

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



**MONDAY, APRIL 4, 2011**

**6:00 P.M.**

**Notice is hereby given of a meeting of the Tomball City Council, to be held on Monday, April 4, 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 Richard Jennings, River of Praise

3.0 Pledges to U.S. and Texas Flags

- Led by Members of the Tomball High School Student Council

4.0 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 – Saturday, April 9, 2011 – **“Day of Healthy Living in Tomball”**

6.0 Reports and Announcements

- April 2, 2011 – **Farmers Market** Opens – 9 a.m.-1:00 p.m. (Every Saturday)
- April 9, 2011 – **3rd Annual City of Tomball Bunny Run 5K and Kids 1 Mile - 8:00 a.m. and 8:45 a.m.**
- April 9, 2011 – **“Day of Healthy Living”** – Health Expo sponsored by Tomball Area Health Awareness Organization and the City of Tomball - 9:00 a.m.
- April 9, 2011 – **Downtown Specific Plan Public Design Workshop**, Tomball Community Center, 221 Market Street, beginning at 3:00 p.m.
- April 9, 2011 – **Downtown Specific Plan Question & Answer Session** at the Second Saturday Event, at The Depot, beginning at 5:00 p.m.
- April 9, 2011 and May 14, 2011 – **2nd Saturday at the Depot**
- April 11, 2011 – 7:00 p.m.-9:00 p.m. – **Joint CC / P&Z / DTAC Workshop #2**
- April 18, 2011 – Appointments to Tomball Economic Development Corporation for terms expiring May 2, 2011
- April 18-23, 2011 – **City of Tomball Spring Clean Up Week** – 8:00 a.m. to 4:30 p.m.
- April 26, 2011 – **Boards and Commissions Appreciation Banquet** – 6:00 p.m. to 8:00 p.m., at the Community Center, Room A
- May 14, 2011 – **Election Day – General City Election at City Hall, 7:00 a.m.-7:00 p.m.**
- May 16, 2011 – Appointments to Planning and Zoning Commission for terms expiring June 1, 2011
- **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
  - Glenn Windsor – Report regarding Request for Proposals to Auditors for the Independent Audit of the Financial Statements for the Fiscal Year ending September 30, 2011
  - Shawn Cox - Update regarding Oilfield Helping Hands Auto Show and Motorcycle Rally
  - Lisa Coe - Report on the Youth Opportunities Fair

7.0 Approve the Minutes of the March 21, 2011 Regular City Council Meeting

8.0 Old Business:

- 8.1 Adopt, on Second Reading, Ordinance No. 2011-02, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by Changing the Zoning District Classification of Approximately 2.57 Acres of Land, Legally Described as Tracts 2V and 2W out of the C.N. Pillot Survey, Abstract 632 and Tract 8A out of the Sam Lewis Survey, Abstract 1704, 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, southerly of Alice Road; Providing for the Amendment of the Official Zoning Map of the City; Providing for Severability; Providing for a Penalty of an amount not to exceed \$2,000 for each day of violation of any Provision Hereof, Making Findings of Fact; and Providing for

other Related Matters

- 8.2 Adopt, on Second Reading, Ordinance No. 2011-03, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by Granting a Conditional Use Permit to CMH Homes, Inc., to operate a “Manufactured Home Display or Sales (New or Used)” Facility; Said Property Being Located within the City in Zoning District C-Commercial and Being Legally Described as Tracts 2V and 2W out of the C.N. Pillot Survey, Abstract 632 and Tract 8A out of the Sam Lewis Survey, Abstract 1704, Generally Located on the westerly side of State Highway 249, Southerly of Alice Road in Tomball, Texas; Providing Requirements and Conditions for this Conditional Use Permit; Containing Findings and Other Provisions Relating to the Subject; Providing a Penalty in an amount not to exceed Two Thousand Dollars for Violations Hereof; and Providing for Severability
- 8.3 Approve the Acquisition of a New Fire Truck to replace the Department's Engine 4, the Frontline Pumper at Station 1, due to Significant Mechanical and Safety Issues, and to Authorize the City Manager to Execute the Necessary Documentation.
- 8.4 Approve Tax-Exempt Financing of a Pierce Custom Velocity PUC Fire Truck to Replace TFD Engine 4, the Frontline Pumper at Station 1, due to Significant Mechanical and Safety Issues.

9.0 New Business:

- 9.1 Approve Request from Shattered Lives Program City Support in the Use of Police and Fire Personnel and Equipment
- 9.2 Approve the Following Plats, as Recommended by Planning and Zoning Commission:
- **CORRIENTE COMMERCIAL FINAL PLAT:** Being a subdivision of 4.8595 acres of land situated in the Joseph House Survey, Abstract Number 34, of Harris County, Texas, as described in deed recorded in Clerk's File Number U311750 of the Real Property Records of Harris County, Texas.
  - **REPLAT 1 OF TOMBALL MEDICAL PLAZA;** Being a Replat of Tomball Medical Plaza being 2.8278 acres out of Lot 12, Recorded under F.C. No 635259 of the Harris County Map Records, Situated in the William Hurd Survey, Abstract 378, Harris County, Texas.
  - **RESERVE AT TOMBALL FINAL PLAT:** A 56.530 acre tract of land being a partial Replat of Tomball Townsite Recorded in Volume 2, Page 65, H.C.M.R., and Tomball East Gate Center recorded under Film Code No. 542107, H.C.M.R., Being all of a called 55.6484 acre tract recorded under Harris County Clerk's File No. 20100211861, and the residue of unrestricted Reserve “B”, Tomball East Gate Center, in the Jesse Pruitt Survey, Abstract No. 629, City of Tomball, Harris County, Texas.
- 9.3 Accept Engineer's Recommendations regarding Revisions to the Pier and Pier Cap Design for the Tomball Central Fire Station Expansion

- 9.4 Consideration and Possible Action to Endorse HB2255, Relating to the Authority of the Texas Department of Transportation to Enter into Comprehensive Development Agreements for Certain Projects, including the Grand Parkway and State Highway 249 Projects in Harris and Montgomery Counties from Spring Cypress Road to Farm-to-Market Road 1774 and Authorize the City Manager or his Designee to Write Letters and Provide Additional Communications to Members of the State Legislature.

10.0 Adjournment

CERTIFICATION

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall, City of Tomball, Texas, a place readily accessible to the general public at all times, on the 1st day of April 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](http://www.ci.tomball.tx.us).

# Regular City Council

## Agenda Item

### Data Sheet

Meeting Date: April 4, 2011

**Topic:**

- Proclamation – Saturday, April 9, 2011 – “**Day of Healthy Living in Tomball**”

**Background:****Origination:**

Dawna Dyson, Event Coordinator, Tomball Area Health Awareness Organization

**Recommendation:**

N/A

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

City Secretary

| ACTION TAKEN                                             |                                                                                   |       |
|----------------------------------------------------------|-----------------------------------------------------------------------------------|-------|
| APPROVAL                                                 | READINGS PASSED                                                                   | OTHER |
| <input type="checkbox"/> YES <input type="checkbox"/> NO | <input type="checkbox"/> 1 <sup>ST</sup> <input type="checkbox"/> 2 <sup>ND</sup> |       |

**ATTACHMENTS:**

"Day of Healthy Living in Tomball" - april 9, 2011

Office of the Mayor  
Tomball, Texas

# Proclamation



- WHEREAS,** the Tomball Area Health Awareness Organization and the City of Tomball are excited to work together promoting the **"Day of Healthy Living in Tomball"** on Saturday, April 9, 2011, offering area families a unique and interactive day of fun focused on keeping them healthy and active, in an effort to increase awareness about local resources available to promote healthy family lifestyles; and
- WHEREAS,** the morning will begin with Tomball's 3<sup>rd</sup> Annual 5K Bunny Run and Kids 1 Mile Walk beginning at the Depot, then continue with the 1<sup>st</sup> Tomball Area Health Expo at Texas Sports Medicine Center, a free community event showcasing exhibitors in the areas of Health and Wellness, Fitness, Nutrition, Senior Living, and Activities for Children and Youth; and
- WHEREAS,** the Tomball Area Health Awareness Organization has the support of the medical community and area businesses in its efforts to provide families with access to information and a sampling of some of the services that can help them maintain and/or improve their health; and
- WHEREAS,** area restaurants will participate in the **"Day of Healthy Living in Tomball"**, featuring special "Healthy Cuisine" menu items and offering 15% off these healthy choices for expo attendees; and
- WHEREAS,** the day will culminate with families gathering at the Depot for 2<sup>nd</sup> **Saturday at the Depot**, offering a unique opportunity for the Tomball Area Health Awareness Organization and the City of Tomball to work together and demonstrate to our community the value of keeping active and healthy and having fun in the great city of Tomball;

**NOW, THEREFORE,** by virtue of the authority vested in me as **Mayor of the City of Tomball**, on behalf of the Tomball City Council and all citizens hereof, I do hereby proclaim **April 9, 2011**, as a:

## **"DAY OF HEALTHY LIVING IN TOMBALL"**

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

ATTEST: \_\_\_\_\_

DATE: \_\_\_\_\_



# Regular City Council

## Agenda Item

Meeting Date: April 4, 2011

## Data Sheet

### Topic:

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  - Lisa Coe - Report on the Youth Opportunities Fair

### Background:

### Origination:

Various

### Recommendation:

N/A

### Funding:

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

City Secretary

| ACTION TAKEN                                             |                                                                                   |       |
|----------------------------------------------------------|-----------------------------------------------------------------------------------|-------|
| APPROVAL                                                 | READINGS PASSED                                                                   | OTHER |
| <input type="checkbox"/> YES <input type="checkbox"/> NO | <input type="checkbox"/> 1 <sup>ST</sup> <input type="checkbox"/> 2 <sup>ND</sup> |       |

**ATTACHMENTS:**

Bunny Run Registration Forms

Proclamation - "Day of Healthy Living in Tomball"

Downtown Specific Plan Public Design Workshop

Downtown Specific Plan Question and Answer Session

2nd Saturday at the Depot

City of Tomball Spring Clean Up Week

Glenn Windsor - Report regarding RFP for Auditor Services



## GET HOPPING!

Register for the  
3rd Annual  
City of Tomball  
Bunny Run 5K Run/Walk & the Kid's 1Mile



Saturday, April 9, 2011  
8:00 A.M. – 5K Run/Walk  
8:45 A.M. – 1Mile Run/Walk  
Tomball Train Depot

### Location

The Historic Tomball Train Depot Plaza located at 201 S. Elm St.

### About This Event

The Bunny Run 5K and Kid's 1 Mile are the third in a series of Fun Runs to bring families, friends and visitors together to see that here in Tomball, *It's a wonderful life!*

### The Course

5K (3.1 miles) and 1 Mile: Flat, major tree-lined streets, USATF-certified 5K course. No wheels (except wheelchairs) & no pets, please! Baby joggers and carriages OK for 1 MILE WALK ONLY. The race will be professionally managed, utilizing timing shoe tags.

### Awards

Prizes will be awarded to the top three finishers in the following categories for the 5K Run: 11-14, 15-19, 20-29, 30-39, 40-49, 50-59, 60+. All kids participating in the 1 mile run will receive a medal.

### Packet Pick-up

April 6<sup>th</sup>, 7<sup>th</sup>, 8<sup>th</sup>: 5:30 PM – 7:30 PM at the Tomball Train Depot  
Race Day Pick-up & Registration: 7:00 AM – 7:45 AM (No t-shirt guarantee)

### Information

Registration forms can be downloaded at [www.ci.tomball.tx.us](http://www.ci.tomball.tx.us), or picked up at Tomball City Hall (401 Market St) or Tomball Public Works (501 James St). Forms & payments may be made at Tomball City Hall or Tomball Public Works, or you may mail in your registration to: City of Tomball, Attn: Shawn Cox, 401 Market St., Tomball, TX 77375. You may also submit your registration via fax 281-351-6256 or via e-mail at [scox@ci.tomball.tx.us](mailto:scox@ci.tomball.tx.us). For more information, call 281-351-5484.

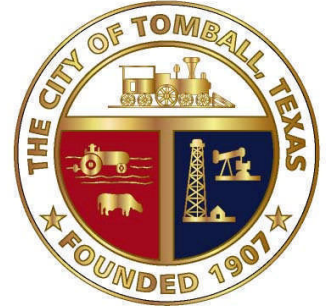
Your privacy will be respected and no information will be shared with third parties.

| Event Fees                 |                        |                 |
|----------------------------|------------------------|-----------------|
| Category                   | On or Before 3/25/2011 | After 3/25/2011 |
| 5K Run                     | \$15                   | \$20            |
| 1 Mile Run/Walk 11 yrs +   | \$15                   | \$20            |
| 1 Mile Run/Walk 10 & under | \$10                   | \$12            |



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3rd Annual  
City of Tomball  
Bunny Run 5K Run/Walk & the Kid's 1Mile



Saturday, April 9, 2011  
8:00 A.M. – 5K Run/Walk  
8:45 A.M. – 1Mile Run/Walk  
Tomball Train Depot

### Registration Form

**\*\*One registration form per participant\*\***

Category: ☐ 5K Run/Walk ☐ 1 Mile Run/Walk ADULT ☐ 1 Mile Run/Walk YOUTH

First Name: \_\_\_\_\_ Last Name: \_\_\_\_\_

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ Phone: (\_\_\_\_) \_\_\_\_\_

Birth Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Gender: ☐ F ☐ M

Email Address: \_\_\_\_\_

Shirt Size: ☐ YS ☐ YM ☐ YL | ☐ S ☐ M ☐ L ☐ XL ☐ XXL

#### For Credit Card Payments

Name on Card: \_\_\_\_\_ Type: ☐ Visa ☐ MasterCard

Card Number: \_\_\_\_\_ Exp. Date: \_\_\_\_\_ 3 Digit Sec. Code: \_\_\_\_\_

Emergency Contact: \_\_\_\_\_ Phone: (\_\_\_\_) \_\_\_\_\_

Emergency Contact: \_\_\_\_\_ Phone: (\_\_\_\_) \_\_\_\_\_

**Waiver and Release:** In consideration of the acceptance of this registration entry, I, the undersigned, assume full & complete responsibility for any injury or accident which may occur during my participation in this race, or while I am on the premises of this event and I hereby release and hold harmless the sponsors, officials and all other persons and entities associated with this event from any and all injury, damages or illness which may directly or indirectly result from participation in this race. I further state that I am in proper physical condition to participate.

\_\_\_\_\_  
Signature of Participant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Parent/Guardian if Participant is Minor

\_\_\_\_\_  
Date

#### OFFICE USE ONLY:

Clerk: \_\_\_\_\_ Date/Time: \_\_\_\_\_ Total: \$ \_\_\_\_\_

Method of Payment: ☐ Cash ☐ Check ☐ Visa ☐ MC Auth. # \_\_\_\_\_

Office of the Mayor  
Tomball, Texas

# Proclamation



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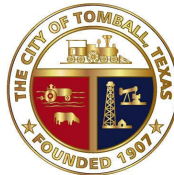
ATTEST: \_\_\_\_\_

DATE: \_\_\_\_\_



**NOTICE OF POSSIBLE QUORUM OF CITY COUNCIL,  
PLANNING AND ZONING COMMISSION, BOARD OF ADJUSTMENTS,  
AND DOWNTOWN TOMBALL ADVISORY COMMITTEE  
MEMBERS FOR A DOWNTOWN SPECIFIC PLAN PUBLIC DESIGN  
WORKSHOP**

**SATURDAY, APRIL 9, 2011**



**3:00 P.M.**

**Notice is hereby given of a Downtown Specific Plan Public Design Workshop, at the Tomball Community Center, 221 Market Street, Tomball, Texas, to take place on Saturday, April 9, 2011 beginning at 3:00 p.m.**

**A quorum of City Council, Planning and Zoning Commission, Board of Adjustments, and Downtown Tomball Advisory Committee members may or may not be in attendance during the Downtown Specific Plan Public Design Workshop; however, no action will be taken.**

**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 23rd day of March 2011 by 5:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

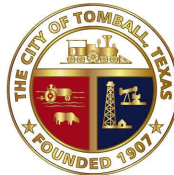
*(signed) Doris Speer*

Doris Speer  
City Secretary, TRMC

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**NOTICE OF POSSIBLE QUORUM OF CITY COUNCIL,  
PLANNING AND ZONING COMMISSION, BOARD OF ADJUSTMENTS,  
AND DOWNTOWN TOMBALL ADVISORY COMMITTEE  
MEMBERS FOR A DOWNTOWN SPECIFIC PLAN QUESTION &  
ANSWER SESSION AT SECOND SATURDAY AT THE DEPOT**

**SATURDAY, APRIL 9, 2011**



**5:00 P.M.**

**Notice is hereby given of a Downtown Specific Plan Question & Answer Session at the Second Saturday Event, at The Depot, Tomball, Texas, to take place on Saturday, April 9, 2011 beginning at 5:00 p.m.**

**A quorum of City Council, Planning and Zoning Commission, Board of Adjustments, and Downtown Tomball Advisory Committee members may or may not be in attendance during the Downtown Specific Plan Question & Answer Session at the Second Saturday Event; however, no action will be taken.**

**CERTIFICATION**

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*(signed) Doris Speer*

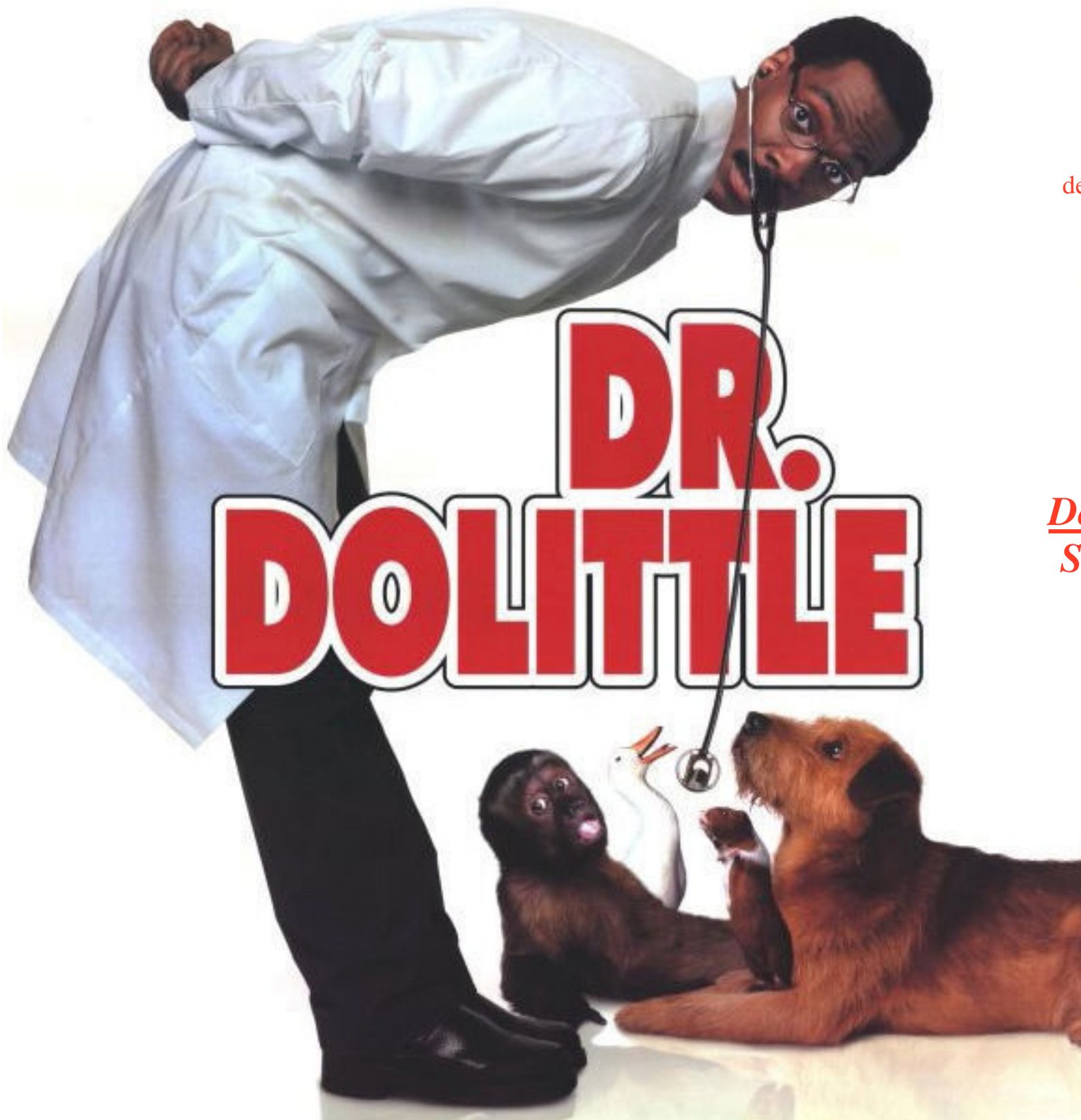
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# SATURDAY, April 9

## 2nd SATURDAY AT THE DEPOT



### Flashlight Egg Hunt!

Flashlights provided to  
decorate while supplies last

### Special Visit: “The Bunny”

Music by:  
Tony Swonke

Demonstration by:  
*South East Texas  
Tae Kwon Do  
Academy*

EGGstra Fun  
Games!

Bounce House

Petting Zoo  
*EJC Farms*



### April 9

3rd Annual Bunny Run  
Historic Tomball Depot  
201 S. Elm, Tomball, TX

Start Times:  
Certified 5K—8:00 AM  
Children's 1 Mile—8:45 AM

To register, call  
281-351-5484 or email  
scox@ci.tomball.tx.us

### April 9

Health Expo  
Texas Sports Medicine  
Center  
28210 Tomball Pky,  
Tomball, TX

Start Time;  
9:00 AM

For more info visit:  
TomballAreaHealthExpo.com



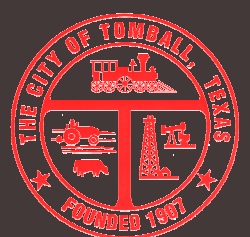
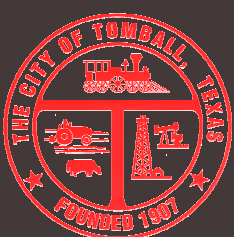
Bunny Run Contestants, visit the Health Expo for a chance to win a Nintendo Wii System. Wii System Grand Prize drawing only open to Bunny Run Participants!

### 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 Dillon at 281-610-2595



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

**City of Tomball**  
**Spring Clean up**  
**Week of April 18, 2011 to April 23, 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                     | • Bricks (small amount)  | • Gutter material                 |
| • Bicycle parts              | • Empty buckets or pails | • Cardboard boxes                 |
| • Plywood (4 cubic yd. max)  | • Rocks (small amount)   | • Lawn mowers (oil & gas removed) |
| • Rugs/carpet                | • Washing machines       | • Dishwashers                     |
| • Siding                     | • Dryers                 |                                   |
| • Clothing                   | • Water heaters          |                                   |
| • Box springs and mattresses | • Furniture              |                                   |

**Not Acceptable:**

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

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

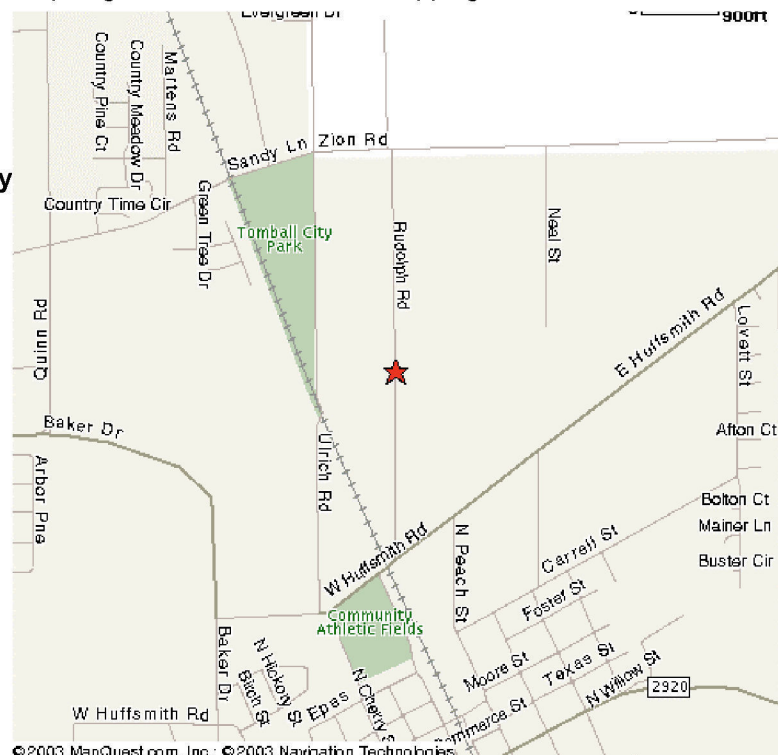
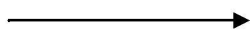
Acceptable items are anything that is inert and would not harm the environment before or after disposal into a landfill.

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



# Regular City Council

## Agenda Item

### Data Sheet

Meeting Date: April 4, 2011

**Topic:**

Report regarding Request for Proposals to Auditors for the Independent Audit of the Financial Statements for the Fiscal Year ending September 30, 2011

**Background:**

The firm of Belt Harris & Associates, LLLP (now Belt Harris Pechacek, LLLP) has performed the City's independent audit for the fiscal years 2007, 2008, 2009, 2010, and 2011. It is recommended that every five years, the auditor be selected on a competitive basis (RFP).

We will be requesting proposals for audit firms and come back to you with a recommendation at either the April 18 or May 2 regular council meeting.

**Origination:**

Finance

**Recommendation:**

No Action Required.

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

GLENN WINDSOR, CPA FINANCE DIRECTOR

| ACTION TAKEN                                             |                                                                                   |       |
|----------------------------------------------------------|-----------------------------------------------------------------------------------|-------|
| APPROVAL                                                 | READINGS PASSED                                                                   | OTHER |
| <input type="checkbox"/> YES <input type="checkbox"/> NO | <input type="checkbox"/> 1 <sup>ST</sup> <input type="checkbox"/> 2 <sup>ND</sup> |       |

**ATTACHMENTS:**

Belt Harris Appointed as Auditors

GFOA Best Practices

# Regular City Council

## Agenda Item

### Data Sheet

Meeting Date: March 16, 2009**Topic:**

Approve Multi-Year (3 Years) Engagement Agreement Letter with Belt Harris & Associates, LLLP for Financial Audits for Fiscal Years 2009, 2010 and 2011

**Background:**

The firm of Belt Harris & Associates, LLLP has conducted the City's annual financial audit for fiscal years 2007 and 2008. In May of 2008, a modification to their annual fees was presented to the City and was approved by council due to new auditing standards required by the Accounting Standards Board. The firm has submitted, for City approval, a multi-year engagement letter to cover three additional years of service. In recognition of the current economic climate, Belt Harris is offering a discount on their engagement fees if the City approves the agreement. The increase in fees each year equates to approximately \$600. The fee structure proposed may be found on page 6 of the Engagement Letter. It is considered to be good practice to request proposals for audit services every 5 years. Prior to Belt Harris & Associates being selected through the RFP process in 2007, the City had been with its prior audit firm for 14 years without going through the RFP process. If approved, the multi-year agreement would give the City 5 years of service with Belt Harris, and the City would then solicit RFP's for consideration for its Fiscal 2012 audit. Staff has been pleased with the audit and research services provided by Belt Harris & Associates.

**Origination:**

Monica Kohlenberg, Director of Finance

**Recommendation:**

Staff recommends approval of a multi-year agreement (3yrs) for audit services with Belt Harris & Associates, LLLP.

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

Monica Kohlenberg, Director of Finance

| ACTION TAKEN                                                        |                                                                                   |       |
|---------------------------------------------------------------------|-----------------------------------------------------------------------------------|-------|
| APPROVAL                                                            | READINGS PASSED                                                                   | OTHER |
| <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO | <input type="checkbox"/> 1 <sup>ST</sup> <input type="checkbox"/> 2 <sup>ND</sup> |       |

**ATTACHMENTS:**

Engagement Letter





**Engagement Letter-  
Financial Statement and  
Single Audit**

February 17, 2009

Honorable Gretchen Fagan  
City of Tomball  
401 Market Street  
Tomball, Texas 77375-4645

We are pleased to confirm our understanding of the services we are to provide the City of Tomball, Texas (the "City") for the years ended September 30, 2009, 2010, and 2011. We will audit the financial statements of the governmental activities, the business-type activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information, which collectively comprise the basic financial statements, of the City as of and for the years ended September 30, 2009, 2010, and 2011.

Accounting standards generally accepted in the United States provide for certain required supplementary information (RSI), such as management's discussion and analysis (MD&A), to accompany the City's basic financial statements.

As part of our engagement, we will apply certain limited procedures to the City's RSI. These limited procedures will consist principally of inquiries of management regarding the methods of measurement and presentation, which management is responsible for affirming to us in its representation letter. The following RSI is required by generally accepted accounting principles and will be subjected to certain limited procedures, but will not be audited:

1. Management's Discussion and Analysis
2. Budgetary Comparison Schedules

We will subject the following supplementary information to the auditing procedures applied in our audit of the basic financial statements and will provide an opinion on it in relation to the basic financial statements.

1. Schedule of Federal Expenditures and Awards

In addition to these services-

1. We will also provide routine advisory services through phone calls, conferences or otherwise in connection with incidental matters arising during the year. These costs would be absorbed in our estimated annual fee. We encourage open lines of communication throughout the year as part of our services.

2. We will draft the financial statements, including the Management's Discussion and Analysis with input from management.
3. We will print and bind the financial reports for the City, and provide an electronic PDF copy via email and/or CD of all reports.
4. We will handle normal correspondence from grantor, regulatory, or oversight agencies related to the audit.
5. We will perform procedures to comply with the Public Funds Investment Act (Chapter 2256 local government code).
6. We will make your annual financial report conveniently accessible on our website for affiliated organizations to view provided that they accept the legal disclaimer notification.

### **Audit Objectives**

The objective of our audit is the expression of an opinion as to whether your financial statements are fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles and to report on the fairness of the additional information referred to in the first paragraph when considered in relation to the financial statements taken as a whole. The objective also includes reporting on the following:

- Internal control related to the financial statements and compliance with laws, regulations, and the provisions of contracts or grant agreements, noncompliance with which could have a material effect on the financial statements in accordance with *Government Auditing Standards*.
- Internal control related to major programs and an opinion (or disclaimer of opinion) on compliance with laws, regulations, and the provisions of contracts or grant agreements that could have a direct and material effect on each major program in accordance with the Single Audit Act Amendments of 1996 and OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*.

The reports on internal control and compliance will each include a statement that the report is intended for the information and use of the audit committee, management, specific legislative or regulatory bodies, federal awarding agencies, and if applicable, pass-through entities and is not intended to be and should not be used by anyone other than these specified parties.

Our audit will be conducted in accordance with U.S. generally accepted auditing standards; the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; the Single Audit Act Amendments of 1996; and the provisions of OMB Circular A-133, and will include tests of accounting records, a determination of major program(s) in accordance with Circular A-133, and other procedures we consider necessary to enable us to express such an opinion and to render the required reports. If our opinion on the financial statements or the Single Audit compliance opinion is other than unqualified, we will fully discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed an opinion, we may decline to express an opinion or to issue a report as a result of this engagement.

### **Management Responsibilities**

Management is responsible for establishing and maintaining internal controls, including monitoring ongoing activities; for the selection and application of accounting principles; for the fair presentation in the financial statements of the respective financial position of the governmental activities, the business-type activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information of the City and the respective changes in financial position and, where applicable, cash flows in conformity with U.S. generally accepted accounting principles; and for federal award program compliance with applicable laws and regulations and the provisions of contracts and grant agreements. Management is responsible for the basic financial statements and all accompanying information as well as all representations contained therein.

You are responsible for management decisions and functions. As part of the audit, we will prepare a draft of your financial statements, schedule of expenditures of federal awards, and related notes. In accordance with *Government Auditing Standards*, you will be required to review and approve those financial statements prior to their issuance and have a responsibility to be in a position in fact and appearance to make an informed judgment on those financial statements. Further, you are required to designate a qualified management-level individual to be responsible and accountable for overseeing our services.

Management is responsible for making all financial records and related information available to us, including identifying significant vendor relationships in which the vendor has the responsibility for program compliance and for the accuracy and completeness of that information. Management's responsibilities include adjusting the financial statements to correct material misstatements and for confirming to us in the representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud or illegal acts affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud or illegal acts could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring that the entity complies with applicable laws, regulations, contracts, agreements, and grants.. Additionally, as required by OMB Circular A-133, it is management's responsibility to follow up and take corrective action on reported audit findings and to prepare a summary schedule of prior audit findings and a corrective action plan. The summary schedule of prior audit findings should be available for our review prior to the beginning of our audit fieldwork.

Management is responsible for establishment and maintenance of a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying for us previous audits of other engagements or studies related to the objectives discussed in the Audit Objectives section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits or other engagements or studies. You are also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as your planned corrective actions, and the timing and format related thereto.

### **Audit Procedures—General**

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the

areas to be tested. We will plan and perform the audit to obtain reasonable rather than absolute assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the entity or to acts by management or employees acting on behalf of the entity. Because the determination of abuse is subjective Government Auditing Standards do not expect auditors to provide reasonable assurance of detecting abuse.

Because an audit is designed to provide reasonable, but not absolute assurance and because we will not perform a detailed examination of all transactions, there is a risk that material misstatements or noncompliance may exist and not be detected by us. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements or major programs. However, we will inform you of any material errors and any fraudulent financial reporting or misappropriation of assets that comes to our attention. We will also inform you of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential. We will include such matters in the reports required for a Single Audit. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include tests of the physical existence of inventories, and direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, creditors, and financial institutions. We will request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry. At the conclusion of our audit, we will also require certain written representations from you about the financial statements and related matters.

#### **Audit Procedures—Internal Controls**

Our audit will include obtaining an understanding of the entity and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to *Government Auditing Standards*.

As required by OMB Circular A-133, we will perform tests of controls to evaluate the effectiveness of the design and operation of controls that we consider relevant to preventing or detecting material noncompliance with compliance requirements applicable to each major federal award program. However, our tests will be less in scope than would be necessary to render an opinion on those controls and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to OMB Circular A-133.

An audit is not designed to provide assurance on internal control or to identify significant deficiencies. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under professional standards, *Government Auditing Standards* and OMB Circular A-133.

#### **Audit Procedures—Compliance**

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the City's compliance with applicable laws and regulations and the

provisions of contracts and agreements, including grant agreements. However, the objective of those procedures will not be to provide an opinion on overall compliance and we will not express such an opinion in our report on compliance issued pursuant to *Government Auditing Standards*.

OMB Circular A-133 requires that we also plan and perform the audit to obtain reasonable assurance about whether the auditee has complied with applicable laws and regulations and the provisions of contracts and grant agreements applicable to major programs. Our procedures will consist of test of transactions and other applicable procedures described in the *OMB Circular A-133 Compliance Supplement* for the types of compliance requirements that could have a direct and material effect on each of the City's major programs. The purpose of those procedures will be to express an opinion on the City's compliance with requirements applicable to each of its major programs in our report on compliance issued pursuant to OMB Circular A-133.

#### **Audit Administration, Fees, and Other**

We understand that your employees will prepare all cash, accounts receivable, or other confirmations we request and will locate any invoices selected by us for testing.

At the conclusion of the engagement, we will complete the appropriate sections of and sign the Data Collection Form that summarizes our audit findings. We will provide copies of our reports to the City; however, it is management's responsibility to submit the reporting package (including financial statements, schedule of expenditures of federal awards, summary schedule of prior audit findings, auditors' reports, and a corrective action plan) along with the Data Collection Form to the designated federal clearinghouse and, if appropriate, to pass-through entities. The Data Collection Form and the reporting package must be submitted within the earlier of 30 days after receipt of the auditors' reports or nine months after the end of the audit period, unless a longer period is agreed to in advance by the cognizant or oversight agency for audits. At the conclusion of the engagement, we will provide information to management as to where the reporting packages should be submitted and the number to submit.

The audit documentation for this engagement is the property of Belt Harris & Associates, LLLP and constitutes confidential information. However, pursuant to authority given by law or regulation, we may be requested to make certain audit documentation available to Oversight Agency for Audit or its designee, a federal agency providing direct or indirect funding, or the U.S. Government Accountability Office for purposes of a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of Robert Belt. Furthermore, upon request, we may provide copies of selected audit documentation to the aforementioned parties. These parties may intend or decide to distribute the copies or information contained therein to others, including other governmental agencies.

The audit documentation for this engagement will be retained for a minimum of five years after the report release or for any additional period requested by the Oversight Agency for Audit. If we are aware that a federal awarding agency, pass-through entity, or auditee is contesting and audit finding, we will contact the party(ies) contesting the audit finding for guidance prior to destroying the audit documentation.

Fees for our services are based on the actual time spent at our standard hourly rates, plus travel and other out-of-pocket costs such as report production, typing, postage, etc. Our standard hourly rates vary according to the degree of responsibility involved and the experience level of the personnel assigned to your audit. The time estimates used to project our fees are based on anticipated cooperation from your personnel and management fulfilling its responsibility, as discussed previously. Our time budget for this engagement does not include addressing matters related to managements' responsibilities, such as modifications to the City's financial information, additional procedures related to alleged noncompliance with laws and regulations and similar

improprieties, the City's lack of preparation for the audit, and similar matters. Such time requirements have not been included in the estimate and would be billed in addition to the fees quoted at our standard hourly rates and actual costs incurred, including legal consultations, if necessary. We will notify the appropriate party when such conditions are encountered, such as identifying schedules not prepared, out-of-balance accounts, alleged violations, etc. When possible, we will provide management with options for alleviating the conditions. If it appears the item will not be addressed by the City, we may perform procedures to address incidental matters to facilitate timely completion of the audit. To the extent possible, we will obtain approval before performing additional work for matters considered significant to the original proposed fee. Due to the nature of our work, such approval may not always be possible (i.e., we may be legally compelled by subpoena or similar request to expend additional time and incur other expenses to handle matters arising from this engagement).

As customary in the industry the price quoted is an estimate. In accordance with rules of the State Board of Public Accountancy we cannot be bound to provide the audit for the amount estimated. However, in practice we honor our fee quotes unless adverse conditions such as those described above are encountered. Our fee estimates for the audit of the City's financial statements for the years ended September 30, 2009, 2010, and 2011 are presented below.

| <u>Fees as originally quoted:</u>           | 2009             | 2010             | 2011             |
|---------------------------------------------|------------------|------------------|------------------|
| Financial Statement Audit                   | \$ 51,704        | \$ 55,323        | \$ 59,196        |
| Risk Assessment                             | \$ 12,926        | \$ 12,926        | \$ 12,926        |
| Previous Subtotal                           | \$ 66,639        | \$ 70,259        | \$ 74,133        |
| Less: Multi-Year Renewal Discount           | \$ (5,634)       | \$ (8,644)       | \$ (11,902)      |
| Total                                       | <u>\$ 61,005</u> | <u>\$ 61,615</u> | <u>\$ 62,231</u> |
| <br><u>Single audit fees (*if required)</u> |                  |                  |                  |
| Single Audit                                | \$ 10,304        | \$ 11,025        | \$ 11,797        |
| Single Audit-Risk Assessment                | \$ 2,546         | \$ 2,546         | \$ 2,546         |
| Less: Multi-Year Renewal Discount           | \$ (710)         | \$ (1,292)       | \$ (1,942)       |
|                                             | <u>\$ 12,158</u> | <u>\$ 12,279</u> | <u>\$ 12,401</u> |

\*A single audit is required when federal funds over \$500,000 are expended. Our fees are based on the number of major programs (programs over \$300,000). Our estimate includes the fee for one major program.

Our invoices for these fees will be rendered each month as work progresses and are payable within 30 days. In accordance with our firm policies, work will be suspended if your account becomes 30 days or more overdue and will not be resumed until your account is paid in full. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed even if we have not completed our report. You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket costs through the date of termination. This agreement and rights and responsibilities of this audit engagement are specifically assigned to Belt Harris & Associates, LLLP. Notwithstanding anything contained in this engagement to the contrary, in the event no funds or insufficient funds are appropriated and budgeted or are otherwise unavailable in any fiscal period for fees due under this engagement agreement, the City will immediately notify us in writing of such occurrence and this agreement shall terminate on the last day of the fiscal period for which appropriations have been received or made.

*Government Auditing Standards* require that we provide you with a copy of our most recent external peer review report and any letter of comment, and any subsequent peer review reports and letters of comment received during the period of the contract. Our 2007 peer review accompanies this letter.

**Dissemination of Electronic Copies of Report**

With regard to the electronic dissemination of audited financial statements, including financial statements published electronically on internet websites, you understand that electronic sites are a means to distribute information and, therefore, we are not required to read the information contained in these sites or to consider the consistency of other information in the electronic site with the original document or updated documents.

We currently provide an additional service to our clients by providing an electronic copy of all of the annual financial reports of the cities we have audited on our website so they may be easily accessed. You are providing your City's authorization for our firm to distribute your financial information in this format.

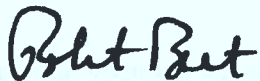
**Authorization of CPA's Disclosure**

Any client certified public accountant involved with assisting us shall not be prohibited from disclosure of information required to be made available by the standards of the public accounting profession in reporting on the examination of financial statements. Management understands and provides permission to staff certificate or registration holders as required under the Rules of Professional Conduct, Texas Administrative Code, Title 22, Part 22, Chapter 501, Subchapter C, Section 501.75.

We appreciate the opportunity to be of service to the City and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us.

Belt Harris & Associates, LLLP  
*Certified Public Accountants*  
Houston, Texas

Authorized by:



Robert Belt, CPA, Managing Partner  
Sincerely,

RESPONSE:

This letter correctly sets forth the understanding of the City of Tomball, Texas.

---

Gretchen Fagan, Mayor

---

Date

BUMGARDNER, MORRISON & COMPANY, L.L.P.

*BMC*

CERTIFIED PUBLIC ACCOUNTANTS

JOSEPH B. BUMGARDNER, CPA  
(1911-2002)  
JACK R. MORRISON, SR., CPA  
(1922-1997)

**MEMBERS:**

AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS  
TEXAS SOCIETY OF CERTIFIED PUBLIC ACCOUNTANTS  
AICPA PRIVATE COMPANIES PRACTICE SECTION  
AICPA TAX DIVISION

October 31, 2007

JACK R. MORRISON, JR., CPA  
CHRISTOPHER E. KREJCI, CPA  
JEROME G. KOTZUR, CPA  
G. DENNIS SHAY, CPA, CFP®  
PAULA G. LESKE, CPA  
MICHAEL E. WENSKE, CPA

JACK C. FITZGERALD, CPA

**System Peer Review Report**

Sandersen, Knox & Belt, LLP  
Certified Public Accountants

We have reviewed the system of quality control for the accounting and auditing practice of Sandersen, Knox & Belt, LLP, Certified Public Accountants, (the firm) in effect for the year ended May 31, 2007. A system of quality control encompasses the firm's organizational structure, the policies adopted and procedures established to provide it with reasonable assurance of conforming with professional standards. The elements of quality control are described in the Statements on Quality Control Standards issued by the American Institute of Certified Public Accountants (AICPA). The firm is responsible for designing a system of quality control and complying with it to provide the firm reasonable assurance of conforming with professional standards in all material respects. Our responsibility is to express an opinion on the design of the system of quality control and the firm's compliance with its system of quality control based on our review.

Our review was conducted in accordance with standards established by the Peer Review Board of the AICPA. During our review, we read required representations from the firm interviewed firm personnel and obtained an understanding of the nature of the firm's accounting and auditing practice, and the design of the firm's system of quality control sufficient to assess the risks implicit in its practice. Based on our assessments, we selected engagements and administrative files to test for conformity with professional standards and compliance with the firm's system of quality control. The engagements selected represented a reasonable cross-section of the firm's accounting and auditing practice with emphasis on higher-risk engagements. The engagements selected included among others, audits of Employee Benefit Plans, and engagements performed under *Government Auditing Standards*. Prior to concluding the review, we reassessed the adequacy of the scope of the peer review procedures and met with firm management to discuss the results of our review. We believe that the procedures we performed provide a reasonable basis for our opinion.

In performing our review, we obtained an understanding of the system of quality control for the firm's accounting and auditing practice. In addition, we tested compliance with the firm's quality control policies and procedures to the extent we considered appropriate. These tests covered the application of the firm's policies and procedures on selected engagements. Our review was based on selected tests therefore it would not necessarily detect all weaknesses in the system of quality control or all instance of noncompliance with it. There are inherent limitations in the effectiveness of any system of quality control and therefore noncompliance with the system of quality control may occur and not be detected. Projection of any evaluation of a system of quality control to future periods is subject to the risk that the system of quality control may become inadequate because of changes in conditions, or because the degree of compliance with the policies or procedures may deteriorate.

In our opinion, the system of quality control for the accounting and auditing practice of Sandersen, Knox & Belt, LLP, Certified Public Accountants, in effect for the year ended May 31, 2007, has been designed to meet the requirements of the quality control standards for an accounting and auditing practice established by the AICPA and was complied with during the year then ended to provide the firm with reasonable assurance of conforming with professional standards.

*Bumgardner, Morrison & Company, LLP*

## GFOA of the US & Canada

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### BEST PRACTICE

#### Audit Procurement (1996 and 2002)

**Background.** The Government Finance Officers Association (GFOA) has long recommended that state and local governmental entities obtain independent audits of their financial statements performed in accordance with the appropriate professional auditing standards. Properly performed audits play a vital role in the public sector by helping to preserve the integrity of the public finance functions and by maintaining citizens' confidence in their elected leaders.

**Recommendation.** GFOA makes the following recommendations regarding the selection of auditing services:

- The scope of the independent audit should encompass not only the fair presentation of the basic financial statements, but also the fair presentation of the financial statements of individual funds and component units. The cost of extending full audit coverage to the financial statements of individual funds and component units can be justified by the additional degree of assurance provided. Nevertheless, the selection of the appropriate scope of the independent audit ultimately remains a matter of professional judgment. Accordingly, those responsible for securing independent audits should make their decision concerning the appropriate scope of the audit engagement based upon their particular government's specific needs and circumstances, consistent with applicable legal requirements.
- Governmental entities should require in their audit contracts that the auditors of their financial statements conform to the independence standard promulgated in the General Accounting Office's *Government Auditing Standards* even for audit engagements that are not otherwise subject to generally accepted government auditing standards.
- Governmental entities should enter into multiyear agreements of at least five years in duration when obtaining the services of independent auditors. Such multiyear agreements can take a variety of different forms (e.g., a series of single-year contracts), consistent with applicable legal requirements. Such agreements allow for greater continuity and help to minimize the potential for disruption in connection with the independent audit. Multiyear agreements can also help to reduce audit costs by allowing auditors to recover certain "startup" costs over several years, rather than over a single year.
- Governmental entities should undertake a full-scale competitive process for the selection of independent auditors at the end of the term of each audit contract, consistent with applicable legal requirements. Ideally, auditor independence would be enhanced by a policy requiring that the independent auditor be replaced at the end of the audit contract, as is often the case in the private sector. Unfortunately, the frequent lack of competition among audit firms fully qualified to perform public-sector audits could make a policy of mandatory auditor rotation counterproductive. In such cases, it is recommended that a governmental entity actively seek the participation of all qualified firms, including the current auditors, assuming that the past performance of the current auditors has proven satisfactory. Except in cases where a multiyear agreement has taken the form of a series of single-year contracts, a contractual provision for the automatic renewal of the audit contract (e.g., an automatic second term for the auditor upon satisfactory performance) is inconsistent with this recommendation.
- Professional standards allow independent auditors to perform certain types of nonaudit services for their audit clients. Any significant nonaudit services should always be approved in advance by a governmental entity's audit committee. Furthermore, governmental entities should routinely explore the possibility of alternative service providers before making a decision to engage their independent auditors to perform significant nonaudit services.
- The audit procurement process should be structured so that the principal factor in the selection of an independent auditor is the auditor's ability to perform a quality audit. In no case should price be allowed to serve as the sole criterion for the selection of an independent auditor.

#### References

- *CPA Audit Quality: A Framework for Procuring Audit Services*, General Accounting Office, August 1987.

# Regular City Council

## Agenda Item

### Data Sheet

Meeting Date: April 4, 2011

**Topic:**

Approve the Minutes of the March 21, 2011 Regular City Council Meeting

**Background:****Origination:**

City Secretary

**Recommendation:**

N/A

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

City Secretary

| ACTION TAKEN                                             |                                                                                   |       |
|----------------------------------------------------------|-----------------------------------------------------------------------------------|-------|
| APPROVAL                                                 | READINGS PASSED                                                                   | OTHER |
| <input type="checkbox"/> YES <input type="checkbox"/> NO | <input type="checkbox"/> 1 <sup>ST</sup> <input type="checkbox"/> 2 <sup>ND</sup> |       |

**ATTACHMENTS:**

Minutes - March 21, 2011 Regular City Council Meeting

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



**MONDAY, MARCH 21, 2011**

**7:00 P.M.**

**1.0 Call to Order**

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

Councilman Quinn  
Councilman Stoll  
Councilman Brown  
Councilman Townsend  
Councilman Dodson

Others present:

City Manager – George Shackelford  
Assistant City Manager – Christal Kliwer  
City Secretary – Doris Speer  
City Attorney – Scott Bounds  
Chief of Police – Robert Hauck  
Director of Public Works – David Kauffman  
Fire Chief – Randy Parr  
Assistant to City Manager – Shawn Cox  
Assistant City Planner – Rodney Schmidt  
Assistant City Engineer – Lori Lakatos  
Executive Director-TEDC – Kelly Violette

**draft**

**2.0** The invocation was led by Dean Unsicker, Rosehill Christian School

**3.0** Pledges to the U. S. and Texas flags were led by Matt Thomas and Eric Ramsey, Tomball High School Student Council.

4.0 The following public comments were received:

Lee Cummings - Expressed his support for the expansion of  
13907 Windy Meadow, 77375 Rudolph Road.

5.0 Presentations:

- Stefan Bruns brought greetings from the City of Telgte, Germany.

6.0 Reports and Announcements:

- March 24-27, 2011 – **11<sup>th</sup> Annual German Heritage Festival**
- March 31, 2011 – **Youth Opportunities Fair**, hosted by City of Tomball HR Department at the Community Center – 2:00-4:30 p.m.
- April 2, 2011 – **Farmers Market Opens** – 9 a.m.-1:00 p.m. (Every Saturday)
- April 9, 2011 – **3rd Annual City of Tomball Bunny Run 5K and Kids 1 Mile**
- April 18-23, 2011 – **City of Tomball Spring Clean Up Week** – 8:00 a.m. to 4:30 p.m.
- **Walk Tomball!** (every Saturday at 9:00 a.m. at the Depot)
- Appointments to TEDC Board of Directors will be on April 18 agenda (for terms expiring 5/2/11)
- Reports by City staff and members of council about items of community interest on which no action will be taken
  - Mayor Fagan – April 9, 2011 – **“A Day of Healthy Living”** - Tomball Area Health Expo – 9:00 a.m.-2:00 p.m. at Texas Sports Medicine Center
  - Shawn Cox – Report on the Oilfield Helping Hands Event
  - David Kauffman – Update regarding School Zone Flashing Beacon Project
  - Lori Lakatos – Status of Proposals for Designated Parking Lots
  - Councilman Townsend – Tomball Citizens Police Academy Alumni Association will be hosting a shredding event on Saturday, April 30, at the TISD Administrative Building as a fundraiser.

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

- March 7, 2011 Special City Council and Planning and Zoning Commission Meeting
- March 7, 2011 Regular City Council Meeting

Motion carried unanimously.

8.0 Old Business:

- 8.1 Kelly Violette presented the proposed Resolution authorizing expenditure of funds to Community Bank of Texas, N.A. Motion was made by Councilman Brown, second by Councilman Townsend, to approve on Second Reading, Resolution No. 2011-03-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 Community Bank of Texas N.A. to Promote and Develop a New or Expanded Business Enterprise; Containing other Provisions relating to the Subject; and Providing for Severability - Approving, as a Project of the Corporation, an Agreement with Community Bank of Texas, N.A. to Make Direct Incentives to, or Expenditures for, Assistance with Infrastructure Costs related to the Development and Construction of a Commercial Building to be located at 28515 State Highway 249 in Tomball, Texas. The Estimated Amount of Expenditures for such Project is \$60,000. Vote was as follows:

|                     |            |
|---------------------|------------|
| Councilman Quinn    | <u>Aye</u> |
| Councilman Stoll    | <u>Nay</u> |
| Councilman Brown    | <u>Aye</u> |
| Councilman Townsend | <u>Aye</u> |
| Councilman Dodson   | <u>Aye</u> |

Motion carried, 4 votes Aye, 1 vote Nay.

- 8.2 David Kauffman presented an overview of the proposed contract. Motion was made by Councilman Townsend, second by Councilman Dodson, to award Contract for Project No. 2011-02, South Wastewater Treatment Plant Headworks Replacement, to Lowest Responsible Bidder, JTR Constructors, Inc., in the amount of \$256,250.00, and Authorize the City Manager to Execute the Necessary Contract for Construction. Scott Bounds stipulated that Mr. Tidwell, the representative for Panorama, was given the opportunity, on March 7, to address Council at this meeting and was not in attendance.

Motion carried unanimously.

- 8.3 Lori Lakatos presented an overview of the proposed Agreements. Motion was made by Councilman Dodson, second by Councilman Townsend, to approve Professional Services Agreements with CLR, Inc. in the amount of \$65,160.00 and Cobb Fendley & Associates, Inc. in the amount of \$7,000.00 for Professional Services related to Extension of Utilities located on Brown Road, extending westerly of State Highway 249 and easterly of Spring Creek Estates, and Authorize City Manager to Execute Agreements.

Motion carried unanimously.

- 8.2 Doris Speer and Scott Bounds presented an overview of the proposed Ordinance, with revisions requested by Council. Motion was made by Councilman Stoll, second by Councilman Brown, to adopt on Second Reading, Ordinance No. 2011-01, an Ordinance Amending Chapter 54, Peddlers and Solicitors, of the Code of Ordinances of the City of Tomball, Texas, by Providing Exceptions to the Regulations Established in Chapter 54; by Providing Regulations and Criminal Violations related to any Peddler who Refuses to Leave a Premises upon Notification to Leave or Not to Enter Such Premises; by Providing for Hours of Operation; by Prohibiting Misrepresentations by Peddlers; by

Providing Regulations related to the Responsibility of Owners, Tenants and Lessees who Allow Peddlers to Utilize Their Property; by Providing for Compliance with the Home Solicitation Sales Act; by Providing for Regulations Related to Structures Erected or Maintained by Peddlers; by Providing Information Required to Obtain a Permit; by Providing Application and Permit Fees; by Providing Regulations related to the Approval, Denial, Issuance and Appeal of a Permit; by Providing certain Limitations and Prohibiting the Assignability of Permits; by Providing for the Required Contents of a Permit; by Providing for the Duration and Renewal of a Permit; Providing a Penalty in an Amount of Not More Than \$500 for Violation of any Provision Hereof; Providing for Savings and Severability; Providing for Publication; and Making other Provisions and Findings related thereto. Vote was as follows:

|                     |            |
|---------------------|------------|
| Councilman Stoll    | <u>Aye</u> |
| Councilman Brown    | <u>Aye</u> |
| Councilman Townsend | <u>Aye</u> |
| Councilman Dodson   | <u>Aye</u> |
| Councilman Quinn    | <u>Aye</u> |

Motion carried unanimously.

9.0 New Business:

- 9.1 Kelly Violette presented an overview of the proposed Agreement with Waukesha-Pearce. Motion was made by Councilman Dodson, second by Councilman Brown, to approve, as a Project of the Corporation, an Agreement with Waukesha-Pearce Industries to make direct incentives to, or expenditures for, the creation or retention of primary jobs and that are found by the Board of Directors to be required or suitable for the development, retention, or expansion of manufacturing and industrial facilities: to wit: Waukesha-Pearce Industries expansion and development of its manufacturing facility located at 1720 Hicks Street, Tomball, Texas. The estimated amount of expenditures for such Project is \$12,000.

Motion carried unanimously.

- 9.2 Councilman Dodson advised Mayor and Council that he would recuse himself from discussion and vote regarding Items 9.2 and 9.3 and that he had filed an affidavit of Conflict of Interest with the City Secretary.

Rodney Schmidt presented the staff report for **ZONING CASE P11-302:** Request by David Kelly, on behalf of CMH Homes, Inc. (Clayton Homes), to amend the City's Comprehensive Zoning Ordinance to rezone approximately 2.57 acres of land, legally described as Tracts 2V and 2W out of the C.N. Pillot Survey, Abstract 632 and Tract 8A out of the Sam Lewis Survey, Abstract 1704, within the City of Tomball, Harris County, Texas, generally located on the westerly side of State Highway 249, southerly of Alice Road, from the AG-Agricultural District to the C-Commercial District.

- Mayor Fagan opened the Public Hearing on **ZONING CASE P11-302** at 7:40 p.m.

Tony Sortino - Spoke in favor of the zoning requests.  
13314 Timberwild, 77375

No further public comments being received, Mayor Fagan closed the public hearing at 7:43 p.m.

- Motion was made by Councilman Townsend, second by Councilman Stoll, to read Ordinance No. 2011-02 by caption only on first reading.

Motion carried unanimously.

Motion was made by Councilman Townsend, second by Councilman Stoll, to adopt on First Reading, Ordinance No. 2011-02, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by Changing the Zoning District Classification of Approximately 2.57 Acres of Land, Legally Described as Tracts 2V and 2W out of the C.N. Pillot Survey, Abstract 632 and Tract 8A out of the Sam Lewis Survey, Abstract 1704, 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, southerly of Alice Road; Providing for the Amendment of the Official Zoning Map of the City; Providing for Severability; Providing for a Penalty of an amount not to exceed \$2,000 for each day of violation of any Provision Hereof, Making Findings of Fact; and Providing for other Related Matters. Vote was as follows:

|                     |                |
|---------------------|----------------|
| Councilman Brown    | <u>Aye</u>     |
| Councilman Townsend | <u>Aye</u>     |
| Councilman Dodson   | <u>Abstain</u> |
| Councilman Quinn    | <u>Aye</u>     |
| Councilman Stoll    | <u>Aye</u>     |

Motion carried unanimously.

- 9.3 Rodney Schmidt presented the staff report for **ZONING CASE P11-303**: Request by David Kelly, on behalf of CMH Homes, Inc. (Clayton Homes), for a Conditional Use Permit to operate a “Manufactured Home Display or Sales (New or Used)” facility. The property is an approximately 2.57-acre site, legally described as Tracts 2V and 2W out of the C.N. Pillot Survey, Abstract 632 and Tract 8A out of the Sam Lewis Survey, Abstract 1704, generally located on the westerly side of State Highway 249, southerly of Alice Road at 27225 State Highway 249, Tomball, Texas.

- Mayor Fagan opened the Public Hearing on **ZONING CASE P11-303** at 7:45 p.m.; no public comments being received, Mayor Fagan closed the public hearing at 7:45 p.m.
- Motion was made by Councilman Townsend second by Councilman Stoll, to read Ordinance No. 2011-03 by caption only on first reading.

Motion carried unanimously.

Motion was made by Councilman Townsend, second by Councilman Stoll, to adopt on First Reading, Ordinance No. 2011-03, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by Granting a Conditional Use Permit to CMH Homes, Inc., to operate a “Manufactured Home Display or Sales (New or Used)” Facility; Said Property Being Located within the City in Zoning District C-Commercial and Being Legally Described as Tracts 2V and 2W out of the C.N. Pillot Survey, Abstract 632 and Tract 8A out of the Sam Lewis Survey, Abstract 1704, Generally Located on the westerly side of State Highway 249, Southerly of Alice Road in Tomball, Texas; Providing Requirements and Conditions for this Conditional Use Permit; Containing Findings and Other Provisions Relating to the Subject; Providing a Penalty in an amount not to exceed Two Thousand Dollars for Violations Hereof; and Providing for Severability. Vote was as follows:

|                     |                |
|---------------------|----------------|
| Councilman Townsend | <u>Aye</u>     |
| Councilman Dodson   | <u>Abstain</u> |
| Councilman Quinn    | <u>Aye</u>     |
| Councilman Stoll    | <u>Aye</u>     |
| Councilman Brown    | <u>Aye</u>     |

Motion carried unanimously.

- 9.4 Rob Hauck presented an overview of the proposed Agreement with Tomball Independent School District. Motion was made by Councilman Townsend, second by Councilman Stoll, to approve the 2010-2011 (Interim) Interlocal Agreement between the City of Tomball and the Tomball Independent School District (TISD), affording the Tomball Police Department the ability to assign a Student Resource Officer (SRO) to a TISD Campus.

Motion carried unanimously.

- 9.5 Rob Hauck presented an overview of the proposed Agreement with the Sheriff's Association of Texas. Motion was made by Councilman Townsend, second by Councilman Stoll, to approve the Service Agreement between the City of Tomball and the Sheriff's Association of Texas for Research and Evaluation of Gyroplane Aircraft used in Law Enforcement Operations.

Motion carried unanimously.

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

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_ 2011.

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Doris Speer, TRMC  
City Secretary

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Gretchen Fagan  
Mayor

# Regular City Council

## Agenda Item

Meeting Date: April 4, 2011

## Data Sheet

### **Topic:**

Adopt, on Second Reading, Ordinance No. 2011-02, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by Changing the Zoning District Classification of Approximately 2.57 Acres of Land, Legally Described as Tracts 2V and 2W out of the C.N. Pillot Survey, Abstract 632 and Tract 8A out of the Sam Lewis Survey, Abstract 1704, 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, southerly of Alice 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 January 21, 2011, the Engineering and Planning Department received an application to rezone the subject site from the Agricultural District to the Commercial District. The property is currently used by Clayton Homes as a modular and manufactured home sales facility consisting of numerous display homes for sale as well as a sales office.

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 of 2008. At the time of annexation, the property was given an interim zoning classification of Agricultural.

The applicant is now requesting to rezone the property to the Commercial District. The uses in the general vicinity of the site are primarily commercial and retail in nature. 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 March 14, 2011, the Planning and Zoning Commission, after conducting a public hearing on this request, voted 4-0 to approve Zoning Case P11-302.

On March 21, 2011, Council adopted Ordinance No. 2011-02 on First Reading. Councilman Dodson will abstain from discussion and vote on Ordinance No. 2011-02 and has filed an Affidavit regarding Conflict of Interest with the City Secretary.

### **Origination:**

David Kelly, on behalf of CMH Homes, Inc. (Clayton Homes)

### **Recommendation:**

In its formal recommendation to City Council, the Planning and Zoning Commission voted 4-0 to approve Zoning Case P11-302, as recommended by staff, based on the following findings: (a) the proposed zoning of Commercial District is compatible with the land uses in the vicinity; (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; and (d) there is sufficient utility capacity to service this site.

### **Funding: No**

Funds will be transferred from Account: to Account:

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

Engineering and Planning Department

| ACTION TAKEN                                             |                                                                                   |       |
|----------------------------------------------------------|-----------------------------------------------------------------------------------|-------|
| APPROVAL                                                 | READINGS PASSED                                                                   | OTHER |
| <input type="checkbox"/> YES <input type="checkbox"/> NO | <input type="checkbox"/> 1 <sup>ST</sup> <input type="checkbox"/> 2 <sup>ND</sup> |       |

**ATTACHMENTS:**

Ordinance No. 2011-02

Staff Report P11-302

Notice of Public Hearing

Property Owner Notification Letter

**ORDINANCE NO. 2011-02**

**AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING ITS COMPREHENSIVE ZONING ORDINANCE BY CHANGING THE ZONING DISTRICT CLASSIFICATION OF APPROXIMATELY 2.57 ACRES OF LAND, LEGALLY DESCRIBED AS TRACTS 2V AND 2W OUT OF THE C.N. PILLOT SURVEY, ABSTRACT 632 AND TRACT 8A OUT OF THE SAM LEWIS SURVEY, ABSTRACT 1704, 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, SOUTHERLY OF ALICE 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 2.57 acres of land, legally described as Tracts 2V and 2W out of the C.N. Pilot Survey, Abstract 632 and Tract 8A out of the Sam Lewis Survey, Abstract 1704, generally located on the westerly side of State Highway 249, southerly of Alice Road, in the City of Tomball, Harris County, Texas, (the "Property"), have requested that the Property be rezoned; 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 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 2.57 acres of land, legally described as Tracts 2V and 2W out of the C.N. Pillot Survey, Abstract 632 and Tract 8A out of the Sam Lewis Survey, Abstract 1704, within the City of Tomball, Harris County, Texas, (the “Property”), 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 2.57 acres of land, legally described as Tracts 2V and 2W out of the C.N. Pillot Survey, Abstract 632 and Tract 8A out of the Sam Lewis Survey, Abstract 1704, generally located on the westerly side of State Highway 249, southerly of Alice 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 2.57 acres of land, legally described as Tracts 2V and 2W out of the C.N. Pillot Survey, Abstract 632 and Tract 8A out of the Sam Lewis Survey, Abstract 1704, generally located on the westerly side of State Highway 249, southerly of Alice 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 21ST DAY OF MARCH 2011.

|                     |                |
|---------------------|----------------|
| COUNCILMAN QUINN    | <u>AYE</u>     |
| COUNCILMAN STOLL    | <u>AYE</u>     |
| COUNCILMAN BROWN    | <u>AYE</u>     |
| COUNCILMAN TOWNSEND | <u>AYE</u>     |
| COUNCILMAN DODSON   | <u>ABSTAIN</u> |

SECOND READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 4TH DAY OF APRIL 2011.

|                     |       |
|---------------------|-------|
| COUNCILMAN QUINN    | _____ |
| COUNCILMAN STOLL    | _____ |
| COUNCILMAN BROWN    | _____ |
| COUNCILMAN TOWNSEND | _____ |
| COUNCILMAN DODSON   | _____ |

\_\_\_\_\_  
Gretchen Fagan, Mayor

ATTEST:

\_\_\_\_\_  
Doris Speer, City Secretary



## Rezoning Staff Report

Planning and Zoning Commission Hearing Date: March 14, 2011

**Rezoning Case:** P11-302  
**Property Owner(s):** CMH Homes, Inc.  
**Applicant(s):** David Kelly  
**Legal Description:** Tracts 2V and 2W out of the C.N. Pillot Survey, Abstract 632 and Tract 8A out of the Sam Lewis Survey, Abstract 1704, within the City of Tomball, Harris County, Texas  
**Location:** 27225 State Highway 249 (Generally located on the westerly side of State Highway 249, southerly of Alice Road)  
**Area:** 2.57 acres  
**Present Zoning and Use:** AG-Agricultural District / Modular and Manufactured Home Display and Sales  
**Comp Plan Designation:** Commercial  
**Proposed Zoning and Use:** C-Commercial District / Manufactured Home Display and Sales

**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:** AG-Agricultural and C-Commercial Districts / Mini-warehouse  
**South:** AG-Agricultural and C-Commercial Districts / Tool rental  
**East:** C-Commercial District / SH 249 ROW, shopping center, Tractor Supply Co., and Palm Harbor Homes  
**West:** AG-Agricultural and C-Commercial Districts / Mini-warehouse and undeveloped

### **BACKGROUND**

The subject site is legally described as Tracts 2V and 2W out of the C.N. Pillot Survey, Abstract 632 and Tract 8A out of the Sam Lewis Survey, Abstract 1704, within the City of Tomball, Harris County, Texas totaling approximately 2.57 acres. The site's physical address is 27225 State Highway 249 and is generally located on the westerly side of State Highway 249, southerly of Alice Road (Exhibit "A"). The property is currently used by Clayton Homes as a modular and

manufactured home sales facility consisting of a number of display homes for sale as well as a sales office (Exhibit “C”).

On December 1, 2008, the subject site was annexed into the City of Tomball as part of the 172.812 acre S.H. 249 Bypass (Tomball Expressway) Road Right-of-Way annexation (Exhibit “I”). 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 May 14, 2010, a site plan application was submitted to the Engineering & Planning Department to permit a previously constructed concrete entryway/landing for one of the model homes at the subject site. The site plan was not granted approval because the covered landing was constructed within the 60’ front setback required in the Agricultural District. On July 9, 2010, Clayton Homes submitted a variance application to the Board of Adjustments requesting that the landing be permitted within the 60’ setback. Because a finding of a hardship was not identified, City staff informed the applicant that the Engineering & Planning Department would not recommend approval of the request. After discussions with the applicant regarding the zoning of the property and the existing encroachments on the site the applicant withdrew the variance request and removed the illegally constructed landing.

On January 21, 2011, the Engineering & Planning Department received a rezoning and conditional use permit (CUP) application for the subject site. The applicant is requesting to rezone the property from the Agricultural District to the Commercial District. As a matter of information, the use of the site as a modular and manufactured home sales facility is ‘grandfathered’ because it was established prior to its annexation into the City, however Clayton Homes desires to make improvements to the property including reconfiguring the site layout, adding parking and drive aisles, installing landscaping, and relocating all structures outside of the building setbacks which requires the granting of a conditional use permit. The “Manufactured Home Display or Sales (New or Used)” land use is defined in the Zoning Ordinance as “The offering for sale, storage, or display of new or previously owned (i.e., used) manufactured housing units (e.g., mobile homes/trailers, HUD-Code homes, industrialized homes) on a parcel of land, but excluding the use of such facilities as dwellings either on a temporary or permanent basis.”

As a matter of information, the property is currently in the process of being platted. The “Tomball R 135” preliminary plat was approved on October 12, 2009. However, the final plat was denied by the Planning & Zoning Commission on June 14, 2010 because the lot did not meet the minimum lot depth requirements of the Agricultural District. The property owner will restart the platting process if the property is rezoned to the Commercial District and issued a CUP. If the property were rezoned to the Commercial District and replatted into one overall lot, the lot would meet the minimum area requirements of the Commercial District.

## **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 applicant is requesting the rezoning to bring the property’s zoning classification in line with the manufactured home sales use already established on the site and to facilitate future improvements to the site including providing internal drive aisles and parking, updating the existing sales office, installing landscaping, reconfiguring the site layout, and improving the overall aesthetics of the site (Exhibit “F”). The proposed improvements are discussed in further detail in the conditional use permit staff report (P11-303).

The uses in the general vicinity of the site are primarily commercial and retail in nature (Exhibit “C”). The proposed use would not be incompatible with the existing commercial and retail uses in the area and would likely continue to complement the other manufactured home sales establishments in the area.

The proposed rezoning to the Commercial District is consistent with the “Commercial” Comprehensive Plan land use designation shown on the Future Land Use Plan Map. The Comprehensive Plan’s land use designations are intended to provide direction in determining current and future growth patterns and development intensities. 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.”

Because the requested rezoning is consistent with the Comprehensive Plan’s Future Land Use Plan Map, is consistent with the zoning classifications other properties in the area, and will help facilitate improvements to the size with, staff is supportive of the rezoning request.

## **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 in the general vicinity of the site are primarily commercial and retail in nature (Exhibit “C”). 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. Any future development/redevelopment of this site will require compliance with the City’s land use and development regulations.

**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 site is currently developed with a manufactured home sales company. As such, 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 are a limited number of undeveloped properties zoned Commercial District in the immediate vicinity with most being south of the subject site along S.H. 249. However, there are a number of vacant Commercial District lots available along F.M. 2920, west of S.H. 249.

**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 in the Commercial District city-wide and within the vicinity in the last two years.

**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 consistent with the “Commercial” Comprehensive Plan land use designation. 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.”

## **PUBLIC COMMENT**

Property owners within 200 feet of the project site were mailed notification of this proposal on March 3, 2011 and, as of the writing of this report, no public comment forms were received.

## **RECOMMENDATION**

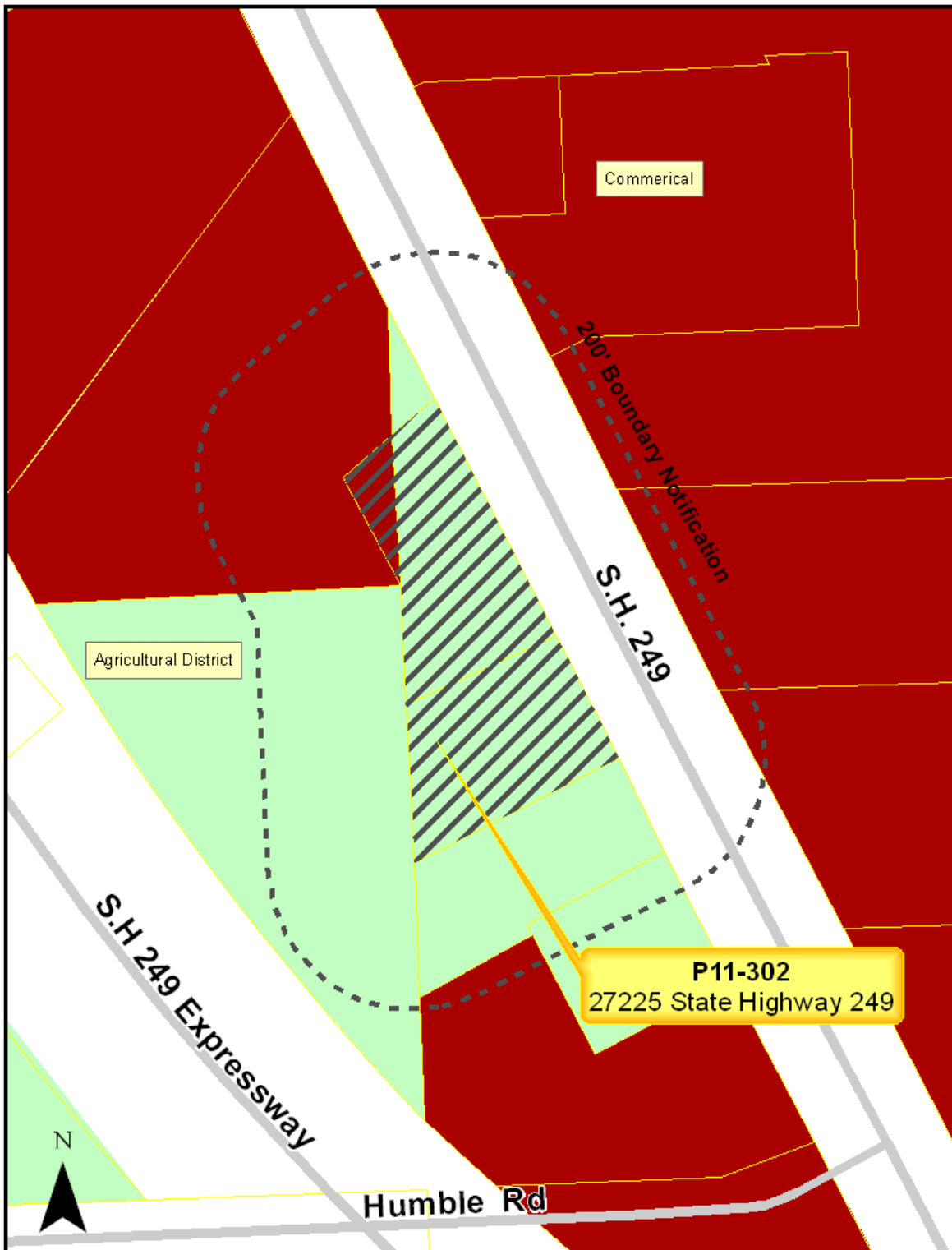
That the Planning and Zoning Commission recommend:

1. APPROVAL of Zoning Case P11-302 based on the following:
  - a. The proposed zoning of Commercial District is compatible with the land uses in the vicinity.
  - 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 this site.
2. APPROVAL of the staff report as the Planning and Zoning Commission’s final recommendation to the City Council.

## **EXHIBITS**

- A. Location/Zoning Map
- B. Comprehensive Plan Future Land Use Map
- C. Aerial Photo
- D. Rezoning Application
- E. Conditional Use Permit Application
- F. Rezoning Request Letter
- G. Concept Plan
- H. Property Survey
- I. Ordinance 2008-32 Annexation Map
- J. Site Photos

**Exhibit "A"**  
**Location/Zoning Map**



**Exhibit "B"**  
**Comprehensive Plan Future Land Use Map**

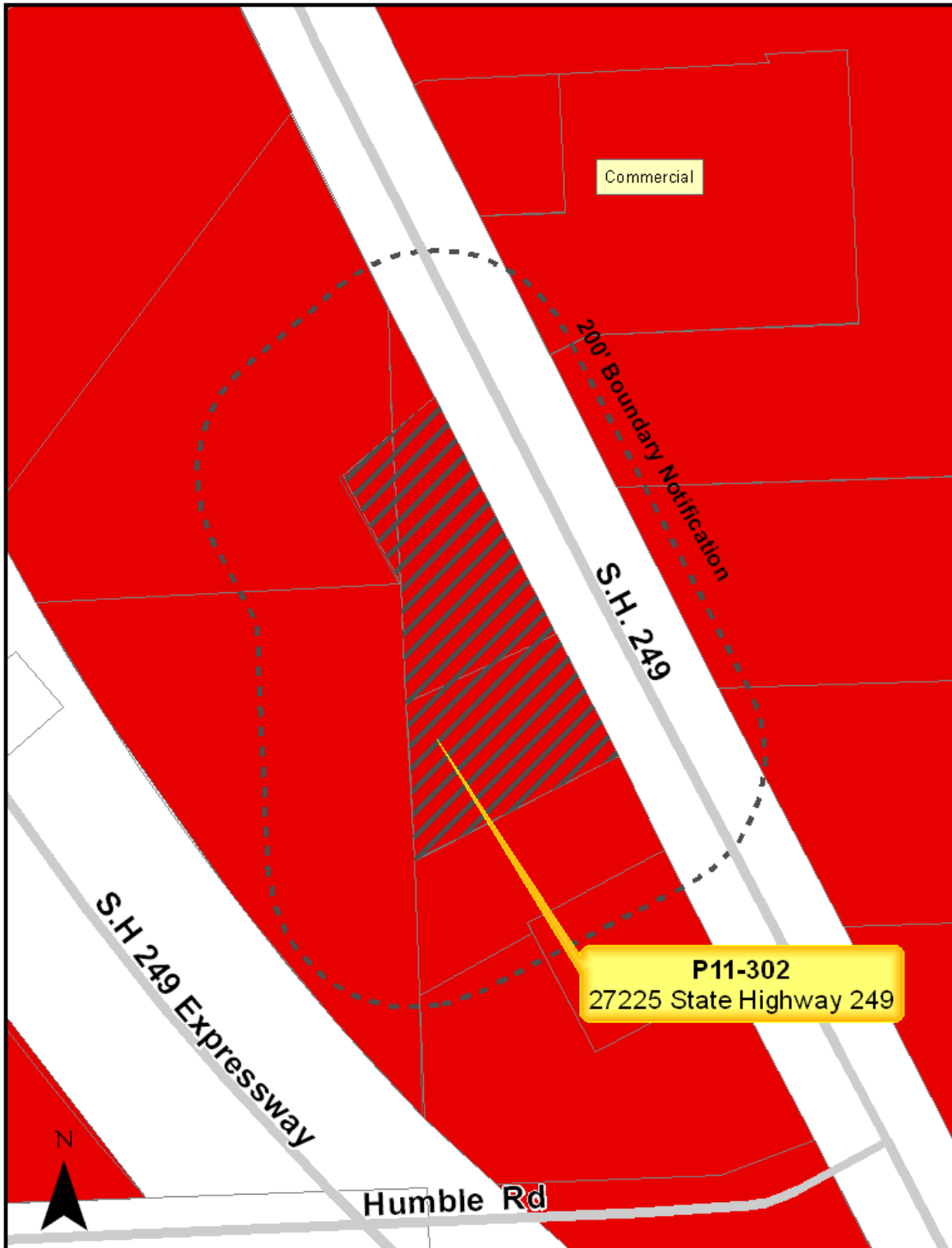


Exhibit "C"  
Aerial Photo

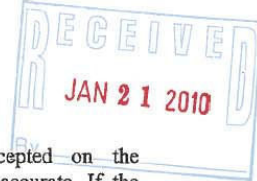


**Exhibit "D"**  
**Rezoning Application**

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: DPK Engineering David Kelly Title: President  
Mailing Address: 32719 Windsor Terrace City: Fulshear State: TX  
Zip: 77441  
Phone: (281) 346-2616 Fax: (281) 346-2616 Email: david.kelly@dpkengineering.com

**Owner** By: HUGH T. STATUM, III

Name: CMH HOMES, INC Title: VICE PRESIDENT  
Mailing Address: 5000 CLAYTON ROAD City: MARYVILLE State: TN  
Zip: 37804  
Phone: (665) 380-3000 Fax: (665) 380-3792 Email: TAB.STATUM@CLAYTONHOMES.COM

**Engineer/Surveyor (if applicable)**

Name: David P Kelly II Title: President DPK Eng  
Mailing Address: 32719 Windsor Terrace City: Fulshear State: TX  
Zip: 77441  
Phone: (281) 346-2616 Fax: (281) 346-2616 Email: david.kelly@dpkengineering.com

**Description of Proposed Project:** Remodel Existing Site

**Physical Location of Property:** 27225 State Highway 249 between Alice  
[General Location - approximate distance to nearest existing street corner] & Humble Rd

**Legal Description of Property:** CN. Pillot A632 Tract 1 (1.0A) Tract 2 (1.57 AC)  
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]

**Current Zoning District:** ~~Commercial~~ AG

**Current Use of Property:** Clayton Homes (Mobile Home Sales)

**Proposed Zoning District:** Commercial

**Proposed Use of Property:** Manufactured Home Sales

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

[www.ci.tomball.tx.us](http://www.ci.tomball.tx.us)

HCAD Identification Number: 0440580000001  
~~0440~~ 04405800000215 Acreage: 2.5721

**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 David P. Smith 1/20/11  
Signature of Applicant Date

X [Signature] 1-11-11  
Signature of Owner Date

**Exhibit "E"**  
**Conditional Use Permit Application**



**APPLICATION FOR  
CONDITIONAL USE PERMIT**  
Engineering & Planning Department

Revised 1/20/09



A conditional use is a land use which, because of its unique nature, is compatible with the permitted land uses in a given zoning district only upon a determination that the external effects of the use in relation to the existing and planned uses of adjoining property and the neighborhood can be mitigated through imposition of certain standards and conditions. This Section sets forth the standards used to evaluate proposed conditional uses and the procedures for approving conditional use permit (CUP) applications.

No conditional use shall be established and no building permit shall be issued for any use designated as a conditional use within any zoning district until a conditional use permit (CUP) is approved and issued in accordance with the provisions of this Section and Section 10 of The Zoning Ordinance.

**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: DPK Engineering David Kelly Title: President  
Mailing Address: 32719 Windsor Terrace City: Fulshear State: TX  
Zip: 77441  
Phone: (281) 346-2616 Fax: (281) 346-2616 Email: david.kelly@dptengineering.com

**Owner**

By HUGH T. STATUM, III  
Name: CMH HOMES, INC. Title: VICE PRESIDENT  
Mailing Address: 5000 CLAYTON ROAD City: MARYVILLE State: TN  
Zip: 37804  
Phone: (865) 380-3000 Fax: (865) 380-3792 Email: TAB.STATUM@CLAYTONHOMES.COM

**Engineer/Surveyor (if applicable)**

Name: David Kelly DPK Engineering Title: President  
Mailing Address: 32719 Windsor Terrace City: Fulshear State: TX  
Zip: 77441  
Phone: (281) 346-2616 Fax: (281) 346-2616 Email: david.kelly@dptengineering.com

Description of Proposed Project: Remodel Existing Site  
Physical Location of Property: 27225 State Highway 2497 between Alice + Humbley  
[General Location - approximate distance to nearest existing street corner]  
Legal Description of Property: CN Pilot A 632 Tract 1(1.0042) Tract 2(1.57Ac)  
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]  
HCAD Identification Number: 0440580000001 Acreage: 2.5721  
0440580000215  
Current Use of Property: Clayton Homes Manufactured Home Sales  
Proposed Use of Property: same

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 Daniel ROSE  
Signature of Applicant

1/20/11  
Date

X M. J. H. S.  
Signature of Owner

1-11-11  
Date

**Exhibit "F"**  
**Rezoning Request Letter**

**DPK Engineering LLC**  
**Land Development – Site Development - Municipal**  
32719 Windsor Terrace  
Fulshear, Texas 77441  
Tel/Fax: 281-346-2616

January 20, 2011

Kelly Violette  
City Planner/Community Development Coordinator  
City of Tomball  
501 James Street | Tomball, TX 77375  
Phone (281) 290-1491 | Fax - (281) 351-4735  
kviolette@ci.tomball.tx.us

**Reference: REZONING CLAYTON HOMES PROPERTY**

Dear Mrs. Violette:

I have been requested by CMH Homes, Inc., the owner of the Clayton Homes at 27225 State Highway 249 in Tomball Texas, to request the rezoning of their existing property. The property is in the process of being replatted into a single lot and improvements are planned for the existing infrastructure. CMH Homes, Inc is proposing to update the existing sales office and reconfigure the layout which will be more conducive to sales and a more aesthetic setting. CMH Homes requests that the zoning is changed from AG to Commercial and that a conditional use permit be granted for this facility.

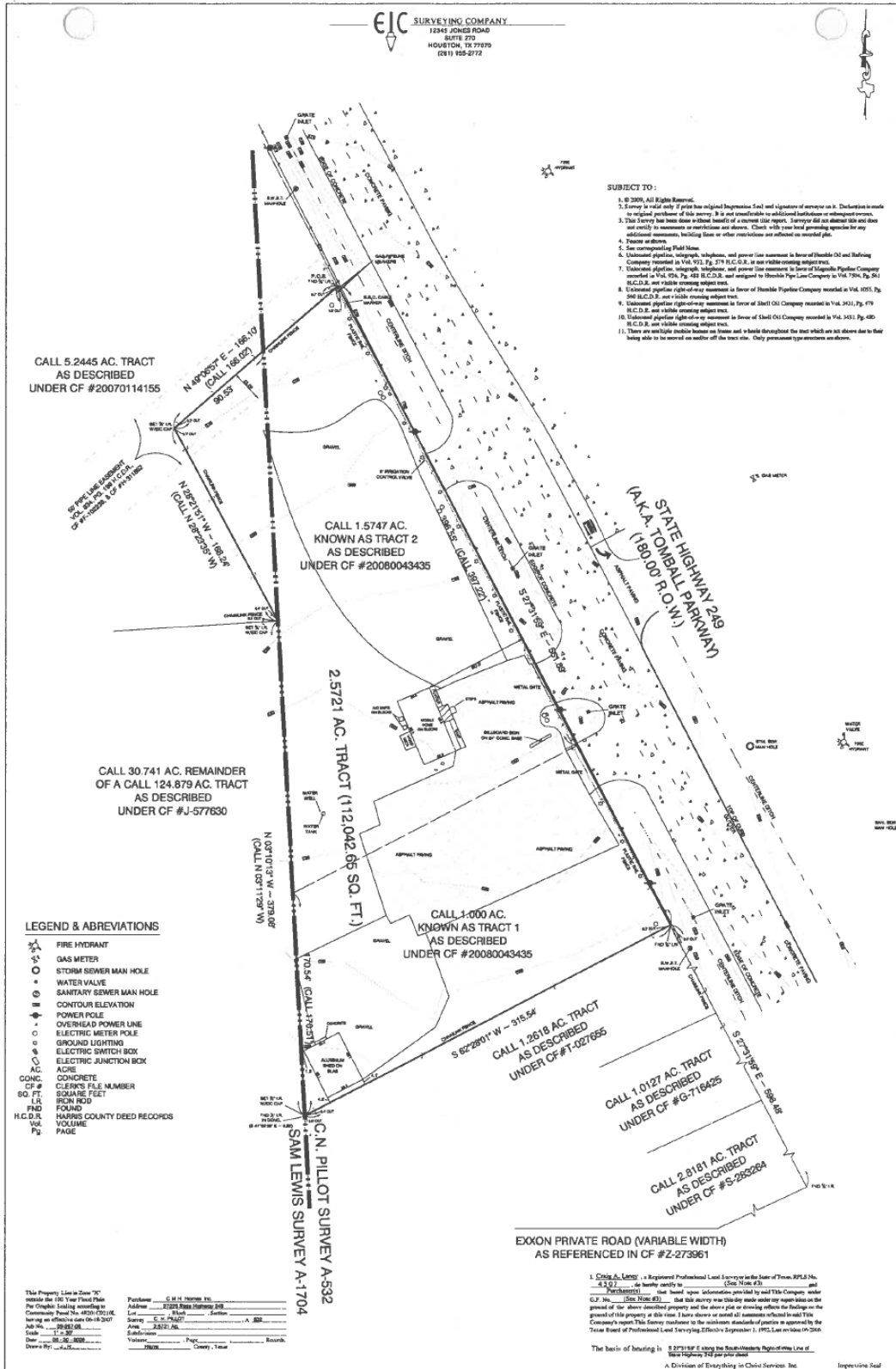
If you have any questions or concerns please feel free to contact me.



David P. Kelly II, P.E.  
DPK Engineering LLC  
32719 Windsor Terrace  
Fulshear, Texas 77441  
phone/fax: 281-346-2616  
mobile: 281-300-1869  
david.kelly@dpkengineering.com

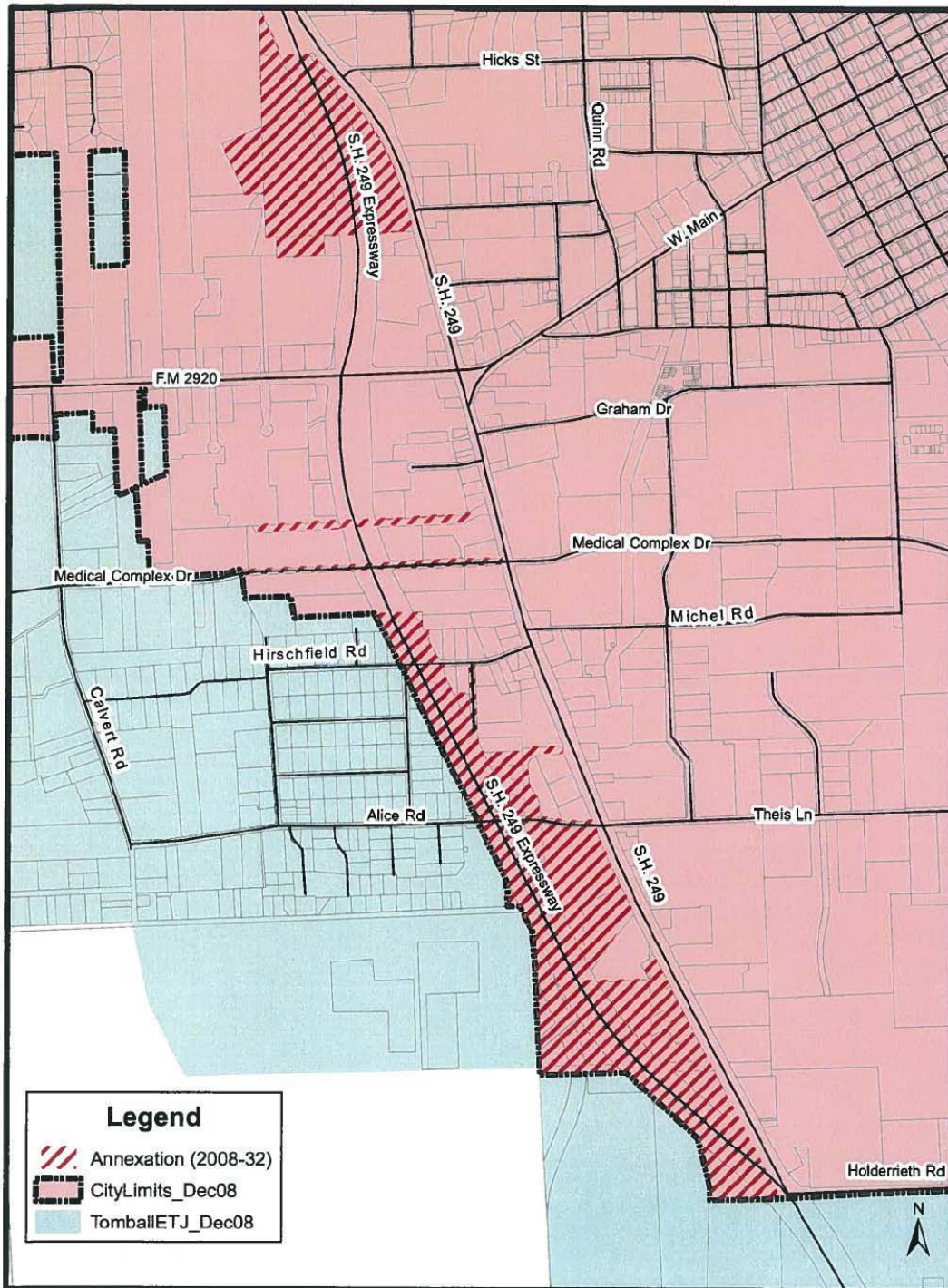
## Page 16 of 20

# Exhibit "H" Property Survey



**Exhibit "I"**  
**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 “J” Site Photos



**Figure 1: Northerly view of subject site.**



**Figure 2: Excel Storage to the north of the subject site.**



**Figure 3: Tractor Supply to the east of subject site.**



**Figure 4: Tomball Rental Center to the south of subject site.**

**NOTICE OF PUBLIC HEARINGS  
CITY OF TOMBALL  
PLANNING & ZONING COMMISSION  
MARCH 14, 2011  
&  
CITY COUNCIL  
MARCH 21, 2011**



Notice is Hereby Given that Public Hearings will be held by the Planning & Zoning Commission of the City of Tomball on **Monday, March 14, 2011, at 6:00 P.M.**, and by the City Council of the City of Tomball on **Monday, March 21, 2011, at 7:00 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 P11-302:** Request by David Kelly, on behalf of CMH Homes, Inc. (Clayton Homes), to amend the City's Comprehensive Zoning Ordinance to rezone approximately 2.57 acres of land, legally described as Tracts 2V and 2W out of the C.N. Pillot Survey, Abstract 632 and Tract 8A out of the Sam Lewis Survey, Abstract 1704, within the City of Tomball, Harris County, Texas, generally located on the westerly side of State Highway 249, southerly of Alice Road, from the AG-Agricultural District to the C-Commercial District.

**ZONING CASE P11-303:** Request by David Kelly, on behalf of CMH Homes, Inc. (Clayton Homes), for a Conditional Use Permit to operate a "Manufactured Home Display or Sales (New or Used)" facility. The property is an approximately 2.57 acre site, legally described as Tracts 2V and 2W out of the C.N. Pillot Survey, Abstract 632 and Tract 8A out of the Sam Lewis Survey, Abstract 1704, generally located on the westerly side of State Highway 249, southerly of Alice Road at 27225 State Highway 249, Tomball, Texas. The site is located in the AG-Agricultural and C-Commercial Districts. (This case will be heard in conjunction with Zoning Case P11-302).

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 City Planner** Kelly Violette, (281) 290-1491, [kviolette@ci.tomball.tx.us](mailto:kviolette@ci.tomball.tx.us)

### 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 **10th** day of **March** 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](http://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:** P11-302

**APPLICANT:** David Kelly, on behalf of CMH Homes, Inc. (Clayton Homes)

**LOCATION:** Westerly side of State Highway 249, southerly of Alice Road

**PROPOSAL:** Request to amend the City's Comprehensive Zoning Ordinance to rezone approximately 2.57 acres of land, legally described as Tracts 2V and 2W out of the C.N. Pillot Survey, Abstract 632 and Tract 8A out of the Sam Lewis Survey, Abstract 1704, within the City of Tomball, Harris County, Texas, from the AG-Agricultural District to the C-Commercial District.

\* \* \*

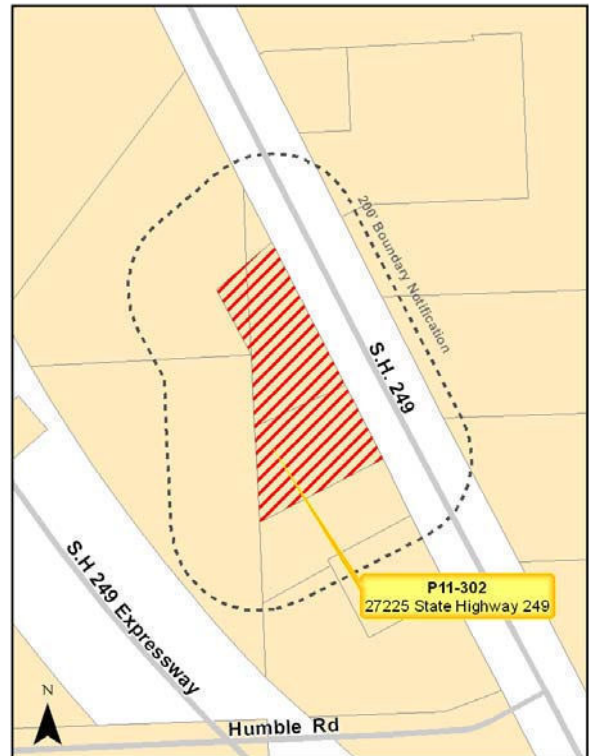
**CONTACT PLANNER:** Kelly Violette

**PHONE:** (281) 290-1491

**E-MAIL:** [kviolette@ci.tomball.tx.us](mailto:kviolette@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, March 14, 2011, 6:00 PM**

**City Council Public Hearing:  
\*Monday, March 21, 2011, 7:00 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.

# Regular City Council

## Agenda Item

Meeting Date: April 4, 2011

## Data Sheet

### **Topic:**

Adopt, on Second Reading, Ordinance No. 2011-03, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by Granting a Conditional Use Permit to CMH Homes, Inc., to operate a "Manufactured Home Display or Sales (New or Used)" Facility; Said Property Being Located within the City in Zoning District C-Commercial and Being Legally Described as Tracts 2V and 2W out of the C.N. Pillot Survey, Abstract 632 and Tract 8A out of the Sam Lewis Survey, Abstract 1704, Generally Located on the westerly side of State Highway 249, Southerly of Alice Road in Tomball, Texas; Providing Requirements and Conditions for this Conditional Use Permit; Containing Findings and Other Provisions Relating to the Subject; Providing a Penalty in an amount not to exceed Two Thousand Dollars for Violations Hereof; and Providing for Severability

### **Background:**

On January 21, 2011, the Engineering & Planning Department received a conditional use permit (CUP) application for a "Manufactured Home Display or Sales (New or Used)" facility for Clayton Homes on the subject site. The existing use of the site as a modular and manufactured home sales facility is 'grandfathered' because it was established prior to its annexation into the City, however Clayton Homes desires to make improvements to the property including reconfiguring the site layout, adding parking and drive aisles, installing landscaping, and relocating all structures outside of the building setbacks which requires the granting of a conditional use permit. The "Manufactured Home Display or Sales (New or Used)" land use is defined in the Zoning Ordinance as "The offering for sale, storage, or display of new or previously owned (i.e., used) manufactured housing units (e.g., mobile homes/trailers, HUD-Code homes, industrialized homes) on a parcel of land, but excluding the use of such facilities as dwellings either on a temporary or permanent basis."

After reviewing the request for a conditional use permit staff prepared a report to the Planning and Zoning Commission recommending approval subject to the conditions listed in the attached draft ordinance (Ordinance No. 2011-03).

On March 14, 2011, the Planning and Zoning Commission, after conducting a public hearing on this request, voted 4-0 to approve Zoning Case P11-303, with conditions.

On March 21, 2011, Council approved Ordinance No. 2011-03 on First Reading. Councilman Dodson will abstain from discussion and vote on Ordinance No. 2011-03 and has filed an Affidavit regarding Conflict of Interest with the City Secretary.

### **Origination:**

David Kelly, on behalf of CMH Homes, Inc. (Clayton Homes)

### **Recommendation:**

In its formal recommendation to City Council, the Planning and Zoning Commission voted 4-0 to approve Zoning Case P11-303, as recommended by staff, subject to the following recommended conditions of approval: (a) the use of the "Manufactured Home Display or Sales (New or Used)" use shall not be enlarged, extended or relocated, nor may the number of manufactured homes or sales office be increased from what is shown on the approved Concept Plan without the approval of a revised concept plan or new CUP (Exhibit "A"); (b) the use of the site will be limited to "Manufactured Home Display or Sales (New or Used)"; (c) all proposed parking areas, loading areas, and drive aisles must adhere to the requirements of the Zoning

Ordinance; (d) off-street parking must be provided at a rate of 1 space per 1,000 square feet of gross sales office area; (e) all structures must adhere to the setback requirements of the Zoning Ordinance; (f) the subject site must be landscaped in accordance with the Zoning Ordinance; (g) all manufactured homes and sales offices adjacent to S.H. 249 must be skirted between the bottom of the manufactured home or office and the ground with a material harmonious with the appearance of the manufactured home or sales office - the skirting must be provided on all sides of structures that are adjacent and visible from SH 249 right-of-way; and (h) the final plat consolidating Tracts 2V and 2W out of the C.N. Pillot Survey, Abstract 632 and Tract 8A out of the Sam Lewis Survey, Abstract 1704 into one overall tract must be filed with Harris County before building permits shall be issued.

**Funding: No**

Funds will be transferred from Account: to Account:

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

Engineering and Planning Department

| ACTION TAKEN                                             |                                                                                   |       |
|----------------------------------------------------------|-----------------------------------------------------------------------------------|-------|
| APPROVAL                                                 | READINGS PASSED                                                                   | OTHER |
| <input type="checkbox"/> YES <input type="checkbox"/> NO | <input type="checkbox"/> 1 <sup>ST</sup> <input type="checkbox"/> 2 <sup>ND</sup> |       |

**ATTACHMENTS:**

- Ordinance No. 2011-03
- P11-303 Staff Report
- Notice of Public Hearing
- Adjacent Property Owner Notification

**ORDINANCE NO. 2011-03**

**AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING ITS COMPREHENSIVE ZONING ORDINANCE BY GRANTING A CONDITIONAL USE PERMIT TO CMH HOMES, INC., TO OPERATE A “MANUFACTURED HOME DISPLAY OR SALES (NEW OR USED)” FACILITY; SAID TRACT BEING LOCATED WITHIN THE CITY IN ZONING DISTRICT C-COMMERCIAL AND BEING LEGALLY DESCRIBED AS TRACTS 2V AND 2W OUT OF THE C.N. PILLOT SURVEY, ABSTRACT 632 AND TRACT 8A OUT OF THE SAM LEWIS SURVEY, ABSTRACT 1704, GENERALLY LOCATED ON THE WESTERLY SIDE OF STATE HIGHWAY 249, SOUTHERLY OF ALICE ROAD IN TOMBALL, TEXAS; PROVIDING REQUIREMENTS AND CONDITIONS FOR THIS CONDITIONAL USE PERMIT; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE SUBJECT; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED TWO THOUSAND DOLLARS FOR VIOLATIONS HEREOF; AND PROVIDING FOR SEVERABILITY.**

\* \* \* \* \*

**WHEREAS**, David Kelly, on behalf of CMH Homes, Inc., has made application for a Conditional Use Permit to allow a “Manufactured Home Display or Sales (New or Used)” facility to operate in the C-Commercial District. The property is an approximately 2.57 acre site located at 27225 Texas 249, described on the tax maps as Tracts 2V and 2W out of the C.N. Pillot Survey, Abstract 632 and Tract 8A out of the Sam Lewis Survey, Abstract 1704, and generally located on the westerly side of State Highway 249, southerly of Alice Road, within the City of Tomball, Harris County, Texas; and

**WHEREAS**, the Property presently has a zoning classification of C-Commercial District, pursuant to the Comprehensive Zoning Ordinance of the City; and

**WHEREAS**, the Owner of the Property, through its duly authorized representative, has presented an application to the City for the granting of a Conditional Use Permit to allow a “Manufactured Home Display or Sales (New or Used)” facility to operate in a Commercial District (the “Conditional Use”); and

WHEREAS, the Planning & Zoning Commission of the City, after notice and hearing as required by law, has recommended that the City Council grant the conditional use permit subject to the terms and conditions contained in the final report of said Commission; and,

**WHEREAS**, the City Council, following notice and hearing as required by law, concurs with the recommendation of the Planning & Zoning Commission that such specific use permit should be granted subject to the terms and conditions contained herein; now, therefore,

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

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

**Section 2.** A Conditional Use Permit to allow a “Manufactured Home Display or Sales (New or Used)” facility to operate in a Commercial District, to CMH Homes, Inc., at 27225 Texas 249 Tomball, TX, in accordance with the application and plans submitted to the Planning and Zoning Commission on (date) and subject to the terms and conditions set forth below, is hereby granted to the Owner, including any successor in interest.

**Section 3.** The Official Zoning District Map of the City shall be revised and amended to show the Conditional Use authorized hereby for the Property as provided in Section 2 hereof, with the appropriate references thereon to the number and effective date of this Ordinance and a brief description of the nature of the Conditional Use authorized.

**Section 4.** This Ordinance shall in no manner amend, change, supplement, or revise any provision of any ordinance of the City, save and except the granting of the Conditional Use Permit as herein provided.

**Section 5.** The Conditional Use Permit granted hereby shall be null and void after the expiration of two (2) years from the date of adoption hereof unless the Property is being used in

accordance with the Conditional Use herein authorized within said two-year period, or unless an extension of time is approved by City Council.

**Section 6.** The Conditional Use authorized and permitted hereby shall be, and is, subject to the following additional limitations, restrictions, and conditions:

- A. The use of the “Manufactured Home Display or Sales (New or Used)” use shall not be enlarged, extended or relocated, nor may the number of manufactured homes or sales office be increased from what is shown on the approved Concept Plan without the approval of a revised concept plan or new CUP (Exhibit “A”).
- B. The use of the site will be limited to “Manufactured Home Display or Sales (New or Used).”
- C. All proposed parking areas, loading areas, and drive aisles must adhere to the requirements of the Zoning Ordinance.
- D. Off-street parking must be provided at a rate of 1 space per 1,000 square feet of gross sales office area.
- E. All structures must adhere to the setback requirements of the Zoning Ordinance.
- F. The subject site must be landscaped in accordance with the Zoning Ordinance.
- G. All manufactured homes and sales offices adjacent to S.H. 249 must be skirted between the bottom of the manufactured home or office and the ground with a material harmonious with the appearance of the manufactured home or sales office. The skirting must be provided on all sides of structures that are adjacent and visible from public street right-of-way.
- H. The final plat consolidating Tracts 2V and 2W out of the C.N. Pillot Survey, Abstract 632 and Tract 8A out of the Sam Lewis Survey, Abstract 1704 into one overall tract must be filed with Harris County before building permits shall be issued.

**Section 7.** 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 8.** In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 21ST DAY OF MARCH 2011.

|                     |                |
|---------------------|----------------|
| COUNCILMAN QUINN    | <u>AYE</u>     |
| COUNCILMAN STOLL    | <u>AYE</u>     |
| COUNCILMAN BROWN    | <u>AYE</u>     |
| COUNCILMAN TOWNSEND | <u>AYE</u>     |
| COUNCILMAN DODSON   | <u>ABSTAIN</u> |

SECOND READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 4TH DAY OF APRIL 2011.

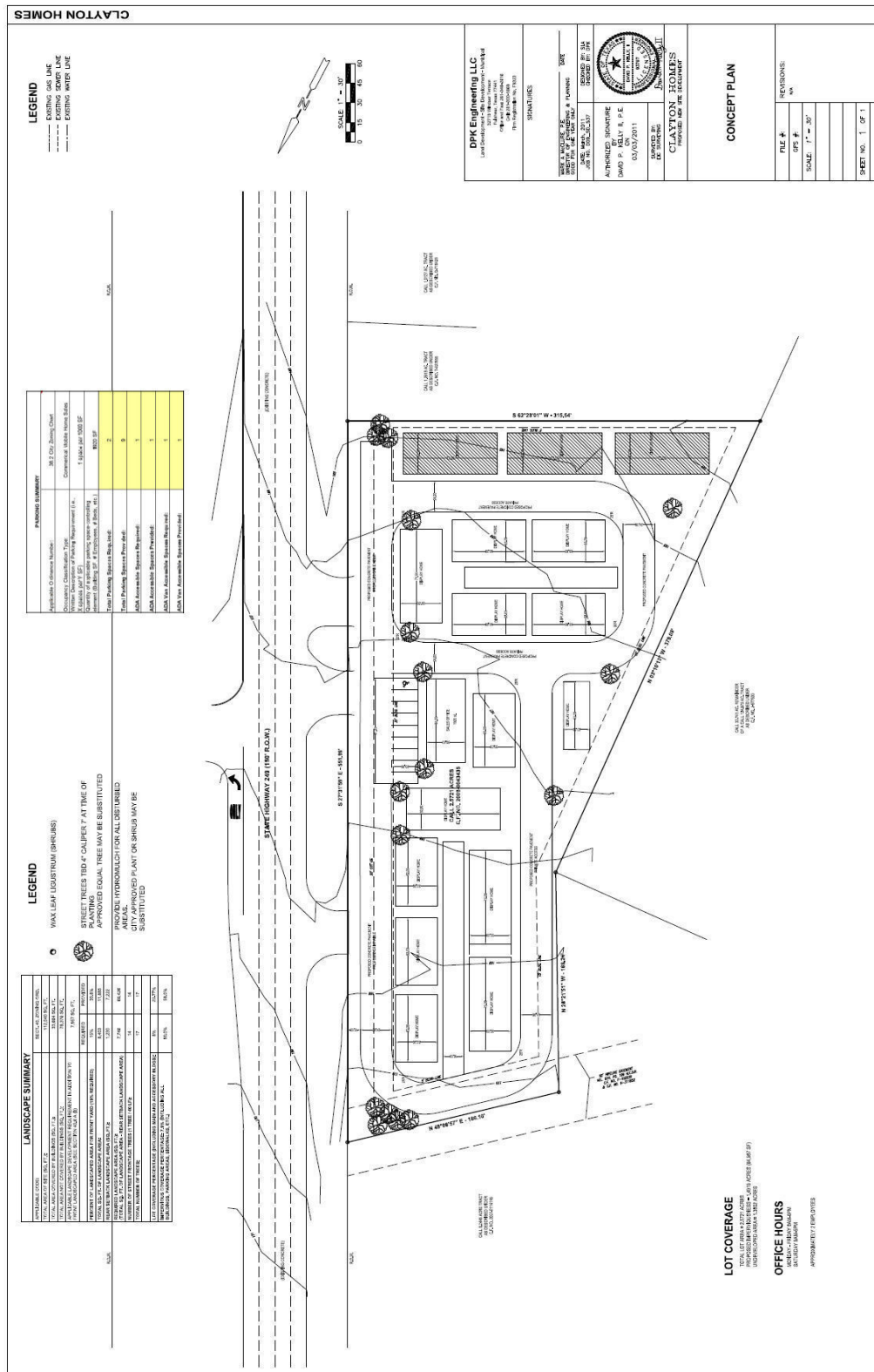
|                     |       |
|---------------------|-------|
| COUNCILMAN QUINN    | _____ |
| COUNCILMAN STOLL    | _____ |
| COUNCILMAN BROWN    | _____ |
| COUNCILMAN TOWNSEND | _____ |
| COUNCILMAN DODSON   | _____ |

\_\_\_\_\_  
Gretchen Fagan, Mayor

ATTEST:

\_\_\_\_\_  
Doris Speer, City Secretary

**Exhibit “A”**  
**Concept Plan**





## CUP Staff Report

Planning and Zoning Commission Hearing Date: March 14, 2011

**Rezoning Case:** P11-303

**Property Owner(s):** CMH Homes, Inc.

**Applicant(s):** David Kelly

**Legal Description:** Tracts 2V and 2W out of the C.N. Pillot Survey, Abstract 632 and Tract 8A out of the Sam Lewis Survey, Abstract 1704, within the City of Tomball, Harris County, Texas

**Location:** 27225 State Highway 249 (Generally located on the westerly side of State Highway 249, southerly of Alice Road)

**Area:** 2.57 acres

**Present Zoning and Use:** AG-Agricultural District / Modular and Manufactured Home Display and Sales

**Comp Plan Designation:** Commercial

**Proposed Use:** “Manufactured Home Display or Sales (New or Used)”

**Request:** Conditional Use Permit to allow a “Manufactured Home Display or Sales (New or Used)” land use.

**Adjacent Zoning & Land Uses:**

|               |                                                                                                |
|---------------|------------------------------------------------------------------------------------------------|
| <b>North:</b> | AG-Agricultural and C-Commercial Districts / Mini-warehouse                                    |
| <b>South:</b> | AG-Agricultural and C-Commercial Districts / Tool rental                                       |
| <b>East:</b>  | C-Commercial District / SH 249 ROW, shopping center, Tractor Supply Co., and Palm Harbor Homes |
| <b>West:</b>  | AG-Agricultural and C-Commercial Districts / Mini-warehouse and undeveloped                    |

### **BACKGROUND / PROJECT DESCRIPTION**

The subject site is legally described as Tracts 2V and 2W out of the C.N. Pillot Survey, Abstract 632 and Tract 8A out of the Sam Lewis Survey, Abstract 1704, within the City of Tomball, Harris County, Texas totaling approximately 2.57 acres. The site’s physical address is 27225 State Highway 249 and is generally located on the westerly side of State Highway 249, southerly of Alice Road (Exhibit “A”). The property is currently used by Clayton Homes as a modular and manufactured home sales facility consisting of a number of show homes for sale as well as a sales office (Exhibit “C”).

The applicant is requesting a conditional use permit to utilize the site for a “Manufactured Home Display or Sales” facility. As a matter of information, the existing use of the site as a modular and manufactured home sales facility is ‘grandfathered’ because it was established prior to its annexation into the City, however Clayton Homes desires to make improvements to the property including reconfiguring the site layout, adding parking and drive aisles, installing landscaping, and relocating all structures outside of the building setbacks which requires the granting of a conditional use permit.

According to the Zoning Ordinance, “a conditional use is a land use which, because of its unique nature, is compatible with the permitted land uses in a given zoning district only upon a determination that the external effects of the use in relation to the existing and planned uses of adjoining property and the neighborhood can be mitigated through imposition of certain standards and conditions.” Additionally, the Ordinance requires that all CUP applications include a Concept Plan to ensure that the proposed project is in compliance with all applicable City ordinances.

The proposed concept plan indicates that the site will contain a total of 16 display homes and one sales office. Additionally, nine parking stalls are shown, including one ADA accessible space. However that number may be reduced to eight parking stalls because of the required eight foot wide ADA loading zone. The Concept Plan shows new 24 foot wide concrete drive aisles throughout the site and the addition of landscaping. It should be noted that Section 40.2.B of the Zoning Ordinance specifies that any use requiring a CUP must comply with Section 40’s landscape standards unless special landscaping standards are otherwise provided for in the ordinance establishing the CUP. In no case shall the standards provided for in the CUP ordinance be less than the standards required by Section 40.

The concept plan also shows that the office hours for the facility will be Monday – Friday from 9 a.m. to 6 p.m. and Saturday from 9 a.m. to 5 p.m., with approximately two employees on site.

## **ANALYSIS**

According to the Zoning Ordinance, “When considering applications for a conditional use permit, the City shall, on the basis of the Concept Plan and other information submitted, evaluate the impact of the conditional use on, and the compatibility of the use with, surrounding properties and neighborhoods to ensure the appropriateness of the use at a particular location.”

### **Factors for Consideration:**

#### **1. The proposed use at the specified location is consistent with the goals, objectives and policies contained in the adopted Comprehensive Plan;**

The Commercial Land Use designation in the Comprehensive Plan is intended for retail sales and service activities including, shopping centers, convenience stores, auto dealers, department stores, grocery and drug stores, entertainment facilities, food and beverage purveyors, salons, small repair shops, and professional offices. The use of the site as a Manufactured Homes Display and Sales facility is consistent with the Commercial designation outlined in the Comprehensive Plan and the proposed site improvements will enhance the aesthetics of the existing development.

**2. The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;**

The applicant has submitted a concurrent request to rezone the property from the Agricultural Zoning District to the C-Commercial District. The general purpose and intent of the C-Commercial Zoning District is to provide a location for commercial and service related establishments, such as wholesale product sales, welding/contractor's shops, automotive repair services, upholstery shops, and other similar commercial uses. Convenient access to thoroughfares and collector streets is also a primary consideration. The use of the site as a Manufactured Homes Display and Sales facility is consistent with the C- Commercial Zoning District description. The proposed site improvements and recommended conditions of approval will assure compatibility of the use with other uses permitted in the surrounding area. Additionally, the site area is suitable for development based upon the area regulations of the C-Commercial District.

**3. The proposed use meets all supplemental standards specifically applicable to the use as set forth in this Ordinance;**

The submitted concept plan generally meets the development standards applicable to the project. As previously stated, the number of parking stalls may be reduced from 9 to 8 in order to comply with ADA regulations; however the minimum number of stalls required for the use is 1:1,000 sq feet of floor area. The requirement is based upon the floor area of the sales office, which requires 2 parking stalls.

The side setbacks shown on the concept plan do not meet the minimum 10 feet required for the Commercial District, however it appears that there is sufficient room to meet the minimum side setbacks without substantial alterations to the proposed layout.

Should the CUP application be approved, the applicant will be required to submit a full set of civil plans to the Engineering & Planning Department for review and approval. The plans must exhibit compliance with all applicable ordinance regulations, including but not limited to paving, detention, curbing, landscaping, fire access, etc.

**4. The proposed use is compatible with and preserves the character and integrity of adjacent development and neighborhoods and, as required by the particular circumstances, includes improvements or modifications either on-site or within the public rights-of-way to mitigate development-related adverse impacts, including but not limited to:**

- a. Adequate ingress and egress to property and proposed structures thereon with particular reference to vehicular and pedestrian safety and convenience, and access in case of fire;
- b. Off-street parking and loading areas;
- c. Refuse and service areas;
- d. Utilities with reference to location, availability, and compatibility;
- e. Screening and buffering, features to minimize visual impacts, and/or setbacks from adjacent uses;
- f. Control of signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

- g. Required yards and open space;**
- h. Height and bulk of structures;**
- i. Hours of operation;**
- j. Exterior construction material and building design; and**
- k. Roadway adjustments, traffic control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development-generated traffic on neighborhood streets.**

The submitted concept plan generally meets the development standards applicable to the project. The proposed site improvements and recommended conditions of approval will assure compatibility of the use with other uses permitted in the surrounding area.

- 5. The proposed use is not materially detrimental to the public health, safety, convenience and welfare, or results in material damage or prejudice to other property in the vicinity.**

The continued use of the site as a Manufactured Homes Display and Sales facility is not anticipated to be detrimental to the public health, safety, convenience and welfare. The proposed site improvements and recommended conditions of approval will improve the overall aesthetics of an existing site and bring the site into conformance with the provisions of the Zoning Ordinance.

### **PUBLIC COMMENT**

Property owners within 200 feet of the project site were mailed notification of this proposal on March 3, 2011 and, as of the writing of this report, no public comment forms were received.

### **RECOMMENDATION**

That the Planning and Zoning Commission recommend approval of Zoning Case P11-303, with conditions, based on the following:

- a. The proposal is consistent with the general purpose and intent of the applicable zoning district regulations and Comprehensive Plan ;
- b. The proposal is not materially detrimental to the public health, safety, convenience and welfare, or results in material damage or prejudice to other property in the vicinity.

### **RECOMMENDED CONDITIONS OF APPROVAL**

Section 37.1.A of the Zoning Ordinance allows the City to impose certain conditions on a CUP request in order to mitigate “external effects of the use in relation to the existing and planned uses of adjoining property and the neighborhood.” As such, City staff recommends the following conditions of approval:

- 1. The “Manufactured Home Display or Sales (New or Used)” use shall not be enlarged, extended or relocated, nor may the number of manufactured homes or sales office be

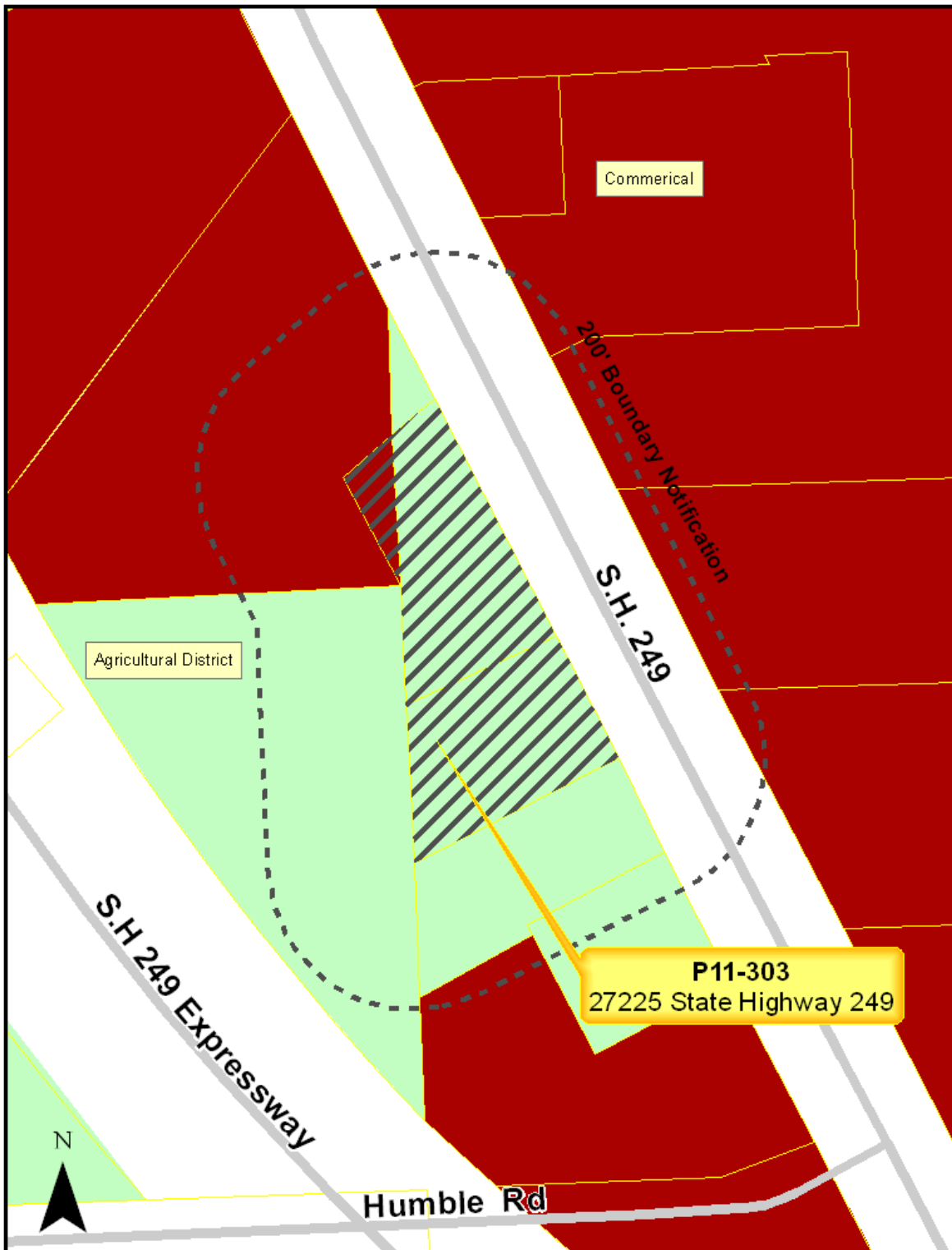
increased from what is shown on the approved Concept Plan without the approval of a revised concept plan or new CUP.

2. The use of the site will be limited to “Manufactured Home Display or Sales (New or Used).”
3. All proposed parking areas, loading areas, and drive aisles must adhere to the requirements of Section 39 of the Zoning Ordinance.
4. Off-street parking must be provided at a rate of 1 space per 1,000 square feet of gross sales office area.
5. All structures must adhere to the setback requirements of the Zoning Ordinance.
6. The subject site must be landscaped in accordance with Section 40 of the Zoning Ordinance.
7. All manufactured homes and the sales office adjacent to S.H. 249 must be skirted between the bottom of the manufactured home or office and the ground with a fireproof material harmonious with the appearance of the manufactured home or sales office. The skirting must be provided on all sides of the structure that are visible from a public right of way.
8. The final plat consolidating Tracts 2V and 2W out of the C.N. Pillot Survey, Abstract 632 and Tract 8A out of the Sam Lewis Survey, Abstract 1704 into one overall tract must be filed with Harris County before building permits shall be issued.

## **EXHIBITS**

- A. Location/Zoning Map
- B. Comprehensive Plan Future Land Use Map
- C. Aerial Photo
- D. Rezoning Application
- E. Conditional Use Permit Application
- F. Rezoning Request Letter
- G. Concept Plan
- H. Property Survey
- I. Ordinance 2008-32 Annexation Map
- J. Site Photos

**Exhibit "A"**  
**Location/Zoning Map**



**Exhibit "B"**  
**Comprehensive Plan Future Land Use Map**

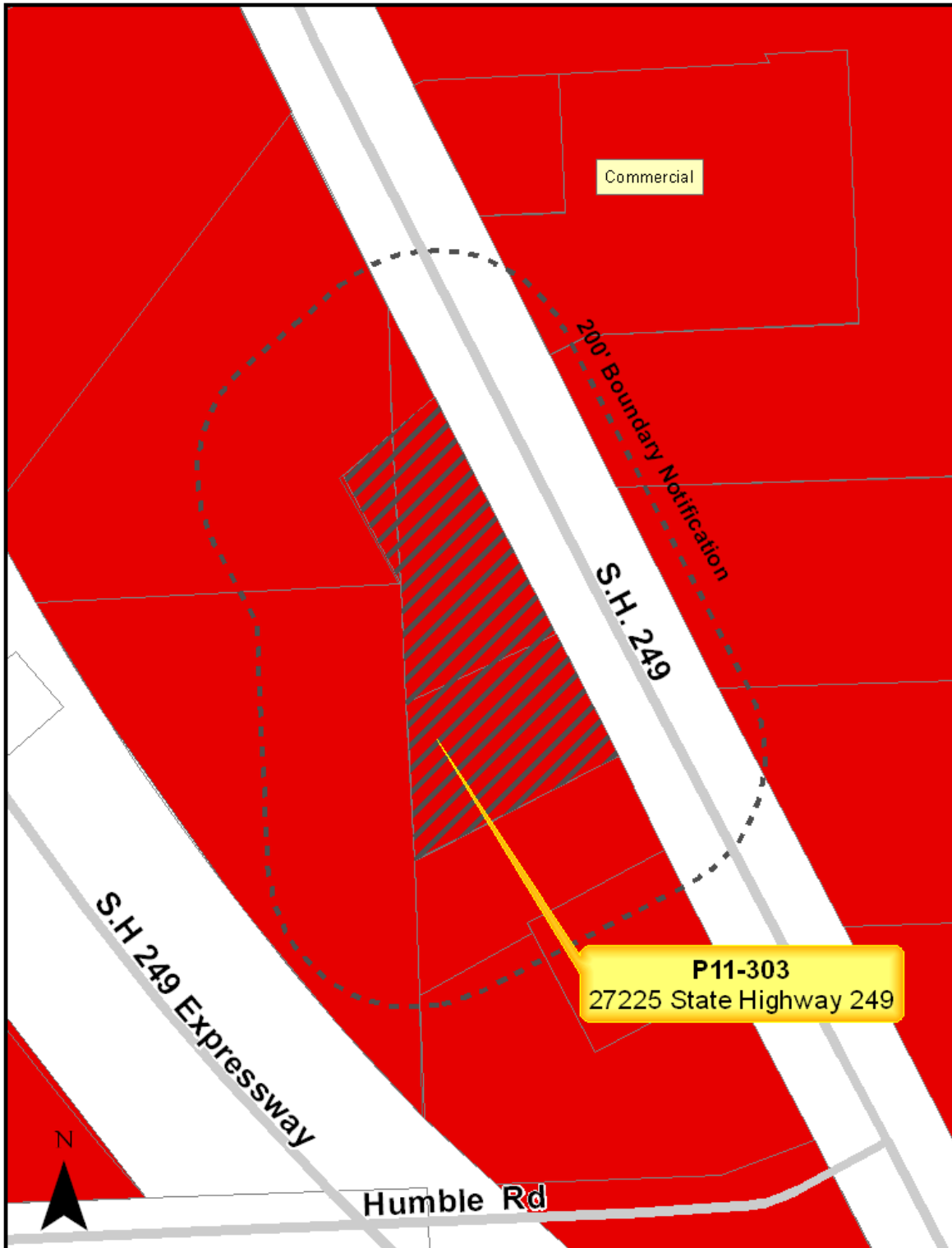


Exhibit "C"  
Aerial Photo

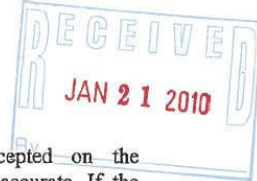


**Exhibit "D"**  
**Rezoning Application**

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: DPK Engineering David Kelly Title: President  
Mailing Address: 32719 Windsor Terrace City: Fulshear State: TX  
Zip: 77441  
Phone: (281) 346-2616 Fax: (281) 346-2616 Email: david.kelly@dpkengineering.com

**Owner**

By: HUGH T. STATUM, III  
Name: CMH HOMES, INC Title: VICE PRESIDENT  
Mailing Address: 5000 CLAYTON ROAD City: MARYVILLE State: TN  
Zip: 37804  
Phone: (865) 380-3000 Fax: (865) 380-3792 Email: TAB.STATUM@CLAYTONHOMES.COM

**Engineer/Surveyor (if applicable)**

Name: David P Kelly II Title: President DPK Eng  
Mailing Address: 32719 Windsor Terrace City: Fulshear State: TX  
Zip: 77441  
Phone: (281) 346-2616 Fax: (281) 346-2616 Email: david.kelly@dpkengineering.com

**Description of Proposed Project:** Remodel Existing Site

**Physical Location of Property:** 27225 State Highway 249 between Alice  
[General Location - approximate distance to nearest existing street corner] & Humble Rd

**Legal Description of Property:** CN. Pillot A632 Tract 1 (1.0A) Tract 2 (1.57 AC)  
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]

**Current Zoning District:** ~~Commercial~~ AG

**Current Use of Property:** Clayton Homes (Mobile Home Sales)

**Proposed Zoning District:** Commercial

**Proposed Use of Property:** Manufactured Home Sales

HCAD Identification Number: 0440580000001  
~~0440~~ 04405800000215 Acreage: 2.5721

**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 David P. Smith 1/20/11  
Signature of Applicant Date

X [Signature] 1-11-11  
Signature of Owner Date

**Exhibit "E"**  
**Conditional Use Permit Application**



**APPLICATION FOR  
CONDITIONAL USE PERMIT**  
Engineering & Planning Department

Revised 1/20/09



A conditional use is a land use which, because of its unique nature, is compatible with the permitted land uses in a given zoning district only upon a determination that the external effects of the use in relation to the existing and planned uses of adjoining property and the neighborhood can be mitigated through imposition of certain standards and conditions. This Section sets forth the standards used to evaluate proposed conditional uses and the procedures for approving conditional use permit (CUP) applications.

No conditional use shall be established and no building permit shall be issued for any use designated as a conditional use within any zoning district until a conditional use permit (CUP) is approved and issued in accordance with the provisions of this Section and Section 10 of The Zoning Ordinance.

**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: DPK Engineering David Kelly Title: President  
Mailing Address: 32719 Windsor Terrace City: Fulshear State: TX  
Zip: 77441  
Phone: (281) 346-2616 Fax: (281) 346-2616 Email: david.kelly@dptengineering.com

**Owner**

By HUGH T. STATUM, III  
Name: CMH HOMES, INC. Title: VICE PRESIDENT  
Mailing Address: 5000 CLAYTON ROAD City: MARYVILLE State: TN  
Zip: 37804  
Phone: (865) 380-3000 Fax: (865) 380-3792 Email: TAB.STATUM@CLAYTONHOMES.COM

**Engineer/Surveyor (if applicable)**

Name: David Kelly DPK Engineering Title: President  
Mailing Address: 32719 Windsor Terrace City: Fulshear State: TX  
Zip: 77441  
Phone: (281) 346-2616 Fax: (281) 346-2616 Email: david.kelly@dptengineering.com

Description of Proposed Project: Remodel Existing Site  
Physical Location of Property: 27025 State Highway 2497 between Alice + Humbley  
[General Location - approximate distance to nearest existing street corner]  
Legal Description of Property: CN Pilot A 632 Tract 1(1.0042) Tract 2(1.57Ac)  
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]  
HCAD Identification Number: 0440580000001 Acreage: 2.5721  
0440580000215  
Current Use of Property: Clayton Homes Manufactured Home Sales  
Proposed Use of Property: same

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 Dan ROSE  
Signature of Applicant

1/20/11  
Date

X M. J. ROSE  
Signature of Owner

1-11-11  
Date

**Exhibit "F"**  
**Rezoning Request Letter**

**DPK Engineering LLC**  
**Land Development – Site Development - Municipal**  
32719 Windsor Terrace  
Fulshear, Texas 77441  
Tel/Fax: 281-346-2616

January 20, 2011

Kelly Violette  
City Planner/Community Development Coordinator  
City of Tomball  
501 James Street | Tomball, TX 77375  
Phone (281) 290-1491 | Fax - (281) 351-4735  
kviolette@ci.tomball.tx.us

**Reference: REZONING CLAYTON HOMES PROPERTY**

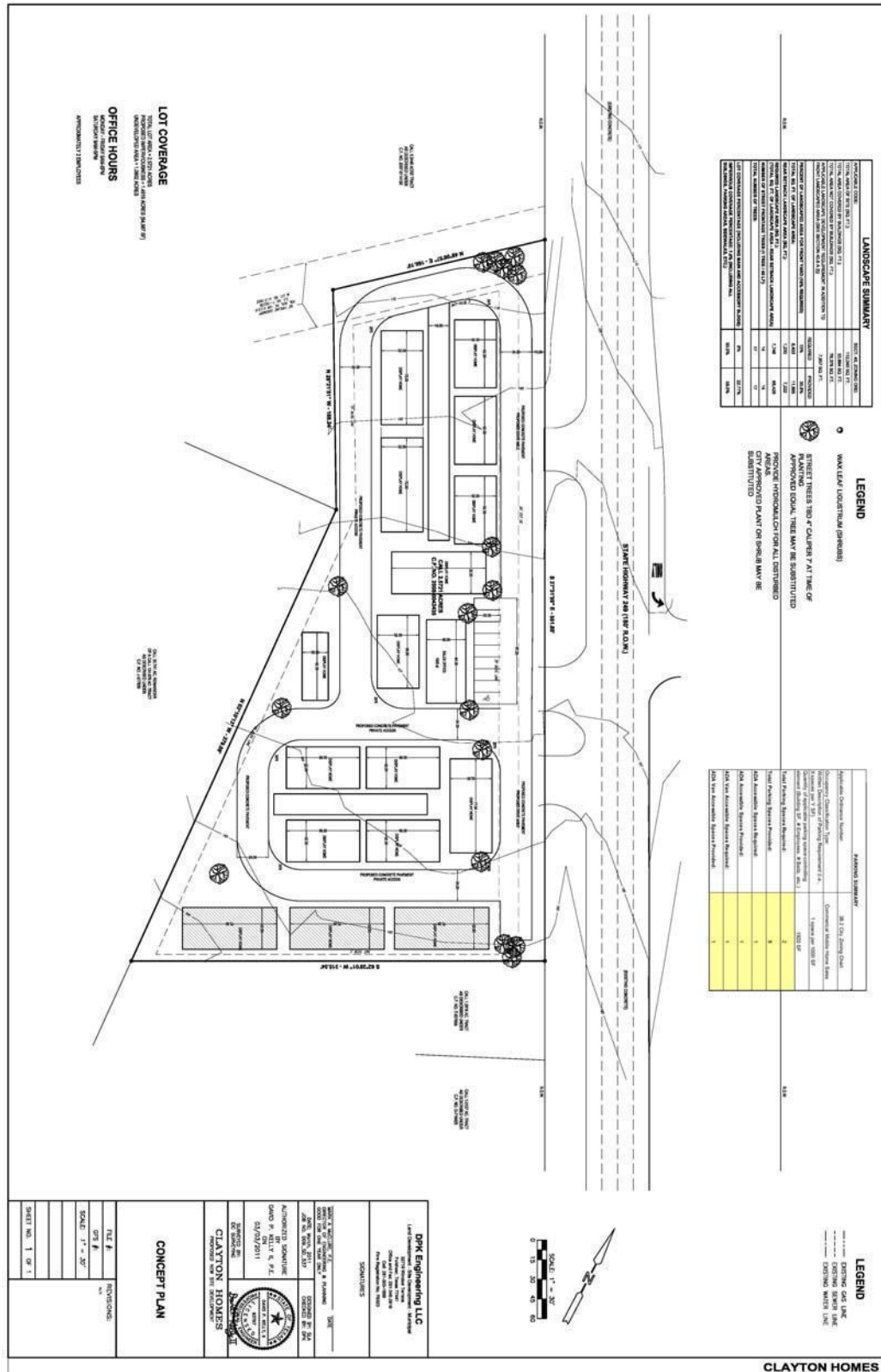
Dear Mrs. Violette:

I have been requested by CMH Homes, Inc., the owner of the Clayton Homes at 27225 State Highway 249 in Tomball Texas, to request the rezoning of their existing property. The property is in the process of being replatted into a single lot and improvements are planned for the existing infrastructure. CMH Homes, Inc is proposing to update the existing sales office and reconfigure the layout which will be more conducive to sales and a more aesthetic setting. CMH Homes requests that the zoning is changed from AG to Commercial and that a conditional use permit be granted for this facility.

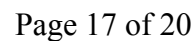
If you have any questions or concerns please feel free to contact me.



David P. Kelly II, P.E.  
DPK Engineering LLC  
32719 Windsor Terrace  
Fulshear, Texas 77441  
phone/fax: 281-346-2616  
mobile: 281-300-1869  
david.kelly@dpkengineering.com

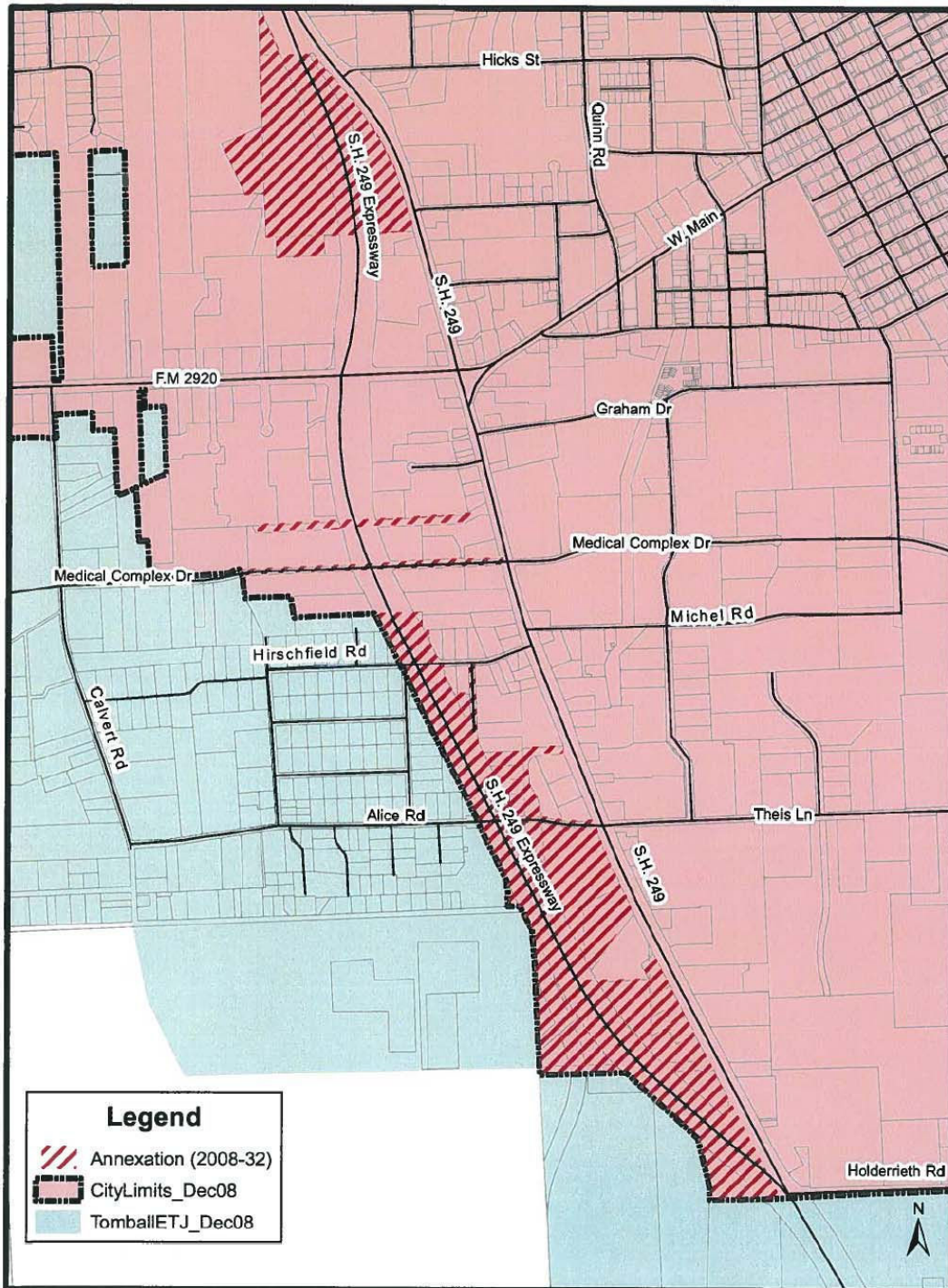


**EIC** SURVEYING COMPANY  
12345 JONES ROAD  
SUITE 270  
HOUSTON, TX 77070  
(281) 955-2772



**Exhibit "I"**  
**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 “J”  
Site Photos**



**Figure 1: Northerly view of subject site.**



**Figure 2: Excel Storage to the north of the subject site.**



**Figure 3: Tractor Supply to the east of subject site.**



**Figure 4: Tomball Rental Center to the south of subject site.**

**NOTICE OF PUBLIC HEARINGS  
CITY OF TOMBALL  
PLANNING & ZONING COMMISSION  
MARCH 14, 2011  
&  
CITY COUNCIL  
MARCH 21, 2011**



Notice is Hereby Given that Public Hearings will be held by the Planning & Zoning Commission of the City of Tomball on **Monday, March 14, 2011, at 6:00 P.M.**, and by the City Council of the City of Tomball on **Monday, March 21, 2011, at 7:00 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 P11-302:** Request by David Kelly, on behalf of CMH Homes, Inc. (Clayton Homes), to amend the City's Comprehensive Zoning Ordinance to rezone approximately 2.57 acres of land, legally described as Tracts 2V and 2W out of the C.N. Pillot Survey, Abstract 632 and Tract 8A out of the Sam Lewis Survey, Abstract 1704, within the City of Tomball, Harris County, Texas, generally located on the westerly side of State Highway 249, southerly of Alice Road, from the AG-Agricultural District to the C-Commercial District.

**ZONING CASE P11-303:** Request by David Kelly, on behalf of CMH Homes, Inc. (Clayton Homes), for a Conditional Use Permit to operate a "Manufactured Home Display or Sales (New or Used)" facility. The property is an approximately 2.57 acre site, legally described as Tracts 2V and 2W out of the C.N. Pillot Survey, Abstract 632 and Tract 8A out of the Sam Lewis Survey, Abstract 1704, generally located on the westerly side of State Highway 249, southerly of Alice Road at 27225 State Highway 249, Tomball, Texas. The site is located in the AG-Agricultural and C-Commercial Districts. (This case will be heard in conjunction with Zoning Case P11-302).

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 City Planner** Kelly Violette, (281) 290-1491, [kviolette@ci.tomball.tx.us](mailto:kviolette@ci.tomball.tx.us)

### 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 **10th** day of **March** 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](http://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:** P11-303

**APPLICANT:** David Kelly, on behalf of CMH Homes, Inc. (Clayton Homes)

**LOCATION:** Westerly side of State Highway 249, southerly of Alice Road at 27225 State Highway 249, Tomball, Texas.

**PROPOSAL:** Request for a Conditional Use Permit to operate a “Manufactured Home Display or Sales (New or Used)” facility. The property is an approximately 2.57 acre site, legally described as Tracts 2V and 2W out of the C.N. Pillot Survey, Abstract 632 and Tract 8A out of the Sam Lewis Survey, Abstract 1704. The site is located in the AG-Agricultural and C-Commercial Districts. (This case will be heard in conjunction with Zoning Case P11-302).

\* \* \*

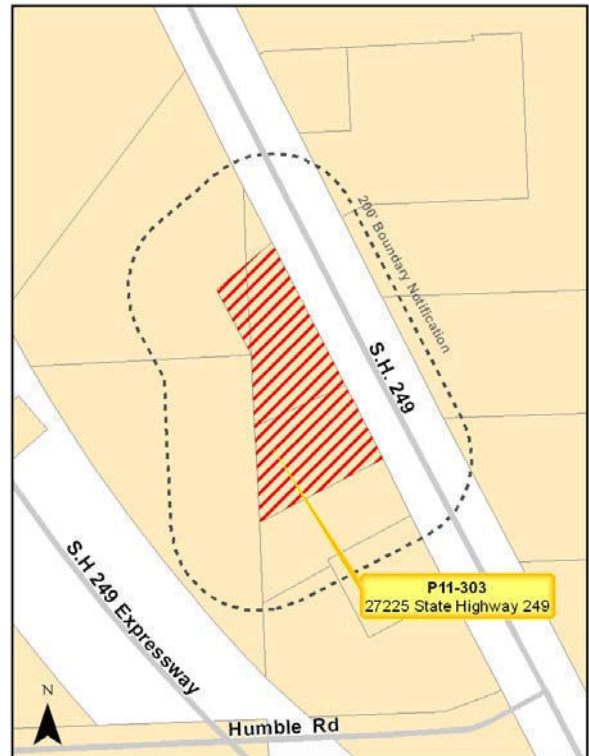
**CONTACT PLANNER:** Kelly Violette

**PHONE:** (281) 290-1491

**E-MAIL:** [kviolette@ci.tomball.tx.us](mailto:kviolette@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, March 14, 2011, 6:00 PM**

**City Council Public Hearing:**

**\*Monday, March 21, 2011, 7:00 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.

# Regular City Council

## Agenda Item

### Data Sheet

Meeting Date: April 4, 2011

#### Topic:

Approve the Acquisition of a New Fire Truck to replace the Department's Engine 4, the Frontline Pumper at Station 1, due to Significant Mechanical and Safety Issues, and to Authorize the City Manager to Execute the Necessary Documentation.

#### Background:

As previously discussed, TFD Engine 4, a 1998 model truck that was acquired as a used apparatus in 2000 from a neighboring fire department, has long been plagued with mechanical issues. TFD has been diligent in the maintenance of the truck including having regularly scheduled preventative maintenance performed and promptly repairing items as they occur. In spite of our efforts, the truck has a significant number of issues with an estimated total cost exceeding \$30,000. These issues include the truck's pump which supplies water to the firehoses, the hydraulic generator which provides electrical needs at the incident site and numerous other issues. With the pump being an issue, the safety of the firefighters becomes a larger issue. The truck has been removed from frontline service and placed into permanent reserve status. As the truck had operated as the primary pumper from Station 1, the department is now forced into rotating the remaining apparatus as the primary pumper. These apparatus are not designed to perform the functions of a primary pumper as they are Tower 1, a 95 foot ladder truck that weighs 78,000 pounds and Tanker 3, a 72,000 pound, 3,300 gallon tanker/pumper that is designed to ferry water to incident scenes in non-hydranted areas outside the city limits. With their weight, size and the related operating costs, these two trucks are much too expensive to operate in that role. The remaining truck at Station 1, a 1995 model, does not have the capability required to operate as the primary pumper from Station 1.

#### Origination:

Fire Department

#### Recommendation:

Staff recommends approval of the acquisition

#### Funding:

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

Randall Parr, Fire Chief

| ACTION TAKEN                                             |                                                                                   |       |
|----------------------------------------------------------|-----------------------------------------------------------------------------------|-------|
| APPROVAL                                                 | READINGS PASSED                                                                   | OTHER |
| <input type="checkbox"/> YES <input type="checkbox"/> NO | <input type="checkbox"/> 1 <sup>ST</sup> <input type="checkbox"/> 2 <sup>ND</sup> |       |

#### ATTACHMENTS:

Analysis of cost of truck

Proposal from Martin Apparatus

Narrative

Maintenance and Repair Costs - Engine 4

TOMBALL FIRE DEPARTMENT

PURCHASE OF 2011 PIERCE VELOCITY PUC FIRE TRUCK

Summary of costs

|                                                            |    |                 |
|------------------------------------------------------------|----|-----------------|
| Pierce Velocity PUC Pumper                                 | \$ | 687,209         |
| HGAC fee                                                   |    | <u>2,000</u>    |
| Cost of pumper                                             | \$ | 689,209         |
| Less Prepayment Discounts                                  |    | (25,963)        |
| Less trade in allowance for Engine 4                       |    | <u>(37,565)</u> |
| Net cost of pumper                                         | \$ | 625,681         |
| Cost of additional equipment to be<br>Included in purchase |    | <u>99,319</u>   |
| Total Purchase Price                                       | \$ | 725,000         |

# MARTIN APPARATUS, INC.

3500 Shelby Lane  
Denton, TX 76207



3-15-2011

Randy Parr  
Fire Chief  
**Tomball Fire Department**  
1200 Rudel  
Tomball, TX 77375

Re: Proposal for One (1) new Pierce Custom PUC-326

Martin Apparatus, Inc., the licensed and authorized dealer for Pierce Manufacturing Inc. in the State of Texas and in the State of Louisiana, is pleased to provide the following proposal for one (1) new Pierce Custom Velocity PUC. This proposal, EP489257-326, is based on the accompanying proposal specifications, which are tailored to meet your needs. The proposal pricing is based on current HGAC (Houston Galveston Area Council) and/or BUYBOARD proposal pricing and includes the fees associated with either a HGAC or a BUYBOARD purchase.

|                          |                |
|--------------------------|----------------|
| One (1) Velocity PUC     | \$689,209.00   |
| Chassis pre-pay discount | <\$ 8,065.00>  |
| 100% pre-pay discount    | <\$ 17,898.00> |
| Trade-in E-1             | <\$ 37,565.00> |
| Total                    | \$625,681.00   |

To receive chassis only discount of \$8,065.00 a payment of \$268,844.00 is due 120 days before delivery of unit. To receive 100% discount of 17,898.00, chassis and 100% totaled, payment is due with issue of purchase order.

The proposal pricing includes the delivery cost from Appleton, Wisconsin. Travel expenses for your personnel travel to our factory are not included in this proposal.

Delivery time for the proposed unit will be within **7 to 8 months** from the date of order which will be the date that a Purchase Order and pre-payment, (if this option is taken) is received by Martin Apparatus Inc.

This proposal is valid for **30** days from the above date.

Tax is not included in this proposal. In the event that the purchasing organization is not exempt from Sales Taxes or any other applicable taxes and/or the proposed apparatus does not qualify for exempt status, it is the duty of the purchasing organization to pay any and all taxes due.

Payment is due to Martin Apparatus Inc. upon acceptance of the apparatus at the factory.  
Payment must be remitted to:

# MARTIN APPARATUS, INC.

3500 Shelby Lane  
Denton, TX 76207



*Payment Mailing Address*  
*Martin Apparatus Inc.,*  
*P.O. Box 975262*  
*Dallas, TX 75397-5262*

*Payment Wiring Information*  
*JP Morgan Chase Bank, N.A.*  
*Dallas, TX 75201*  
*Account # 724367016*  
*Routing #: 111000614*  
*26-1557803 Fed Tax ID*

Any changes to the original specification will be invoiced or credited as a separate transaction from the original proposal. A late fee of .033% per day will be charged for overdue payments for the first 30 days and a fee of .044% per day thereafter.

In the event that the purchase order is cancelled or terminated before completion, Martin Apparatus Inc. may charge a cancellation fee. The following charge schedule based on costs incurred may be applied:

- (a) 10% of the Purchase Price after order is accepted and entered by Pierce;
- (b) 20% of the Purchase Price after completion of the approval drawings, and;
- (c) 30% of the Purchase Price upon any material requisition.

The cancellation fee will increase accordingly as costs are incurred as the order progresses through engineering and into manufacturing. Martin Apparatus Inc. endeavors to mitigate any such costs through the sale of such product to another purchaser; however, the customer shall remain liable for the difference between the purchase price and, if applicable, the sale price obtained by Martin Apparatus Inc. upon sale of the product to another purchaser, plus any costs incurred by Martin Apparatus Inc. to conduct any such sale."

In an effort to ensure that the above stated terms and conditions are understood and adhered to, Martin Apparatus Inc. requires that an authorized individual from the purchasing organization sign and date this proposal cover letter and include it with any purchase orders or contracts. In the event that the purchasing organization has regulations or procedures that do not coincide with the terms and conditions of this proposal, any and all deviations must be submitted to Martin Apparatus Inc. for written approval. An authorized representative of Martin Apparatus Inc. must agree to each and every deviation, in writing, via an amended copy of this proposal cover letter which will then, in turn, require a dated signature from the purchasing organization.

Sincerely,

James Campbell  
713-816-2646

Approved and agreed to by George Shackelford, City Manager, City of Tomball

---

*Signature*

---

*Date*

April 4, 2011 Agenda Item

Tomball Fire Department Request to purchase a replacement pumper for Engine 4

#### Comments

The apparatus we have selected to replace Engine 4 will continue the concept we utilized when Ladder 2 was purchased in 2008. Ladder 2 is a multiple capability vehicle with the ability to serve as pumper or ladder truck. It also carries a set of hydraulic rescue tools. The new pumper will be able to function as a pumper or a heavy rescue truck, including the ability to refill the firefighters' breathing air cylinders.

These multi-purpose vehicles allow the Department to make the most efficient use of our limited staffing model by placing on the scene of an incident all of the tools and equipment necessary to perform the numerous tasks with which we are faced but using a minimum number of apparatus to do so. The truck will also be equipped with a compressed air foam system (CAFS).

The new truck is expected to remain in the fleet of the TFD for 25 years, serving 20 years as an active frontline apparatus and another five years in a reserve role. Amortizing the \$725,000 total cost of the truck over that time period amounts to \$29,000 per year.

The intent of the Department would be to finance this purchase over a 10 year period. We are working with the Director of Finance to find the best tax exempt financing arrangement available but anticipate a rate of between 3.5 and 4.0% with annual payments. With the interest rate currently being obtained on the City's investments at or slightly below 1%, the Finance Director and I are making the recommendation to request the lender prepay for the apparatus. The manufacturer will post a performance bond guaranteeing the completion of the truck. This would make the first payment on the truck would coming due until approximately 12 months after the City has delivered the purchase order to the manufacturer or April, 2012. This would be about 5 months after the truck has been scheduled to be received.

### Maintenance and Repair Costs – Engine 4

Maintenance costs on Engine 4 for the past three years are:

|      |               |
|------|---------------|
| 2010 | \$ 8,899      |
| 2009 | 13,207        |
| 2008 | <u>15,933</u> |
|      | \$38,039      |

Work to complete from the current estimate sheets:

|         |               |
|---------|---------------|
| Sheet 1 | \$20,619      |
| Sheet 2 | <u>13,625</u> |
|         | \$34,244      |

# Regular City Council

## Agenda Item

Meeting Date: April 4, 2011

## Data Sheet

### **Topic:**

Approve Tax-Exempt Financing of a Pierce Custom Velocity PUC Fire Truck to Replace TFD Engine 4, the Frontline Pumper at Station 1, due to Significant Mechanical and Safety Issues.

### **Background:**

At the March 7, 2011 regular city council meeting, the council authorized staff to solicit proposals for "Lease or Lease/Purchase" of Fire Truck to Replace TFD Engine 4, the Frontline Pumper at Station 1, due to Significant Mechanical and Safety Issues.

The new pumper will be purchased through an existing HGAC contract and will be manufactured by Pierce, a major fire truck manufacturing company. The total cost of the new pumper, allowing for discounts, and the amount to be financed, will be \$725,000.00.

At the direction of the City Manager, we informally contacted several of the local banks (or branch banks located in Tomball). Wells Fargo said that they were not interested in financing beyond 6-8 years. Woodforest said that they were interested, but probably could not compete with the interest rate that we could get through HGACBuy. I have left messages with some of the other banks but have not received responses.

It should be pointed out here that since the interest cost on the financing of the truck will exceed \$ 50,000, we are limited to a tax-exempt capital lease either through an existing contract with HGACBuy or the finance division (Oshkosh Capital) of the manufacturer, Pierce. To do a tax-exempt capital lease through any other bank or finance company will require a formal bid process beginning with publication in the official newspaper of the City. As a point of information, city governments are precluded from borrowing money like a private-sector company. We either have to do a structured lease purchase or issue debt instruments such as bonds or certificates of obligation.

The capital lease purchase will be structured with the first payment being due at delivery. That payment will be \$87,379.05 and the expected delivery date will be January-March, 2012. This will be the first of ten annual payments.

### **Origination:**

Finance

### **Recommendation:**

After comparing the two proposals, staff recommends that we contract for the financing of the Fire Truck through Oshkosh Capital, the financing affiliate of Pierce Manufacturing Company. Both proposals are very close with the deciding factor being the \$ 1,000 fee charged by HGAC. The interest rate quoted by Oshkosh Capital was 3.79% and the rate quoted by Baystone Financial was 3.74%. However, the \$ 1,000 HGAC fee offsets the difference in the interest rates and Oshkosh is also offering an additional \$ 2,800 in equipment discounts for us. One of the local banks had said their proposal would be over 5%. Two other local banks expressed an interest, but said that they would most likely not be able to match the rates quoted by either Pierce or Oshkosh. Another local bank called today and said they were interested in supporting the City of Tomball and also said that the rates from Pierce and Oshkosh would be difficult for them to match.

**Funding: No**

Funds will be transferred from Account: to Account:

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

GLENN WINDSOR, CPA FINANCE DIRECTOR

| ACTION TAKEN                                             |                                                                                   |       |
|----------------------------------------------------------|-----------------------------------------------------------------------------------|-------|
| APPROVAL                                                 | READINGS PASSED                                                                   | OTHER |
| <input type="checkbox"/> YES <input type="checkbox"/> NO | <input type="checkbox"/> 1 <sup>ST</sup> <input type="checkbox"/> 2 <sup>ND</sup> |       |

**ATTACHMENTS:**

Oshkosh Capital Proposal

HGACbuy Proposal



March 28, 2011

SALES ORGANIZATION: Martin Apparatus - James  
 LESSEE: City of Tomball  
 TYPE OF EQUIPMENT: Pierce Custom Velocity PUC and equipment  
 EQUIPMENT COST: **\$ 725,000.00\***  
 CUSTOMER DOWNPAYMENT: \$0.00  
 TRADE-IN: \$0.00  
 DELIVERY TIME: 7 months  
 PAYMENT MODE: Annual In Arrears  
 FIRST PAYMENT DUE DATE: a) at time of order b) at delivery c) 1 Year After Lease Commencement  
 LEASE COMMENCEMENT DATE: Upon contract signing with Pierce

| Term        | Number of Payments | Payment Amount |
|-------------|--------------------|----------------|
| a) 10 years | 10 annual          | \$85,479.62    |
| b) 10 years | 10 annual          | \$87,379.05    |
| c) 10 years | 10 annual          | \$88,719.30    |

The above listed payment(s) reflect all program discounts available exclusively through Oshkosh Capital. There are no closing costs or documentation fees associated with the completion of this financing.

**\* This proposal is based on financing \$725,000. Oshkosh Capital will provide an additional \$2,829 towards the City's equipment purchase. A Performance Bond has also been included.**

**NOTE: All lease documents must be fully executed within 14 days of the date of this proposal. Failure to receive completed documents may alter the final payment schedule due to changes in rates and/or discounts.**

**PERFORMANCE BOND:** To utilize the prepay program, a performance bond is required. Said performance bond shall be paid for directly to Pierce manufacturing or financed by Oshkosh Capital as part of the transaction

**TYPE OF FINANCING:** Tax-exempt Lease Purchase Agreement with a \$1.00 buy out option at end of lease term. Said agreement shall be a net lease arrangement whereby lessee is responsible for all costs of operation, maintenance, insurance, and taxes.

**BANK QUALIFICATION:** This proposal assumes that the lessee will not be issuing more than \$10 million in tax-exempt debt this calendar year. Furthermore, it is assumed that the lessee will designate this issue as a qualified tax-exempt obligation per the tax act of 1986.

**LEGAL TITLE:** Legal title to the equipment during the lease term shall vest in the lessee, with Oshkosh Capital perfecting a first security interest

**AUTHORIZED SIGNORS:** The lessee's governing board shall provide Oshkosh Capital with its resolution or ordinance authorizing this agreement and shall designate the individual(s) to execute all necessary documents used therein.

**LEGAL OPINION:** The lessee's counsel shall furnish Oshkosh Capital with an opinion covering this transaction and the documents used herein. This opinion shall be in a form and substance satisfactory to Oshkosh Capital.

**VOLUNTEER FIRE DEPARTMENTS:** If Lessee is a Volunteer Fire Department, a public hearing under the requirements of Section 147(f) of the Internal Revenue Code of 1986 shall be conducted to authorize this transaction. It is recommended that a notice of the public hearing be published 10 to 14 days in advance of the public hearing.

This proposal will be valid for fourteen (14) days from the above date and is subject to final credit approval by Oshkosh Capital and approval of the lease documents in Oshkosh Capital's sole discretion. To render a credit decision, lessee shall provide Oshkosh Capital with their most recent two years' audited financial statements, copy of their most recent interim financial statement, and current budget.

Accepted by:

Lessee

Date

Proposal submitted by:

*Kim Simon*  
 Kim Simon



Oshkosh Capital | Loc 16-0056 | 155 East Broad St | Columbus, OH 43215 | Ph: (800) 820-9041, ext. 1 | Fax: (800) 678-0602

March 29, 2011

## FORMAL PROPOSAL

**OBLIGOR:** CITY OF TOMBALL, TX

- ✓ This is a finance/ownership contract. No residual value.
- ✓ Fixed interest rate for the ten (10) year term.

**EQUIPMENT:** ONE (1) NEW PIERCE CUSTOM VELOCITY PUC

**OPTION 1**

|                    |              |                |                |                    |                          |
|--------------------|--------------|----------------|----------------|--------------------|--------------------------|
| Acquisition Cost:  | \$725,000.00 | Term:          | Ten (10) years | First Payment Due: | At Closing/Time of Order |
| HGAC Fee:          | \$1,000.00   | Payment Mode:  | Annual         | Payment Amount:    | \$85,169.13              |
| Down Payment:      | \$0.00       | Interest Rate: | 3.740%         |                    |                          |
| Principal Balance: | \$726,000.00 |                |                |                    |                          |

**OPTION 2**

|                    |              |                |                |                    |             |
|--------------------|--------------|----------------|----------------|--------------------|-------------|
| Acquisition Cost:  | \$725,000.00 | Term:          | Ten (10) years | First Payment Due: | At Delivery |
| HGAC Fee:          | \$1,000.00   | Payment Mode:  | Annual         | Payment Amount:    | \$87,062.63 |
| Down Payment:      | \$0.00       | Interest Rate: | 3.740%         |                    |             |
| Principal Balance: | \$726,000.00 |                |                |                    |             |

**OPTION 3**

|                    |              |                |                   |                    |                     |
|--------------------|--------------|----------------|-------------------|--------------------|---------------------|
| Acquisition Cost:  | \$725,000.00 | Term:          | Ten (10) years    | First Payment Due: | One Year from Close |
| HGAC Fee:          | \$1,000.00   | Payment Mode:  | Annual in Arrears | Payment Amount:    | \$88,354.46         |
| Down Payment:      | \$0.00       | Interest Rate: | 3.740%            |                    |                     |
| Principal Balance: | \$726,000.00 |                |                   |                    |                     |

- \* A PERFORMANCE BOND WILL IS REQUIRED TO UTILIZE ANY PREPAYMENT DISCOUNTS.
- \* This is a proposal only and is not a commitment to finance. This proposal is subject to credit review and approval and proper execution of mutually acceptable documentation.
- \* Failure to consummate this transaction once credit approval is granted and the documents are drafted and delivered to Obligor will result in a documentation fee being assessed to the Obligor.
- \* This transaction must be credit approved, all documents properly executed and returned to Baystone Financial Group and the transaction funded on ALL proposals on or before April 12, 2011. If funding does not occur within that time-frame, or there is a change of circumstance which adversely affects the expectations, rights, or security of Obligor or its assignees, then Obligor or its assignees reserve the right to adjust and determine a new interest rate factor and payment amount, or withdraw this proposal in its entirety.
- \* This transaction must be designated as tax-exempt under Section 103 of the Internal Revenue Code of 1986 as amended.
- \* **OBLIGOR'S TOTAL AMOUNT OF TAX-EXEMPT DEBT TO BE ISSUED IN THIS CALENDAR YEAR WILL NOT EXCEED THE \$10,000,000 LIMIT.**

|                                 |                     |
|---------------------------------|---------------------|
| <b>BAYSTONE FINANCIAL GROUP</b> | CITY OF TOMBALL, TX |
|                                 | Signature:          |
| Aaron Lindsten                  | Typed Name & Title  |
| Business Development Manager    | Date:               |

1680 Charles Place Manhattan, KS 66502  
 Ph: (800) 752-3562; Fax: (785) 537-4806  
 alindsten@baystone.net  
 www.baystone.net



# Regular City Council

## Agenda Item

Meeting Date: April 4, 2011

## Data Sheet

### Topic:

Approve Request from Shattered Lives Program City Support in the Use of Police and Fire Personnel and Equipment

### Background:

The Tomball Shattered Live Program will take place on April 13 and 14 at Concordia Lutheran High School. The program requires assistance from both the Police Department and Fire Department.

The Shattered Lives Program is requesting that Council support the program and allow it to utilize Police and Fire personnel and equipment.

Estimated costs for the program are \$600 for personnel.

### Origination:

City Manager's Office

### Recommendation:

### Funding:

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

Shawn Cox, Assistant to the City Manager

| ACTION TAKEN                                             |                                                                                   |       |
|----------------------------------------------------------|-----------------------------------------------------------------------------------|-------|
| APPROVAL                                                 | READINGS PASSED                                                                   | OTHER |
| <input type="checkbox"/> YES <input type="checkbox"/> NO | <input type="checkbox"/> 1 <sup>ST</sup> <input type="checkbox"/> 2 <sup>ND</sup> |       |

# Regular City Council

## Agenda Item

## Data Sheet

Meeting Date: April 4, 2011

### Topic:

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

- **CORRIENTE COMMERCIAL FINAL PLAT**: Being a subdivision of 4.8595 acres of land situated in the Joseph House Survey, Abstract Number 34, of Harris County, Texas, as described in deed recorded in Clerk's File Number U311750 of the Real Property Records of Harris County, Texas.
- **REPLAT 1 OF TOMBALL MEDICAL PLAZA**: Being a Replat of Tomball Medical Plaza being 2.8278 acres out of Lot 12, Recorded under F.C. No 635259 of the Harris County Map Records, Situated in the William Hurd Survey, Abstract 378, Harris County, Texas.
- **RESERVE AT TOMBALL FINAL PLAT**: A 56.530 acre tract of land being a partial Replat of Tomball Townsite Recorded in Volume 2, Page 65, H.C.M.R., and Tomball East Gate Center recorded under Film Code No. 542107, H.C.M.R., Being all of a called 55.6484 acre tract recorded under Harris County Clerk's File No. 20100211861, and the residue of unrestricted Reserve "B", Tomball East Gate Center, in the Jesse Pruitt Survey, Abstract No. 629, City of Tomball, Harris County, Texas.

### Background:

The Planning and Zoning Commission approved the Corriente Commercial Preliminary Plat and Reserve at Tomball Final Plat on Monday, February 14, 2011 with contingencies and the Corriente Commercial Final Plat and Replat 1 of Tomball Medical Plaza on Monday, March 14, 2011 with contingencies. Comments have been addressed and the plats are now being forwarded to City Council for approval consideration.

### Origination:

Engineering and Planning

### Recommendation:

Approval of Plats

### Funding:

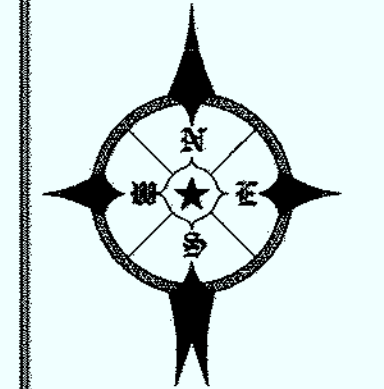
### Party(ies) responsible for placing this item on agenda:

Engineering and Planning

| ACTION TAKEN                                             |                                                                                   |       |
|----------------------------------------------------------|-----------------------------------------------------------------------------------|-------|
| APPROVAL                                                 | READINGS PASSED                                                                   | OTHER |
| <input type="checkbox"/> YES <input type="checkbox"/> NO | <input type="checkbox"/> 1 <sup>ST</sup> <input type="checkbox"/> 2 <sup>ND</sup> |       |

### ATTACHMENTS:

Corriente Commercial Final Plat  
Replat 1 of Tomball Medical Plaza  
Reserve at Tomball Final Plat 1 of 2  
Reserve at Tomball Final Plat 2 of 2



Scale: 1" = 40'

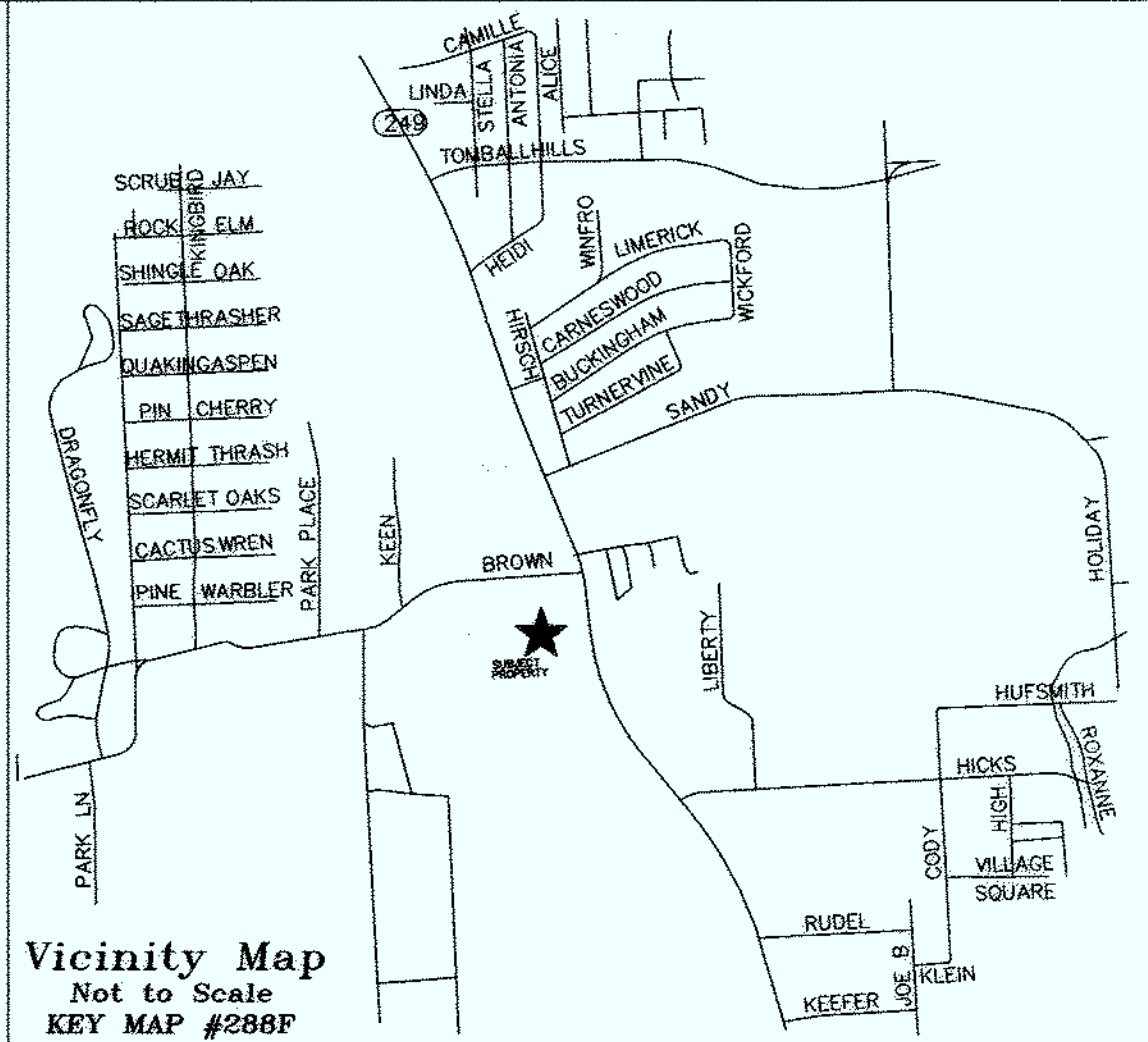
| LINE | BEARING       | DISTANCE |
|------|---------------|----------|
| L1   | S 85°40'50" W | 38.47'   |
| L2   | N 04°22'28" W | 130.84'  |
| L3   | S 85°46'34" W | 131.82'  |
| L4   | S 85°43'59" W | 83.06'   |
| L5   | N 88°57'00" E | 100.56'  |
| L6   | N 88°57'00" E | 103.06'  |

EARLEEN T. STALLONES  
RESIDUAL OF A  
CALLED 50.00 ACRES  
VOL. 3070, PG. 672  
D.R.H.C.T.

NNN PARK AT SPRING  
CREEK 27, LLC  
CALLED 5.8037 ACRES  
CF NO. Y582883  
R.P.R.H.C.T.

NNN PARK AT SPRING  
CREEK 27, LLC  
CALLED 4.446 ACRES  
CF NO. Y582883  
R.P.R.H.C.T.

3 LOTS, 1 BLOCK



Vicinity Map  
Not to Scale  
KEY MAP #288F

0.1212 ACRE  
5,282.12 SQ. FT.  
20' RIGHT-OF-WAY  
TO BE DEDICATED TO THE  
CITY OF TOMBALL

**BROWN ROAD**  
60' R.O.W.  
Vol. 3194, Pg. 388 D.R.H.C.T.

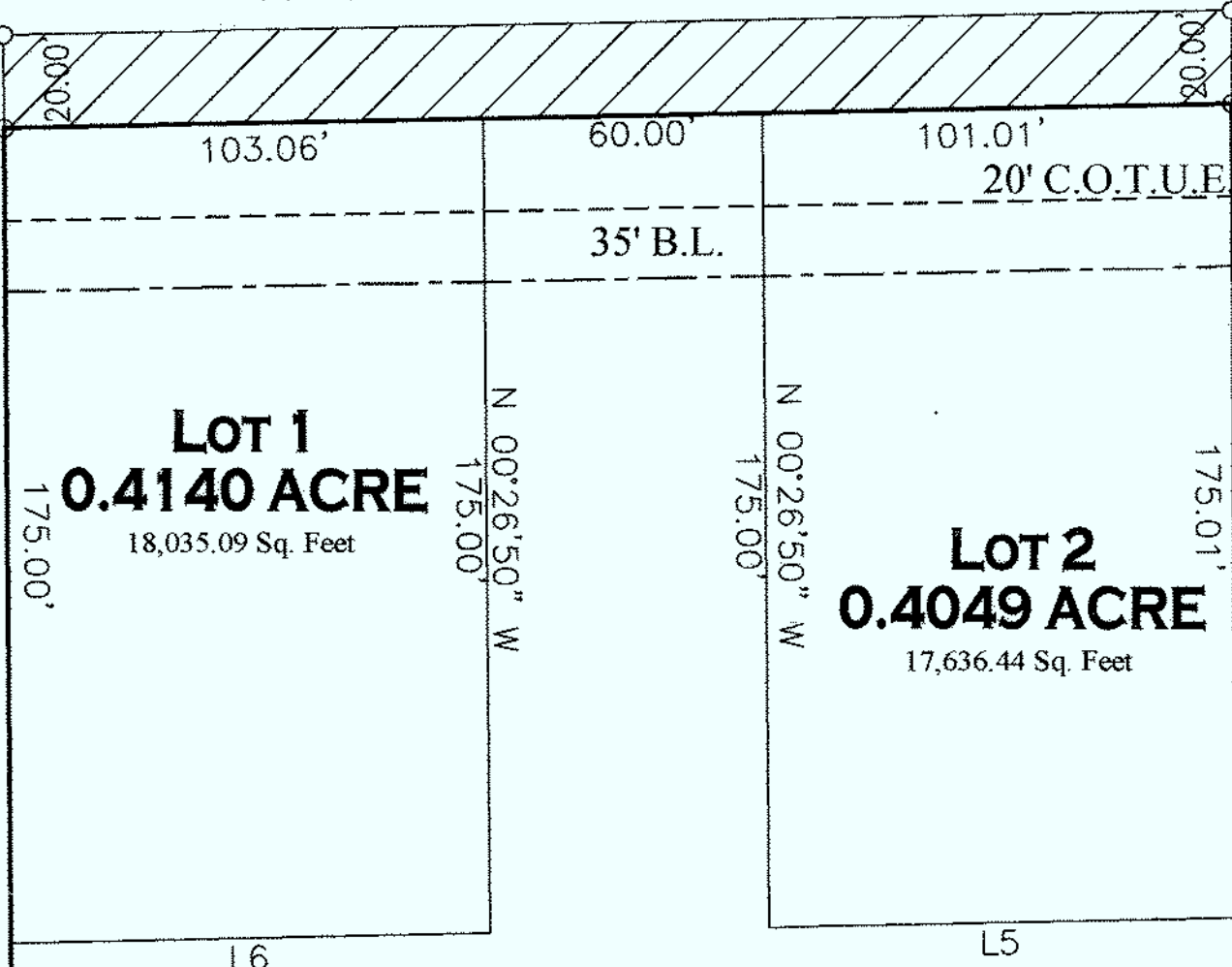
Found 5/8" Iron Rod  
w/ Survey Cap  
stamped "Cope"

537.12'

NEW EXISTING  
STATEWAY  
HIGHWAY  
249  
R.O.W.

Found 5/8" Iron Rod  
w/ Survey Cap  
stamped "Swonke"

N 88°57'00" E 264.13'



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

Steven L. Crews  
Texas Registration Number 4141



PAR REAL ESTATE  
HOLDINGS, LLC  
CALLED 37.024 ACRES  
CF NO. 20090504626  
R.P.R.H.C.T.

N 00°26'50" W 790.43'

**LOT 3**  
**3.9194 ACRES**  
170,729.06 Sq. Feet

1

BROWN ROAD TIMBER  
RESOURCES, LLC  
CALLED 44.787 ACRES  
CF NO. 20080043179  
R.P.R.H.C.T.

By: \_\_\_\_\_  
Lori Wallace  
Chairman

By: \_\_\_\_\_  
Tom Crofoot  
Vice Chairman

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

George Shackelford, City Manager

Lori Lakatos, P.E.,  
Acting City Engineer

This is to certify that the City accepts the Planning 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  
Doris Speer, City Secretary

Harris County Clerk Certificate of Filing:

I, Stan Stanart, County Clerk of Harris County, Texas, do hereby certify that the within instrument with its certificate of authentication was filed for registration in my office on \_\_\_\_\_, 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 Houston, the day and date last above written.

Stan Stanart  
County Clerk  
of Harris County, Texas

By: \_\_\_\_\_  
Deputy

Owner:  
**CORRIENTE**  
**PROPERTIES, LLC**  
8203 Willow Place South, Suite 390  
Houston, Texas 77070  
281-890-8800  
Surveyor:  
**C & C SURVEYING INC.**  
7424 FM 1488, Suite A Magnolia, Texas 77354  
Office: 281-356-5172 Fax: 281-356-1935

March 2011  
Sheet 1 of 1

Notes:  
Public Easements:  
Public Easements denoted on this plat are hereby dedicated to the public forever. Any public utility, including the City of Tomball, shall have the right at all times, of ingress and egress to and from and upon said easement for the purpose of construction, reconstruction, inspection, patrolling, maintaining and adding to or removing all or part of its respective systems without the necessity of any time of procuring the permission of the property owner. Any public utility, including the City of Tomball, shall have the right to move and keep moved all or part of any building, fences, trees, shrubs, other growths or improvements that in any way endanger or interfere with the construction, maintenance or efficiency of its respective systems on any of the easements shown on this plat. Neither the City of Tomball nor any other public utility shall be responsible for any damages to property within an easement arising out of the removal or relocation of any obstruction in the public easement.  
Flood Information:  
According to FEMA Flood Panel No. 48201C0210-L (Effective Date June 18, 2007), this property is in Zone "X" and is not in the 0.2% Annual Chance Flood Plain.  
Note #1:  
All oil/gas pipelines or pipeline easements with ownership through the subdivision have been shown.  
Note #2:  
All oil/gas wells with ownership (plugged, abandoned, and/or active) through the subdivision have been shown.  
Note #3:  
No building or structure shall be constructed across any pipelines, building lines, and/or easements. Building setback lines will be required adjacent to oil/gas pipelines. The setbacks at a minimum should be 15 feet off centerline of low pressure gas lines, and 30 feet off centerline of high pressure gas lines.  
Note #4:  
This plat does not attempt to amend or remove any valid covenants or restrictions.  
Note #5:  
The building lines shown on this plat shall be in addition to, and shall not limit or replace, any building lines required by the City of Tomball Code of Ordinances at the time of the development of the property.  
Note #6:  
The Basis of Bearings for this plat is the Recorded Deed Note #7.  
Note #7:  
Subject to an unlocated pipeline right-of-way easement granted to Humble Oil & Refining Company as described in Vol. 1047, Pg. 617 D.R.H.C.T.; there is no evidence of a pipeline crossing the property.

M.R.H.C.T. = MAP RECORDS OF HARRIS COUNTY TEXAS  
R.P.R.H.C.T. = REAL PROPERTY RECORDS OF HARRIS COUNTY TEXAS  
CF NO. = CLERK'S FILE NUMBER  
B.L. = BUILDING LINE  
C.O.T.U.E. = UTILITY EASEMENT DEDICATED TO THE CITY OF TOMBALL  
VOL. = VOLUME  
PG. = PAGE

| LOT   | ACREAGE | SQ. FEET   |
|-------|---------|------------|
| 1     | 0.4140  | 18,035.09  |
| 2     | 0.4049  | 17,636.44  |
| 3     | 3.9194  | 170,729.06 |
| ROW   | 0.1212  | 5,279.47   |
| TOTAL | 4.8595  | 211,680.06 |

JOSEPH HOUSE  
SURVEY, A-34

S 87°52'32" W  
2214 +/-  
JOHN M. HOOPER  
SURVEY, A-375

THE STATE OF TEXAS  
COUNTY OF HARRIS

We, FAHL Enterprises, LLC acting by and through Mohammad Tarek Al Fahl, being President of FAHL ENTERPRISES, LLC, hereinafter referred to as Owners of the 2.8289 acre tract described in the above and foregoing plat of REPLAT 1 OF TOMBALL MEDICAL PLAZA, 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 dedicate to the public a strip of land 15 feet (15') wide on each side of the centerline of any and all bayous, creeks, gullies, ravines, draws, sloughs or any other natural drainage courses located in said plat, as easements for drainage purposes, giving the City of Tomball, Harris County, or any other governmental agency, the right to enter upon said easement at any time 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 is hereby restricted to keep such drainage ways and easements clear of fences, buildings, planting and other obstructions to the operation and maintenance of the drainage facility and that such abutting property shall not be permitted to drain directly into this easement except by means of an approved drainage structure.

IN TESTIMONY WHEREOF, FAHL ENTERPRISES, LLC has caused these presents to be signed by Mohammad Tarek Al Fahl, President, thereunto authorized, attested, and its common seal hereunto affixed this 16th day of MARCH, 2011.

FAHL ENTERPRISES, LLC

By: Mohammad Tarek Al Fahl  
President

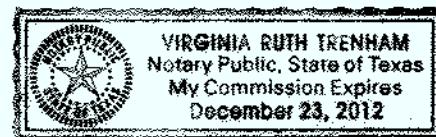
STATE OF TEXAS  
COUNTY OF HARRIS

BEFORE ME, the undersigned authority, on this day personally appeared Tarek Fahl, President, known to me to be the persons whose names are subscribed to the foregoing instrument and acknowledgment 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 16th day of MARCH, 2011.

Virginia Talam  
Notary Public in and for the State of Texas

My Commission expires: 12-23-2012



"We, Bank of America Merrill Lynch, owners and holders of a lien against the property described in the plat known as Tomball Medical Plaza, do hereby in all things subordinate our interest in said property to the purposes and effects of said plat and the dedications and restrictions shown herein to said plat and we hereby confirm that we are the present owners of said lien and have not assigned the same nor any part thereof."

Jose Madrigal, Sr. Vice President

Bank of America Merrill Lynch  
12605 East Freeway Ste. 108  
Houston, TX 77015  
888-852-5000 ext 5113

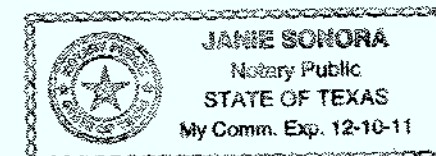
STATE OF TEXAS  
COUNTY OF HARRIS

BEFORE ME, the undersigned authority, on this day personally appeared Jose Madrigal, Sr. Vice President, known to me to be the persons whose names are subscribed to the foregoing instrument and acknowledgment 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 25th day of MARCH, 2011.

Janie Sonora  
Notary Public in and for the State of Texas

My Commission expires: 12-10-11



This is to certify that the Planning & Zoning Commission of the City of Tomball, Texas, has approved this plat and subdivision of REPLAT 1 OF TOMBALL MEDICAL PLAZA 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, Chairman  
By: Tom Crofoot, Vice Chairman

This is to certify that the City of Tomball accepts the Planning & Zoning Commission's authorized approval and acceptance of all dedicated public easements in conformance with the Laws of the State of Texas and the Ordinances of the

By: Gretchen Fagan, Mayor  
By: Doris Speer, City Secretary

I, Stan Stanart, Clerk of the County Court of Harris County, 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 \_\_\_\_\_ of the Map Records of Harris County for said county.

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

Stan Stanart  
Clerk of the County Court  
Harris County, Texas

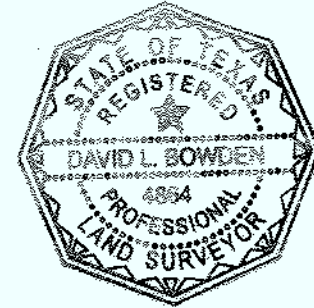
By: \_\_\_\_\_  
Deputy

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

By: George Shackelford, City Manager  
By: Lori Lokatos, P.E., Acting City Engineer

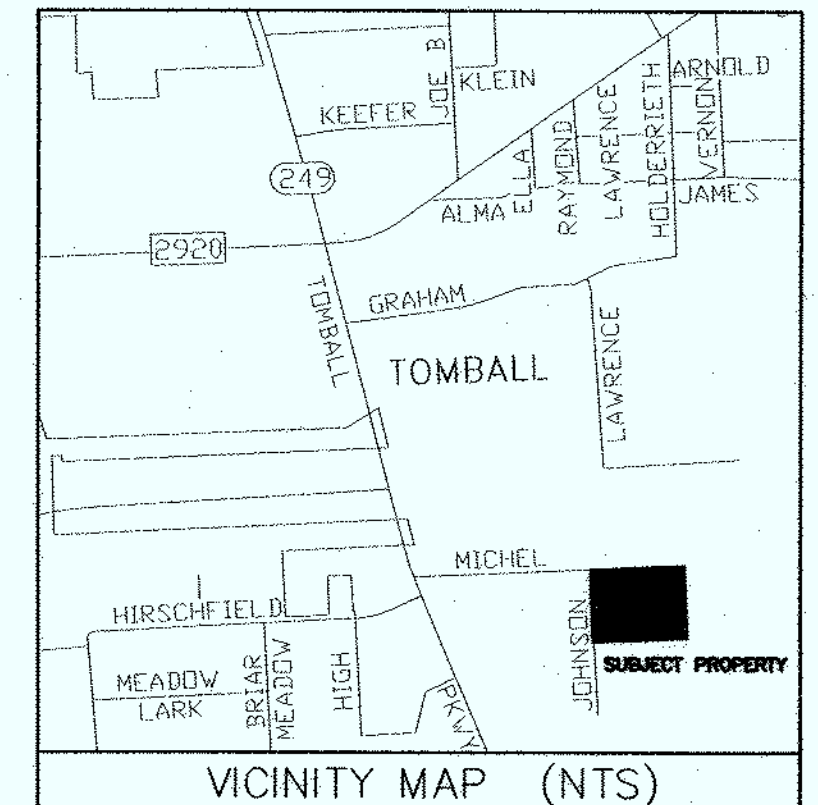
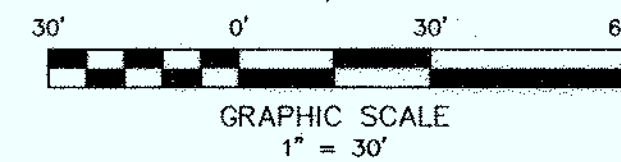
I, David Bowden, am authorized under the laws of the State of Texas to practice the profession of surveying and hereby certify that the above subdivision is true and correct: was prepared from an actual survey of the property made under my supervision on the ground, that all boundary corners, angle points,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

David Bowden  
Texas Registration No. 4864



#### LEGEND

H.C.C.F. Refers to Harris County Clerks File  
Bldg. indicates Building  
B.L. indicates Building Line  
H.C.D.R. indicates Harris County Deed Records  
I.R. indicates Iron Rod  
P.G. indicates Page  
S. F. indicates Square Feet  
Vol. indicates Volume  
C.O.T.U.E. indicates City of Tomball Utility Easement  
A.E. indicates Aerial Easement

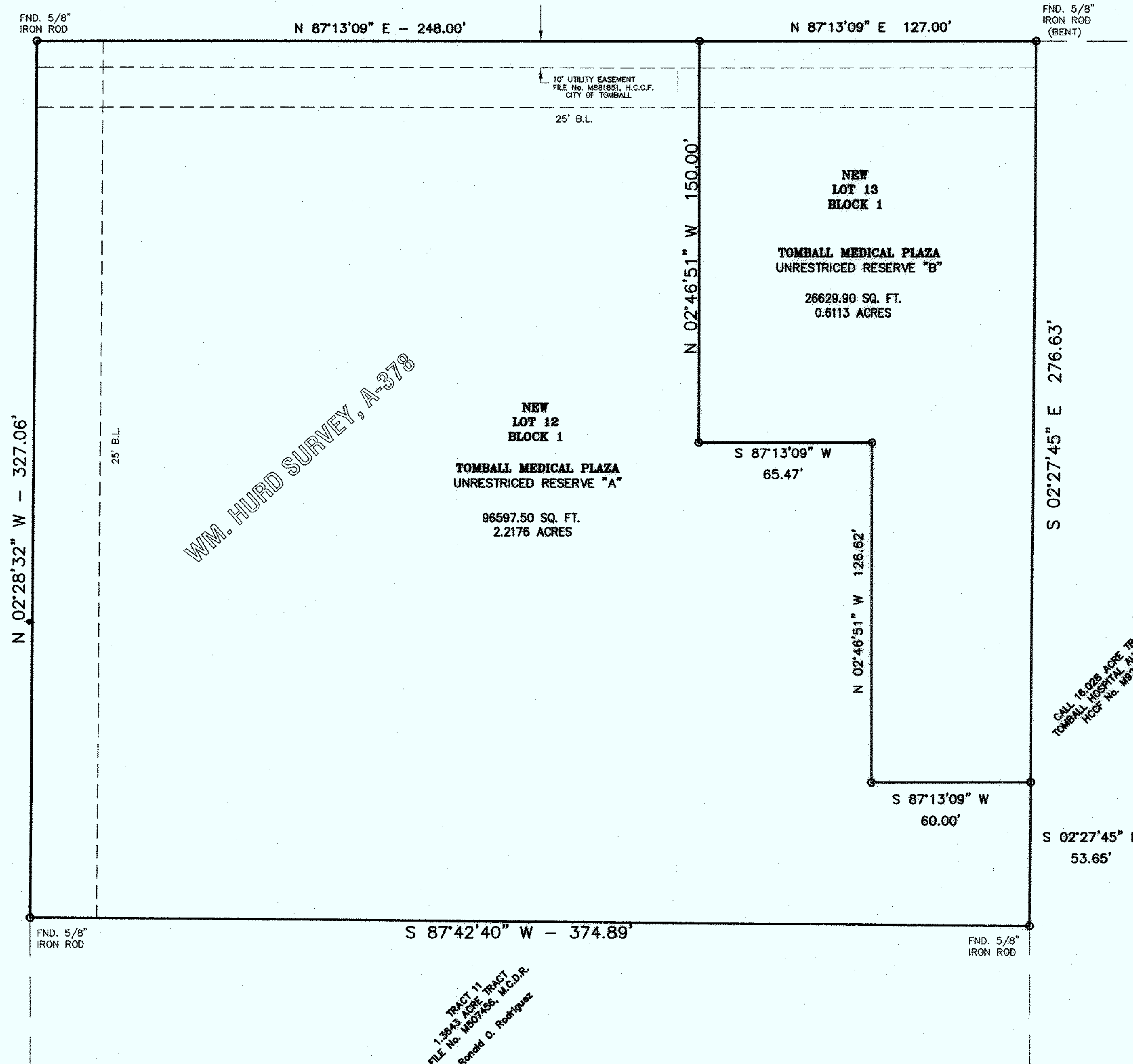


Key Map: 288L

MICHEL ROAD  
HCCF#D221070, D792381,  
V733697, 334111MR  
(60' R.O.W.)

JOHNSON ROAD  
HCCF#D221069 &  
N067100  
(60' R.O.W.)

WILLIAM HURD SURVEY, A-378



#### Minimum Plat Note Requirements

##### Public Easements:

Public easements donated on this plat are hereby dedicated to the public forever. Any public utility, including the City of Tomball, shall have the right at all times, of ingress and egress to and from and upon said easements for the purpose of construction, reconstruction, inspection, patrolling, maintaining and adding to or removing all or part of its respective systems without 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, fence, tree, shrub or other growths or improvements that in any way endanger or interfere with the construction, maintenance or efficiency of its respective systems on any of the easements shown on this plat. Neither the City of Tomball nor any other public utility shall be responsible for any damages to property within an easement arising out of the removal or relocation of any obstruction in the public easement.

##### Flood Information:

According to FEMA Firm Panel No. 48201C0210L (Effective Date 06-18-07), this property is in Zone "X" and is not in the 0.2% Annual Chance Flood Plain.

##### Note #1

All oil/gas pipelines or pipeline easements with ownership through the subdivision have been shown.

##### Note #2

All oil/gas wells with ownership (plugged, abandoned and/or active) through the subdivision have been shown.

##### Note #3

No building or structure shall be constructed across any pipelines, building lines, and/or easements. Building setback lines will be required adjacent to oil/gas pipelines. The setbacks at a minimum should be 15 feet of the centerline of low pressure gas lines, and 30 feet off centerline of high pressure gas lines.

##### Note #4

This plat does not attempt to amend or remove any valid covenants or restrictions.

##### Note #5

The building lines shown on this plat shall be in addition to, and shall not limit or replace, any building lines required by the City of Tomball Code of Ordinances at the time of the development of the property.

## REPLAT 1 OF TOMBALL MEDICAL PLAZA 2.8289 ACRES

BEING A REPLAT OF TOMBALL MEDICAL PLAZA BEING  
2.8289 ACRES OUT OF LOT 12, RECORDED UNDER F.C.  
NO 635259 OF THE HARRIS COUNTY MAP RECORDS,  
SITUATED IN THE WILLIAM HURD SURVEY, ABSTRACT 378,  
HARRIS COUNTY, TEXAS

Purpose of RePlat: ( TO CREATE ADDITIONAL LOT 13)

1 BLOCK 2 LOTS  
MARCH, 2011

OWNERS / DEVELOPER  
FAHL ENTERPRISES, LLC  
9715 Stonecross Bend Dr.  
Houston, TX 77070  
Phone: 281-660-0706

SURVEYOR:  
**Bowden Survey Co.**  
PROFESSIONAL SURVEYING SERVICES  
2223 PASO RELO  
HOUSTON, TEXAS 77077  
PHONE: (281) 531-1900  
FAX: (281) 531-4900  
JOB NO. 09044

PROPERTY DESCRIPTION

Being a 54.3209 acre (2,366,218.87 square feet) tract of land in the Jesse Pruitt Survey, A-629 in Harris County, Texas, said 56.530 acre tract of land being comprised of a portion of a called 55.6484 acre tract of land conveyed to PARQUINT 2920, LP by deed dated May 21, 2010 as recorded under Harris County Clerk's File No. 20100211861 (H.C.C.F.), the 1.1835 acre residue of a called 7.5266 acre tract conveyed to Woodforest-Tomball Center Development, L.L.C. by deed dated February 6, 2008 as recorded under H.C.C.F. No. 200801052737, all of Unrestricted Reserve "B", Block 1, Tomball East Gate Center a subdivision recorded under Film Code No. 542107 of the Harris County Map Records (H.C.M.R.), said 54.3209 acre tract being more particularly described by metes and bounds as follows (bearings based on the Texas State Plane Coordinate System, South Central Zone (NAD83) as determined by GPS observations):

**BEGINNING** at a 5/8" iron rod with "CLR" cap set at the southwest corner of Restricted Reserve "A", Block 1, said Tomball East Gate Center, 5.1420 acre tract of said Unrestricted Reserve "B", Block 1, Tomball East Gate Center, the southeast corner of said 1.1835 acre residue of a called 7.5266 acre tract, the most southeasterly corner of the herein described tract, and lying in the south right-of-way line of FM 2920 (120 feet wide);

**THENCE** South 86 degrees 41 minutes 59 seconds West, along the south line said 1.1835 acre residue of a called 7.5266 acre tract, the south line of said Unrestricted Reserve "B", Tomball East Gate Center, and the north right-of-way line of said FM 2920 (120 feet wide) a distance of 262.49 feet to a 5/8-inch iron rod with "CLR" cap set at the southwest corner of said Unrestricted Reserve "B", Tomball East Gate Center, the southwest corner of said 1.1835 acre residue of a called 7.5266 acre tract, the most southeasterly corner of said called 55.6484 acre tract, a southerly corner of the herein described tract, and lying in the north right-of-way line of said FM 2920 (120 feet wide);

**THENCE** South 86 degrees 41 minutes 59 seconds West, along the south line of said called 55.6484 acre tract, and the north right-of-way line of said FM 2920 (120 feet wide) a distance of 1,031.45 feet to a 5/8-inch iron rod found at the southwest corner of said called 55.6484 acre tract, the southeast corner of a 5.1420 acre tract conveyed to Houston Lighting & Power Company by deed dated March 2, 1981, as recorded under H.C.C.F. No. G885475, and by deed dated March 23, 1981, as recorded in H.C.C.F. No. G908192, the southwest corner of the herein described tract, and lying in the north right-of-way line of said FM 2920 (120 feet wide);

**THENCE** North 11 degrees 36 minutes 34 seconds West, along the west line of said called 55.6484 acre tract, and the east line of said called 605.41 feet to a 5/8-inch iron rod with "CLR" cap set at the southwest corner of a called 4 acre tract conveyed to Jolly Properties, Inc. by deed dated March 22, 2006 as recorded under H.C.C.F. No. Z177722, and a northwesterly corner of the herein described tract;

**THENCE** North 86 degrees 41 minutes 02 seconds East along the south line of said called 4 acre tract a distance of 385.54 feet to a 5/8-inch iron rod with "CLR" cap set at the southeast corner of said called 4 acre tract, for an interior corner of the herein described tract;

**THENCE** North 02 degrees 54 minutes 56 seconds West along the east line of said called 4 acre tract a distance of 267.89 feet to a 5/8-inch iron rod with "CLR" cap set at a southwest corner of a called 33.3852 acre tract conveyed to Fellowship of The Woodlands Church, Inc. by deed dated August 28, 2008 as recorded under H.C.C.F. No. 20080516594, lying in a northerly line of said called 55.6484 acre tract, and a northerly line of the herein described tract;

**THENCE** North 86 degrees 41 minutes 41 seconds East along the north line of said called 55.6484 acre tract, the south line of said called 33.3852 acre tract a distance of 630.10 feet to a 5/8-inch iron rod found at the southeast corner of said called 33.3852 acre tract, an interior corner of said called 55.6484 acre tract, and an interior corner of the herein described tract;

**THENCE** Northerly along the east line of said called 33.3852 acre tract, the west line of said called 55.6484 acre tract, and a curve to the right through a central angle of 10 degrees 55 minutes 03 seconds to a 5/8-inch iron rod with cap found at the point of reverse curvature of a curve to the left, an easterly corner of said called 33.3852 acre tract, a westerly corner of said 55.6484 acre tract, said curve having a radius of 3,434.21 feet, an arc length of 654.38 feet, and a long chord bearing North 02 degrees 56 minutes 55 seconds East, a distance of 653.39 feet;

**THENCE** Northwesterly along the east line of said called 33.3852 acre tract, the west line of said called 55.6484 acre tract, and a curve to the left through a central angle of 46 degrees 51 minutes 30 seconds to a 5/8-inch iron rod with cap found at the point of reverse curvature of a curve to the right, an easterly corner of said called 33.3852 acre tract, a westerly corner of said 55.6484 acre tract, said curve having a radius of 539.35 feet, an arc length of 441.10 feet, and a long chord bearing North 15 degrees 01 minutes 20 seconds West, a distance of 428.91 feet;

**THENCE** Northwesterly along the east line of said called 33.3852 acre tract, the west line of said called 55.6484 acre tract, and a curve to the right through a central angle of 27 degrees 07 minutes 45 seconds to a 5/8-inch iron rod with cap found at the northeast corner of said called 33.3852 acre tract, the most northwesterly corner of said 55.6484 acre tract, and lying in the south line of a called 20.68 acre tract (Tract I) conveyed to Frank J. Hadden by deed dated March 7, 1973 as recorded under H.C.C.F. No. D821485, said curve having a radius of 720.64 feet, an arc length of 341.22 feet, and a long chord bearing North 24 degrees 53 minutes 12 seconds West, a distance of 338.04 feet;

**THENCE** North 88 degrees 14 minutes 31 seconds East along the north line of said called 55.6484 acre tract, the south line of said called 9.5140 acre tract a distance of 268.31 feet to a 5/8-inch iron rod with "CLR" cap set at the most northeasterly corner of said called 55.6484 acre tract, the northwest corner of a called 9.5140 acre tract conveyed to B.J. Hardin and E. Louise Hardin by deed dated July 20, 1977 as recorded in H.C.C.F. No. F258268, the most northeasterly corner of the herein described tract, and lying in the south line of said called 7.0483 acre tract;

**THENCE** North 88 degrees 14 minutes 31 seconds East along the north line of said called 55.6484 acre tract, the south line of said called 7.0483 acre tract a distance of 384.07 feet to a 5/8-inch iron rod with "CLR" cap set at the most northeasterly corner of said called 55.6484 acre tract, the northwest corner of a called 9.5140 acre tract conveyed to B.J. Hardin and E. Louise Hardin by deed dated July 20, 1977 as recorded in H.C.C.F. No. F258268, the most northeasterly corner of the herein described tract, and lying in the south line of said called 7.0483 acre tract;

**THENCE** South 02 degrees 16 minutes 15 seconds East along the east line of said called 55.6484 acre tract, the west line of said called 9.5140 acre tract, passing at a distance of 845.42 feet the southwest corner of said called 55.6484 acre tract, an easterly corner of said 55.6484 acre tract, an easterly corner of the herein described tract, and lying in the north right-of-way line of Huffsmith-Kohr Road (30 feet wide) as shown on Tomball Township, a subdivision recorded under Volume 2, Page 65 of the H.C.M.R., continuing along the east line of said called 55.6484 acre tract a total distance of 675.42 feet to a 3/8-inch iron rod found at an interior corner of said called 55.6484 acre tract, an interior corner of the herein described tract, and lying in the south right-of-way line of said Huffsmith-Kohr Road (30 feet wide);

**THENCE** North 87 degrees 32 minutes 18 seconds East along a northerly line of said called 55.6484 acre tract, a northerly line of the herein described tract, and the south right-of-way line of said Huffsmith-Kohr Road (30 feet wide) a distance of 558.49 feet to a 5/8-inch iron rod with "CLR" cap set at the most easterly northeast corner of said called 55.6484 acre tract, the most easterly northeast corner of the herein described tract, and lying in the west right-of-way line of FM 2978 (120 feet wide) as recorded under Volume 2, Page 65 of the H.C.M.R., Volume 7725, Page 587 of the H.C.D.R., and Volume 7813, Page 82 of the H.C.D.R.;

**THENCE** South 09 degrees 34 minutes 58 seconds West along the east line of said called 55.6484 acre tract, the east line of the herein described tract, and the west right-of-way of said FM 2978 (120 feet wide) passing at a distance of 974.35 feet the northeast corner of said Unrestricted Reserve "B", Tomball East Gate Center, continuing along the common boundary line of said called 55.6484 acre tract, said Unrestricted Reserve "B", Tomball East Gate Center, and the east line of the herein described tract a total distance of 1,309.57 feet to a 5/8" iron rod with cap found at the northeast corner of a called 0.352 acre tract of land conveyed to Exxon Mobil Corporation by deed dated September 15, 2005 as recorded under H.C.C.F. No. 7772398, the most easterly southeast corner of said called 55.6484 acre tract of land, the most easterly southeast corner of the herein described tract, and lying in the west right-of-way line of said FM 2978 (120 feet wide);

**THENCE** South 86 degrees 40 minutes 43 seconds West, along the common boundary line of said called 55.6484 acre tract, said called 0.352 acre tract, and the herein described tract a distance of 202.56 feet to a P.K. nail found in asphalt at the northwest corner of said called 0.352 acre tract, an interior corner of said called 55.6484 acre tract, and an interior corner of the herein described tract;

**THENCE** South 09 degrees 35 minutes 15 seconds West along the common boundary line of said called 0.352 acre tract, said called 55.6484 acre tract, and the herein described tract a distance of 77.73 feet to a 5/8-inch iron rod with cap found at the southwest corner of said called 0.352 acre tract, a southeast corner of said called 55.6484 acre tract, a northwest corner of a called 40,000.05 square feet tract of land conveyed to Exxon Corporation by deed dated September 13, 1985 as recorded under H.C.C.F. No. 1204581, the northeast corner of said Restricted Reserve "A", Block 1, Tomball East Gate Center, an interior corner of said called 55.6484 acre tract, and an interior corner of the herein described tract;

**THENCE** South 86 degrees 40 minutes 43 seconds West, along the common boundary line of said Restricted Reserve "A", Block 1, Tomball East Gate Center, said Unrestricted Reserve "B", Block 1, Tomball East Gate Center, said 55.6484 acre tract, and the herein described tract a distance of 179.99 feet to a 5/8-inch iron rod found at the northwest corner of said Restricted Reserve "A", Block 1, Tomball East Gate Center, an interior corner of said Unrestricted Reserve "B", Block 1, Tomball East Gate Center, a southerly interior corner of said called 55.6484 acre tract, and a southerly interior corner of the herein described tract;

**THENCE** South 03 degrees 14 minutes 36 seconds East along the common boundary line of said Restricted Reserve "A", Block 1, Tomball East Gate Center, said Unrestricted Reserve "B", Block 1, Tomball East Gate Center, said called 55.6484 acre tract, and the herein described tract a distance of 197.39 feet to the POINT OF BEGINNING and containing a computed area of 54.3209 acres (2,366,218.87 square feet) of land.

STATE OF TEXAS §  
COUNTY OF MONTGOMERY §

We, PARQUINT 2920, LP, and WOODFOREST NATIONAL BANK, owners, hereinafter referred to as owners of the 54.0332 acre tract described in the above and foregoing plat of RESERVE AT TOMBALL, do hereby make and establish said subdivision of said property according to all liens, dedications, restrictions and notations on said plat and hereby dedicate to the use of the public forever, all streets, alleys, parks, watercourses, drains, easements, and public places shown thereon for the purposes and considerations therein express; and do hereby bind ourselves our heirs, successors and assigns to warrant and forever defend the title to the land so dedicated.

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

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

FURTHER, owners do hereby covenant and agree that all the property with 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, plantings, and other obstructions to the operation and maintenance of the drainage facility and that such abutting property shall not be permitted to drain directly in this easement except by means of an approved drainage structure.

IN TESTIMONY WHEREOF, PARQUINT 2920, LP and WOODFOREST NATIONAL BANK has caused these presents to be signed by Michael H. Richmond,

thereunto authorized, attested by \_\_\_\_\_ and its common seal hereto affixed this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

PARQUINT 2920, LP  
a Texas Limited Partnership

BY: PARQUINT 2920, GP, LLC  
Its General Partner

BY: PAR Real Estate Holdings, LLC  
Its Manager

BY: Michael H. Richmond  
Michael H. Richmond  
President

ATTEST:

BY: Charles A. Vernon  
NAME: Charles A. Vernon  
TITLE: Executive Vice President

STATE OF TEXAS §  
COUNTY OF MONTGOMERY §

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

Michael H. Richmond  
Notary Public in and for the State of Texas  
My commission expires 5/7/2012

WOODFOREST NATIONAL BANK

BY: Michael H. Richmond

NAME: Michael H. Richmond  
TITLE: Vice Chairman

ATTEST:

BY: Sherra Morris  
NAME: Sherra Morris  
TITLE: VP/CHIEF RISK OFFICER

STATE OF TEXAS §  
COUNTY OF MONTGOMERY §

BEFORE ME, the undersigned authority, on this day personally appeared Michael H. Richmond, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and considerations therein expressed and in the capacity therein and herein stated, and as the act and deed of said WOODFOREST NATIONAL BANK.

Michael H. Richmond  
Notary Public in and for the State of Texas  
My commission expires 5/7/2012

This is to certify that the Planning and Zoning Commission of the City of Tomball, Texas has approved this plat and subdivision of RESERVE AT TOMBALL in conformance with the laws of the State of Texas and the ordinances of the City of Tomball as shown hereon and authorize the recording of this plat this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

By: \_\_\_\_\_ By: \_\_\_\_\_  
Lori Wallace, Chairman Tom Crofoot, Vice Chairman

We, the City Manager and City Engineer for the City of Tomball, Texas, do hereby certify that the plat of RESERVE AT TOMBALL is in conformance with the City of Tomball ordinances.

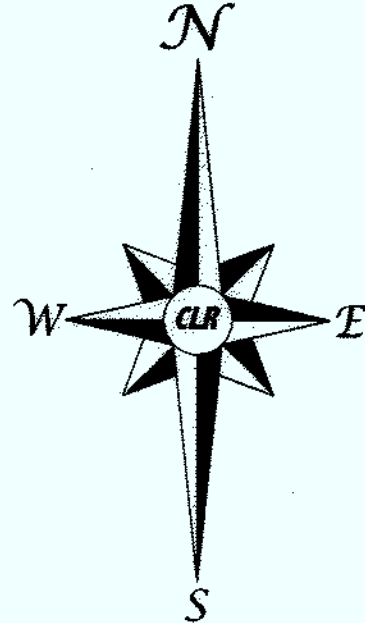
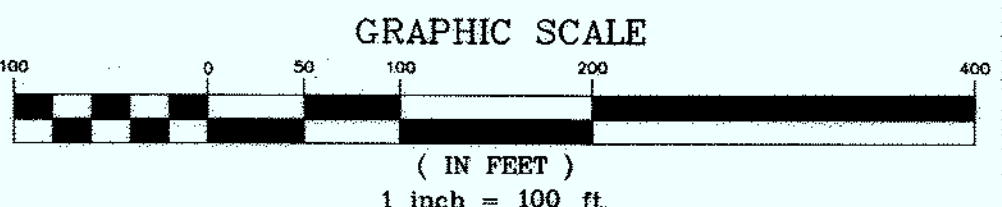
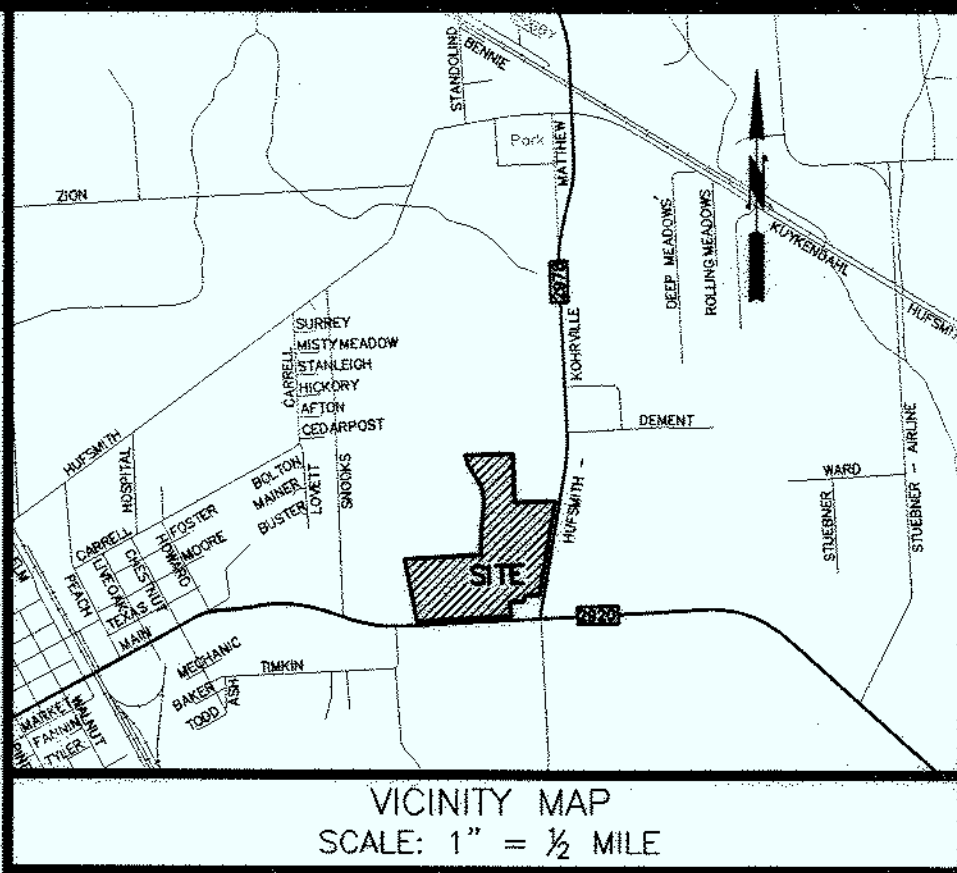
George Shackelford  
City Manager

Lon Lakatos  
Lon Lakatos, PE  
Acting City Engineer

This is to certify that the City accepts the Planning and Zoning Commission's authorized approval and acceptance of all the dedicated public easements and conformance with the laws of the State of Texas and the ordinances of the City of Tomball as shown hereon and authorized the recording of this plat this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

Gretchen Fagan  
Mayor

Doris Speer  
City Secretary



NOTES:

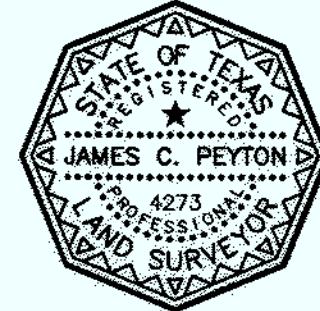
Flood Information:  
According to FEMA Firm Panel No. 48201C0230L (effective date June 18, 2007), this property is in Zone "X" and is not in the 0.2% Annual Chance Flood Plain.

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 nor any public utility shall be responsible for the replacing or reimbursing the property owner due to removal or relocation of any obstruction on the public easements.

- 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 remove any valid restrictions or covenants.
- The building lines shown on this plat shall be in addition to, and shall not limit or replace, any building lines required by the City of Tomball Code of Ordinances at the time of the development of the property.
- All visible easements and easements of record as reflected on title commitment from Stewart Title of Montgomery County, File No.: 103804, issued December 02, 2010, are shown hereon.
- Bearings shown hereon are based on the Texas State Plane Coordinate System South Central Zone NAD 83. Bearings in metes and bounds description are based upon the called 55.6484 acre tract recorded under H.C.C.F. NO 20100211861, and can be rotated 02 degrees 45 minutes 22 seconds counterclockwise to match map.

I, James C. Peyton, am authorized by the State of Texas to practice the profession of surveying and hereby certify that the above subdivision is true and correct, was prepared from an actual survey of the property made under my supervision on the ground; that all boundary corners, angle points, points of curvature, and other points of reference have been marked with iron rods having an outside diameter of not less than three-fourths (3/4) inch and a length of not less than three (3) feet; and that the plat boundary corners have been tied to the nearest survey corner.

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



STATE OF TEXAS §  
COUNTY OF HARRIS §

I, Stan Stanart, County Clerk of Harris County, Texas, do hereby certify that the written instrument with its certificate of authentication was filed for registration in my office on \_\_\_\_\_, 2011 at \_\_\_\_\_ o'clock \_\_\_\_\_ M. and at Film Code \_\_\_\_\_ of the Map Records of Harris County for said county and duly recorded on \_\_\_\_\_, 2011, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

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

Stan Stanart  
County Clerk  
Harris County, Texas

By: \_\_\_\_\_  
Deputy

## FINAL PLAT RESERVE AT TOMBALL

A 54.0332 ACRE TRACT OF LAND BEING A PARTIAL REPLAT OF TOMBALL TOWNSITE RECORDED IN VOLUME 2, PAGE 65 H.C.M.R., AND TOMBALL EAST GATE CENTER RECORDED UNDER FILM CODE NO. 542107, H.C.M.R. BEING OUT OF A CALLED 55.6484 ACRE TRACT RECORDED UNDER HARRIS COUNTY CLERK'S FILE NO. 20100211861, AND THE RESIDUE OF UNRESTRICTED RESERVE "B", TOMBALL EAST GATE CENTER IN THE JESSE PRUITT SURVEY, ABSTRACT NO. 629 CITY OF TOMBALL, HARRIS COUNTY, TEXAS

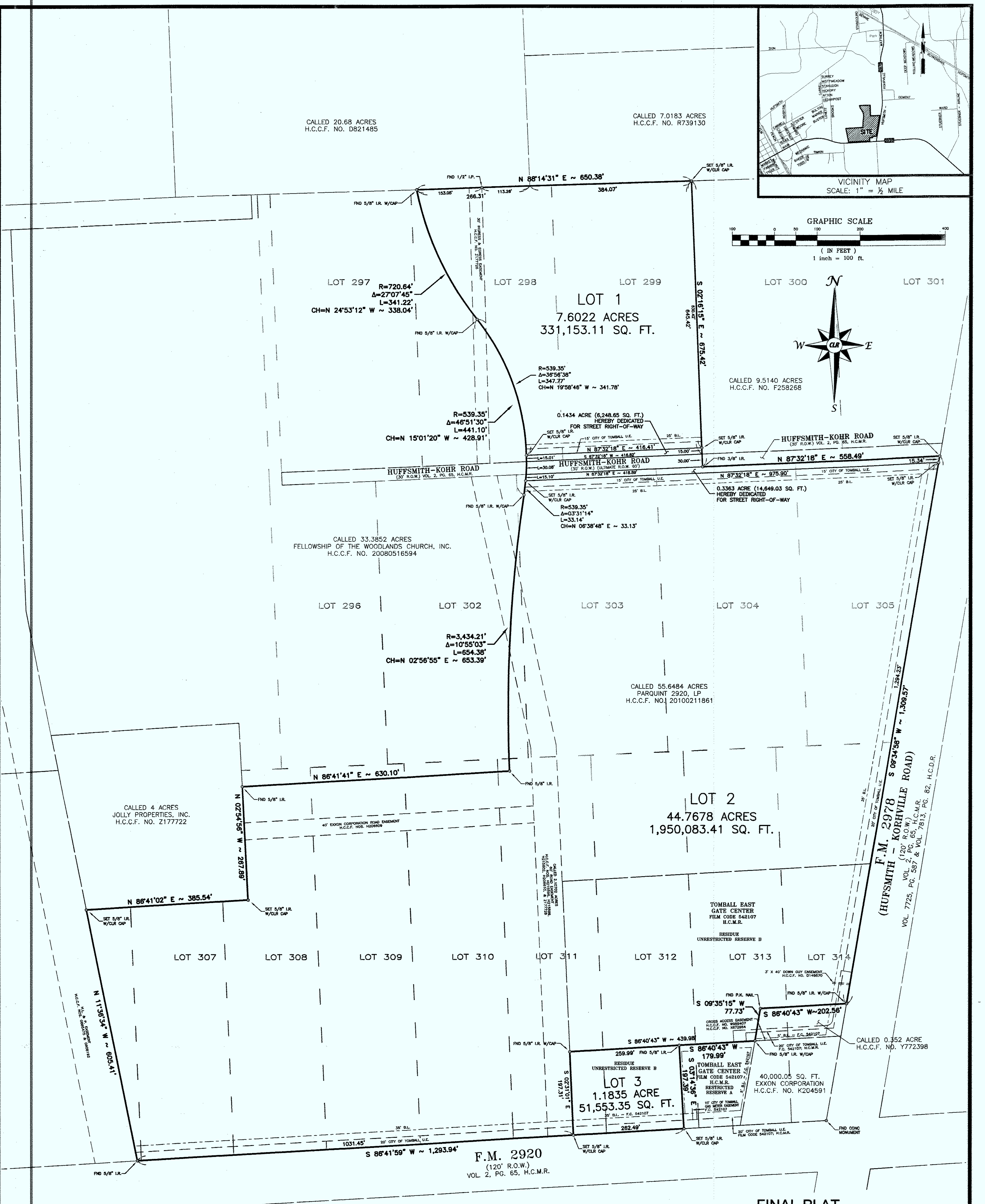
OWNER: SURVEYOR / ENGINEER:

PARQUINT 2920, LP,  
1330 Lake Robbins Dr., Suite 100  
The Woodlands, TX 77380  
832-375-2520

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

3 LOTS

SCALE: 1"=100' MARCH, 2011 SHEET 1 OF 2



| AREA SUMMARY                |              |         |
|-----------------------------|--------------|---------|
| DESCRIPTION                 | SQ. FT.      | ACRES   |
| LOT 1                       | 331,153.11   | 7.6022  |
| LOT 2                       | 1,950,083.41 | 44.7678 |
| LOT 3                       | 51,553.35    | 1.1835  |
| NORTH R.O.W. DEDICATION     | 6,248.65     | 0.1434  |
| SOUTH R.O.W. DEDICATION     | 14,649.03    | 0.3363  |
| EXISTING HUFFSMITH-KOHR ROW | 12,531.32    | 0.2877  |
| GROSS ACREAGE               | 2,366,218.87 | 54.3209 |
| NET ACREAGE (*)             | 2,353,687.55 | 54.0332 |

\* - THE NET ACREAGE PLUS THE ACREAGE CONTAINED WITHIN THE PUBLIC ROAD RIGHT-OF-WAY OF HUFFSMITH-KOHR ROAD (30 FEET WIDE) EQUALS THE GROSS ACREAGE (TOTAL ACREAGE) WITHIN THE PLAT BOUNDARY.

- LEGEND
- U.E. - UTILITY EASEMENT
  - C.T.U.E. - CITY OF TOMBALL UTILITY EASEMENT
  - B.L. - BUILDING LINE
  - H.C.C.F. - HARRIS COUNTY CLERK'S FILE
  - H.C.M.R. - HARRIS COUNTY MAP RECORD
  - H.C.D.R. - HARRIS COUNTY DEED RECORD

A 54.0332 ACRE TRACT OF LAND BEING A PARTIAL REPLAT OF TOMBALL TOWNSHIP RECORDED IN VOLUME 2, PAGE 65 H.C.M.R., AND TOMBALL EAST GATE CENTER RECORDED UNDER FILM CODE NO. 542107, H.C.M.R. BEING OUT OF A CALLED 55.6484 ACRE TRACT RECORDED UNDER HARRIS COUNTY CLERK'S FILE NO. 20100211861, AND THE RESIDUE OF UNRESTRICTED RESERVE "B", TOMBALL EAST GATE CENTER IN THE JESSE PRUITT SURVEY, ABSTRACT NO. 629 CITY OF TOMBALL, HARRIS COUNTY, TEXAS

OWNER: PARQUINT 2920, LP  
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FINAL PLAT  
RESERVE AT TOMBALL

# Regular City Council

## Agenda Item

Meeting Date: April 4, 2011

## Data Sheet

### Topic:

Accept Engineer's Recommendations regarding Revisions to the Pier and Pier Cap Design for the Tomball Central Fire Station Expansion

### Background:

On March 2, 2011 the City Building Department Inspectors went to inspect the rebar for the beams of the addition to the fire station. The inspectors noticed that the piers were not directly under the beams, as the plans specified, and red tagged the project. After discussions with the architect, contractor, and structural engineer, a revision was proposed to remedy the situation.

The City asked the architect or contractor to hire a second structural engineer to review and verify the design and make a recommendation. The second structural engineer stated that the engineering analysis is in order and the City should be comfortable with the revisions and recommended that two additional dowels be placed at each pier and spaced between those already provided.

### Origination:

City Manager's Office

### Recommendation:

### Funding:

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

Engineering and Planning

| ACTION TAKEN                                             |                                                                                   |       |
|----------------------------------------------------------|-----------------------------------------------------------------------------------|-------|
| APPROVAL                                                 | READINGS PASSED                                                                   | OTHER |
| <input type="checkbox"/> YES <input type="checkbox"/> NO | <input type="checkbox"/> 1 <sup>ST</sup> <input type="checkbox"/> 2 <sup>ND</sup> |       |

### ATTACHMENTS:

Memo to City Council

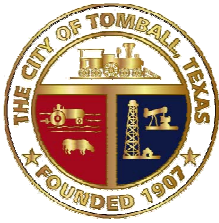
Cobb Fendley's Recommendation

Structual Analysis

Engineer's Inspection of Piers and Pier Caps

Pier Revision 03-03-11

Revised Detail Sheet



**City of Tomball**  
**Engineering and Planning Department**

501 James St  
Tomball, Texas 77375

## Memorandum

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Date: April 1, 2011  
To: Mayor and City Council  
From: Lori Lakatos, PE, CFM – Assistant City Engineer  
Subject: Tomball Central Fire Station Addition

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CC: George Shackelford – City Manager  
Christal Kliewer – Assistant City Manager

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A Commercial Addition Permit was issued for 1200 Rudel Rd, the Tomball Central Fire Station Addition, on February 11, 2011 to Momentum Contractors.

February 14, 2011 - The contractor called for an inspection of the piers by the City Building Department inspectors and was rescheduled due to the inspectors requiring a letter from the engineer to verify that the piers were installed correctly.

March 2, 2011 - The contractor called for an inspection of the foundations rebars. This inspection failed. The violations are as follows:

- 1) Letters on piers;
- 2) Matt on pad;
- 3) Tape plastic;
- 4) Piers not under beams; and
- 5) String on building line.

Joiner Partnership, Inc (Architect) was contacted by the contractor regarding the failed inspection.

March 3, 2011 - The architect emailed David Allen – City Building Official a letter and detail concerning the Drilled and Underreamed Piers and Additional Reinforcing for Pier Eccentricity. David Allen requested more information regarding the location of the piers, additional reinforcing for the piers, and detail for corner piers with an engineer's seal.

March 4, 2011 - A detail of the pier caps was submitted to the City for review.

March 7, 2011 - The information that had been sent to the City for review was forwarded to the City Manager for review.

March 8, 2011 - The City's Fire Chief, Building Official, Fire Marshal, and engineering met with the architect, contractor, and surveyor to discuss the issues and how to determine if the piers were put

in the correct location. It was decided to have the surveyor resurvey the piers and verify the locations and everyone would meet again to discuss the findings.

March 11, 2011 - The City's Fire Chief, Building Official, Fire Marshal, and engineering met with the architect, contractor, and structural engineer on site to discuss the findings of the survey and the resolution. It was determined by the surveyor that the piers were put in the correct location according to the plan view for the piers. The detail on the plans did not show the same configuration for the piers and beams. The architect implied that the detail was an oversight on their part and that a revision to the plans was not a modification to the design. The City's engineer asked that the structural engineer and architect submit the corrected detail and state whether it was revision for an oversight or a modification to the plans.

March 14, 2011 - The architect submitted a revised detail sheet for the foundation plan, but did not give a summary of the revision. Once asked to submit a justification they submitted the following "The updated submittal was issued to include the omitted perimeter pier detail as requested. The contractor installed the foundation per the structural foundation plan and as approved by the Engineer. If there is additional information you all need either by us or by the Engineer please let me know. Thank you for your assistance."

March 17, 2011 - After discussion with City Management and the City Attorney the City advised the architect to hire a second structural engineering firm to review and determine if the revision was viable and realistic for this project. The City chose Cobb Fendley & Associates Inc. to serve as the second engineer firm. The 2<sup>nd</sup> structural engineer was to be hired at the expense of the architect or contractor. The architect agreed to terms and hired Cobb Fendley & Associates Inc.

March 22, 2011 – Dale Conger with Cobb Fendley & Associates Inc. met the architect and contractor onsite.

March 24, 2011 – Dale Conger submitted a letter to the City stating that the structural analysis is in order and the City should be comfortable with allowing the project to proceed with two additional dowels be placed at each pier and spaced between those already provided.

March 28, 2011 – The Structural Engineer inspected the piers and caps and that they are installed according to the design and recommendation of Cobb Fendley & Associates Inc.

After discussion with City Management we are presenting the information to you for your consideration and approval.

March 24, 2011

Ms. Lori Lakatos, P.E.  
Asst. City Engineer  
City of Tomball  
501 James Street  
Tomball, TX 77375

Re: Central Fire Station Addition  
Foundation Review  
1112-006-01-01

Dear Ms. Lakatos:

We conducted an onsite review of the situation involving the misplacement of foundation piers that do not lie below the building grade beam as originally intended. On March 23 we found the piers in place and the forms and reinforcing in condition nearly ready for concrete. Work had stopped awaiting the outcome of the review. The piers had been intended to be below the grade beam, but had actually been placed inside the line of the grade beam, under the floor slab. The contractor has made an enlarged area of the grade beam to serve as a pier cap according to a detail provided to him by the project structural engineer.

Today we received a structural analysis of the situation from the structural engineer. The analysis is in order and the City should be comfortable with allowing the project to proceed. One item that is addressed in the analysis and accompanying email is that the #4 bent dowels that tie the floor slab to the grade beam are a key to the structure in this situation. The email directs Joiner Partnership to make sure that at least two of these dowels be present near each pier. The normal spacing is 24" on center, but to make sure they are near the pier area, it may be wise to ask that two additional dowels be placed at each pier and spaced between those already provided. With that minor detail, the work should be allowed to proceed.

Sincerely,

COBB, FENDLEY & ASSOCIATES, INC.



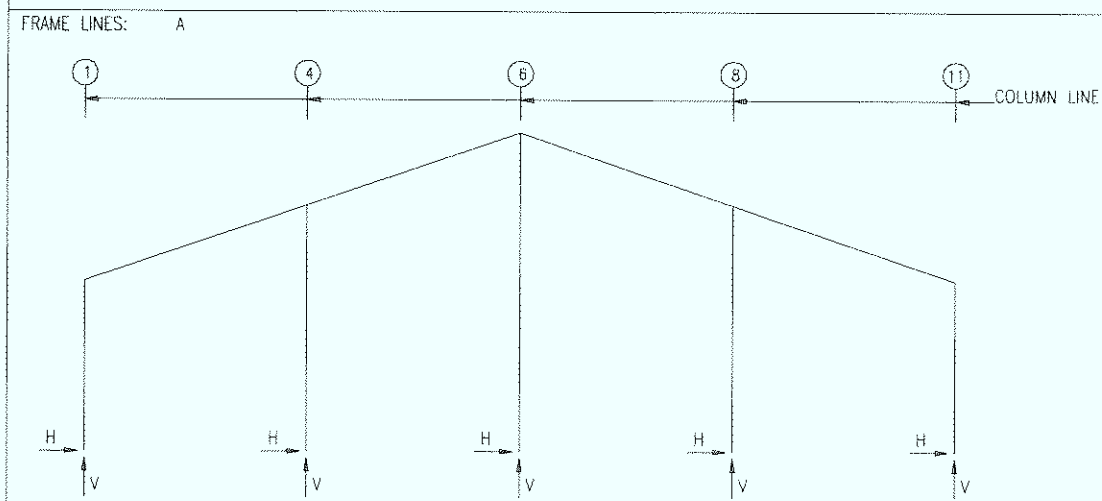
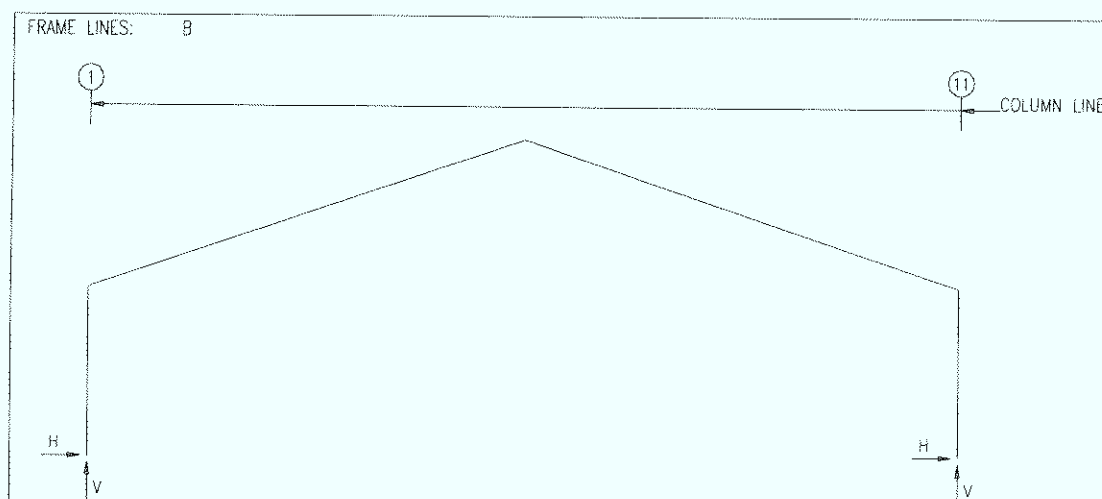
Dale Conger, P.E.  
Vice President



DDC/aws

cc: Ricardo J. Martinez LEED AP, Joiner Partnership  
File

Attachment: email



RIGID FRAME: ANCHOR BOLTS & BASE PLATES

| Frm<br>Line | Col<br>Line | Anc.<br>No | Bolt<br>D(in) | Base<br>Wid | Plate<br>Len | (in)<br>Thk | Elev.<br>(in) |                   |
|-------------|-------------|------------|---------------|-------------|--------------|-------------|---------------|-------------------|
| B *         | 1           | 4          | 1.000         |             |              | 0.500       | 0.0           | } W/SHEAR WASHERS |
| B *         | 11          | 4          | 1.000         |             |              | 0.500       | 0.0           |                   |

B • Frame lines: E

RIGID FRAME: ANCHOR BOLTS & BASE PLATES

| Frm<br>Line | Col<br>Line | Anc.<br>No | Bolt<br>D(in) | Rose<br>Wid | Plate (in)<br>Len | Thk   | Elev.<br>(in) |
|-------------|-------------|------------|---------------|-------------|-------------------|-------|---------------|
| A           | 1           | 4          | 0.750         |             |                   | 0.375 | 0.0           |
| A           | 11          | 4          | 0.750         |             |                   | 0.375 | 0.0           |
| A           | 4           | 4          | 0.750         |             |                   | 0.375 | 0.0           |
| A           | 6           | 4          | 0.750         |             |                   | 0.375 | 0.0           |
| A           | 8           | 4          | 0.750         |             |                   | 0.375 | 0.0           |

RIGID FRAME: BASIC COLUMN REACTIONS (k)

| Frame | Column | ---Dead--- |      | ---Collateral--- |      | ---Live--- |      | ---Wind_L1--- |       | ---Wind_R1--- |       | ---Wind_L2--- |       |
|-------|--------|------------|------|------------------|------|------------|------|---------------|-------|---------------|-------|---------------|-------|
| Line  | Line   | Horiz      | Vert | Horiz            | Vert | Horiz      | Vert | Horiz         | Vert  | Horiz         | Vert  | Horiz         | Vert  |
| B     | 1      | 2.1        | 3.6  | 3.5              | 5.3  | 6.7        | 10.0 | -15.8         | -24.1 | -8.3          | -19.7 | -12.9         | -13.6 |
| B     | 11     | -2.1       | 3.6  | -3.5             | 5.3  | -6.7       | 10.0 | 8.3           | -19.7 | 15.8          | -24.1 | 4.4           | -8.2  |

| Frame | Column | --Wind_R2-- | --LnWind1-- | --LnWind2-- | --Seismic_L-- | --Seismic_R-- | --LnSeis-- |
|-------|--------|-------------|-------------|-------------|---------------|---------------|------------|
| Line  | Line   | Horiz       | Vert        | Horiz       | Vert          | Horiz         | Vert       |
| B     | 1      | -4.4        | -9.2        | -11.1       | -30.5         | -7.1          | -24.0      |
| B     | 11     | 12.9        | -13.6       | 11.1        | -30.5         | 7.1           | -24.0      |

| Frame | Column | -LWIND1_L2E- |      | -LWIND1_R2E- |      | -LWIND2_L3E- |      | -LWIND2_R3E- |      |
|-------|--------|--------------|------|--------------|------|--------------|------|--------------|------|
| Line  | Line   | Horiz        | Vert | Horiz        | Vert | Horiz        | Vert | Horiz        | Vert |
| B *   | 1      | 0.4          | -2.0 | -0.4         | -0.2 | 0.2          | -1.1 | -0.2         | -0.1 |
| B *   | 11     | 0.4          | -0.2 | -0.4         | -2.0 | 0.2          | -0.1 | -0.2         | -1.1 |

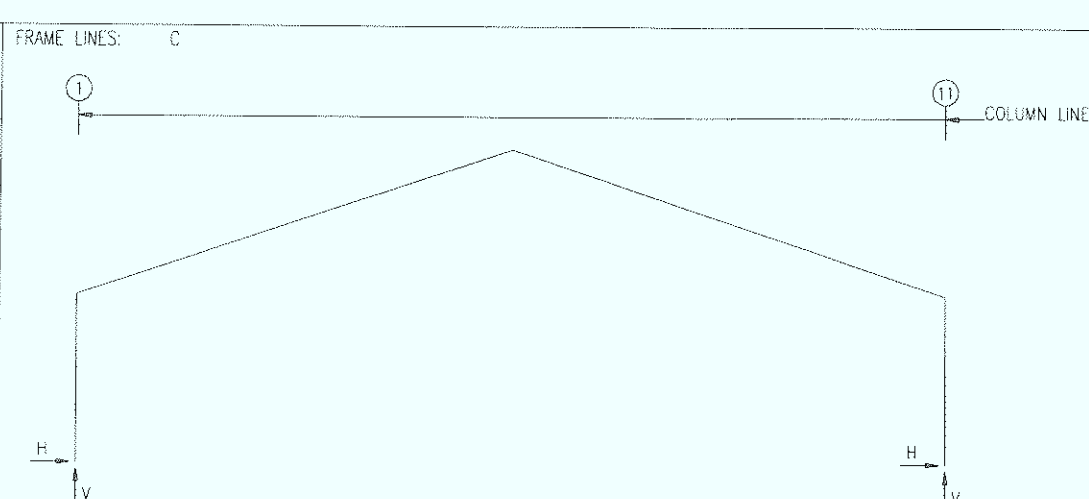
| Frame<br>Line | Column<br>Line | ---Dead--- |      | ---Collateral--- |      | ---Live--- |      | ---Wind_L1--- |      | ---Wind_R1--- |      | ---Wind_L2--- |      |
|---------------|----------------|------------|------|------------------|------|------------|------|---------------|------|---------------|------|---------------|------|
|               |                | Horiz      | Vert | Horiz            | Vert | Horiz      | Vert | Horiz         | Vert | Horiz         | Vert | Horiz         | Vert |
| A             | 1              | 0.1        | 0.8  | 0.1              | 0.7  | 0.3        | 2.3  | -3.0          | -5.5 | 2.4           | -2.9 | -3.7          | -3.5 |
| A             | 11             | -0.1       | 0.8  | -0.1             | 0.7  | -0.3       | 2.3  | -2.4          | -2.9 | 3.0           | -5.5 | -1.7          | -0.8 |
| A             | 4              | 0.0        | 1.1  | 0.0              | 1.4  | 0.0        | 4.3  | 0.0           | -8.1 | 0.0           | -7.3 | 0.0           | -5.2 |
| A             | 6              | 0.0        | 1.4  | 0.0              | 1.3  | 0.0        | 4.1  | 0.0           | -3.6 | 0.0           | -3.6 | 0.0           | -2.7 |
| A             | 8              | 0.0        | 1.1  | 0.0              | 1.4  | 0.0        | 4.3  | 0.0           | -7.3 | 0.0           | -8.1 | 0.0           | -4.4 |

| Frame | Column | --Wind_R2-- | --LnWind1-- | --LnWind2-- | --Seismic_L-- | --Seismic_R-- | --LnSeis-- |       |      |       |      |
|-------|--------|-------------|-------------|-------------|---------------|---------------|------------|-------|------|-------|------|
| Line  |        | Horiz       | Vert        | Horiz       | Vert          | Horiz         | Vert       | Horiz | Vert | Horiz | Vert |
| A     | 1      | 1.7         | -0.8        | 1.0         | -0.7          | 1.2           | -8.7       | 0.0   | 0.0  | 0.0   | 0.0  |
| A     | 11     | 3.7         | -3.5        | -1.0        | -9.7          | -1.2          | -8.7       | -0.1  | 0.0  | 0.1   | 0.0  |
| A     | 4      | 0.0         | -4.4        | 0.0         | -7.1          | 0.0           | -5.2       | 0.0   | 0.1  | 0.0   | -0.1 |
| A     | 5      | 0.0         | -2.7        | 0.0         | -2.7          | 0.0           | -1.7       | 0.0   | 0.0  | 0.0   | 0.0  |
| A     | 8      | 0.0         | -5.2        | 0.0         | -7.1          | 0.0           | -5.2       | 0.0   | -0.1 | 0.0   | 0.1  |

| Frame Line | Column Line | -LWIND1_L2E- |      | -LWIND1_R2E- |      | -LWIND2_L3E- |      | -LWIND2_R3E- |      | -F2PAT_LL_1- |      | -F2PAT_LL_2- |      |
|------------|-------------|--------------|------|--------------|------|--------------|------|--------------|------|--------------|------|--------------|------|
|            |             | Horiz        | Vert | Horiz        | Vert | Horiz        | Vert | Horiz        | Vert | Horiz        | Vert | Horiz        | Vert |
| A          | 1           | 0.1          | -0.9 | -0.3         | -0.3 | 0.1          | -0.5 | -0.1         | -0.2 | 0.1          | 1.2  | 0.0          | -0.2 |
| A          | 11          | 0.3          | -0.3 | -0.1         | -0.9 | 0.1          | -0.2 | -0.1         | -0.5 | -0.1         | 0.2  | 0.0          | -0.2 |
| A          | 4           | 0.0          | -0.5 | 0.0          | 0.3  | 0.0          | -0.2 | 0.0          | 0.1  | 0.0          | 2.8  | 0.0          | 1.2  |
| A          | 6           | 0.0          | 0.2  | 0.0          | 0.2  | 0.0          | 0.1  | 0.0          | 0.1  | 0.0          | 1.2  | 0.0          | 3.0  |
| A          | 8           | 0.0          | 0.3  | 0.0          | -0.5 | 0.0          | 0.1  | 0.0          | -0.2 | 0.0          | -0.3 | 0.0          | 1.2  |

| Frame Line | Column Line | -F2PAT_LL 3- |      | -F2PAT_LL 4- |      | -F2PAT_LL 5- |      |
|------------|-------------|--------------|------|--------------|------|--------------|------|
|            |             | Horiz        | Vert | Horiz        | Vert | Horiz        | Vert |
| A          | 1           | 0.1          | 0.2  | 0.1          | 1.4  | 0.1          | 0.0  |
| A          | 11          | -0.1         | 1.2  | -0.1         | 0.0  | -0.1         | 1.4  |
| A          | 4           | 0.0          | -0.3 | 0.0          | 1.3  | 0.0          | 1.3  |
| A          | 6           | 0.0          | 1.2  | 0.0          | 1.2  | 0.0          | 1.2  |
| A          | 8           | 0.0          | 2.8  | 0.0          | 1.3  | 0.0          | 1.3  |

B • Frame lines: B



RIGID FRAME: ANCHOR BOLTS & BASE PLATES

| Frm<br>Line | Col<br>Line | Ang.<br>No | Bolt<br>D(in) | Base<br>Wid | Plate (in)<br>Len | Thk   | Elev.<br>(in) |                   |
|-------------|-------------|------------|---------------|-------------|-------------------|-------|---------------|-------------------|
| C           | 1           | 4          | 0.750         |             |                   | 0.375 | 0.0           | } W/SHEAR WASHERS |
| C           | 11          | 4          | 0.750         |             |                   | 0.375 | 0.0           |                   |

C      Frame lines:      C

RIGID FRAME: BASIC COLUMN REACTIONS (k )

| Frame | Column | ---Dead--- |      | -Collateral- |      | ---Live--- |      | --Wind_L1--- |       | --Wind_R1--- |       | --Wind_L2--- |      |
|-------|--------|------------|------|--------------|------|------------|------|--------------|-------|--------------|-------|--------------|------|
|       | Line   | Horiz      | Vert | Horiz        | Vert | Horiz      | Vert | Horiz        | Vert  | Horiz        | Vert  | Horiz        | Vert |
| C     | 1      | 1.1        | 2.0  | 1.3          | 2.0  | 2.4        | 3.8  | -8.1         | -11.8 | -3.9         | -9.4  | -6.7         | -7.8 |
| C     | 11     | -1.1       | 2.0  | -1.3         | 2.0  | -2.4       | 3.8  | 3.9          | -9.4  | 8.1          | -11.8 | 2.5          | -5.4 |

| Frame | Column | --Wind_R2-- |      | --LnWind1-- |       | --LnWind2-- |       | --Seismic_L-- |      | --Seismic_R-- |      | --LnSeis-- |      |
|-------|--------|-------------|------|-------------|-------|-------------|-------|---------------|------|---------------|------|------------|------|
| Line  | Line   | Horiz       | Vert | Horiz       | Vert  | Horiz       | Vert  | Horiz         | Vert | Horiz         | Vert | Horiz      | Vert |
| C     | 1      | -2.5        | -5.4 | -4.0        | -14.7 | -2.6        | -12.3 | 0.0           | 0.0  | 0.0           | 0.0  | 0.0        | 0.0  |
| C     | 11     | 6.7         | -7.8 | 4.0         | -14.7 | 2.6         | -12.3 | 0.0           | 0.0  | 0.0           | 0.0  | 0.0        | 0.0  |

| Frame Line | Column Line | -LWIND1_12E- |      | -LWIND1_R2E- |      | -LWIND2_13E- |      | -LWIND2_R3E- |      |
|------------|-------------|--------------|------|--------------|------|--------------|------|--------------|------|
|            |             | Horiz        | Vert | Horiz        | Vert | Horiz        | Vert | Horiz        | Vert |
| C          | 1           | 0.1          | -0.8 | -0.2         | -0.1 | 0.1          | -0.4 | -0.1         | 0.0  |
| C          | 11          | 0.2          | -0.1 | -0.1         | -0.8 | 0.1          | 0.0  | -0.1         | -0.4 |

ENDWALL COLUMN: BASIC COLUMN REACTIONS (k)

|      |      |      |        |        |
|------|------|------|--------|--------|
| Frm  | Col  | Dead | Wind_P | Wind_S |
| Line | Line | Vert | Horz   | Horz   |
| C    | 2    | 0.0  | -0.8   | 0.8    |

| Frm Line | Col Line | Wind_P<br>Horz | Wind_S<br>Horz | -LWIND1_L- |      | -LWIND1_R- |      | -LWIND2_L- |      | -LWIND2_R- |      |
|----------|----------|----------------|----------------|------------|------|------------|------|------------|------|------------|------|
|          |          |                |                | Horz       | Vert | Horz       | Vert | Horz       | Vert | Horz       | Vert |
| A        | 8        | -5.0           | 5.5            | 0.0        | -0.3 | 0.0        | 0.0  | 0.0        | -0.2 | 0.0        | 0.0  |
| A        | 6        | -6.6           | 7.3            | 0.0        | 0.1  | 0.0        | 0.1  | 0.0        | 0.0  | 0.0        | 0.0  |
| A        | 4        | -5.0           | 5.5            | 0.0        | 0.0  | 0.0        | -0.3 | 0.0        | 0.0  | 0.0        | -0.2 |

ENDWALL COLUMN: ANCHOR BOLTS & BASE PLATES

| Frm<br>Line | Col<br>Line | Ans.<br>No | Bolt<br>D(in) | Base<br>Wid | Plate<br>Len (in) | Thk   | Elev.<br>(in) |
|-------------|-------------|------------|---------------|-------------|-------------------|-------|---------------|
| C           | 2           | 4          | 0.625         |             |                   | 0.375 | 0.0           |
| A           | 8           | 4          | 0.750         |             |                   | 0.375 | 0.0           |
| A           | 6           | 4          | 0.750         |             |                   | 0.375 | 0.0           |
| A           | 4           | 4          | 0.750         |             |                   | 0.375 | 0.0           |

BRACING REACTIONS, PANEL SHEAR

| ---Wall--- |      | Reactions (k) |                       |                          |  | Panel<br>Shear<br>(lb/ft) |
|------------|------|---------------|-----------------------|--------------------------|--|---------------------------|
| Loc        | Line | Col<br>Line   | --Wind--<br>Horz Vert | --Seismic--<br>Horz Vert |  |                           |
| L_EW       | C    | Rigid         | Frame At Endwall      |                          |  |                           |
| F_SW       | 11   | Wind          | Bent In Wall          |                          |  |                           |
| R_EW       | A    | Rigid         | Frame At Endwall      |                          |  |                           |
| B_SW       | 1    | Wind          | Bent In Wall          |                          |  |                           |

## WIND BENT REACTIONS

| ---Wall--- |      | Col<br>Line | Wind(k) |      | Reactions |      | Seismic(k)                              |
|------------|------|-------------|---------|------|-----------|------|-----------------------------------------|
| Loc        | Line |             | Horz    | Vert | Horz      | Vert |                                         |
| F.S.W      | 11   | B           | 4.4     | 8.0  | 0.1       | 0.1  | } USE STITCH-BOLT TYPE<br>WIND BENTS !! |
| F.S.W      | 11   | A           | 4.4     | 8.0  | 0.1       | 0.1  |                                         |
| B.S.W      | 1    | A           | 4.4     | 5.4  | 0.1       | 0.1  |                                         |
| B.S.W      | 1    | B           | 4.4     | 5.4  | 0.1       | 0.1  |                                         |

**ERECTOR NOTE**  
ONLY USE DRAWINGS ISSUED  
"FOR ERECTION" TO ERECT BUILDING

APPROVAL/REVIEWING AUTHORITY: PLEASE REVIEW APPROVAL DRAWINGS CAREFULLY

UNLESS NOTED OTHERWISE, IT WILL BE ASSUMED THAT ALL INFORMATION SHOWN ON THESE DRAWINGS HAS THE AFFIRMATION OF THE APPROVAL/REVIEW AUTHORITY FAILURE TO RESPOND TO CLOUDED AREAS AND AREAS TO VERIFY MAY RESULT IN ADDITIONAL COSTS AND/OR SCHEDULE DELAYS FOR WHICH WHIRLWIND WILL NOT BE RESPONSIBLE. FIELD VERIFY ALL EXISTING CONDITIONS PRIOR TO FABRICATION. ALL SUBSEQUENT CHANGES AFTER THE FIRST SUBMITTAL WILL BE CONSIDERED AS CONTRACTUAL CHANGES.

|                                                                                                                                                                         |     |          |              |    |       |                       |          |                       |                       |                       |                       |                       |                       |                       |                       |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|----------|--------------|----|-------|-----------------------|----------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
|  <b>WHIRLWIND STEEL BUILDINGS</b>                                                  | REV | DATE     | DESCRIPTION  | BY | CHECK | ISSUED                | BY       | DATE                  | DESCRIPTION           | BY                    | CHECK                 | ISSUED                | BY                    | DATE                  | DESCRIPTION           |
|                                                                                                                                                                         | P   | 11.24.10 | FOR APPROVAL | AM | JM    | ANCHOR BOLT REACTIONS | CUSTOMER | ANCHOR BOLT REACTIONS | ANCHOR BOLT REACTIONS | ANCHOR BOLT REACTIONS | ANCHOR BOLT REACTIONS | ANCHOR BOLT REACTIONS | ANCHOR BOLT REACTIONS | ANCHOR BOLT REACTIONS | ANCHOR BOLT REACTIONS |
| WHIRLWIND STEEL BUILDINGS, INC. 10000 W. 10TH AVE. SUITE 100, ARDENHURST, IL 60459-3000<br>PHONE: (708) 255-0000 FAX: (708) 255-0001<br>WWW.WHIRLWINDSTEELBUILDINGS.COM |     |          |              |    |       |                       |          |                       |                       |                       |                       |                       |                       |                       |                       |

|   |          |            |     |    |                                             |                   |
|---|----------|------------|-----|----|---------------------------------------------|-------------------|
| 0 | 02/14/11 | FOR PERMIT | MUS | SO | INTERMOUNT CONTRACTORS, INC.                | HOUSTON, TX 77002 |
|   |          |            |     |    | ATTENTION: TOMBALL CENTRAL FIRE STATION ADD |                   |
|   |          |            |     |    | JOB#FE                                      | COUNTY: HARRIS    |
|   |          |            |     |    | TOMBALL, TX - 77375                         |                   |

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### Basic Load Cases

|   | BLC Description | Category | X Gra... | Y Gra... | Z Grav... | Joint | Point | Distrib... | Area (... Surfac... |
|---|-----------------|----------|----------|----------|-----------|-------|-------|------------|---------------------|
| 1 | Dead            | DL       |          |          |           | 1     |       | 4          |                     |
| 2 | Rll             | RLL      |          |          |           | 1     |       |            |                     |
| 3 | Wind            | WL       |          |          |           | 1     |       |            |                     |

### Load Combinations

|   | Description | Sol... | PD... | SR... | BLC | Factor | BLC | Factor | BLC | Factor | BLC | Factor | BLC | Factor | BLC | Factor | BLC | Factor | BLC | Factor |
|---|-------------|--------|-------|-------|-----|--------|-----|--------|-----|--------|-----|--------|-----|--------|-----|--------|-----|--------|-----|--------|
| 1 | TOTAL       | Yes    |       |       | DL  | 1      | RLL | 1      | WL  | 1      |     |        |     |        |     |        |     |        |     |        |
| 2 | SUSTAINED   | Yes    |       |       | DL  | 1      | RLL |        |     |        |     |        |     |        |     |        |     |        |     |        |

### Member Distributed Loads (BLC 1 : Dead)

|   | Member Label | Direction | Start Magnitude[k/ft,... | End Magnitude[k/ft,d... | Start Location[ft,%] | End Location[ft,%] |
|---|--------------|-----------|--------------------------|-------------------------|----------------------|--------------------|
| 1 | M1           | Y         | -.14                     | -.14                    | 0                    | 0                  |
| 2 | M2           | Y         | -.18                     | -.18                    | 0                    | 0                  |
| 3 | M1           | Y         | -.438                    | -.438                   | 0                    | 0                  |
| 4 | M2           | Y         | -.563                    | -.563                   | 0                    | 0                  |

### Joint Loads and Enforced Displacements (BLC 1 : Dead)

|   | Joint Label | L,D,M | Direction | Magnitude[(k,k-ft), (in,rad), (k*s^2/f... |
|---|-------------|-------|-----------|-------------------------------------------|
| 1 | N3          | L     | Y         | -4                                        |

### Joint Loads and Enforced Displacements (BLC 2 : Rll)

|   | Joint Label | L,D,M | Direction | Magnitude[(k,k-ft), (in,rad), (k*s^2/f... |
|---|-------------|-------|-----------|-------------------------------------------|
| 1 | N3          | L     | Y         | -3.8                                      |

### Joint Loads and Enforced Displacements (BLC 3 : Wind)

|   | Joint Label | L,D,M | Direction | Magnitude[(k,k-ft), (in,rad), (k*s^2/f... |
|---|-------------|-------|-----------|-------------------------------------------|
| 1 | N3          | L     | Y         | -14.6                                     |

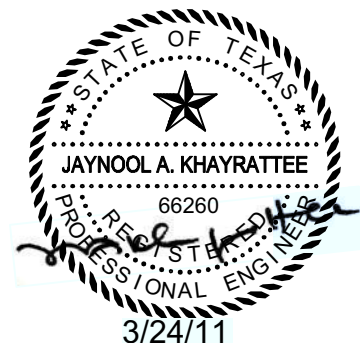
### Envelope Joint Reactions

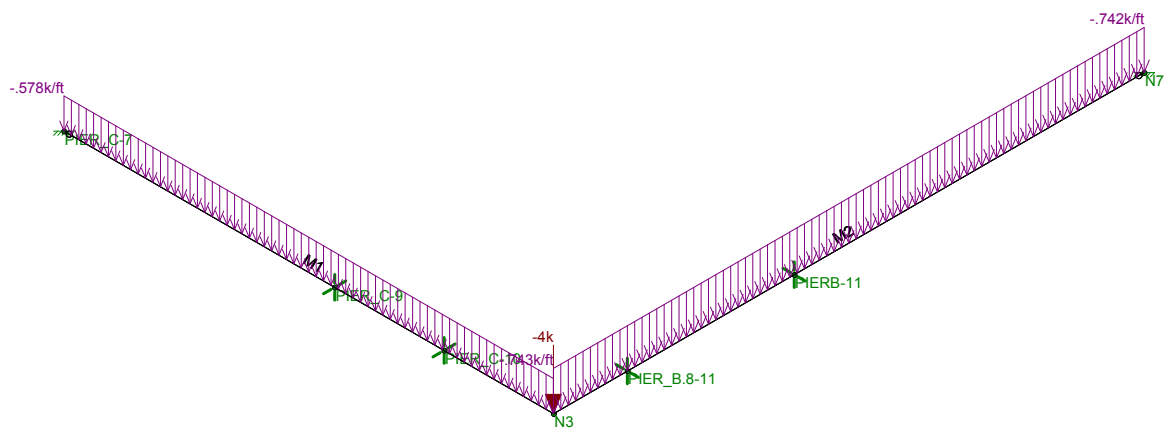
|   | Joint           | X [k] | LC | Y [k]  | LC | Z [k] | LC | MX [k-ft] | LC | MY [k-ft] | LC | MZ [k-ft] | LC |
|---|-----------------|-------|----|--------|----|-------|----|-----------|----|-----------|----|-----------|----|
| 1 | PIER C-10 max   | 0     | 1  | 17.126 | 1  | NC    | NC | 0         | 1  | 0         | 1  | 0         | 1  |
| 2 | PIER C-10 min   | 0     | 1  | 6.424  | 2  | NC    | NC | 0         | 1  | 0         | 1  | 0         | 1  |
| 3 | PIER B.8-11 max | NC    | NC | 28.751 | 1  | 0     | 1  | 0         | 1  | 0         | 1  | 0         | 1  |
| 4 | PIER B.8-11 min | NC    | NC | 9.859  | 2  | 0     | 1  | 0         | 1  | 0         | 1  | 0         | 1  |
| 5 | Totals: max     | 0     | 1  | 45.878 | 1  | 0     | 1  |           |    |           |    |           |    |
| 6 | Totals: min     | 0     | 1  | 16.283 | 2  | 0     | 1  |           |    |           |    |           |    |

Qtotal\_allow = 6000 psf  
 Qsust\_allow = 4000 psf

qtotal = 17.126 k / 3.14 ft^2 = 5.45 ksf (ok)  
 qsust = 6.424 k / 3.14 ft^2 = 2.05 ksf (ok)

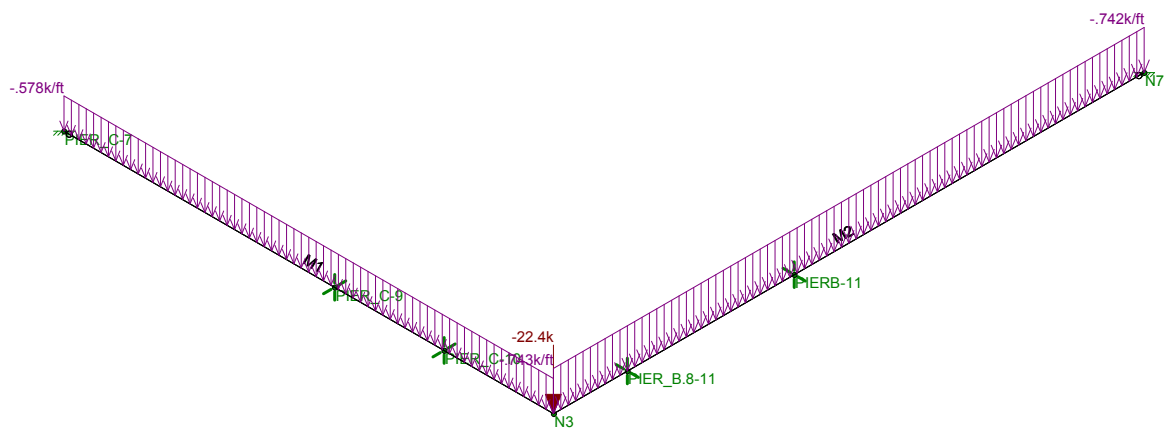
Matrix Structural Engineers  
 TBPE Firm Registration No. F-2640





Loads: LC 2, SUSTAINED  
Solution: Envelope

|                             |                                               |                                    |
|-----------------------------|-----------------------------------------------|------------------------------------|
| Matrix Structural Engineers | Tomball FS Pier Diameter<br>SUSTAINED Loading | SK - 1                             |
| NW                          |                                               | Mar 24, 2011 at 12:41 PM           |
| MSE 08136                   |                                               | Pier C10 check (Calc for city).r3d |

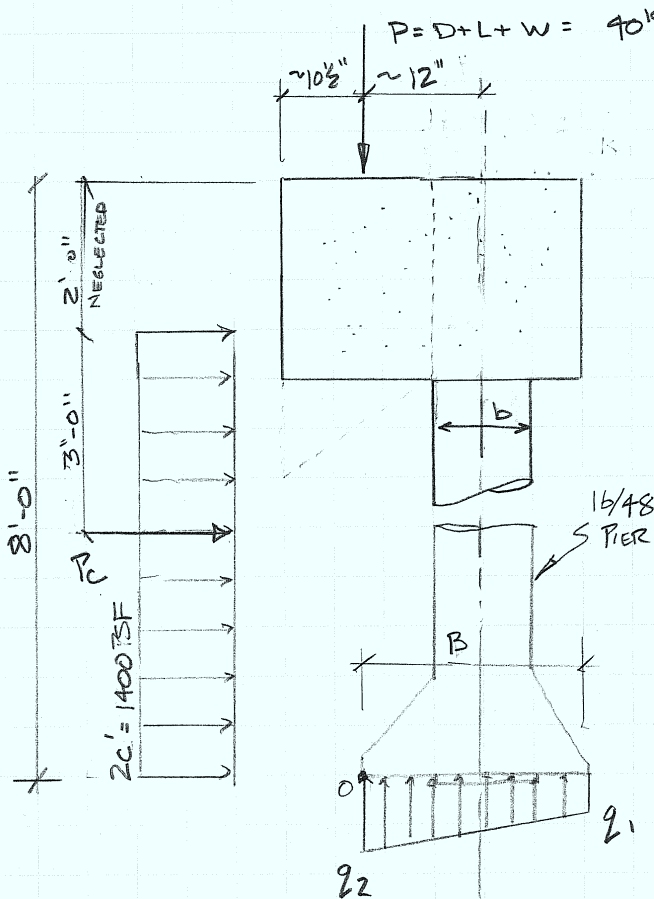


Loads: LC 1, TOTAL  
Solution: Envelope

|                             |                                           |                                    |
|-----------------------------|-------------------------------------------|------------------------------------|
| Matrix Structural Engineers | Tomball FS Pier Diameter<br>TOTAL Loading | SK - 2                             |
| NW                          |                                           | Mar 24, 2011 at 12:42 PM           |
| MSE 08136                   |                                           | Pier C10 check (Calc for city).r3d |

**LOAD ECCENTRIC TO PIER**

| SOIL PROPERTIES                       |  |
|---------------------------------------|--|
| $Q_{\text{SUST}} = 4000 \text{ PSF}$  |  |
| $Q_{\text{TOTAL}} = 6000 \text{ PSF}$ |  |
| $C = 1400 \text{ PSF}$                |  |
| SEE SOILS REPORT                      |  |



FORCE ON PIER:  
SUSTAINED:  $P = 11 \text{ k}$ ,  $M = 11 \text{ k}\cdot\text{ft}$   
TOTAL:  $P = 40 \text{ k}$ ,  $M = 40 \text{ k}\cdot\text{ft}$

RESISTING MOMENT FROM AVAILABLE LATERAL EARTH PRESSURE:

$$M_r = P_c \cdot \frac{b}{2} = 3P_c$$

WHERE  $P_c = 2c \cdot 6' \cdot 1.33' \text{ (16" } \phi \text{ SHAFT PROJECTED)}$

$$M_r = 33,516 \text{ lb}\cdot\text{ft} = 33.5 \text{ k}\cdot\text{ft}$$

**TOTAL LOADS**

NET MOMENT RESISTED BY BASE:

$$M_n = M_o - M_r = 40 \text{ k}\cdot\text{ft} - 33.5 \text{ k}\cdot\text{ft} = 6.5 \text{ k}\cdot\text{ft}$$

DISTRIBUTION OF BASE PRESSURE:

$$q_1 = \frac{4P}{\pi B^2} - \frac{32 M_n}{\pi B^3} = 3.18 \text{ ksf} - 1.04 \text{ ksf} = 2.18 \text{ ksf} \checkmark$$

$$q_2 = \frac{4P}{\pi B^2} + \frac{32 M_n}{\pi B^3} = 4.22 \text{ ksf} \checkmark$$

**ASSUMPTIONS:**

1. WEIGHT OF GRADE BEAM SUPPORTED BY UNDERLYING SOIL (PER GEOTECH REPORT). TORSION DOES NOT EXIST FOR GR. BM WEIGHT. TORSION IS ONLY @ COLUMN LOADS.

2. HORIZONTAL FORCE (DUE TO WIND) @ COLUMN BASE IS RESISTED BY SLAB, WHICH DISTRIBUTES FORCE TO ENTIRE FOUNDATION AND IS NEGLIBLE @ INDIVIDUAL PIERS

3. LATERAL PASSIVE PRESSURE NEGLECTED. THIS IS A CONSERVATIVE MEASURE.

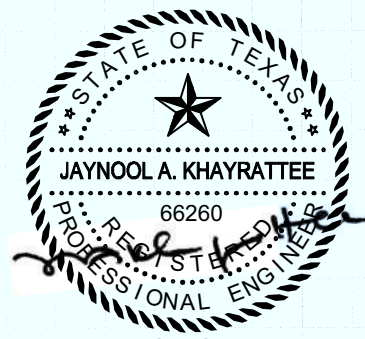
**SUSTAINED LOAD**

NET MOMENT RESISTED BY BASE:

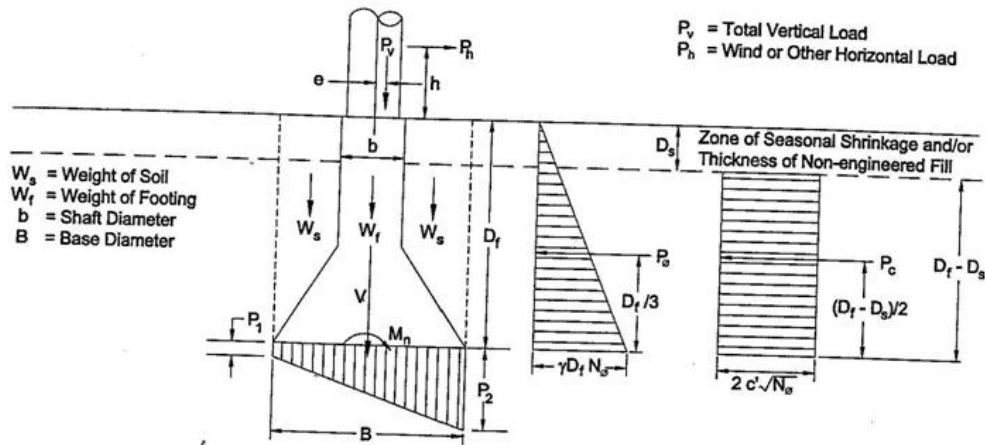
$$M_n = M_o - M_r = 11 \text{ k}\cdot\text{ft} - 33.5 \text{ k}\cdot\text{ft} < 0$$

$\therefore$  LATERAL FORCE COMPLETELY RESISTED BY COHESION OF SOIL

Matrix Structural Engineers  
TBPE Firm Registration No. F-2640



3/24/11



1. Applied Vertical Load:  
 $V = P_v + W_f + W_s$

2. Applied Overturning Moment:  
 $M_o = P_h (h + D_f)$

3. Maximum Available Resisting Moment from lateral Earth Pressure:  
 $M_r = P_o (D_f / 3) + P_o [(D_f - D_s) / 2]$ , where  $M_r$  cannot be greater than  $M_o$

4. Net Moment Resisted by Base:  
 $M_n = M_o - M_r$

5. Bearing Pressures:  
 $P_1 = (4V / \pi B^2) - (32 M_n / \pi B^3)$   
 $P_2 = (4V / \pi B^2) + (32 M_n / \pi B^3)$

$$P_o = (\gamma / 2) (D_f)^2 b N_o$$

$\gamma$  = Effective Unit Weight of Soil  
 $N_o = \tan^2(45 + \phi / 2)$   
 $\phi$  = Angle of Internal Friction of Soil

$$P_o = 2 c' (D_f - D_s) b \sqrt{N_o}$$

$c' = c / F.S.$

$c$  = Cohesion of Soil  
 $F.S.$  = Factor of Safety (2.0, unless otherwise specified)

6. Maximum Bearing Pressure,  $P_2$ , should not exceed Allowable Gross Bearing Pressure, for sustained loads, and should not exceed 1.15 times the Allowable Gross Bearing Pressure for transient wind loads;

MATRIX

STRUCTURAL

ENGINEERS

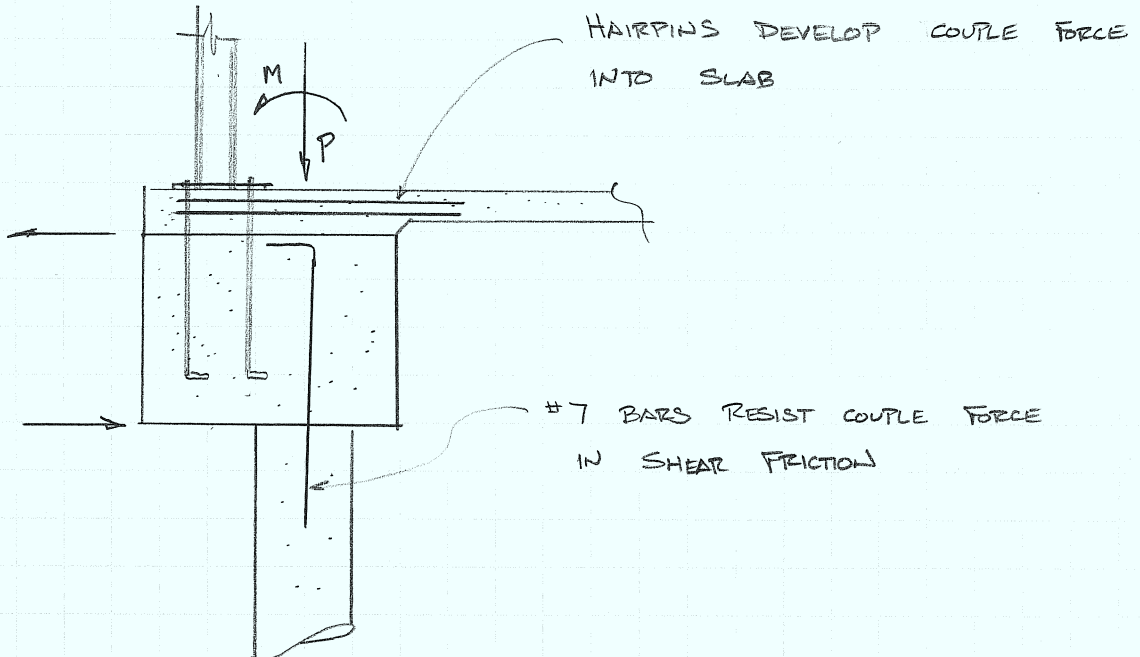
CLIENT: JOINER PARTNERSHIP, INC

JOB NAME: TOMBALL FS

JOB NO. MSE08136.02 DATE: 3/29/11

ENGINEER: NW/SK SHEET NO.: \_\_\_\_\_

### CONCEPT OF REINFORCING DESIGN



# E N G I N E E R S

ENGINEER: NW/JK SHEET NO.: 1/1

EXIST. PIER

1'-0"  
EA. DIRECTION



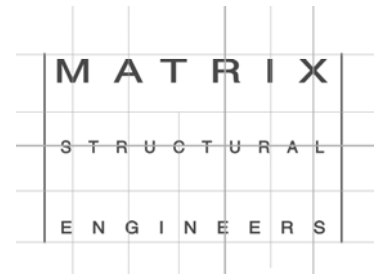
# HIT-HY 150 MAX Adhesive Anchoring System 4.2.4

## HIT-HY 150 MAX Ultimate Bond Strength and Steel Strength for Rebar in Concrete

| Nominal Rebar Size | Embed. Depth in. (mm) | Concrete Compressive Strength  |                                                        |                                                          |                                |                                                        |                                                          | Grade 60 Rebar         |                          |
|--------------------|-----------------------|--------------------------------|--------------------------------------------------------|----------------------------------------------------------|--------------------------------|--------------------------------------------------------|----------------------------------------------------------|------------------------|--------------------------|
|                    |                       | f'c = 2000 psi                 |                                                        |                                                          | f'c = 4000 psi                 |                                                        |                                                          |                        |                          |
|                    |                       | Ultimate Bond Strength lb (kN) | Embed. to Develop Yield Strength <sup>1</sup> in. (mm) | Embed. to Develop Tensile Strength <sup>1</sup> in. (mm) | Ultimate Bond Strength lb (kN) | Embed. to Develop Yield Strength <sup>1</sup> in. (mm) | Embed. to Develop Tensile Strength <sup>1</sup> in. (mm) | Yield Strength lb (kN) | Tensile Strength lb (kN) |
| #3                 | 3-3/8 (86)            | 8100 (36.0)                    | 3-3/8 (86)                                             | 5 (127)                                                  | 8240 (36.7)                    | 3-3/8 (86)                                             | 4 (102)                                                  | 6600 (29.4)            | 9900 (44.0)              |
|                    | 4-1/2 (114)           | 8700 (38.7)                    |                                                        |                                                          | 11380 (50.6)                   |                                                        |                                                          |                        |                          |
| #4                 | 4-1/2 (114)           | 13840 (61.6)                   | 4-1/2 (114)                                            | 5-7/8 (149)                                              | 14840 (66.0)                   | 4-1/2 (114)                                            | 5 3/8 (137)                                              | 12000 (53.4)           | 18000 (80.1)             |
|                    | 6 (152)               | 18800 (83.6)                   |                                                        |                                                          | 20620 (91.7)                   |                                                        |                                                          |                        |                          |
| #5                 | 5-5/8 (143)           | 20200 (89.9)                   | 5-5/8 (143)                                            | 7-3/8 (187)                                              | 25060 (111.5)                  | 5-5/8 (143)                                            | 6 3/4 (172)                                              | 18600 (82.7)           | 27900 (124.1)            |
|                    | 7-1/2 (190)           | 28600 (127.2)                  |                                                        |                                                          | 29900 (133.0)                  |                                                        |                                                          |                        |                          |
| #6                 | 6-3/4 (172)           | 27080 (120.5)                  | 6-3/4 (172)                                            | 10 (254)                                                 | 27080 (120.5)                  | 6-3/4 (172)                                            | 8 1/2 (216)                                              | 26400 (117.4)          | 39600 (176.2)            |
|                    | 9 (229)               | 36680 (163.2)                  |                                                        |                                                          | 43820 (194.9)                  |                                                        |                                                          |                        |                          |
| #7                 | 7-7/8 (200)           | 36200 (161.0)                  | 7-7/8 (200)                                            | 11-5/8 (295)                                             | 40360 (179.5)                  | 7-7/8 (200)                                            | 10 (254)                                                 | 36000 (160.1)          | 54000 (240.2)            |
|                    | 10-1/2 (267)          | 49940 (222.1)                  |                                                        |                                                          | 57760 (256.9)                  |                                                        |                                                          |                        |                          |
| #8                 | 9 (229)               | 45860 (204.0)                  | 9-3/8 (238)                                            | 13-3/8 (340)                                             | 58860 (261.8)                  | 9 (229)                                                | 11 1/2 (292)                                             | 47450 (211.1)          | 71100 (316.3)            |
|                    | 12 (305)              | 66680 (296.6)                  |                                                        |                                                          | 73800 (328.3)                  |                                                        |                                                          |                        |                          |
| #9                 | 10-1/8 (257)          | 54660 (243.1)                  | 10-3/4 (273)                                           | 15 (381)                                                 | 68580 (305.1)                  | 10-1/8 (257)                                           | 14 3/8 (365)                                             | 60000 (266.9)          | 90000 (400.3)            |
|                    | 13-1/2 (343)          | 88000 (391.4)                  |                                                        |                                                          | 88000 (391.4)                  |                                                        |                                                          |                        |                          |
| #10                | 11-1/4 (286)          | 68200 (303.4)                  | 12-1/4 (311)                                           | 16-7/8 (429)                                             | 80520 (358.2)                  | 11-1/4 (286)                                           | 15 (381)                                                 | 76200 (339.0)          | 114300 (508.4)           |
|                    | 15 (381)              | 101720 (452.5)                 |                                                        |                                                          | 115160 (512.3)                 |                                                        |                                                          |                        |                          |

<sup>1</sup> Based on comparison of average ultimate adhesive bond test values or ultimate bond stress calculated strength values versus ultimate tensile strength of rebar. For more information, contact Hilti.

# FIELD REPORT



■ **Project:** City of Tomball Fire Station Addition  
■ **Address:** Tomball, Texas  
■ **Client:** Joiner Partnership, Inc.  
■ **Date:** 3/28/11  
■ **Present:** Nick Worley (Matrix Structural Engineers)  
Ricardo Martinez (Joiner Partnership, Inc.)

## ■ Observations:

1. The #4 bar dowels, as mentioned in Mr. Conger's Letter (dated March 24, 2011), are installed. Reference picture below.
2. Installation of hairpins, as detailed on the plans, appears to be in process at the time of the visit as not all column locations have hairpins. G.C. shall complete hairpin installation prior to concrete placement.
3. G.C. to ensure all slab chairs are in place and upright prior to concrete placement.

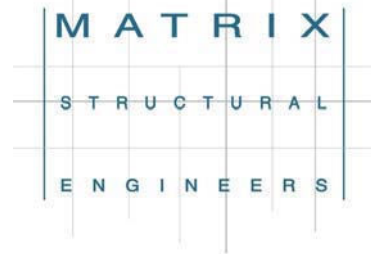


Nick Worley, P.E.

A handwritten signature of Nick Worley in black ink on a light blue background.

**MATRIX STRUCTURAL ENGINEERS**

24 GREENWAY PLAZA  
SUITE 1508  
HOUSTON, TEXAS 77046-2401  
713.664.0130  
FAX 713.664.1370  
[www.matrixstructural.com](http://www.matrixstructural.com)



March 3, 2011

City of Tomball  
501 James St.  
Tomball, Texas 77375

Attention: David Allen, Chief Building Official

Re: Tomball Fire Station Addition  
MSE Project No.: 08136

Dear David:

The purpose of this letter is to state that special inspection has been provided for the following items:

1. Pier drilling and installation.

This special inspection was performed by Paradigm Consultants, Inc., an approved testing laboratory. Based upon the reports provided by the testing lab we believe that the work was performed in general conformance with the approved construction documents with the following exceptions:

1. Piers mis-located on plan.

Please find attached a detail that shall be applied to all mis-located piers to rectify the "exceptions" listed above.

Please also find attached the testing lab's data for the existing pier installations.

Should you require any additional information, please call.

Very truly yours,  
MATRIX STRUCTURAL ENGINEERS (TBPE FIRM NO, F-2640)

Matrix Structural Engineers  
TBPE Firm Registration No. F-2640

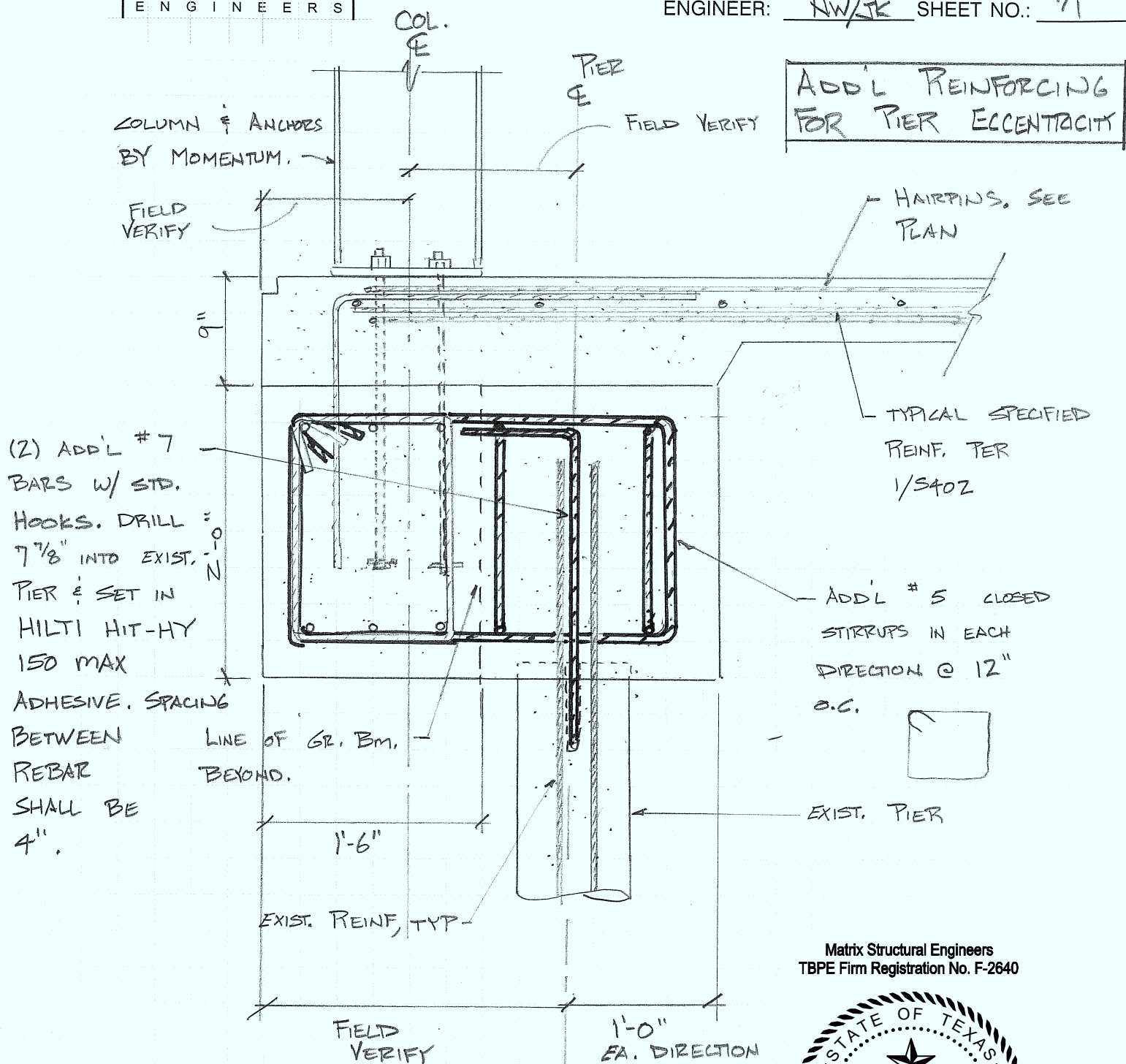
Jay Khayrattee, P.E.  
Principal

JK:jf

attch: (1) Drilled and Underreamed Piers  
(2) Additional Reinforcing for Pier Eccentricity



24 GREENWAY PLAZA  
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HOUSTON, TEXAS 77046-2401  
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FAX 713.664.1370  
[www.matrixstructural.com](http://www.matrixstructural.com)



Matrix Structural Engineers  
TBPE Firm Registration No. F-2640





## DRILLED-AND-UNDERREAMED PIERS

**Project:** Tomball Fire Station 1  
**Client:** Momentum Contractors

**Project No:** 11-2003  
**Report No:** 007 02/16/2011  
**Date Sampled:** 02/14/2011  
**Page 1 of 2**

A representative of Paradigm Consultants, Inc. monitored installation of the drilled-and-underreamed piers to determine compliance with the requirements of the project plans and specifications. Fourteen piers were constructed on this date. We performed the following:

- Identified predesignated bearing strata when they were encountered in the excavation
- Made measurements of underream and shaft diameter, depth, and plumbness
- Determined if the excavation was clean and free from excess water immediately before concrete placement
- Observed concrete and reinforcing steel placement (concrete characteristics and compressive strength will be reported separately)
- Noted and advised the geotechnical engineer or owner's representative of any nonconformance of the completed pier with the intent of the project plans and specifications
- Maintained a log of pier construction work (attached to this report)
- Recorded remedial measures taken and changes made in good construction practice

Pier 10/C was belled at 24 in. in lieu of 36 in. due to rock. The piers were clean and dry prior to concrete and reinforcing steel placement. On the basis of our monitoring of the drilled-and-underreamed piers, it is our opinion that the piers were constructed in general accordance with the project plans and specifications. If you have any questions concerning this report, please call our office.

Orig: Momentum Contractors Attn: Fred Allen (1-ec copy)

**Technician:** Andualem Kidane  
**Project Manager:** Knox, Nicholas

A handwritten signature in blue ink, appearing to read "Frank Ong", written over a horizontal line.  
Frank S. Ong, P.E.



## DRILLED-AND-UNDERREAMED PIERS

**Project:** Tomball Fire Station 1  
**Client:** Momentum Contractors

**Project No:** 11-2003  
**Report No:** 007 02/16/2011  
**Date Sampled:** 02/14/2011  
**Page 2 of 2**

| Pier Designation | Shaft/Underream Diameter, in. |         | Depth, ft. |        | Soil Description             | Rebar Size & Spacing Meet Specification (Y/N) |
|------------------|-------------------------------|---------|------------|--------|------------------------------|-----------------------------------------------|
|                  | Design                        | Actual  | Design     | Actual |                              |                                               |
| 4/A              | 12/36                         | 13/36.5 | 8.00       | 8.33   | Gray and tan sandy lean clay | Yes                                           |
| 6/A              | 12/36                         | 13/36.5 | 8.00       | 8.58   | Gray and tan sandy lean clay | Yes                                           |
| 8/A              | 12/36                         | 13/36.5 | 8.00       | 8.25   | Gray and tan sandy lean clay | Yes                                           |
| 10/C             | 12/36                         | 13/24   | 8.00       | 8.67   | Gray and tan sandy lean clay | Yes                                           |
| 9/C              | 12/36                         | 13/36.5 | 8.00       | 8.42   | Gray and tan sandy lean clay | Yes                                           |
| 7/C              | 12/36                         | 13/36.5 | 8.00       | 8.5    | Gray and tan sandy lean clay | Yes                                           |
| 5/C              | 12/36                         | 13/36.5 | 8.00       | 9      | Gray and tan sandy lean clay | Yes                                           |
| 3/C              | 12/36                         | 13/36.5 | 8.00       | 9      | Gray and tan sandy lean clay | Yes                                           |
| 11/B             | 16/48                         | 16/49   | 8.00       | 8.33   | Gray and tan sandy lean clay | Yes                                           |
| 11/A             | 16/48                         | 16/49   | 8.00       | 8.25   | Gray and tan sandy lean clay | Yes                                           |
| 1/A              | 16/48                         | 16/49   | 8.00       | 9      | Gray and tan sandy lean clay | Yes                                           |
| 1/B              | 16/48                         | 16/49   | 8.00       | 9.25   | Gray and tan sandy lean clay | Yes                                           |
| 1/C              | 18/54                         | 18/54   | 8.00       | 8.25   | Gray and tan sandy lean clay | Yes                                           |
| 11/C-4'6"        | 18/54                         | 18/54   | 8.00       | 8.42   | Gray and tan sandy lean clay | Yes                                           |

Remarks: Design and actual depths referenced from natural ground.

Orig: Momentum Contractors Attn: Fred Allen (1-ec copy)

**Technician:** Andualem Kidane  
**Project Manager:** Knox, Nicholas

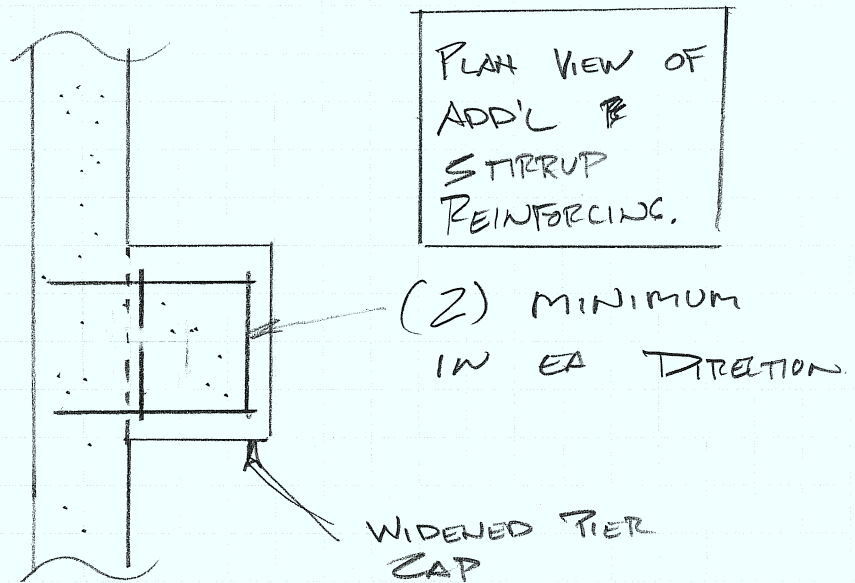


CLIENT: \_\_\_\_\_

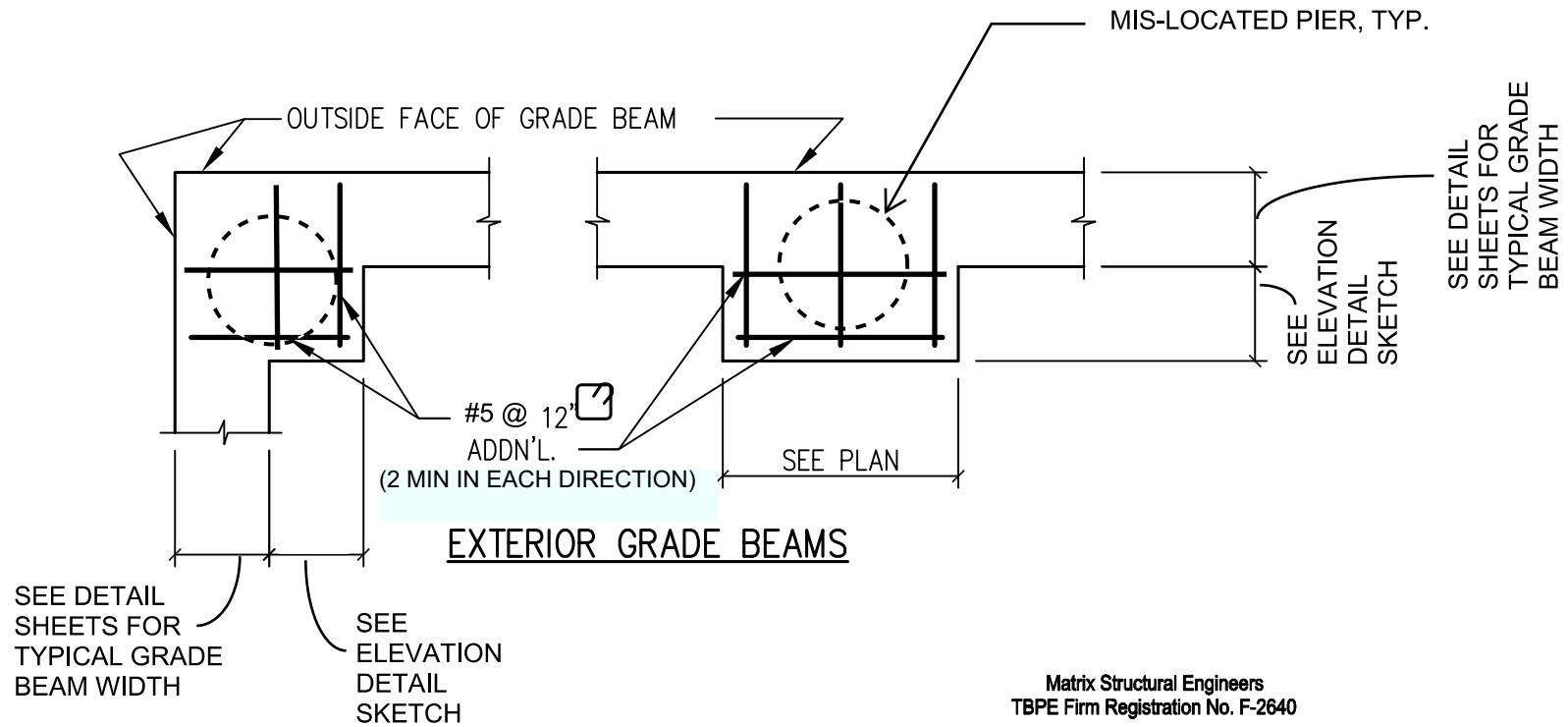
JOB NAME: \_\_\_\_\_

JOB NO. \_\_\_\_\_ DATE: \_\_\_\_\_

ENGINEER: \_\_\_\_\_ SHEET NO.: \_\_\_\_\_



PLAN VIEW

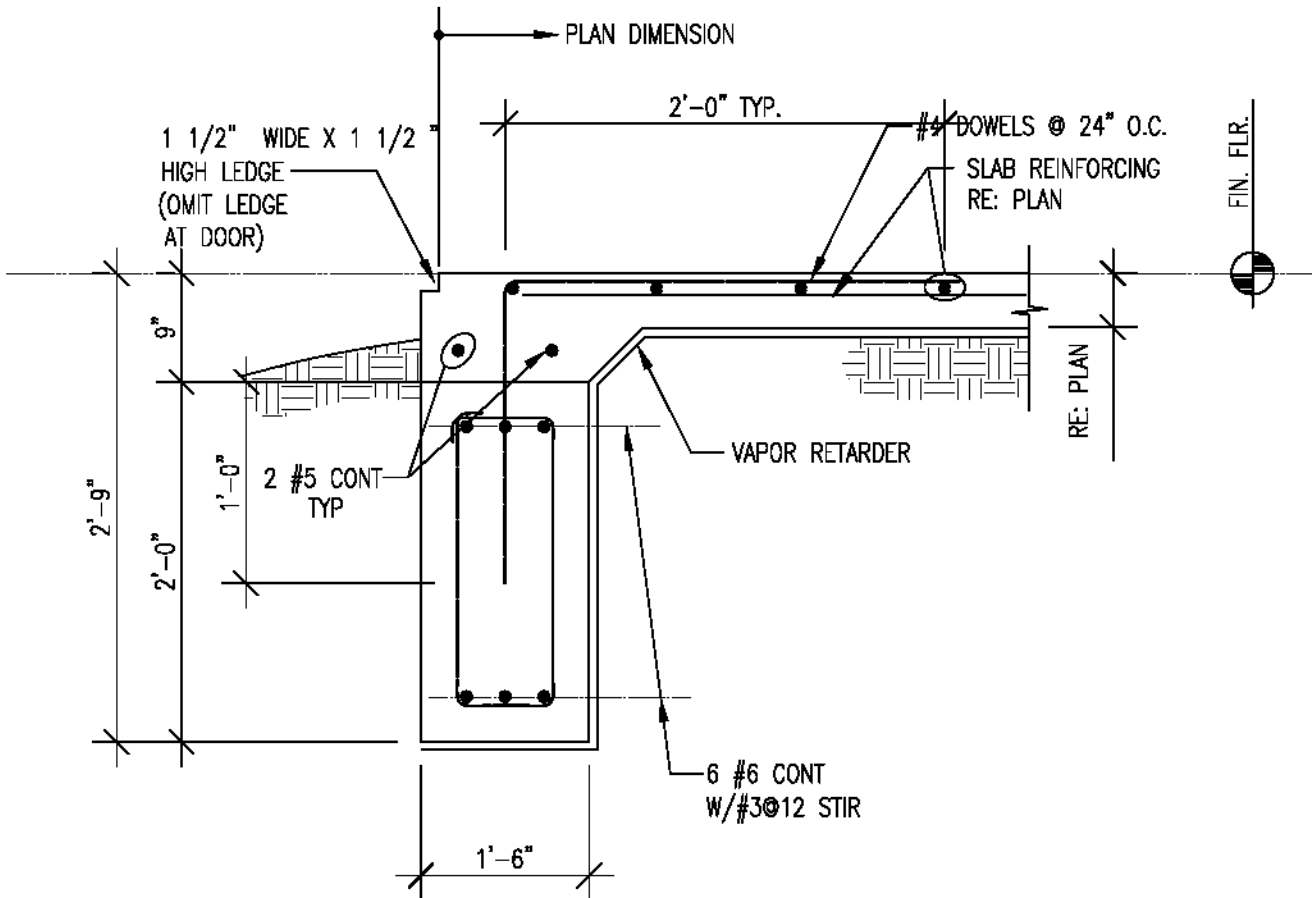


Matrix Structural Engineers  
TBPE Firm Registration No. F-2640

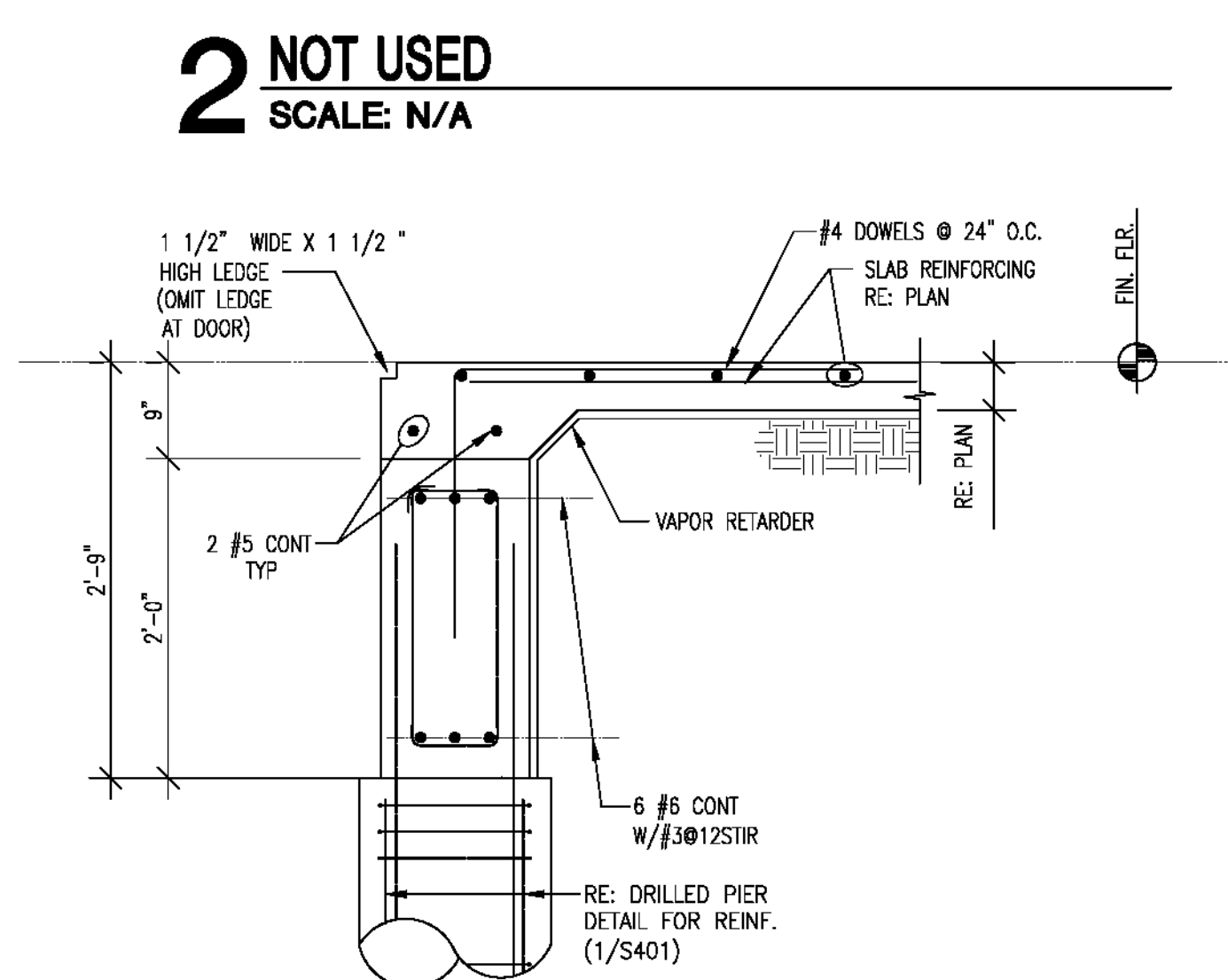


3/4/2011

## **TOMBALL FIRE STATION ADDITION** **PLAN VIEW OF WIDENED BEAM AT MIS-LOCATED PIERS**

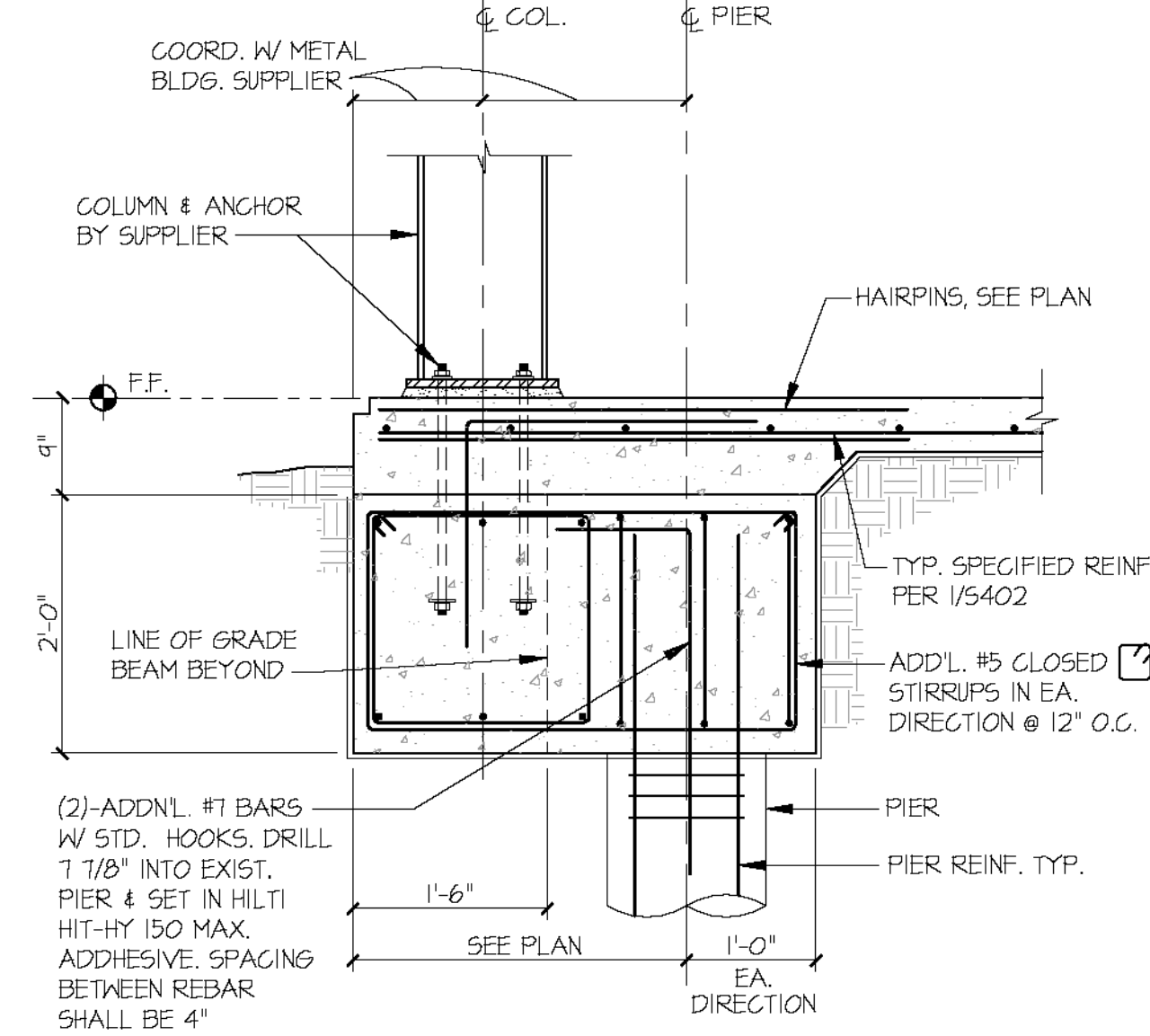


**1 SECTION**  
SCALE: 3/4" = 1'-0"

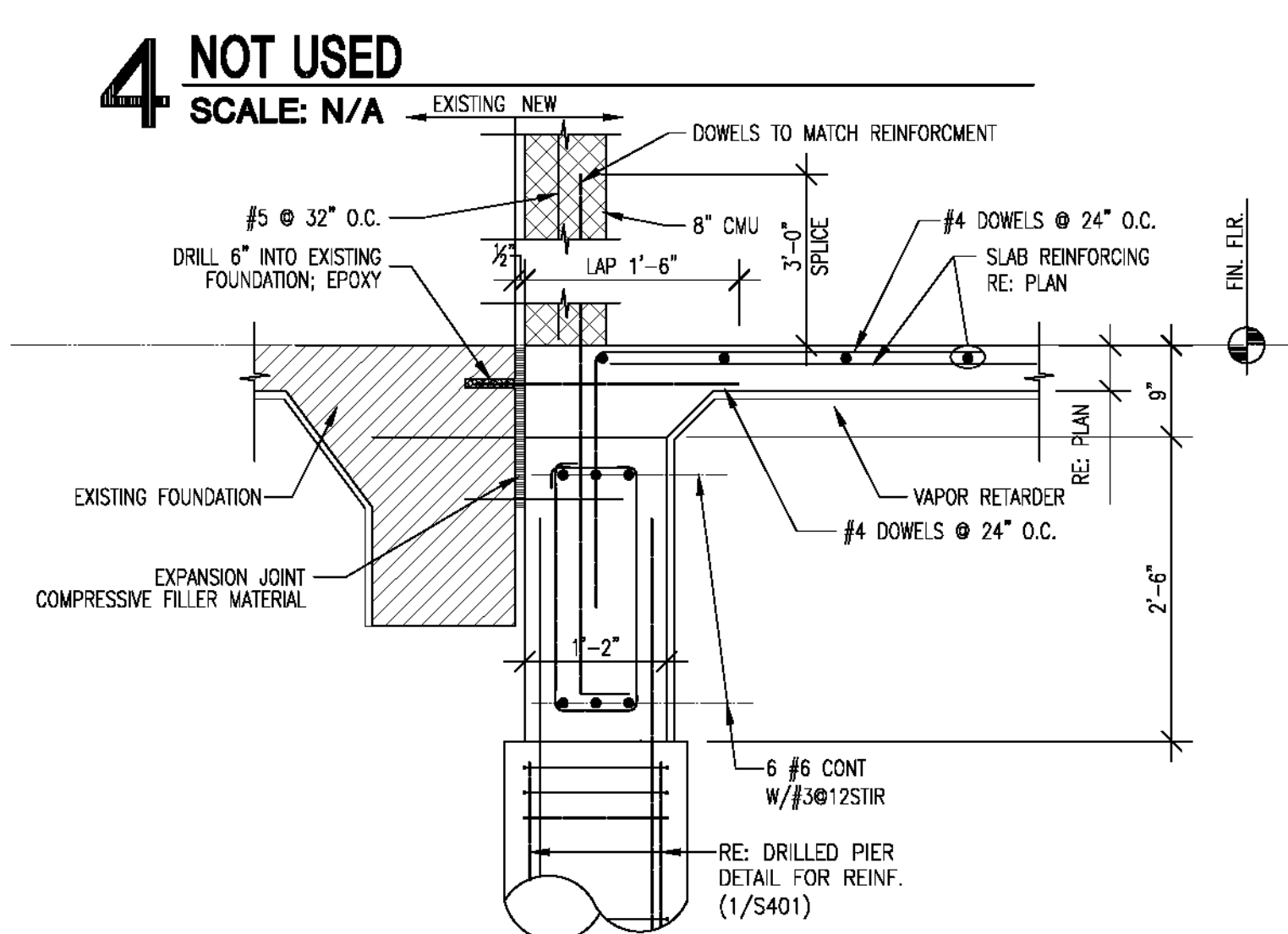


**2 NOT USED**  
SCALE: N/A

**3 NOT USED**  
SCALE: N/A



**7 SECTION**  
SCALE: 3/4" = 1'-0"



**4 NOT USED**  
SCALE: N/A

**8 SECTION**  
SCALE: 3/4" = 1'-0"

**5 NOT USED**  
SCALE: N/A

| BAR SIZE | f'c=3000 psi | f'c=4000 psi | f'c=5000 psi |
|----------|--------------|--------------|--------------|
| #3       | 6"           | 6"           | 6"           |
| #4       | 8"           | 7"           | 6"           |
| #5       | 10"          | 9"           | 8"           |
| #6       | 1'-0"        | 10"          | 9"           |
| #7       | 1'-2"        | 1'-0"        | 11"          |
| #8       | 1'-4"        | 1'-2"        | 1'-0"        |
| #9       | 1'-6"        | 1'-3"        | 1'-2"        |
| #10      | 1'-8"        | 1'-5"        | 1'-4"        |
| #11      | 1'-10"       | 1'-7"        | 1'-5"        |

| BAR SIZE | f'c=3000 psi |             | f'c=4000 psi |             | f'c=5000 psi |             |
|----------|--------------|-------------|--------------|-------------|--------------|-------------|
|          | 1/4" TOP     | 1/4" BOTTOM | 1/4" TOP     | 1/4" BOTTOM | 1/4" TOP     | 1/4" BOTTOM |
| #3       | 1'-1"        | 1'-0"       | 1'-1"        | 1'-0"       | 1'-1"        | 1'-0"       |
| #4       | 1'-5"        | 1'-0"       | 1'-5"        | 1'-0"       | 1'-5"        | 1'-0"       |
| #5       | 1'-9"        | 1'-3"       | 1'-9"        | 1'-3"       | 1'-9"        | 1'-3"       |
| #6       | 2'-3"        | 1'-7"       | 2'-1"        | 1'-6"       | 2'-1"        | 1'-6"       |
| #7       | 3'-1"        | 2'-2"       | 2'-8"        | 1'-11"      | 2'-5"        | 1'-9"       |
| #8       | 4'-0"        | 2'-11"      | 3'-6"        | 2'-6"       | 3'-2"        | 2'-3"       |
| #9       | 5'-1"        | 3'-8"       | 4'-5"        | 3'-2"       | 4'-0"        | 2'-10"      |
| #10      | 6'-6"        | 4'-8"       | 5'-7"        | 4'-0"       | 5'-0"        | 3'-7"       |
| #11      | 8'-0"        | 5'-8"       | 6'-11"       | 4'-11"      | 6'-2"        | 4'-5"       |

| BAR SIZE | f'c=3000 psi |        | f'c=4000 psi |        | f'c=5000 psi |        |
|----------|--------------|--------|--------------|--------|--------------|--------|
|          | A            | B      | A            | B      | A            | B      |
| #3       | 1'-1"        | 1'-4"  | 1'-1"        | 1'-4"  | 1'-1"        | 1'-4"  |
| #4       | 1'-1"        | 1'-10" | 1'-5"        | 1'-10" | 1'-5"        | 1'-10" |
| #5       | 1'-9"        | 2'-3"  | 1'-9"        | 2'-3"  | 1'-9"        | 2'-3"  |
| #6       | 2'-3"        | 2'-11" | 2'-1"        | 2'-9"  | 2'-1"        | 2'-9"  |
| #7       | 3'-1"        | 4'-0"  | 2'-8"        | 3'-5"  | 2'-5"        | 3'-2"  |
| #8       | 4'-0"        | 5'-3"  | 3'-6"        | 4'-7"  | 3'-2"        | 4'-1"  |
| #9       | 5'-1"        | 6'-8"  | 4'-5"        | 5'-9"  | 4'-0"        | 5'-2"  |
| #10      | 6'-6"        | 8'-5"  | 5'-7"        | 7'-4"  | 5'-0"        | 6'-6"  |
| #11      | 8'-0"        | 10'-4" | 6'-11"       | 9'-0"  | 6'-2"        | 8'-0"  |

NOTE: LAP SPICE FOR OTHER BARS CAN BE COMPUTED BY DIVIDING LAP SPICE LENGTH FOR TOP BARS BY 1.4. (MIN LENGTH SHALL BE 1'-4")

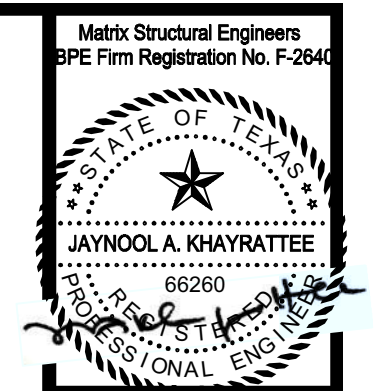
**9 BASIC TENSION DEV. LENGTH FOR HOOK BARS**

**10 REINFORCING SCHEDULE FOR STRAIGHT BARS**

**11 TENSION LAP SPLICES FOR STRAIGHT BARS**

**12 NOT USED**  
SCALE: N/A

**13 NOT USED**  
SCALE: N/A



|                       |         |         |
|-----------------------|---------|---------|
| ISSUED FOR PERMITTING | 8/23/10 | 3/14/11 |
|                       |         |         |
|                       |         |         |
|                       |         |         |
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|                       |         |         |

**Tomball Central Fire Station Addition**  
Tomball Fire Department  
Tomball, Texas

**JP inc. Joiner Partnership, Inc.**  
Architects • Planners • Interior Designers  
Two Kingwood Place, Suite 265 Kingwood, Texas 77339

|             |         |
|-------------|---------|
| DATE        | 8/23/10 |
| PROJECT NO. | 08011   |
| <b>S</b>    |         |
| <b>402</b>  |         |

# Regular City Council

## Agenda Item

Meeting Date: April 4, 2011

## Data Sheet

### Topic:

Consideration and Possible Action to Endorse HB2255, Relating to the Authority of the Texas Department of Transportation to Enter into Comprehensive Development Agreements for Certain Projects, including the Grand Parkway and State Highway 249 Projects in Harris and Montgomery Counties from Spring Cypress Road to Farm-to-Market Road 1774 and Authorize the City Manager or his Designee to Write Letters and Provide Additional Communications to Members of the State Legislature.

### Background:

State Representative Larry Phillips from Sherman has filed HB 2255, which proposes a number of road constructions projects be allowed to be developed under a comprehensive development agreement (CDA). The CDA will allow private investment to construct the project as a toll road and recoup the expenditures in the future. HB2255 includes five (5) projects from Dallas, Five (5) projects from Houston, and one (1) project from Grayson County.

Please note that Project #1 is the Grand Parkway project and Project #7 is SH 249 from Spring Cypress to FM 1774. I believe that everyone has heard of the financial problems the State and TxDOT are going through now which means that SH249 will most likely never be constructed from gas tax funds. A potential CDA project will allow the project to be constructed much quicker. I have visited with John Barton, Assistant Executive Director in Engineering Operations with TxDOT and he has advised that TxDOT is looking at the SH249 project.

I would recommend the Council endorse HB2255 and that would allow the city staff to write letters and provide additional communications to the different members of the State Legislature.

Below is a full listing of all the projects in HB2255:

- (1) the State Highway 99 (Grand Parkway) project;
- (2) the Grayson County Tollway project, an extension of the Dallas North Tollway in Grayson County from Farm-to-Market Road 121 to U.S. Highway 75 near Denison;
- (3) the Interstate Highway 35E managed lanes project in Dallas and Denton Counties from Interstate Highway 635 to U.S. Highway 380;
- (4) the North Tarrant Express project in Tarrant and Dallas Counties, including:
  - (A) Interstate Highway 820 and State Highway 121/State Highway 183 from Interstate Highway 35W to State Highway 161;
  - (B) Interstate Highway 820 east from State Highway 121/State Highway 183 to Randol Mill Road; and
  - (C) Interstate Highway 35W from Interstate Highway 30 to State Highway 170;
- (5) the State Highway 183 managed lanes project in Dallas County from State Highway 161 to Interstate Highway 35E;
- (6) the State Highway 288 project in Harris and Brazoria Counties from U.S. Highway 59 to State Highway 99;

(7) the State Highway 249 project in Harris and Montgomery Counties from Spring Cypress Road to Farm-to-Market Road 1774;

(8) the U.S. Highway 290 Hempstead managed lanes project in Harris County from Interstate Highway 610 to State Highway 99; and

(9) the Interstate Highway 10 managed lanes project in Harris and Fort Bend Counties from State Highway 6 to Farm-to-Market Road 1463.

**Origination:**

George Shackelford, City Manager

**Recommendation:**

Endorse HB2255 and Authorize the City Manager or his Designee to Write Letters and Provide Additional Communications to Members of the State Legislature

**Funding:**

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

City Secretary

| ACTION TAKEN                                             |                                                                                   |       |
|----------------------------------------------------------|-----------------------------------------------------------------------------------|-------|
| APPROVAL                                                 | READINGS PASSED                                                                   | OTHER |
| <input type="checkbox"/> YES <input type="checkbox"/> NO | <input type="checkbox"/> 1 <sup>ST</sup> <input type="checkbox"/> 2 <sup>ND</sup> |       |

**ATTACHMENTS:**

HB 2255 Filed

HB 2255 Fiscal Impact

82R9584 JTS-F

By: Phillips

H.B. No. 2255

A BILL TO BE ENTITLED

AN ACT

relating to the authority of the Texas Department of Transportation to enter into comprehensive development agreements for certain projects.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 223.201(f) and (i), Transportation Code, are amended to read as follows:

(f) The department may [~~Except as provided by Subsections (h) and (i), the authority to~~] enter into a comprehensive development agreement only for all or part of:

(1) the State Highway 99 (Grand Parkway) project;

(2) the Grayson County Tollway project, an extension of the Dallas North Tollway in Grayson County from Farm-to-Market Road 121 to U.S. Highway 75 near Denison;

(3) the Interstate Highway 35E managed lanes project in Dallas and Denton Counties from Interstate Highway 635 to U.S. Highway 380;

(4) the North Tarrant Express project in Tarrant and Dallas Counties, including:

(A) Interstate Highway 820 and State Highway 121/State Highway 183 from Interstate Highway 35W to State Highway

161;

(B) Interstate Highway 820 east from State Highway 121/State Highway 183 to Randol Mill Road; and

(C) Interstate Highway 35W from Interstate Highway 30 to State Highway 170;

(5) the State Highway 183 managed lanes project in Dallas County from State Highway 161 to Interstate Highway 35E;

(6) the State Highway 288 project in Harris and Brazoria Counties from U.S. Highway 59 to State Highway 99;

(7) the State Highway 249 project in Harris and Montgomery Counties from Spring Cypress Road to Farm-to-Market Road 1774;

(8) the U.S. Highway 290 Hempstead managed lanes project in Harris County from Interstate Highway 610 to State Highway 99;  
and

(9) the Interstate Highway 10 managed lanes project in Harris and Fort Bend Counties from State Highway 6 to Farm-to-Market Road 1463 [~~agreements provided by this section expires on August 31, 2009~~].

(i) The authority to enter into a comprehensive development agreement for a project described by Subsections (f)(2), (3), (4), (5), (6), (7), (8), and (9) [~~exempted from Subsection (f) or Section 223.210(b)~~] expires August 31, 2015 [~~2011~~].

SECTION 2. Section 223.201(h), Transportation Code, is repealed.

H.B. No. 2255

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011.

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**March 27, 2011**

**TO:** Honorable Larry Phillips, Chair, House Committee on Transportation

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE:** **HB2255** by Phillips (Relating to the authority of the Texas Department of Transportation to enter into comprehensive development agreements for certain projects.), **As Introduced**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Transportation Code to authorize the Texas Department of Transportation (TxDOT) to enter into comprehensive development agreements (CDA) relating various highway projects specified by the bill. The authority to enter into a CDA for certain projects authorized by the bill would expire on August 31, 2015.

Based on the information and analysis provided by TxDOT, it is assumed that any costs or duties associated implementing the proposed CDAs would be accommodated within existing resources and through the allocation of the agency's existing highway planning and construction appropriations.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source** 601 Department of Transportation

**Agencies:**

|     |
|-----|
| 601 |
|-----|

**LBB Staff:** JOB, KJG, TG

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