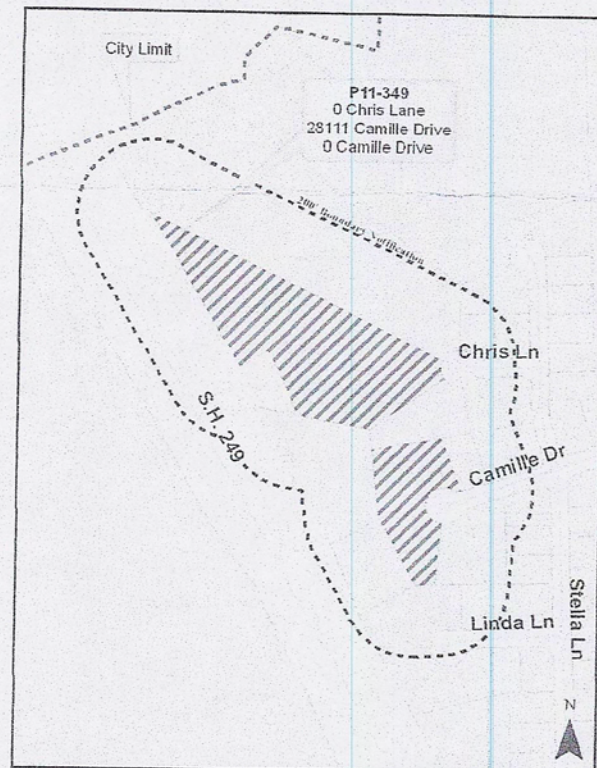
CONTACT PLANNER: Rodney Schmidt

PHONE: (281) 290-1410

E-MAIL: rschmidt@ci.tomball.tx.us

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

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



**Planning and Zoning Commission
Public Hearing:
Monday, September 12, 2011, 6:00 PM**

**City Council Public Hearing:
*Monday, September 19, 2011, 6:00 PM**

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

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

Rodney Schmidt

From: Diana Perry [dperry@live.com]
Sent: Tuesday, September 13, 2011 11:08 AM
To: Rodney Schmidt
Subject: Case P11-349 Tomball Hills

Mr. Schmidt,

My name is Diana Costa Perry and I am an owner of the lot located Tomball Hills on Camille Lane that is within 200 feet of a lot that has requested rezoning by Peter and Sylvia Hildreth. It is a vacant lot in between two homes.

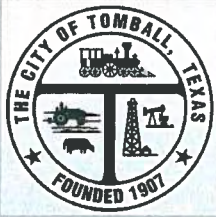
I was mailed a letter from you asking that I respond with either that I am for or against this rezoning request.

My response is that I, Diana Costa Perry am AGAINST this rezoning as I feel that it will lower the value of my property. Tomball Hills has always been residential and having a commercial property so close to my property will make it difficult for me to sell it. My parents Frank and Elena Costa own the home / property directly next to mine and they have been there for a number of years. Frank and Elena Costa are AGAINST the rezoning as well. Having the business there for the past years has increased noise and made the area look not as appealing as we can see the commercial business. Also on a side note, the gentlemen has had discussions with my folks and the discussions ended in my folks asking him to leave their property. Having said that I have not had any discussions with him and do not see any need for it. My parents are unfortunately out of the country and cannot attend the meetings. I am not able to attend the meetings either as I live in Austin.

My parents own 31407 Stella Lane (which is the corner of Camille / Stella lane).

Thank you for your time and should you need to contact me, my information is below.

Diana Costa Perry
189 Nicholas Lane
Driftwood, Texas 78619
512-858-4423
512-911-0422 - cell
dperry@live.com



Public Comment Form

(Please type or use black ink)

All submitted forms will become a part of the public record.

Please return to:

City of Tomball
Department of Engineering & Planning
Attn: Rodney Schmidt
501 James Street
Tomball, TX 77375

Name:

DON & MARILYN TOBOUA

(please print)

Address:

31307 STELLA LANE

TOMBALL, TEXAS 77375

Signature:

[Handwritten Signature]

Date:

9/4/11

I am **FOR** the requested rezoning as explained on the attached public notice for **Zoning Case P11-349**. (Please state reasons below)

☒

I am **AGAINST** the requested rezoning as explained on the attached public notice for **Zoning Case P11-349**. (Please state reasons below)

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401 Market Street, Tomball, Texas

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Monday, September 19, 2011, 6:00 PM

City Council Chambers of the City of Tomball, City Hall
401 Market Street, Tomball, Texas

COMMENTS:

THE COMMERCIAL PROPERTY AT THE END OF LINDA LANE HAS ALREADY DEPRECIATED THE SELLING VALUE OF HOMES IN TOMBALL HILLS, BRINGING COMMERCIAL PROPERTY INTO TOMBALL HILLS WILL FURTHER DECREASE PROPERTY VALUE AND REDUCE THE PROPERTY SALEABILITY. THE NOISE ON 249 IS BAD ENOUGH ALREADY WITHOUT ADDING COMMERCIAL NOISE ALSO.

You may also comment via email to rschmidt@ci.tomball.tx.us. Please reference the Zoning Case number in the subject line.

For questions regarding this request please call 281-290-1410.

Rodney Schmidt

From: Diana Perry [dperry@live.com]
Sent: Tuesday, September 13, 2011 11:08 AM
To: Rodney Schmidt
Subject: Case P11-349 Tomball Hills

Mr. Schmidt,

My name is Diana Costa Perry and I am an owner of the lot located Tomball Hills on Camille Lane that is within 200 feet of a lot that has requested rezoning by Peter and Sylvia Hildreth. It is a vacant lot in between two homes.

I was mailed a letter from you asking that I respond with either that I am for or against this rezoning request.

My response is that I, Diana Costa Perry am AGAINST this rezoning as I feel that it will lower the value of my property. Tomball Hills has always been residential and having a commercial property so close to my property will make it difficult for me to sell it. My parents Frank and Elena Costa own the home / property directly next to mine and they have been there for a number of years. Frank and Elena Costa are AGAINST the rezoning as well. Having the business there for the past years has increased noise and made the area look not as appealing as we can see the commercial business. Also on a side note, the gentlemen has had discussions with my folks and the discussions ended in my folks asking him to leave their property. Having said that I have not had any discussions with him and do not see any need for it. My parents are unfortunately out of the country and cannot attend the meetings. I am not able to attend the meetings either as I live in Austin.

My parents own 31407 Stella Lane (which is the corner of Camille / Stella lane).

Thank you for your time and should you need to contact me, my information is below.

Diana Costa Perry
189 Nicholas Lane
Driftwood, Texas 78619
512-858-4423
512-911-0422 - cell
dperry@live.com

Rodney Schmidt

From: Linda Wrentz [jlwrentz2@att.net]
Sent: Monday, September 12, 2011 2:47 PM
To: Rodney Schmidt
Subject: FROM JIM & LINDA WRENTZ

Sept 12, 2010

Dear Mr. Schmidt,

We are **AGAINST** the requested rezoning for Zoning Case P11-349. Please recommend to City Council that this request be **DENIED**.

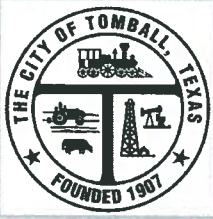
Thank you,

Jim & Linda Wrentz

31203 Antonia Ln

Tomball TX

281-255-6133



Public Comment Form

(Please type or use black ink)

All submitted forms will become a part of the public record.

Please return to:

City of Tomball

Department of Engineering & Planning

Attn: Rodney Schmidt

501 James Street

Tomball, TX 77375

Name:

Joy CRINER

(please print)

Address:

31419 STELLA LANE
Tomball TX 77375

Signature:

Joy Criner

Date:

9-9-11

I am **FOR** the requested rezoning as explained on the attached public notice for **Zoning Case P11-349**. (Please state reasons below)

 I am **AGAINST** the requested rezoning as explained on the attached public notice for **Zoning Case P11-349**. (Please state reasons below)

Date, Location & Time of **Planning & Zoning Commission** meeting:

Monday, September 12, 2011, 6:00 PM

City Council Chambers of the City of Tomball, City Hall
401 Market Street, Tomball, Texas

Date, Location & Time of **City Council** meeting:

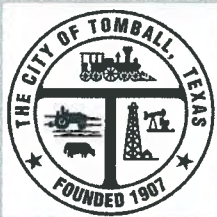
Monday, September 19, 2011, 6:00 PM

City Council Chambers of the City of Tomball, City Hall
401 Market Street, Tomball, Texas

COMMENTS:

You may also comment via email to rschmidt@ci.tomball.tx.us. Please reference the Zoning Case number in the subject line.

For questions regarding this request please call 281-290-1410.



Public Comment Form

(Please type or use black ink)

All submitted forms will become a part of the public record.

Please return to:

City of Tomball
Department of Engineering & Planning
Attn: Rodney Schmidt
501 James Street
Tomball, TX 77375

Name:

Libby D. Tompkins

(please print)

Address:

31313 Stella Lane

Tomball, Tx, 77375

Signature:

Libby D. Tompkins

Date:

9-6-11

☐ I am **FOR** the requested rezoning as explained on the attached public notice for **Zoning Case P11-349**. (Please state reasons below)

☒ I am **AGAINST** the requested rezoning as explained on the attached public notice for **Zoning Case P11-349**. (Please state reasons below)

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Monday, September 19, 2011, 6:00 PM

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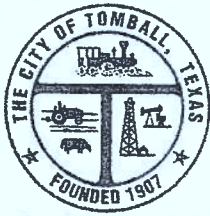
401 Market Street, Tomball, Texas

COMMENTS:

Rezoning would necessitate in removing the large number of trees behind our house. This would hurt our property value and cause a significant noise level increase due to the traffic on 249. It is already noisy from all the traffic, and this would make it much worse. Families that may want to move to this area would be less likely to move here. Nobody wants to hear traffic and look out their windows and see only buildings.

You may also comment via email to rschmidt@ci.tomball.tx.us. Please reference the Zoning Case number in the subject line.

For questions regarding this request please call 281-290-1410.



Public Comment Form

(Please type or use black ink)

All submitted forms will become a part of the public record.

Please return to:

City of Tomball
Department of Engineering & Planning
Attn: Rodney Schmidt
501 James Street
Tomball, TX 77375

Name:

LINDA KNIGHT Hofheinz

(please print)

Address:

31422 Stella Ln

Signature:

Linda Hofheinz

Date:

9-12-11

I am **FOR** the requested rezoning as explained on the attached public notice for **Zoning Case P11-349**. (Please state reasons below)

☒ I am **AGAINST** the requested rezoning as explained on the attached public notice for **Zoning Case P11-349**. (Please state reasons below)

Date, Location & Time of **Planning & Zoning Commission** meeting:

Monday, September 12, 2011, 6:00 PM

City Council Chambers of the City of Tomball, City Hall
401 Market Street, Tomball, Texas

Date, Location & Time of **City Council** meeting:

Monday, September 19, 2011, 6:00 PM

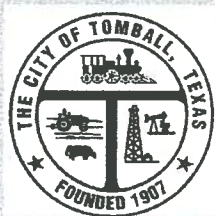
City Council Chambers of the City of Tomball, City Hall
401 Market Street, Tomball, Texas

COMMENTS:

As a ~~member~~ ^{28 yr} Resident of Tomball Hills,
I am strongly **AGAINST** the requested
Re-zoning of our residential lots. This
could result in the decrease of
my property value.

You may also comment via email to rschmidt@ci.tomball.tx.us. Please reference the Zoning
Case number in the subject line.

For questions regarding this request please call 281-290-1410.



Public Comment Form

(Please type or use black ink)

All submitted forms will become a part of the public record.

Please return to:

City of Tomball

Department of Engineering & Planning

Attn: Rodney Schmidt

501 James Street

Tomball, TX 77375

Name:

LOYD H. SCHERER & BARBARA SCHERER

(please print)

Address:

31303 STELLA LANE

TOMBALL, TX 77375

Signature:

Lloyd H. Scherer

Date:

09-12-2011

I am **FOR** the requested rezoning as explained on the attached public notice for **Zoning Case P11-349**. (Please state reasons below)

✓
I am **AGAINST** the requested rezoning as explained on the attached public notice for **Zoning Case P11-349**. (Please state reasons below)

Date, Location & Time of **Planning & Zoning Commission** meeting:

Monday, September 12, 2011, 6:00 PM

City Council Chambers of the City of Tomball, City Hall
401 Market Street, Tomball, Texas

Date, Location & Time of **City Council** meeting:

Monday, September 19, 2011, 6:00 PM

City Council Chambers of the City of Tomball, City Hall
401 Market Street, Tomball, Texas

COMMENTS:

You may also comment via email to rschmidt@ci.tomball.tx.us. Please reference the Zoning Case number in the subject line.

For questions regarding this request please call 281-290-1410.

Rodney Schmidt

From: dmb462@aol.com
Sent: Thursday, September 08, 2011 9:50 PM
To: Rodney Schmidt
Cc: brad.hallmark@sbcglobal.net; david.wood@mctx.org; bbrock52@aol.com
Subject: Re-Zoning Case P11-349

Dear Mr. Schmidt

It has been brought to my attention that there is a pending request for rezoning some plots inside the subdivision that I live in (Tomball Hills). This is your Case Number: P11-349

After reviewing the Notice of Public Hearing (which was given to me by a concern neighbor and not by the City) my wife and I would like to express that we are against this proposal. These lots are a part of Tomball Hills which is Zoned for Residential and should not be considered for anything else but Residential.

We appeal to the Engineering and Planning Department not to rezone these lots to Commercial

Unfortunately I will be out of town on business Monday evening or I would be at the Public Hearing.

Trust you will take our concerns into consideration when you and the Departments consider these recommendations

Sincerely

D. Marshall Brown
31319 Alice Lane
Tomball, TX 77375
281-351-1965 Home
518-253-5963 Cell

Rodney Schmidt

From: Mary Piehl [marypiehl@gmail.com]
Sent: Friday, September 09, 2011 10:36 AM
To: Rodney Schmidt
Subject: Fwd: Request to amend the City's Comprehensive Zoning Ordinance

----- Forwarded message -----

From: Mary Piehl <marypiehl@gmail.com>
Date: Thu, Sep 8, 2011 at 6:46 PM
Subject: Re: Request to amend the City's Comprehensive Zoning Ordinance--Case #P11-349
To: rschmidt@ci.tomball.tx.us
Cc: Vernon <vpasegoods@aol.com>

Dear Mr. Schmidt,

For 26 years we have lived in our house at 28111 Linda Lane and owned the adjoining lot. We emphatically do not support Mr. Hildreth's request to rezone lots out of the Tomball Hills Addition Platt.

All of us knew when we bought our property, before Mr. Hildreth built his business, that the lot adjacent to the subdivision was a commercial lot in the 100 Year Flood Plain of Spring Creek. None of us expected that his business would become as extensive as it has, and we can congratulate Mr. Hildreth for his success.

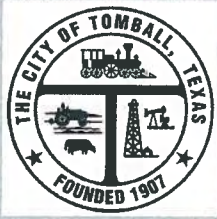
Likewise, when Mr. Hildreth bought this lot, he knew the limitations of the size of the property and that Highway 249 would eventually be expanded. Just as we must live with a business that disturbs the privacy of adjoining residences with flood lights, and at times, commercial noise pollution, Mr. Hildreth should be limited to the size of the commercial lot he originally, knowingly purchased. He should not be able to grow his business beyond the boundaries of the property initially zoned as commercial.

The values of those lots adjoining his property have already been affected and will, predictably, be affected more if further growth of his business is allowed. We are requesting that the city continue to honor the original commitment to the developers and residents of Tomball Hills by restricting subdivision lots to single family dwellings.

Please do not grant the request to rezone Tomball Hills lots from the SF-9-Single Family Residential-9 District to the C-Commercial District!

Sincerely,

Mary and Vernon Piehl
28111 Linda Ln.
Tomball, TX 77375



Public Comment Form

(Please type or use black ink)

All submitted forms will become a part of the public record.

Please return to:

City of Tomball

Department of Engineering & Planning

Attn: Rodney Schmidt

501 James Street

Tomball, TX 77375

Name:

Matthew Michna

(please print)

Address:

28110 Chris Lane

Tomball, TX 77375

Signature:

Matthew Michna

Date:

9-9-11

I am **FOR** the requested rezoning as explained on the attached public notice for **Zoning Case P11-349**. (Please state reasons below)

X

I am **AGAINST** the requested rezoning as explained on the attached public notice for **Zoning Case P11-349**. (Please state reasons below)

Date, Location & Time of **Planning & Zoning Commission** meeting:

Monday, September 12, 2011, 6:00 PM

City Council Chambers of the City of Tomball, City Hall

401 Market Street, Tomball, Texas

Date, Location & Time of **City Council** meeting:

Monday, September 19, 2011, 6:00 PM

City Council Chambers of the City of Tomball, City Hall

401 Market Street, Tomball, Texas

COMMENTS:

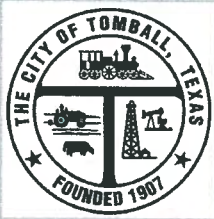
See Attached

You may also comment via email to rschmidt@ci.tomball.tx.us. Please reference the Zoning Case number in the subject line.

For questions regarding this request please call 281-290-1410.

In 2004 my family and I moved into the home located at 28110 Chris Lane in the Tomball Hills Subdivision. At the time we moved in there were abundant trees that filled the valley of Spring Creek located between our home and the bridge on Hwy 249. The trees were dense and tall and provided a good buffer between our home and the highway. I have seen photos taken at that time and it saddens me because the highway could not be seen or heard from our home. The trees also provided much needed evening shade to my property. A few years after we settled into our new home I noticed that our neighbor, the owner of the property in question for re-zoning, began to remove the trees that provided our buffer from the highway and the sun. Over the next few years all of the trees were removed and placed into a large pile in the valley of Spring Creek. The large pile of dry tree debris and stumps were set on fire late one night some time in 2009 under the cover of darkness and placed my home and family in imminent danger. I also have had to tolerate the stench of decaying animals such as possums and raccoons that lived in the trees that were destroyed by the property owner.

I understand and respect the rights of property owners in Texas to be able to do as they wish with their personal property. My concern with this proposal is, considering the decisions that the applicants have made for proposed lots and adjoining lots in the past without regard for property owners around them. I am gravely concerned that if this property is changed to commercial property and is no longer classified as residential, the property on my cul-de-sac will become as horrifying as the rest of the property that I am forced to look at every day and night. I ask the zoning commission and council to reject this request in order to maintain what value remains in my personal property after the owner of Hilltop Tool Rental has single handedly decreased my property values \$65, 000 so far. I fear that if this property is allowed to become commercial that my property value will drop to zero. I paid \$185,000 for my home and at one time had \$60,000 equity. Thanks to the actions of my neighbor who now wants to change his property to commercial property I have lost that equity. An additional concern with the applicants having un-restricted commercial use of the property is that there could be a rear entrance to the business on Chris Lane. This would create commercial traffic throughout the subdivision and on my street where my children currently enjoy playing with very little traffic.



Public Comment Form

(Please type or use black ink)

All submitted forms will become a part of the public record.

Please return to:

City of Tomball

Department of Engineering & Planning

Attn: Rodney Schmidt

501 James Street

Tomball, TX 77375

Name:

PATRICIA WILCOX

(please print)

Address:

28114 CHRIS LN

TOMBALL TX 77375

Signature:

Patricia Wilcox

Date:

9-9-11

I am **FOR** the requested rezoning as explained on the attached public notice for **Zoning Case P11-349**. (Please state reasons below)

X

I am **AGAINST** the requested rezoning as explained on the attached public notice for **Zoning Case P11-349**. (Please state reasons below)

Date, Location & Time of **Planning & Zoning Commission** meeting:

Monday, September 12, 2011, 6:00 PM

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401 Market Street, Tomball, Texas

Date, Location & Time of **City Council** meeting:

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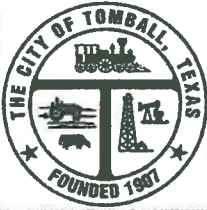
City Council Chambers of the City of Tomball, City Hall

401 Market Street, Tomball, Texas

COMMENTS:

You may also comment via email to rschmidt@ci.tomball.tx.us. Please reference the Zoning Case number in the subject line.

For questions regarding this request please call 281-290-1410.



Public Comment Form

(Please type or use black ink)

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Please return to:

City of Tomball

Department of Engineering & Planning

Attn: Rodney Schmidt

501 James Street

Tomball, TX 77375



Name:

(please print)

Address:

Signature:

Date:

Patrick & Henri Clark
99A Cane Creek
Houston, TX 77026
09/07/2011



I am **FOR** the requested rezoning as explained on the attached public notice for Zoning Case P11-349. (Please state reasons below)

☒ I am **AGAINST** the requested rezoning as explained on the attached public notice for Zoning Case P11-349. (Please state reasons below)

Date, Location & Time of Planning & Zoning Commission meeting:

Monday, September 12, 2011, 6:00 PM

City Council Chambers of the City of Tomball, City Hall

401 Market Street, Tomball, Texas

Date, Location & Time of City Council meeting:

Monday, September 19, 2011, 6:00 PM

City Council Chambers of the City of Tomball, City Hall

401 Market Street, Tomball, Texas

COPY

COMMENTS:

HAVE Questions need to be Answered
Then I may
change to for
DAR

You may also comment via email to rschmidt@ci.tomball.tx.us. Please reference the Zoning Case number in the subject line.

For questions regarding this request please call 281-290-1410.

Rodney Schmidt

From: Rhonda Bolton [rhondabolton@live.com]

Sent: Monday, September 12, 2011 12:49 PM

To: Rodney Schmidt

Subject: Public Comment Form

City of Tomball
Engineering & Planning
Rodney Schmidt

Sept 12, 2010

Hello Mr. Schmidt,

I am AGAINST the requested rezoning for Zoning Case P11-349. I ask that you recommend to City Council that this request be DENIED.

Thank you,

Rhonda Bolton
28111 Camille Dr.
Tomball Hills

Rodney Schmidt

From: beyond13 [beyond13@att.net]
Sent: Monday, September 12, 2011 11:48 AM
To: Rodney Schmidt
Subject: Case Number P11-349

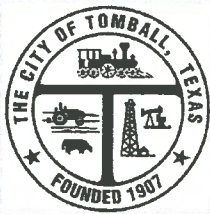
Mr. Rodney Schmidt
Engineering and Planning Department
Case Number: P11-349

Dear Mr. Schmidt,

Please do not grant the request to rezone Tomball Hills lots (36, 43, 44, and 45) from the SF-9-Single-Family Residential-9 District to the C-Commercial District (Case Number: P11-349).

Sincerely,

Robert W. Pugh, Jr.
Marcel O. Pugh
(owners of Tomball Hills residential property at)
31310 Stella Lane
Tomball, TX 77375



Public Comment Form

(Please type or use black ink)

All submitted forms will become a part of the public record.

Please return to:

City of Tomball

Department of Engineering & Planning

Attn: Rodney Schmidt

501 James Street

Tomball, TX 77375

Name:

(please print)

Address:

Signature:

Date:

ROBERT W. PUGH JR

31310 STELLA LANE

TOMBALL, TX 77375

R. W. Pugh Jr

9-12-2011

I am **FOR** the requested rezoning as explained on the attached public notice for **Zoning Case P11-349**. (Please state reasons below)

4

I am **AGAINST** the requested rezoning as explained on the attached public notice for **Zoning Case P11-349**. (Please state reasons below)

Date, Location & Time of **Planning & Zoning Commission** meeting:

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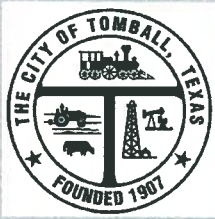
City Council Chambers of the City of Tomball, City Hall

401 Market Street, Tomball, Texas

COMMENTS:

You may also comment via email to rschmidt@ci.tomball.tx.us. Please reference the Zoning Case number in the subject line.

For questions regarding this request please call 281-290-1410.



Public Comment Form

(Please type or use black ink)

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Please return to:

City of Tomball

Department of Engineering & Planning

Attn: Rodney Schmidt

501 James Street

Tomball, TX 77375

Name:

Ronald T. Miesner

(please print)

Address:

31317 STENA Lane

TOMBALL, TX 77375

Signature:

Ronald T. Miesner

Date:

9/12/2011

I am **FOR** the requested rezoning as explained on the attached public notice for **Zoning Case P11-349**. (Please state reasons below)

X

I am **AGAINST** the requested rezoning as explained on the attached public notice for **Zoning Case P11-349**. (Please state reasons below)

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COMMENTS:

You may also comment via email to rschmidt@ci.tomball.tx.us. Please reference the Zoning Case number in the subject line.

For questions regarding this request please call 281-290-1410.

Regular City Council

Agenda Item

Data Sheet

Meeting Date: September 19, 2011

Topic:

Approve 2011-2016 Strategic Plan

Background:

The Tomball Strategic Plan is a decision-making tool that systematically addresses the community's needs and desires and is aligned with the City's vision that was developed by the community in our Comprehensive Plan creation. The Strategic Plan helps ensure the most effective use of the organization's limited resources by focusing them on key priorities. The City Council undertook a thorough, informed, deliberative process in the development of this work plan.

The following was the process Mission Statement and Overall Goals that guided the development of the Tomball Strategic Plan:

Mission--To create a consensus plan that identifies the overall strategic direction and priorities for the City of Tomball. The Strategic Plan will serve as a decision-making guide and budgeting tool that will translate the community's long range plans into action.

Goals--

- Be easy to use and understandable by the council, staff and public.
- Focus on realistic, action-oriented strategies.
- Provide mechanisms to evaluate progress.
- Outline strategies for updating or making changes.
- Be the result of a council and staff collaborative effort.

The Plan was developed by bringing together elected officials and key staff members through a deliberative dialogue focused on reaching common ground, exploring alternatives, determining implications, and reaching consensus on a course of action for the City of Tomball. The City of Tomball hired Partners for Strategic Action, Inc. (PSA) to work with the City Council and staff to create the Strategic Plan.

Origination:

Mayor and City Council

Recommendation:

Approve the 2011-2016 Strategic Plan

Funding:

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

Christal Weber, Assistant City Manager

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

ATTACHMENTS:

Planning Advance Meeting Summary
2011-2016 Strategic Plan



PLANNING ADVANCE SUMMARY REPORT
July 20, 2011

**CITY OF TOMBALL
STRATEGIC PLAN
2011 - 2016**

Introduction

The City of Tomball initiated a comprehensive strategic planning process in 2010 that resulted in the Tomball Strategic Plan 2010 – 2015. It was a collaborative effort involving all departments and the City Council. On July 20, 2011, the City Council and management staff met in a full-day event to update the Tomball Strategic Plan. Following is a summary of the Planning Advance that resulted in the development of the updated strategic plan. The City Council committed to working closely with management staff to develop the updated strategic plan that would serve three objectives:

1. Set the priorities for the annual budget process.
2. Provide a five-year strategic direction for the city.
3. Improve working relationships and encourage collaboration across the entire governmental structure.

The City of Tomball hired Partners for Strategic Action, Inc. to design and facilitate the strategic plan update process to achieve the objectives. The strategic planning process was intended to help answer the following questions.

- Where are we now? Why an update?
- Where do we want to be?
- How do we get there?

Where are we now? Why an update? Timing is right for a fresh look at the Strategic Plan. The Tomball Comprehensive Plan is being implemented and public input is continuing. The City has clear direction from the public about the vision and desired direction. The challenging economic times require creative solutions and prioritization of resources has never been more important. Lastly, the timing is right to move many of the ideas or projects identified in planning documents toward implementation.

Where do we want to be? “Nothing happens unless first a dream.” Those words of the great poet Carl Sandburg capture something essential about the human spirit our ability to contemplate, speculate about, and even plan for the future. In fact, it could be said that human progress has always depended upon this capacity for foresight. Foresight also lies at the heart of the visioning process. In short, if we wish to create a better community, we must first envision that community and develop the strategic framework to get there. Working with management staff and elected officials during the workshop, the strategic direction was identified.

How do we get there? To successfully complete the strategic planning process, open and honest discussions of the area’s issues were discussed and an understanding of the “sticky” community issues explored. In addition, an outcome of the process was an understanding of “common ground” as well as where individuals agree to disagree on various topics.

The Tomball Strategic Plan Update process involved: pre-planning analysis, individual interviews with City Council members, full day planning advance, and plan update. Following is a summary of the planning advance discussions.

STRATEGIC PLAN EXPECTATIONS

Participants discussed what their expectations were for the Tomball Strategic Plan Update.

- Provide a clear roadmap for the next five years to be used by staff and Council.
- Develop strategic priorities for the City of Tomball and move planning projects from conceptual ideas to implementation.
- Ensure that service levels are maintained or increased.
- Strive for a unified direction and effective communication.
- Provide a strong framework for budgeting and resource allocation.
- A plan that provides good direction but is flexible enough to respond to unexpected issues or opportunities.
- Monitor the organization's progress toward addressing the public's interests.

ASSUMPTIONS ABOUT THE FUTURE

Participants discussed the assumptions about the next year that the City of Tomball will have to operate within. Understanding this future environment will assist in positioning the organization more effectively.

1. Tight economy; revenues will increase slightly.
2. New businesses will develop within Tomball.
3. Infrastructure issues will need to be addressed.
4. Residents are concerned about the fiscal responsibility and accountability of the city.
5. Visitors coming to Tomball will increase.

Strategic Plan Definitions

MISSION

Create a consensus plan that identifies the overall strategic direction and priorities for the City of Tomball. The Strategic Plan serves as a decision-making guide and budgeting tool translating the community's long range plans into action.

OVERALL GOALS

- Easy to use and understandable by the council, staff and public.
- Focus on realistic, action-oriented strategies.
- Provide mechanisms to evaluate progress.
- Outline strategies for updating or making changes.
- The result of a council and staff collaborative effort.

FOCUS AREAS

Focus Areas provide the framework for the Strategic Plan and strategic directives. Focus Areas contain a collection of projects and initiatives that will move the community toward its vision and goals.

STRATEGIC INITIATIVES

Strategic Initiatives are shorter term directives that relate to the Vision and Focus Areas.

ACTION STRATEGIES

Refer to the specific activities that Tomball will undertake within a 5-year timeframe. For each of the action strategies identified, staffing responsibilities and potential relative budget implications (range of impact: \$ = low budget impact to \$\$\$ = high budget impact) are indicated.

PERFORMANCE MEASURES

Measures used to track how well Tomball progresses toward implementation of the Strategic Plan. They reveal whether the key community attributes are going up or down; forward or backward; getting better, worse, or staying the same. These performance measures assist the community in measuring its success over time.

Accomplishments

The participants discussed the accomplishments achieved over the past year within each of the Focus Areas identified during the Planning Advance.

FOCUS AREA: Community Basics

- City is in the process of developing the scope of work for the Drainage Master Plan.
- Preventative maintenance has been performed on various streets and drainage facilities.
- Brown Street water, sewer, and gas extension has been funded by TEDC.
- Participants felt good about the accomplishments made on the strategic initiatives.

FOCUS AREA: Connecting Tomball

- A lot of positive changes have been made and the City is working on common goals.
- The Council sees a greater level of cooperation.
- Sidewalks improvements are being made.
- Downtown parking lots are under design and discussions underway on roadway improvements.
- City is working with regional entities on multimodal transportation improvements.

FOCUS AREA: Organizational Effectiveness

- More joint meetings are being held that is improving communication and information sharing.
- City's marketing efforts have improved.
- Customer service and supervisory training is being implemented.

FOCUS AREA: Financial Sustainability

- Maintained a good rating for the City's financial operations and performance.
- Improved the City's financial transparency by making the 2010-2011 budget available online and at other venues.
- City has been successful in getting new grants for equipment and services.
- Reviewed financial policies and prioritized for updating policies and procedures.

FOCUS AREA: Building Our Economy

- City is working to align the Zoning Ordinance with the adopted Comprehensive Plan by updating districts and regulations.
- The Downtown Specific Plan is underway and will provide guidance for redevelopment in Old Town.
- Advisory Committee was established to make recommendations about the Hotel and Motel Occupancy Tax (HOT) funds.
- Marketing Director position was created and filled with a focus on improving marketing efforts to attract more visitors and investments.

RATING OUR ACCOMPLISHMENTS

When asked how effective the City of Tomball was in using the Strategic Plan, participants said about 3 or 4 (on a scale of 1 to 5 with 5 being the highest rating). When asked why, the following were the reasons:

- Everyone was involved in the development of the Strategic Plan and therefore, understood it and committed to implementing it.
- The Plan has put everyone “on the same page” and dedicated to moving the concepts forward.
- Staff and Council work well together. Citizens are also an important part of the team and work well together.
- Strategic planning is still a new concept and much more can be done to ensure that all employees understand their roles.
- It is important to “connect the dots” better between Strategic Plan initiatives and funding priorities of Council.
- The City needs to do a better job of communicating about the Strategic Plan, how it is being used, and accomplishments being made.
- Change does not happen overnight and it will take time to show real advancement.

STRATEGIES:

1. Ensure that the Strategic Plan is on the City’s website.
2. Provide ongoing Strategic Plan status reports.
3. Include a line item on the City Council agendas related to the Strategic Plan so that it stays in front of everyone.
4. Conduct at least biannual Strategic Plan status reports.
5. Communicate the accomplishments more effectively (what we did, how it relates to the goals/initiatives, and how it has made an impact).
6. Institutionalize the Strategic Plan within the organization more effectively. Presentations to all staff about the Strategic Plan and discuss employees’ roles in ensuring the Plan’s successful implementation. Consider using Employee Appreciation Week to communicate about the Strategic Plan and how the initiatives can make their jobs easier.

Community Diagnostic

The participants discussed the community assets and challenges that may impact the City of Tomball's strategic planning effort.

COMMUNITY ASSETS	COMMUNITY CHALLENGES
College located in Tomball	Lack of activity in downtown
Hospital center – quality and number of jobs and services available	Internal and external awareness and image
Retail – variety and revenues have been goods	Revenues and overall economy
Approval of actions to develop a business park	Infrastructure issues – drainage and road improvements
Pride in Tomball has improved	Pride in Tomball needs to improve
Museum Center	Not enough community involvement
Positive attitudes	Revenues needed to address community infrastructure issues
Citizens	Adequate labor force impacts economic development opportunities
ISO rating	Lack of youth activities
Excellent staff	Alcohol sales restrictions in Old Town
Gyro Plane	Availability and diversity of housing
Community park amenities	Lack of land available with infrastructure
Excellent community events that bring visitors to Tomball	Lack of quality office space
Land available for development	Lack of reasons to keep people in Tomball to spend money and no night life
Good location along major transportation corridors including rail	Community aesthetics need improving
Abundant existing businesses	Lack of transportation choices – hike and bike trails or transit
Community Center	Communication
Railroad Depot	Mobility
Film friendly designation	Deterioration of commercial areas
Churches that draw people from outside the community	Poor signage
Big box stores generate sales tax revenues	Events are getting large and the existing spaces may not be enough
Strong sense of “community”	Lack of entryways or gateways announcing entry to Tomball
	Businesses are not open during events

Strategic Direction

The participants brainstormed the following list of ideas that should be addressed in the Strategic Plan Update.

- Determine how to fund and implement a funding strategy to address drainage issues. Drainage and pipelines are major obstacles to Tomball's economic development efforts.
- Complete the business park that will create quality jobs in Tomball.
- Improve mobility by completing major corridors such as Medical Complex Drive.
- Explore alternative strategies for impact fee payments.
- Institute higher tax rate for capital projects.
- Expand community attractions and entertainment that can bring new visitors and revenues to Tomball.
- Provide incentives to existing business to assist them in remaining competitive.
- Strengthen the organizational structure and solidify a team culture focused on implementing the Strategic Plan.
- Continue to invest in basic infrastructure in the heart of the city.
- Fund the capital improvement program using a variety of funding strategies.
- Continue to nurture relationships with regional partners.
- Focus on "training our replacements" and ensuring continued staff growth.

Participants agreed that the five Focus Areas are still valid.

- Community Basics
- Building Our Economy
- Organizational Effectiveness
- Connecting Tomball
- Financial Sustainability

Closing Remarks

The participants made the following closing remarks.

- Need to address the community's drainage issues. The City cannot continue to avoid this critical issue.
- Staff and Council input is truly appreciated.
- This annual event is good to allow all of the participants to share information and talk about priorities.
- It is time to implement the plans. Need to identify the funding strategy, needed human resources, and communicate it to the public.
- Appreciate the camaraderie and cohesiveness of the group's thinking.
- Concerned that it will be difficult to accomplish what needs to be done and keep our employees motivated and focused.
- Today helped us to refocus on the plan, recognize that it takes a team approach, and that it does not happen overnight.
- It was good to hear the recognition and support of addressing community infrastructure.
- Significant improvements have been made and there is a growing positive environment in Tomball.
- Staff felt that there is support from City Council and there is a good working relationship.
- There is common ground on the future direction.
- Heard support from the City Council to move forward on educating the public on what it will take to get the City from where we are today and where we need to be.
- Felt good about the fact that we got down to more "nuts and bolts" issues from last year's discussion.
- The City has done well in attacking the "low hanging fruit" issues but now it is critical to stay focused to address the bigger and tougher community issues.
- It has been great to listen to differing viewpoints.
- It is important to communicate about what we want to do, have to do, as well as how we got to where we are today. Handle it with grace and dignity.
- The open and free exchange of thoughts that occurred today was great.
- Like that we identified essential projects as priorities.
- Need to have the courage to do the right things and not make political decisions.
- The basic improvements that are needed to move forward require new funding such as a tax measure so public education will be critical.
- Very productive day and it is evident that Tomball has quality staff and a good Council.
- If this group does not make the tough decisions, where will Tomball be down the road?

CITY OF TOMBALL STRATEGIC PLAN 2011 - 2016



Definitions

MISSION

Create a consensus plan that identifies the overall strategic direction and priorities for the City of Tomball. The Strategic Plan serves as a decision-making guide and budgeting tool translating the community's long range plans into action.

OVERALL GOALS

- Easy to use and understandable by the council, staff and public.
- Focus on realistic, action-oriented strategies.
- Provide mechanisms to evaluate progress.
- Outline strategies for updating or making changes.
- The result of a council and staff collaborative effort.

FOCUS AREAS

Focus Areas provide the framework for the Strategic Plan and strategic directives. Focus Areas contain a collection of projects and initiatives that will move the community toward its vision and goals.

STRATEGIC INITIATIVES

Strategic Initiatives are shorter term directives that relate to the Vision and Focus Areas.

ACTION STRATEGIES

Refer to the specific activities that Tomball will undertake within a 5-year timeframe. For each of the action strategies identified, staffing responsibilities and potential relative budget implications (range of impact: \$ = low budget impact to \$\$\$ = high budget impact) are indicated.

PERFORMANCE MEASURES

Measures used to track how well Tomball progresses toward implementation of the Strategic Plan. They reveal whether the key community attributes are going up or down; forward or backward; getting better, worse, or staying the same. Performance measures assist the community in measuring its success over time. The City of Tomball will develop specific performance measures over time.

FOCUS AREA: COMMUNITY BASICS

GOAL: Expand and improve the City's quality infrastructure, facilities and public services to meet current and future needs.

STRATEGIC INITIATIVE: Provide basic services such as water, sewer, gas, streets, signage, and drainage targeted to undeveloped and underserved areas and complete previously identified infrastructure projects that may be impediments to development. Continue to ensure that infrastructure capacity meets demand and the long term land uses for the City of Tomball.

ACTION STRATEGIES (5 YEAR)

- 1) Update 10 year master plan to align with the adopted Comprehensive Plan and zoning.
- 2) Develop a drainage master plan.
- 3) Annually fund capital improvement program.
- 4) Continue preventative maintenance programs that includes all Infrastructure such as roadways.
- 5) Develop utilities along west side of FM 2978 from FM 2920.
- 6) Implement a comprehensive signage program.
- 7) Fire Station 3 completion.

STAFFING/BUDGET

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STRATEGIC INITIATIVE: Ensure effective and consistent code compliance that will enhance the quality of life.

ACTION STRATEGIES (5 YEAR)

- 1) Revisit and implement potential changes to nuisance ordinances that will enhance the quality of life.
- 2) Ensure adequate staffing to support compliance efforts.

STAFFING/BUDGET

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STRATEGIC INITIATIVE: Enhance public safety as the community grows to maintain quality service levels.

ACTION STRATEGIES (5 YEAR)

- 1) Complete Standards of Cover to evaluate and revisit fire facilities needs.
- 2) Collaborate with EMS District on facilities and/or land.
- 3) Revisit and make appropriate modifications to the Tomball Police Department facilities needs assessment.
- 4) Develop staffing plan to accommodate public safety service delivery.

STAFFING/BUDGET

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STRATEGIC INITIATIVE: Capitalize on recreational opportunities as an economic development strategy, while enhancing services to residents.

ACTION STRATEGIES (5 YEAR)

- 1) Perform a needs assessment to determine the viability of recreation as an economic development strategy.
- 2) Take advantage of regional and local recreational events by exploring joint marketing opportunities or marketing for visitors to stay in Tomball while providing shuttle services to the event. Develop a feasibility study to:
 - a. Identify all current events and activities
 - b. Identify potential partnering opportunities
 - c. Identify all local facilities that could be used
 - d. Identify implementation strategies
- 3) Explore grant opportunities for parks.
- 4) Implement a recreational program based on the results of the recreational needs assessment.

STAFFING/BUDGET

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FOCUS AREA: CONNECTING TOMBALL

GOAL: Improvement multimodal accessibility to the City and within Tomball.

STRATEGIC INITIATIVE: Develop bike, trail, and pedestrian facilities that connect neighborhoods and activity centers.

ACTION STRATEGIES (5 YEAR)

- 1) Develop and adopt a circulation master plan.
- 2) Implement and fund circulation master plan priorities.

STAFFING/BUDGET

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STRATEGIC INITIATIVE: Work to extend passenger rail to Tomball.

ACTION STRATEGIES (5 YEAR)

- 1) Explore grant funding for the establishment of a rail overlay district feasibility study.
- 2) Advocate Tomball as the most viable location for a passenger rail stop and maintain communication with agencies working on this issue.

STAFFING/BUDGET

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STRATEGIC INITIATIVE: Improve the east-west connectors in Tomball.

ACTION STRATEGIES (5 YEAR)

- 1) Fund the extension of Brown Road.
- 2) Advance the development of Medical Complex Drive.
- 3) Implement 2920 Access Management recommendations.

STAFFING/BUDGET

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STRATEGIC INITIATIVE: Maximize the benefits from the development of the Grand Parkway.

ACTION STRATEGIES (5 YEAR)

- 1) Strengthen the relationship with the Grand Parkway Board and advocate the City of Tomball's interests.
- 2) Explore opportunities with the City of Houston for acquisition of ETJ along the proposed Grand Parkway route.

STAFFING/BUDGET

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STRATEGIC INITIATIVE: Develop a Tomball centered transit circulator to provide transportation choices for residents.

ACTION STRATEGIES (5 YEAR)

- 1) Work with regional partners to develop a transit feasibility study.
- 2) Pursue grant funding and partnerships to implement transit feasibility study recommendations.
- 3) Encourage the development of transit facilities such as park-and-ride lots that provide services for commuting residents.

STAFFING/BUDGET

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STRATEGIC INITIATIVE: Ensure a developed street network to meet current and future needs.

ACTION STRATEGIES (5 YEAR)

- 1) Maintain and upgrade street inventory based on pavement management plan.
- 2) Annually review the thoroughfare plan.
- 3) Annually fund street improvements according to adopted plans.
- 4) Implement a city-wide sidewalk development and improvement program.

STAFFING/BUDGET

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FOCUS AREA: ORGANIZATIONAL EFFECTIVENESS

GOAL: Create a highly efficient, service-oriented culture within the City of Tomball.

STRATEGIC INITIATIVE: Ensure effective boards and commissions.

ACTION STRATEGIES (5 YEAR)

- 1) Develop a program to provide a broad understanding of the City's operation that will prepare participants to take on community leadership positions such as participation on Boards and Commissions or to run for elected office.
- 2) Hold annual joint meeting of each Board/Commission with the City Council.

STAFFING/BUDGET

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STRATEGIC INITIATIVE: Improve service and communication throughout the organization.

ACTION STRATEGIES (5 YEAR)

- 1) Implement a customer service training program for all employees.
- 2) Develop a team culture that transcends all departments and staff levels.
- 3) Develop and implement a program to retain organizational knowledge and ensure adequate staffing.
- 4) Improve communications within the organization (i.e., staff and Council) and with customers and regional entities.
- 5) Continue to implement a records management system throughout the organization.
- 6) Continue to enhance, both the direct and online service functions, such as website improvements, online surveys, improved search functions, mobile app, and other service enhancements.
- 7) Identify and implement a continuous process improvement program for the City including regular review of existing processes including development review and permitting.
- 8) Re-codify Tomball city ordinances.

STAFFING/BUDGET

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STRATEGIC INITIATIVE: Continually solicit customer and citizen feedback in City operations.

ACTION STRATEGIES (5 YEAR)

- 1) Develop a customer satisfaction program, including a customer survey.
- 2) Identify and implement more opportunities for citizen involvement, including more board and commission recruitment.

STAFFING/BUDGET

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FOCUS AREA: FINANCIAL SUSTAINABILITY

GOAL: Ensure the City's revenue stream is sufficient to sustain the operation and future needs.

STRATEGIC INITIATIVE: Maintain and Improve City of Tomball Bond Rating.

ACTION STRATEGIES (5 YEAR)

- 1) Identify leading practices for AAA bond rated cities and discuss recommended strategies with City Council.

STAFFING/BUDGET

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STRATEGIC INITIATIVE: Improve and expand public finance communication and education.

ACTION STRATEGIES (5 YEAR)

- 1) Enhance financial transparency through more extensive financial reporting through appropriate City media outlets.
- 2) Develop a program to educate citizens on local government finance focusing on financial sustainability.

STAFFING/BUDGET

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STRATEGIC INITIATIVE: Expand and diversify financial resources including bonds, taxes, certificates of obligation, grants, etc.

ACTION STRATEGIES (5 YEAR)

- 1) Identify and pursue available and potential funding sources.
- 2) Encourage and provide incentives to types of development that broaden and expand the local tax base.
- 3) Annually review actual and effective tax rates.
- 4) Continue to achieve a balanced budget.

STAFFING/BUDGET

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Determined case by case

STRATEGIC INITIATIVE: Ensure financial accountability and sound financial practices.

ACTION STRATEGIES (5 YEAR)

- 1) Revisit and update administrative and financial policies and ensure they are being consistently implemented.
- 2) Develop a plan to ensure financial accountability.

STAFFING/BUDGET

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FOCUS AREA: BUILDING OUR ECONOMY

GOAL: Implement economic development strategies to increase revenues to the City, diversify the tax base, create quality employment and housing opportunities, grow local businesses, and maximize the community's economic assets.

STRATEGIC INITIATIVE: Maximize the economic benefit of the college and its expansion.

ACTION STRATEGIES (5 YEAR)

- 1) Re-evaluate, in partnership with the college, land uses and zoning around the college to encourage support businesses and housing.
- 2) Strengthen the relationship between the City and College to promote joint planning efforts.
- 3) Improve multimodal connectivity to the college facilities in and around Tomball (main campus, medical center, HP/Compaq).
- 4) Develop and enhance workforce training opportunities with area community colleges.

STAFFING/BUDGET

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STRATEGIC INITIATIVE: Ensure that downtown is positioned for success.

ACTION STRATEGIES (5 YEAR)

- 1) Complete the specific plan and zoning for downtown.
- 2) Implement infrastructure and other public improvements to support existing and new development.
- 3) Implement the Livable Centers Study and Access Management Plan.
- 4) Implement a downtown marketing strategy for new investment.
- 5) If citizen initiative is successful, hold an election to repeal the 1944 Liquor Law limiting liquor sales in downtown.
- 6) Establish a management district or TIRZ to encourage downtown reinvestment.

STAFFING/BUDGET

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STRATEGIC INITIATIVE: Explore the expansion of the ETJ boundary.

ACTION STRATEGIES (5 YEAR)

- 1) Using the Comprehensive Plan's Annexation Plan, evaluate rates of return on infrastructure investment in ETJ areas to determine annexation viability.
- 2) Periodically meet with the City of Houston to discuss joint planning of ETJ areas.

STAFFING/BUDGET

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STRATEGIC INITIATIVE: Invest the HOT funds most effectively to get maximum return to the City.

ACTION STRATEGIES (5 YEAR)

- 1) Provide education on how the HOT funds can be used.
- 2) Establish a plan with priorities and criteria for HOT funds.
- 3) Partnership with hotel and tourism industry on joint marketing events in which funds are invested.
- 4) Create and install "Welcome to Tomball" monument signs.

STAFFING/BUDGET

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STRATEGIC INITIATIVE: Maximize the economic benefit of the medical industry.

ACTION STRATEGIES (5 YEAR)

- 1) Develop specific plan and zoning for the Medical Center area.
- 2) Connect area more effectively with sidewalks/streets.
- 3) Strengthen the relationship with the hospital and medical industry and coordinate planning.
- 4) Implement drainage infrastructure improvements.

STAFFING/BUDGET

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STRATEGIC INITIATIVE: Provide a range of housing options within Tomball.

ACTION STRATEGIES (5 YEAR)

- 1) Identify and address the components of the City’s policies and guidelines that may limit development of a range of housing.
- 2) Conduct an analysis of the housing mix within Tomball and determine adequacy. Identify and monitor the housing mix over time.
- 3) Update zoning ordinance and include design criteria for high density residential development.

STAFFING/BUDGET

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STRATEGIC INITIATIVE: Support the growth and development of existing businesses.

ACTION STRATEGIES (5 YEAR)

- 1) Research and identify appropriate targeted businesses.
- 2) Develop and implement a marketing strategy to target businesses.
- 3) Implement a workforce training program.
- 4) Support the development of the TEDC business park.
- 5) Review the impact fee process and explore a payment plan approach.
- 6) Partner with the Chamber of Commerce and TEDC regarding a business incubator to encourage the development of quality base businesses.
- 7) Support TEDC's existing business assistance and business expansion efforts.

STAFFING/BUDGET

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Implementation – Making the Vision a Reality

The success of the Tomball Strategic Plan is measured by the effectiveness of its implementation over time. The promise to the residents of Tomball is that through solid partnerships, diligent effort and innovative decision-making, progress will be made to position the community for success. Following are the steps to ensure that implementation moves forward.

Strategic Plan Adoption – City Council will adopt and/or readopt the strategic plan annually.

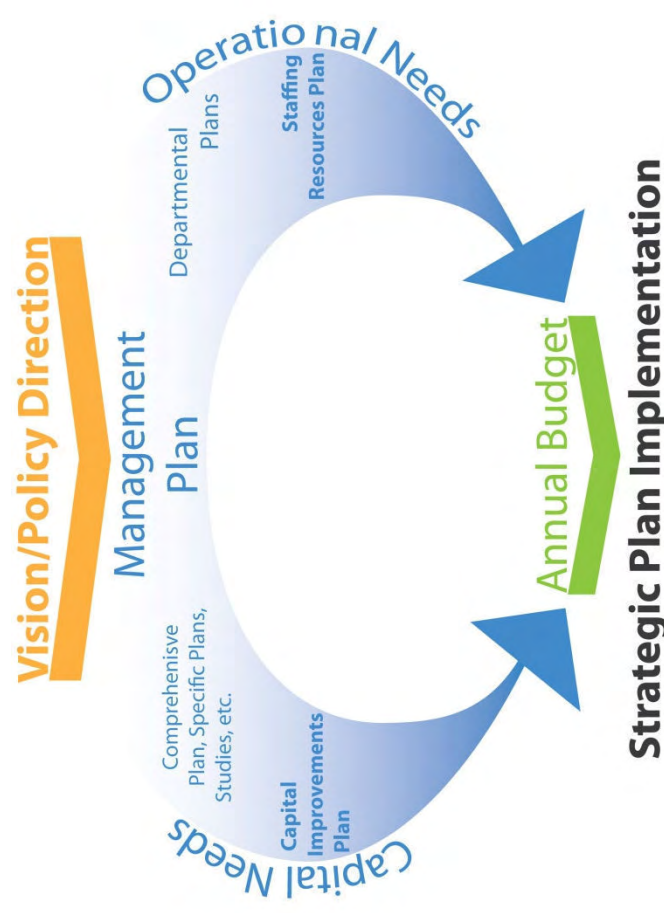
Budget Process – Annually the Strategic Plan will be used as the blueprint for the development of the City of Tomball budget. Funding priorities will relate to the Strategic Plan.

Department Work Program – All Tomball city departments will develop work programs that directly relate to the adopted Tomball Strategic Plan.

Keeping Score – Annually a Strategic Plan Progress Report will be developed to communicate achievements. The Progress Report will include quantifiable performance measures that the City can monitor over time to track progress.

Strategic Plan Revisions – The City Council, along with input from residents and staff, will identify internal and external changes (economic, financial, legislative, etc.) that have occurred as well as priority shifts that may necessitate an update to the Strategic Plan.

The Tomball Strategic Plan provides the strategic direction and a guide for decision-making over the next five years. The Plan guides the development of department level work programs, specific capital improvement planning, and the annual City budget priorities. The Plan is used by the City Council, City Manager and City Management, and City staff in their day-to-day positions. Additionally, the Strategic Plan communicates the City’s commitment to implement the community’s long-term vision embodied in the Comprehensive Plan.



“Never doubt that a small group of committed citizens can change the world; Indeed, it is the only thing that ever has.”
- Margaret Mead

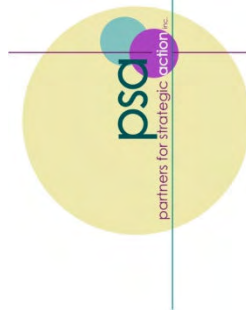
Acknowledgements

The City of Tomball would like to thank the residents who provided their wisdom and time through discussions and participation in the development of the Tomball Comprehensive Plan that set the vision and foundation for the Tomball Strategic Plan. Additionally, the City Council recognizes the extraordinary effort and commitment of city staff to ensure that Tomball achieves all that the community envisions in the most cost-effective and efficient manner.

Tomball City Council

Mayor Gretchen Fagan
Preston Dodson
Mark Stoll
Derek Townsend
Field Hudgens
Rick Brown

Strategic Plan Consultant



Regular City Council

Agenda Item

Data Sheet

Meeting Date: September 19, 2011

Topic:

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

Background:

Attached is the final contract, containing amendments and extension requested by Council.

Please note that the effective date has been changed from July 18 to July 12 to be consistent with the last contract. When the evaluation and contract are considered in 2012, Council will also consider the question of moving the effective date to October in order to be consistent with the budget year.

Origination:

Council

Recommendation:

N/A

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

City Secretary, HR Director

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

ATTACHMENTS:

Proposed Employment Contract - George Shackelford

**AN AGREEMENT OF EMPLOYMENT BY AND BETWEEN
THE CITY OF TOMBALL, TEXAS, AND GEORGE SHACKELFORD**

**THE STATE OF TEXAS,
COUNTY OF HARRIS.**

This Agreement is made and entered into by and between the City of Tomball, Texas (the "City"), a home-rule municipal corporation and political subdivision of the State of Texas acting by and through its governing body (the "City Council"), and George Shackelford ("Shackelford").

ARTICLE I. Recitals

1.01. General. In accordance with Section 7.01 of the Tomball City Charter, it is deemed prudent and advisable by the City Council and Shackelford that the City employ Shackelford as its City Manager and that the terms and conditions of that employment be expressed in this Agreement between the parties. The City desires to employ Shackelford as City Manager of the City of Tomball, Texas, as provided by home-rule charter.

ARTICLE II. Term of Employment

2.01. At-will employment. By this Agreement and subject to its terms and conditions, the City employs Shackelford as City Manager of the City and Shackelford accepts employment as City Manager at the will and pleasure of the City Council, and the City Council may terminate such employment at any time, with or without cause.

2.02. Term. The term of this Agreement shall be from Shackelford's one year anniversary of employment (the effective date shown in Section 7.05 below) for a period of two years.

ARTICLE III. Duties of City Manager

3.01. Administrative Duties. In accordance with the City Charter, Shackelford shall, as City Manager, be the administrative and executive officer of the City who shall be responsible to the City Council for the efficient and economic administration of all the affairs of the City. As City Manager of the City, Shackelford shall perform those duties required of the City Manager by the City's home-rule charter, by the Texas Local Government Code, and by the Constitution and other laws of the State of Texas, all as heretofore or hereafter amended. In addition, Shackelford shall perform such other duties commensurate with the position of City Manager and applicable laws as may be assigned to or required of him by the City Council, including, but not limited to, its minute actions, resolutions and Code of Ordinances, as heretofore or hereafter amended. The City Manager shall see that all state laws and all ordinances of the City are obeyed and enforced, exercise supervision and control over all departments of the City, exercise supervision and control over all employees and compensated municipal officers of the City other than the Judges of the municipal court; hire and discharge the employees of the City not where such duties are not specifically reserved to the Council by Charter or Ordinance; recommend to City Council compensation for all city officers and employees; attend all meetings of the city council; prepare and submit to the City Council a budget in accordance with the Charter and Chapter 101 of the Texas Local Government Code; make written reports to city council as soon as possible after the close of each month or at such other intervals as City Council may approve, that keeps the council fully advised of the financial condition and needs of the City; supervise the purchase of all materials, supplies and equipment for which funds are budgeted; supervise the administration of the City's contracts; and notify the Mayor and Councilmembers of any alleged violation by the City or any of its officers or

employees of a federal, state, or city law, rule or regulation, or of any cause of action or lawsuit against the City that may subject the City to any civil, criminal or monetary liability.

3.02. Other Responsibilities and Conditions. Shackelford shall devote his time, ability, and attention to the affairs and activities of City while he serves as City Manager. He shall not directly or indirectly render any service of a business, commercial, or professional nature to any person or organization, whether for compensation or otherwise, that would be in conflict with the functions, objectives, and obligations of the City or inconsistent or incompatible with his duties and responsibilities as its City Manager. For and during the term of this Agreement, Shackelford agrees, except as to City Manager's personal residence or residential property acquired or held for future use as City Manager's personal residence, not to invest, without the prior written consent of the City Council, in any other real estate or real property improvements in the corporate limits or extraterritorial jurisdiction of the City of Tomball.

ARTICLE IV. Compensation

4.01. Salary. As compensation for services rendered under this Agreement, Shackelford shall be entitled to receive from the City a salary in the amount of Twelve Thousand Two Hundred Fifty (\$12,250.00) per month beginning July 12, 2011. Such salary shall be paid at the same interval as other employees of the City are paid.

4.02. Review. At any time during the term of this Agreement, the City Council may in its discretion, review and adjust the salary of the City Manager subject to the limitations contained herein. The City Council shall review and evaluate, at least annually, the performance and salary of Shackelford, and the City Council may adjust the salary in such amount and to such extent as the City Council, at its sole discretion, deems necessary and appropriate. The annual performance reviews and evaluation shall be in writing and in accordance with criteria and format developed

jointly by the City Council and Shackelford. The City Council shall provide the City Manager a reasonable and adequate opportunity to discuss with the City Council and/or respond to the City Manager's evaluation. The City Council and the City Manager agree that such evaluations shall be conducted in closed meetings. Nothing herein shall prohibit legal counsel for the City Council or the City Manager from participation in such meetings or from receiving the content of the City Manager's evaluation.

ARTICLE V. Benefits

5.01. Participation in Employee Benefit Plans. The City agrees to include Shackelford in such employee benefit plan(s) as the City may provide for its employees from time to time. As used herein the term "employee benefit plan(s)" shall include dental, hospitalization, medical, surgical, vision, and life insurance, sick leave, holidays, vacation time, and related or similar benefits provided by the City for its full-time exempt employees. The City agrees to pay the premiums for health, hospitalization, vision, dental and comprehensive medical insurance for Shackelford pursuant to the group health care plan provided by the City and in the same manner as other full-time exempt employees. Shackelford is further eligible to receive any other benefit afforded all other full time exempt employees of the City not specifically referenced herein. **Provided, further, that (1) Shackelford shall be entitled to three weeks vacation each year accrued in accordance with the accrual schedule for other City employees and (2) Shackelford may bank two weeks vacation with permission from the Mayor as agreed during hire negotiations.**

5.02. Retirement. The City agrees to pay the Employer portion only of all contributions made to the Texas Municipal Retirement System ("TMRS") for and on behalf of the City Manager, as provided to all other full time employees of the City.

5.03. Car Allowance. The City agrees to pay a car allowance to Shackelford in an amount not less than Six Hundred Dollars (\$600.00) per month. The purpose of this car allowance is to reimburse Shackelford his expenses related to city business travel within the City of Tomball, Montgomery and Harris Counties, and the City agrees to reimburse business related travel beyond those boundaries to Shackelford as any other employee of the City. The amount of such allowance may be periodically reviewed and adjusted whenever the City Council, at its sole discretion, deems it necessary and appropriate. Shackelford shall acquire and maintain a suitable motor vehicle during the term of this Agreement, which shall be available for Shackelford's exclusive and unrestricted use in the performance of his duties hereunder. Shackelford shall be responsible for paying all liability, property damage, and comprehensive insurance coverage for such motor vehicle, and shall further be responsible for all expenses attendant to the purchase, operation, maintenance, repair and regular replacement of the motor vehicle. The City Manager may use the vehicle for Shackelford's own personal use. Upon the expiration of the term hereof, or upon the resignation or termination of Shackelford's employment for any reason, the monthly vehicle allowance shall be prorated to the effective date of such expiration, resignation, or termination. It is understood and agreed that the City shall pay such car allowance to Shackelford in full compliance with the Federal Internal Revenue Code, as it may from time to time be amended. Such allowance shall be paid in equal monthly installments.

5.04. Dues, Subscriptions and Professional Development. The City agrees to budget and to pay for professional dues of Shackelford necessary for Shackelford's continuation and participation in the Texas City Management Association (TCMA) and International City/County Management Association (ICMA). The City further agrees to pay for Shackelford's participation in such other organizations related to Shackelford's professional development for

which funds are made available in the City's budget. Any dues and subscriptions related to organizations of this nature for which funds are not available in the City's budget must be approved by City Council prior to the expenses being incurred. Any professional development programs for which funds are not available in the City's budget must be approved by City Council prior to the expenses being incurred.

5.05 Civic Activities. Shackelford is encouraged to participate in community and civic organizations and activities. The cost of such activities may be borne by the City upon prior approval of City Council.

5.06. Bonding. The City shall bear the full cost of any fidelity or other bonds required of the City Manager under any law or ordinance.

5.07. Other communication devices. Recognizing the importance of constant and instant communication, as well as to maximize productivity, the City agrees to either provide a cell phone to Shackelford for the city business related calls or to pay a cell phone allowance to Shackelford consistent with the City's policy for other City employees.

5.08 Other City/Business Related Expenses. The City agrees to reimburse Shackelford other reasonable and necessary city business related expenses provided the City has budgeted funds for such expenses and that Shackelford submits written claim and proof of expenses within 90 days of the expense.

5.09. Moving/Relocation Expense. In connection with the necessary relocation of Shackelford to Tomball, the City agrees to reimburse Shackelford for necessary and reasonable expenses incurred in moving and relocating Shackelford and Shackelford's belongings, provided that the amount reimbursed by the City shall not exceed \$5,000.00. Shackelford shall document all moving and relocation expenses with receipts, cancelled checks or credit card statements, and the

City shall reimburse Shackelford for all such documented expenses within 30 calendar days of the City's receipt of such documented expenses.

ARTICLE VI. Termination.

6.01. Discharge or Resignation. Subject to the terms and conditions hereinafter set forth, the City may terminate the employment of Shackelford under this Agreement and discharge Shackelford as City Manager at any time, with or without cause. Shackelford may terminate his employment under this Agreement and resign as City Manager by giving the City Council notice in writing of his intent to do so at least 30 days prior to the effective date of such resignation.

6.02. Termination For Cause or Resignation. If the City should terminate the employment of Shackelford under this Agreement and discharge Shackelford as City Manager "for cause," as such term is hereinafter defined, or should Shackelford terminate his employment hereunder and resign as City Manager, then the City shall not be obligated to pay to Shackelford and Shackelford shall not be entitled to receive from the City any termination or severance pay. In such an event, Shackelford shall be entitled, in accordance with the City Policy for other employees, to the salary, including any accrued but unused sick and vacation leave, earned by Shackelford prior to the date of such termination and discharge or resignation, computed pro rata to and including that date.

6.03. Definition of "For Cause." As used herein and as it relates to the termination of Shackelford's employment under this Agreement and to his discharge as City Manager, the term "for cause" shall mean a) misfeasance or malfeasance in office, b) criminal conduct constituting a felony or misdemeanor involving moral turpitude, c) failure or refusal by Shackelford to perform the duties of his office as described in this Agreement, including the duties prescribed by the City's Charter, the Texas Local Government Code, or as otherwise assigned or prescribed by the City Council, d) the death of Shackelford, or e) a physical or mental disability of Shackelford that

precludes or prevents Shackelford from performing the duties of City Manager of City for a period of at least 60 consecutive days.

6.04. Termination Without Cause. If the City should terminate the employment of Shackelford under this Agreement and discharge him as City Manager without cause, then the City shall pay to Shackelford 12 month's salary and benefits, not including allowances for vehicle and communication devices in addition to any accrued but unused sick and vacation benefits paid in accordance to City Policy to other city employees, as severance from the City. In the event the City at any time reduces the salary, compensation or other benefits of Shackelford in a greater percentage than an applicable across-the-board reduction for all FLSA-exempt employees of the City, or in the event the City refuses to comply with any other provision benefiting Shackelford as provided by this Agreement, including the budgeting of funds sufficient to fund the severance payments provided for by this Agreement, then, in that event, Shackelford may, at his option, may consider himself terminated without cause, as provided herein. Shackelford may not, however, consider himself terminated until Shackelford gives written notice to the City of the nature of the City's noncompliance with this agreement and permits the City 45 days to cure such noncompliance. Provided, further, that the City agrees to provide Shackelford at least 90 days written notice of the non-renewal or extension of this Agreement beyond its two year term. If the City fails to give such written notice and then discharges Shackelford after the expiration of the term of this Agreement, then the City shall pay Shackelford, in addition to any accrued but unused sick and vacation leave paid in accordance to City Policy to other city employees, a sum of money equal to his then salary and benefits for 90 days from the date of the discharge

6.05. Payment of Termination and Severance Pay. The termination and severance pay provided for in this Article, if any, shall be due and payable to Shackelford within 60 calendar days following the date of Shackelford's termination and discharge.

ARTICLE VII. General Provisions

7.01. Supersedes Prior Agreements. This Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the employment of Shackelford as City Manager of the City and contains the entire agreement between the parties with respect to such employment in and of any manner whatsoever. Except as otherwise specifically provided herein, this Agreement may be amended or modified only by written instrument signed by both parties and dated subsequent to the effective date hereof.

7.02. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Texas. All rights, duties and obligations under this Agreement are payable in Harris County, Texas, and in the event of a dispute arising hereunder, venue shall be set in Harris County, Texas.

7.03. Effect of Headings. The Article and Section headings herein are for convenience only and shall not affect the construction of this Agreement.

7.04. Severability. In the event any provision of this Agreement shall be declared invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not be affected or impaired in any way thereby.

7.05. Effective Date. This Agreement shall become effective July 12, 2011 and shall continue thereafter until terminated in accordance with the terms hereof.

EXECUTED IN DUPLICATE ORIGINALS in the City of Tomball, County of Harris,
State of Texas, as of the ____ day of _____, 2010.

CITY OF TOMBALL, TEXAS

By: _____
Gretchen Fagan
Mayor

ATTEST:

Doris Speer,
City Secretary

GEORGE SHACKELFORD

George Shackelford