NOTICE OF REGULAR CITY COUNCIL MEETING
CITY OF TOMBALL, TEXAS

MONDAY, MARCH 7, 2011

7:00 P.M.

Notice is hereby given of a meeting of the Tomball City Council, to be held on Monday, March 7, 2011 at 7:00 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 Ken Shuman, WellSpring Church

3.0 Pledges to U.S. and Texas Flags

- Led by Members of the Tomball High School Student Council

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

5.0 Presentations:

- Plaque and Gift Certificate to Betty Reinbeck, retiring Executive Director for the Tomball Economic Development Corporation

6.0 Reports and Announcements

- March 12, 2011 – **2nd Saturday at the Depot – Oilfield Helping Hands Car Show and Motorcycle Rally**
- March 12, 2011 – **Farmers Market** reopens
- March 14, 2011 – Last Day to Apply for Place on Ballot for May 14, 2011 General City Election
- March 21, 2011 – Possible Date for Candidate Orientation – 6 p.m.
- March 31, 2011 – **Youth Opportunities Fair**, hosted by City of Tomball HR Department – 2:00-4:30 p.m.
- 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 (expire 5/2/11)
- Reports by City staff and members of council about items of community interest on which no action will be taken
    - Water Wells 5 and 6 have been accepted by the City of Tomball and are operational; the operation and maintenance will be maintained by the City's Public Works Department. The wells have a one-year maintenance warranty, effective January 21, 2011 through January 21, 2012.

7.0 Approve the Minutes of the Following Meetings:

- February 21, 2011 Special City Council and Planning and Zoning Commission Meeting
- February 21, 2011 Regular City Council Meeting

8.0 Old Business:

8.1 Accept the Comprehensive Annual Financial Report (CAFR) for the Fiscal Year ended September 30, 2010

8.2 Accept Resignation of LaMar Barr and Appoint Replacement Member to Unexpired Term on the Tourism Advisory Committee (Hotel Industry Position 8)

9.0 New Business:

9.1 Appoint Representative to the Southeast Texas Housing Finance Corporation Board of Directors

9.2 Approve Request by the Tomball Sister City Organization for 2011 German

Heritage Festival Support and Street Closures

9.3 Approve Grant Application by Main Street Crossing for Hotel Occupancy Tax Funds, in the Amount of $23,479, as recommended by the Tourism Advisory Committee

9.4 Approve, as a Project of the Corporation, an agreement with BL Technology, Inc. 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: BL Technology, Inc.'s expansion and development of its manufacturing facility located at 1730 S. Cherry Street, Tomball, Texas. The estimated amount of expenditures for such Project is $51,000.

9.5 Approve, as a Project of the Corporation, an agreement with the City of Tomball to expend funds as assistance with infrastructure necessary to promote or develop new or expanded business enterprises to include water, sewer, and gas utilities, right-of-way and utility easement acquistion: to wit: Brown Road Utility Extension, within the segment of Brown Road extending westerly of State Highway 249 easterly of Spring Creek Estates. The estimated amount of expenditures for such Project is $500,000.

9.6 Approve, as a Project of the Corporation, an agreement with Paloma Energy Consultants LP to make direct incentives to, or expenditures for, the promotion of new or expanded business development: to wit: Paloma Energy Consultants LP relocation and development of its corporate headquarters to be located at 14405 Brown Road within the City of Tomball. The estimated amount of expenditures for such Project is $204,000.

9.7 Approve, on First 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

9.8 Approve Utility Extension along Brown Road and Direct Engineering and Planning Department to Negotiate and Prepare Professional Services Contract

9.9 Approve Proposed Amendments to for Administrative Policy Number 65, "Right-of-Way Abandonment Policy," Incorporating Fee and Application

9.10 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

9.11 Adopt, on First 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 Deleting Subsection (4) of Section 54-2 and Substituting a New Subsection (4) and Adding a New Subsection (5), Providing Exceptions to the Regulations Established in Chapter 54; by Deleting Section 54-3 and Substituting a New Section 54-3, 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 Deleting Section 54-6 and Substituting a New Section 54-6, Providing for Hours and Time Limit of Operation; by Deleting Section 54-8 and Substituting a New Section 54-8, Prohibiting Misrepresentations by Peddlers; by Adding a New Section 54-9, Providing Regulations related to the Responsibility of Owners, Tenants and Lessees who allow Peddlers to Utilize their Property; by Adding a New Section 54-10, Providing for Compliance with the Home Solicitation Sales Act; by Adding a New Section 54-11, Providing for Regulations related to Structures Erected or Maintained by Peddlers; by Deleting Subsection (12) of Section 54-31 and Substituting a New Subsection (12) and Adding a New Subsection (13), Providing Information Required to Obtain a Permit; by Deleting Section 54-37 and Substituting a New Section 54-37, Providing Application and Permit Fees; by Deleting Section 54-39 and Substituting a New Section 54-39, Providing Regulations related to the Approval, Denial, Issuance and Appeal of a Permit; by Deleting Section 54-40 and Substituting a New Section 54-40, Providing Certain Limitations, Prohibiting the Assignability of Permits, and Restricting the Number of Permits Allowable for Peddlers Representing the Same Business Entity; by Deleting Section 54-41 and Substituting a New Section 54-41, Providing for the Required Contents of a Permit; by Deleting Section 54-43 and Substituting a New Section 54-43, 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

9.12 Authorize City 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

10.0 Adjournment

C E R T I F I C A T I O N

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall; City of Tomball, Texas, a place readily accessible to the general public at all times, on the 4th day of March 2011 by 5:00 p.m., and remained posted for at least 72 continuous hours proceeding the scheduled time of said meeting.

*Doris Speer*____________________

Doris Speer

City Secretary, TRMC

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

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

Regular City Council Agenda Item Data Sheet

Meeting Date: March 7, 2011

Topic:

- Plaque and Gift Certificate to Betty Reinbeck, retiring Executive Director for the Tomball Economic Development Corporation

Background:

Origination:

Recommendation:

Funding:

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

ACTION TAKEN

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

Regular City Council
Agenda Item
Data Sheet

Meeting Date: March 7, 2011

Topic:

- March 12, 2011 – **2nd Saturday at the Depot – Oilfield Helping Hands Car Show and Motorcycle Rally**
- March 12, 2011 – **Farmers Market** reopens
- March 14, 2011 – Last Day to Apply for Place on Ballot for May 14, 2011 General City Election
- March 21, 2011 – Possible Date for Candidate Orientation – 6 p.m.
- March 31, 2011 **– Youth Opportunities Fair**, hosted by City of Tomball HR Department – 2:00-4:30 p.m.
- 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 (expire 5/2/11)
- Reports by City staff and members of council about items of community interest on which no action will be taken
    - Water Wells 5 and 6 have been accepted by the City of Tomball and are operational; the operation and maintenance will be maintained by the City's Public Works Department. The wells have a one-year maintenance warranty, effective January 21, 2011 through January 21, 2012.

Background:

Origination:
Various

Recommendation:
N/A

Funding:

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

ACTION TAKEN

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

ATTACHMENTS:

2nd Saturday at the Depot
Oilfield Helping Hands 3rd Annual Car Show and MotoRally
Farmers Market
Youth Opportunities Fair
City of Tomball Spring Clean Up Week
Water Wells 5 and 6 - Summary and Equipment List

2nd SATURDAY AT THE DEPOT

MARCH 12 TOMBALL, TX

R/C CAR Races!

Special Visit from:
Speed Racer

Music by:
JC & the Sunshine Boys

3rd Annual OHH Classic Car Show

March 12, 2011—9 am to 3 pm

Historic Tomball Depot

www.oilfieldhelpinghands.org/carshow

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

OILFIELD HELPING HANDS THIRD ANNUAL

CLASSIC CAR SHOW & MOTORCYCLE RALLY

TGS

Stallion

Core Lab

CLAMPON

Saxon Financial Group

earthfield technology

SURF Subsea

Wild Well Control

Come join us Saturday, March 12th from 9 a.m.- 3 p.m Historic Train Depot, Tomball, Texas 201 S. Elm St.

Join Oilfield Helping Hands in support of this worthy cause,
as the funds raised from the event go to helping oilfield families
in critical need of financial assistance.

Registration for the Motorcycle Rally: 9 a.m. - 10 a.m.

Classic Car On-Site Registration: 9 a.m. - 11 a.m.

Judging: 11 p.m. - 1 p.m. Awards: 2 p.m.

Register Online at www.oilfieldhelpinghands.org or contact
Terri Modgling at 281-575-3150 / terri.modgling@halliburton.com OR
Michelle Jenkins at 832-461-6524 / oilfieldhelpinghands@gmail.com
Registration Fee for Either Ride or Classic Car Show $25

FOOD RAFFLES 50/50 JAR

Live Music by Award Winning "Steve Krase & The In Crowd!

Title Sponsor

NEWFIELD

SPONSORSHIPS AVAILABLE!

Contact Mitzi Flowers at 281-650-5613 / mjflowers1@comcast.net

Oilfield Helping Hands is a 501(c)(3) non–profit, charity. Proceeds go to OHH recipients in need.

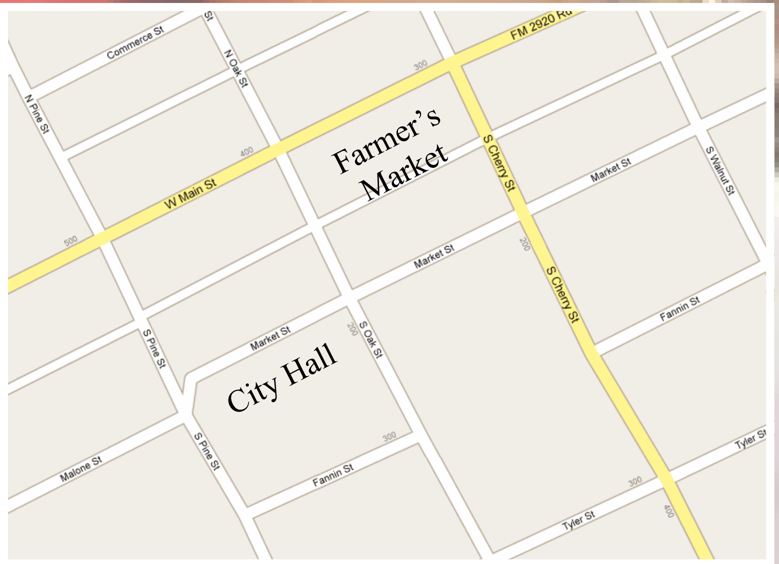
TOMBALL FARMERS MARKET TEXAS

Bringing the farmers back to the community!

Come enjoy the Tomball Farmer's Market! We'll have produce, prepared foods and crafts for you to purchase.

Now open on the 2nd & 4th Saturday of every month!

Located at the corner of Cherry & FM 2920



Market opens at 9 AM!

City of Tomball's

Youth Opportunities Fair

Volunteer & Job Opportunities

Ages 15-19 Welcome

Tomball Community Center
221 Market St.
Thursday, March 31, 2011
2:00 pm - 4:30 pm

For more information, contact City Hall at 281-290-1012 or 281-290-1018.

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

Not Acceptable:

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

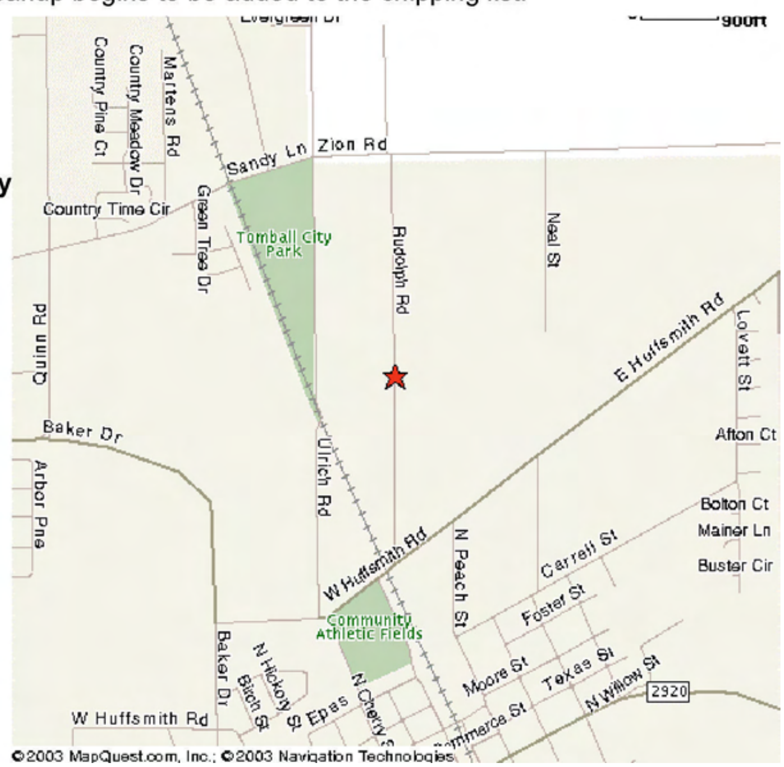
All appliances must be drained and tagged by a licensed technician.
Acceptable items are anything that is inert and would not harm the environment before or after disposal into a landfill.

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 →



WATER WELL #5 AND #6 CONSTRUCTION

Water Wells 5 & 6 have been accepted by the City of Tomball and are operational. The operation and maintenance will be maintained by the City's Public Works Department. The wells have a one year maintenance warranty that started January 21, 2011 and will end January 21, 2012.

ORIGINAL BID/CONTRACT AMOUNT	**$3,150,600.00**
CO #1 – Additional Test Hole Charges	$31,350.00
CO #2 – Included in Well Allowance ($8,400)	$0.00
CO #3 – Addition of Chicot Water Well No. 6	$688,800.00
CO #4 – Add RCP Culverts	$5,400.00
CO #5 – Well #5 – Additional Alternative Unit Items Credit Fluoride System, Move Fire Hydrant	($7,375.00)
CO #6-9 – Not Approved	$0.00
CO # 10 – Booster Pump Piping Revisions	($900.00)
CO #11 – Raco Autodialer	$2,650.00
CO #12 – Reduce Well #5 Pump & Motor (Alternative #14)	($7,000.00)
CO #13 – Additional Electrical for 3-Phase Grinder Pump	$3,575.00
CO #14 – Add sidewalk, Ramps, Handrail	$7,000.00
CO #15 – Add Two Sampling Valves	$600.00
CREDIT – Bid Item #5 – Clean Fill for Site (Not Used)	($4,000.00)
TOTAL REVISED CONTRACT & PAYMENT	**$3,870,700.00**

TOMBALL WATER SUPPLY & STORAGE FACILITY NO. 5
EQUIPMENT LIST

- **Aquastore Tank and Dome**
  - **1 tank @ 500,000 gallons**
  - **Future availability – 3 additional GST**

- **Hydropneumatic Pressure Vessel**
  - **1 tank @ 5,000 gallons**
  - **Future availability – 1 additional hydrotank**

- **Paco Booster Pumps**
  - **3 - 1,000 GPM pumps @ 150' TDH**
  - **Teco Westinghouse Three Phase Induction Motors – 60 HP**
  - **Future availability – 2 additional pumps at 1,000 GPM @ 150' TDH**

- **Water Specialties Propeller Meter**

- **Hydromatic Grinder Pump –**
  - **1 pump @ 2 HP 3450 RPM**

- **Ingersoll Rand Reciprocating Air Compressor**

- **Well Pump #5**
  - **American Turbine 200 HP motor**
  - **700 GPM @ 723' TDH**

- **Well Pump #6**
  - **American Turbine 100 HP motor**
  - **550 GPM @ 420' TDH**

- **Cummins Power Generator & ATS**
  - **750 KW Natural Gas**

Regular City Council
Agenda Item
Data Sheet

Meeting Date: March 7, 2011

Topic:

Approve the Minutes of the Following Meetings:

- February 21, 2011 Special City Council and Planning and Zoning Commission Meeting
- February 21, 2011 Regular City Council Meeting

Background:

Origination:

Recommendation:

Funding:

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

ACTION TAKEN

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

ATTACHMENTS:

February 21, 2011 Special City Council and Planning and Zoning Commission Meeting
February 21, 2011 Regular City Council Meeting

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

MONDAY, FEBRUARY 21, 2011

4:30 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

The Planning and Zoning Commission meeting was called to order by Chair Lori Wallace. Other members present were:

Vice Chair – Tom Crofoot
Commissioner – Field Hudgens
Commissioner – Barbara Tague

Members absent:

Commissioner – John Mottershaw

Others present:

City Manager – George Shackelford
Assistant City Manager – Christal Kliewer
City Secretary – Doris Speer
City Attorney – Scott Bounds
Assistant to the City Manager – Shawn Cox
City Planner – Kelly Violette

Assistant City Engineer – Lori Lakatos
Assistant City Planner - Rodney Schmidt
Building Official – David Allen
Fire Marshal – Doug Sanguedolce
Fire Inspector – Tommy Nicholson

2.0 No public comments were received.

3.0 Workshop Session:

3.1 The Tomball City Council and the Tomball Planning and Zoning Commission members entered into a Workshop session for the following purpose(s):

A. Discussion of Possible Changes to the Zoning Ordinance

Kelly Violette presented City-staff proposed revisions to the zoning ordinance for Section 41. Accessory Buildings/Structures & Related Use Regulations, Section 42. Screening Buffering and Fencing Requirements, Section 42.4. Fences in Residential Areas, Section 42.5. Fences in Nonresidential areas, Multiple-Family Areas, & Manufactured (Mobile) Home Parks, Section 43.5. Replacement of Manufactured Home, and Section 45. Definitions.

Consensus of Council and Planning and Zoning members was to approve the recommended changes.

Council requested that staff provide information regarding the effect that rezoning property might have on “ag” exemptions and property tax rates.

Mayor Fagan called a break at 6:00 p.m.; upon returning at 6:05 p.m., the workshop continued.

Kelly Violette presented proposed elimination of parking requirements within the four-block area bounded by Fannin Street, Houston Street, the railroad tracks, and Pine Street. General consensus of the Council was to move forward with eliminating the parking requirements for the four-block area.

Kelly Violette presented comparisons between aerial photos, Zoning maps and Comprehensive Plan Land Use maps for Areas #1 through #7, with suggested changes to be made, through City-initiated rezoning, to the Zoning maps to be consistent with the Comprehensive Plan Land Use maps.

City staff will incorporate suggested revisions and present an update to the City Council and Planning and Zoning Commission at a special meeting on March 7, 2011 at 4:30 p.m.

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

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this _7th_ day of _March_ 2011.

Doris Speer, TRMC	Gretchen Fagan
City Secretary	Mayor

MINUTES OF REGULAR CITY COUNCIL MEETING
CITY OF TOMBALL, TEXAS

MONDAY, FEBRUARY 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 Kliewer
City Secretary – Doris Speer
City Attorney – Scott Bounds
Chief of Police – Robert Hauck
Director of Public Works – David Kauffman
Fire Chief – Randy Parr
Finance Director – Glenn Windsor
Assistant to City Manager – Shawn Cox
City Planner – Kelly Violette
Assistant City Engineer – Lori Lakatos

2.0 The invocation was led by Pastor Gary Ellison, Tomball Assembly of God

3.0 Pledges to the U. S. and Texas flags were led by Matt Anderson and Anna Liu, Tomball High School Student Council.

4.0 The following public comments were received:

Rodney Hutson 9431 Rosie Lane - #100, 77354	-	Expressed his interest in serving on the Downtown Tomball Advisory Committee (DTAC)

Sandy Glowski 510 Hicks, 77375	-	Expressed her interest in serving on the Downtown Tomball Advisory Committee (DTAC)
Mary Lu Wiley 14120 Carneswood, 77375	-	Expressed her interest in serving on the Downtown Tomball Advisory Committee (DTAC)
Mike Ott 16840 Krug Road, 77377	-	Expressed his interest in serving on the Downtown Tomball Advisory Committee (DTAC)
Samantha Heard 212 S. Pine, 77375	-	Spoke regarding special group using city property, breakfasts in parking lot, and $15 million bond on the ballot.

5.0 Presentations:

- Shawn Cox presented a check in the amount of $2,515.06 to the Tomball Rotary Club and Tomball High School Student Council for the "Showers for Shane" Project.

6.0 Reports and Announcements:

- February 22, 2011 – **Trail Ride Reception** – 12:00 p.m. at the Depot
- February 24, 2011 - **Reception** honoring **Betty Reinbeck, Executive Director-TEDC,** at the Chamber of Commerce, 2:00-4:00 p.m.
- February 28, 2011 – Special Meeting of the Tourism Advisory Committee**,** 6:00 p.m.
- March 12, 2011 – **2nd Saturday at the Depot – Oilfield Helping Hands Car Show and Motorcycle Rally**
- March 14, 2011 – Last Day to Apply for Place on Ballot for May 14, 2011 General City Election
- 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)
- Reports by City staff and members of council about items of community interest on which no action will be taken
  - Glenn Windsor presented the Quarterly Investment Report (ending 12/31/2010).
  - Glenn Windsor presented a summary of the vehicles being purchased through Buy Board Contracts.
  - Shawn Cox presented a slideshow of the Beckendorf Statue unveiling.

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

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

Motion carried unanimously.

8.0 Old Business:

8.1 Doris Speer presented an overview of the proposed Ordinance. Motion was made by Councilman Brown, second by Councilman Townsend, to adopt, on Second Reading, Ordinance No. 2010-26, an Ordinance of the City of Tomball, Texas, adding Chapter 15, "Commercial Filming" to the Code of Ordinances of the City of Tomball, to Require a Permit for Commercial Filming in the City of Tomball, to Establish Policies, Procedures and Regulations as They Relate to Filming; 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 Dodson	Aye
Councilman Quinn	Aye
Councilman Stoll	Aye
Councilman Brown	Aye
Councilman Townsend	Aye

Motion carried unanimously.

8.2 Lori Lakatos presented an overview of the proposed parking lot locations. Motion was made by Councilman Townsend, second by Councilman Brown, to Designate Downtown Parking Lot Locations AN and ES and to Direct the Engineering and Planning Department to Negotiate and Prepare Professional Services Contract and to get prices for CS and DN location as well.

Motion carried unanimously.

9.0 New Business

9.1 Mayor Fagan presented information regarding the resignation of LaMar Barr. Motion was made by Councilman Stoll, second by Councilman Quinn, to accept the resignation of LaMar Barr and appoint Prakash Patel to the Unexpired Term on the Tourism Advisory Committee (Hotel Industry Position 8). Motion was made by Councilman Quinn, second by Councilman Townsend, to table consideration of an appointment to the Unexpired Term on the Tourism Advisory Committee (Hotel Industry Position 8) until city staff provides information regarding current payment status of hotel occupancy taxes by Tomball hotels.

Motion to table carried unanimously.

9.2 Shawn Cox presented an overview of the proposed Grant. Motion was made by Councilman Brown, second by Councilman Quinn to Approve the Grant Application by

Tomball Sister City Organization for Hotel Occupancy Tax Funds in the amount of $30,000. As recommended by the Tomball Tourism Advisory Committee and, if TSCO meets the budget requirements for the additional funds, $20,000 would be funded from the grant funds budgeted for the Sister City organization and the additional $10,000 would be funded from the grants line item under the hotel occupancy tax fund. Vote was as follows:

Councilman Dodson	Aye
Councilman Quinn	Aye
Councilman Stoll	Aye
Councilman Brown	Aye
Councilman Townsend	Nay

Motion carried, 4 votes Aye, 1 vote Nay.

9.3 Mayor Fagan presented an overview of the proposed appointments. Motion was made by Councilman Townsend, second by Councilman Quinn, to appoint the members recommended by Mayor Fagan and to appoint Mitchell Holderrieth as well, to serve on the Downtown Tomball Advisory Committee (DTAC).

Motion carried unanimously.

9.4 Kelly Violette presented an overview of the proposed Policy. Motion was made by Councilman Townsend, second by Councilman Dodson, to approve Administrative Policy Number 65, Entitled *"Right-of-Way Abandonment Policy".*

Motion carried unanimously.

9.5 Lori Lakatos presented an overview of the proposed Replat. Motion was made by Councilman Dodson, second by Councilman Townsend, to approve the **PARTIAL REPLAT OF TOMBALL MARKETPLACE**: A 28.5984 acre (1,245,748 Square Foot) subdivision; Being lots 2, 3 & 4, Tomball Marketplace, as recorded in Film Code Number 605157, of the Harris County Map Records out of the John M. Hooper Survey, Abstract 375 Tomball, Harris County, Texas.

Motion carried unanimously.

9.6 Shawn Cox presented an overview of the proposed partnership with Tomball High School for their March of Dimes fundraising event. Motion was made by Councilman Brown, second by Councilman Townsend, to approve City of Tomball's partnership with the Tomball High School and Student Council for the March of Dimes Walk.

Motion carried unanimously.

9.7 Glenn Windsor and Nathan Krupke with Belt, Harris, Pechacek presented an overview of the Comprehensive Annual Financial Report (CAFR). Motion was made by Councilman Brown, second by Councilman Dodson, to accept the Comprehensive Annual Financial Report (CAFR) for the Fiscal Year ended September 30, 2010. Motion was made by Councilman Townsend, second by Councilman Quinn to table acceptance of the CAFR until the March 7, 2011 meeting.

Motion to table carried unanimously.

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

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this __7th___ day of __March________ 2011.

Doris Speer, TRMC	Gretchen Fagan
City Secretary	Mayor

Regular City Council Agenda Item Data Sheet

Meeting Date: March 7, 2011

Topic:

Accept the Comprehensive Annual Financial Report (CAFR) for the Fiscal Year ended September 30, 2010

Background:

At the January 17, 2011 Council meeting, Nathan Krupke, of Belt, Harris, Pechacek, presented a draft of the Comprehensive Annual Financial Report (CAFR) for the fiscal year ending September 30, 2010. The draft was presented at that time to comply with charter requirements. Tonight's presentation is the final version of the same report. The auditors have issued a "clean" opinion which means that our financial statements "present fairly" the financial position and results of operations for the year ended September 30, 2010.

Council tabled acceptance of the CAFR at the February 21, 2011 meeting to allow additional time for review.

Origination:

Finance Department

Recommendation:

Acceptance of the CAFR

Funding:

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

Glenn Windsor, Finance Director

ACTION TAKEN

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

ATTACHMENTS:

Comprehensive Annual Financial Report for Year Ended September 30, 2010
Belt Harris Pechacek Management Letter
Belt Harris Pechacek Required Auditor Disclosure Letter

City of Tomball, Texas

Comprehensive Annual Financial Report

For the Fiscal Year Ending September 30, 2010

COMPREHENSIVE
ANNUAL FINANCIAL REPORT

of the

CITY OF TOMBALL, TEXAS

For the Year Ended
September 30, 2010

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CITY OF TOMBALL, TEXAS

TABLE OF CONTENTS

September 30, 2010

CITY OF TOMBALL, TEXAS

TABLE OF CONTENTS

September 30, 2010

INTRODUCTORY SECTION

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City of Tomball

Gretchen Fagan
Mayor

George Shackelford
City Manager

January 15, 2011

To the Honorable Mayor, Members of the City Council, and Citizens of the City of Tomball, Texas:

It is with great pleasure that we present to you a copy of the Comprehensive Annual Financial Report (CAFR) of the City of Tomball, Texas (the "City") for the fiscal year ended September 30, 2010. The responsibility for both the accuracy of the presented information and the completeness and fairness of the presentation of the data, including all disclosures, rests with the City. To the best of our knowledge and belief, the enclosed data is accurate in all material respects and is reported in a manner designed to present fairly the results of operations of the various funds of the City, as well as the fund balances. All disclosures necessary to enable the reader to gain an understanding of the City's financial activities have been included.

The CAFR is presented in three sections: Introductory, Financial, and Statistical. The Introductory Section includes this transmittal letter, the City's organizational chart, and a list of principal officials, elected and appointed. The Financial Section includes Management's Discussion and Analysis (MD&A), Basic Financial Statements, Required Supplementary Information, Combining and Individual Fund Financial Statements and Other Supplemental Information, as well as the independent auditors' report. The Statistical Section includes selected financial and demographic information generally presented on a multi-year basis.

Management's Discussion and Analysis (MD&A) immediately follows the independent auditors' report and provides a narrative introduction, overview, and analysis of the basic financial statements. MD&A complements this letter of transmittal and should be read in conjunction with it.

Profile of the Government

The City, incorporated on July 18, 1933, is located northwest of Houston, Texas, in a rapidly growing area of Harris County. The City currently occupies a land area of 11.71 square miles and serves an estimated population of 11,670. The City of Tomball is empowered to levy a property tax on both real and personal properties located within its boundaries. It also is empowered by state statute to extend its corporate limits by annexation, which occurs periodically when deemed appropriate by the governing council.

The City has operated under the council-manager form of government since 1980. Policy-making and legislative authority are vested in a governing council consisting of the mayor and five council members. The council is elected on a non-partisan basis. Council members serve three-year terms, with two council members elected every year. The mayor is elected to serve a three-year term. The mayor and council are elected at large. The governing council is responsible for, among other things, passing ordinances, adopting the budget, appointing committees, and hiring both the City Manager and City Attorney. The City Manager is responsible for carrying out the policies and ordinances of the governing council, for overseeing the day-to-day operations of the government, and for appointing the heads of the various departments.

The City provides a full range of services, including police and fire protection; the construction and maintenance of streets and other infrastructure; recreational activities and cultural events. Solid waste services are provided through a contract with Waste Corporation of America.

The annual budget serves as the foundation for the City's financial planning and control. All departments of the City are required to submit requests for appropriation to the Finance Director. These requests serve as a starting point for developing a proposed budget. The Finance Director provides the information to the City Manager who then presents this proposed budget to the council for review. The council is required to hold public hearings on the proposed budget and to adopt a final budget by no later than September 30, the close of the City's fiscal year. The appropriated budget is prepared by fund, function, and department. Department heads may make requests to the City Manager for transfers of appropriations within a department. Transfers of appropriations between departments, however, require the special approval of the City Council. Budget-to-actual comparisons are provided in this report for each individual governmental fund for which an appropriated annual budget has been adopted. For the general fund, this comparison is presented on page 63 as part of required supplementary information. For governmental funds, other than the general fund, with appropriated annual budgets, this comparison is presented in the governmental fund subsection of this report, which starts on page 71.

Factors Affecting Financial Condition

The information presented in the financial statements is better understood when it is considered from the broader perspective of the specific environment within which the City of Tomball operates.

Local Economy

The City currently enjoys a favorable economic environment and local indicators point to continued stability. The region has a varied manufacturing and technology base that adds to the relative stability of the unemployment rate. Major industries with headquarters or divisions located within the City's boundaries or in close proximity include international headquarters for a large oil related corporation, a regional hospital with related health care facilities, a community college, and computer hardware and software manufacturers. There are several major retail centers and restaurants that are located in the City, adding further jobs and sales tax revenues.

The region (which covers an area within a five-mile radius from the center of the City) has an employed labor force of approximately 46,457 which is anticipated to grow for the next several years. The largest groups of employers are in retail and in health services. There are three new subdivisions in the early development stages which show the prospect of continued residential growth.

Long-Term Financial Planning

The governing council has allocated funds to revitalize the historic downtown area of Tomball. This project includes the restoration of the original train depot, expanded parking, sidewalk additions and improvements, landscaping, new thematic street lights and public facilities. The City believes that by improving this area, Tomball will attract more tourists and improve the revenues generated by an attractive and convenient atmosphere in the historical downtown area.

In conjunction with the Tomball Economic Development Corporation, the City is expanding water, sewer, and gas utilities east, west, and south to accommodate the anticipated future commercial development. Utilities on the west side of the City are along the Texas Farm-to-Market Highway 2920 linking I-45 (which runs north to Dallas from Houston) to SH290 (which runs west to Austin from Houston). This road is heavily traveled and attractive to commercial industry. The expansion on the east side of the City, from FM2920 to the southern portion of the City limits has been completed and will assist in the growth and development in the southeastern portion of the City. The south side utility project, designed to fully loop utilities around the southern border of the current City limits, and to provide utility access to undeveloped areas of the City, has been completed.

Drainage detention and channels have been ongoing projects for several years and are designed to provide a means of flood control in the area to reduce the impact of increased real estate development. Because these projects are multi-million dollar endeavors, the City, partnering with private landowners and other governmental entities, is taking manageable steps to accomplish these flood control goals.

Major Initiatives

The largest revenue source in the General Fund is sales tax. The City has experienced a great deal of commercial retail growth over the last several years. Although additional retail establishments continue to come to Tomball, with the state of the national economy, the City chose to take a conservative approach for the 2011 fiscal year and submitted a budget with a five percent projected increase in sales tax revenues from the fiscal 2010 level.

In January 2008, the City Council completed a visioning and strategic planning session to chart a course for the City. In that session, the council decided that it wanted Tomball to be a destination city offering various activities and festivals throughout the year to draw people to town. In addition to being a destination, council indicated that economic development efforts should focus on making Tomball a regional hub for retail, medical, financial, and high-tech business. Infrastructure improvements and improving customer service were also slated as goals.

The City initiated a number of actions during 2008 aimed at responsibly planning for the City's future. In November 2008, the City completed an FM 2920 Access Management Study, in conjunction with the Texas Department of Transportation and the Houston Galveston Area Council, to address safety and mobility along the FM 2920 corridor from US 290 to Interstate 45. The City also completed a Livable Centers Downtown Plan in cooperation with a grant received through the Houston Galveston Area Council. The Plan addressed public improvements to preserve, promote, and enhance Tomball's Downtown as the identifiable physical, social, and cultural heart of Tomball. In 2009 the City completed its first citywide Comprehensive Plan to guide and shape the community's future physical growth and development. The Comprehensive Plan was the result of a year-long community involvement process that involved over 1,700 stakeholders. The City has approved a Professional Services agreement for the development of a Downtown Specific Plan in 2011, which will address land use and zoning regulations for the downtown area. Additionally, relating to the infrastructure development process, Water well #5 was completed. This well is located on the west side of Tomball along FM 2920 and its completion will significantly increase the average daily capacity of our distribution system.

Financial Information

The City's management team is responsible for establishing and maintaining internal controls designed to ensure that the assets of the City are protected from loss, theft, or misuse and to ensure that adequate accounting data is compiled to allow for the preparation of financial statements in conformity with generally accepted accounting principles. Internal controls are designed to provide reasonable but not absolute assurance that these objectives are met. The concept of reasonable assurance recognizes that (1) the cost of the controls should not exceed the benefits likely to be derived and (2) the valuation of cost and benefits requires estimates and judgments to be made by management.

Budgeting Controls

The City maintains budgetary controls to ensure compliance with legal provisions embodied in the annual appropriated budget approved by the City Council. Activities of the General Fund, Debt Service Fund, Special

Revenue Funds (Hotel Occupancy Tax Fund, Equipment Replacement Fund, Municipal Court Fund, Public Safety Fund, and Emergency Management Fund), Utility Fund, and Utility Interest and Sinking Fund are included in the annual operating budget. The Tomball Economic Development Corporation, a component unit of the City, is also included in the annual operating budget. A capital improvement plan is approved each year. The level of budgetary control (i.e., the level at which expenditures cannot legally exceed the appropriated amount) is established at the division level within an individual fund. The City maintains an encumbrance accounting system as a means of accomplishing budgetary controls and a technique of budgetary "lock out" which will prevent a transaction from exceeding legally appropriated budgetary amounts. As demonstrated by the statements and schedules included in the financial section of this report, the City continues to meet its responsibility for sound financial management.

Debt Administration

The City may issue General Obligation bonds that are approved by voters in a capital improvements plan. Certificates of Obligation are used for short-term construction projects and financing vehicles and equipment.

When available, sales tax revenue in excess of budgeted projections can be dedicated to one-time capital purchases.

Independent Audit

The City Charter requires an independent audit of the accounts of the City by an independent auditor. Belt Harris Pechacek, LLLP, Certified Public Accountants, have issued an unqualified ("clean") opinion on the City of Tomball's financial statements for the year ended September 30, 2010. The independent auditors' report is located at the front of the financial section of this report.

Awards

The Government Finance Officers' Association (GFOA) awarded a Certificate of Achievement for Excellence in Financial Reporting to the City for its Comprehensive Annual Financial Report for the fiscal year ended September 30, 2009. In order to be awarded the Certificate of Achievement, the City published an easily readable and efficiently organized Comprehensive Annual Financial Report. This report satisfies both generally accepted accounting principles and applicable legal requirements. The Certificate of Achievement is held for a period of one year only. Our current Comprehensive Annual Financial Report continues to meet the Certificate of Achievement requirements, and has been submitted to GFOA to determine its eligibility for another certificate.

The City also received the Distinguished Budget Presentation Award for the fiscal year beginning October 1, 2009. This is the second time the City has received this award from the GFOA. The award is made to those cities whose budget presentations meet very stringent presentation guidelines. The budget presentation must be of the very highest quality that reflects both the guidelines established by the National Advisory Council on State and Local Budgeting and the GFOA's recommended practices on budgeting.

Acknowledgements

The preparation of this report would not have been possible without the efficient and dedicated services of the administrative staff of the City. We would like to express our appreciation to all members of the departments who assisted and contributed to the preparation of this report. Credit also must be given to the mayor and the City

Council for their unfailing support for maintaining the highest standards of professionalism in the management of the City of Tomball's finances.

Respectfully submitted,

Glenn Windsor, CPA
Finance Director

CITY OF TOMBALL, TEXAS

ORGANIZATIONAL CHART

September 30, 2010

Staff Organizational Chart

- Tomball Citizens
  - Mayor and City Council
    - Economic Development
    - Planning Commission
    - Municipal Judge
    - City Attorney
    - Other Boards & Commissions
    - City Manager
      - City Secretary
        - Reception/Vital Statistics
      - Assistant to City Manager
        - Municipal Court
        - Community Center
      - Human Resources
        - Personnel
        - Payroll
        - Risk Management
      - Director of Finance
        - Accounting
        - Budgeting
        - Purchasing
        - Utility Billing
      - Fire Chief
        - Fire Marshal
        - Firefighters
        - Emergency Management
      - Police Chief
        - Investigations
        - Patrol
      - Assistant City Manager
        - Building Official
          - Code Enforcement
          - Building Inspections
          - Permits
        - Director of Engineering & Planning
          - Engineering
          - Planning
          - Construction Inspection
          - GIS
        - Director of Public Works
          - General Services
            - Facilities
            - Streets
            - Parks
            - Garage
            - Sanitation
          - Utility Services
            - Water
            - Sewer
            - Gas

Certificate of Achievement for Excellence in Financial Reporting

Presented to

City of Tomball Texas

For its Comprehensive Annual Financial Report for the Fiscal Year Ended September 30, 2009

A Certificate of Achievement for Excellence in Financial Reporting is presented by the Government Finance Officers Association of the United States and Canada to government units and public employee retirement systems whose comprehensive annual financial reports (CAFRs) achieve the highest standards in government accounting and financial reporting.

President

Executive Director

CITY OF TOMBALL, TEXAS

PRINCIPAL OFFICIALS

September 30, 2010

City Officials	Elected Position	Term Expires
Gretchen Fagan	Mayor	2013
David Quinn	Councilman Position 1	2011
Mark Stoll	Councilman Position 2	2012
Rick Brown	Councilman Position 3	2013
Derek Townsend, Sr.	Councilman Position 4	2012
Preston Dodson	Councilman Position 5	2011

Department Heads	Appointive Position
George Shackelford	City Manager
Christal Kleiwer	Assistant City Manager
Doris Speer	City Secretary
Robert Hauck	Chief of Police
David Kauffman	Director of Public Works
Randall Parr	Fire Chief
Mark McClure	Director of Engineering and Planning
Glenn Windsor	Finance Director

FINANCIAL SECTION

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INDEPENDENT AUDITORS' REPORT

To the Honorable Mayor and
City Council Members of the
City of Tomball, Texas:

We have audited the accompanying financial statements of the governmental activities, the business-type activities, the discretely presented component unit, each major fund, and the aggregate remaining fund information of the City of Tomball, Texas (the "City"), as of September 30, 2010, and for the year ended, which collectively comprise the City's basic financial statements as listed in the table of contents. These financial statements are the responsibility of the City's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with generally accepted auditing standards in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinions.

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities, the business-type activities, the discretely presented component unit, each major fund, and the aggregate remaining fund information of the City as of September 30, 2010, and the respective changes in financial position and cash flows, where applicable, thereof for the year then ended in conformity with generally accepted accounting principles in the United States of America.

The Management's Discussion and Analysis, budgetary comparison information, and schedules of funding progress are not a required part of the basic financial statements but are supplementary information required by accounting principles generally accepted in the United States of America. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the Required Supplementary Information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise the City's basic financial statements. The introductory section, combining statements and schedules, and statistical section are presented for purposes of additional analysis and are not a required part of the basic financial statements. The combining fund statements and schedules are the responsibility of management and were derived from and relate directly to the underlying accounting and other records used to prepare the financial statements. The information has been subjected to the auditing procedures applied in the audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the information is fairly stated in all material respects in relation to the financial statements as a whole. The introductory and statistical sections have not been subjected to the auditing procedures applied in the audit of the basic financial statements and, accordingly, we do not express an opinion or provide any assurance on them.

Belt Harris Pechacek, LLLP

Belt Harris Pechacek, LLLP
Certified Public Accountants
Houston, Texas
January 15, 2011

MANAGEMENT'S DISCUSSION AND ANALYSIS

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CITY OF TOMBALL, TEXAS

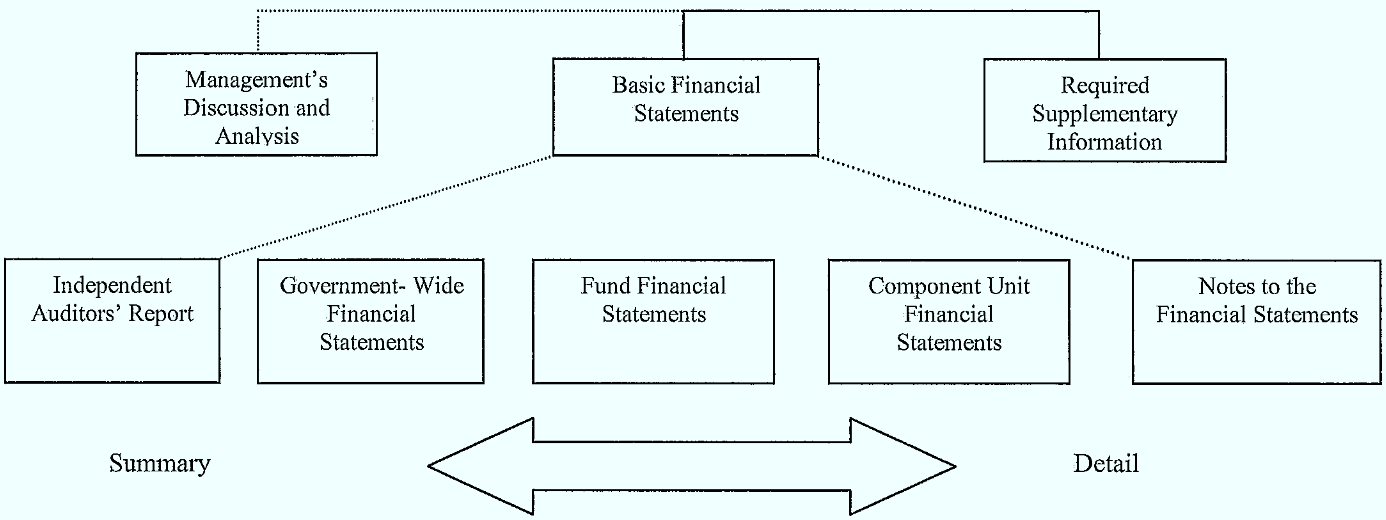
MANAGEMENT'S DISCUSSION AND ANALYSIS (MD&A)

For the Year Ended September 30, 2010

The purpose of the Management's Discussion and Analysis (MD&A) is to give the readers an objective and easily readable analysis of the City of Tomball, Texas (the "City") financial activities for the year ending September 30, 2010. The analysis is based on currently known facts, decisions, or economic conditions. It presents short and long-term analysis of the City's activities, compares current year results with those of the prior year, and discusses the positive and negative aspects of that comparison. Governmental Accounting Standards Board (GASB) Statement No. 34 establishes the content of the minimum requirements for MD&A. Please read the MD&A in conjunction with the transmittal letter at the front of this report and the City's financial statements, which follow this section.

THE STRUCTURE OF OUR ANNUAL REPORT

Components of the Financial Section



The annual financial report is presented as compliant with the financial reporting model in effect pursuant to GASB Statement No. 34. This financial reporting model requires governments to present certain basic financial statements as well as the MD&A and certain other Required Supplementary Information (RSI). The basic financial statements include (1) government-wide financial statements, (2) individual fund financial statements, and (3) notes to the financial statements.

Government-Wide Statements

The government-wide statements report information for the City as a whole. These statements include transactions and balances relating to all assets, including infrastructure capital assets. These statements are designed to provide information about cost of services, operating results, and financial position of the City as an economic entity. The Statement of Net Assets and the Statement of Activities, which appear first in the City's financial statements report information on the City's activities that enable the reader to understand the financial condition of the City. These statements are prepared using the *accrual basis of accounting*, which is similar to the accounting used by most private-sector companies. All of the current year's revenues and expenses are taken into account even if cash has not yet changed hands.

The government-wide financial statements include not only the City itself (known as the primary government), but also the legally separate economic development corporation for which the City is financially accountable.

Financial information on the component unit is reported separately from the financial information presented for the primary government itself.

The Statement of Net Assets presents information on all of the City's assets and liabilities. The difference between the two is reported as *net assets*. Over time, increases or decreases in net assets may serve as a useful indicator of whether the financial position of the City is improving or deteriorating. Other nonfinancial factors, such as the City's property tax base and the condition of the City's infrastructure, need to be considered in order to assess the overall health of the City.

The Statement of Activities presents information showing how the City's net assets changed during the most recent year. All changes in the net assets are reported as soon as the underlying event giving rise to the change occurs, regardless of the timing of related cash flows – the accrual method rather than modified accrual that is used in the fund level statements.

The Statement of Net Assets and the Statement of Activities divide the City into two classes of activities:

1. Governmental Activities – Most of the City's basic services are reported here including public safety, streets, garage, sanitation, parks and recreation, community services, and general administrative services. Interest payments on the City's debt are also reported here. Sales tax, property tax, franchise taxes, municipal court fines, and permit fees finance most of these activities.

2. Business-Type Activities – Services involving a fee for those services are reported here. These services include the City's water, sewer, and gas services.

The government-wide financial statements can be found after the MD&A.

FUND FINANCIAL STATEMENTS

Funds may be considered operating companies of the parent corporation, which is the City. They are usually segregated for specific activities or objectives. The City uses fund accounting to ensure and demonstrate compliance with finance related legal reporting requirements. The two categories of City funds are governmental and proprietary.

<u>Governmental Funds</u>

Governmental funds are used to account for essentially the same functions reported as governmental activities in the government-wide financial statements. However, unlike the government-wide financial statements, governmental fund financial statements focus on *near-term inflows and outflows of spendable resources,* as well as *on balances of spendable resources* available at the end of the year. Such information may be useful in evaluating the City's near-term financing requirements.

Because the focus of governmental funds is narrower than that of the government-wide financial statements, it is useful to compare the information presented for *governmental funds* with similar information presented for *governmental activities* in the government-wide financial statements. By doing so, readers may better understand the long-term impact of the government's near-term financing decisions. Both the governmental fund balance sheet and the governmental fund statement of revenues, expenditures, and changes in fund balances provide a reconciliation to facilitate this comparison between *governmental funds* and *governmental activities*.

The City maintains twelve individual governmental funds. Information is presented separately in the governmental fund balance sheet and in the governmental fund statement of revenues, expenditures, and changes in fund balances for the general fund and debt service fund, which are considered to be major funds. The City adopts an annual appropriated budget for its general fund, debt service fund, and all special revenue funds. Budgetary comparison schedules have been provided for general fund, debt service fund, court security, court technology, hotel occupancy tax, and special general funds to demonstrate compliance with these budgets.

Proprietary Funds

The City maintains two types of proprietary funds, an enterprise fund and internal service fund. Enterprise funds are used to report the same functions presented as business-type activities in the government-wide financial statements. The City uses the enterprise fund to account for its water distribution, wastewater collection/treatment, and natural gas operations. The proprietary fund financial statements provide separate information for the water distribution, wastewater collection/treatment, and gas operations. The basic proprietary fund financial statements can be found in the basic financial statements of this report.

The City uses internal service funds to account for its equipment replacement services as well as health benefits. The internal service funds have been included within governmental activities in the government-wide financial statements.

Notes to Financial Statements

The notes to the financial statements provide additional information that is essential to a full understanding of the data provided in the government-wide and fund financial statements. The notes are the last section of the basic financial statements.

Other Information

In addition to the basic financial statements, MD&A, and accompanying notes, this report also presents certain RSI. The RSI that GASB Statement No. 34 requires includes a budgetary comparison schedule for the general fund, schedule of funding progress for Texas Municipal Retirement System, schedule of funding progress for Texas Emergency Services Retirement System, and a schedule of funding progress for the City's other post employee benefits plan. RSI can be found after the basic financial statements.

GOVERNMENT-WIDE FINANCIAL ANALYSIS

As noted earlier, net assets may serve over time as a useful indicator of the City's financial position. For the City, assets exceed liabilities by $69,089,625 as of September 30, 2010. As required by GASB Statement No. 34, a comparative analysis of government-wide data has been presented as a component of the MD&A for the year ending September 30, 2010.

A significant portion of the City's net assets reflects its investments in capital assets (e.g., land, building, equipment, improvements, construction in progress, and infrastructure), less any debt used to acquire those assets that is still outstanding. The City uses these capital assets to provide services to citizens; consequently, these assets are not available for future spending. Although the City's investment in its capital assets is reported net of related debt, it should be noted that the resources needed to repay this debt must be provided from other sources, since the assets themselves cannot be used to liquidate these liabilities.

Statement of Net Assets

The following table reflects the condensed statement of net assets:

SUMMARY OF STATEMENT OF NET ASSETS

	Governmental Activities		Business-Type Activities		Total Primary Government	
	2010	2009	2010	2009	2010	2009
Current and other assets	$ 17,357,970	$ 17,118,836	$ 10,597,661	$ 12,632,764	$ 27,955,631	$ 29,751,600
Capital assets, net	31,287,699	31,721,552	40,351,294	38,327,708	71,638,993	70,049,260
Total Assets	48,645,669	48,840,388	50,948,955	50,960,472	99,594,624	99,800,860
Long-term liabilities	15,990,680	17,376,615	11,549,058	12,449,196	27,539,738	29,825,811
Other liabilities	1,392,952	1,678,624	1,572,309	1,874,575	2,965,261	3,553,199
Total Liabilities	17,383,632	19,055,239	13,121,367	14,323,771	30,504,999	33,379,010
Net Assets:						
Invested in capital assets, net of related debt	16,790,199	16,143,552	29,073,794	26,080,707	45,863,993	42,224,259
Restricted	1,423,521	2,278,695	-	-	1,423,521	2,278,695
Unrestricted	13,048,317	11,362,902	8,753,794	10,555,994	21,802,111	21,918,896
Total Net Assets	$ 31,262,037	$ 29,785,149	$ 37,827,588	$ 36,636,701	$ 69,089,625	$ 66,421,850

A portion of the primary government's net assets, $1,423,521 or two percent, represents resources that are subject to external restriction on how they may be used. This is a decrease of 38 percent, primarily as a result of the City utilizing these restricted funds to continue construction projects. The remaining balance of unrestricted net assets, $21,802,111 or 32 percent, may be used to meet the City's ongoing obligation to citizens and creditors.

The City's total net assets increased by $2,667,775 during the current fiscal year, an increase of four percent in comparison to the prior year. This increase is primarily the result of a decrease in payroll for public safety and public works. While economic conditions were affected by the nation's economy, the City's overall condition improved.

Statement of Activities

The following table provides a summary of the City's changes in net assets:

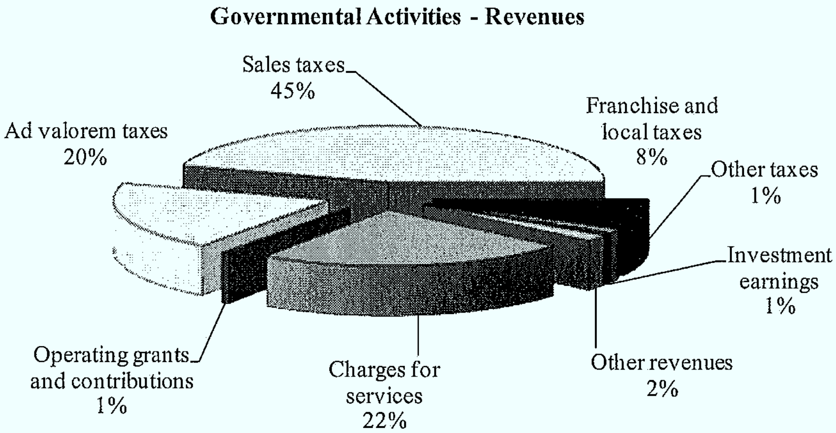
CHANGES IN NET ASSETS

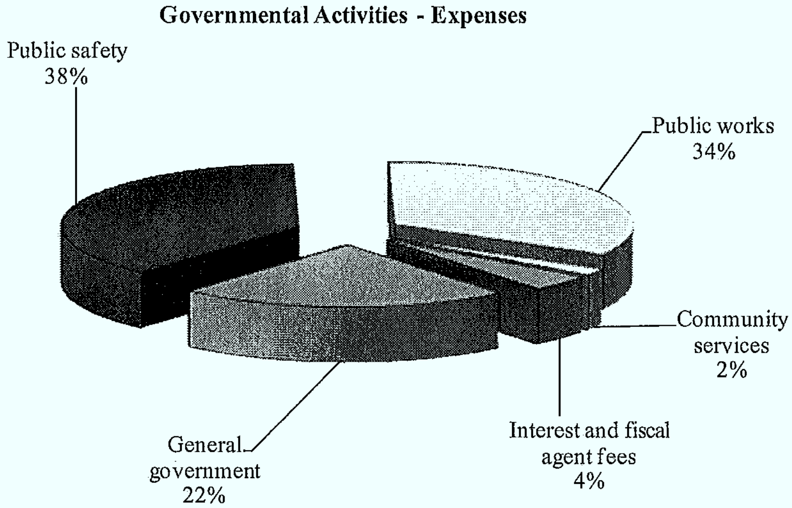
	Governmental Activities		Business-Type Activities		Total Primary Government	
	2010	**2009**	**2010**	**2009**	**2010**	**2009**
Revenues						
Program revenues:						
Charges for services	$ 3,435,876	$ 3,641,050	$ 10,657,749	$ 11,442,271	$ 14,093,625	$ 15,083,321
Operating grants and contributions	83,130	278,350	720,000	720,000	803,130	998,350
General revenues:						
Property taxes	2,922,913	3,036,649	-	-	2,922,913	3,036,649
Sales taxes	6,651,064	7,038,176	-	-	6,651,064	7,038,176
Franchise and local taxes	1,153,954	1,150,591	-	-	1,153,954	1,150,591
Other taxes	154,174	308,100	-	-	154,174	308,100
Investment earnings	80,426	325,789	93,361	175,119	173,787	500,908
Other revenues	254,615	405,391	43,076	2,860	297,691	408,251
Total Revenues	14,736,152	17,933,657	11,514,186	12,340,250	26,250,338	28,524,346
Expenses						
General government	3,476,001	3,091,652	1,843,501	2,235,193	5,319,502	5,326,845
Public safety	5,907,235	6,720,247	-	-	5,907,235	6,720,247
Public works	5,205,824	5,692,269	-	-	5,205,824	5,692,269
Community services	272,034	260,561	-	-	272,034	260,561
Interest and fiscal agent fees	658,304	708,109	512,851	-	1,171,155	708,109
Water	-	-	2,197,679	2,215,841	2,197,679	2,215,841
Sewer	-	-	1,134,907	1,402,558	1,134,907	1,402,558
Gas	-	-	2,374,227	2,486,336	2,374,227	2,486,336
Total Expenses	15,519,398	16,472,838	8,063,165	8,339,928	23,582,563	24,812,766
Transfers	2,260,134	1,749,561	(2,260,134)	(1,749,561)	-	-
Change in Net Assets	1,476,888	1,306,326	1,190,887	2,250,761	2,667,775	3,711,580
Beginning net assets	29,785,149	28,324,330	36,636,701	34,385,940	66,421,850	62,710,270
Ending net assets	$ 31,262,037	$ 29,785,149	$ 37,827,588	$ 36,636,701	$ 69,089,625	$ 66,421,850

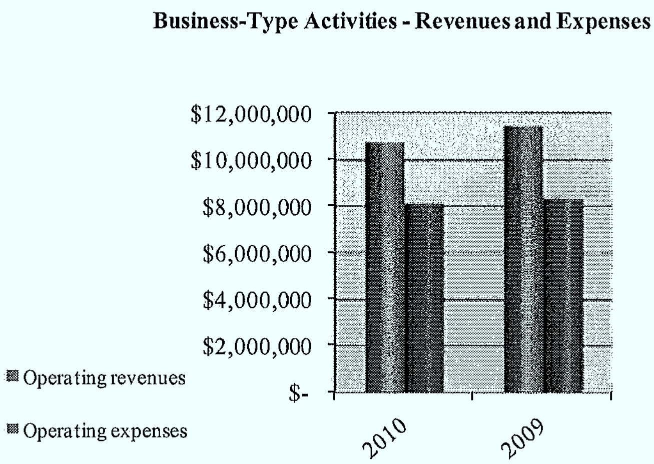
For the year ended September 30, 2010, revenues from governmental activities totaled $14,736,152. All revenue sources experienced a decline from the prior year with exception of franchise and local taxes. One of the most significant decreases was seen in investment earnings as a result of a decline in interest rates. Sales tax was also down as a result of the economic downturn.

Expenses for governmental activities totaled $15,519,398, a decrease of $953,440 from last year. A contributing factor is the decrease in personnel for public works and public safety.

Graphic presentations of selected data from the summary tables follow to assist in the analysis of the City's activities.







Business-type activities are shown comparing operating costs to revenues generated by related services.

FINANCIAL ANALYSIS OF THE CITY'S FUNDS

As noted earlier, fund accounting is used to demonstrate and ensure compliance with finance-related legal requirements.

Governmental Funds – The focus of the City's governmental funds is to provide information on near-term inflows, outflows, and balances of spendable resources. Such information is useful in assessing the City's financing requirements. In particular, unreserved fund balance may serve as a useful measure of the City's net resources available for spending at the end of the year.

The City's governmental funds reflect a combined fund balance of $14,473,523. Of this, $925,955 is reserved for debt service, $179,593 for court security, and $171,098 for court technology.

There was a decrease in the combined fund balance of $151,284 in comparison to the prior year. The decrease is primary related to the City's overall decrease in fund balance within the debt service fund.

The general fund is the chief operating fund of the City. At the end of the current year, unreserved, undesignated fund balance of the general fund was $12,161,681. As a measure of the general fund's liquidity, it may be useful to compare unreserved fund balance to total fund expenditures. Unreserved, undesignated fund balance represents 81 percent of total general fund expenditures. General fund revenues and expenditures were closely matched with a decrease of $57,012 in fund balance for the year.

The debt service fund has a total fund balance of $925,955, all of which is reserved for the payment of debt service. The net decrease in fund balance during the current year in the debt service fund was $269,708. This decrease can be attributed to the additional debt service requirements for the City.

GENERAL FUND BUDGETARY HIGHLIGHTS

There had been a planned decrease in budgeted fund balance in the amount of $4,850,841 in the general fund. However, the net change in fund balance decreased by $57,012 resulting in a positive variance of $4,793,829 from final budgeted over actual.

Final budgeted revenues exceeded actual revenues by $109,044 during 2010. This variance includes a negative variance of $434,786 for service revenue and a negative variance of $254,781 for investment revenue. This variance can be attributed to the decrease in service fees for sanitations during the year.

Final budgeted expenditures exceeded actual amounts by $4,902,873 for the fiscal year, which is a positive variance. The City did not expend as much as expected in the streets department as evidenced by the positive variance of $2,906,655 due to lack of construction projects during the year.

Proprietary Funds – The City's proprietary funds financial statements provide the same type of information found in the government-wide financial statements, but in more detail.

CAPITAL ASSETS

At the end of the year, the City's governmental activities funds had invested $31,287,699 in a variety of capital assets and infrastructure (net of accumulated depreciation). Depreciation is included with the governmental capital assets as required by GASB Statement No. 34.
Major capital asset events during the current year include the following:

- Continued street construction
- Water well construction

More detailed information about the City's capital assets is presented in note III. C to the financial statements.

LONG-TERM DEBT

At the end of the current year, the City had total certificates of obligation outstanding of $14,497,500 in governmental activities and $11,277,500 in revenue bonds for business-type activities.

During the year, the City had a net reduction in the long-term debt of $4,170,000. The City also refunded a portion of series 1998 certificates of obligation which resulted in a reduction of $192,053 in future debt service payments.

More detailed information about the City's long-term liabilities is presented in note III. D to the financial statements.

ECONOMIC FACTORS

The City strives to offer a positive business environment and home town feel through excellent public safety services, utilities, public facilities and good mobility. In continuing the vision of Tomball, the City plans to expand and improve quality infrastructure, facilities and public services to meet current and future needs. The City will implement economic development strategies to increase revenues to the City, diversify the tax base, create quality employment and housing opportunities, grow local businesses and maximize the community's economic assets. The City continues to experience growth due to new construction and developments and will continue to focus on maintaining an even balance within the City limits.

CONTACTING THE CITY'S FINANCIAL MANAGEMENT

This financial report is designed to provide a general overview of the City. Questions concerning this report or requests for additional financial information should be directed to, Finance Department, 501 James Street, Tomball, Texas, 77375, telephone 281.351.5484, or for general City information, visit the City's website at www.ci.tomball.tx.us.

BASIC FINANCIAL STATEMENTS

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CITY OF TOMBALL, TEXAS

STATEMENT OF NET ASSETS

September 30, 2010

	Primary Government			
	Governmental Activities	Business-Type Activities	Total	Component Unit
Assets				
Cash and cash equivalents	$ 12,324,826	$ 5,875,596	$ 18,200,422	$ 5,368,239
Investments	3,094,106	3,061,991	6,156,097	3,285,173
Receivables, net	1,833,245	1,183,262	3,016,507	366,275
Internal balances	(388,428)	388,428	-	-
Inventory	-	88,384	88,384	-
Prepaid expenses	20,637	-	20,637	-
Investments restricted for:				
Debt service	420,199	-	420,199	-
Deferred charges	53,385	-	53,385	-
Capital assets:				
Nondepreciable	13,520,116	6,147,725	19,667,841	-
Depreciable capital assets, net	17,767,583	34,203,569	51,971,152	-
Total Assets	48,645,669	50,948,955	99,594,624	9,019,687
Liabilities				
Accounts payable and other current liabilities	1,320,597	823,879	2,144,476	67,336
Accrued interest payable	72,355	62,045	134,400	-
Customer deposits	-	686,385	686,385	-
Noncurrent liabilities:				
Due within one year	1,582,329	1,041,569	2,623,898	-
Due in more than one year	14,408,351	10,507,489	24,915,840	-
Total Liabilities	17,383,632	13,121,367	30,504,999	67,336
Net Assets				
Invested in capital assets, net of related debt	16,790,199	29,073,794	45,863,993	-
Restricted for:				
Debt service	939,040	-	939,040	-
Court security	179,593	-	179,593	-
Court technology	171,098	-	171,098	-
Construction	133,790	-	133,790	-
Unrestricted	13,048,317	8,753,794	21,802,111	8,952,351
Total Net Assets	$ 31,262,037	$ 37,827,588	$ 69,089,625	$ 8,952,351

See Notes to Financial Statements.

City of Tomball, Texas

STATEMENT OF ACTIVITIES

For the Year Ended September 30, 2010

Functions/Programs	Expenses	Program Revenues: Charges for Sevices	Program Revenues: Operating Grants and Contributions
Primary Government			
Governmental Activities			
General government	$ 3,476,001	$ -	$ -
Public safety	5,907,235	1,204,099	83,130
Public works	5,205,824	2,231,777	-
Community services	272,034	-	-
Interest and fiscal agent fees	658,304	-	-
Total Governmental Activities	15,519,398	3,435,876	83,130
Business-Type Activities			
General government	1,843,501	427,519	720,000
Water	2,197,679	3,985,231	-
Sewer	1,134,907	2,233,364	-
Gas	2,374,227	4,011,635	-
Interest and fiscal agent fees	512,851	-	-
Total Business-Type Activities	8,063,165	10,657,749	720,000
Total Primary Government	$ 23,582,563	$ 14,093,625	$ 803,130
Component Unit			
Tomball Industrial Development Corporation	$ 1,568,827	$ -	$ -

General Revenues

Property taxes

Sales taxes

Franchise taxes

Other taxes

Miscellaneous

Unrestricted investment earnings

Transfers

Total General Revenues and Transfers

Change in Net Assets

Beginning Net Assets

Ending Net Assets

See Notes to Financial Statements.

Net Revenue (Expense) and Changes in Net Assets			
Primary Government			
Governmental Activities	Business-Type Activities	Total	Component Unit
$ (3,476,001)	$ -	$ (3,476,001)	$ -
(4,620,006)	-	(4,620,006)	-
(2,974,047)	-	(2,974,047)	-
(272,034)	-	(272,034)	-
(658,304)	-	(658,304)	-
(12,000,392)	-	(12,000,392)	-
-	(695,982)	(695,982)	-
-	1,787,552	1,787,552	-
-	1,098,457	1,098,457	-
-	1,637,408	1,637,408	-
-	(512,851)	(512,851)	-
-	3,314,584	3,314,584	-
(12,000,392)	3,314,584	(8,685,808)	-
-	-	-	(1,568,827)
2,922,913	-	2,922,913	-
6,651,064	-	6,651,064	2,195,119
1,153,954	-	1,153,954	-
154,174	-	154,174	-
254,615	43,076	297,691	-
80,426	93,361	173,787	46,321
2,260,134	(2,260,134)	-	-
13,477,280	(2,123,697)	11,353,583	2,241,440
1,476,888	1,190,887	2,667,775	672,613
29,785,149	36,636,701	66,421,850	8,279,738
$ 31,262,037	$ 37,827,588	$ 69,089,625	$ 8,952,351

CITY OF TOMBALL, TEXAS

BALANCE SHEET
GOVERNMENTAL FUNDS

September 30, 2010

	General	Debt Service	Nonmajor Governmental Funds	Total Governmental Funds
Assets				
Current assets:				
Cash and cash equivalents	$ 8,587,163	$ 505,277	$ 1,563,710	$ 10,656,150
Investments	3,094,106	-	-	3,094,106
Receivables, net	1,630,125	150,455	47,401	1,827,981
Restricted investments for:				
Debt service	-	420,199	-	420,199
Prepaid costs	20,637	-	-	20,637
Total Assets	$ 13,332,031	$ 1,075,931	$ 1,611,111	$ 16,019,073
Liabilities and Fund Balances				
Liabilities:				
Accounts payable	$ 1,071,916	$ -	$ 225,224	$ 1,297,140
Deferred revenue	98,434	149,976	-	248,410
Total Liabilities	1,170,350	149,976	225,224	1,545,550
Fund balances:				
Reserved for:				
Debt service	-	925,955	-	925,955
Court security	-	-	179,593	179,593
Court technology	-	-	171,098	171,098
Unreserved, undesignated reported in:				
General fund	12,161,681	-	-	12,161,681
Special revenue funds	-	-	901,406	901,406
Capital projects funds	-	-	133,790	133,790
Total Fund Balances	12,161,681	925,955	1,385,887	14,473,523
Total Liabilities and Fund Balances	$ 13,332,031	$ 1,075,931	$ 1,611,111	

Amounts reported for governmental activities in the statement of net assets are different, because:	
Capital assets used in governmental activities are not financial resources and, therefore, are not reported in the funds.	
Nondepreciable capital assets	13,520,116
Depreciable capital assets, net	16,998,181
Other long-term assets are not available to pay for current period expenditures and, therefore, are deferred in the funds.	248,410
Internal service funds are used by management to charge the costs of certain capital assets to individual funds.	2,031,457
Long-term liabilities are not due and payable in the current period and, therefore, are not reported in the funds.	
Accrued interest payable	(72,355)
Deferred charges	53,385
Noncurrent liabilities due in one year	(1,582,329)
Noncurrent liabilities due in more than one year	(14,408,351)
Net Assets of Governmental Activities	$ 31,262,037

See Notes to Financial Statements

City of Tomball, Texas

STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES
GOVERNMENTAL FUNDS

For the Year Ended September 30, 2010

	General	Debt Service	Nonmajor Governmental Funds	Total Governmental Funds
Revenues				
Property taxes	$ 1,417,699	$ 1,520,895	$ -	$ 2,938,594
Sales, franchise, and other taxes	7,805,018	-	154,174	7,959,192
Permits and licenses	311,563	-	-	311,563
Fines and forfeitures	872,559	-	331,540	1,204,099
Service revenue	1,920,214	-	-	1,920,214
Intergovernmental	49,549	-	23,581	73,130
Contributions from component unit	10,000	-	-	10,000
Interest on investments	95,219	2,604	2,014	99,837
Other revenue	141,846	12,067	100,702	254,615
Total Revenues	12,623,667	1,535,566	612,011	14,771,244
Expenditures				
Current:				
Administrative	3,695,063	-	295,868	3,990,931
Police	4,366,661	-	-	4,366,661
Fire	1,137,865	-	-	1,137,865
Court	346,487	-	-	346,487
Public works	1,296,470	-	-	1,296,470
Sanitation	1,685,892	-	-	1,685,892
Streets	1,361,059	-	-	1,361,059
Permits	342,188	-	-	342,188
Garage	70,424	-	-	70,424
Parks	503,479	-	-	503,479
Community services	135,225	-	140,707	275,932
Debt service:				
Principal	-	1,135,500	-	1,135,500
Interest and fiscal agent fees	-	723,159	-	723,159
Total Expenditures	14,940,813	1,858,659	436,575	17,236,047
Excess (Deficiency) of Revenues Over (Under) Expenditures	(2,317,146)	(323,093)	175,436	(2,464,803)
Other Financing Sources (Uses)				
Refunding bonds issued	-	2,120,000	-	2,120,000
Premium on refunding bonds	-	4,945	-	4,945
Payment to refunded bond escrow agent	-	(2,071,560)	-	(2,071,560)
Transfers in	2,260,134	-	-	2,260,134
Total Other Financing Sources (Uses)	2,260,134	53,385	-	2,313,519
Net Change in Fund Balances	(57,012)	(269,708)	175,436	(151,284)
Beginning fund balances	12,218,693	1,195,663	1,210,451	14,624,807
Ending Fund Balances	$ 12,161,681	$ 925,955	$ 1,385,887	$ 14,473,523

See Notes to Financial Statements.

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CITY OF TOMBALL, TEXAS

RECONCILIATION OF THE STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES OF GOVERNMENTAL FUNDS TO THE STATEMENT OF ACTIVITIES

For the Year Ended September 30, 2010

Amounts reported for governmental activities in the Statement of Activities are different because:

Net changes in fund balances - total governmental funds	$	(151,284)
Governmental funds report capital outlays as expenditures. However, in the Statement of Activities, the cost of those assets is allocated over their estimated useful lives and reported as depreciation expense. This is the amount by which capital outlays exceeded depreciation in the current period.		
Capital outlay		821,359
Depreciation		(1,278,902)
Disposal of capital assets		(22,366)
The issuance of long-term debt (e.g., bonds, certificates of obligation) provides current financial resources to governmental funds, while the repayment of the principal of long-term debt consumes the current financial resources of governmental funds. Neither transaction, however, has any effect on net assets. Also, governmental funds report the effect of issuance costs, premiums, discounts, and similar items when debt is first issued; whereas, these amounts are deferred and amortized in the Statement of Activities.		
Principal payments		1,135,500
Issuance of refunding bonds		(2,120,000)
Bond issuance costs		(4,945)
Payment to refunded bond escrow agent		2,071,560
Amortization of deferred charges		53,385
Revenue in the Statement of Activities that does not provide current financial resources are not reported as revenue in the funds.		(15,681)
Internal service funds are used by management to charge the costs of certain capital assets to individual funds. The net revenue (expense) is reported with govermental activities.		434,530
Some expenses reported in the Statement of Activities do not require the use of current financial resources and, therefore, are not reported as expenditures in governmental funds.		553,732
Change in Net Assets of Governmental Activities	$	1,476,888

See Notes to Financial Statements.

CITY OF TOMBALL, TEXAS

STATEMENT OF NET ASSETS
PROPRIETARY FUND

September 30, 2010

	Business-Type Activities	Governmental Activities
	Enterprise Fund	Internal Service Fund
Assets		
Current assets:		
Cash and cash equivalents	$ 5,875,596	$ 1,668,676
Investments	3,061,991	-
Accounts receivable, net	1,183,262	5,264
Inventory	88,384	-
Total Current Assets	10,209,233	1,673,940
Noncurrent assets:		
Nondepreciable capital assets	6,147,725	-
Depreciable capital assets	51,088,542	1,116,869
Less: accumulated depreciation	(16,884,973)	(347,467)
Total Capital Assets (Net of Accumulated Depreciation)	40,351,294	769,402
Total Noncurrent Assets	40,351,294	769,402
Total Assets	$ 50,560,527	$ 2,443,342
Liabilities		
Current liabilities:		
Accounts payable and accrued liabilities	$ 823,879	$ 23,457
Customer deposits	686,385	-
Current portion of bonds and other debt	1,041,569	-
Accrued interest payable	62,045	-
Total Current Liabilities	2,613,878	23,457
Noncurrent liabilities:		
Compensated absences	228,276	-
Long-term portion of bonds payable	10,279,213	-
Total Noncurrent Liabilities	10,507,489	-
Total Liabilities	13,121,367	23,457
Net Assets		
Invested in capital assets, net of related debt	29,073,794	769,402
Unrestricted	8,365,366	1,650,483
Total Net Assets	$ 37,439,160	$ 2,419,885
Reconciliation to government-wide Statement of Net Assets:		
Adjustment to reflect the consolidation of internal service fund activities related to enterprise funds	388,428	
Net Assets of Business-Type Activities	$ 37,827,588	

See Notes to Financial Statements.

CITY OF TOMBALL, TEXAS

STATEMENT OF REVENUES, EXPENSES, AND CHANGES IN FUND NET ASSETS
PROPRIETARY FUND

For the Year Ended September 30, 2010

	Business-Type Activities	Governmental Activities
	Enterprise Fund	**Internal Service Fund**
Operating Revenues		
Charges for sales and services	$ 10,230,230	$ 2,243,331
Taps and connections	100,130	-
Penalties	87,861	-
Capital recovery fees	239,529	-
Miscellaneous	43,076	-
Total Operating Revenues	10,700,826	2,243,331
Operating Expenses		
Costs of sales and services	6,338,235	1,577,316
Depreciation	1,276,025	148,129
Total Operating Expenses	7,614,260	1,725,445
Operating Income	3,086,566	517,886
Non-Operating Revenues (Expenses)		
Investment income	72,943	2,955
Unrealized gain (loss) on investments	20,418	-
Disposal of capital assets	-	(22,366)
Interest expense	(512,851)	-
Contribution from component unit	720,000	-
Total Non-Operating Revenues (Expenses)	300,510	(19,411)
Income (Loss) Before Transfers	3,387,076	498,475
Transfers (out)	(2,260,134)	-
Change in Net Assets	1,126,942	498,475
Beginning net assets	36,312,218	1,921,410
Ending Net Assets	$ 37,439,160	$ 2,419,885

Reconciliation to government-wide Statement of Activities:	
Adjustment to reflect the consolidation of internal service fund activities related to enterprise funds	63,945
Change in Net Assets of Business-Type Activities	$ 1,190,887

See Notes to Financial Statements.

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CITY OF TOMBALL, TEXAS

STATEMENT OF CASH FLOWS
PROPRIETARY FUND

For the Year Ended September 30, 2010

	Business-Type Activities	Governmental Activities
	Enterprise Fund	**Internal Service Funds**
Cash Flows from Operating Activities		
Receipts from customers	$ 10,814,557	$ 2,238,067
Payments to suppliers	(1,898,799)	(1,456,521)
Payments to employees	(1,416,748)	-
Net Cash Provided by Operating Activities	7,499,010	781,546
Cash Flows from Noncapital Financing Activities		
Transfers	(2,260,134)	-
Contribution from component unit	720,000	-
Net Cash (Used) by Noncapital Financing Activities	(1,540,134)	-
Cash Flows from Capital and Related Financing Activities		
Acquisition and construction of capital assets	(2,799,959)	(221,729)
Principal paid on capital debt	(1,978,242)	-
Interest paid on capital debt	(512,851)	-
Net Cash (Used) by Capital and Related Financing Activities	(5,291,052)	(221,729)
Cash Flows from Investing Activities		
Investment earnings	93,361	(19,411)
Net Cash Provided (Used) by Investing Activities	93,361	(19,411)
Net Increase in Cash and Cash Equivalents	761,185	540,406
Beginning cash and cash equivalents	5,114,411	1,128,270
Ending Cash and Cash Equivalents	$ 5,875,596	$ 1,668,676
Reconciliation of Operating Income to Net Cash Provided by Operating Activities		
Operating income	$ 3,086,566	$ 517,886
Adjustments to reconcile operating income to net cash provided (used) by operating activities:		
Depreciation	1,276,025	148,129
Changes in Operating Assets and Liabilities:		
(Increase) Decrease in Current Assets:		
Investments	2,750,774	-
Accounts receivable	120,313	(5,264)
Inventory	(10,854)	-
Increase (Decrease) in Current Liabilities:		
Accounts payable and accrued liabilities	308,848	120,795
Customer deposits	(6,582)	-
Compensated absences	(26,080)	-
Net Cash Provided by Operating Activities	$ 7,499,010	$ 781,546

See Notes to Financial Statements.

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CITY OF TOMBALL, TEXAS

NOTES TO FINANCIAL STATEMENTS

For the Year Ended September 30, 2010

I. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

A. Reporting Entity

The City of Tomball, Texas (the "City") was incorporated on July 18, 1933. The City has operated under a "Home Rule Charter", which provides for a Council-City Manager form of government, since 1987. The City Council is the principal legislative body of the City. The City Manager is appointed by a majority vote of the City Council and is responsible to the Council for the administration of all the affairs of the City. The City Manager is responsible for the appointment and removal of department directors and employees, supervision and control of all City departments, and preparation of the annual budget.

The City provides the following services: public safety to include police and fire services; municipal court; streets; drainage; water and sewer services; natural gas; solid waste collection and disposal; community development; and general administration.

The City is an independent political subdivision of the State of Texas governed by an elected council and a mayor and is considered a primary government. As required by generally accepted accounting principles, these basic financial statements have been prepared based on considerations regarding the potential for inclusion of other entities, organizations, or functions as part of the City's financial reporting entity. The Tomball Economic Development Corporation, although legally separate, is considered part of the reporting entity. No other entities have been included in the City's reporting entity. Additionally, as the City is considered a primary government for financial reporting purposes, its activities are not considered a part of any other governmental or other type of reporting entity.

Considerations regarding the potential for inclusion of other entities, organizations, or functions in the City's financial reporting entity are based on criteria prescribed by generally accepted accounting principles. These same criteria are evaluated in considering whether the City is a part of any other governmental or other type of reporting entity. The overriding elements associated with prescribed criteria considered in determining that the City's financial reporting entity status is that of a primary government are that it has a separately elected governing body; it is legally separate; and it is fiscally independent of other state and local governments. Additionally, prescribed criteria under generally accepted accounting principles include considerations pertaining to organizations for which the primary government is financially accountable and considerations pertaining to organizations for which the nature and significance of their relationship with the primary government are such that exclusion would cause the reporting entity's financial statements to be misleading or incomplete.

Discretely Presented Component Unit

Tomball Economic Development Corporation – This Corporation was formed in 1994 pursuant to the Development Corporation Act of 1979, governed under Section 4B of the Act. It receives and utilizes the proceeds of a one-half cent sales tax to promote and assist in the economic development of the City. The seven directors of the Corporation are appointed by the governing body of the City. Directors are removable by the governing body of the City at any time without cause.

Financial information for the Tomball Economic Development Corporation may be obtained from the following address:

Tomball Economic Development Corporation
401 West Market Street
Tomball, Texas 77375

Blended Component Unit

Employee Benefits Trust

Employee Benefits Trust (the "Trust") has been included in the reporting entity as a blended component unit. The Trust is a not-for-profit entity and is a trust organized under Section 222.002(c)(5) of the Texas Insurance Code. The Trust's Board of Trustees are the members of City Council. The Trust is organized for the purpose of providing or offering City officers, employees, and qualified retirees and their dependents with life, disability, sickness, accident, and other health benefits either directly or through the purchase of insurance. The operations of the Trust are presented as a proprietary fund type as an internal service fund.

B. Financial Statement Presentation

These financial statements include implementation of Governmental Accounting Standards Board (GASB) Statement No. 34, *Basic Financial Statements – and Management's Discussion and Analysis – for State and Local Governments.* Certain of the significant changes in the statement include the following:

- A Management's Discussion and Analysis (MD&A) section providing an analysis of the City's overall financial position and results of operations.
- Financial statements prepared using full accrual accounting for all of the City's activities.
- A change in the fund financial statements to focus on the major funds.

GASB Statement No. 34 established standards for external financial reporting for all state and local governmental entities, which includes a Statement of Net Assets and a Statement of Activities. It requires the classification of net assets into three components: invested in capital assets, net of related debt; restricted; and unrestricted. These classifications are defined as follows:

- **Invested in capital assets, net of related debt** – This component of net assets consists of capital assets, including restricted capital assets, net of accumulated depreciation and reduced by the outstanding balances of any bonds, mortgages, notes, or other borrowings that are attributable to the acquisition, construction, or improvement of those assets.
- **Restricted** – This component of net assets consists of constraints placed on net asset use through external constraints imposed by creditors (such as through debt covenants), grantors, contributors, or laws or regulations of other governments or constraints imposed by law through constitutional provisions or enabling legislation.
- **Unrestricted** – This component of net assets consists of net assets that do not meet the definition of "restricted" or "invested in capital assets, net of related debt."

C. Government-Wide and Fund Financial Statements

The government-wide financial statements (i.e., the Statement of Net Assets and the Statement of Activities) report information about the City as a whole. These statements include all activities of the primary government and its component units. For the most part, the effect of interfund activity has been removed from these statements. Governmental activities, which normally are supported by taxes and intergovernmental revenues, are reported separately from business-type activities, which rely to a significant extent on fees and charges for support.

The Statement of Activities presents a comparison between direct expenses and program revenues for each segment of the business-type activities of the City and for each function of the City's governmental activities. Direct expenses are those that are specifically associated with a program or function and, therefore, are clearly identifiable to a particular function. Program revenues include charges paid by the recipients of goods or services offered by the programs and grants that are restricted to meeting the operational or capital requirements of a particular program. Revenues that are not classified as program revenues, such as taxes and investment earnings, are presented as general revenues.

Separate financial statements are provided for governmental funds and proprietary funds. Major individual governmental funds and major individual enterprise funds are reported as separate columns in the fund financial statements. In the fund financial statements, the accounts of the City are organized on the basis of funds, each of which is considered a separate accounting entity. The operations of each fund are accounted for with a separate set of self-balancing accounts that comprise its assets, liabilities, fund equity, revenues, and expenditures or expenses, as appropriate. Following is a description of the various funds:

Governmental Funds

Governmental funds are those funds through which most governmental functions are typically financed.

General Fund

The general fund is used to account for all financial transactions not properly includable in other funds. The principal sources of revenues include local property taxes, sales and franchise taxes, licenses and permits, fines and forfeitures, and charges for services. Expenditures include administrative, police, fire, municipal court, public works, sanitation, streets, permits, garage, parks, and community services.

Special Revenue Funds

The special revenue funds are used to account for proceeds of specific revenue sources that are legally restricted to expenditures for specified purposes. The special revenue funds include court security fund, court technology fund, housing trust fund, hotel occupancy tax fund, red light camera fund, disaster preparedness fund, and the special general fund. The special revenue funds are considered nonmajor funds for reporting purposes.

Debt Service Fund

The debt service fund is used to account for the payment of interest and principal on all general obligation bonds and other long-term debt of the City. The primary source of revenue for debt service is local property taxes. The debt service fund is considered a major fund for reporting purposes.

Capital Projects Fund

The capital projects funds are used to account for the expenditures of resources accumulated from sales tax revenues and the sale of bonds and related interest earnings for capital improvement projects. The capital projects fund is considered a nonmajor fund for reporting purposes.

Proprietary Fund Types

Proprietary funds are used to account for activities that are similar to those often found in the private sector. All assets, liabilities, equities, revenues, expenses, and transfers relating to the government's business activities are accounted for through proprietary funds. The measurement focus is on determination of net income, financial position, and cash flows. Proprietary funds distinguish operating revenues and expenses from non-operating items. Operating revenues include charges for services. Operating expenses include costs of materials, contracts, personnel, and depreciation. All revenues and expenses not meeting this definition are reported as non-operating revenues and expenses. Proprietary fund types follow generally accepted accounting principles (GAAP) prescribed by the GASB and all Financial Accounting Standards Board's standards issued prior to November 30, 1989. Subsequent to this date, the City accounts for its enterprise funds as presented by GASB.

The proprietary fund types used by the City include the following:

Enterprise Fund

The enterprise fund is used to account for the operations that provide water and wastewater collection, wastewater treatment operations, and solid waste collection and disposal. The services are financed and operated in a manner similar to private business enterprises where the intent of the governing body is that the costs (expenses including depreciation) of providing goods or services to the general public on a continuing basis will be financed or recovered primarily through user charges. The enterprise fund is considered a major fund for reporting purposes.

Internal Service Funds

Internal service funds account for services provided to other departments or agencies of the government, or to other governments, on a cost reimbursement basis. The fleet replacement and health benefits funds are used to account for vehicle and equipment replacement and employee benefits.

D. Measurement Focus and Basis of Accounting

The government-wide Statements of Net Assets and Statements of Activities and all proprietary funds are accounted for on a flow of economic resources measurement focus, accrual basis of accounting. With this measurement focus, all assets and all liabilities associated with the operations of these activities are included on the balance sheet. Proprietary fund equity consists of net assets. Proprietary fund-type operating statements present increases (i.e., revenues) and decreases (i.e., expenses) in net total assets.

The accounting and financial reporting treatment applied to a fund is determined by its measurement focus. All governmental funds and component units are accounted for using a current financial resources measurement focus. With this measurement focus, only current assets and current liabilities generally are included on the balance sheet. Operating statements of these funds present increases (i.e., revenues and other financing sources) and decreases (i.e., expenditures and other financing uses) in net current assets.

The City uses the modified accrual basis of accounting in the governmental fund type and component units. Under the modified accrual basis of accounting, revenues are recognized in the accounting period when they are susceptible to accrual (i.e., when they are measurable and available). Measurable means the amount of the transaction can be determined and available means collectible within the current period or soon enough thereafter to pay liabilities of the current period. For this purpose, the City considers revenues available if they are collected within 60 days of the end of the current period. Revenues susceptible to accrual include charges for services and interest on temporary investments.

Property taxes, sales taxes, franchise taxes, and interest associated with the current period are all considered to be susceptible to accrual and so have been recognized as revenues of the current period. Other receipts and other taxes become measurable and available when cash is received by the government and are recognized as revenue at that time.

Under modified accrual accounting, expenditures are recognized in the accounting period in which the liability is incurred, if measurable, except for interest on general long-term debt, which is recognized when due.

The accrual basis of accounting is used for the proprietary fund types. This basis of accounting recognizes revenues in the accounting period in which they are earned and become measurable, and expenses in the accounting period in which they are incurred and become measurable.

The Statements of Net Assets, Statements of Activities, and financial statements of proprietary fund types are presented on the accrual basis of accounting. Under this method of accounting, revenues are recognized in the accounting period in which they are earned, and expenses in the accounting period in which they are incurred.

Generally, the effect of interfund activity has been eliminated from the government-wide financial statements.

E. Assets, Liabilities, and Net Assets or Fund Equity

1. Deposits and Investments

The City maintains a pooled cash and investments account. Each fund whose monies are deposited in the pooled cash and investment account has equity therein, and interest earned on the investment of these monies is allocated based upon relative equity at the previous month end. Amounts on deposit in interest-bearing accounts and other investments are displayed on the combined balance sheet as "Cash and cash equivalents."

In accordance with GASB Statement No. 31, *Accounting and Reporting for Certain Investments and External Investment Pools*, the City reports all investments at fair value, except for "money market investments" and "2a7-like pools." Money market investments, which are short-term highly liquid debt instruments that may include U.S. Treasury and agency obligations, are reported at amortized costs. Investment positions in external investment pools that are operated in a manner consistent with the SEC's Rule 2a7 of the Investment Company Act of 1940, such as TexPool, are reported using the pools' share price.

The City has adopted a written investment policy regarding the investment of its funds as defined in the Public Funds Investment Act, Chapter 2256, Texas Governmental Code. In summary, the City is authorized to invest in the following:

Direct obligations of the U.S. government
Money market mutual funds that meet certain criteria
Statewide investment pools

2. Receivables

Transactions between funds that are representative of lending/borrowing arrangements outstanding at the end of the year are referred to as either "interfund receivables/payables" (i.e., the current portion of interfund loans) or "advances to/from other funds" (i.e., the noncurrent portion of interfund loans). All other outstanding balances between funds are reported as "due to/from other funds" in the fund financial statements. If the transactions are between the primary government and its component unit, these receivables and payables are classified as "due to/from component unit/primary government." Any residual balances outstanding between the governmental activities and business-type activities are reported in the government-wide financial statements as "internal balances."

Advances between funds are offset by a fund balance reserve account in applicable governmental funds to indicate they are not available for appropriation and are not expendable available financial resources.

All trade receivables are shown net of an allowance for uncollectibles.

Property taxes

Property taxes are levied during October of each year and are due upon receipt of the City's tax bill. Taxes become delinquent, with an enforceable lien on property, on February 1 of the following year.

3. Inventories and Prepaid Items

The costs of governmental fund type inventories are recorded as expenditures when the related liability is incurred (i.e., the purchase method). Certain payments to vendors reflect costs applicable to future accounting periods (prepaid expenditures) are recognized as expenditures when utilized.

4. Capital Assets

Capital assets, which include property, plant, equipment, and infrastructure assets (e.g., roads, bridges, sidewalks, and similar items), are reported in the applicable governmental or business-type activities columns in the government-wide financial statements. In accordance with GASB Statement No. 34, infrastructure has been capitalized retroactively. Capital assets are defined by the government as assets with an initial, individual cost of more than $20,000 and an estimated useful life in excess of three years. Such assets are recorded at historical cost or estimated historical cost if purchased or constructed. Donated capital assets are recorded at estimated fair market value at the date of donation. Major outlays for capital assets and improvements are capitalized as projects are constructed.

Interest costs incurred in connection with construction of enterprise fund capital assets are capitalized when the effects of capitalization materially impact the financial statements.

The costs of normal maintenance and repairs that do not add to the value of the asset or materially extend assets' lives are not capitalized.

Property, plant, and equipment of the primary government, as well as the component units, are depreciated using the straight-line method over the following estimated useful years:

Asset Description	Estimated Useful Life
Buildings and improvements	20 to 50 years
Machinery and equipment	3 to 10 years
Vehicles	5 years
Water, sewer, and gas system	20 to 30 years
Infrastructure	40 to 50 years

5. Compensated Employee Absences

It is the City's policy to permit employees to accumulate earned but unused vacation, sick pay benefits, and compensatory time. Amounts accumulated, up to certain amounts, may be paid to employees upon termination of employment. The estimated amount of compensation for services provided that is expected to be liquidated with expendable available financial resources are reported as an expenditure and a fund liability of the governmental fund that will pay it when it matures or becomes due. Amounts of vested or accumulated vacation leave that are not expected to be liquidated with expendable available financial resources are maintained separately and represent a reconciling item between the fund and government-wide presentations.

6. Long-Term Obligations

In the government-wide financial statements, long-term debt and other long-term obligations are reported as liabilities in the applicable governmental activities Statement of Net Assets. The long-term debt consists primarily of bonds payable and accrued compensated absences.

Long-term debt for governmental funds is not reported as liabilities in the fund financial statements until due. The debt proceeds are reported as other financing sources, net of the applicable premium or discount and payments of principal and interest are reported as expenditures. In the governmental fund types, issuance costs, even if withheld from the actual net proceeds received, are reported as debt service expenditures. However, claims and judgments paid from governmental funds are reported as a liability in the fund financial statements only for the portion expected to be financed from expendable available financial resources.

Long-term debt and other obligations financed by proprietary funds are reported as liabilities in the appropriate funds. For proprietary fund types, bond premiums, discounts and issuance costs are deferred and amortized over the life of the bonds using the effective interest method, if material. Bonds payable are reported net of the applicable bond premium or discount. Issuance costs are reported as deferred charges.

The property tax rate is allocated each year between the general and debt service funds. The full amount estimated to be required for debt service on general obligation debt is provided by the tax along with interest earned in the debt service fund. Though a portion of the general obligation debt was directly related to the purchase of water and sewer infrastructure, the debt service expenditures are included in the governmental fund financial statements as they are expected to be paid from debt service tax revenues instead of water system revenues.

Assets acquired under the terms of capital leases are recorded as liabilities and capitalized in the government-wide financial statements at the present value of net minimum lease payments at inception of the lease. In the year of acquisition, capital lease transactions are recorded as other financing sources and as capital outlay expenditures in the applicable fund. Lease payments representing both principal and interest are recorded as expenditures in the general fund upon payment with an appropriate reduction of principal recorded in the government-wide financial statements.

7. Landfill Post-Closure Care Costs

The City reports municipal solid waste landfill costs in accordance with GASB Statement No. 18, *Accounting for Municipal Solid Waste Landfill Closure and Post-Closure Care Costs*. The liability for landfill post-closure costs is reported in long-term debt.

8. Fund Equity

In the fund financial statements, governmental funds report reservations of fund balance for amounts that are not available for appropriation or are legally restricted by outside parties for use for a specific purpose. Designations of fund balance represent tentative management plans that are subject to change.

9. Estimates

The preparation of financial statements, in conformity with GAAP, requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenditures/expenses during the reporting period. Actual results could differ from those estimates.

II. STEWARDSHIP, COMPLIANCE, AND ACCOUNTABILITY

Annual budgets are adopted on a basis consistent with GAAP for the general fund, debt service fund, court security fund, court technology fund, hotel occupancy tax fund, housing trust fund, and the special general fund. All other adopted budgets are used as a management tool. The original budget is adopted by the City Council prior to the beginning of the year. The legal level of control as defined by the charter in the approved budget is the department level in the general fund and all others are the fund level. The City Manager may transfer appropriations between divisions within a department without seeking the approval of City Council. Appropriations lapse at the end of the year. Supplemental budget appropriations were made for the year ended.

A. Excess of Expenditures Over Appropriations

General government:	
Garage	$2,058
Court security	$3,036

III. DETAILED NOTES ON ALL FUNDS

A. Deposits and Investments

As of year end, the City and component unit had the following investments:

Investment Type		Fair Value	Weighted Average Maturity (Years)	Credit Risk
City				
U.S. agencies	$	6,156,097	0.5	AAA
Certificates of deposit		3,013,267	0.5	N/A
TexPool		8,691,851	0.0	AAAM
Texas CLASS		6,102,232	0.0	AAAM
Total fair value	$	23,963,447		
Portfolio weighted average maturity			0.5	
Component Unit				
Certificates of deposit	$	503,189	0.5	N/A
U.S. agencies		2,781,984	0.5	
TexPool		2,839,490	0.0	
Texas CLASS		2,005,664	0.0	AAAM
Total fair value	$	8,130,327		
Portfolio weighted average maturity			0.5	

Custodial credit risk – deposits. In the case of deposits, this is the risk that in the event of a bank failure, the City's deposits may not be returned to it. The City's investment policy requires funds on deposit at the depository bank to be collateralized by securities. As of year end, market values of pledged securities and FDIC coverage exceeded bank balances for the City and the component unit.

TexPool

TexPool was established as a trust company with the Treasurer of the State of Texas as trustee, segregated from all other trustees, investments, and activities of the trust company. The State Comptroller of Public Accounts exercises oversight responsibility over TexPool. Oversight includes the ability to significantly influence operations, designation of management, and accountability for fiscal matters. Additionally, the State Comptroller has established an advisory board composed of both participants in TexPool and other persons who do not have a business relationship with TexPool. The advisory board members review the investment policy and management fee structure. Finally, Standard & Poor's rates TexPool AAAm. As a requirement to maintain the rating, weekly portfolio information must be submitted to Standard & Poor's as well as to the office of the Comptroller of Public Accounts for review.

TexPool operates in a manner consistent with the SEC's Rule 2a7 of the Investment Company Act of 1940. TexPool uses amortized cost rather than market value to report net assets to compute share prices. Accordingly, the fair value of the position in TexPool is the same as the value of TexPool shares.

MBIA Texas CLASS

The Cooperative Liquid Assets Securities System – Texas ("CLASS") is a public funds investment pool under Section 2256.016 of the Public Funds Investment Act, Texas Government Code, as amended (the "Act"). CLASS is created under an Amended and Restated Trust Agreement, dated as of May 1, 2001 (the "Agreement") among certain Texas governmental entities investing in the pool (the "Participants"), MBIA Municipal Investors Service Corporation ("MBIA-MISC") as Program Administrator, and Wells Fargo as Custodian. CLASS is not SEC-registered and is not subject to regulation by the State of Texas. Under the Agreement, however, CLASS is administered and supervised by a seven member board of trustees (the "Board"), whose members are investment officers of the Participants, elected by the Participants for overlapping two-year terms. In the Agreement and by resolution of the Board, CLASS has contracted with MBIS-MISC to provide for the investment and management of the public funds of CLASS. Separate financial statements for TEXAS CLASS may be obtained by contacting MBIA Asset Management at 815-A Brazos Street, Suite 345, Austin, TX 78701-9996, (800)707-6242.

Interest rate risk. In compliance with the City's Investment Policy, as of year end, the City minimized the interest rate risk related to the decline in market value of securities due to rising interest rates in the portfolio by limiting the effective duration of security types not to exceed two years, with the exception of securities purchased related to reserve funds; structuring the investment portfolio so that securities matured to meet cash requirements for ongoing operations, thereby avoiding the need to sell securities on the secondary market prior to maturity; monitoring credit ratings of portfolio positions to assure compliance with rating requirements imposed by the Public Funds Investment Act; and investing operating funds primarily in shorter-term securities, money market mutual funds, or similar government investment pools.

Credit risk. The City's investment policy limits investments in money market mutual funds rated as to investment quality not less than AAA by Standard & Poor's. As of September 30, 2010, the City's investment in TexPool and Texas CLASS was rated AAAm by Standard & Poor's. All other investments are guaranteed (either express or implied) by the full faith and credit of the United States government or the issuing U.S. agency. More specifically, the U.S. agencies held by the City as of September 30, 2010, consist of a variety of bonds and discount notes issued by the Federal Home Loan Bank, Federal Home Loan Mortgage Corporation, and the Federal National Mortgage Association. These investments were rated not less than AAA by, Moody's and Standard & Poor's.

B. Receivables

The following comprise receivable balances at year end:

	General	Debt Service	Enterprise	Nonmajor Governmental	Component Unit	Internal Service
Property taxes	$ 98,868	$ 150,455	$ -	$ -	$ -	$ -
Sales taxes	1,122,904	-	-	-	-	-
Other taxes	108,439	-	-	-	-	-
Accounts	429,050	-	1,229,425	-	-	-
Interest	30,080	-	19,576	-	-	-
Other	-	-	-	47,401	366,275	5,264
Less allowance	(159,216)	-	(65,739)	-	-	-
	$ 1,630,125	$ 150,455	$ 1,183,262	$ 47,401	$ 366,275	$ 5,264

C. Capital Assets

A summary of changes in capital assets at year end is as follows:

	Primary Government			
	Beginning Balance	**Increases**	**Reclassifications /(Decreases)**	**Ending Balance**
Governmental Activities:				
Capital assets not being depreciated:				
Land	$ 4,521,005	$ -	$ -	$ 4,521,005
Construction in progress	8,366,195	688,680	(55,764)	8,999,111
Total capital assets not being depreciated	12,887,200	688,680	(55,764)	13,520,116
Other capital assets:				
Buildings and improvements	10,002,957	224,869	-	10,227,826
Machinery and equipment	5,656,391	140,272	(228,718)	5,567,945
Vehicles	3,185,479	-	-	3,185,479
Infrastructure	13,164,167	22,748	-	13,186,915
Total other capital assets	32,008,994	387,889	(228,718)	32,168,165
				-
Less accumulated depreciation for:				-
Buildings and improvements	(2,112,675)	(263,922)	-	(2,376,597)
Machinery and equipment	(3,611,660)	(453,434)	8,946	(4,056,148)
Vehicles	(2,714,706)	(205,009)	44,020	(2,875,695)
Infrastructure	(4,735,601)	(356,541)	-	(5,092,142)
Total accumulated depreciation	(13,174,642)	(1,278,906)	52,966	(14,400,582)
Other capital assets, net	18,834,352	(891,017)	(175,752)	17,767,583
Totals	$ 31,721,552	$ (202,337)	$ (231,516)	31,287,699
		Less associated debt		(14,497,500)
		Invested in Capital Assets, Net of Related Debt		$ 16,790,199

All capital assets constructed or paid for with funds of the component units are titled in the City's name. Accordingly, component unit capital assets and construction in progress are recorded in the governmental activities totals.

Depreciation was charged to governmental functions as follows:

Police	$ 357,275
Streets	263,918
Public works	508,807
Internal service	148,902
Total Governmental Activities Depreciation Expense	$ 1,278,902

The following is a summary of changes in capital assets for business-type activities for the year ended:

	Beginning Balance	Increases	(Decreases)	Ending Balance
Business-Type Activities:				
Capital assets not being depreciated:				
Land	$ 795,205	$ -	$ -	$ 795,205
Construction in progress	1,567,488	3,785,032	-	5,352,520
Total capital assets not being depreciated	2,362,693	3,785,032	-	6,147,725
Other capital assets:				
Gas system	5,801,411	4,746	-	5,806,157
Water and sewer system	41,543,899	78,293	-	41,622,192
Machinery and equipment	3,660,193	-	-	3,660,193
Total other capital assets	51,005,503	83,039	-	51,088,542
Less accumulated depreciation for:				
Gas system	(2,015,395)	(139,531)		(2,154,926)
Water and sewer system	(12,143,945)	(1,020,459)		(13,164,404)
Machinery and equipment	(1,449,608)	(116,035)		(1,565,643)
Total accumulated depreciation	(15,608,948)	(1,276,025)	-	(16,884,973)
Other capital assets, net	35,396,555	(1,192,986)	-	34,203,569
Totals	$ 37,759,248	$ 2,592,046	$ -	40,351,294
		Less associated debt		(11,277,500)
		Invested in Capital Assets, Net of Related Debt		$ 29,073,794

Depreciation was charged to business-type functions as follows:

Water and sewer	$ 1,177,107
Gas	98,918
Total Business-Type Activities Depreciation Expense	$ 1,276,025

D. Long-Term Debt

The following is a summary of changes in the City's total governmental long-term liabilities for the year ended. In general, the City uses the general and debt service funds to liquidate governmental long-term liabilities.

Long-term liabilities applicable to the City's governmental activities are not due and payable in the current period and, accordingly, are not reported as fund liabilities in the governmental funds. The governmental activities compensated absences are generally liquidated by the general fund. Interest on long-term debt is not accrued in governmental funds, but rather is recognized as an expenditure when due.

	Beginning Balance	Additions	Reductions	Ending Balance		Amounts Due within One Year
Governmental Activities						
Bonds, notes and other payables:						
Certificates of obligation	$ 15,578,000	$ 2,120,000	$ 3,200,500	$ 14,497,500	*	$ 1,195,000
	15,578,000	2,120,000	3,200,500	14,497,500		1,195,000
Other liabilities:						
Net OPEB obligation	131,699	65,884	-	197,583		-
Compensated absences	1,456,115	221,562	646,580	1,031,097		309,329
Landfill post-closure costs	342,500	-	78,000	264,500		78,000
Total Governmental Activities	$ 17,508,314	$ 2,407,446	$ 3,925,080	$ 15,990,680		$ 1,582,329
Long-term debt due in more than one year				$ 14,408,351		
Business-Type Activities						
Revenue bonds	$ 12,247,000	$ -	$ 969,500	$ 11,277,500	**	$ 984,500
	12,247,000	-	969,500	11,277,500		984,500
Other liabilities:						
Net OPEB obligation	28,850	14,432	-	43,282		-
Compensated absences	202,196	95,324	69,244	228,276		57,069
Total Business-Type Activities	$ 12,478,046	$ 109,756	$ 1,038,744	$ 11,549,058		$ 1,041,569
Long-term debt due in more than one year				$ 10,507,489		
***Debt associated with governmental activity capital assets**				$ 14,497,500		
****Debt associated with business-type activity capital assets**				$ 11,277,500		

Long-term debt at year end was comprised of the following debt issues:

Description	Interest Rates	Balance
Governmental Activities		
Certificates of Obligation		
Series 1995	4.6-5.125%	$ 100,000
Series 2002	4.6-5.125%	5,872,500
Series 2003	1.0-4.5%	6,405,000
Series 2010	1.5-2.2%	2,120,000
Total Certificates of Obligation		14,497,500
Total Governmental Activities Long-Term Debt		$ 14,497,500
Business-Type Activities		
Revenue Bonds		
Series 1999	2.9-4.1%	$ 4,100,000
Series 2002	4.125-5.125%	7,177,500
Total Business-Type Activities Long-Term Debt		$ 11,277,500

The annual requirements to amortize bond and certificate debt issues outstanding at year end were as follows:

Year Ending Sep 30	Governmental Activity		Business-Type Activity	
	Principal	Interest	Principal	Interest
2011	1,195,500	557,029	984,500	476,035
2012	1,115,500	515,735	999,500	435,673
2013	1,145,500	476,398	1,014,500	394,663
2014	1,165,500	435,883	1,034,500	351,939
2015	1,200,500	393,233	1,054,500	307,824
2016-2020	5,833,500	1,261,737	4,996,500	833,048
2021-2023	2,841,500	176,413	1,193,500	59,675
Total	$ 14,497,500	$ 3,816,428	$ 11,277,500	$ 2,858,857

Current Refunding

The City issued $2,120,000 of general obligation refunding bonds, series 2010 for a current refunding of $2,065,000 certificates of obligation, series 1998. The reacquisition price exceeded the net carrying amount of the old debt by $6,560. The transaction also resulted in an economic gain of $173,119 and a reduction of $192,053 in future debt service payments.

General obligation bonds are direct obligations of the City for which its full faith and credit are pledged. Repayment of general obligation bonds are from taxes levied on all taxable property located within the City. The City also issued bonds where the government pledges income derived from the acquired or constructed assets to pay debt service. The City is not obligated in any manner for special assessment debt.

Federal Arbitrage

The Tax Reform Act of 1986 instituted certain arbitrage restrictions consisting of complex regulations with respect to issuance of tax-exempt bonds after August 31, 1986. Arbitrage regulations deal with the investment of tax-exempt bond proceeds at an interest yield greater than the interest yield paid to bondholders. Generally, all interest paid to bondholders can be retroactively rendered taxable if applicable rebates are not reported and paid to the Internal Revenue Service at least every five years for applicable bond issues. Accordingly, there is the risk that if such calculations are not performed or are not performed correctly, a substantial liability to the City could result. The City periodically engages an arbitrage consultant to perform the calculations in accordance with IRS rules and regulations.

E. Interfund Transactions

Transfers between the primary government funds during the year were as follows:

Transfer Out	Transfer In	Amounts
Enterprise fund	General fund	$ 2,260,134

The enterprise fund reimbursed the general fund for the administrative costs incurred in supporting enterprise fund operations.

E. Landfill Post-Closure Liability

State and federal regulations required the City to place a final cover on the City's landfill site when it stopped accepting waste and to perform certain maintenance and monitoring functions at the site until determined by the State. The $264,500 reported as accrued landfill post-closure costs at year end represent the remaining estimated post-closure costs. The landfill is in the post-closure process as the landfill has been closed. The amount is based on what it would cost to perform all post-closure care. Actual costs may be higher due to inflation, changes in technology, or changes in regulations. State and federal laws require owners to demonstrate financial assurance for closure, post-closure, and/or corrective action. The City complies with the financial and public notice components of the local government financial test and government-guarantee of the test.

IV. OTHER INFORMATION

A. Risk Management

The City is exposed to various risks of loss related to torts; theft of, damage to, and destruction of assets; errors and omissions; and natural disasters for which the City participates along with 2,539 other entities in the Texas Municipal League's Intergovernmental Risk Pools (the "Pool"). The Pool purchases commercial insurance at group rates for participants in the Pool. The City has no additional risk or responsibility to the Pool, outside of the payment of insurance premiums. The City has not significantly reduced insurance coverage or had settlements which exceeded coverage amounts for the past three years.

B. Contingent Liabilities

The City is a defendant in several lawsuits. Although the outcome of these lawsuits is not presently determinable, it is the opinion of the City's management that resolution of these matters will not have a material adverse effect on the financial condition of the City.

Liabilities are reported when it is probable that a loss has occurred and the amount of the loss can be reasonably estimated. Liabilities include an amount for claims that have been incurred but not reported. Claim liabilities are calculated considering the effects of inflation, recent claim settlement trends, including frequency and amount of payouts, and other economic and social factors. No claim liabilities are reported at year end.

C. Pension Plans

1. Texas Municipal Retirement System

Plan Description

The City provides pension benefits for all of its full-time employees through a non-traditional, joint contributory, hybrid defined benefit plan in the state-wide Texas Municipal Retirement System (TMRS), one of 837 administered by TMRS, an agent multiple-employer public employee retirement system. The plan provisions that have been adopted by the City are within the options available in the governing state statutes of TMRS.

TMRS issues a publicly available comprehensive annual financial report that includes financial statements and Required Supplementary Information (RSI) for TMRS. The report also provides detailed explanations of the contributions, benefits and actuarial methods and assumptions used by the System. This report may be obtained by writing to TMRS, P.O. Box 149153, Austin, TX 78714-9153 or by calling 800-924-8611. In addition, the report is available on TMRS' website at *www.TMRS.com.*

The plan provisions are adopted by the governing body of the City, within the options available in the state statutes governing TMRS. Plan provisions for the City were as follows:

	2010	2009
Employee deposit rate	7.00%	7.00%
Matching ratio (city to employee)	2 to 1	2 to 1
Years required for vesting	5	5
Service requirement eligibility (expressed as age/yrs of service)	60/5, 0/20	60/5, 0/20
Updated service credit	100% Repeating, Transfers	100% Repeating, Transfers
Annuity increase (to retirees)	70% of CPI Repeating	70% of CPI Repeating

Benefits

Upon retirement, benefits depend upon the sum of the employee's contributions to the plan, with interest, and the City-financed monetary credits, with interest. City financed monetary credits are composed of three sources: prior service credits, current service credits, and updated service credits. At the date the plan began, the City granted monetary credits for service rendered before the plan began of a theoretical amount at least equal to two times what would have been contributed by the employee, with interest, prior to establishment of the plan. Monetary credits for service since the plan began are a percent (100%, 150%, or 200%) of the employee's accumulated contributions. In addition, the City can grant, as often as annually, another type of monetary credit referred to as an updated service credit. This is a theoretical amount which, when added to the employee's accumulated contributions and the monetary credits for service since the plan began, would be the total monetary credits and employee contributions accumulated with interest if the current employee contribution rate and City matching percent had always been in existence, and if the employee's salary had always been the average of his salary in the last three years that are one year before the effective date. At retirement, the benefit is calculated as if the sum of the employee's accumulated contributions, with interest, and the employer-financed monetary credits, with interest, were used to purchase an annuity.

Contributions

Under the state law governing TMRS, the contribution rate for each city is determined annually by the actuary, using the Projected Unit Credit actuarial cost method. This rate consists of the normal cost contribution and the prior service cost contribution rate, which is calculated to be a level percent of payroll from year to year. The normal cost contribution rate finances the portion of an active member's projected benefit allocated annually; the prior service contribution rate amortizes the unfunded (overfunded) actuarial liability (asset) over the remainder of the plan's 28-year amortization period. Both the normal cost and prior service contribution rates include recognition of the projected impact of annually repeating benefits such as Updated Service Credits and Annuity Increases.

The City contributes to the TMRS Plan at an actuarially determined rate. Both the employees and the City make contributions monthly. Since the City needs to know its contribution rate in advance for budgetary purposes, there is a one-year delay between the actuarial valuation that serves as the basis for the rate and the calendar year when the rate goes into effect (i.e., December 31, 2008 valuation is effective for rates beginning January 2010).

Three-year trend information for the annual pension cost (APC) is as follows:

Fiscal year	Annual Pension Cost (APC)	Actual Contribution Made	Percentage of APC Contributed	Net Pension Obligation
2008	$ 792,454	$ 792,454	100.00%	$ -
2009	$ 944,327	$ 944,327	100.00%	$ -
2010	$ 969,758	$ 969,758	100.00%	$ -

The required contribution rates for fiscal year 2010 were determined as part of the December 31, 2009 actuarial valuations. Additional information as of the latest actuarial valuation, December 31, 2010, also follows:

	2010	2009	2008
Actuarial Valuation Date	12/31/2009	12/31/2008	12/31/2007
Actuarial Cost Method	Projected Unit Credit	Projected Unit Credit	Projected Unit Credit
Amortization Method	Level % of Payroll	Level % of Payroll	Level % of Payroll
Remaining Amortization Period	28 Years - Closed period	29 Years - Closed period	30 Years - Closed period
Asset Valuation Method	Smoothed market	Amortized cost	Amortized cost
Investment Rate of Return	7.5%	7.5%	7.0%
Projected Salary Increases	Varies by age and service	Varies by age and service	Varies by age and service
Includes Inflation at	3.00%	3.00%	3.00%
Cost of Living Adjustments	2.10%	2.10%	2.10%

The funded status as of December 31, 2009, the most recent valuation date, is as follows:

		2010
Actuarial Valuation Date		12/31/2009
Actuarial Value of Assets	$	11,538,535
Actuarial Accrued Liability	$	17,190,687
Percentage Funded		67.1%
Unfunded Actuarial Accrued Liability (UAAL)	$	5,652,152
Annual Covered Payroll	$	7,278,133
UAAL as a Percentage of Covered Payroll		77.7%

The schedule of funding progress, presented as Required Supplementary Information following the notes to the financial statements, presents multi-year trend information about whether the actuarial value of plan assets is increasing or decreasing over time relative to the actuarial accrued liability of benefits.

2. Texas Emergency Services Retirement System

Plan Description

The Fire Fighter's Pension Commissioner is the administrator of the Texas Emergency Services Retirement System (TESRS), a cost-sharing, multiple employer pension system established and administered by the State of Texas to provide pension benefits for emergency services personnel who serve without significant monetary remuneration. TESRS is considered a component unit of the State of Texas financial reporting entity and is included in the State's financial reports as a pension trust fund. At August 31, 2010, there were 198 member fire or emergency services departments participating in TESRS. Eligible participants include volunteer emergency services personnel who are members in good standing of a participating department.

Senate Bill 411, 65th Legislature, Regular Session (1977), created TESRS and established the applicable benefit provisions. The 79th Legislature, Regular Session (2005), recodified the provisions and gave the TESRS Board of Trustees authority to establish vesting requirements, contribution levels, benefit formulas, and eligibility requirements by board rule. The benefit provisions include retirement benefits as well as death and disability benefits. Members are 50 percent vested after the tenth year of service, with the vesting percent increasing ten percent for each of the next five years of service so that a member becomes 100 percent vested with 15 years of service.

Upon reaching age 55, each vested member may retire and receive a monthly pension equal to his vested percent multiplied by six times the governing body's average monthly contribution over the member's years of qualified service. For years of service in excess of 15 years, this monthly benefit is increased at the rate of 6.2 percent compounded annually. On and off-duty death benefits and on-duty disability benefits are dependent on whether or not the member was engaged in the performance of duties at the time of death or disability. Death benefits include a lump-sum amount and continuing monthly payments to a member's surviving spouse and dependent children.

TESRS issues a publicly available annual financial report that includes financial statements for TESRS. This financial report is designed to provide a general overview of the Texas Emergency Services Retirement System finances for all those with an interest in the system's finances. This report may be obtained by writing to the office of the fire fighters' pension commissioner, P.O. Box

12577, Austin, TX 78711-2577; in addition the report is available on TESRS' website at *www.ffpc.state.tx.us.com*.

Funding Policy

Contribution provisions were established by S.B. 411, 65th Legislature, Regular Session (1977) and were amended by board rule in 2006. No contributions are required by individual members of participating departments. The governing bodies of participating departments are required to contribute at least the minimum prescribed amount per month for each active member and may contribute more. Additional contributions may be made by a governing body to pay for granting credit for service before the department began participating in TESRS (prior service). The State may also be required to make annual contributions up a limited amount to make TESRS actuarially sound.

Contributions

The contribution requirement per active emergency services personnel member per month is not actuarially determined. Rather, the minimum contribution provisions were set by board rule. For the fiscal year ending August 31, 2010, total contributions (dues and prior service) of $2,875,103 were paid into TESRS by the political subdivisions served by the member volunteer emergency services personnel. The State did not appropriate any maximum state contribution for the fiscal years ending September 30, 2010 and 2011. Total contributions made were equal to the contributions required by the State statute and were equal to the contributions required based on the revised August 31, 2008 actuarial valuation.

The purpose of the biennial actuarial valuation is to test the adequacy of the financing arrangement to determine if it is adequate to pay the benefits that are promised. The actuarial valuation as of August 31, 2009, revealed the adequacy of the expected contributions from the political subdivisions (dues and prior service contributions) together with the actual State appropriations for the fiscal year ending August 31, 2010 ($502,941 to help pay for the System's administrative expenses), and with the assumed continuation of legislative appropriations of (1) the maximum State contribution amount in future years as is necessary for the System to have a 30-year amortization period and (2) approximately $500,000 each year to help pay for the System's administrative expenses. Expected contributions for the fiscal year ending August 31, 2009, are equal to the contributions required.

The following is a summary of the actuarial assumptions:

Actuarial Cost Method	Entry Age
Amortization Method	Level dollar, open
Remaining Amortization Period	30 years
Asset Valuation Method	Market value smoothed
Investment Rate of Return	8%
Projected Salary Increases	N/A
Includes Inflation at	3.5%
Cost of Living Adjustments	None

Three-Year Contribution Information

Fiscal year	Annual Pension Cost (ARC)	Percentage of ARC Contributions	Net Pension Obligation
2008	$ 8,604	100%	$ -
2009	$ 7,512	100%	$ -
2010	$ 6,800	100%	$ -

D. Other Post-Employment Benefits (OPEB)

Plan Description

In order to recognize and reward long-term employees, as well as to provide an incentive for remaining in the City's employment, the City administers a single-employer defined benefit Other Post-Employment Benefits (OPEB) plan that will pay a portion of the premium for continuation of the medical and dental insurance coverage of certain retirees. The plan is known as the City of Tomball Retirement Health Care Plan. Enrollment for retiree coverage must be completed no later than 30 days after the date of retirement. Later enrollment is not permitted. Any retiree eligible for medical coverage with another group plan shall not qualify for medical coverage with the City.

In order to be eligible for this benefit, the retiree must be vested, age 55 or older and a current recipient of retirement benefits from the Texas Municipal Retirement System; have been a full-time employee of the City for ten consecutive years immediately prior to retirement; and satisfy the applicable plan requirements for the extension of retiree coverage under the medical and dental insurance benefit plan offered by the City at the time of retirement.

Beginning with retirement and ending when the person is eligible for Medicare coverage, the City shall pay a portion of the retiree medical and dental coverage premiums in accordance with the following: 40 percent of the premium costs for retirees having at least ten years, but less than 15 years, of full-time service with the City; 55 percent of the premium costs for retirees having at least 15 years, but less than 20 years, of full-time service with the City; 70 percent of the premium costs for retirees having at least 20 years, but less than 25 years, of full-time service with the City; or 85 percent of the premium costs for retirees having at least 25 years of full-time service with the City. To cover their spouses, eligible retirees must pay 100 percent of the cost for their eligible spouse. Eligible retirees shall pay 100 percent of the premiums for basic life insurance ($2,000).

Benefit continuation of medical, dental, and life insurance coverage provided at the City's expense to retirees ends when the retiree is eligible for Medicare coverage. Retirees who are eligible for Medicare coverage may, at their sole expense, continue to purchase coverage for themselves and their eligible dependents as provided under the applicable terms of City's policies. The policy will be a secondary policy only. A separate postemployment benefit plan report is not available for the City of Tomball Retirement Health Care Plan.

Funding Policy

The City has elected to finance the OPEB plan on a pay-as-you-go basis. The City paid $19,603 related to the plan for five retirees during the year.

Actuarial Information

The contribution requirement has been actuarially determined. The actuarial valuations involve estimates of the value of reported amounts and assumptions about the probability of events far into the future, and that actuarially determined amounts are subject to continual revision as actual results are compared to past expectations and new estimate are made about the future. The required schedule of funding progress immediately following the notes presents multiyear trend information about whether the actuarial value of plan assets is increasing or decreasing over time relative to the actuarial accrued liability for benefits. Projections of benefits are based on the types of benefits provided under the substantive plan at the time of each valuation and on the pattern of sharing of benefit costs between the employer and plan members to that point, and the projections of benefits for financial reporting purposes do not explicitly incorporate the potential effects of legal or contractual funding limitations on the pattern of cost sharing between the employer and plan members in the future. Actuarial calculations reflect a long-term perspective, and consistent with that perspective, actuarial methods and assumptions used include techniques that are designed to reduce short-term volatility in actuarial accrued liabilities and the actuarial value of assets. As of the actuarial valuation date of December 31, 2009, the actuarial value of plan assets is zero dollars, the actuarial accrued liability is $780,043, the total unfunded actuarial liability is $780,043, and the actuarial value of assets as a percentage of the actuarial accrued liability is zero percent. The annual covered payroll at December 31, 2009 was $7,171,519 and the unfunded actuarial accrued liability as a percentage of covered payroll is 10.9%. The actuarial determined annual required contribution (ARC) is $99,818. The components of the ARC consist of the employer's normal cost and the amortization of the unfunded actuarial accrued liabilities.

The following table shows the components of the City's annual OPEB cost of the year, the amount actually contributed to the plan, and the City's net OPEB obligation.

Annual required contribution	$	99,818
Interest on OPEB Obligation		5,409
Adjustment to ARC		(5,011)
Contribution made		(19,603)
Increase in net OPEB obligation		80,613
Net OPEB obligation-beginning of year		160,252
Net OPEB obligation-end of year	$	240,865

The following is a summary of the actuarial assumptions:

Actuarial Cost Method	Projected Unit Credit
Amortization Method	Level % of Payroll
Remaining Amortization Period	30 Years - Close period
Asset Valuation Method	Market value smoothed
Investment Rate of Return	4.5%
Projected Salary Increases	3.0%
Healthcare Cost Trend Rate (Initial/Ultimate)	11.50%/ 3.5%

Three-Year Contribution Information

Fiscal year	Annual OPEB Cost (ARC)	Percentage of ARC Contributions	Net Pension Obligation Beginning	Net Pension Obligation Ending
2008	$ 87,162	5.86%	$ -	$ 82,052
2009	$ 89,777	12.90%	$ 82,052	$ 160,252
2010	$ 99,818	19.64%	$ 160,252	$ 240,865

1. TMRS – Supplemental Death Benefit Fund

Plan Description

The City also participates in the cost sharing multiple-employer defined benefit group-term life insurance plan operated by the Texas Municipal Retirement System (TMRS) known as the Supplemental Death Benefits Fund (SDBF). The City elected, by ordinance, to provide group-term life insurance coverage to both current and retired employees. The City may terminate coverage under and discontinue participation in the SDBF by adopting an ordinance before November 1 of any year to be effective the following January 1.

The death benefit for active employees provides a lump-sum payment approximately equal to the employee's annual salary (calculated based on the employee's actual earnings, for the 12-month period preceding the month of death); retired employees are insured for $7,500; this coverage is an "other post employment benefit," or OPEB. The obligations of this plan are payable only from the SDBF and are not an obligation of, or a claim against, the Pension Trust Fund. For the year ended September 30, 2010, the City offered the supplemental death benefit to both active and retired employees.

Contributions

The City contributes to the SDBF at a contractually required rate as determined by an annual actuarial valuation. The rate is equal to the cost of providing one-year term life insurance. The funding policy for the SDBF program is to assure that adequate resources are available to meet all death benefit payments for the upcoming year; the intent is not to pre-fund retiree term life insurance during employees' entire careers.

The City's contribution rate to the TMRS SDBF, for the retiree portion, for the years ended 2010 and 2009 were $1,631 and $2,193, respectively. The City's contribution rates for the past three years are shown below:

	2010	**2009**	**2008**
Annual Req. Contrib. (Rate)	0.13%	0.13%	0.14%
Actual Contribution Made	0.13%	0.13%	0.14%
Percentage of ARC Contrib.	100.00%	100.00%	100.00%

REQUIRED SUPPLEMENTARY INFORMATION

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City of Tomball, Texas

SCHEDULE OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCE - BUDGET AND ACTUAL

GENERAL FUND

For the year ended September 30, 2010

	Original Budget Amounts	Final Budget Amounts	Actual Amounts	Variance with Final Budget Positive (Negative)
Revenues				
Property taxes	$ 1,438,921	$ 1,438,921	$ 1,417,699	$ (21,222)
Sales, franchise, and other taxes	7,496,540	7,496,540	7,805,018	308,478
Permits and licenses	252,250	252,250	311,563	59,313
Fines and forfeitures	731,200	731,200	872,559	141,359
Services revenue	2,355,000	2,355,000	1,920,214	(434,786)
Intergovernmental	25,000	25,000	49,549	(15,000)
Contributions from component unit	7,000	7,000	10,000	42,549
Interest on investments	350,000	350,000	95,219	(254,781)
Other revenues	51,800	76,800	141,846	65,046
Total Revenues	12,707,711	12,732,711	12,623,667	(109,044)
Expenditures				
Administrative	3,979,173	3,979,173	3,695,063	284,110
Police	4,536,464	4,536,465	4,366,661	169,804
Fire	1,235,370	1,587,192	1,137,865	449,327
Court	347,449	347,449	346,487	962
Public works	1,524,165	1,524,165	1,296,470	227,695
Sanitation	2,358,400	2,485,055	1,685,892	799,163
Streets	4,267,714	4,267,714	1,361,059	2,906,655
Permits	364,120	364,120	342,188	21,932
Garage	68,366	68,366	70,424	(2,058) *
Parks	336,716	528,570	503,479	25,091
Community services	155,417	155,417	135,225	20,192
Total Expenditures	19,173,354	19,843,686	14,940,813	4,902,873
Excess of Revenues Over (Under) Expenditures	(6,465,643)	(7,110,975)	(2,317,146)	4,793,829
Other Financing Sources				
Transfers in	2,260,134	2,260,134	2,260,134	-
Total Other Financing Sources	2,260,134	2,260,134	2,260,134	-
Net Change in Fund Balance	$ (4,205,509)	$ (4,850,841)	(57,012)	$ 4,793,829
Beginning fund balance			12,218,693	
Ending Fund Balance			$ 12,161,681	

Notes to Required Supplementary Information:

1. Annual budgets are adopted on a basis consistent with generally accepted accounting principles (GAAP).
2. *Expenditures exceeded appropriations at the legal level of control.

City of Tomball, Texas

SCHEDULE OF FUNDING PROGRESS

TEXAS MUNICIPAL RETIREMENT SYSTEM

For the Year Ended September 30, 2010

The City's annual covered payroll and pension costs are actuarially valued on a calendar year basis. Because the City makes all the annually required contributions, no net pension obligation (NPO) exists. The information presented below represents the City's Schedule of Funding Progress.

Fiscal Year	2010	2009	2008	2007	2006
Actuarial Valuation Date	12/31/2009	12/31/2008	12/31/2007	12/31/2006	12/31/2005
Actuarial Value of Assets	$ 11,538,535	$ 10,293,118	$ 9,288,904	$ 9,557,364	$ 8,738,552
Actuarial Accrued Liability	$ 17,190,687	$ 15,605,065	$ 14,020,342	$ 11,949,758	$ 10,737,581
Percentage Funded	67.1%	66.0%	66.3%	80.0%	81.4%
Unfunded Actuarial Accrued Liability	$ 5,652,152	$ 5,311,947	$ 4,731,438	$ 2,392,394	$ 1,999,029
Annual Covered Payroll	$ 7,278,133	$ 7,040,733	$ 6,052,532	$ 5,500,061	$ 5,270,959
Unfunded Actuarial Accrued Liability (UAAL) % of Covered Payroll	77.7%	75.4%	78.2%	43.5%	37.9%
Net Pension Obligation (NPO) at the Beginning of Period	$ -	$ -	$ -	$ -	$ -
Annual Req. Contrib. (ARC)	969,758	944,327	792,454	683,317	617,905
Contributions Made	969,758	944,327	792,454	683,317	617,905
NPO at the End of Period	$ -	$ -	$ -	$ -	$ -

CITY OF TOMBALL, TEXAS

SCHEDULE OF FUNDING PROGRESS

TEXAS EMERGENCY SERVICES RETIREMENT SYSTEM

For the Year Ended September 30, 2010

The City's annual covered payroll and pension costs are actuarially valued on a calendar year basis. Because the City makes all the annually required contributions, no net pension obligation (NPO) exists. The information presented below represents the City's Schedule of Funding Progress.

Fiscal Year	2010	2009	2008	2007	2006
Actuarial Valuation Date	8/31/2009	8/31/2008	8/31/2007	8/31/2006	8/31/2005
Actuarial Value of Assets	$ 64,113,803	$ 60,987,157	$ 42,268,305	$ 42,268,305	$ 38,140,501
Actuarial Accrued Liability	$ 79,953,215	$ 64,227,341	$ 58,082,828	$ 58,082,828	$ 51,567,426
Percentage Funded	80.2%	95.0%	72.8%	72.8%	74.0%
Unfunded Actuarial Accrued Liability	$ 15,839,412	$ 3,240,184	$ 15,814,523	$ 15,814,523	$ 13,426,925
Total Members Covered	8,708	8,254	8,061	8,061	$ 7,994
Unfunded Actuarial Accrued Liability (UAAL) Per Member Covered	$ 1,819	$ 393	$ 1,962	$ 1,962	$ 1,680
Net Pension Obligation (NPO) at the Beginning of Period	$ -	$ -	$ -	$ -	$ -
Annual Req. Contrib. (ARC)	6,800	7,512	8,604	5,072	3,708
Contributions Made	6,800	7,512	8,604	5,072	3,708
NPO at the End of Period	$ -	$ -	$ -	$ -	$ -

An actuarial valuation is performed every two years.

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CITY OF TOMBALL, TEXAS

SCHEDULE OF FUNDING PROGRESS
OTHER POST-EMPLOYMENT BENEFITS (OPEB)

For the Year Ended September 30, 2010

Actuarial Valuation Date	Actuarial Value of Assets (a)	Actuarial Accrued Liability (AAL) - Projected Unit Credit (b)	Unfunded AAL (UAAL) (b-a)	Funded Ratio (a/b)	Annual Covered Payroll (c)	UAAL as a Percentage of Covered Payroll [(b-a)/c]
04/30/08	$ -	$ 698,417	$ 698,417	0.0%	$ 7,419,044	9.4%
12/31/09	$ -	$ 780,043	$ 780,043	0.0%	$ 7,171,519	10.9%

[1] The City implemented GASB Statement No. 45 and the requirements have been implemented prospectively.

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COMBINING STATEMENTS AND SCHEDULES

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CITY OF TOMBALL, TEXAS

SCHEDULE OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCE - BUDGET AND ACTUAL
DEBT SERVICE FUND

For the Year Ended September 30, 2010

	Original and Final Budget Amounts	Actual Amounts	Variance with Final Budget Positive (Negative)
Revenues			
Property taxes	$ 1,553,342	$ 1,520,895	$ (32,447)
Interest on investments	3,000	2,604	(396)
Other revenue	22,000	12,067	(9,933)
Total Revenues	1,578,342	1,535,566	(42,776)
Expenditures			
Debt service:			
Principal	1,385,500	1,135,500	250,000
Interest and fiscal agent fees	676,983	723,159	(46,176)
Total Expenditures	2,062,483	1,858,659	203,824
Excess (Deficiency) of Revenues Over Expenditures	(484,141)	(323,093)	(246,600)
Other Financing Sources (Uses)			
Refunding bonds issued	2,120,000	2,120,000	-
Premium on refunding bond	4,945	4,945	-
Payment to refunded bond escrow agent	(2,071,560)	(2,071,560)	-
Total Other Financing Sources (Uses)	53,385	53,385	-
Net Change in Fund Balance	$ (430,756)	(269,708)	$ 161,048
Beginning fund balance		1,195,663	
Ending Fund Balance		$ 925,955	

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CITY OF TOMBALL, TEXAS

NONMAJOR GOVERNMENTAL FUNDS

For the Year Ended September 30, 2010

SPECIAL REVENUE FUNDS

Special Revenue Funds are used to account for specific revenues that are legally restricted to expenditures for particular purposes.

CAPITAL PROJECTS FUNDS

Capital Projects Fund is used to account for resources used in the acquisition or construction of major general capital assets.

City of Tomball, Texas

COMBINING BALANCE SHEET
NONMAJOR GOVERNMENTAL FUNDS (Page 1 of 2)
September 30, 2010

	Special General	Capital Projects	Court Security	Court Technology
Assets				
Current assets:				
Cash and cash equivalents	$ 153,820	$ 133,790	$ 181,103	$ 171,098
Accounts receivable	-	-	-	-
Total Assets	$ 153,820	$ 133,790	$ 181,103	$ 171,098
Liabilities and Fund Balances				
Liabilities:				
Accounts payable	$ -	$ -	$ 1,510	$ -
Due to other funds	-	-	-	-
Total Liabilities	-	-	1,510	-
Fund balances:				
Reserved for court security	-	-	179,593	-
Reserved for court technology	-	-	-	171,098
Unreserved	153,820	133,790	-	-
Total Fund Balances	153,820	133,790	179,593	171,098
Total Liabilities and Fund Balances	$ 153,820	$ 133,790	$ 181,103	$ 171,098

Housing Trust		Hotel Occupancy Tax		Red Light Camera		District Attorney		Bunny Run	
$	2,515	$	255,442	$	642,103	$	12,589	$	2,477
	-		3,400		44,001		-		-
$	2,515	$	258,842	$	686,104	$	12,589	$	2,477
$	-	$	1,148	$	222,566	$	-	$	-
	-		-		-		-		-
	-		1,148		222,566		-		-
	-		-		-		-		-
	-		-		-		-		-
	2,515		257,694		463,538		12,589		2,477
	2,515		257,694		463,538		12,589		2,477
$	2,515	$	258,842	$	686,104	$	12,589	$	2,477

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CITY OF TOMBALL, TEXAS

COMBINING BALANCE SHEET

NONMAJOR GOVERNMENTAL FUNDS (Page 2 of 2)

September 30, 2010

Department of Justice Grant	Total Nonmajor Governmental Funds
$ 8,773	$ 1,563,710
-	47,401
$ 8,773	$ 1,611,111
$ -	$ 225,224
-	-
-	225,224
-	179,593
-	171,098
8,773	1,035,196
8,773	1,385,887
$ 8,773	$ 1,611,111

CITY OF TOMBALL, TEXAS

COMBINING STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES

NONMAJOR GOVERNMENTAL FUNDS (Page 1 of 2)

For the Year Ended September 30, 2010

	Special General	Capital Projects	Court Security	Court Technology
Revenues				
Other taxes	$ -	$ -	$ -	$ -
Fines and forfeitures	-	-	25,228	33,645
Intergovernmental	-	-	-	-
Interest on investments	354	292	439	334
Other revenues	11,253	-	-	-
Total Revenue	11,607	292	25,667	33,979
Expenditures				
Current:				
Administrative	14,269	-	42,068	1,500
Court	-	-	-	-
Community services	-	-	-	-
Total Expenditures	14,269	-	42,068	1,500
Excess (Deficiency) of Revenues Over (Under) Expenditures	(2,662)	292	(16,401)	32,479
Net Change in Fund Balances	(2,662)	292	(16,401)	32,479
Beginning fund balances	156,482	133,498	195,994	138,619
Ending Fund Balances	$ 153,820	$ 133,790	$ 179,593	$ 171,098

Housing Trust	Hotel Occupancy Tax	Red Light Camera	District Attorney	Bunny Run
$ -	$ 154,174	$ -	$ -	$ -
-	-	272,667	-	-
-	-	-	-	7,581
7	558	-	30	-
-	88,328	1,121	-	-
7	243,060	273,788	30	7,581
-	86,961	139,034	4,143	666
-	-	-	-	-
3,444	123,286	9,021	-	4,956
3,444	210,247	148,055	4,143	5,622
(3,437)	32,813	125,733	(4,113)	1,959
(3,437)	32,813	125,733	(4,113)	1,959
5,952	224,881	337,805	16,702	518
$ 2,515	$ 257,694	$ 463,538	$ 12,589	$ 2,477

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CITY OF TOMBALL, TEXAS

COMBINING STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES

NONMAJOR GOVERNMENTAL FUNDS (Page 2 of 2)

For the Year Ended September 30, 2010

Department of Justice Grant	Total Nonmajor Governmental Funds
$ -	$ 154,174
-	331,540
16,000	23,581
-	2,014
-	100,702
16,000	612,011
7,227	295,868
-	-
-	140,707
7,227	436,575
8,773	175,436
8,773	175,436
-	1,210,451
$ 8,773	$ 1,385,887

CITY OF TOMBALL, TEXAS

SCHEDULE OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCE - BUDGET AND ACTUAL NONMAJOR SPECIAL REVENUE FUNDS

For the Year Ended September 30, 2010

COURT SECURITY

	Original Budget Amounts	Final Budget Amounts	Actual Amounts	Variance with Final Budget Positive (Negative)
Revenues				
Fines and forfeitures	$ 22,000	$ 22,000	$ 25,228	$ 3,228
Interest on investments	1,500	1,500	439	(1,061)
Total Revenues	23,500	23,500	25,667	2,167
Expenditures				
Administrative	39,032	39,032	42,068	(3,036)
Total Expenditures	39,032	39,032	42,068	(3,036) *
Net Change in Fund Balance	$ (15,532)	$ (15,532)	(16,401)	$ (869)
Beginning fund balance			195,994	
Ending Fund Balance			$ 179,593	

1. *Expenditures exceeded appropriations at the legal level of control.

COURT TECHNOLOGY

	Original Budget Amounts	Final Budget Amounts	Actual Amounts	Variance with Final Budget Positive (Negative)
Revenues				
Fines and forfeitures	$ 28,000	$ 28,000	$ 33,645	$ 5,645
Interest on investments	1,200	1,200	334	(866)
Total Revenues	29,200	29,200	33,979	4,779
Expenditures				
Administrative	5,333	5,333	1,500	3,833
Total Expenditures	5,333	5,333	1,500	3,833
Net Change in Fund Balance	$ 23,867	$ 23,867	32,479	$ 8,612
Beginning fund balance			138,619	
Ending Fund Balance			$ 171,098	

CITY OF TOMBALL, TEXAS

SCHEDULE OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCE - BUDGET AND ACTUAL NONMAJOR SPECIAL REVENUE FUNDS

For the Year Ended September 30, 2010

HOTEL OCCUPANCY TAX

	Original Budget Amounts	Final Budget Amounts	Actual Amounts	Variance with Final Budget Positive (Negative)
Revenues				
Other taxes	$ 220,000	$ 220,000	$ 154,174	$ (65,826)
Other revenues	95,685	95,685	88,328	(7,357)
Interest and fiscal agent fees	3,000	3,000	558	(2,442)
Total Revenues	318,685	318,685	243,060	(75,625)
Expenditures				
Administrative	37,960	128,310	86,961	41,349
Community services	100,000	100,000	123,286	(23,286)
Total Expenditures	137,960	228,310	210,247	18,063
Net Change in Fund Balance	$ 180,725	$ 90,375	32,813	$ (57,562)
Beginning fund balance			224,881	
Ending Fund Balance			$ 257,694	

SPECIAL GENERAL

	Original Budget Amounts	Final Budget Amounts	Actual Amounts	Variance with Final Budget Positive (Negative)
Revenues				
Other revenues	$ 7,500	$ 7,500	$ 11,253	$ 3,753
Interest on investments	750	750	354	(396)
Total Revenues	8,250	8,250	11,607	3,357
Expenditures				
Administrative	50,000	50,000	14,269	35,731
Total Expenditures	50,000	50,000	14,269	35,731
Net Change in Fund Balance	$ (41,750)	$ (41,750)	(2,662)	$ 39,088
Beginning fund balance			156,482	
Ending Fund Balance			$ 153,820	

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CITY OF TOMBALL, TEXAS

INTERNAL SERVICE FUNDS

September 30, 2010

Fleet Replacement Fund

This internal service fund is used to account for fleet replacement to departments or agencies of the City on a cost reimbursement basis.

Health Benefits Fund

This internal service fund is used to account for the costs associated with health benefits to departments or agencies of the City on a cost reimbursement basis as well as costs associated with retiring and separating employees.

CITY OF TOMBALL, TEXAS

COMBINING STATEMENT OF NET ASSETS

INTERNAL SERVICE FUNDS

September 30, 2010

	Fleet Replacement	Health Benefits	Total
Assets			
Current assets:			
Cash and cash equivalents	$ 1,472,827	$ 195,849	$ 1,668,676
Accounts receivable, net	-	5,264	5,264
Total Current Assets	1,472,827	201,113	1,673,940
Noncurrent assets:			
Depreciable capital assets	1,116,869	-	1,116,869
Less: accumulated depreciation	(347,467)	-	(347,467)
Total Capital Assets (Net of Accumulated Depreciation)	769,402	-	769,402
Total Noncurrent Assets	769,402	-	769,402
Total Assets	$ 2,242,229	$ 201,113	$ 2,443,342
Liabilities			
Current liabilities:			
Accounts payable and accrued liabilities	$ 19,141	$ 4,316	$ 23,457
Total Current Liabilities	19,141	4,316	23,457
Total Liabilities	19,141	4,316	23,457
Net Assets			
Invested in capital assets	769,402	-	769,402
Unrestricted	1,453,686	196,797	1,650,483
Total Net Assets	$ 2,223,088	$ 196,797	$ 2,419,885

CITY OF TOMBALL, TEXAS

COMBINING STATEMENT OF REVENUES, EXPENSES, AND CHANGES IN FUND NET ASSETS

INTERNAL SERVICE FUNDS

For the Year Ended September 30, 2010

	Fleet Replacement	Health Benefits	Total
Operating Revenues			
Charges for sales and services	$ 610,543	$ 1,632,788	$ 2,243,331
Total Operating Revenues	610,543	1,632,788	2,243,331
Operating Expenses			
Costs of sales and services	141,113	1,436,203	1,577,316
Depreciation	148,129	-	148,129
Total Operating Expenses	289,242	1,436,203	1,725,445
Operating Income	321,301	196,585	517,886
Non-Operating Revenues (Expenses)			
Investment income	2,771	184	2,955
Disposal of capital assets	(22,366)	-	(22,366)
Total Non-Operating Revenues (Expenses)	(19,595)	184	(19,411)
Change in Net Assets	301,706	196,769	498,475
Beginning net assets	1,921,382	28	1,921,410
Ending Net Assets	$ 2,223,088	$ 196,797	$ 2,419,885

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CITY OF TOMBALL, TEXAS

COMBINING STATEMENT OF CASH FLOWS
INTERNAL SERVICE FUNDS

For the Year Ended September 30, 2010

	Fleet Replacement	Health Benefits	Total
Cash Flows from Operating Activities			
Receipts from customers	$ 610,543	$ 1,627,524	$ 2,238,067
Payments to suppliers	(18,150)	(1,438,371)	(1,456,521)
Net Cash Provided by Operating Activities	592,393	189,153	781,546
Cash Flows from Capital and Related Financing Activities			
Acquisition and construction of capital assets	(221,729)	-	(221,729)
Disposal of capital assets	(22,366)	-	(22,366)
Net Cash Provided by Capital and Related Financing Activities	(244,095)	-	(244,095)
Cash Flows from Investing Activities			
Investment earnings	2,771	184	2,955
Net Cash Provided (Used) by Investing Activities	2,771	184	2,955
Net Increase in Cash and Cash Equivalents	351,069	189,337	540,406
Beginning cash and cash equivalents	1,121,758	6,512	1,128,270
Ending Cash and Cash Equivalents	$ 1,472,827	$ 195,849	$ 1,668,676
Reconciliation of Operating Income to Net Cash Provided by Operating Activities			
Operating income	$ 321,301	$ 196,585	$ 517,886
Adjustments to reconcile operating income to net cash provided by operating activities:			
Depreciation	148,129	-	148,129
Changes in Operating Assets and Liabilities:			
(Increase) Decrease in Current Assets:			
Accounts receivable	-	(5,264)	(5,264)
Prepaid expenses	-	-	-
Increase (Decrease) in Current Liabilities:			
Accounts payable and accrued liabilities	122,963	(2,168)	120,795
Customer deposits	-	-	-
Net Cash Provided by Operating Activities	$ 592,393	$ 189,153	$ 781,546

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STATISTICAL SECTION

This part of the City's comprehensive annual financial report presents detailed information as a context for understanding what the information in the financial statements, note disclosures, and required supplementary information says about the City's overall financial health.

Contents **Page**

City of Tomball, Texas

NET ASSETS BY COMPONENT

Last Eight Years (1)

(Accrual basis of accounting)

	Fiscal Year			
	2003	2004	2005	2006
Governmental activities				
Invested in capital assets,				
net of related debt	$ 1,181,805	$ 4,441,423	$ 4,007,407	$ 2,886,256
Restricted	8,853,454	7,957,216	4,802,952	2,323,077
Unrestricted	14,288,573	8,565,864	13,761,452	20,707,302
Total governmental activities net assets	$ 24,323,832	$ 20,964,503	$ 22,571,811	$ 25,916,635
Business-type activities				
Invested in capital assets,				
net of related debt	$ 6,353,013	$ 10,928,309	$ 16,178,138	$ 23,478,199
Restricted	10,045,644	10,409,786	7,760,255	2,305,729
Unrestricted	4,857,704	5,055,643	5,379,709	6,386,872
Total business-type activities net assets	$ 21,256,361	$ 26,393,738	$ 29,318,102	$ 32,170,800
Primary government				
Invested in capital assets,				
net of related debt	$ 7,534,818	$ 15,369,732	$ 20,185,545	$ 26,364,455
Restricted	18,899,098	18,367,002	12,563,207	4,628,806
Unrestricted	19,146,277	13,621,507	19,141,161	27,094,174
Total primary government net assets	$ 45,580,193	$ 47,358,241	$ 51,889,913	$ 58,087,435

(1) The requirement for statistical data is ten years; only eight years are available at this time.

Fiscal Year			
2007	2008	2009	2010
$ 7,175,862	$ 10,206,785	$ 16,143,552	$ 16,812,565
3,686,000	1,835,397	2,278,695	1,425,031
17,884,555	16,282,148	11,362,902	12,820,058
$ 28,746,417	$ 28,324,330	$ 29,785,149	$ 31,057,654
$ 25,045,502	$ 24,774,972	$ 26,080,707	$ 29,073,794
876,468	-	-	-
7,493,793	9,610,968	10,555,994	8,753,794
$ 33,415,763	$ 34,385,940	$ 36,636,701	$ 37,827,588
$ 32,221,364	$ 34,981,757	$ 42,224,259	$ 45,886,359
4,562,468	1,835,397	2,278,695	1,425,031
25,378,348	25,893,116	21,918,896	21,573,852
$ 62,162,180	$ 62,710,270	$ 66,421,850	$ 68,885,242

CITY OF TOMBALL, TEXAS

CHANGES IN NET ASSETS

Last Eight Years (1)

(Accrual basis of accounting)

	Fiscal Year			
	2003	**2004**	**2005**	**2006**
Expenses				
Governmental activities				
General government	$ 1,609,976	$ 1,808,900	$ 1,878,285	$ 1,889,935
Public safety	3,674,996	4,248,752	5,053,045	5,057,268
Public works	2,923,519	3,326,545	3,435,589	3,709,054
Community services	366,273	394,829	510,454	512,679
Interest and fiscal agent fees	711,446	984,989	938,772	873,035
Total governmental activities expenses	9,286,210	10,764,015	11,816,145	12,041,971
Business-type activities				
General government	895,288	1,038,905	1,670,035	1,309,655
Water	1,273,146	1,520,015	1,742,380	1,488,771
Sewer	1,376,314	1,620,045	2,089,770	2,575,820
Gas	1,888,619	1,955,713	1,223,218	2,048,247
Interest and fiscal agent fees	-	-	-	-
Total business-type activities expenses	5,433,367	6,134,678	6,725,403	7,422,493
Total primary government expenses	$ 14,719,577	$ 16,898,693	$ 18,541,548	$ 19,464,464
Program Revenues				
Governmental activities				
Charges for services				
Public safety	$ 984,789	$ 1,027,034	$ 1,203,548	$ 1,443,068
Public works	1,584,663	1,689,041	1,787,578	1,749,695
Operating grants and contributions	1,170,684	96,279	93,897	93,042
Total governmental activities program revenues	3,740,136	2,812,354	3,085,023	3,285,805
Business-type activities				
Charges for services				
General government	-	-	-	-
Water	2,018,000	2,363,284	2,637,614	3,041,240
Sewer	1,261,810	1,259,970	1,309,939	1,587,786
Gas	1,787,152	2,110,902	2,173,694	2,460,885
Capital grants and contributions	-	280,785	2,439,084	137,444
Total business-type activities program revenues	5,066,962	6,014,941	8,560,331	7,227,355
Total primary government program revenues	$ 8,807,098	$ 8,827,295	$ 11,645,354	$ 10,513,160
Net (Expense)/Revenue				
Governmental activities	$ (5,546,074)	$ (7,951,661)	$ (8,731,122)	$ (8,756,166)
Business-type activities	(366,405)	(119,737)	1,834,928	(195,138)
Total primary government net expense	$ (5,912,479)	$ (8,071,398)	$ (6,896,194)	$ (8,951,304)

Fiscal Year			
2007	2008	2009	2010
$ 1,438,117	$ 1,734,307	3,091,652	3,698,206
5,449,912	7,224,244	6,720,247	5,911,378
5,076,429	6,325,789	5,692,269	5,183,458
355,348	471,539	260,561	259,569
824,168	790,736	708,109	658,304
13,143,974	16,546,615	16,472,838	15,710,915
2,744,139	2,775,923	2,235,193	1,843,501
1,259,961	1,720,131	2,215,841	2,197,679
1,081,343	1,164,702	1,402,558	1,134,907
2,496,747	2,727,066	2,486,336	2,374,227
630,735	585,710	-	512,851
8,212,925	8,973,532	8,339,928	8,063,165
$ 21,356,899	$ 25,520,147	$ 24,812,766	$ 23,774,080
$ 1,352,444	$ 922,073	1,044,706	1,204,099
1,938,750	2,612,619	2,596,344	2,231,777
135,750	259,047	278,350	83,130
3,426,944	3,793,739	3,919,400	3,519,006
-	118,192	-	427,519
3,208,398	3,317,403	4,547,803	3,985,231
1,401,640	1,725,839	2,468,377	2,233,364
3,675,752	3,792,717	4,426,091	4,011,635
-	-	720,000	720,000
8,285,790	8,954,151	12,162,271	11,377,749
$ 11,712,734	$ 12,747,890	$ 16,081,671	$ 14,896,755
$ (9,717,030)	(12,752,876)	(12,553,438)	(12,191,909)
72,865	(19,381)	3,822,343	3,314,584
$ (9,644,165)	$ (12,772,257)	$ (8,731,095)	$ (8,877,325)

City of Tomball, Texas

CHANGES IN NET ASSETS (Continued)

Last Eight Years (1)

(accrual basis of accounting)

	Fiscal Year			
	2003	2004	2005	2006
General Revenues and Other Changes in Net Assets				
Governmental activities				
Taxes				
Property taxes, levied for general purposes	$ 101,356	$ 721,527	$ 805,285	$ 952,673
Property taxes, levied for debt service	1,721,414	1,243,803	1,238,004	1,286,693
Sales taxes	5,134,332	5,556,890	6,479,974	7,491,415
Franchise and local taxes	1,011,342	1,020,001	1,067,621	1,069,381
Other taxes	50,312	95,995	100,056	112,527
Contributions	402,958	34,052	36,320	114,909
Investment earnings	159,714	291,197	558,759	988,431
Other revenues	25,581	119,949	43,774	62,362
Gain (loss) on sale of capital assets	-	8,920	8,637	22,599
Transfers	-	(4,500,000)	-	-
Total governmental activities	8,607,009	4,592,334	10,338,430	12,100,990
Business-type activities				
Investment earnings	231,462	175,176	366,816	477,600
Other revenues	869,862	760,976	722,620	2,570,236
Transfers	-	4,500,000	-	-
Total business-type activities	1,101,324	5,436,152	1,089,436	3,047,836
Total primary government	$ 9,708,333	$ 10,028,486	$ 11,427,866	$ 15,148,826
Change in Net Assets				
Governmental activities	$ 3,060,935	$ (3,359,327)	$ 1,607,308	$ 3,344,824
Business-type activities	734,919	5,316,415	2,924,364	2,852,698
Total primary government	$ 3,795,854	$ 1,957,088	$ 4,531,672	$ 6,197,522

(1) The requirement for statistical data is ten years; only eight years are available at this time.

Fiscal Year							
2007		2008		2009		2010	
$	1,168,491	$	933,885	$	1,587,560	$	1,422,603
	1,299,344		1,511,139		1,449,089		1,500,310
	7,304,280		7,100,293		7,038,176		6,651,064
	1,140,734		1,201,401		1,150,591		1,153,954
	181,503		267,133		308,100		229,636
	6,000		6,000		-		-
	1,222,816		756,431		325,789		80,426
	223,644		515,216		405,391		166,287
	-		-		-		-
	-		39,291		1,749,561		2,260,134
	12,546,812		12,330,789		14,014,257		13,464,414
	452,098		308,849		175,119		93,361
	720,000		720,000		2,860		43,076
	-		(39,291)		(1,749,561)		(2,260,134)
	1,172,098		989,558		(1,571,582)		(2,123,697)
$	13,718,910	$	13,320,347	$	12,442,675	$	11,340,717
$	2,829,782		12,330,789	$	1,460,819	$	1,272,505
	1,244,963		989,558		2,250,761		1,190,887
$	4,074,745	$	13,320,347	$	3,711,580	$	2,463,392

City of Tomball, Texas

FUND BALANCES, GOVERNMENTAL FUNDS

Last Ten Years

(Modified accrual basis of accounting)

	Fiscal Year			
	2001	**2002**	**2003**	**2004**
General Fund				
Reserved	$ -	$ 3,314,775	$ 7,877,234	$ 7,274,055
Unreserved	11,998,860	18,571,716	14,046,018	15,224,108
Total general fund	$ 11,998,860	$ 21,886,491	$ 21,923,252	$ 22,498,163
All Other Governmental Funds				
Reserved	$ 1,609,563	$ 1,383,613	$ 1,629,739	$ 1,253,170
Unreserved, reported in:				
Capital project funds	-	-	612	9,218
Nonmajor governmental funds	14,107	15,716	21,429	38,108
Total all other governmental funds	$ 1,623,670	$ 1,399,329	$ 1,651,780	$ 1,300,496

Fiscal Year					
2005	**2006**	**2007**	**2008**	**2009**	**2010**
$ 4,268,304	$ 1,646,027	$ -	$ -	$ 23,724	$ -
18,009,256	21,048,552	21,199,234	16,676,502	12,194,969	12,161,681
$ 22,277,560	$ 22,694,579	$ 21,199,234	$ 16,676,502	$ 12,218,693	$ 12,161,681
$ 915,699	$ 1,205,549	$ 2,407,556	$ 2,097,709	$ 1,530,276	$ 1,278,156
9,637	9,757	79,883	121,425	133,498	133,790
34,187	23,333	138,137	353,527	742,340	901,406
$ 959,523	$ 1,238,639	$ 2,625,576	$ 2,572,661	$ 2,406,114	$ 2,313,352

CITY OF TOMBALL, TEXAS

CHANGES IN FUND BALANCE, GOVERNMENTAL FUNDS

Last Ten Years

(Modified accrual basis of accounting)

	Fiscal Year			
	2001	**2002**	**2003**	**2004**
Revenues				
Taxes	$ 6,786,305	$ 7,507,370	8,090,360	$ 8,012,912
Pemits, licenses, and fees	395,010	495,521	372,621	317,369
Fines and forfeitures	650,348	683,007	537,494	531,439
Charges for services	1,405,308	1,577,404	1,626,644	1,749,537
Intergovernmental	243,656	140,536	1,242,684	202,331
Contributions from Component Unit	-	-		
Investment earnings	938,798	630,748	402,958	291,197
Other revenues	56,971	77,525	121,119	187,369
Total revenues	10,476,396	11,112,111	12,393,880	11,292,154
Expenditures				
General government	1,223,239	1,259,828	1,366,138	1,628,722
Public safety	2,867,985	3,072,942	3,236,266	3,777,556
Public works	1,757,733	2,170,635	2,095,207	2,764,994
Public service	514,182	346,732	369,130	385,465
Capital outlay	2,276,988	3,026,723	4,466,088	4,850,051
Debt service				
Principal	545,000	813,061	861,452	1,373,838
Interest and paying agent	341,127	437,206	719,307	949,814
Total expenditures	9,526,254	11,127,127	13,113,588	15,730,440
Excess of revenues over (under) expenditures	950,142	(15,016)	(719,708)	(4,438,286)
Other Financing Sources (Uses)				
Transfers in	-	180,000	-	-
Transfers out	(1,185,000)	-	-	(4,500,000)
Issuance of debt	726,738	9,500,147	-	8,500,000
Premium on debt issued	-	-	-	-
Payment to refunded bond escrow agent	-	-	-	-
Sale of capital assets	-	-	42,972	23,413
Total other financing sources	(458,262)	9,680,147	42,972	4,023,413
Net change in fund balances	$ 491,880	$ 9,665,131	(676,736)	$ (414,873)
Debt service as a percentage of noncapital expenditures	12.22%	15.43%	18.28%	21.36%

Fiscal Year					
2005	**2006**	**2007**	**2008**	**2009**	**2010**
$ 9,716,624	$ 10,931,747	$ 10,936,779	$ 11,193,185	$ 11,442,297	$ 10,973,248
331,660	409,694	414,713	319,177	247,548	311,563
700,112	832,314	728,148	922,073	1,044,706	1,204,099
1,850,595	1,850,925	2,059,958	2,293,442	2,348,796	1,920,214
202,217	279,950	213,750	265,047	278,350	73,130
					10,000
558,759	878,636	1,222,817	713,433	312,290	99,837
81,671	98,866	168,216	332,551	361,992	166,287
13,441,638	15,282,132	15,744,381	16,038,908	16,035,979	14,758,378
1,727,172	1,800,747	1,837,112	3,822,202	2,606,885	4,327,065
4,548,579	4,741,965	5,130,493	6,010,899	7,770,127	5,855,096
2,734,706	2,856,974	3,112,853	3,635,764	3,713,018	3,784,400
449,795	424,129	1,113,084	550,513	932,492	575,092
2,236,496	2,814,130	2,762,545	3,521,127	5,387,966	821,359
1,391,273	1,194,405	1,138,174	1,158,174	1,328,619	1,135,500
948,260	891,842	830,330	795,482	714,188	723,159
14,036,281	14,724,192	15,924,591	19,494,161	22,453,295	17,221,671
(594,643)	557,940	(180,210)	(3,455,253)	(6,417,316)	(2,463,293)
-	-	-	-	1,749,561	2,260,134
-	-	-	(1,248,846)	-	-
-	-	-	-	-	2,120,000
-	-	-	-	-	4,945
-	-	-	-	-	(2,071,560)
33,064	28,399	-	182,665	43,399	-
33,064	28,399	-	(1,066,181)	1,792,960	2,313,519
$ (561,579)	$ 586,339	$ (180,210)	$ (4,521,434)	$ (4,624,356)	$ (149,774)
19.83%	17.52%	14.96%	12.26%	12.27%	11.33%

CITY OF TOMBALL, TEXAS

TAX REVENUES BY SOURCE, GOVERNMENTAL ACTIVITIES

Last Ten Years
(Accrual basis of accounting)

Function	2001	2002	2003	2004	2005
Property	$ 1,469,880	$ 1,656,767	$ 1,894,374	$ 1,978,526	$ 2,068,974
Sales	4,323,015	4,725,338	5,134,332	4,918,390	6,479,974
Franchise fee	929,450	1,060,206	1,011,342	1,020,001	1,067,620
Other taxes	63,960	65,059	50,312	95,995	100,056
	$ 6,786,305	$ 7,507,370	$ 8,090,360	$ 8,012,912	$ 9,716,624

2006	2007	2008	2009	2010	Change 2009-2010
$ 2,258,424	$ 2,310,262	$ 2,570,145	$ 3,036,649	$ 2,922,913	-3.75%
7,491,415	7,304,280	7,206,713	7,038,176	6,651,064	-5.50%
1,069,381	1,140,734	1,149,261	1,150,591	1,153,954	0.29%
112,527	181,503	267,066	308,100	154,174	-49.96%
$ 10,931,747	$ 10,936,779	$ 11,193,185	$ 11,533,516	$ 10,882,105	-5.65%

City of Tomball, Texas

ASSESSED VALUE AND ACTUAL VALUE OF TAXABLE PROPERTY

Last Seven Years (2)

	2004	2005	2006	2007
Residential Property	$ 312,970,420	$ 346,417,520	$ 534,830,588	$ 548,645,926
Commercial Property	349,489,260	362,762,930	439,434,785	420,414,851
Less: Tax Exempt Property	(35,756,520)	(36,272,730)	(192,670,546)	(221,138,305)
Total Taxable Assessed Value (1)	$ 626,703,160	$ 672,907,720	$ 781,594,827	$ 747,922,472
Total Direct Tax Rate	0.280000	0.280000	0.251455	0.251455

Source: Harris County Certified / Uncertified Tax Roll.

(1) Property is assessed at actual value; therefore, the assessed values are equal to actual value.
(2) The requirement for statistical data is ten years; only seven years are available at this time
Tax rates are per $100 of assessed value.

2008	2009	2010
$ 562,126,135	$ 494,490,612	$ 431,346,771
516,025,633	962,896,368	1,041,882,736
(213,059,540)	(302,822,021)	(317,120,571)
$ 865,092,228	$ 1,154,564,959	$ 1,156,108,936
0.251455	0.251455	0.251455

CITY OF TOMBALL, TEXAS

PROPERTY TAX RATES - DIRECT AND OVERLAPPING GOVERNMENTS

Last Ten Years

	2001	2002	2003	2004
City of Tomball by fund:				
General	$ 0.117600	$ 0.114000	$ 0.015410	$ 0.100000
Debt service	0.189240	0.166000	0.264590	0.180000
Total Direct Rates	0.306840	0.280000	0.280000	0.280000
Tomball Independent School District	1.650000	1.680000	1.750000	1.730000
Harris County	0.394800	0.359000	0.383900	0.388100
Harris County Flood Control District	0.080000	0.061700	0.047600	0.041700
Port of Houston Authority	0.020400	0.018300	0.018300	0.019900
Harris County Hospital District	0.146500	0.202700	0.190200	0.190200
School Equalization	0.006290	0.006290	0.006290	0.006290
Lone Star College System District	0.001100	0.001100	0.001055	0.001055
Emergency Service District #8	-	-	-	-
Total Direct and Overlapping Rates (1)	$ 2.605930	$ 2.609090	$ 2.677345	$ 2.657245

Tax rates per $100 of assessed valuation
Source: Harris County Appraisal District

(1) Overlapping rates are those of local and county governments that apply within the City of Tomball.

2005	2006	2007	2008	2009	2010
$ 0.108000	$ 0.116640	$ 0.106468	$ 0.101455	$ 0.131455	$ 0.121455
0.172000	0.163360	0.144987	0.150000	0.120000	0.130000
0.280000	0.280000	0.251455	0.251455	0.251455	0.251455
1.730000	1.710000	1.580000	1.275000	1.360000	1.360000
0.388000	0.399860	0.402390	0.392390	0.389230	0.388050
0.041700	0.033220	0.032410	0.031060	0.030860	0.029230
0.020000	0.014740	0.013020	0.014370	0.017730	0.020540
0.190200	0.192160	0.192160	0.192160	0.192160	0.192160
0.006290	0.006290	0.006290	0.005853	0.005840	0.006581
0.114500	0.120700	0.114400	0.114400	0.110100	0.117600
0.030000	0.030000	0.030000	0.030000	0.050000	0.050000
$ 2.800690	$ 2.786970	$ 2.622125	$ 2.306688	$ 2.407375	$ 2.415616

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CITY OF TOMBALL, TEXAS

PRINCIPAL PROPERTY TAXPAYERS

Current Year and Nine Years Ago

	2010			2001		
Property Tax Payer	**Taxable Assessed Value**	**Rank**	**% of Taxable Assessed Value**	**Taxable Assessed Value**	**Rank**	**% of Taxable Assessed Value**
B. J. Services	$ 135,007,739	1	11.68%	$ 31,983,780	2	8.27%
Wal-Mart	19,904,980	2	1.72%	15,012,850	1	3.88%
MSR TX Tomball LP	18,600,000	3	1.61%		n/a	
Lowe's	15,914,622	4	1.38%		n/a	
Centerpoint Energy	15,132,013	5	1.31%		n/a	
HEB Grocery	14,503,723	6	1.25%		n/a	
Weingarten Investments	13,402,898	7	1.16%		n/a	
NNN Park at Spring Creek LLC	11,635,917	8	1.01%		n/a	
Target Corporation	11,018,148	9	0.95%		n/a	
A S 62 HWY 249 & FM 2920	10,850,000	10	0.94%		n/a	
Reliant Energy - HL & P		n/a		12,716,630	3	3.29%
Southwestern Bell Telephone		n/a		8,822,770	4	2.28%
Park at Spring Creek L.C.		n/a		7,518,850	5	1.94%
Center America Properties		n/a		6,245,450	6	1.62%
Four Corners Equity Corporation		n/a		6,165,580	7	1.59%
Commonwealth SW		n/a		5,824,440	8	1.51%
KB Fund IV		n/a		5,636,800	9	1.46%
Alphil Investments		n/a		5,511,820	10	1.43%
Subtotal	$ 265,970,040		23.01%	$ 105,438,970		27.27%
Other Taxpayers	890,138,896		76.99%	281,254,620		72.73%
Total	$ 1,156,108,936		100.00%	$ 386,693,590		100.00%

Source: Harris County Tax Assessor-Collector's records.

CITY OF TOMBALL, TEXAS

PROPERTY TAX LEVIES AND COLLECTIONS

Last Ten Years

	2001	2002	2003	2004
Tax levy	$ 1,330,000	$ 1,549,800	$ 1,600,000	$ 1,915,562
Current tax collected	$ 1,249,890	$ 1,411,192	$ 1,425,600	$ 1,771,895
Percent of current tax collections	93.98%	91.06%	89.10%	92.50%
Delinquent tax collections	$ 78,238	$ 136,512	$ 169,413	$ 136,423
Total tax collections	$ 1,328,128	$ 1,547,704	$ 1,595,013	$ 1,908,318
Total collections as a percentage of current levy	99.86%	99.86%	99.69%	99.62%

2005	2006	2007	2008	2009	2010
$ 2,013,497	$ 1,993,481	$ 2,130,000	$ 2,517,121	$ 2,903,211	$ 2,907,289
$ 1,834,296	$ 1,798,120	$ 1,904,220	$ 2,469,639	$ 2,843,461	$ 2,850,087
91.10%	90.20%	89.40%	98.11%	97.40%	98.03%
$ 171,096	$ 184,577	$ 212,660	$ 30,853	$ 37,482	$ -
$ 2,005,392	$ 1,982,697	$ 2,116,880	$ 2,500,492	$ 2,880,943	$ 2,850,087
99.60%	99.46%	99.38%	99.34%	99.23%	98.03%

CITY OF TOMBALL, TEXAS

RATIOS OF OUTSTANDING DEBT BY TYPE

Last Eight Years (1)

	2003	2004	2005	2006
PRIMARY GOVERNMENT				
Governmental Activities:				
General obligation bonds	$ 13,920,000	$ 21,170,000	$ 19,905,000	$ 18,839,500
Capital leases	742,483	618,645	492,372	363,467
Subtotal	$ 14,662,483	21,788,645	20,397,372	19,202,967
Business-Type Activities:				
Revenue bonds	$ 17,110,000	16,590,000	16,005,000	15,085,500
TOTAL PRIMARY GOVERNMENT	$ 31,772,483	$ 38,378,645	$ 36,402,372	$ 34,288,467
PERSONAL INCOME	$ 371,937,441	$ 220,726,922	$ 300,104,460	$ 280,510,625
DEBT AS A PERCENTAGE OF PERSONAL INCOME	8.542%	17.387%	12.130%	12.224%
POPULATION	9,843	9,883	9,930	10,625
DEBT PER CAPITA	$ 3,228	$ 3,883	$ 3,666	$ 3,227

(1) The requirement for statistical data is ten years; only eight years are available at this time.

Note: Details regarding the City's outstanding debt can be found in the notes to the financial statements.

2007	2008	2009	2010
$ 17,774,000	$ 16,688,500	$ 15,578,000	$ 14,497,500
290,793	218,540	-	-
18,064,793	16,907,040	15,578,000	14,497,500
14,151,000	13,206,500	12,247,000	11,277,500
$ 32,215,793	$ 30,113,540	$ 27,825,000	$ 25,775,000
$ 282,486,000	$ 276,767,062	$ 285,081,600	$ 290,186,220
11.404%	10.880%	9.760%	8.882%
11,500	11,531	11,600	11,670
$ 2,801	$ 2,612	$ 2,399	$ 2,209

CITY OF TOMBALL, TEXAS

RATIO OF NET BONDED DEBT TO ASSESSED VALUE, NET BONDED DEBT PER CAPITA, AND ASSESSED AND ESTIMATED ACTUAL VALUE OF TAXABLE PROPERTY

Last Ten Years

	2001	2002	2003	2004
NET TAXABLE ASSESSED VALUE				
All property	$ 493,134,250	$ 561,181,320	$ 580,358,740	$ 683,847,570
NET BONDED DEBT				
Gross bonded debt	$ 13,780,000	$ 32,780,000	$ 31,030,000	$ 37,760,000
Less debt service funds	-	-	-	-
Net Bonded Debt	$ 13,780,000	$ 32,780,000	$ 31,030,000	$ 37,760,000
RATIO OF NET BONDED DEBT TO ASSESSED VALUE	2.79%	5.84%	5.35%	5.52%
POPULATION	9,543	9,829	9,843	9,883
NET BONDED DEBT PER CAPITA	$ 1,444	$ 3,335	$ 3,152	$ 3,821

2005	2006	2007	2008	2009	2010
$ 672,907,720	$ 783,134,388	$ 981,484,973	$ 1,078,151,768	$ 1,154,564,959	$ 1,156,108,936
$ 35,910,000	$ 33,925,000	$ 31,925,000	$ 29,895,000	$ 27,825,000	$ 25,775,000
-	-	-	-	-	-
$ 35,910,000	$ 33,925,000	$ 31,925,000	$ 29,895,000	$ 27,825,000	$ 25,775,000
5.34%	4.33%	3.25%	2.77%	2.41%	2.23%
9,930	10,625	11,500	11,531	11,600	11,670
$ 3,616	$ 3,193	$ 2,776	$ 2,593	$ 2,399	$ 2,209

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City of Tomball, Texas

DIRECT AND OVERLAPPING GOVERNMENTAL ACTIVITIES DEBT

September 30, 2010

Governmental Unit	Net Bonded Debt Outstanding	Estimated Percentage Applicable (1)	Estimated Share of Overlapping Debt
Debt repaid with property taxes			
Tomball ISD	$ 280,245,000	23.31%	$ 65,325,110
Harris County	2,238,411,628	0.41%	9,177,488
Harris Co. Flood Control District	105,482,945	0.41%	432,480
Port of Houston Authority	78,269,397	0.41%	320,905
Harris County Dept of Education	81,160,000	0.41%	332,756
Lone Star College System	541,810,000	0.98%	5,309,738
Subtotal, overlapping debt			80,898,476
City direct debt		100.000%	14,497,500
Total direct and overlapping debt			$ 95,395,976

Source: First Southwest Company

CITY OF TOMBALL, TEXAS

LEGAL DEBT MARGIN INFORMATION

Last Eight Years (1)

	Fiscal Year			
	2003	**2004**	**2005**	**2006**
Debt limit	$ 58,035,874	$ 68,384,757	$ 67,290,772	$ 78,313,439
Total net debt applicable to limit	13,920,000	21,170,000	19,905,000	18,839,500
Legal debt margin	$ 44,115,874	$ 47,214,757	$ 47,385,772	$ 59,473,939
Total net debt applicable to the limit as a percentage of debt limit	23.99%	30.96%	29.58% #	24.06%

Legal Debt Margin Calculation for Fiscal Year 2010

Assessed value	$ 1,156,108,936	
Debt limit (10% of assessed value)	115,610,894	(2)
Debt applicable to limit:		
General obligation bonds	14,497,500	
Less: amount set aside for repayment of general obligation debt	-	
Total net debt applicable to limit	14,497,500	
Legal debt margin	$ 101,113,394	

Note: The City's Home Rule Charter (1987) does not limit bonded debt.

(1) The requirement for statistical data is ten years; only eight years are available at this time.

(2) According to the City Charter, the City has no legal debt limit

Fiscal Year			
2007	2008	2009	2010
$ 98,148,497	$ 107,815,177	$ 115,456,496	$ 115,610,894
17,774,000	16,688,500	15,578,000	14,497,500
$ 80,374,497	$ 91,126,677	$ 99,878,496	101,113,394
18.11%	15.48%	13.49%	12.54%

CITY OF TOMBALL, TEXAS

PLEDGED-REVENUE COVERAGE

Last Ten Years

	2001	2002	2003	2004
Gross revenues	$ 6,366,787	$ 5,748,215	$ 6,204,814	$ 7,005,922
Operating expenses (1)	3,579,876	3,070,238	3,850,816	4,539,346
Net revenues available for debt service	$ 2,786,911	$ 2,677,977	$ 2,353,998	$ 2,466,576
DEBT SERVICE REQUIREMENTS (2)				
Principal and interest	$ 575,996	$ 538,239	$ 538,846	$ 538,846
Total	575,996	538,239	538,846	538,846
Coverage	4.84	4.98	4.37	4.58

(1) Total operating expenses less depreciation
(2) Includes revenue bonds only

2005	2006	2007	2008	2009	2010
$ 9,637,212	$ 7,014,177	$ 9,450,511	$ 9,987,545	$ 11,442,271	$ 10,700,826
4,941,774	5,603,456	6,238,127	7,039,498	6,593,348	6,338,235
$ 4,695,438	$ 1,410,721	$ 3,212,384	$ 2,948,047	$ 4,599,281	$ 4,362,591
$ 540,020	$ 540,674	$ 541,047	$ 541,575	$ 538,595	$ 542,505
540,020	540,674	541,047	541,575	538,595	542,505
8.69	2.61	5.94	5.44	8.54	8.04

CITY OF TOMBALL, TEXAS
DEMOGRAPHIC AND ECONOMIC STATISTICS
Last Ten Years

Fiscal Year Ended Sept 30	Population(1)	Personal Income	Per Capita Personal Income(5)	Median Age(2)	School Enrollment(3)	Unemployment Rate(4)
2001	9,543	399,469,980	41,860	36.3	7,775	5.60%
2002	9,829	321,418,129	32,701	36.3	8,048	6.50%
2003	9,843	371,937,441	37,787	34.6	8,394	6.90%
2004	9,883	220,726,922	22,334	34.6	8,730	5.50%
2005	9,930	300,104,460	30,222	36.3	8,968	5.30%
2006	10,625	280,510,625	26,401	34.1	9,075	4.70%
2007	11,500	282,486,000	24,564	35.6	9,358	4.30%
2008	11,531	276,767,062	24,002	36.8	9,311	5.10%
2009	11,600	285,081,600	34,576	36.8	9,691	8.40%
2010	11,670	290,186,220	24,866	36.8	10,229	8.70%

Data sources:
(1) Estimated (2000 census adjusted for growth)
(2) Tomball Economic Development Corporation
(3) Tomball Independent School District
(4) Texas Employment Commission, Houston Primary Metropolitan Statistical Area
(5) Tomball Economic Development Corporation

CITY OF TOMBALL, TEXAS

PRINCIPAL EMPLOYERS

Current Year and Ten Years Ago

Employer	2010 Employees	2010 Rank	2010 Percentage of Total City Employment	2000 Employees	2000 Rank	2000 Percentage of Total City Employment
Tomball Regional Hospital	1,600	1	33.74%	1,200	1	25.31%
Tomball ISD	1,436	2	30.28%	958	2	20.20%
Tomball College (NHMCCD)	800	3	16.87%	471	4	9.93%
Wal-Mart	460	4	9.70%	330	5	6.96%
BJ Services Company, USA	600	5	12.65%	500	3	10.54%
HEB	257	6	5.42%	-	n/a	0.00%
City of Tomball	169	7	3.56%	86	6	1.81%
Kroger	142	8	2.99%	-	n/a	0.00%
Lowes	122	9	2.57%	-	n/a	0.00%
Target	116	10	2.45%	-	n/a	0.00%

Note: The residents of the City of Tomball are primarily employed outside of the City limits.
Percentages are based on the labor force statistic from the 2000 census data (4742).
Data was only available for the top six employees ranked in 2000.

Sources:

Tomball Area Chamber of Commerce
Tomball Economic Development Corporation
Tomball Independent School District
Human Resource Department of Listed Companies

CITY OF TOMBALL, TEXAS

FULL-TIME EQUIVALENT CITY GOVERNMENT EMPLOYEES BY FUNCTION/PROGRAM

Last Ten Years

	Fiscal Year									
	2001	**2002**	**2003**	**2004**	**2005**	**2006**	**2007**	**2008**	**2009**	**2010**
General Fund:										
Administration	7.5	7.5	7.5	8	8.5	8.5	9.5	10	15	14.5
Permits & Inspection	2	3.5	3.5	4.5	4.5	5	6	6	5	5
Police Department	41.5	44	44	47.5	50.5	50.5	52.5	55	55	55
Municipal Court	6	7	6	5.5	4.5	4	4	5	5	5
Community Center	4	4	3	3	3	3	3	3	3	3
Fire Department	1	1.5	5.5	8.5	9	9	12	14	14	14
Public Works Admin.	3.5	4	4.5	4.5	6	5.5	6	9	9	9
Garage	1.5	1.5	1.5	1	1	1	1	1	1	1
Parks	3.5	3.5	3.5	3.2	4.2	4.2	4.2	5.2	5.2	5.2
Streets	7.3	7.3	8.3	10.2	9.2	9.2	7.2	7.2	8.2	8.2
General Fund Total	77.8	83.8	87.3	95.9	100.4	99.9	105.4	115.4	120.4	119.9
Enterprise Fund:										
Utility Administration	7.5	8.5	8.5	9	11.25	11.5	11.5	12	10	9
Water	4.42	5.76	5.92	6.82	6.83	8.2	7.2	8.2	6.2	7.2
Wastewater	6.29	7.62	7.79	9.64	9.64	10.2	10.2	10.2	10.2	10.2
Gas	4.29	4.62	5.29	7.14	7.14	6.2	7.2	7.2	6.2	6.2
Enterprise Fund Total	22.5	26.5	27.5	32.6	34.86	36.1	36.1	37.6	32.6	32.6
TOTAL CITY POSITIONS	100.3	110.3	114.8	128.5	135.26	136	141.5	153	153	152.5

NOTES:

Around 20-35 temporary and seasonal employees are hired during the summer months as camp counselors, pool personnel and front desk. This count is not reflected above.

Police reserves (25) are not included.

Fire Department volunteers (60) are not included.

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City of Tomball, Texas

OPERATING INDICATORS BY FUNCTION/PROGRAM

Last Eight Years (1)

	Fiscal Year							
	2003	2004	2005	2006	2007	2008	2009	2010
Function/Program								
Police								
Arrests	2,034	1,804	1,766	1,611	1,812	1,840	1,625	2,049
Accident reports	704	650	563	523	609	499	440	330
Citations	5,518	8,153	13,194	12,473	7,602	12,445	10,820	14,694
Offense reports	2,319	2,959	2,130	2,321	2,174	2,398	2,050	1,705
Calls for service	9,323	8,553	8,804	8,861	8,558	8,299	7,688	7,348
Fire								
Emergency responses	N/A	647	623	860	1,028	1,241	1,056	1,341
Fire incidents	N/A	113	170	278	170	206	218	220
Average response time	N/A	6:19	6:17	6:07	5:40	5:34	4:38	5:15
Water								
New accounts	597	639	674	875	719	663	532	89
Source:								
Water	597	639	674	875	719	663	532	89
Sewer	597	639	674	875	719	663	532	89
Average daily consumption (millions of gallons)	1,798	1,798	1,851	2,002	1,897	1,980	2,166	1,941
Number of million gallons of well water pumped	656,384	675,448	751,880	730,198	692,163	722,788	790,409	708,565
Total consumption (millions of gallons)	656,384	675,448	751,880	730,198	692,363	722,788	790,409	708,565
Peak daily consumption (millions of gallons)	3,492	3,492	3,322	3,395	3,241	4,425	3,791	3,480
Sewer								
Average daily sewage treatment (millions of gallons)	1.339	1.595	1.468	1.500	1.636	1.422	1.428	1.362
Total consumption (millions of gallons)	488.735	582.175	535.820	547.500	597.140	519.030	521.220	497.166
Peak daily consumption (millions of gallons)	3.30	4.50	4.30	4.50	5.10	5.90	5.10	3.72

Source: Various City departments

(1) The requirement for statistical data is ten years; only eight years are available at this time.

City of Tomball, Texas

CAPITAL ASSET STATISTICS BY FUNCTION/PROGRAM

Last Eight Years (1)

	Fiscal Year							
	2003	**2004**	**2005**	**2006**	**2007**	**2008**	**2009**	**2010**
Function/Program								
Police								
Stations	1	1	1	1	1	1	1	1
Patrol units	26	26	27	31	32	26	28	30
Fire stations	2	2	2	2	2	2	2	2
Other public works								
Streets (miles - centerlines)	69.9	71.0	71.0	72.0	72.0	72.6	73.0	56.2
Streetlights	462	462	639	642	648	648	648	650
Parks and recreation								
Parks	4	4	4	4	4	4	4	4
Parks acreage	24 acres	24 acres	24 acres	24 acres	24 acres	24 acres	24 acres	24 acres
Swimming pools	1	1	1	1	1	1	1	1
Baseball/softball diamonds	8	8	8	8	8	8	8	8
Tennis courts	4	4	4	4	4	4	4	4
Basketball courts	1	1	1	1	1	1	1	1
Water								
Water mains (miles)	59	59	74	86	88	89	91.29	91.59
Fire hydrants	630	630	668	802	831	831	869	874
Storage capacity (millions of gallons)	N/A	N/A	N/A	N/A	1.85	1.85	1.85	1.85
Sewer								
Sanitary sewers (miles)	48.0	48.0	51.5	54.5	56.0	56.17	58.6	58.86
Storm sewers (miles)	15.0	16.2	16.9	16.9	16.9	16.9	17.2	17.4
Open ditch/creek/canal drainage (miles)	N/A	N/A	N/A	N/A	52.00	53	53.4	53.7
Treatment capacity (millions of gallons)	3	3	3	3	3	3	3	3

Source: Various City departments

(1) The requirement for statistical data is ten years; only eight years are available at this time.

BELT HARRIS PECHACEK

CERTIFIED PUBLIC ACCOUNTANTS

WWW.TEXASAUDITORS.COM

Required Auditor Disclosure Letter

January 15, 2011

To the Honorable Mayor and
City Council Members of the
City of Tomball, Texas:

We have audited the financial statements of the governmental activities, business-type activities, the discretely presented component unit, each major fund, and the aggregate remaining fund information of the City of Tomball, Texas (the "City") for the year ended September 30, 2010, and have issued our report thereon dated January 15, 2011. Professional standards require that we provide the Mayor and members of City Council (the "governing body") with the following information related to our audit.

I. Our Responsibility under U.S. Generally Accepted Auditing Standards

As stated in our engagement letter dated February 17, 2009, our responsibility, as described by professional standards, is to express opinions about whether the financial statements prepared by management with its oversight are fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles. Our audit of the financial statements does not relieve the governing body or management of its responsibilities.

II. Planned Scope and Timing of the Audit

We performed the audit according to the planned scope and timing previously communicated to the governing body in our engagement letter dated February 17, 2009.

III. Significant Audit Findings

1. Qualitative Aspects of Accounting Practices

A. Management is responsible for the selection and use of appropriate accounting policies. In accordance with the terms of our engagement letter, we will advise management about the appropriateness of accounting policies and their application.

   i. The significant accounting policies used by the City are described in Note I to the financial statements.

   ii. No new accounting policies were adopted and the application of existing policies was not changed during the year.

   iii. There are no significant transactions that have been recognized in the financial statements in a different period than when the transaction occurred.

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B. Accounting estimates are an integral part of the financial statements prepared by management and are based on management's knowledge and experience about past and current events and assumptions about future events. Certain accounting estimates are particularly sensitive because of their significance to the financial statements and because of the possibility that future events affecting them may differ significantly from those expected. The most sensitive estimate affecting the financial statements was:

   Management's estimate of the useful lives of capital assets as based on industry standards relating to capital assets. We evaluated the key factors and assumptions used to develop the useful lives of capital assets in determining that they are reasonable in relation to the financial statements taken as a whole.

C. The disclosures in the financial statements are neutral, consistent, and clear. Certain financial statement disclosures are particularly sensitive because of their significance to financial statement users. The most sensitive disclosure affecting the financial statements was:

   The disclosure of the City's long-term debt.

2. Difficulties Encountered in Performing the Audit

We did not encounter any significant difficulties in dealing with management in performing and completing our audit.

3. Corrected and Uncorrected Misstatements

Professional standards require us to accumulate all known and likely misstatements identified during the audit, other than those that are trivial, and communicate them to the appropriate level of management. Management has corrected all such misstatements. The attached schedule summarizes both material and immaterial misstatements detected as a result of our audit procedures.

4. Disagreements with Management

For purposes of this letter, professional standards define a disagreement with management as a financial accounting, reporting, or auditing matter, whether or not resolved to our satisfaction, that could be significant to the financial statements or the auditors' report. We are pleased to report that no such disagreements arose during the course of our audit.

5. Management Representations

We have requested certain representations from management that are included in the management representation letter dated January 15, 2011.

6. Management Consultations with Other Independent Accountants

In some cases, management may decide to consult with other accountants about auditing and accounting matters, similar to obtaining a "second opinion" on certain situations. If a consultation involves application of an accounting principle to the governmental unit's financial statements or a determination of the type of auditor's opinion that may be expressed on those statements, our professional standards require the consulting accountant to check with us to determine that the consultant has all the relevant facts. To our knowledge, there were no such consultations with other accountants.

7. Other Audit Findings or Issues

We generally discuss a variety of matters, including the application of accounting principles and auditing standards, with management each year prior to retention as the City's auditors. However, these discussions occurred in the normal course of our professional relationship and our responses were not a condition to our retention.

This information is intended solely for the use of the governing body and management of the City and is not intended to be and should not be used by anyone other than these specified parties.

Belt Harris Pechacek, LLLP

Belt Harris Pechacek, LLLP
Certified Public Accountants
Houston, Texas

Client: *City of Tomball, Texas*
Engagement: *4.1 - Tomball 09/30/10*
Period Ending: *9/30/2010*
Trial Balance: *2.2.01 - TB*
Workpaper: *6 - Adjusting Journal Entries Report*

Account	Description	W/P Ref	Debit	Credit
Adjusting Journal Entries JE # 1		**E.03**		
To record account payable accrual at year end.				
100-154-6338	STREET LIGHTS		8,988.44	
100-157-6313	UTILITIES		18,411.38	
600-613-6313	UTILITIES-ELECTRIC		14,750.61	
600-614-6313	UTILITIES-ELECTRIC		14,282.00	
600-615-6313	UTILITIES-ELECTRIC		14.13	
100-000-2001	Y/E ACCOUNTS PAYABLE PER AUDIT			27,399.82
600-2001	Y/E ACCOUNTS PAYABLE PER AUDIT			29,046.74
Total			**56,446.56**	**56,446.56**
Adjusting Journal Entries JE # 2		**E.01b**		
To record accounts payable accrual at year end .				
777-6335	Marketing		790.40	
777-7003	Business Improvement Grants		10,000.00	
777-2000	Accounts Payable			10,790.40
Total			**10,790.40**	**10,790.40**
Adjusting Journal Entries JE # 3		**I.03**		
To record 2010 refunded bond at year end.				
300-300-6905	Bond issurance cost		53,385.01	
300-300-6955	Payment to Refunded Bond Escrow		2,071,559.83	
300-300-6910	Refunding Bonds Issued			2,120,000.00
300-300-6950	Premium On Refunding Bond			4,944.84
Total			**2,124,944.84**	**2,124,944.84**
Adjusting Journal Entries JE # 5		**2.4.11**		
To record OPEB obligation at year end. Client should not record entry.				
600-6151	Other Post Employment Benefits		43,282.48	
600-2051	Net OPEB Obligation			43,282.48
Total			**43,282.48**	**43,282.48**

BELT HARRIS PECHACEK

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Management Letter

January 15, 2011

To the Honorable Mayor and
Members of City Council,
City of Tomball, Texas:

The American Institute of Certified Public Accountants issued a new auditing standard that must be followed when communicating certain internal control related matters as part of an audit of financial statements effective for audit periods ending on or after December 15, 2009. The new standard (Statement on Auditing Standards No. 115, *Communicating Internal Control Related Matters Identified in an Audit,* "SAS 115") provides guidance to auditors on communicating internal control matters to management and the governing body, board of directors, or equivalent body. Although it replaces a similar standard, it revises certain terminology, as defined below. Auditors are also required to report on issues identified in previous years even if it is not feasible to cost effectively address the matter.

It is important to note when reviewing findings reported within this letter that classification of the findings is based on the definitions required by SAS 115 as further discussed below. Please note that these classifications are based on the potential impact to the financial statements, not necessarily the likelihood of actual loss to the City. Accordingly, the City's assessment of the "significance" or ranking of severity will likely be substantially different based on a number of factors including, but not limited to, its assessment of risk and the cost benefit of making the change.

In planning and performing our audit of the financial statements of the City of Tomball, Texas (the "City") as of and for the year ended September 30, 2010, in accordance with auditing standards generally accepted in the United States of America, we considered the City's internal control over financial reporting (internal control) as a basis for designing our auditing procedures for the purpose of expressing an opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the City's internal control. Accordingly, we do not express an opinion on the effectiveness of the City's internal control.

Our consideration of internal control was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control that might be significant deficiencies or material weaknesses and therefore, there can be no assurances that all deficiencies, significant deficiencies, or material weaknesses have been identified. However, as discussed below, we identified certain deficiencies in internal control that we consider to be material weaknesses and other deficiencies that we consider to be significant deficiencies.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect and correct misstatements on a timely basis. A material weakness is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis.

A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Partners
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Partner of Counsel
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Our findings and additional comments are as follows:

Other Matters:

2010-1. EXCESS OF EXPENDITURES OVER APPROPRIATIONS

Finding

As of September 30, 2010 the City exceeded the legal level of budgetary control for a department in the general fund and fund level for court security fund. The general fund reports in garage $2,058 and court security reports $3,036.

Recommendation

The City should monitor expenditures throughout the year and ensure that budget amendments are properly approved by City council and recorded in the accounting system prior to the expenditure of funds.

2010-2. NEW FUND BALANCE REPORTING REQUIREMENTS

Background

The Governmental Accounting Standards Board ("GASB") issued Statement No. 54, *Fund Balance Reporting and Governmental Fund Type Definitions*, which provides for clearer fund balance classifications that can be more consistently applied. Specifically, this statement replaces the current categories of reserved, designated, and unreserved with the new categories of nonspendable, restricted, committed, assigned, and unassigned. In addition, this statement clarified definitions of governmental fund types. The City will be required to comply with Statement No. 54 for the fiscal year ending 2011.

The statement also encourages the implementation of a fund balance policy. While a policy is not required in order to comply with the statement, it is required if the City wants to assign or commit fund balances in the future. Also, any commitments must occur before the end of any given fiscal year in order for them to be presented in that year's financial report.

Recommendation

The City should evaluate its current fund balance policies, if any, and modify for the new standard by the conclusion of the 2010-2011 fiscal year. More information on GASB 54 can be found on our website, www.texasauditors.com, including a sample fund balance policy. We have also included a fact sheet with frequently asked questions about GASB 54 as published by the Governmental Accounting Standards Board for your reference.

This communication is intended solely for the information and use of management, City Council, Mayor, and others within the City, and is not intended to be and should not be used by anyone other than these specified parties.

We would like to thank City Council and the City's employees for their cooperation during the course of our audit. Please feel free to contact us at your convenience to discuss this report or any other concerns that you may have.

BELT HARRIS PECHACEK, LLLP

Belt Harris Pechacek, LLLP
Houston, Texas

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Governmental Audit Quality Center
AICPA

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Recommendation

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Houston, Texas

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Required Auditor Disclosure Letter

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II. Planned Scope and Timing of the Audit

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III. Significant Audit Findings

1. Qualitative Aspects of Accounting Practices

A. Management is responsible for the selection and use of appropriate accounting policies. In accordance with the terms of our engagement letter, we will advise management about the appropriateness of accounting policies and their application.

i. The significant accounting policies used by the City are described in Note I to the financial statements.

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   The disclosure of the City's long-term debt.

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We did not encounter any significant difficulties in dealing with management in performing and completing our audit.

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BELT HARRIS PECHACEK, LLLP

Belt Harris Pechacek, LLLP
Certified Public Accountants
Houston, Texas

Client: *City of Tomball, Texas*
Engagement: *4.1 - Tomball 09/30/10*
Period Ending: *9/30/2010*
Trial Balance: *2.2.01 - TB*
Workpaper: *6 - Adjusting Journal Entries Report*

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300-300-6910	Refunding Bonds Issued			2,120,000.00
300-300-6950	Premium On Refunding Bond			4,944.84
Total			**2,124,944.84**	**2,124,944.84**
Adjusting Journal Entries JE # 5		**2.4.11**		
To record OPEB obligation at year end. Client should not record entry.				
600-6151	Other Post Employment Benefits		43,282.48	
600-2051	Net OPEB Obligation			43,282.48
Total			**43,282.48**	**43,282.48**

Regular City Council
Agenda Item
Data Sheet

Meeting Date: March 7, 2011

Topic:

Accept Resignation of LaMar Barr and Appoint Replacement Member to Unexpired Term on the Tourism Advisory Committee (Hotel Industry Position 8)

Background:

LaMar Barr, recently appointed to the two-year hotel industry term, Position 8, on the Tourism Advisory Committee, submitted his resignation to Mayor Fagan on January 24, 2011, following the first meeting.

The only applicant currently on file for the hotel industry is Mr. Prakash Patel; his application is included. Mr. Patel has confirmed his interest in being appointed to the Tourism Advisory Committee.

On February 21, 2011, Council tabled consideration of an appointment to the unexpired term, pending staff's report regarding the hotel occupancy tax payment status of Tomball's hotels; the requested information is attached.

Origination:

City Secretary

Recommendation:

N/A

Funding:

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

City Secretary

ACTION TAKEN

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

ATTACHMENTS:

Application to TAC Board - P. Patel
List of Tomball Hotels and Motels
Summary of Hotel Occupancy Taxes Paid

CITY OF TOMBALL

2010 APPLICATION
FOR THE
TOURISM ADVISORY COMMITTEE

As an Applicant for the **Tourism Advisory Committee**, your application will be available to the public. All appointments are made by the Tomball City Council. Incumbents whose terms expire are automatically considered for reappointment unless they indicate non-interest or have been appointed to two (2) consecutive terms. A member who is absent for more than 25% of called meetings in any twelve consecutive months or absent from more than two consecutive meetings, for other than medical reasons, will be automatically removed from service. Applicant must be a citizen of the United States and must reside within the city limits of Tomball unless otherwise stated in the position announcement. 2010 applications expire on December 31, 2012; a new application will be required in 2013.

Please Type of Print Clearly: Date: 11. 8. 2010.

Name: PRAKASH PATEL Phone: 281. ~~25~~ 290. 1035 (Home)

Address: 603. W. MAIN STREET TOMBALL, TX 77375 Phone: 281. 797. 5378 (Work)

Email: PRAKASH1970@MSN.COM

I have lived in Tomball 30 years. I am ✓ am not ___ a U.S. Citizen

I am applying as (please check all that apply):

✓ a Tomball Resident, residing within the city limits of Tomball
___ an Employee, Owner, Officer or Director of a business, other than a hotel of motel, with offices within the city limits of Tomball
___ an Employee, Owner, or Officer of a hotel or motel located in the city limits of Tomball

Occupation: RESTAURANT OWNER DENNY'S - TOMBALL.

Professional and/or Community Activities: ____
____
____

Additional Pertinent Information/References: ____
____
____

Applications for the Tourism Advisory Committee will be kept on file in the City Secretary's office (281-290-1002) for two years.

****

I AM INTERESTED IN SERVING ON THE TOURISM ADVISORY COMMITTEE.

____
Signature of Applicant

Please return this application to:

City Secretary
City of Tomball
401 Market Street
Tomball, TX 77375
dspeer@ci.tomball.tx.us
fax: 281-351-6256

CITY OF TOMBALL

2010-2011 ANNUAL BUDGET

HOTEL OCCUPANCY TAX FUND

CURRENT LISTING OF HOTELS & MOTELS

1. Tomball Inn(Economy Inn & Suites), **Steve Patel**, 281-351-9700; 281-491-0840,

   30130 Tomball Pkwy

2. Comfort Suites (Tomball Hospitality), **Sonya Dyer**, sonya@comfortsuitestomball.com,

   13636 Michel Rd.281-290-7070

3. Executive Inn (Peck Hotel), **Prakash Patel**, prakash1970@msn.com, 281-255-3232

   603 W. Main

4. Super 8 (was Holiday Inn Express), **Mike Patel**, super8tomball@yahoo.com,

   1437 Keefer Rd. 832-559-6600

5. La Quinta (KCC Intl.), **Ron Tocci,** rtocci03@yahoo.com, 14000 Medical Complex Drive

   281-516-0400

6. Hampton Inn, **Lamar Barr,** lawrencebarr@hilton.com, 14100 Medical Complex Drive

   281-679-0900

7. America's Best Value (under construction), 22420 Park Rd., 281-454-1030

Comfort Suites (Tomball Hospitality)	13636 Michel Rd.
Executive Inn (Peck Hotel)	603 W. Main
Super 8 (was Holiday Inn Express)	1437 Keefer Rd.
La Quinta (KCC Intl.)	14000 Medical Complex Drive
Hampton Inn (OM Hospitality)	14100 Medical Complex Drive

America’s Best Value (under construction)	22420 Park Rd.

CITY OF TOMBALL
SUMMARY OF HOTEL OCCUPANCY COLLECTIONS
FY 2009

Hotel Name		Payment Amount First Quarter		Payment Amount Second Quarter		Payment Amount Third Quarter		Payment Amount Fourth Quarter	To Fis
Tomball Inn	L	$ 7,322.66	L	$ 9,465.31	L	$ 5,055.77	L	$ 4,836.16	
Comfort Suites		14,204.34		22,774.83		13,871.23		15,064.71	
Executive Inn	L	2,957.24		3,491.37	L	1,689.89	L	1,371.52	
Super 8		8,059.95							
La Quinta		22,960.78	L	31,082.05		23,332.37	L	22,504.81	
Hampton Inn									
America's Best									
Total		$ 55,504.97		$ 66,813.56		$ 43,949.26		$ 43,777.20	

L- Late

ɔtal for cal Year
$ 26,679.90
65,915.11
-
9,510.02
-
8,059.95
-
99,880.01
-
-
-
-
$ 210,044.99

CITY OF TOMBALL
SUMMARY OF HOTEL OCCUPANCY COLLECTIONS
FY 2010

Hotel Name		Payment Amount First Quarter		Payment Amount Second Quarter		Payment Amount Third Quarter		Payment Amount Fourth Quarter	To Fis
Tomball Inn	L	$ 3,710.39	L		L	$ 4,230.19			
Comfort Suites		12,863.57		12,164.13		11,927.11		10,786.11	
Executive Inn	L	1,543.17		1,509.63	L	1,025.22		1,524.25	
Super 8	L	1,273.46		5,041.33	L	6,640.42			
La Quinta	L	16,664.94		16,796.06		18,447.12		16,202.01	
Hampton Inn							L	11,825.69	
America's Best									
Total		$ 36,055.53		$ 35,511.15		$ 42,270.06		$ 40,338.06	

L- Late
Payments are listed as fiscal quarters

otal for cal Year
$ 7,940.58
47,740.92
-
5,602.27
-
12,955.21
-
68,110.13
-
11,825.69
-
-
$ 154,174.80

CITY OF TOMBALL
SUMMARY OF HOTEL OCCUPANCY COLLECTIONS
FY 2011

Hotel Name		Payment Amount First Quarter	Payment Amount Second Quarter	Payment Amount Third Quarter	Payment Amount Fourth Quarter	To Fis
Tomball Inn						
Comfort Suites		9,636.29	11,993.11			
Executive Inn	L	1,358.97	971.31			
Super 8						
La Quinta	L	17,126.15	21,544.36			
Hampton Inn		27,734.76	34,780.87			
America's Best						
Total		$ 55,856.17	$ 69,289.65	$ -	$ -	

L- Late
Payments are listed as fiscal quarters

ɔtal for cal Year
$ -
21,629.40
-
2,330.28
-
-
-
38,670.51
-
62,515.63
-
-
$ 125,145.82

Regular City Council Agenda Item Data Sheet

Meeting Date: March 7, 2011

Topic:

Appoint Representative to the Southeast Texas Housing Finance Corporation Board of Directors

Background:

Ron Williams has advised the City that H. G. "Hap" Harrington's term as a Director of the Southeast Texas Housing Finance Corporation (SETH) expired January 21, 2011 and requests/recommends Mr. Harrington's reappointment, based on his extensive knowledge, participation, and experience (see Mr. Williams' letter).

Mr. Harrington was instrumental in helping the City of Tomball acquire a $45,000 grant from SETH for the re novation of low-income senior citizen housing in 2006; the remaining funds from this grant were presented to the Tomball Rotary and Tomball High School Student Council on February 21, 2011 for the "Showers for Shane" project.

Mr. Harrington has expressed his desire to continue serving on SETH and I would like to recommend his reappointment as a Director.

Origination:

Mayor Fagan

Recommendation:

Reappointment of H. G. Harrington as a Director of the Southeast Texas Housing Finance Corporation (SETH)

Funding:

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

City Secretary

ACTION TAKEN

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

ATTACHMENTS:

Request from Ron Williams, SETH

SOUTHEAST TEXAS HOUSING FINANCE CORPORATION

February 11, 2011

Mayor Gretchen Fagan
City of Tomball
401 Market
Tomball, Texas 77375

Re: H.G. "Hap" Harrington
The Southeast Texas Housing Finance Corporation

Dear Mayor Fagan:

This is a friendly reminder that the term of Mr. Harrington as a Director of The Southeast Texas Housing Finance Corporation (SETH) expired January 21, 2011.

Mr. Harrington has been an integral part of the success of SETH in accomplishing its mission of providing affordable workforce housing to low and moderate income families within our jurisdictions. Over the past 31 years, SETH has issued over $1.7 Billion in tax-exempt bonds to provide below-market interest rate mortgages and/or down payment assistance for first-time homebuyers as well as provide financing for affordable rental housing.

Mr. Harrington has always been a very strong voice in ensuring the deserving citizens of Tomball are afforded the opportunities of homeownership or decent rental housing.

The Board of Directors has on numerous occasions elected Hap to an officer's position as well as being appointed to the most important oversight committees of Audit/Finance and Personnel.

His knowledge, experience, participation, and regular attendance are just some of the attributes that contribute to SETH's success as one of the premier local housing finance agencies in the nation.

Please call with any questions.

Sincerely,

Ron Williams
Executive Director

11111 South Sam Houston Parkway East • Houston, Texas 77089
phone 281.484.4663 • fax 281.484.1971 • www.sethfc.com

Regular City Council Agenda Item Data Sheet

Meeting Date: March 7, 2011

Topic:

Approve Request by the Tomball Sister City Organization for 2011 German Heritage Festival Support and Street Closures

Background:

The Tombal Sister City Organization (TSCO) is planning its 11th Annual German Heritage Festival for March 24, 25, 26, and 27. Each year this even has continued to grow, consisttently drawing over 20,000 visitors.

Council has already approved the TSCO HOT Fund grant request. In addition, they are requesting the following support from the City:

1. Personnel support from the Police and Public Works Departments and the Tomball Community Center
2. Use of the Tomball Community Center as outlined in the attached request letter
3. Supplies:
    - One 40-yard roll off dumpster
    - Four 8-yard dumpsters
    - 50 portable toilets (including 2 handicap units)
    - 8 hand sanatazion stations
    - 30 trash barrels with 400 liners
    - 25 barricades and 12 traffic cones
    - Rental of 5 large generators and cords, 6 tower lights
    - Fuel for rentals from City's supply
    - Add 30-amp service with (4) outlets on the existing pole/panel behind the Gazebo

The total estimated costs of in-kind services is $9,761.

The TSCO also requests the carnival allowed to be open at the following times:

- March 24 from 3:00 PM to 11:00 PM
- March 25 from 3:00 PM to 11:00 PM
- March 26 from 10:00 AM to 11:00 PM
- March 27 from 10:00 AM to 10:00 PM

In addition to the funds, personnel, and supplies requested, the TSCO os also requesting the following road closures:

From 12:00 PM Thursday, March 24, 2011 until 10:00 PM Sunday, March 27, 2011:

- 300 Block of Market Street from Cherry St. to Oak St.
- South Elm and 100 Block of Market St.
- South Walnut between Market St. and Fannin St.

From 9:00 AM Friday, March 24, 2011 to 7:00 PM Sunday, March 27, 2011:

- 200 block of Market St. at Cherry St.

- South Walnut St. at Main St.

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
☐ YES ☐ NO	☐ 1ST ☐ 2ND	

ATTACHMENTS:

Request Letter
Estimated In-kind Costs

TOMBALL SISTER CITY ORGANIZATION
Tomball, Texas – Telgte, Germany
P.O. BOX 1131
TOMBALL, TEXAS 77377

January 20, 2011

Honorable Mayor and City Council

Re: Request Support for 11th Annual Tomball German Heritage Festival

The Tomball Sister City Organization, Inc. respectfully request for the Tomball German Heritage Festival:

(A) In-kind support for Thursday, March 24th, Friday, March 25th, Saturday, March 26th, and Sunday, March 27th, 2011 in the form of:

Personnel:
Public Works:
Two (2) employees for Friday night from 6:00 pm to 11:00 pm.
Two (2) for Saturday from 8:00 am to 11:00 pm.
Two (2) for Sunday from 8:00 am to 8:00 pm.
Employees will need the use of gators for trash pick up.

Police Department:
Two (2) Officers for Thursday from 5-11pm.
Four (4) for Friday from 5-11pm.
Four (4) for Saturday from 9am - 11pm.
Four (4) for Sunday from 10am - 6pm.
And two (2) Officers for Sunday night from 6-11pm.

ESD 8
One (1) Paramedic Thursday 5-11pm
One (1) Friday from 5-11pm
One (1) Saturday from 9am - 11pm
One (1) Sunday from 10am - 11pm

Facilities:
The use of the Community Center Friday night from 1:00 pm to 10 pm and Saturday from 8:00 am to 10 pm and Sunday from 8:00 am to 8:00 pm. One (1) employee working these hours, also.

Supplies:

One (1) 40 yard roll off, and four (4) 8-yard dumpsters; Forty-five (50) portable toilets including two (2) handicap units, and eight (8) hand sanitize stations.

Thirty (30) trash barrels with 400 liners

Twenty (25) barricades, twelve (12) traffic cones

(B) 1. Electricity/Lighting Rentals: 5 large generators and 5 power cords, 6 tower lights, and fuel top-off for generators from City's gasoline supply.

2. Electricity: Add 30amp service with (4) outlets on the existing pole/panel behind . the Gazebo.

(C) Cash Request of $20,000.00 from the local occupancy tax.

(D) TV and Radio commercials. Requested amount - $10,000.

(E) Transportation: Request discussion and plan for visitor's off-site parking and transportation to the festival by way of shuttle service in some form.

Carnival Hours:
Thursday 3pm-11pm, Friday 3pm-11pm, Saturday 10am-11pm, Sunday 10am-10pm

Street Closures:
On behalf of your Tomball Sister City Organization and the Tomball German Heritage Festival we respectfully request permission to block off the 300 block of Market Street from Cherry to Oak; South Elm and 100 block of Market; and South Walnut between Market and Fannin from 12:00 pm Thursday, March 24, 2011 until 10:00 pm Sunday, March 27, 2011. The Triple "T" Amusement Carnival will begin Thursday at 3:00 pm and go through Sunday until 10:00 pm. In addition to this, we would like to request closure of the 200 block of Market at Cherry, Friday 9:00 am, March 25, 2011 and South Walnut at Main 5:00 pm until Sunday, March 27, 2011 at 7:00 pm.

Sincerely,

Grady P. Martin
Tomball Sister City Organization
Tomball German Heritage Festival

Estimated Cost of In-Kind Services for 2011 German Heritage Festival

Overtime for personnel:		
	Police	$2,916
	Public Works	$2,089
	Community Center	$795
Supplies:		
	Portable toilets	$2,700
	Other supplies & fuel	$511
	Barricades & cones	Provided by City of Tomball
	40 yard roll-off	Provided by WCA
	Trash boxes & liners	Provided by WCA
Electricity:		
	Electric use	$250
	30 Amp Service	$500
Total in-kind services		**$9,761**

Regular City Council Agenda Item Data Sheet

Meeting Date: March 7, 2011

Topic:

Approve Grant Application by Main Street Crossing for Hotel Occupancy Tax Funds, in the Amount of $23,479, as recommended by the Tourism Advisory Committee

Background:

At its February 28th meeting, the Tourism Advisory Council approved a grant application from Main Street Crossing in the amount of $23,479 to be used for advertising.

Staff requests Council permission to negotiate a "Service Agreement" with the appropriate party. This agreement will allow the City to have content approval, set performance measures, and set a payment schedule.

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
☐ YES ☐ NO	☐ 1ST ☐ 2ND	

ATTACHMENTS:

Main Street Crossing HOT Fund Application
Main Street Crossing Articles of Incorporation
Main Street Crossing By-laws

CITY OF TOMBALL

APPLICATION FOR USE OF HOTEL OCCUPANCY TAX

(Must be submitted no less than 45 days prior to the event)

Applications may be mailed or hand delivered to:

Director of Finance
City of Tomball
501 James Street
Tomball, TX 77375

Applicant Organization: Main Street Crossing

Organization Director: Rick Davis

Project or Event for which funding is requested: Texas Mix Radio Show and Advertising Campaign

Date of Event: Ongoing 2011-2012

Description of project or event for which funding is requested:

(Documentation attached) We are not actually requesting grant money. Following a series of meetings between the leadership of Main Street Crossing and George Shackelford, Betty Reinbeck and Gretchen Fagan, it was agreed that Main Street Crossing would submit an application that would allow the City of Tomball to take part in a cooperative advertising campaign utilizing the already successful Texas Mix Live Radio show at Main Street Crossing as well as additional radio advertsing.

Location of project or event:

Main Street Crossing and Texas Mix 105.3 FM

GRANT AMOUNTS:

Amount Requested for 2010-2011 $ $540 per week or $23,479 (Mar-Dec)

Amount Received for 2009-2010 $ ____________

% increase requested over last year's grant ______%

2010-2011 Organization Budget Summary

	City Funds	Other Funds	Total
Personnel		$120,000	$120,000
Contracted Services		$18,000	$18,000
Travel			
Rental Expense			
Depreciation/Mortgage	N/A	$45,600	$45,600
Advertising		$18,000	$18,000
Insurance		$14,400	$14,400
Other Expenses		$100,000	$100,000
Volunteer Time	N/A		
Donated Goods/Services	N/A		
Total		$316,000	$316,000

Grants to an organization will not exceed 25% of the organization's adopted budget for 2010-2011.

FUNDS FROM SOURCES OTHER THAN THE CITY OF TOMBALL

Government	Amount of Funds
Local	____________
County	____________
State	____________
Federal	____________
Other Investors/Contributors	
Individual	____________
Corporate	____________
Foundations	____________
Fees	
Admissions	____________
Applications	____________
Vendors	____________
Tuition	____________

Concessions $200,000

Memberships ______________

Subscriptions ______________

Other ______________

Total $______________

How many people do you expect will visit Tomball from out-of-town as a result of this project or event?

Explain the basis for your answer to the preceding question:

3,640 in 2011

Are attendees for this event or users of this project expected to stay overnight in Tomball hotels or motels? If you answer to this question is Yes, state the basis for your answer:

Yes, because as a unique evening activity attracting guests from outside the Tomball area, it may lend itself to overnight stay.

Organization Contact Name, Title, Address and Phone Number:

Rick Davis, Chairman of the Board, 111 W. Main St. Tomball, TX 77375 (281) 290-0431

Contact's Signature: ______________

Date: ______________

VALIDATION OF APPLICATION

The signatory declares that he/she is an authorized official of the applicant, is authorized to make this application, and certifies that the information in this application is true and correct to the best of his/her knowledge. Signatory further declares that applicant, if previously funded by the City of Tomball, has successfully fulfilled all prior Grant contract obligations.

______________________________ ______________

Signature of Authorizing Official Date

____

Typed Name

______________________________ ______________

Title within Organization Telephone

____

Email address

NARRATIVE QUESTIONS

Please look at the criteria in the grant guidelines when you answer the following questions. **Be specific and give examples.** Answers to individual questions should be as brief as possible and should in no case exceed one page.

1. Describe the history and purpose of the organization.

2. Describe how any grant funds will be used.

3. List the programs and activities for the grant year.

4. Show evidence of growth in community support prior to the grant year. Include the number of performances, exhibitions, audience sizes, services or enrollment. Be sure to include specific information as to the percent of activities taking place within the City of Tomball.

5. How does your project/event qualify for use of Municipal Hotel Occupancy Tax funds as defined in the Hotel Occupancy Tax Guidelines?

6. How do you publicize your activities? How do you evaluate these efforts and what have you done to increase the effectiveness of your marketing efforts?

7. Explain the public benefits to the City of Tomball that will result from your organization's efforts.

8. What is your organization doing to bring visitors to Tomball, to stay in local hotels and otherwise support the hospitality industry?

OTHER REQUIRED DOCUMENTATION

The following information in required to process the grant application:

1. Articles of Incorporation, if applicable

2. Constitution and/or By-Laws

3. If your organization's budget exceeds $100,000 (exclusive of in-kind) attach a copy of the last independent audit of financial records. If no audit was completed, explain why.

4. Schedule of Board of Directors meetings for the period of October 1, 20**09** through September 30, 20**10**. Board of Directors meetings must occur at least once per quarter.

5. Resumes of principal staff and artists or relevant job descriptions.

6. Depending on the nature of the project or event for which grant funding is requested, the organization will obtain a Certificate of Insurance for liability coverage as outlined in the attached Exhibit A. The City of Tomball requires each grantee having an event in the City aimed to attract both residents and tourists to have liability insurance to protect the public for acts by the grantee. This mandated coverage does not cover the grantee or any of its members. We encourage the grantee to acquire insurance to cover itself and its members as it deems fit. Please see your insurance agent for the local government endorsement. The cost of the local government endorsement may be included as part of your budget to be considered for a grant.

OPTIONAL SUPPORTING DOCUMENTATION

This should be additional material that you wish to attach that further explains the activities of your organization such as:

1. Long Range Plan – 3-5 years
2. One labeled videotape of performance(s), exhibits, workshops, capital project and /or other activities for which City of Tomball grant funds will be utilized.
3. Programs, publicity, articles, reviews, etc.
4. Letters of support from patrons or other organizations in the community.

EXHIBIT A

Organization shall procure and maintain for the duration of the grant agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the services performed or to be performed hereunder by the Organization its agents, representatives, employees, volunteers, officers, directors or sub-contractors.

The organization shall maintain insurance with limits not less than $500,000 per occurrence, $1,000,000 aggregate and will be as broad as ISO Form Number GL 0002 (Ed 1/72) covering Comprehensive General Liability and ISO Form Number GL 0404 covering Broad Form Comprehensive General Liability, or ISO Commercial General Liability coverage ("occurrence for CG 0001). Coverage will include: A) Premises – Operations; B) Broad Form Contractual Liability, C) Broad Form Property Damage and D) Personal Injury.

The policy will be endorsed to contain the following provisions: The City, its officials, employees, volunteers, Boards and Commissions are to be added as "Additional Insured" in respect to liability arising out of any activities performed by or on behalf of the Organization. The policy shall contain no special limitations to the scope of coverage afforded to the City. The Organization's insurance shall be primary and any insurance or self-insurance shall be in excess of the Organization's insurance and shall not contribute with it. Certificate must include a waiver of subrogation as regards to the workers compensation policy. If your organization has no employees, and therefore doe not carry workers compensation insurance, you must provide to the City of Tomball a letter stating that you have no employees and therefore do not carry workers compensation insurance.

Insurance shall be placed with insurers with an A.M. Best rating of no less than A:VI or a Standard & Poor rating of A or better.

The Organization shall furnish the City with a certificate of insurance which shows the coverage provided. The insurance policy will be endorsed to state that coverage shall not be suspended, voided, canceled, non-renewed, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

Texas Mix Live from Historic Downtown Tomball

In October of 2009 Main Street Crossing launched its inaugural episode of Texas Mix Live featuring country artist Roger Creager. Texas Mix Live is a weekly live radio broadcast Wednesday evenings on 105.3 FM featuring regional and national country and Americana musical acts. The show is broadcast live from 8:00 pm to 9:00 pm and then rebroadcast Sunday evenings at 10:00 pm. After more than a year and 60+ shows the radio program continues to build momentum. Gaining a large listener base and frequent in studio ticket "sell outs," the line-up of high caliber guest artists continues to grow. Some of our recent performers include:

Ray Benson of Asleep at the Wheel
(9 time Grammy winner)

Randy Rogers
(6 Billboard charted singles, recent performances on Jay Leno and Conan O'Brien)

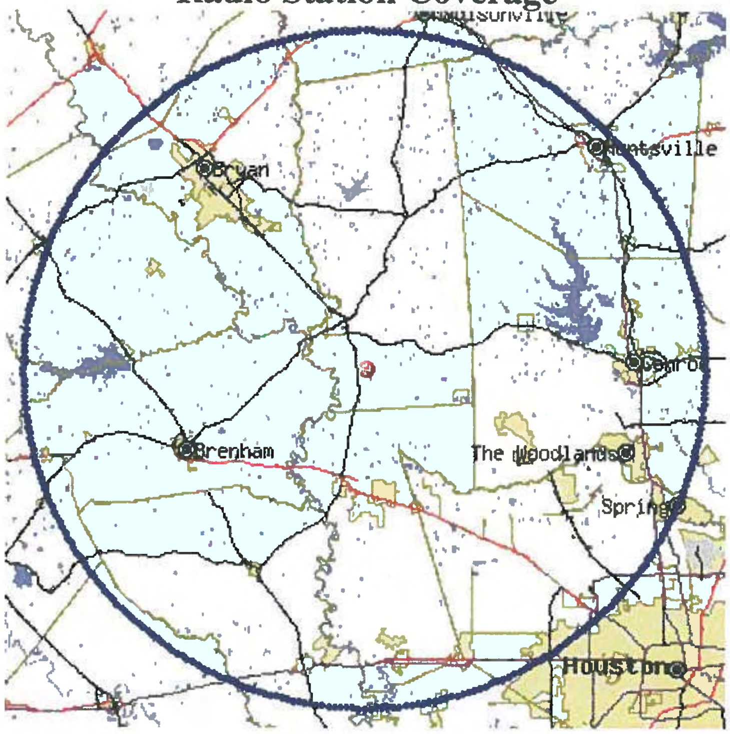
Michael Martin Murphey
(Grammy nominated, 6 gold records, CMA award)

Cody Canada
(Front-man of cult favorite Cross Canadian Ragweed, multiple charted singles, performances include a sold out concert at the Houston Livestock Show and Rodeo)

Other Texas music household names include:

Ray Wylie Hubbard
Gary P. Nunn
Roger Creager
Charlie Robison
Jason Boland
Cory Morrow

Radio Station Coverage



KTWL 105.3

50+ MILE COVERAGE AREA

INCLUDES:

BRENHAM * BRYAN * CONROE * COLLEGE STATION * HEMPSTEAD * MAGNOLIA * MONTGOMERY * NAVASOTA * PRAIRIE VIEW * SPRING * WALLER

City of Tomball Cooperative Marketing Opportunity

Assuming we can eliminate our financial losses, Main Street Crossing plans to continue this unique series through 2011 and beyond and we are excited to partner with our city in the important culture building initiative. Beyond the city promotion already occurring through our show, we are confident that many more opportunities exist through a partnership that will emphasize the city as the host of the series. The city of Tomball has much to offer and we believe the show can spread further awareness and boost commerce in our town.

Radio Advertising Plan

The weekly cost for the marketing plan is $540 per week and includes:

- City of Tomball will be highlighted in each of the 40+ "one minute" ads that are run during peak listening hours each week to promote the weeks show.
- City of Tomball will have a Tomball calendar specific one minute ad prior to and following both on-air broadcasts featuring Tomball events / highlights presented by the Texas Mix Live host.
- Texas Mix Live host will announce Tomball events intermittently throughout the live broadcast to our captive audiences both in studio and to radio audience listeners tuned in to the broadcast.
- Tomball will have ¼ (1/2 page – 8.5" x 11") of our brochures and calendars that are placed on seats and tables during shows and are also available at other concerts throughout the week.

In closing:
Main Street Crossing, through the Texas Mix Live Radio Show, has birthed what is undoubtedly one of the highest profile cultural / nightlife events in the city. The broadcast reaches far outside the city limits and communicates simultaneously to residents and potential visitors the benefits of spending time in our city. Main Street has willingly carried the baton through the vision, research and development, pilot, and crucial one year stages. Due to the ever increasing value of exposure to the city of Tomball and local businesses Main Street anxiously anticipates the cooperative support that the city will bring.

1. Describe the history and purpose of the organization.

Main Street Crossing is a non-profit organization that first opened it doors on Main Street in Tomball in May of 2004. Main Street Crossings primary purposes are:

-To provide a home to smaller churches looking for an alternative to the traditional church campus
-To provide friendship and services to the disadvantaged in the Tomball area
-To provide an intimate live-music concert experience for the people of Tomball and the surrounding areas

Main Street Crossing has also hosted numerous Chamber of Commerce, city and community events since its conception.

2. Describe how any grant funds will be used.

We are proposing a City of Tomball advertising/marketing campaign through its successful radio show and additional radio advertising. We have attached a document that explains plan in detail.

3. List the programs and activities for the grant year.

We assume this is asking the programs and activities for Main Street Crossing for the grant year, beyond the activities of this specific ad campaign. So, we will answer the question as such. Our activities in 2011 at Main Street Crossing will include: live music events, church services, private events and participation in community events

4. Show evidence of growth in community support prior to the grant year. Include the number of performances, exhibitions, audience sizes, services or enrollment. Be sure to include specific information as to the percent of activities taking place within the City of Tomball.

-In 2010 Main Street Crossing hosted 100+ concert events per year that attracted tourists from the greater Houston area and beyond. We estimate that in 2010 Main Street Crossing attracted approximately 8,000 attendees to these concert events. We know for a fact that the vast majority are not from Tomball.
-Main Street Crossing hosted 30+ private events (wedding receptions, class reunions, etc.) that attracted tourists from the greater Houston area and beyond.

5. How does your project/event qualify for use of Municipal Hotel Occupancy Tax funds as defined in the Hotel Occupancy Tax Guidelines?

(Actual wording from the City of Tomball Hotel Occupancy Tax guideline)

"…the encouragement, promotion, improvement, and application of the arts, including instrumental and vocal music, dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, radio, television, tape and sound recording, and other arts related to the presentation, performance, execution, and exhibition of these major art forms;"

6. How do you publicize your activities? How do you evaluate these efforts and what have you done to increase the effectiveness of your marketing efforts?

Main Street Crossing publicizes events through radio advertising, online media and networking, and local and regional print ads. We have watched our attendance steadily increase over the last 3 years as well as our prestige in the music community/industry in Texas.

7. Explain the public benefits to the City of Tomball that will result from your organization's efforts.

Main Street Crossing intends to turn its already successful live radio show into a "City of Tomball hosted event." It will bring further recognition and help label the city as a music hot spot. Through this advertising campaign, the city will also have the public platform to promote other events and campaigns. Through these collaborative efforts, Main Street Crossing is hoping to work with the city to build an Annual Tomball Music Festival with the Depot serving as the central hub.

8. What is your organization doing to bring visitors to Tomball, to stay in local hotels and otherwise support the hospitality industry?

Our music events and private events provide some amount of support to the local hotel industry through attracting "out of town-ers." In addition to guests purchasing rooms, Main Street Crossing also purchased more than 25 rooms in 2010 for its music entertainers.

Principal Staff Members

Rick Davis – Chairman of the Board
Entrepreneur, local business owner

Kyle Hutton – Marketing Director
Founder of Real Life Real Music, country music recording artist

Terri Davis – Board member and manager

Lisa Schneider – Music booking and networking

Matt Davis – General Manager

Board meetings are scheduled on an as needed basis.

==

In reference to question #3 in the section entitled "Other Required Documentation:"

"3. If your organization's budget exceeds $100,000 (exclusive of in-kind) attach a copy of the last independent audit of financial records. If no audit was completed, explain why."

We were actually very surprised by this question. Few small businesses or non-profits are independently audited and we are not as it is vey expensive.

Corporations Section
P.O.Box 13697
Austin, Texas 78711-3697

Gwyn Shea
Secretary of State

Office of the Secretary of State

CERTIFICATE OF INCORPORATION
OF

MAIN STREET CROSSING
Filing Number: 800057519 → Filing (Charter) #0800057519

7/25/02
Per Faye Carson
@ 1-800-252-5555
TX Taxpayer #32004343995

The undersigned, as Secretary of State of Texas, hereby certifies that Articles of Incorporation for the above named corporation have been received in this office and have been found to conform to law.

Accordingly, the undersigned, as Secretary of State, and by virtue of the authority vested in the Secretary by law, hereby issues this Certificate of Incorporation.

Issuance of this Certificate of Incorporation does not authorize the use of a name in this state in violation of the rights of another under the federal Trademark Act of 1946, the Texas trademark law, the Assumed Business or Professional Name Act, or the common law.

Dated: 02/21/2002

Effective: 02/21/2002

Gwyn Shea

Gwyn Shea
Secretary of State

BYLAWS OF

MAIN STREET CROSSING

TABLE OF CONTENTS

BYLAWS OF

MAIN STREET CROSSING

1. NAME

The name of this corporation is **MAIN STREET CROSSING**.

2. PRINCIPAL OFFICES OF THE CORPORATION

A. Principal Office

The principal office for the transaction of the business, affairs, and activities of the corporation (principal office) is located at 12710 Zion Road, Tomball, TX 77375, in Harris County, Texas. The board of directors (board) may change the principal office from one location to another. Any change of location of the principal office shall be noted by the secretary on these bylaws opposite this Section, or this Section may be amended to state the new location.

B. Other Offices

The board may at any time establish branch or subordinate offices at any place or places where the corporation is qualified to conduct its activities.

3. PURPOSES AND LIMITATIONS

A. General Purposes

This corporation is a nonprofit religious corporation and is not organized for the private gain of any person. It is organized for religious purposes.

This corporation is organized exclusively for religious purposes within the meaning of Section 501(c)(3) of the Internal Revenue

Code. Notwithstanding any other provision of these bylaws, this corporation shall not, except to an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of the purposes of this corporation, and the corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code or (b) by a corporation, contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code.

B. Specific Purposes

Within the context of the general purposes stated above, the specific purpose of this corporation shall be to seek out those who need hope and encouragement and to offer a bridge to the life-changing message of Jesus Christ.

C. Limitations

(1) No substantial part of the activities of this corporation shall consist of carrying on propaganda, or otherwise attempting to influence legislation, except as provided in Section 501(h) of the Internal Revenue Code, and this corporation shall not participate in or intervene in (including publishing or distributing statements) any political campaign on behalf of any candidate for public office, except as provided in Section 501(h) of the Internal Revenue Code.

(2) The property of this corporation is irrevocably dedicated to religious purposes, as set forth in Subsection 3.A. above. No part of the net earnings of this corporation shall inure to the benefit of its directors, officers, private shareholders or members, or to any individual.

(3) On the winding up and dissolution of this corporation, after paying or adequately providing for the debts and obligations of the corporation, the remaining assets of this corporation shall be distributed to an organization (or organizations)

organized and operated exclusively for religious purposes and that is tax exempt under Section 501(c)(3) of the Internal Revenue Code.

4. DIRECTORS

A. Powers of Directors

(1) General Corporate Powers

Subject to the provisions and limitations of the laws of the State of Texas, and any other applicable laws, the temporal activities, business, and affairs of the corporation shall be managed, and all corporate powers shall be exercised, by or under the direction of the board.

(2) Specific Powers

Without prejudice to the general powers set forth in Subsection 4.A.(1) of these bylaws, but subject to the same limitations, the board shall have the following powers in addition to other powers enumerated in these bylaws:

a. To select and remove at the pleasure of the board all officers, agents, and employees; to prescribe powers and duties for them as may be consistent with law, the articles of incorporation, and these bylaws; to fix their compensation; and to require from them security for faithful service;

b. To change the principal office or the principal business office in the State of Texas from one location to another; to cause the corporation to be qualified to conduct its activities in any other state, territory, dependency, or country and conduct its activities within or outside the State of Texas; and to designate any place within or outside the State of Texas for holding any meeting of members;

c. To conduct, manage, and control the temporal affairs and activities of the corporation and make such rules and regulations for this purpose, consistent with law, the articles of incorporation, and these bylaws, as they may deem best;

d. To adopt and use a corporate seal and alter the form of the seal;

e. To borrow money and incur indebtedness on behalf of the corporation, and cause to be executed and delivered for the corporation's purposes, in the corporate name, promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, hypothecations, and other evidences of debt and securities; and

f. To exercise all other powers conferred by the laws of the State of Texas, or other applicable laws, consistent with the articles of incorporation.

B. Number of Directors

The authorized number of directors shall be five (5).

C. Election of Directors

All directors shall be elected to hold office for one (1) year. Each such director, including a director elected to fill a vacancy, shall hold office until expiration of the term for which elected and until a successor has been elected and qualified.

D. Vacancies on Board

(1) Events Causing Vacancy

A vacancy or vacancies on the board shall exist on the occurrence of the following: (a) the death or resignation of any director; (b) the declaration by board resolution of a vacancy of the office of a director who has been declared of unsound mind by an order of court or convicted of a felony; or (c) the increase of the authorized number of directors.

(2) Resignations

Except as provided below, any director may resign by giving written notice to the chairman of the board, if any, or to the president, or to a quorum of the directors of the board. The resignation shall be effective when the notice is given unless it specifies a later time for the resignation to become effective. If a director's resignation is effective at a later time, the board may elect a successor to take office as of the date when the resignation becomes effective. Except on notice to the Attorney General of the State of Texas, no director may resign if the corporation would then be left without a duly elected director.

(3) Filling Vacancies

Vacancies on the board may be filled by a majority of the directors then in office, whether or not less than a quorum, or by a sole remaining director.

(4) No Vacancy on Reduction of Number of Directors

No reduction of the authorized number of directors shall have the effect of removing any director before that director's term of office expires.

E. Directors' Meetings

(1) Place of Meetings

Regular or special meetings of the board may be held at any place within or outside the State of Texas that the board may designate by resolution or in the notice of the meeting or, if not so designated, meetings shall be held at the corporation's principal office. Notwithstanding the above provisions of this Section, a regular or special meeting of the board may be held at any place consented to in writing by all board members, either before or after the meeting. If such consents are given, they shall be filed with the minutes of the meeting.

(2) Meetings by Telephone

Any meeting, regular or special, may be held by conference telephone or similar communication equipment, as long as all directors participating in the meeting can hear one another. All such directors shall be deemed to be present in person at such a meeting.

(3) Regular Meetings

Regular meetings of the board may be held without call or notice at such time and place as the board shall fix from time to time.

(4) Special Meetings

a. Authority to Call

Special meetings of the board for any purpose may be called at any time by the chairman of the board, if any, the president or any vice president, or the secretary or any two directors.

b. Notice

(i) Manner of Giving Notice

Notice of the time and place of special meetings shall be given to each director by one of the following methods: (a) by personal delivery of written notice; (b) by first-class mail, postage prepaid; (c) by telephone, either directly to the director or to a person at the director's office who would reasonably be expected to communicate that notice promptly to the director; or (d) by telegram, charges prepaid. All such notices shall be given or sent to the director's address or telephone number as shown on the records of the corporation.

(ii) Time Requirements

Notices of special meetings of the board of directors sent by first-class mail shall be deposited in the United States mail at least four days before the time set for the meeting. Notices given by personal delivery, telephone, or telegraph shall be delivered, telephoned, or given to the telegraph company at least 48 hours before the time set for the meeting.

(iii) Notice Contents

The notice of a special meeting of the board of directors shall state the time of the meeting, and the place if the place is other than the principal office of the corporation. It need not specify the purpose of the meeting.

(iv) Quorum

A majority of the authorized number of directors shall constitute a quorum for the transaction of business, except to adjourn. Every action taken or decision made by a majority of the directors present at a duly held meeting at which a quorum is present shall be the act of the board. A meeting at which a quorum is initially present may continue to transact business, despite the withdrawal of directors, if any action taken or decision made is approved by at least a majority of the required quorum for that meeting.

(v) Waiver of Notice

Notice of a meeting need not be given to any director who, either before or after the meeting, signs a waiver of notice, a written consent to the holding of the meeting, or an approval of the minutes of the meeting. The waiver of notice or consent need not specify the purpose of the meeting. All such waivers, consents, and approvals shall be filed with the corporate records or made a part of the minutes of the meetings. Notice of a meeting need not be given to any director who attends the meeting and does not protest, before or at the commencement of the meeting, the lack of notice to him or her.

(vi) Adjournment

A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place.

(vii) Notice of Adjourned Meeting

Notice of the time and place of holding an adjourned meeting need not be given unless the original meeting is adjourned for more than 24 hours. If the original meeting is adjourned for more than 24 hours, notice of any adjournment to another time and place shall be given, before the time of the adjourned meeting, to the directors who were not present at the time of the adjournment.

F. Action Without a Meeting

Any action that the board is required or permitted to take may be taken without a meeting, if all members of the board, individually or collectively, consent in writing to that action. Such action by written consent shall have the same force and effect as the unanimous vote of the board of directors. All such consents shall be filed with the minutes of the proceedings of the board.

G. Compensation and Reimbursement

Directors shall receive no compensation for their services as directors, but may receive reimbursement for expenses in attending meetings.

H. Committees

(1) Committees of the Board

The board, by resolution adopted by a majority of the directors then in office, provided a quorum is present, may create one or more committees, each consisting of two or more directors and no persons who are not directors, to serve at the pleasure of the board. Appointments to committees of the board shall be by majority vote of the authorized number of directors. The board may appoint one or more directors as alternate members of any such committee, who may replace any absent member at any meeting. Any such committee, to the extent provided in the board resolution, shall have all the authority of the board, except that no committee, regardless of board resolution, may:

a. Fill vacancies on the board or on any committee that has the authority of the board;

b. Fix compensation of the directors for serving on the board or on any committee;

c. Amend or repeal bylaws or adopt new bylaws;

d. Amend or repeal any board resolution that by its express terms is not so amendable or repealable; or

e. Create any other committees of the board or appoint members of committees of the board.

(2) Meetings and Action of Committees

Meetings and actions of committees of the board shall be governed by, held, and taken in accordance with the provisions of these bylaws concerning meetings and other board actions, except that the time for regular meetings of such committees and the calling of special meetings of such committees may be determined either by board resolution or, if there is none, by resolution of the committee of the board. Minutes of each meeting of any committee of the board shall be kept and shall be filed with the corporate records. The board may adopt rules for the government of any committee that are consistent with these bylaws or, in the absence of rules adopted by the board, the committee may adopt such rules.

5. OFFICERS

A. Officers of the Corporation

The officers of the corporation shall be a president, a secretary, and a treasurer (chief financial officer). If required by law, the corporation shall also have a vice president. If not required by law, the corporation may have, at the board's discretion, one or more vice presidents. The corporation may have at the board's discretion, a chairman of the board, one or more assistant secretaries, one or more assistant treasurers (assistant financial officers), and such other officers as may be appointed in accordance with Subsection 5.C. of these bylaws. Any number of offices may be held by the same person, except that neither the secretary nor the treasurer (chief financial officer) may serve concurrently as either the president or the chairman of the board.

B. Election of Officers

All officers shall be elected to hold office for one (1) year. The officers of the corporation, except those appointed under Subsection 5.C. of these bylaws, shall be chosen by the board and each shall serve at the pleasure of the board, subject to the rights, if any, of any officer under any contract of employment.

C. Other Officers

The board may appoint and may authorize the chairman of the board, the president, or other officer to appoint any other officers that the business of the corporation may require, each of whom shall have the title, hold office for the period, have the authority, and perform the duties specified in the bylaws or determined by the board.

D. Removal of Officers

Without prejudice to any rights of an officer under any contract of employment, any officer may be removed, with or without cause, by the board and also, if the officer was not chosen by the board, by an officer on whom the board has conferred that power of removal.

E. Resignation of Officers

Any officer may resign at any time by giving written notice to the corporation. The resignation shall take effect as of the date the notice is received or at any later time specified in the notice and, unless otherwise specified in the notice, the resignation need not be accepted to be effective. Any resignation shall be without prejudice to the rights, if any, of the corporation under any contract to which the officer is a party.

F. Vacancies in Offices

A vacancy in any office because of death, resignation, removal, disqualification, or any other cause shall be filled in the manner prescribed in these bylaws for regular appointments to that office, provided that such vacancies shall be filled as they occur.

G. Responsibilities of Officers

(1) Chairman of the Board

If the chairman of the board is elected, he or she shall preside at board meetings and shall exercise and perform such other powers and duties as may be assigned by the board or prescribed by the bylaws. If there is no president, the chairman of the board shall also be the chief executive officer and shall have the powers and duties prescribed by these bylaws for the president of the corporation.

(2) President

Subject to such supervisory powers as the board may give to the chairman of the board, if any, the president shall, subject to the control of the board, be the general manager of the corporation and shall supervise, direct, and control the corporation's activities, affairs, and officers. In the absence of the chairman of the board, or if there is none, the president shall preside at all board meetings. The president shall have such other powers and duties as the board or the bylaws may prescribe.

(3) Vice Presidents

In the absence or disability of the president, the vice presidents, if any, in order of their rank as fixed by the board or, if not ranked, a vice president designated by the board, shall perform all duties of the president. When so acting, a vice president shall have all powers of and be subject to all restrictions on the president. The vice presidents shall have such other powers and perform such other duties as the board or the bylaws may prescribe.

(4) Secretary

a. Book of Minutes

The secretary shall keep or cause to be kept, at the corporation's principal office or such other place as the board may direct, a book of minutes of all meetings, proceedings, and actions of the board, and of committees of the board. The minutes of meetings shall include the time and place that the meeting was held, whether the meeting was general or special and, if special, how authorized, the notice given, and the names of those present at board and committee meetings. The secretary shall keep or cause to be kept, at the principal office in the State of Texas, a copy of the articles of incorporation and bylaws, as amended to date.

b. Notices, Seal, and Other Duties

The secretary shall give, or cause to be given, notice of all meetings of the members, of the board, and of committees of the board required by the bylaws to be given. The secretary shall keep the corporate seal in safe custody, and shall have such other powers and perform such other duties as the board or the bylaws may prescribe.

(5) Treasurer (Chief Financial Officer)

a. Books of Account

The treasurer (chief financial officer) shall keep and maintain, or cause to be kept and maintained, adequate and correct books and records of accounts of the corporation's properties and transactions. The treasurer (chief financial officer) shall send or cause to be sent to directors such financial statements and reports as are required to be given by law, by these bylaws, or by the board. The books of account shall be open to inspection by any director at all reasonable times.

b. Deposit and Disbursement of Money and Valuables

The treasurer (chief financial officer) shall deposit, or cause to be deposited, all money and other valuables in the name and to the credit of the corporation with such depositories as the board may designate, shall disburse the corporation's funds as the board may order, shall render to the president, chairman of the board, if any, and directors, when requested, an account of all transactions as treasurer (chief financial officer) and of the financial condition of the corporation, and shall have such other powers and perform such other duties as the board or the bylaws may prescribe.

c. Bond

If required by the board, the treasurer (chief financial officer) shall give the corporation a bond in the amount and with the surety or sureties specified by the board for faithful performance of the duties of the office and for restoration to the corporation of all its books, papers, vouchers, money, and other property of every kind in the possession or under the control of the treasurer (chief financial officer) on his or her death, resignation, retirement, or removal from office.

6. INDEMNIFICATION

A. Right of Indemnity

To the fullest extent permitted by law, this corporation shall indemnify its directors, officers, employees, and other persons, including persons formerly occupying any such position, against all expenses, judgments, fines, settlements, and other amounts actually and reasonably incurred by them in connection with any legal or administrative proceeding, and including an action by or in the right of the corporation.

B. Approval of Indemnity

On written request to the board by any person seeking indemnification, the board shall promptly determine whether the person should be entitled to indemnification, and, if the person is, the board shall authorize indemnification.

C. Advancement of Expenses

To the fullest extent permitted by law and except as is otherwise determined by the board in a specific instance, expenses incurred by a person seeking indemnification under Subsection 6.A. and Subsection 6.B. of these bylaws in defending any proceeding shall be advanced by the corporation before final disposition of the proceeding, on receipt by the corporation of an undertaking by or on behalf of that person that the advance will be repaid unless it is ultimately determined that the person is entitled to be indemnified by the corporation for those expenses.

7. INSURANCE

The corporation shall have the right to purchase and maintain insurance to the full extent permitted by law on behalf of its officers, directors, employees, and other agents, against any liability asserted against or incurred by any officer, director, employee, or agent in such capacity or arising out of the officer's, director's, employee's, or agent's status as such.

8. RECORDS AND REPORTS

A. Maintenance of Corporate Records

The corporation shall keep:

(1) Adequate and correct books and records of account; and

(2) Written minutes of the proceedings of its board and committees of the board.

B. Maintenance and Inspection of Articles and Bylaws

The corporation shall keep at its principal office, or if its principal office is not in the State of Texas, at its principal business office in this state, the original or a copy of the articles of incorporation and bylaws, as amended to date, which shall be open to inspection by the directors at all reasonable times during office hours. If the principal office of the corporation is outside the State of Texas and the corporation has no principal business office in this state, the secretary shall, on the written request of any director, furnish to that director a copy of the articles of incorporation and bylaws, as amended to date.

C. Inspection by Directors

Every director shall have the absolute right at any reasonable time to inspect the corporation's books, records, and documents of every kind and to inspect the physical properties of the corporation and each of its subsidiaries for a purpose reasonably related to the director's interests as a director. The inspection may be made in person or by the director's agent or attorney. The right of inspection includes the right to copy and make extracts of documents.

9. CONSTRUCTION AND DEFINITIONS

Unless the context requires otherwise, the general provisions, rules of construction, and laws of the State of Texas shall govern the construction of these bylaws. Without limiting the generality of the preceding sentence, the masculine gender includes the feminine and neuter, the singular number includes the plural, the plural number includes the singular, and the term "person" includes both a legal entity and a natural person.

10. AMENDMENTS

Bylaws may be adopted, amended, or repealed by the approval of the board.

11. FISCAL YEAR

The fiscal year of this corporation shall end on December 31.

12. ADDITIONAL PROVISIONS

In these Bylaws, the word 'trustee' may be substituted for the word 'director.'

Regular City Council Agenda Item Data Sheet

Meeting Date: March 7, 2011

Topic:

Approve, as a Project of the Corporation, an agreement with BL Technology, Inc. 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: BL Technology, Inc.'s expansion and development of its manufacturing facility located at 1730 S. Cherry Street, Tomball, Texas. The estimated amount of expenditures for such Project is $51,000.

Background:

All expenditures of the Tomball Economic Development Corporation (TEDC) sales tax revenue must first be approved as a "Project of the Corporation." At its regular meeting on February 22,2011, the TEDC Board of Directors did take formal action to approve, as a Project of the TEDC, an agreement with BL Technology, Inc. for the expansion of its facility at 1730 S. Cherry Street. The City Council of Tomball has final approval authority over all projects and agreements of the TEDC.

Origination:

Tomball Economic Development Corporation Board of Directors

Recommendation:

Approval, as a Project of the Corporation, the Performance Agreement with BL Technology, Inc.

Funding: Yes

Account Number: Grant Funds Available

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

Betty Reinbeck

ACTION TAKEN

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

ATTACHMENTS:

Cover Memo
Request Letter
Performance Agreement
Economic Impact Model

TO: Board of Directors
Tomball Economic Development Corporation

FROM: Betty Reinbeck
Executive Director

MEETING DATE: February 22, 2011

SUBJECT: BL Technology, Inc.

Deborah Lee, President, and Robert Lee, Vice-President and Chief Operating Officer, of BL Technology, Inc. originally moved their corporate headquarters and thirty-five (35) new jobs to 1730 South Cherry Street, Tomball, in the spring of 2010.

BL Technology, Inc. was originally founded in 1974 and has since grown to become a leader in providing custom control panel design and manufacturing, system integration solutions, access control systems, intrusion, and fire alarm systems to a number of different industries.

BL Technology is currently in the process of purchasing the assets of a company that is located in Houston. This acquisition will allow BL Technology to have an immediate presence in markets which they have targeted in their growth plan.

Upon completion of the purchase, they will either lease the space where the company is currently located and keep the company intact at that site; or, over the period of a few months, relocate the company's assets, including approximately seventeen (17) employees to their Tomball headquarters at 1730 South Cherry Street.

An economic impact model form is included with the agreement to show the five (5) year impact on Tomball's economy with the expansion of this company.

If the agreement between the TEDC and BL Technology, Inc. is approved as a Project of the Corporation, the grant funding amount will be $3,000 per each new primary job created, not to exceed $51,000.

1730 S. Cherry St.
Tomball, TX 77375

BLTI
BL TECHNOLOGY, INC.

P: 832.698.8000
F: 832.698.8001

January 3, 2011

Betty Reinbeck
Executive Director
Tomball Economic Development Corporation
P. O. Box 820
Tomball, TX 77377-0820

Re: Grant Application

Dear Betty:

It was a pleasure meeting with you and discussing the potential expansion of BL Technology Headquarters within the City of Tomball. Since moving our headquarters to Tomball last February, we have enjoyed and appreciated the support of The Chamber, The City, and of course the TEDC.

In the continued growth plan for BL Technology, we are currently in the process of purchasing the assets of another company currently residing in Houston. The acquisition of this company will allow BL Technology to have an immediate presence in markets which we have already targeted in our growth plan. We are in the Due Diligence phase of the acquisition with a scheduled closing date of January 27th.

Upon completion of the purchase, we will either lease the space where the company resides from the current owner keeping the company intact at that location, or over the period of a few months, relocate the company assets including approximately17 employees to our Tomball Headquarters.

It is our desire with the assistance of the Grant Program to relocate the employees to Tomball utilizing Grant Funds for internal expansion of our facility and equipment to accommodate the expansion.

Sincerely,

Deborah Lee
Robert Lee

Monday, January 03, 2011

BL Technology, Inc.

A BRIEF INTRODUCTION:

Originally founded in 1974, BLTI has grown to become a leader in providing control panels, system integration solutions, and Access Control, CCTV, Intrusion and Fire Alarm solutions to a number of different industries. We are a full service system provider with our corporate office in Tomball, TX; and branches in Dallas, TX and Hobe Sound, FL. BL Technology is ISO 9001 – 2008 certified, licensed by the State of Texas as a Security Contractor and holds a State of Texas Fire Alarm certificate. We are **UL 508A** certified and certified by UL as a "Hazardous Location Panel Builder"; a certification very few panel builders or system integrators hold.

Today, BL Technology is recognized as the leading panel supplier, system integrator, and security systems provider to the City of Houston in addition to working on numerous oil fields, sub-sea, petrochemical and industrial projects.

OWNERSHIP:

BL Technology was incorporated in 1974. Mr. Robert Lee became the company's sole owner in 1993 and Deborah Lee became the majority owner and President of BLTI in 2004. BLTI is registered as a professional Women's Business Enterprise (WBE) and has qualified for minority participation in numerous municipal and industrial projects.

ADDITIONAL INFORMATION:

Debi Lee, President
28432 Eagle Ridge
Magnolia, Texas 77355

Robert Lee, V.P, COO (Primary Contact)
28432 Eagle Ridge
Magnolia, Texas 77355

North American Industry Classification System (NAICS) applicable codes:
334513- Instruments and related products
561621- Security System Services
335314- Relay and Industrial Control
922160- Fire Protection

Current Corporate Headquarters:
1730 S. Cherry Street
Tomball, Texas 77375

Monday, January 03, 2011

Acquisition to add:

Additional Equipment and Inventory – $150,000
Number of Jobs relocated to Tomball – Approximately 17
Average Wage of all Jobs moved to Tomball - $38,000
Sales Revenue - $2,000,000

AGREEMENT

THE STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF HARRIS §

This Agreement (the "Agreement") is made and entered into by and between the **Tomball Economic Development Corporation**, an industrial development corporation created pursuant to Tex. Rev. Civ. Stat. Ann. Art. 5190.6, Section 4B, now Chapter 505 of the Texas Local Government Code, located in Harris County, Texas (the "TEDC"), and **BL Technology, Inc.** (the "Company"), 1730 S. Cherry Street, Tomball, Texas 77375.

WITNESSETH:

WHEREAS, it is the established policy of the TEDC to adopt such reasonable measures from time-to-time as are permitted by law to endeavor to attract industry, create and retain primary jobs, expand the growth of the City of Tomball (the "City"), and thereby enhance the economic stability and growth of the City; and

WHEREAS, the Company owns a 10.75 acre tract of land within the City, located at 1730 S. Cherry Street, Tomball, Texas 77375 (the "Property"), and more particularly described in Exhibit "A," attached hereto and made a part hereof; and

WHEREAS, the Company proposes to expand its current operation at the Property, and as part of the process, plans to purchase the assets of an existing company located in Houston, Texas and relocate those assets and seventeen (17) employees to its business operations on the Property, and to expend additional funds to make internal improvements (the "Improvements") to accommodate the additional equipment, inventory, and employees, more particularly described in Exhibit "B" attached hereto and made a part hereof; and

WHEREAS, the Company proposes to create seventeen (17) new employment positions at the Property in conjunction with the expansion of its business operations at the Property; and

WHEREAS, the TEDC agrees to provide to the Company the sum of Fifty-One Thousand Dollars ($51,000.00) to assist in the construction of the Improvements and the addition of the seventeen (17) new employees at the Property; and

WHEREAS, the Company has agreed, in exchange and as consideration for the funding, to satisfy and comply with certain terms and conditions; and

WHEREAS, this expenditure is found by the Board of Directors of the TEDC to be suitable for the expansion of the business operations at the property, to promote and develop new business enterprises on the Property, and in furtherance of the creation and retention of primary jobs;

NOW, THEREFORE, in consideration of the premises and the mutual benefits and obligations set forth herein, including the recitals set forth above, the TEDC and the Company agree as follows:

1.

The Company covenants and agrees that it will construct the Improvements and operate and maintain the proposed business on the Property for a term of at least five (5) years, and will for such term, except as provided by paragraph 4 hereof, create and maintain seventeen (17) new jobs on the Property at the prevailing wage.

2.

The Company also covenants and agrees that construction of the Improvements, the addition of the seventeen (17) new employees, and obtaining all necessary occupancy permits from the City shall occur within twelve (12) months from the Effective Date of this Agreement.

Extensions of these deadlines, due to any extenuating circumstance or uncontrollable delay, may be granted at the sole discretion of the Board of Directors of the TEDC.

3.

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

4.

In consideration of the Company's representations, promises, and covenants, TEDC agrees to grant to the Company the sum of Fifty-One Thousand Dollars ($51,000.00) to fund a portion of the cost of the Improvements and the addition of the seventeen (17) new employees to the Company's business operations on the Property. The TEDC agrees to distribute such funds to the Company within thirty (30) days of receipt of a letter from the Company requesting such payment, which letter shall also include: (a) a copy of the City's occupancy permit for the Improvements to the Property; (b) proof that the Company has added the number of employees indicated above to its business operations on the Property, as evidenced by copies of Texas Workforce Commission form C-3 or Internal Revenue Service Form 941; (c) a copy of a letter from the City acknowledging that all necessary plats, plans, and specifications have been received, reviewed, and approved; (d) certification that the Improvements have been constructed in accordance with the approved plans and specifications; and, (e) an affidavit stating that all contractors and subcontractors providing work and/or materials in the construction of the Improvements have been paid and any and all liens and claims regarding such work have been released.

In the event the number of jobs originally projected is not met, the amount of the funding provided to the Company by the TEDC will be reduced on a pro rata basis to reflect the actual number of jobs at the time of the request for disbursement of funds.

5.

It is understood and agreed by the parties that, in the event of a default by the Company on any of its obligations under this Agreement, the Company shall reimburse the TEDC the full amount paid to the Company by the TEDC, with interest at the rate equal to the 90-day Treasury Bill plus ½% per annum, within thirty (30) days after the TEDC notifies the Company of the default. It is further understood and agreed by the parties that if the Company is convicted of a violation under 8 U.S.C. Section 1324a(f), the Company will reimburse the TEDC the full amount paid to the Company, with interest at the rate equal to the 90-day Treasury Bill plus ½% per annum, within thirty (30) days after the TEDC notifies the Company of the violation.

The Company shall also reimburse the TEDC for any and all reasonable attorney's fees and costs incurred by the TEDC as a result of any action required to obtain reimbursement of such funds.

6.

This Agreement shall inure to the benefit of and be binding upon the TEDC and the Company, and upon the Company's successors and assigns, affiliates, and subsidiaries, and shall remain in force whether the Company sells, assigns, or in any other manner disposes of, either voluntarily or by operation of law, all or any part of the Property and the agreements herein contained shall be held to be covenants running with the Property for so long as this Agreement, or any extension thereof, remains in effect.

7.

Any notice provided or permitted to be given under this Agreement must be in writing and may be served by (i) depositing the same in the United States mail, addressed to the party to be notified, postage prepaid, registered or certified mail, return receipt requested; or (ii) by delivering the same in person to such party; or (iii) by overnight or messenger delivery service that retains regular records of delivery and receipt; or (iv) by facsimile; provided a copy of such notice is sent within one (1) day thereafter by another method provided above. The initial addresses of the parties for the purpose of notice under this Agreement shall be as follows:

If to City:	Tomball Economic Development Corporation 401 W. Market Street Tomball, Texas 77375 Attn: President, Board of Directors
If to Company:	BL Technology, Inc. 1730 S. Cherry Street Tomball, Texas 77375 Attn: Debi Lee, President

8.

This Agreement shall be performable and enforceable in Harris County, Texas, and shall be construed in accordance with the laws of the State of Texas.

9.

Except as otherwise provided in this Agreement, this Agreement shall be subject to change, amendment or modification only in writing, and by the signatures and mutual consent of the parties hereto.

10.

The failure of any party to insist in any one or more instances on the performance of any of the terms, covenants or conditions of this Agreement, or to exercise any of its rights, shall not be construed as a waiver or relinquishment of such term, covenant, or condition, or right with respect to further performance.

11.

This Agreement shall bind and benefit the respective Parties and their legal successors and shall not be assignable, in whole or in part, by any party without first obtaining written consent of the other party.

12.

In the event any one or more words, phrases, clauses, sentences, paragraphs, sections, or other parts of this Agreement, or the application thereof to any person, firm, corporation, or circumstance, shall be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, then the application, invalidity or unconstitutionality of such words, phrases, clauses, sentences, paragraphs, sections, or other parts of this Agreement shall be deemed to be independent of and severable from the remainder of this Agreement, and the validity of the remaining parts of this Agreement shall not be affected thereby.

IN TESTIMONY OF WHICH, THIS AGREEMENT has been executed by the parties on this ______ day of ________________ 2011 (the "Effective Date").

BL TECHNOLOGY, INC.

By: ____________________________________

Name: Debi Lee

Title: President

ATTEST:

By: ______________________________

Name: ______________________________

Title: ______________________________

TOMBALL ECONOMIC DEVELOPMENT CORPORATION

By: ____________________________________

Name: Gretchen Fagan

Title: President, Board of Directors

ATTEST:

By: ______________________________

Name: James D. Geer

Title: Secretary, Board of Directors

ACKNOWLEDGMENT

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

This instrument was acknowledged before me on the _____ day of _________________ 2011, by Debi Lee, the President of BL Technology, Inc. for and on behalf of said company.

____
Notary Public in and for the State of Texas

My Commission Expires: __________

(SEAL)

ACKNOWLEDGMENT

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

This instrument was acknowledged before me on the _____ day of _________________ 2011, by Gretchen Fagan, President of the Board of Directors of the Tomball Economic Development Corporation, for and on behalf of said Corporation.

____
Notary Public in and for the State of Texas

My Commission Expires: __________

(SEAL)

Exhibit "A"

Legal Description of Property

A 10.75 ACRE TRACT BEING ALL OF OUTLOTS 187, THE RESIDUE OF OUTLOT 188 AND A TRACT OF LAND BEING OUT OF AND A PART OF OUTLOTS 191 AND 192, OF TOMBALL TOWNSITE AND ADDITION IN HARRIS COUNTY, SITUATED IN THE JESSE PRUITT SURVEY, ABSTRACT 629 ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 2, PAGE 65 MAP RECORDS, HARRIS COUNTY, TEXAS.

Exhibit "B"

Improvements

Additional Equipment and Inventory with an estimated value of $150,000

BL TECHNOLOGY, INC.

TOMBALL ECONOMIC DEVELOPMENT CORPORATION

CITY OF TOMBALL ECONOMIC IMPACT MODEL

Average Annual Wage Assessment:

Number of Employees		Average Hourly Wage	Average Weekly Wages	Total Annual Wages (52 wks.per Yr.)
Existing:	0			
Prospective:	17	18.00		
TOTAL:	17	18.00	12,240	636,480

Federal Income and FICA Taxes at 28% deducted	178,214
Fixed payments for rent, insurance, etc. at 25%	159,120
Net Disposable Annual Income	299,146

Total Return to Local Government by Annual Payroll:

Local Sales Tax Rate of 2% on Fixed Payments:	3,182
Average Multiplier effect of the Dollar turning over 3.5 times to Calculate the Total Annual Local Sales Tax Impact:	11,138

Annual Sales Tax Impact:

Value of Retail Sales	Sales Tax	
670,000	2.00%	13,400

Estimated Property Tax Impact:

Value of Property and Improvements	Tomball Tax Rate (per $100)	
150,000	0.25146	377

Annual Economic Impact of Company Expansion	24,916
Economic Impact over a Five Year Period	124,578

Regular City Council Agenda Item Data Sheet

Meeting Date: March 7, 2011

Topic:

Approve, as a Project of the Corporation, an agreement with the City of Tomball to expend funds as assistance with infrastructure necessary to promote or develop new or expanded business enterprises to include water, sewer, and gas utilities, right-of-way and utility easement acquistion: to wit: Brown Road Utility Extension, within the segment of Brown Road extending westerly of State Highway 249 easterly of Spring Creek Estates. The estimated amount of expenditures for such Project is $500,000.

Background:

All expenditures of the Tomball Economic Development Corporation (TEDC) sales tax revenue must first be approved as a "Project of the Corporation." At its regular meeting on February 22, 2011, the TEDC Board of Directors did take formal action to approve, as a Project of the TEDC, an agreement with the City of Tomball to expend funds for the Brown Road Utility Extension. The City Council of Tomball has final approval authority over all projects and agreements of the TEDC.

Origination:

Tomball Economic Development Corporation Board of Directors

Recommendation:

Approval, as a "Project of the Corporation", the attached agreement with the City of Tomball.

Funding: Yes

Account Number: Grant Funds Available

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

Betty Reinbeck

ACTION TAKEN

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

ATTACHMENTS:

Cover Memo
Request Letter
Agreement
Map

TOMBALL
ECONOMIC DEVELOPMENT CORPORATION

TO: Board of Directors
Tomball Economic Development Corporation

FROM: Betty Reinbeck
Executive Director

MEETING DATE: February 22, 2011

SUBJECT: Brown Road Utility Extension

The City of Tomball has requested that the Tomball Economic Development Corporation (TEDC) partner with the City on a proposed Brown Road Utility Extension Project. The extension of the utilities will provide services to future commercial developments within the area.

Included with this memo is the request letter from George Shackelford, City Manager, which gives the scope of the Project and the cost estimates for the design, construction, and right-of-way and utility easement acquisition.

The portion of the gas line that is within the Spring Creek Estates residential subdivision will not be included in the funding provided by the TEDC.

If the agreement between the TEDC and the City of Tomball is approved as a Project of the Corporation, the grant funding amount will not exceed $500,000, based on actual expenditures for the approved utility extension.

City of Tomball

Gretchen Fagan
Mayor

George Shackelford
City Manager

February 17, 2011

Betty Reinbeck
Director of Economic Development Corporation
Tomball Economic Development Corporation
29201 Quinn Road,
Tomball, Texas 77375

Ms. Reinbeck,

The City of Tomball would like to request financial assistance from the Tomball Economic Development Corporation (TEDC) for the extension of utilities along Brown Road, westerly of State Highway 249 (SH 249) to easterly of Spring Creek Estates. The utility extension includes right-of-way and utility easement acquisition, approximately 1,300 lineal feet for 4" gas, 12" water, and 10" sanitary lines construction. Attached is an exhibit, Brown Road Utility Extension, of the proposed area. The extension of the utilities will provide services to future commercial developments within the area.

Water, gas, and sanitary lines were stubbed at the southwest corner of SH 249 and Brown Road. The extension of utilities under SH 249 was completed April 2009. As development within the City continues to occur, the need for interconnected water and gas system becomes critical.

A 12-inch waterline along Brown Road that interconnects with the existing 12-inch water line at Spring Creek Estates will provide a balanced water system to existing customers. The extension of the 12-inch water line will help support future commercial developments in the area.

A 4-inch gas line along Brown Road that interconnects with the existing 4-inch line at Spring Creek Estates will help support future commercial developments in the area and provide a loop of gas service. A portion of the proposed gas line extension along Brown Road is within a residential subdivision (Spring Creek Estates) approximately 500 feet. The City of Tomball is not asking for assistance for this section of gas line to complete the loop.

A 10-inch sanitary sewer line along Brown Road will provide support to future commercial developments in the area.

The cost estimates for the design, construction, and ROW and utility easement acquisition should not exceed $500,000.

Please contact me if you have any questions or need additional information.

Sincerely,

George T. Shackelford
City Manager

Cc: Kelly Violette – City Planner,
Lori Lakatos – Assistant City Engineer

February 22, 2011

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

Re: Letter of Agreement for Funding the Brown Road Utility Extension Project

Dear Mayor and Councilmembers:

The City of Tomball (the “City”), by letter dated February 17, 2011, has requested financial assistance from the Tomball Economic Development Corporation (“TEDC”) for the extension of utilities along Brown Road, west of State Highway 249 to the east boundary of Spring Creek Estates (“Brown Road Utility Expansion Project”). The Brown Road Utility Extension Project includes acquisition of right-of-way and utility easements and the design and construction of approximately 1,300 linear feet of 4” gas, 12” water, and 10” sanitary sewer lines. TEDC agrees to fund a portion of the Brown Road Utility Extension Project in an amount not to exceed $500,000.00, subject to agreement by the City to comply with the following conditions:

(1) The TEDC agrees to contribute to the City a portion of the costs incurred in the design, construction, and right-of-way and utility easement acquisition of the Project, up to $500,000;

(2) The City may request the funds for the Project when it enters into a contract for the performance of a portion of the Project or when the City incurs expenses related to a portion of the Project;

(3) The funds shall be deposited in a separate City account and shall not be commingled with any other city funds;

(4) The funds shall only be used to pay all or a portion of the TEDC’s share of the cost of the Project;

(5) The City shall keep a complete and accurate accounting of all expenditures of the funds and make such records available to the TEDC; and

(6) In the event the total amount of the funds transferred by the TEDC to the City under this Letter of Agreement are not used to pay the TEDC's share of costs of the Project, upon completion of the Project, the City shall remit the remaining funds to the TEDC.

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

Yours very truly,

By: ______________________________
Steven Vaughan
Vice President
Board of Directors

AGREED AND ACCEPTED:

City of Tomball, Texas

____
By: Gretchen Fagan
Mayor

Attest:

____
Doris Speer
City Secretary

Keen Dr
S.H. 249 Tomball Pkwy
Brown-Hufsmith Rd
Brown Rd
S.H. 249
Orchard Grove Dr
S.H. 249 Expressway
Brown Road
Utility Extension
N
W
E
S
0 100 200 Feet
TEDC Funded
City of Tomball
Funded
C:\Documents and Settings\llakatos\My Documents\Plats.mxd

Regular City Council Agenda Item Data Sheet

Meeting Date: March 7, 2011

Topic:

Approve, as a Project of the Corporation, an agreement with Paloma Energy Consultants LP to make direct incentives to, or expenditures for, the promotion of new or expanded business development: to wit: Paloma Energy Consultants LP relocation and development of its corporate headquarters to be located at 14405 Brown Road within the City of Tomball. The estimated amount of expenditures for such Project is $204,000.

Background:

All expenditures of the Tomball Economic Development Corporation (TEDC) sales tax revenue must first be approved as a “Project of the Corporation.” At its regular meeting on February 22, 2011, the TEDC Board of Directors did take formal action to approve, as a Project of the TEDC, an agreement, with Paloma Energy Consultants LP for the relocation and development of its corporate headquarters to be located at 14405 Brown Road. The City Council of Tomball has final approval authority over all projects and agreements of the TEDC.

Origination:

Tomball Economic Development Corporation Board of Directors

Recommendation:

Approval, as a "Project of the Corporation", the Performance Agreement with Paloma Energy Consultants LP

Funding: Yes

Account Number: Grant Funds Available

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

Betty Reinbeck

ACTION TAKEN

APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1^{ST} ☐ 2^{ND}	

ATTACHMENTS:

Cover Memo
Request Letter
Performance Agreement
Economic Impact Model

TO: Board of Directors
Tomball Economic Development Corporation

FROM: Betty Reinbeck
Executive Director

MEETING DATE: February 22, 2011

SUBJECT: Paloma Energy Consultants LP

As per the attached grant funding request letter from Mr. Gary K. Gonzalez, President of Paloma Energy Consultants LP, Paloma Energy has purchased an approximately 4,000 square foot existing building at 14405 Brown Road in Tomball, Texas.

Paloma Energy Consultants LP is planning to relocate its corporate office, including fifty-eight (58) full-time employees, and will create ten (10) new employment positions upon the completion of improvements to the building and property.

The project involves the construction of an additional 8,000 square feet to bring the overall size of the building to just under 12,000 square feet, along with the necessary parking and other site improvements to accommodate the expansion.

Paloma Energy provides project management and inspection services to offshore energy operators, primarily in the area of constructing drilling and production platform facilities and has been doing so since its beginning a little more than ten (10) years ago.

The project budget for this relocation and expansion project will range from $1,000,000 to $1,250,000 depending on the required on site and off site improvements.

An economic impact model form is included with the agreement to show the five (5) year impact of this firm on Tomball's economy.

If the agreement between the TEDC and Paloma Energy Consultants LP is approved as a Project of the Corporation, the grant funding amount will be $3,000 per each new job created in Tomball, not to exceed $204,000.

PALOMA

January 11, 2011

Betty Reinbeck
Executive Director
Tomball Economic Development Corporation
Tomball, Texas

RE: Assistance with Construction and Relocation Expenses
14405 Brown Road, Tomball, Texas 77377

Dear Mrs. Reinbeck,

Please consider this letter to be our formal request for funding assistance with construction and/or relocation expenses from the Tomball Economic Development Corporation (Tomball EDC) in accordance with state regulations and local programs.

Paloma Energy Consultants, LP (Paloma) will be relocating to Tomball following the completion of improvements to the building which we recently purchased at 14405 Brown Road. It is our hope that this will be accomplished early this summer.

Paloma provides project management and inspection services to offshore energy operators, primarily in the area of constructing drilling and production platform facilities and has been doing so since its beginning a little more than ten years ago. We currently employ 58 employees of which 30 are based in the Houston area and 28 are based in south Louisiana. However, all employees are serviced entirely by this office and our numbers vary as we have steadily added employees each year since our founding and anticipate the same growth in coming years. The NAICS codes under which we operate are 8601U, 8601, and 8810. The overall average of the company's salaries is approximately $120,147.66.

The property that we have purchased is approximately 4.5 acres of land with an existing building of approximately 4000 square feet. Our plans include the addition of 8000 square feet to bring the overall size of the building to just under 12,000 square feet along the with necessary parking and other site improvements to accommodate the expansion. We are currently in the design stages of the project and will begin construction as soon as possible and hope to be completed by mid-summer 2011. Since we have not yet completed our design we have also not yet determined the cost of the addition and associated on site and off site improvements. However, we have prepared preliminary cost estimates and believe the project budget will range from $1,000,000 to $1,250,000 depending on the required on site and off site improvements

The property is currently valued on the Harris County tax roles at $386,840. Once the improvements are completed we anticipate the property value to be approximately $1,500,00 and we will also have approximately $77,155.00 in furniture, fixtures and equipment located there as well.

I am attaching a copy of the deed to the property as requested.

Paloma Energy Consultants LP
8203 Willow Place South, Suite 390 – Houston, TX 77070 – 281.890.8800

The names, addresses and phone numbers of the principals for Paloma are as follows:

Gary K. Gonzalez
14515 Decker Dr.
Magnolia, TX 77355
281-890-8800

Tracy Lirette
10202 Marwood Falls Court
Houston, TX 77070
281-890-8800

For the purposes of coordinating with the EDC and answering questions, my contact will be Jeff Presnal of Premisys Real Estate Services whose contact information you currently have.

Thank you and the Corporation in advance for your consideration of this request. We look forward to relocating to the Tomball area and to a collaborative and cooperative relationship with both the EDC and the City of Tomball.

Sincerely,

PALOMA ENERGY CONSULTANTS, LP

Gary K. Gonzalez
President

GKG:ss

2 Attachments:

- Deed
- EDC Certification

AGREEMENT

THE STATE OF TEXAS	§	
	§	KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF HARRIS	§	

This Agreement (the “Agreement”) is made and entered into by and between the **Tomball Economic Development Corporation**, an industrial development corporation created pursuant to Tex. Rev. Civ. Stat. Ann. Art. 5190.6, Section 4B, now Chapter 505 of the Texas Local Government Code, located in Harris County, Texas (the “TEDC”), and **Paloma Energy Consultants LP** (the “Company”), 14405 Brown Road, Tomball, Texas 77377.

W I T N E S S E T H :

WHEREAS, it is the established policy of the TEDC to adopt such reasonable measures from time-to-time as are permitted by law to endeavor to attract industry, create and retain primary jobs, expand the growth of the City of Tomball (the “City”), and thereby enhance the economic stability and growth of the City; and,

WHEREAS, the Company owns a 4.8595 acre tract of land within the City, located at 14405 Brown Road, Tomball, Texas 77377 (the “Property”), and more particularly described in Exhibit “A,” attached hereto and made a part hereof; and,

WHEREAS, the Company, currently located at 8203 Willow Place South, Suite 390 in Houston, Texas, proposes to relocate its corporate headquarters to the Property, and as part of the process, plans to expend funds to make capital improvements to an existing 4,000 square foot facility (the “Improvements”), more particularly described in Exhibit “B” attached hereto and made a part hereof; and,

WHEREAS, the Company also proposes to relocate fifty-eight (58) full-time employees and create ten (10) new employment positions in conjunction with the relocation and upgrading of its business operations to the Property; and,

WHEREAS, the TEDC agrees to provide to the Company the sum of Two Hundred Four Thousand Dollars ($204,000.00) to assist in the construction of the Improvements and the relocation of the fifty-eight (58) employees and the creation of the ten (10) new employment positions; and,

WHEREAS, the Company has agreed, in exchange and as consideration for the funding, to satisfy and comply with certain terms and conditions; and,

WHEREAS, this expenditure is found by the Board of Directors of the TEDC to be suitable for the relocation of the corporate headquarters, to the Property to promote and develop new business enterprises on the Property;

NOW, THEREFORE, in consideration of the premises and the mutual benefits and obligations set forth herein, including the recitals set forth above, the TEDC and the Company agree as follows:

1.

The Company covenants and agrees that it will construct the Improvements and operate and maintain the proposed business on the Property for a term of at least five (5) years, and will for such term, except as provided by paragraph 4 hereof, maintain the fifty-eight (58) employees and create ten (10) new jobs on the Property at the prevailing wage.

2.

The Company also covenants and agrees that construction of the Improvements, the relocation of the fifty-eight (58) employees, the addition of the ten (10) new employees, and obtaining all necessary occupancy permits from the City shall occur within twelve (12) months from the Effective Date of this Agreement. Extensions of these deadlines, due to any extenuating circumstance or uncontrollable delay, may be granted at the sole discretion of the Board of Directors of the TEDC.

3.

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

4.

In consideration of the Company's representations, promises, and covenants, TEDC agrees to grant to the Company the sum of Two Hundred Four Thousand Dollars ($204,000.00) to fund a portion of the cost of the Improvements, the relocation of the fifty-eight (58) employees, and the addition of the ten (10) new employees to the Company's business operations on the Property. The TEDC agrees to distribute such funds to the Company within thirty (30) days of receipt of a letter from the Company requesting such payment, which letter shall also include: (a) a copy of the City's occupancy permit for the Improvements to the Property; (b) proof that the Company has added the number of employees indicated above to its business operations on the Property, as evidenced by copies of Texas Workforce Commission form C-3 or Internal Revenue Service Form 941; (c) verification from the City acknowledging that all necessary plats, plans, and specifications have been received, reviewed, and approved; (d) verification that the Improvements have been constructed in accordance with the approved plans and specifications; and, (e) an affidavit stating that all contractors and subcontractors providing work and/or materials in the construction of the Improvements have been paid and any and all liens and claims regarding such work have been released.

In the event the number of jobs originally projected is not met or maintained, the amount of the funding provided to the Company by the TEDC will be reduced on a pro rata basis to reflect the actual number of jobs at the time of the request for disbursement of funds.

5.

It is understood and agreed by the parties that, in the event of a default by the Company on any of its obligations under this Agreement, the Company shall reimburse the TEDC the full amount paid to the Company by the TEDC, with interest at the rate equal to the 90-day Treasury Bill plus ½% per annum, within 30 days after the TEDC notifies the Company of the default. It is further understood and agreed by the parties that if the Company is convicted of a violation under 8 U.S.C. Section 1324a(f), the Company will reimburse the TEDC the full amount paid to the Company, with interest at the rate equal to the 90-day Treasury Bill plus ½% per annum, within 30 days after the TEDC notifies the Company of the violation.

The Company shall also reimburse the TEDC for any and all reasonable attorney's fees and costs incurred by the TEDC as a result of any action required to obtain reimbursement of such funds.

6.

This Agreement shall inure to the benefit of and be binding upon the TEDC and the Company, and upon the Company's successors and assigns, affiliates, and subsidiaries, and shall remain in force whether the Company sells, assigns, or in any other manner disposes of, either voluntarily or by operation of law, all or any part of the Property and the agreements herein contained shall be held to be covenants running with the Property for so long as this Agreement, or any extension thereof, remains in effect.

7.

Any notice provided or permitted to be given under this Agreement must be in writing and may be served by (i) depositing the same in the United States mail, addressed to the party to be notified, postage prepaid, registered or certified mail, return receipt requested; or (ii) by delivering the same in person to such party; or (iii) by overnight or messenger delivery service that retains regular records of delivery and receipt; or (iv) by facsimile; provided a copy of such notice is sent within one (1) day thereafter by another method provided above. The initial addresses of the parties for the purpose of notice under this Agreement shall be as follows:

If to City:	Tomball Economic Development Corporation 401 W. Market Street Tomball, Texas 77375 Attn: President, Board of Directors
If to Company:	Paloma Energy Consultants LP 14405 Brown Road Tomball, Texas 77377 Attn: Gary Gonzalez, President

8.

This Agreement shall be performable and enforceable in Harris County, Texas, and shall be construed in accordance with the laws of the State of Texas.

9.

Except as otherwise provided in this Agreement, this Agreement shall be subject to change, amendment or modification only in writing, and by the signatures and mutual consent of the parties hereto.

10.

The failure of any party to insist in any one or more instances on the performance of any of the terms, covenants or conditions of this Agreement, or to exercise any of its rights, shall not be construed as a waiver or relinquishment of such term, covenant, or condition, or right with respect to further performance.

11.

This Agreement shall bind and benefit the respective Parties and their legal successors and shall not be assignable, in whole or in part, by any party without first obtaining written consent of the other party.

12.

In the event any one or more words, phrases, clauses, sentences, paragraphs, sections, or other parts of this Agreement, or the application thereof to any person, firm, corporation, or circumstance, shall be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, then the application, invalidity or unconstitutionality of such words, phrases, clauses, sentences, paragraphs, sections, or other parts of this Agreement shall be deemed to be independent of and severable from the remainder of this Agreement, and the validity of the remaining parts of this Agreement shall not be affected thereby.

IN TESTIMONY OF WHICH, THIS AGREEMENT has been executed by the parties on this ______ day of ________________ 2011 (the "Effective Date").

PALOMA ENERGY CONSULTANTS, LP

By: ______________________________

Name: Gary K. Gonzalez

Title: President

ATTEST:

By: ______________________________

Name: ______________________________

Title: ______________________________

TOMBALL ECONOMIC DEVELOPMENT CORPORATION

By: ______________________________

Name: Gretchen Fagan

Title: President, Board of Directors

ATTEST:

By: ______________________________

Name: James D. Geer

Title: Secretary, Board of Directors

ACKNOWLEDGMENT

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

This instrument was acknowledged before me on the _____ day of _________________ 2011, by Gary K. Gonzalez, President, Paloma Energy Consultants, LP for and on behalf of said Company.

____
Notary Public in and for the State of Texas

My Commission Expires: __________

(SEAL)

ACKNOWLEDGMENT

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

This instrument was acknowledged before me on the _____ day of _________________ 2011, by ___________________________________, President of the Board of Directors of the Tomball Economic Development Corporation, for and on behalf of said Corporation.

____
Notary Public in and for the State of Texas

My Commission Expires: __________

(SEAL)

Exhibit “A”

Legal Description of Property

BEING A 4.8595 ACRE TRACT OF LAND SITUATED IN THE JOSEPH HOUSE SURVEY, ABSTRACT NUMBER 34, OF HARRIS COUNTY, TEXAS, AND BEING THE SAME TRACT OF LAND CALLED 4.858 ACRES AS DESCRIBED IN DEED RECORDED IN CLERK’S FILE NUMBER U311750, OF THE REAL PROPERTY RECORDS OF HARRIS COUNTY, TEXAS; SAID 4.8595 ACRES BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS WITH ALL BEARINGS AND DISTANCES BASED ON THE RECORDED DEED

Exhibit "B"

The Improvements

Expansion of an existing 4,000 square foot building to a total building size of approximately 10,000 square feet (6,000 square foot addition), and a separate building of approximately 5,500 square feet along with all drives, parking, site improvements including utilities, landscaping, and signage required for approval.

PALOMA ENERGY CONSULTANTS LP

TOMBALL ECONOMIC DEVELOPMENT CORPORATION

CITY OF TOMBALL ECONOMIC IMPACT MODEL

Average Annual Wage Assessment:

Number of Employees		Average Hourly Wage	Average Weekly Wages	Total Annual Wages (52 wks.per Yr.)
Existing:	58	57.00		
Prospective:	10	57.00		
TOTAL:	68	57.00	155,040	8,062,080

Federal Income and FICA Taxes at 28% deducted	2,257,382
Fixed payments for rent, insurance, etc. at 25%	2,015,520
Net Disposable Annual Income	3,789,178

Total Return to Local Government by Annual Payroll:

Local Sales Tax Rate of 2% on Fixed Payments:	40,310
Average Multiplier effect of the Dollar turning over 3.5 times to Calculate the Total Annual Local Sales Tax Impact:	141,086

Annual Sales Tax Impact:

Value of Retail Sales	Sales Tax	
0	2.00%	0

Estimated Property Tax Impact:

Value of Property and Improvements	Tomball Tax Rate (per $100)	
1,577,155	0.25146	3,966

Annual Economic Impact of Corporate Relocation	145,052
Economic Impact over a Five Year Period	725,261

Regular City Council
Agenda Item
Data Sheet

Meeting Date: March 7, 2011

Topic:

Approve, on First 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

Background:

All expenditures of the Tomball Economic Development Corporation (TEDC) sales tax revenue must first be approved as a "Project of the Corporation." At its regular meeting on February 22,2011, the TEDC Board of Directors did take formal action to approve, as a Project of the TEDC, an agreement, with Community Bank of Texas, N.A. for the construction of a commercial building to be located at 28515 State Highway 249. The City Council of Tomball has final approval authority over all projects and agreements of the TEDC.

Origination:

Tomball Economic Development Corporation Board of Directors

Recommendation:

Adopt by Resolution, as a "Project of the Corporation", the Performance Agreement with Community Bank of Texas, N.A.

Funding: Yes

Account Number: Grant Funds Available

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

Betty Reinbeck

ACTION TAKEN

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

ATTACHMENTS:

Resolution No. 2010-03-TEDC
Cover Memo
Request Letter
Performance Agreement
Economic Impact Model

RESOLUTION NO. <u>2011-03-TEDC</u>

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.

* * * * *

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

WHEREAS, the Board of Directors of the TEDC had adopted as a specific project the expenditure of the estimated amount of Sixty Thousand Dollars ($60,000) found by the Board to be required or suitable to promote a new business development by Community Bank of Texas, N.A.; and

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

WHEREAS, City Council finds and determines that such project promotes new or expanded business development and is in the best interests of the citizenry; now, therefore,

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

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

<u>Section 2.</u> The City Council hereby authorizes and approves the adoption, by the Board of Directors of the Tomball Economic Development Corporation, as a specific project for the economic development of the City, an expenditure of the estimated amount of Sixty Thousand Dollars ($60,000) to Community Bank of Texas, N.A., in accordance with an economic development agreement by and between the TEDC and Community Bank of Texas, N.A., to promote and develop a new or expanded business enterprise, to be located at 28515 State Highway 249 in Tomball, Texas.

<u>Section 3.</u> In the event any clause, phrase, provision, sentence, or part of this Resolution or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Resolution as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

PASSED AND APPROVED on first reading this _____ day of ________________, 2011.

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

____
Gretchen Fagan, Mayor

ATTEST:

____
Doris Speer, City Secretary

TO: Board of Directors
Tomball Economic Development Corporation

FROM: Betty Reinbeck
Executive Director

MEETING DATE: February 22, 2011

SUBJECT: Community Bank of Texas

As per the grant funding assistance request dated February 1, 2011, Community Bank of Texas, N.A., which is headquartered in Beaumont, Texas, is planning to establish a new branch banking facility at 28515 State Highway 249 in the City of Tomball. The proposed site is located in the Tomball Marketplace Shopping Center at FM 2920 and the frontage road on SH 249, Tomball Parkway.

The project involves new construction of a 4,336 square foot commercial building on the site with an estimated value of $1,539,120.00.

Community Bank of Texas, N.A. is requesting grant funding assistance with infrastructure costs that are necessary to complete this project. Details as to the infrastructure improvements are shown in Exhibit C of the proposed agreement between the Tomball Economic Development Corporation and Commercial Bank of Texas, N.A.

Although this project does not create primary jobs, it does promote the development and expansion of business enterprise, which is considered a permissible project as outlined in Texas Economic Development Legislation. If this project is approved, it will go to the Tomball City Council for final approval by resolution at two separate readings.

An economic impact model form is included with the agreement to show the five (5) year impact of this firm on Tomball's economy.

If the agreement between the TEDC and Community Bank of Texas is approved as a Project of the Corporation, the grant funding amount will not exceed $60,000, based on actual expenditures for the approved Infrastructure Improvements.

CommunityBank
OF TEXAS

Charles Cox
Executive Vice President

February 10, 2011

Ms. Betty Reinbeck
Executive Director
Tomball Economic Development Corporation
P O Box 820
Tomball, TX 77377-0820

Dear Ms. Reinbeck:

It is a pleasure to write you to seek assistance for the establishment of a new branch banking facility to be located at 28515 State Highway 249, Tomball, TX 77375. CommunityBank of Texas, N.A. (a national banking association) is headquartered in Beaumont, TX and the Chief Executive Officer is J. Pat Parsons. This new branch banking facility will be a full service bank with loan personnel, tellers, ATM and night depository. We currently operate 27 full service branch banks across Southeast Texas and the Houston metro area. The following data represents the description of the improvements:

- Size of Property – Approximately 51,932 square feet more or less;
- Value of Property – Contract pending for $986,708.00;
- Building Size – Proposed 4,336 square feet;
- New Construction – Proposed $1,539,120.00 (Excludes Furniture, Window and Wall Coverings);
- Project Start Date is scheduled for March 14, 2011;
- Project Completion is scheduled for July 20, 2011;
- Initial staffing will be 7 full time to increase to 9 full time and 1 part time;
- Average wage for all jobs at new location - $50,000.00/year + benefits.

Enclosed herewith please find the completed application with supporting information including a copy of our contract and construction bid. I have included some photos of one of our branches in Beaumont which we intend to duplicate in Tomball. Please do not hesitate to call or e-mail for additional information.

Thanking you in advance, I am sincerely;

Charles Cox

Bank Where U Live

5999 Delaware P.O. Box 26017 Beaumont, TX 77720-6017 | 409.861.7200 1.866.427.9306

communitybankoftx.com Member FDIC Equal Housing Lender

AGREEMENT

THE STATE OF TEXAS	§	
	§	KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF HARRIS	§	

This Agreement (the "Agreement") is made and entered into by and between the **Tomball Economic Development Corporation**, an industrial development corporation created pursuant to Tex. Rev. Civ. Stat. Ann. Art. 5190.6, Section 4B, now Chapter 505 of the Texas Local Government Code, located in Harris County, Texas (the "TEDC"), and **Community Bank of Texas** (the "Company"), 5999 Delaware, Beaumont, TX 77706.

W I T N E S S E T H:

WHEREAS, it is the established policy of the TEDC to adopt such reasonable measures from time-to-time as are permitted by law to endeavor to attract industry, create and retain primary jobs, expand the growth of the City of Tomball (the "City"), and thereby enhance the economic stability and growth of the City; and

WHEREAS, the Company proposes to develop approximately 51,932 square feet of land within the City, located at 28515 State Highway 249, Tomball, Texas 77375 (the "Property"), more particularly described in Exhibit "A," attached hereto and made a part hereof; and

WHEREAS, such development shall include the construction of a 4,336 square foot branch banking facility (the "Improvements") on the site, and more particularly described in Exhibit "B," attached hereto and made a part hereof; and

WHEREAS, the TEDC agrees to provide to the Company the sum of Sixty Thousand Dollars ($60,000.00), or an amount equal to actual construction costs if less than the sum stated above, to assist in the construction of infrastructure necessary to promote and develop a new business enterprise on the Property. The infrastructure found by the Board of Directors of TEDC to be required to develop the Property are site improvements and site utilities to the exterior of the building (the "Infrastructure Improvements"), identified and described in Exhibit "C," attached hereto and made a part hereof; and

WHEREAS, the Company has agreed, in exchange and as consideration for the funding, to satisfy and comply with certain terms and conditions; and

NOW, THEREFORE, in consideration of the premises and the mutual benefits and obligations set forth herein, including the recitals set forth above, the TEDC and the Company agree as follows:

1.

The Company covenants and agrees that it will construct and maintain on the Property a 4,336 square-foot branch banking facility (the "Improvements") identified and described in Exhibit "B," attached hereto and made a part hereof. In conjunction with the development of the Property, the Company further agrees to construct the Improvements contemplated by this Agreement, in accordance with the requirements of the ordinances of the City and the plans and specifications approved by the City. The Company further represents and agrees that it will certify the costs of the construction of such Infrastructure Improvements to the TEDC prior to construction.

2.

Construction of the Improvements on the Property, including construction of the Infrastructure Improvements, must commence within 180 days from the Effective Date of this Agreement (the "Date"). The construction of the Improvements to the Property, including construction of the Infrastructure Improvements, shall be completed, and all necessary occupancy permits from the City shall be obtained within eighteen (18) months from the Date of this agreement. Extensions of these deadlines due to extenuating circumstances or uncontrollable delay may be granted by the Board of Directors of the TEDC at its sole discretion.

3.

The Company further covenants and agrees that the Improvements described in Paragraph 1 hereof will be occupied and that the branch banking facility will be maintained on the Property for a term of at least five (5) years.

4.

The Company further covenants and agrees that the Company or any owner or lessee of the Improvements does not and will not knowingly employ an undocumented worker. An "undocumented worker" shall mean an individual who, at the time of employment, is not (a) lawfully admitted for permanent residence to the United States; or (b) authorized under the law to be employed in that manner in the United States.

5.

In consideration of the Company's representations, promises, and covenants, TEDC agrees to reimburse the Company for the actual cost of the Infrastructure Improvements up to the amount of Sixty Thousand Dollars ($60,000), or an amount equal to actual construction costs if less than the sum stated above. The TEDC agrees to reimburse the Company for such amount within thirty (30) days of receipt of a letter from the Company requesting such payment and including: (a) certification of the actual costs of constructing the Infrastructure Improvements; (b) a copy of the City's occupancy permit for the Improvements to the Property; (c) verification from the City acknowledging that all necessary plats, permits, plans, and specifications have been received, reviewed, and approved; (d) verification that the Infrastructure Improvements have been constructed in accordance with the approved plans and specifications; and, (e) an affidavit stating that all contractors and subcontractors providing work and/or materials in the construction of the Infrastructure Improvements have been paid and any and all liens and claims regarding such work have been released.

6.

It is understood and agreed by the parties that, in the event of a default by the Company on any of its obligations under this Agreement, the Company shall reimburse the TEDC the full amount paid to the Company by the TEDC, with interest at the rate equal to the 90-day Treasury Bill plus one-half percent (½%) per annum, within thirty (30) days after the TEDC notifies the Company of the default. It is further understood and agreed by the parties that if the Company, or any owner or lessee of the Improvements, is convicted of a violation under 8 U.S.C. Section 1324a(f), the Company will reimburse the TEDC the full amount paid to the Company, with interest at the rate equal to the 90-day Treasury Bill plus one-half percent (½%) per annum, within thirty (30) days after the TEDC notifies the Company of the violation.

The Company shall also reimburse the TEDC for any and all reasonable attorney's fees and costs incurred by the TEDC as a result of any action required to obtain reimbursement of such funds. Such reimbursement shall be due and payable thirty (30) days after the Company receives written notice of default.

7.

This Agreement shall inure to the benefit of and be binding upon the TEDC and the Company, and upon the Company's successors and assigns, lessees, affiliates, and subsidiaries, and shall remain in force whether the Company sells, leases, assigns, or in any other manner disposes of, either voluntarily or by operation of law, all or any part of the Property and the agreements herein contained shall be held to be covenants running with the Property for so long as this Agreement, or any extension thereof, remains in effect.

8.

Any notice provided or permitted to be given under this Agreement must be in writing and may be served by (i) depositing the same in the United States mail, addressed to the party to be notified, postage prepaid, registered or certified mail, return receipt requested; or (ii) by delivering the same in person to such party; or (iii) by overnight or messenger delivery service that retains regular records of delivery and receipt; or (iv) by facsimile; provided a copy of such notice is sent within one (1) day thereafter by another method provided above. The initial addresses of the parties for the purpose of notice under this Agreement shall be as follows:

If to City:	Tomball Economic Development Corporation 401 W. Market Street Tomball, Texas 77375 Attn: President, Board of Directors
If to Company:	Community Bank of Texas 5999 Delaware Beaumont, Texas 77706 Attn: J. Pat Parsons, Chief Executive Officer

9.

This Agreement shall be performable and enforceable in Harris County, Texas, and shall be construed in accordance with the laws of the State of Texas.

10.

Except as otherwise provided in this Agreement, this Agreement shall be subject to change, amendment or modification only in writing, and by the signatures and mutual consent of the parties hereto.

11.

The failure of any party to insist in any one or more instances on the performance of any of the terms, covenants or conditions of this Agreement, or to exercise any of its rights, shall not be construed as a waiver or relinquishment of such term, covenant, or condition, or right with respect to further performance.

12.

This Agreement shall bind and benefit the respective Parties and their legal successors and shall not be assignable, in whole or in part, by any party without first obtaining written consent of the other party.

13.

In the event any one or more words, phrases, clauses, sentences, paragraphs, sections, or other parts of this Agreement, or the application thereof to any person, firm, corporation, or circumstance, shall be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, then the application, invalidity or unconstitutionality of such words, phrases, clauses, sentences, paragraphs, sections, or other parts of this Agreement shall be deemed to be independent of and severable from the remainder of this Agreement, and the validity of the remaining parts of this Agreement shall not be affected thereby.

IN TESTIMONY OF WHICH, THIS AGREEMENT has been executed by the parties on this ______ day of ________________ 2011 (the "Effective Date").

COMMUNITY BANK OF TEXAS

By: ___________________________________
Name: J. Pat Parsons
Title: CEO

ATTEST:

By: ______________________________
Name: ______________________________
Title: ______________________________

TOMBALL ECONOMIC DEVELOPMENT CORPORATION

By: ___________________________________
Name: Gretchen Fagan
Title: President, Board of Directors

ATTEST:

By: ______________________________
Name: James D. Geer
Title: Secretary, Board of Directors

ACKNOWLEDGMENT

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

This instrument was acknowledged before me on the _____ day of _________________ 2011, by J. Pat Parsons, the Chief Executive Officer of Community Bank of Texas, for and on behalf of said company.

____
Notary Public in and for the State of Texas

My Commission Expires: __________

(SEAL)

ACKNOWLEDGMENT

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

This instrument was acknowledged before me on the _____ day of _________________ 2011, by __________________________, President of the Board of Directors of the Tomball Economic Development Corporation, for and on behalf of said Corporation.

____
Notary Public in and for the State of Texas

My Commission Expires: __________

(SEAL)

Exhibit “A”

Legal Description of Property

LOT 5 OF TOMBALL MARKETPLACE A SUBDIVISION OUT OF THE JOHN M. HOOPER SURVEY, ABSTRACT 375 FILED OCTOBER 17, 2006 AT FILM CODE 60515, H.C.M.R., ALSO BEING A REPLAT OF RESERVE “C” AND RESERVE “D” PARR CENTER REPLAT FINAL, FILM CODE 5893192, H.C.M.R. AND A REPLAT OF LOT 1 AND RESERVE “A” PARR COURT, SECTION 2, COMMERCIAL SUBDIVISION FILM CODE 586241, H.C.M.R., TOMBALL, HARRIS COUNTY, TEXAS.

Exhibit "B"

Description of Improvements

Construction of a 4,336 square foot branch banking facility to be located at 28515 State Highway 249, Tomball, Texas on the site

A detailed description of the Improvements is on file at the Tomball Economic Development Corporation office located at 29201 Quinn Road, Suite B, Tomball, Texas 77375.

Exhibit "C"

<u>Description of Infrastructure Improvements</u>

Site work

- Earthwork (shaping the site dirt for parking areas, building pad, etc.
- Erosion control

Site utilities

- Site water line to within 5' of the building
- Site sanitary sewer line to within 5' of the building line
- Underground storm sewer piping and inlets
- Electrical power service to the building and associated electrical for flag pole lights and site parking lot light poles
- Communications conduits to the building
- Sleeve for gas line

  <u>Note</u>: No costs for tap fees or impact fees or fees by the power company have been included in the costs estimates that have been submitted.

COMMUNITY BANK OF TEXAS

TOMBALL ECONOMIC DEVELOPMENT CORPORATION

CITY OF TOMBALL ECONOMIC IMPACT MODEL

Average Annual Wage Assessment:

Number of Employees		Average Hourly Wage	Average Weekly Wages	Total Annual Wages (52 wks.per Yr.)
Existing:	0			
Prospective:	9	24.00		
TOTAL:	9	24.00	8,640	449,280

Federal Income and FICA Taxes at 28% deducted	125,798
Fixed payments for rent, insurance, etc. at 25%	112,320
Net Disposable Annual Income	211,162

Total Return to Local Government by Annual Payroll:

Local Sales Tax Rate of 2% on Fixed Payments:	2,246
Average Multiplier effect of the Dollar turning over 3.5 times to Calculate the Total Annual Local Sales Tax Impact:	7,862

Annual Sales Tax Impact:

Value of Retail Sales	Sales Tax	
0	2.00%	0

Estimated Property Tax Impact:

Value of Property and Improvements	Tomball Tax Rate (per $100)	
2,525,828	0.25146	6,351

Annual Economic Impact of Construction of Banking Facility	14,214
Economic Impact over a Five Year Period	71,069

Regular City Council
Agenda Item
Data Sheet

Meeting Date: March 7, 2011

Topic:

Approve Utility Extension along Brown Road and Direct Engineering and Planning Department to Negotiate and Prepare Professional Services Contract

Background:

On February 22, 2011 the Tomball Economic Development Corporation (TEDC) approved funding a Utility Extension along Brown Road, westerly of SH249 to easterly of Spring Creek Estates. The utility extension includes right-of-way and utility easement acquisition, approximately 1,300 lineal feet for 4” gas, 12” water, and 10” sanitary lines construction. Attached is an exhibit, Brown Road Utility Extension, of the proposed area. The extension of the utilities will provide services to future commercial developments within the area.

In addition to the utilities funded by the TEDC the City will extend the 4" gas service to loop the system with the deadend line in Spring Creek Estates. This will prevent any lose of service to the subdivision should there be a break in the gas line along FM 2920.

Origination:

Engineering & Planning Department

Recommendation:

The Engineering & Planning Department request City Council's direct staff to negotiate and prepare the Professional Services Contract for Council's approval.

Funding:

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

Engineering & Planning Department

ACTION TAKEN

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

ATTACHMENTS:

Request for Funding to TEDC

Brown Road Extension Exhibit

Consultant Proposal

City of Tombal

Gretchen Fagan
Mayor

George Shackelford
City Manager

February 17, 2011

Betty Reinbeck
Director of Economic Development Corporation
Tomball Economic Development Corporation
29201 Quinn Road,
Tomball, Texas 77375

Ms. Reinbeck,

The City of Tomball would like to request financial assistance from the Tomball Economic Development Corporation (TEDC) for the extension of utilities along Brown Road, westerly of State Highway 249 (SH 249) to easterly of Spring Creek Estates. The utility extension includes right-of-way and utility easement acquisition, approximately 1,300 lineal feet for 4" gas, 12" water, and 10" sanitary lines construction. Attached is an exhibit, Brown Road Utility Extension, of the proposed area. The extension of the utilities will provide services to future commercial developments within the area.

Water, gas, and sanitary lines were stubbed at the southwest corner of SH 249 and Brown Road. The extension of utilities under SH 249 was completed April 2009. As development within the City continues to occur, the need for interconnected water and gas system becomes critical.

A 12-inch waterline along Brown Road that interconnects with the existing 12-inch water line at Spring Creek Estates will provide a balanced water system to existing customers. The extension of the 12-inch water line will help support future commercial developments in the area.

A 4-inch gas line along Brown Road that interconnects with the existing 4-inch line at Spring Creek Estates will help support future commercial developments in the area and provide a loop of gas service. A portion of the proposed gas line extension along Brown Road is within a residential subdivision (Spring Creek Estates) approximately 500 feet. The City of Tomball is not asking for assistance for this section of gas line to complete the loop.

A 10-inch sanitary sewer line along Brown Road will provide support to future commercial developments in the area.

The cost estimates for the design, construction, and ROW and utility easement acquisition should not exceed $500,000.

Please contact me if you have any questions or need additional information.

Sincerely,

George T. Shackelford
City Manager

Cc: Kelly Violette – City Planner,
Lori Lakatos – Assistant City Engineer

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CLR

March 1, 2011

City of Tomball
501 James St.
Tomball, Texas 77375

Attn: Ms. Lori Lakatos, PE, CFM
Acting City Engineer

Re: Proposal for professional engineering and survey services for proposed extension of Brown-Hufsmith Road utilities from SH 249 to 1800' west in Tomball Texas.

Dear Ms. Lakatos:

In accordance with your request, we are pleased to submit this proposal for professional engineering and survey services related to the above-referenced project. The proposed project will begin at the intersection of Brown-Hufsmith Road and State Highway 249 and extend water line, sanitary sewer and gas main facilities to the west. Water main facilities will consist of a 12" diameter main with appurtenances and a 10" diameter sanitary sewer extended to approximately 1300 feet west of the referenced intersection. Gas main facilities will be extended to approximately 1800 feet west of the referenced intersection. It is our understanding that all facilities will be constructed in an easement to be acquired by the City of Tomball. Said easement will be situated adjacent to the south right-of-way of Brown-Huffsmith Road.

CLR proposes to perform the necessary professional services in accordance with the attached detailed description of basic and additional services, Attachment A, for the following fees:

Basic Services		
Phase II Final Design	Fixed Fee	$ 22,500
Phase III Construction Phase Services	Fixed Fee	$ 2,500
Total Basic Services		**$ 25,000**
Additional Services		
Survey Services	Fixed Fee	$ 17,060
SWPPP	Fixed Fee	$ 3,500
Geotechnical Investigation	T&M, Hourly	$ 7,200
Materials Testing	Fixed Fee	$ 6,400
Traffic Control Plan/TxDOT Permit	Fixed Fee	$ 3,500
Record Drawings	Fixed Fee	$ 1,000
Total Additional Services		**$ 38,660**
Estimated Reimbursable Expenses	Cost Plus	$ 1,500
Total Recommended Project Budget		**$ 65,160**

The above listing represents our understanding of the scope of services to be provided. Services will be provided in accordance with the attached Contract and Exhibits to be entered into by the City of Tomball and CLR, Inc. Should additional services be identified during the course of the project, those services would be considered extra services and billed at our current hourly rates. Reimbursable expenses for reproduction costs, delivery fees, mileage expenses, etc. would be billed at cost plus ten percent (10%). We will bill monthly for services performed that month.

ENGINEERS • SURVEYORS • GIS
P.O. Box 450, Waller, Texas 77484
Phone 713-462-0993 • Fax 713-462-2732 • Toll Free 800-694-8241 • www.clri.com

CLR, Inc., will make all reasonable efforts to complete the proposed scope of services to meet the City's desired schedule.

If this proposal and attached contract documents are satisfactory, please indicate your acceptance and authorization to proceed by returning one executed original of the contract documents to our office.

We appreciate this opportunity to submit this proposal and we are looking forward to working with you on this project. If you have any questions or need additional information, please give me a call.

Sincerely,
CLR, Inc.

Kyle A. Bertrand, P.E.
Senior Vice President

ATTACHMENT A
SERVICES TO BE PROVIDED BY ENGINEER

The following scope addresses the scope of work for the construction drawings for public utility extensions along Brown-Hufsmith Road between SH 249 and 1800 feet west of SH 249. The proposed utility extensions to consist of a 12" diameter water line, a 10" diameter sanitary sewer, and a 4" diameter gas main to be situated in a public easement adjacent to the south side of the Brown-Hufsmith Road right-of-way.

After prior written authorization by the "City" to proceed with the Design Phase, the Engineer shall:

A. DESIGN PHASE

a. Prepare and deliver to the City a schedule, which details the scope of the Project;

b. Utility Investigation: Obtain utility information along project limits and include in construction drawings. Coordination with utility companies should relocation be required.

c. Utility Extension Plan: Utilizing the topographic survey, prepare construction drawings for the proposed utility extension noted above.

d. Coordination & Meetings: Attend project meetings for coordination during plan preparation.

e. Traffic Control for construction along Brown-Hufsmith Road for the improvements.

f. Prepare and furnish the City a plan for erosion controls during construction activities. Note: SWPPP project manuals and preparation of notices are not included in this scope of services.

g. Furnish to the City, where applicable, the engineering data necessary for applications for routine permits required by local, state and federal authorities (as distinguished from detailed applications and supporting documents for government grants or planning advances).

h. Prepare and furnish the City detailed construction drawings, project manual and specifications suitable for reproduction.

i. Prepare a detailed opinion of probable construction cost and a bidders' proposal form for construction authorized by the City.

j. Furnish to the City two (2) sets of construction drawings when 75% and 100% complete.

k. Furnish the City a 3-mil mylar positive of the construction drawings suitable for reproduction.

l. Assist with acquisition of all necessary public and/or private agency approvals.

B. BID PHASE

After prior written authorization by the "City" to proceed with the Contract Phase, the Engineer shall:

a. Attend pre-bid conferences and prepare necessary addenda.

b. Assist the City in obtaining bids.

c. Prepare tabulation and analysis of bids. Prepare letter of recommendation on the award of the construction contract.

C. TOPOGRAPHICAL SURVEYING PHASE

After prior written authorization by the "City" to proceed with the Topographical Surveying Phase, the Engineer shall:

a. Prepare an Abstract Map along new utility alignments for the properties and adjoiners for the proposed easement alignment.

b. Obtain permission from property owners to enter their property. Perform topographic survey along proposed route including cross sections at 100-foot intervals. Locate visible improvements and utilities. Horizontal and vertical control will be based upon previous control for Brown-Hufsmith Road.

c. Perform as-built survey of newly constructed facilities along Brown-Hufsmith Road. Survey to include visible appurtenances and sanitary sewer flowline information.

D. ROW MAPPING PHASE

a. Prepare right of way strip map, parcel plats and metes and bounds description for acquisition needed for proposed project. An estimated 3 parcels are needed at $2500 per parcel for mapping.

E. CONSTRUCTION SERVICES PHASE

After prior written authorization by the "City" to proceed with the Construction Services Phase, the Engineer shall:

a. Perform periodic field visits to the site to monitor progress of the work.

b. Confer with the "City" with regard to the status of the project.

c. Respond to Contractor requests for information regarding implementation of the design requirements.

d. Provide an Engineer's Letter of Substantial Completion at project close-out.

F. GEOTECHNICAL SERVICES PHASE

After prior written authorization by the "City" to proceed with the Geotechnical Services Phase, the Engineer shall:

a. Secure the services of a geotechnical engineering consultant to perform field investigations, soil tests and analysis of test results that may be required for design or construction.

b. Secure the services of a materials testing consultant to secure field densities of trench backfill, compressive strength of cement-stabilized sand materials, etc., during construction of the proposed utilities.

For purposes of clarity, the following is a list of services, which are not a part of the scope of services.

A. Environmental site assessments.
B. Construction phase services including review of shop drawings, field visits, review monthly pay estimates, etc.
C. Landscape and irrigation plans.
D. Continuous field representation during construction activities.

Regular City Council
Agenda Item
Data Sheet

Meeting Date: March 7, 2011

Topic:

Approve Proposed Amendments to for Administrative Policy Number 65, “Right-of-Way Abandonment Policy,” Incorporating Fee and Application

Background:

At its meeting on February 21, 2011, City Council approved Administrative Policy Number 65 for the abandonment of the City of Tomball’s public rights-of-way through instruments other than a plat.

The Policy states that rights-of-way shall only be abandoned if:

1. It is determined that no substantial public purpose will be served by the City retaining ownership of the ROW;
2. It is not contrary to the public interest;
3. It does not deprive any individual(s) that own property nearby of reasonable means of ingress and egress to their property; and
4. It is not necessary to maintain or advance the City’s Major Thoroughfare Plan and/or utility system.

This amendment includes an application and fee for processing abandonment requests.

Origination:

City Council

Recommendation:

Staff recommends approval of the amendment to Administrative Policy # 65, Entitled "Right-of-Way Abandonment Policy," as presented.

Funding:

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

Engineering and Planning

ACTION TAKEN

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

ATTACHMENTS:

Administrative Policy No. 65

ROW Abandonment Application

CITY OF TOMBALL ADMINISTRATIVE POLICIES, RULES AND PROCEDURES			
SUBJECT	NUMBER: 65	EFFECTIVE DATE: February 21, 2011	PAGE 1 OF 2
RIGHT-OF-WAY ABANDONMENT POLICY	REVISED:	APPROVED BY CITY MANAGER: February 21, 2011	
	SUPERSEDES:	APPROVED BY CITY COUNCIL: February 21, 2011	

Right-of-Way Abandonment Policy

1) Purpose

A. This policy establishes general procedures and criteria for the abandonment of the City of Tomball's public rights-of-way (ROW) through instruments other than a plat.

B. If an applicant is abandoning ROW by plat, see the platting requirements as defined in Chapter 70 - Plats and the Subdivision of Land of the Tomball Code of Ordinances.

C. This policy is structured to minimize administrative expenditures and maximize efficiency.

2) Definition

A. ROW abandonment is defined as the intentional and permanent relinquishment of claim and title to real property that forms a segment of the City of Tomball's roadway or utility network or that was acquired or held for future use as a portion of the roadway or utility network.

B. Typically, ROW requested for abandonment includes:

1. Unimproved, unopened ROW that has no pavement, curb/gutter or sidewalk.

2. ROW that exceeds the minimum width requirements, based on street classification.

3. Residual (leftover) ROW resulting from a street or intersection realignment project.

4. ROW that is not necessary to support or maintain the City's roadway network.

3) Abandonment Guidelines

A. ROW can only be abandoned if:

1. It is determined that no substantial public purpose will be served by the City retaining ownership of the ROW;

2. It is not contrary to the public interest;

3. It does not deprive any individual(s) that own property nearby of reasonable means of ingress and egress to their property; and

4. It is not necessary to maintain or advance the City's Major Thoroughfare Plan and/or utility system.

B. City Council may choose to abandon a requested ROW in whole or in part as reasonable to minimize inconsistent or disconnected right-of-ways.

C. The City of Tomball and other utility providers may reserve or require easements within the abandoned ROW.

D. The requestor shall be responsible for all associated costs, including the boundary survey and metes-and-bounds description.

4) Procedure

A. ROW abandonment requests shall be submitted in writing to the City Manager's Office. The request shall include the following:

1. Complete Right-of-Way Abandonment Application;

2. Submit $300 Application Fee;

3. A detailed description of the entire limits or extent of the ROW and the limits to be abandoned, if different;

4. The purpose for the abandonment request;

5. A boundary survey and metes and bounds description of the ROW to be abandoned prepared by a Registered Professional Land Surveyor; and

6. Written confirmation from all owners of real property abutting the ROW, utility providers, drainage districts, and/or other interested agencies stating they have been notified of the requested ROW abandonment and a letter of "No Objection" from each of the concerned entities.

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B. The City Manager's Office shall review the request and schedule a public hearing before the City Council.

C. The City shall publish notice of such public hearing in the City's official newspaper at least ten (10) days prior to holding the public hearing and provide written notice to each owner of real property as indicated by the most recently approved HCAD tax roll whose property abuts or lies within 200 feet of the existing right of way to be abandoned.

D. After compliance with the above items the public hearing shall be held. At the public hearing any person desiring to be heard regarding such matter will be given an opportunity to do so. If the request is granted, then the City will prepare an ordinance and quit claim deed for consideration by City Council. (Ordinances must be heard in accordance with the City of Tomball Charter).

CITY OF TOMBALL

RIGHT-OF-WAY ABANDONMENT REQUEST APPLICATION

Please provide the following information & return your submittal to the City Manager's Office, 401 Market St., Tomball, Texas 77375.

Minimum Submittal Requirements

- ❑ $300 application fee;
- ❑ Detailed description of entire limits or extent of the ROW and the limits to be abandoned, if different;
- ❑ Five (5) copies of the Boundary Survey and metes & bounds description of the ROW to be abandoned;
- ❑ Electronic File (PDF) of Boundary Survey and metes & bounds description of the ROW to be abandoned;
- ❑ Copy of letters to utility providers, drainage districts, and/or other interested agencies stating they have been notified of the requested ROW abandonment;
- ❑ Letter of "No Objection" from each of the concerned entities; and
- ❑ Completed and signed application form.

Applicant Information

Name ____

Mailing Address ____

City ______________________ State ____________________ Zip Code ______________________

Phone Number ______________________________ Fax Number __________________________

E-mail Address ____

Agent or Engineer Information

Name ____

Mailing Address ____

City ______________________ State ____________________ Zip Code ______________________

Phone Number ______________________________ Fax Number __________________________

E-mail Address ____

We, the undersigned property owners of

____

(name of subdivision, lot, and block number)

do hereby request that the City of Tomball release and vacate the said Right-of-Way as further described in the attached Boundary Survey.

Adjacent Property Owners Signatures

(please include your name, mailing address, HCAD number of your property, and signature)

1. ____

2. ____

3. ____

4. ____

5. ____

6. ____

7. ____

8. ____

9. ____

10. ____

Certification

I, ____, being one of the above named persons, do hereby certify that the above named persons include all abutting property owners of the property being vacated and released.

Please list the reasons for the request and how this request will benefit the public:

____

____

____

____

____

(Signature) (Printed Name)

Regular City Council Agenda Item Data Sheet

Meeting Date: March 7, 2011

Topic:

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

Background:

The City of Tomball Public Works Department requested and received approval for the funding necessary for the replacement of the fine-screen cleaning headworks for the South Wastewater Treatment Plant, at an estimated cost of $425,000.00. The Public Works Department employed the professional engineering services of Waterworks Engineering, LLC for design and engineering services for our South Wastewater Treatment Plant Headworks Replacement Project.

Six invitations to bid were submitted to construction companies, based upon their experience on similar projects and as recommended by our project engineer. Additionally, the project was advertised on our City of Tomball website and in our local newspaper. Six bids were received and the bid details and proposals were subsequently reviewed by our project engineer for accuracy and compliance with the bid specifications.

Based upon acceptance of our recommendation of contract award, and including contract project engineering services totaling $24,465.00, the total project cost will be $280,715.00. Based upon our approved project budget of $425,000.00, this represents a cost savings of $144,285.00 or 51.4%.

Origination:

Public Works

Recommendation:

Public Works staff recommends Council approval to award contract for project #2011-02 (South Wastewater Treatment Plant Headworks Replacement) to JTR Constructors, Inc. in the amount of $256,250.00, and authorizing the city manager to execute the necessary contract for construction.

Funding: Yes

Account Number: 600-614-6207

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

Public Works Director

ACTION TAKEN

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

ATTACHMENTS:

Project 2011-02 recommendation letter

Project 2011-02 bid tab

Project 2011-02 Agreement and Supplementary Conditions

WATERWORKS ENGINEERS

David Kauffman
Director of Public Works
501 James St.
Tomball, TX 77375

Principals
James J. Geselbracht, P.E. (CA)
Sami A. Kader, P.E. (CA)
John H. Matta, P.E. (AZ)

2/25/2011

Subject: South Wastewater Treatment Plant Headworks Replacement
Bid Recommendation Letter

Dear Mr. Kauffman:

Please find in the following our review and recommendation for award regarding the above-mentioned project.

There were six (6) submittals received, four are deemed responsive as they submitted all of the required documentation (references, bid bond, etc).

With this, the lowest, responsive bidder is: JTR Constructors, Inc (BBB A+ Rating)
Pricing including Bid Alternate 1A (Headworks): $256,250.00

JTR Constructors has a positive work history on similar sized projects.

Should you have any other questions regarding this recommendation, please feel free to call me at 832-398-1510.

Very Truly Yours
WATER WORKS ENGINEERS, LLC

Rob Bryant

Rob Bryant, PE
Project Manager

City of Tomball, TX - Bid Tabulation

Project: South Wastewater Treatment Plant Headworks Replacement
Bid Opening Date: February 22, 2011

Engineer: Water Works Engineers
Project Number: 2011-002

Bidder	Address	Phone	Signatory	References	Bid Bond	A. Stipulated Price	B. Base Unit Price	C. Extra Unit Price	D. Cash Allowance	E. Alternates 1A-Headworks	E. Alternates 1B-JWC	E. Alternates 1C-Meunier	F. Total Bid Price (with 1A)
Desert Eagle, LLC (dba Panorama)	822 Durham, Ste 100 Houston, TX 77007	(713) 883-8830	Bashar Asurbia (Owner/Manager)	No	Yes	$ 42,280.83	$ -	$ -	$ -	$ 183,767.00	$ 187,423.00	$ 154,000.00	$ 226,047.83
JTR Constructors, Inc.	4718 Green Trail Houston, TX 77084	(281) 550-7107	Tony Gonzalez (President)	Yes	Yes	$ -	$ -	$ -	$ -	$ 256,250.00	$ 260,100.00	$ 239,000.00	$ 256,250.00
T&C Construction, LTD	5411 Killough Houston, TX 77086	(281) 445-1828	Thomas Rumney (President)	Yes	Yes	$ 72,000.00	$ -	$ -	$ -	$ 191,000.00	$ 195,000.00	$ 165,000.00	$ 263,000.00
Liftwater Construction, Inc.	22803 Schiel Rd Cypress, TX 77433	(281) 373-0367	Everett Johnson (Vice President)	Yes	Yes	$ -	$ -	$ -	$ -	$ 263,250.00	$ 266,960.00	$ 239,600.00	$ 263,250.00
B-5 Construction Co, Inc	PO Box 1488 Magnolia, TX 77353	(281) 356-3264	Cecil Bell (President)	Yes	Yes	$ -	$ -	$ -	$ -	$ 275,792.00	$ 279,873.00	$ 247,715.00	$ 275,792.00
Peltier Brothers Construction, LTD	11603 Windfern Houston, TX 77064	(281) 894-4949	Jeremy Peltier (Partner)	No	Yes	$ -	$ -	$ -	$ -	$ 281,475.00	$ 285,450.00	$ 254,200.00	$ 281,475.00

= Recommended Award

Document 00520

AGREEMENT

Project: South WWTP Headworks Replacement

Project Location: 12411 Holderrieth Rd, Tomball, TX 77375

Project No: **2011-002**

The City: The City of Tomball, County of Harris, Texas (the "City")

and

Contractor: JTR Constructors, Inc.

(Address for Written Notice) 4718 Green Trail, Houston, TX 77084

Fax Number: (281) 859-2939

City Engineer is: Water Works Engineers, LLC

(Address for Written Notice) 12530 Champion Forest Drive #100, Houston, TX 77066

Fax Number: 815-301-6586

THE CITY AND CONTRACTOR AGREE AS FOLLOWS:

ARTICLE 1
THE WORK OF THE CONTRACT

1.1 Contractor shall perform the Work in accordance with the Contract.

ARTICLE 2
CONTRACT TIME

2.1 Contractor shall achieve Date of Substantial Completion within 100 calendar days after Date of Official Notice to Proceed, subject to adjustments of Contract Time as provided in the Contract.

2.2 The Parties recognize that time is of the essence for this Agreement and that the City will suffer financial loss if the Work is not completed within the Contract Time. Parties also recognize delays, expense, and difficulties involved in proving in a legal or arbitration proceeding actual loss suffered by the City if the Work is not completed on time. Accordingly, instead of requiring any such proof, the Parties agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay the City the amount stipulated in Document 00800 – Supplementary Conditions, for each day beyond Contract Time.

ARTICLE 3
CONTRACT PRICE

3.1 Subject to terms of the Contract, the City will pay Contractor in current funds for Contractor's performance of the Contract, Contract Price of $256,250.00 which includes Alternates, if any, accepted below.

3.2 The City accepts Alternates as follows:

Alternate No. 1A Selection: Headworks Perforated Screen and Screwpactor

ARTICLE 4
PAYMENTS

4.1 The City will make progress payments to Contractor as provided below and in Conditions of the Contract.

4.2 The Period covered by each progress payment is one calendar month ending on the [___] 10th, [___] 20th, or [___] last day of the month.

4.3 The City will issue Certificates for Payment and will make progress payments on the basis of such Certificates as provided in Conditions of the Contract.

4.4 Final payment, constituting entire unpaid balance of Contract Price, will be made by the City to Contractor as provided in Conditions of the Contract.

ARTICLE 5
CONTRACTOR REPRESENTATIONS

5.1 Contractor represents: JTR Constructors, Inc.

5.1.1 Contractor has examined and carefully studied Contract documents and other related data identified in Bid Documents.

5.1.2 Contractor has visited the site and become familiar with and is satisfied as to general, local, and site conditions that may affect cost, progress, and performance of the Work.

5.1.3 Contractor is familiar with and is satisfied as to all federal, state, and local laws and regulations that may affect cost, progress, and performance of the Work.

5.1.4 Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the site (except Underground Facilities) which have been identified in Contract documents and (2) reports and drawings of a hazardous environmental condition, if any, at the site which has been identified in Contract documents.

5.1.5 Contractor has obtained and carefully studied (or assumes responsibility for having done so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, including applying specific means, methods, techniques, sequences, and procedures of construction, if any, expressly required by the Contract to be employed by Contractor, and safety precautions and programs incident thereto

5.1.6 Contractor does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for performance of the Work at Contract Price, within Contract Time, and in accordance with the Contract.

5.1.7 Contractor is aware of general nature of work to be performed by the City and others at the site that relates to the Work as indicated in Contract documents.

5.1.8 Contractor has correlated information known to Contractor, information and observations obtained from visits to the site, reports and drawings identified in the Contract, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract.

5.1.9 Contractor has given City Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract, and written resolution thereof by City Engineer is acceptable to Contractor.

5.1.10 Contract documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 6
MISCELLANEOUS PROVISIONS

6.1 The Contract may be terminated by either Party as provided in Conditions of the Contract.

6.2 The Work may be suspended by the City as provided in Conditions of the Contract.

ARTICLE 7
ENUMERATION OF CONTRACT DOCUMENTS

7.1 The following documents are incorporated into this Agreement:

7.1.1 Document 00700 - General Conditions

7.1.2 Document 00800 - Supplementary Conditions

7.1.3 General Requirements.

7.1.4 Divisions 02 through 16 of Specifications attached hereto or incorporated by reference in the Table of Contents.

7.1.5 Drawings listed in Document 00015 - List of Drawings and bound separately.

7.1.6 Addenda which apply to the Contract, are as follows:

Addendum 1: Dated February 9th, 2011

Addendum 2:

Addendum 3:

7.1.7 Other documents to be included with signed contract:

	Document No.	Title
[X]	00410B	Bid Form – Part B
[X]	00500	Form of Business
[X]	00501	Resolution of Corporation (if a corporation)
[X]	00610	Performance Bond
[X]	00611	Statutory Payment Bond
[X]	00612	One-year Maintenance Bond
[X]	00620	Affidavit of Insurance (with the Certificate of Insurance attached)

ARTICLE 8
SIGNATURES

8.1 This Agreement is executed in two original copies and is effective as of the date of countersignature by City Controller.

CONTRACTOR: JTR Constructors, Inc

By: ______________________

Name: ______________________

Title: ______________________

Date: ______________________

Tax Identification Number: ____________

(If Joint Venture)

By: ______________________

Name: ______________________

Title: ______________________

Date: ______________________

Tax Identification Number: ____________

CITY OF TOMBALL, TEXAS

APPROVED:

By: ______________________
City Manager

SIGNED:

By: ______________________
Mayor

ATTEST/SEAL:

By: ______________________
City Secretary

END OF DOCUMENT

SUPPLEMENTARY CONDITIONS
SECTION 00800

SUPPLEMENTARY CONDITIONS
(TO ACCOMPANY STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT,
EJCDC NO. C-700 [2007 EDITION] FOR CITY OF TOMBALL CONSTRUCTION PROJECTS)

TABLE OF CONTENTS

EXHIBIT C	A Listing of the Duties, Responsibilities, and Limitations of Authority of the Resident Project Representative
EXHIBIT D	Addenda (if any)
EXHIBIT E	Change Order (form)
EXHIBIT F	Application for Payment (form)
EXHIBIT G	Storm Water Pollution Prevention Plan
EXHIBIT H	Conflict of Interest Questionnaire

SECTION 00800

SUPPLEMENTARY CONDITIONS

PART I AMENDMENTS TO GENERAL CONDITIONS

These Supplementary Conditions amend or supplement the Standard General Conditions of the Construction Contract (General Conditions) and other provisions of the Contract Documents as indicated below. All provisions which are not so amended or supplemented remain in full force and effect.

ARTICLE 1 DEFINITIONS

SC-1.01

The terms used in these Supplementary Conditions which are defined in the Standard General Conditions of the Construction Contract (General Conditions) have the meanings assigned to them in the General Conditions.

Amend Paragraph 1.01.A.19, Engineer, of the General Conditions by adding the following to the end:

"For this project the following named persons, firms, or corporations have been utilized by ENGINEER to furnish services as a consultant with respect to the project (if blank, none have been utilized by the ENGINEER):

1. LFC, Inc.
2. ____________________
3. ____________________"

ARTICLE 2 PRELIMINARY MATTERS

SC-2.02

Amend the first sentence of Paragraph 2.02.A of the General Conditions to read as follows:

"Five sets of the Contract Documents shall be furnished to the CONTRACTOR, at no charge, for construction purposes."

And so amended, Paragraph 2.02 remains in effect.

SC-2.03

Amend the third sentence of Paragraph 2.03.A of the General Conditions to read as follows:

"In no event will the Contract Time commence to run later than 90 days after the day of Bid opening or 30 days after the Effective Date of the Agreement, whichever is earlier, without the written agreement of the Contractor and Owner."

ARTICLE 4 AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS; REFERENCE POINTS

SC-4.02

In the preparation of Drawings and Specifications, ENGINEER or ENGINEER's Consultants have relied upon:

4.02.A.1 The following reports of exploration and tests of subsurface conditions at the site of the Work (if blank, no reports or tests were used by ENGINEER or ENGINEER's Consultants):

1. Geotechnical Engineering Report for Tomball Hills Lift Station Replacement prepared by LFC, Inc. ________
2. ____

The technical data contained in such reports upon which the CONTRACTOR may rely is the geotechnical data, analyses, conclusions and recommendations in the above report including any limitations and/or exclusions stipulated therein.

4.02.A.2 The following drawings of physical conditions in or relating to existing surface and subsurface structures (except Underground Facilities) which are at or contiguous to the site of Work:

1. N/A ____
2. ____
3. ____

All of the information in such drawings constitutes technical data on which CONTRACTOR may rely with the following exceptions: N/A ____________________
____
____

Copies of these reports and drawings that are not included with the Bidding Documents may be examined at the office of the ENGINEER during regular business hours. These reports and drawings are not part of the Contract Documents, but the technical data contained therein upon which CONTRACTOR is entitled to rely as provided in GC-4.02.B and as identified and established above are incorporated therein by reference. CONTRACTOR is not entitled to rely upon other information and data utilized by ENGINEER.

SC-4.06

Delete Paragraph 4.06.G of the General Conditions in its entirety.

ARTICLE 5 BONDS AND INSURANCE

SC-5.01

Delete Paragraphs 5.01.A and 5.01.B of the General Conditions in their entirety and insert the following in their place:

"A. The Successful Bidder must furnish with the executed Contract Documents a Performance Bond and a Payment Bond on the forms furnished with the Contract Documents, each in the amount of 100% of the total Contract Price in accordance with Texas Local Government Code § 252.044 and Texas Government Code Ch. 2253. CONTRACTOR shall also furnish such other Bonds as are required by the Supplementary Conditions. The surety company must be authorized to do business in Texas, which authorization must be recorded in the files of the State Board of Insurance. The surety company must be authorized to issue Payment and Performance Bonds in the amount required for the particular Contract, which authorization must be recorded in the files of the State Board of Insurance. The surety company must have a rating of at least "B" in the current Best's Key Rating Guide, or if the surety company does not have such a rating due to the length of time it has existed, the surety company must be eligible to participate in the surety bond guarantee program of the Small Business Administration and must be an approved surety listed in the current U.S. Department of Treasury Circular 570, and must meet all of the related rules and regulations of the Treasury Department. The person executing the Payment and Performance Bonds must be a licensed Texas local recording agent, and such licensing must be recorded in the files of the State Board of Insurance. The person executing the Payment and Performance Bonds must be authorized by the surety company to execute Payment and Performance Bonds on behalf of the company in the amount required for the Contract, and such authorization must be recorded in the files of the State Board of Insurance. The Contract shall not be in effect until such Bonds have been provided by the CONTRACTOR and accepted by the OWNER."

SC-5.04

The limits of liability for the insurance required by Paragraph 5.04 of the General Conditions shall provide coverage for not less than the following amounts or greater where required by Laws and Regulations:

Worker's Compensation

(1) State: Statutory

(2) Applicable Federal (e.g., Longshoreman's): Statutory

(3) Employer's Liability:

$500,000	Each Accident
$500,000	Disease - Policy Limit
$500,000	Disease - Each Employee

Commercial General Liability

(1)	General Aggregate Limit (other than products-completed operations) coverage must include Explosion, Collapse, and Underground Coverages	$1,000,000
(2)	Products-Completed Operations Aggregate Limit	$1,000,000
(3)	Each Occurrence Limit	$ 500,000

Commercial Automobile Liability
$500,000 Any One Loss or Accident

Umbrella Liability
$1,000,000 Excess Limit

Shortages in coverage in any of the areas listed above may be covered by additional umbrella coverage.

The Contractor shall not commence work on any Contract in the City until the Contractor has obtained all the insurance required under this paragraph and such insurance has been approved by the City.

Workers' Compensation Insurance Coverage - Continued

A. Definitions:

Certificate of coverage ("certificate") - A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (DWC-81, DWC-82, DWC-83, or DWC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

Duration of the project - includes the time from the beginning of the work on the project until the contractor's/person's work on the project has been completed and accepted by the governmental entity.

Persons providing services on the project ("subcontractor" in 406.096) - includes all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnished persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

B. The contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the contractor providing services on the project, for the duration of the project.

C. The contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.

D. If the coverage period shown on the contractor's current certificate of coverage ends during the duration of the project, the contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.

E. The contractor shall obtain from each person providing services on the project, and provide to the governmental entity:

(1) a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and

(2) no later than seven days after receipt by the contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.

F. The contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.

G. The contractor shall notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.

H. The contractor shall post on each project site a notice, in the text, form and manner prescribed by the Division of Workers' Compensation, Texas Department of Insurance, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.

I. The contractor shall contractually require each person with whom it contracts to provide services on a project, to:

(1) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;

(2) provide to the contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;

(3) provide the contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

(4) obtain from each other person with whom it contracts, and provide to the contractor:

(a) a certificate of coverage, prior to the other person beginning work on the project; and

(b) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

(5) retain all required certificates of coverage on file for the duration of the project and for one year thereafter;

(6) notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and

(7) contractually require each person with whom it contracts, to perform as require by paragraphs (1) - (7), with the certificates of coverage to be provided to the person for whom they are providing services.

J. By signing this contract or providing or causing to be provided a certificate of coverage, the contractor is representing to the governmental entity that all employees of the contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

K. The contractor's failure to comply with any of these provisions is a breach of contract by the contractor which entitles the governmental entity to declare the contract void if the contractor does not remedy the breach within ten days after receipt of notice of breach from the governmental entity.

SC-5.06

Delete Paragraphs 5.06, 5.07, and 5.08 of the General Conditions in their entirety.

SC-5.09

Delete Paragraph 5.09 of the General Conditions in its entirety and insert the following in its place:

"A. If OWNER has any objection to the coverage afforded by or other provisions of the insurance required to be purchased and maintained by CONTRACTOR in accordance with Article 5 on the basis of its not complying with the Contract Documents, OWNER shall notify CONTRACTOR in writing. OWNER and CONTRACTOR shall each provide to the other such information in respect of insurance provided by each as the other may reasonably request."

ARTICLE 6 CONTRACTOR'S RESPONSIBILITIES

SC-6.02

Add Paragraph 6.02.C to the General Conditions to read as follows:

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

SC-6.06

Delete Paragraph 6.06.G of the General Conditions in its entirety and insert the following in its place:

"G. All Work performed for CONTRACTOR by a Subcontractor will be pursuant to an appropriate Agreement between CONTRACTOR and the Subcontractor which specifically binds the Subcontractor to the applicable terms and conditions of the Contract Documents for the benefit of OWNER and ENGINEER."

Add a new paragraph immediately after Paragraph 6.06.G of the General Conditions which is to read as follows:

"6.06.H OWNER or ENGINEER may furnish to any such Subcontractor, Supplier, or other person or organization, to the extent practicable, information about amounts paid to CONTRACTOR in accordance with CONTRACTOR's Applications for Payment on account of the particular Subcontractor's, Supplier's, other person's, or other organization's Work."

SC-6.10

Delete Paragraph 6.10 of the General Conditions in its entirety and insert the following in its place:

"A. The CONTRACTOR's attention is directed to Paragraph No. 3 of Ruling No. 9, Repairmen and Contractors (as amended) issued by the Comptroller of Public Accounts. Reference Article 20.01 (T), Limited Sales, Excise, and Use Tax and to subsequent applicable legislation. The OWNER requires that no sales tax be paid on any materials incorporated into the completed Work on this Project. All Bidders and their respective Subcontractors must comply with Paragraph No. 3 of Ruling No. 9 by obtaining the necessary permit or permits from the State Comptroller allowing the purchase of materials for incorporation into this Project without having to pay the Limited Sales, Excise, and Use Tax at the time of purchase. Total materials cost should not include materials which are used up or consumed in performing the Work, but which do not become a part of this proposed Work."

SC-6.16

Amend the third sentence of Paragraph 6.16 of the General Conditions to read as follows:

"If ENGINEER and OWNER determine that a change in the Contract Documents is required because of the action taken by CONTRACTOR in response to such an emergency, a Work Change Directive or Change Order will be issued."

And so amended, Paragraph 6.16 remains in effect.

SC-6.22

Amend Article 6 of the General Conditions by inserting the following Paragraph 6.22:

"6.22 LOSSES FROM NATURAL CAUSES:

A. All loss or damage to the CONTRACTOR arising out of the nature of the Work to be done, or from the action of the elements, or from any unforeseen circumstance in the prosecution of the same, or from unusual obstructions or difficulties which may be encountered in the prosecution of the Work, shall be sustained and borne by the CONTRACTOR at his own cost and expense."

ARTICLE 7 OTHER WORK AT THE SITE

SC-7.02

Delete Paragraphs 7.02.A and 7.02.B of the General Conditions in their entirety and insert the following in its place:

"A. If OWNER contracts with others for the performance of other Work on the Project at the site, the person or organization who will have authority and responsibility for coordination of the activities among the various prime contractors shall be the OWNER's Representative. The extent of the authority and responsibility of the OWNER's Representative will be as specified in the Contract Documents."

"B. Should CONTRACTOR cause damage to work or property of any separate contractor at the site, or should any claim arising out of CONTRACTOR'S performance of the Work at the site be made by any separate contractor against CONTRACTOR, OWNER, ENGINEER, ENGINEER'S Consultants, the Construction Coordinator, or any other person, CONTRACTOR shall promptly attempt to settle with such other contractor by agreement, or otherwise resolve the dispute by arbitration or at law. CONTRACTOR shall, to the fullest extent permitted by Laws and Regulations, indemnify and hold OWNER, ENGINEER, ENGINEER's Consultants, and the Construction Coordinator harmless from and against all claims, damages, losses, and expenses (including, but not limited to, fees of engineers, architects, attorneys and other professionals, and court and arbitration costs) arising directly, indirectly or consequentially out of any action, legal or equitable, brought by any separate contractor against OWNER, ENGINEER, ENGINEER's Consultants or the Construction Coordinator to the extent based on a claim arising out of CONTRACTOR's performance of the Work. Should a separate contractor cause damage to the Work or property of CONTRACTOR or should the performance of Work by any separate contractor at the site give rise to any other claim, CONTRACTOR shall not institute any action, legal or equitable, against OWNER, ENGINEER, ENGINEER's Consultants, or the Construction Coordinator or permit any action against any of them to be maintained and continued in its name or for its benefit in any court or before any arbiter which seeks to impose liability on or to recover damages from OWNER, ENGINEER, ENGINEER's Consultants, or the Construction Coordinator on account of any such damage or claim. If CONTRACTOR is delayed at any time in performing or furnishing Work by any act or neglect of a separate contractor and OWNER and CONTRACTOR are unable to agree as to the extent of any adjustment in Contract Times attributable thereto, CONTRACTOR may make a claim for an extension of times in accordance with Article 12. An extension of the Contract Times shall be

CONTRACTOR's exclusive remedy with respect to OWNER, ENGINEER, ENGINEER's Consultants, and Construction Coordinator for any delay, disruption, interference, or hindrance caused by any separate contractor. This paragraph does not prevent recovery from OWNER, ENGINEER, ENGINEER's Consultant, or Construction Coordinator for activities that are their respective responsibilities."

ARTICLE 8 OWNER'S RESPONSIBILITIES

SC-8.02

Amend Paragraph 8.02 of the General Conditions to read as follows:

"In case of termination of the employment of ENGINEER, OWNER shall appoint an engineer whose status under the Contract Documents shall be that of the former ENGINEER."

And so amended, Paragraph 8.02 remains in effect.

SC-8.06

Delete Paragraph 8.06 of the General Conditions in its entirety.

ARTICLE 9 ENGINEER'S STATUS DURING CONSTRUCTION

SC-9.01

Amend the second sentence of Paragraph 9.01 of the General Conditions to read as follows:

"The duties and responsibilities and the limitations of authority of ENGINEER as OWNER's representative during construction are set forth in the Contract Documents and will not be changed except by written direction of OWNER."

And so amended, Paragraph 9.01 remains in effect.

SC-9.04

Delete the third sentence of Paragraph 9.04, Authorized Variations in Work, of the General Conditions in its entirety, and so amended, Paragraph 9.04 remains in effect.

ARTICLE 10 CHANGES IN THE WORK; CLAIMS

SC-10.03

Amend the first sentence of Paragraph 10.03.A of the General Conditions to read as follows:

"OWNER and CONTRACTOR shall, when appropriate, execute Change Orders recommended by ENGINEER (or Written Amendments) covering:"

And so amended, Paragraph 10.03 remains in effect.

SC-10.05

Amend the first sentence of Paragraph 10.05.B., Claims – Notice, of the General Conditions shall be amended by changing “”30 days” to read ”fourteen (14) calendar days”

Amend Paragraph 10.05.E by deleting it in its entirety.

And so amended, Paragraph 10.05 remains in effect.

ARTICLE 13 TESTS AND INSPECTIONS; CORRECTION, REMOVAL, OR ACCEPTANCE OF DEFECTIVE WORK

SC-13.04

Amend the first sentence of Paragraph 13.04.B of the General Conditions to read as follows:

"If ENGINEER considers it necessary or advisable that covered Work be observed by ENGINEER or inspected or tested by others, CONTRACTOR, at ENGINEER's request and with OWNER's written approval, shall uncover, expose, or otherwise make available for observation, inspection, or testing as ENGINEER may require, that portion of the Work in question, furnishing all necessary labor, material, and equipment."

And so amended, Paragraph 13.04 remains in effect.

SC-13.07

Delete Paragraph 13.07.D of the General Conditions in its entirety and insert the following in its place:

"D. Notwithstanding any other provision of this section or the Contract Documents to the contrary, this provision shall not serve to limit any causes of action which the OWNER may have against the CONTRACTOR for Defective Work or for otherwise failing to fulfill CONTRACTOR's obligations under the Contract Documents; nor shall this provision serve to limit the time in which such causes of action shall be asserted."

SC-13.09

Amend the second sentence of Paragraph 13.09.B of the General Conditions to read as follows:

"In connection with such corrective and remedial action, OWNER may exclude CONTRACTOR from all or part of the Site, take possession of all or part of the Work and suspend CONTRACTOR's services related thereto, and incorporate in the Work all materials and equipment stored at the Site or for which OWNER has paid CONTRACTOR but which are stored elsewhere."

And so amended, Paragraph 13.09 remains in effect.

ARTICLE 14 PAYMENTS TO CONTRACTOR AND COMPLETION

SC-14.02

Amend Paragraph 14.02.D.1.b of the General Conditions to read as follows:

"Claims or Liens have been filed in connection with the Work, except where CONTRACTOR has delivered a specific Bond satisfactory to OWNER to secure the satisfaction and discharge of such Liens;"

Add Paragraph 14.02.D.1.e to the General Conditions to read as follows:

"OWNER concludes that one or more of the events enumerated in Paragraph 14.02.B.2.a through 14.02.B.2.c have not occurred."

And so amended, Paragraph 14.02 remains in effect.

SC-14.03

Amend Paragraph 14.03.A of the General Conditions to read as follows:

"CONTRACTOR warrants and guarantees that title to all Work, materials, and equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to OWNER no later than the time of payment free and clear of all Liens or Claims."

And so amended, Paragraph 14.03 remains in effect.

SC-14.04

Insert prior to the first sentence of Paragraph 14.04.A of the General Conditions the following:

"Substantial completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the OWNER can occupy or utilize the Work for its intended use."

And so amended, Paragraph 14.04 remains in effect.

SC-14.07

Amend Paragraph 14.07.A.2(d) of the General Conditions to read as follows:

"complete and legally effective releases or waivers (satisfactory to OWNER) of all Claim or Lien rights arising out of or Claims or Liens filed in connection with the Work."

Amend Paragraph 14.07.A.3 of the General Conditions to read as follows:

"In lieu of the releases or waivers of Liens and Claims specified in Paragraph 14.07.A.2 and as approved by OWNER, CONTRACTOR may furnish receipts or releases in full and an affidavit of CONTRACTOR that: (i) the releases and receipts include all labor, services, material, and equipment for which a Lien or Claim could be filed; and (ii) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which OWNER or OWNER's property might in any way be responsible have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, CONTRACTOR may furnish a Bond or other collateral satisfactory to OWNER to indemnify OWNER against any Lien or Claim."

Amend Paragraph 14.07.C.1 of the General Conditions to read as follows:

"If OWNER concurs with ENGINEER's recommendation, thirty days after the presentation to OWNER of the Application for Payment and accompanying documentation, the amount recommended by ENGINEER will become due and, when due, will be paid by OWNER to CONTRACTOR."

And so amended, Paragraph 14.07 remains in effect.

SC-14.09

Amend Paragraph 14.09.A.1 of the General Conditions to read as follows:

"a waiver of all Claims by OWNER against CONTRACTOR, except Claims arising from unsettled Liens or Claims of laborers and materialmen, from defective Work appearing after final inspection pursuant to Paragraph 14.06, from failure to comply with the Contract Documents or the terms of any special guarantees specified therein, or from CONTRACTOR's continuing obligations under the Contract Documents; and"

And so amended, Paragraph 14.09 remains in effect.

ARTICLE 15 SUSPENSION OF WORK AND TERMINATION

SC-15.02

Amend Paragraph 15.02.A.1 of the General Conditions to read as follows:

"CONTRACTOR's failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the progress schedule established under Paragraph 2.07 as adjusted from time to time pursuant to Paragraph 6.04);"

Amend the first sentence of Paragraph 15.02.B of the General Conditions to read as follows:

"If one or more of the events identified in Paragraph 15.02.A occur, OWNER may, after giving CONTRACTOR (and the surety, if any) seven days written notice, terminate the services of CONTRACTOR, exclude CONTRACTOR from the Site and take possession of the Work, incorporate in the Work all materials and equipment stored at the Site or for which OWNER has paid CONTRACTOR but which are stored elsewhere, and finish the Work as OWNER may deem expedient."

And so amended, Paragraph 15.02 remains in effect.

ARTICLE 16 DISPUTE RESOLUTION

SC-16.01

Amend Paragraph 16.01 A. of the General Conditions by deleting the second and third sentences in their entirety.

Amend Paragraph 16.01 B. of the General Conditions by deleting it in its entirety.

ARTICLE 17 MISCELLANEOUS

Amend "ARTICLE 17 MISCELLANEOUS PROVISIONS of the General Conditions to add the following provisions:

17.07 WAGE RATES. The prevailing wage rates for this project are included as Exhibit A to the Supplementary Conditions and are hereby made a part of the Contract Documents by reference. Wages not less than these rates must be paid on this project, including fringe benefits. The CONTRACTOR shall post the Prevailing Wage Rate Determination in a prominent and easily accessible location at the project site and shall abide by all associated laws and regulations pertaining thereto.

17.08 LIQUIDATED DAMAGES. The Owner will suffer financial loss in an amount that is difficult to quantify if the Project is not Substantially Completed on the date set forth in the Contract Documents. The Owner may assess liquidated damages against the Contractor (and its surety) in an amount equal to .5% of the Contract per week for each project, as fixed, agreed and liquidated damages and not a penalty, for each calendar day of delay until the Work is Substantially Completed. In the event liquidated damages are caused by the Contractor and another entity, the Owner may reasonably apportion damages. The right to assess liquidated damages is in addition to, and not in limitation of, any right or remedy available to the Owner."

17.09 VENUE. This Agreement is governed by the laws of the State of Texas. The parties agree that venue for any litigation arising out of this Agreement shall lie exclusively in the State and Federal Courts in Harris County, Texas.

17.10 NO THIRD PARTY BENEFICIARIES The signing parties to this agreement do not intend to confer any rights upon any persons not a party to this Contract; accordingly this contract shall not be construed to create any third party beneficiaries."

(SPACE INTENTIONAL)

PART II OTHER PROVISIONS

The following additional items are attached to this section.

1. Exhibit A, Wage Rates
2. Exhibit B, Worker's Compensation Insurance Coverage
3. Exhibit C, A Listing of the Duties, Responsibilities, and Limitations of Authority of the Resident Project Representative
4. Exhibit D, Addenda (if any)
5. Exhibit E, Change Order (form)
6. Exhibit F, Application for Payment (form)
7. Exhibit G, Storm Water Pollution Prevention Plan
8. Exhibit H, Conflict of Interest Questionnaire

END OF SECTION 00800

Regular City Council Agenda Item Data Sheet

Meeting Date: March 7, 2011

Topic:

Adopt, on First 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 Deleting Subsection (4) of Section 54-2 and Substituting a New Subsection (4) and Adding a New Subsection (5), Providing Exceptions to the Regulations Established in Chapter 54; by Deleting Section 54-3 and Substituting a New Section 54-3, 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 Deleting Section 54-6 and Substituting a New Section 54-6, Providing for Hours and Time Limit of Operation; by Deleting Section 54-8 and Substituting a New Section 54-8, Prohibiting Misrepresentations by Peddlers; by Adding a New Section 54-9, Providing Regulations related to the Responsibility of Owners, Tenants and Lessees who allow Peddlers to Utilize their Property; by Adding a New Section 54-10, Providing for Compliance with the Home Solicitation Sales Act; by Adding a New Section 54-11, Providing for Regulations related to Structures Erected or Maintained by Peddlers; by Deleting Subsection (12) of Section 54-31 and Substituting a New Subsection (12) and Adding a New Subsection (13), Providing Information Required to Obtain a Permit; by Deleting Section 54-37 and Substituting a New Section 54-37, Providing Application and Permit Fees; by Deleting Section 54-39 and Substituting a New Section 54-39, Providing Regulations related to the Approval, Denial, Issuance and Appeal of a Permit; by Deleting Section 54-40 and Substituting a New Section 54-40, Providing Certain Limitations, Prohibiting the Assignability of Permits, and Restricting the Number of Permits Allowable for Peddlers Representing the Same Business Entity; by Deleting Section 54-41 and Substituting a New Section 54-41, Providing for the Required Contents of a Permit; by Deleting Section 54-43 and Substituting a New Section 54-43, 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

Background:

Following Council's discussions of possible amendments to Tomball's Code of Ordinances, Chapter 54, Peddlers and Solicitors and direction to the City attorney and staff, Scott Bounds has incorporated Council's direction/requests into Ordinance No. 2011-01, amending Chapter 54.

Proposed amendments to Chapter 54 include:

1. stating more specific exceptions to the ordinance (noncommercial, Boy/Girl Scouts, Little League, etc.);
2. setting more stringent hours and time limits of operation;
3. limiting the number of hours peddlers may stay in one location/residential subdivision;
4. providing for revokation by the police chief of a permit obtained through false representation;
5. stating the responsibility of property owners who allow the use of their property for solicitation;
6. requiring compliance with the Home Solicitation Sales Act (consumer cancellation rights);
7. requires temporary or permanent structures to comply with City building and zoning codes;
8. requires affidavit of interstate commerce and limited sales tax permit number, if applicable;
9. adds an application fee and increases permit fees;
10. incorporates a background check of the applicant;
11. permits only three peddlers representing the same corporation/entity;
12. requires a photo of the individual on each permit;
13. limits a permit to a maximum 6-month period, with one 6-month renewal; and
14. establishes a penalty of $500 for violations of the ordinance.

Origination:

City Council request.

Recommendation:
Adopt Ordinance No. 2011-01 on First Reading.

Funding:

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

ACTION TAKEN

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

ATTACHMENTS:
Proposed Ordinance No. 22011-01_Redlined

ORDINANCE NO. 2011-01

AN ORDINANCE AMENDING CHAPTER 54, PEDDLERS AND SOLICITORS, OF THE CODE OF ORDINANCES OF THE CITY OF TOMBALL, TEXAS, BY DELETING SUBSECTION (4) OF SECTION 54-2 AND SUBSTITUTING A NEW SUBSECTION (4) AND ADDING A NEW SUBSECTION (5), PROVIDING EXCEPTIONS TO THE REGULATIONS ESTABLISHED IN CHAPTER 54; BY DELETING SECTION 54-3 AND SUBSTITUTING A NEW SECTION 54-3, 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 DELETING SECTION 54-6 AND SUBSTITUTING A NEW SECTION 54-6, PROVIDING FOR HOURS AND TIME LIMIT OF OPERATION; BY DELETING SECTION 54-8 AND SUBSTITUTING A NEW SECTION 54-8, PROHIBITING MISREPRESENTATIONS BY PEDDLERS; BY ADDING A NEW SECTION 54-9, PROVIDING REGULATIONS RELATED TO THE RESPONSIBILITY OF OWNERS, TENANTS AND LESSEES WHO ALLOW PEDDLERS TO UTILIZE THEIR PROPERTY; BY ADDING A NEW SECTION 54-10, PROVIDING FOR COMPLIANCE WITH THE HOME SOLICITATION SALES ACT; BY ADDING A NEW SECTION 54-11, PROVIDING FOR REGULATIONS RELATED TO STRUCTURES ERECTED OR MAINTAINED BY PEDDLERS; BY DELETING SUBSECTION (12) OF SECTION 54-31 AND SUBSTITUTING A NEW SUBSECTION (12) AND ADDING A NEW SUBSECTION (13), PROVIDING INFORMATION REQUIRED TO OBTAIN A PERMIT; BY DELETING SECTION 54-37 AND SUBSTITUTING A NEW SECTION 54-37, PROVIDING APPLICATION AND PERMIT FEES; BY DELETING SECTION 54-39 AND SUBSTITUTING A NEW SECTION 54-39, PROVIDING REGULATIONS RELATED TO THE APPROVAL, DENIAL, ISSUANCE AND APPEAL OF A PERMIT; BY DELETING SECTION 54-40 AND SUBSTITUTING A NEW SECTION 54-40, PROVIDING CERTAIN LIMITATIONS, PROHIBITING THE ASSIGNABILITY OF PERMITS, AND RESTRICTING THE NUMBER OF PERMITS ALLOWABLE FOR PEDDLERS REPRESENTING THE SAME BUSINESS ENTITY; BY DELETING SECTION 54-41 AND SUBSTITUTING A NEW SECTION 54-41, PROVIDING FOR THE REQUIRED CONTENTS OF A PERMIT; BY DELETING SECTION 54-43 AND SUBSTITUTING A NEW SECTION 54-43, 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.

* * * * * * * *

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

Section 1. The Code of Ordinances of the City of Tomball is hereby amended by deleting Subsection (4) of Section 54-2 and substituting a new Subsection (4) and adding a new Subsection (5), to read as follows:

"Sec. 54-2. Exceptions to chapter.

* * *

(4) Noncommercial solicitations, sales or distributions for purposes of fundraising or generating profits by religious or charitable organizations, political organizations, conservation organizations, Tomball civic organizations, or other educational organizations, which have their principal place of activity within this city.

Deleted: S

Deleted: made by

Deleted: or religious

(5) Minors conducting fundraising activities, who represent an organization for the benefit of youths, including but not limited to Boy Scouts, Girl Scouts, Little League groups, and Tomball school groups."

Section 2. The Code of Ordinances of the City of Tomball is hereby amended by deleting Section 54-3 and substituting a new Section 54-3, to read as follows:

"Sec. 54-3. Refusing to leave.

Any peddler who enters upon premises owned, leased or rented by another and refuses to leave such premises after having been notified by the owner or occupant of such premises, or his agent, to leave the same and not return to such premises, or any peddler who enters upon property posted with a "No Peddlers Allowed," "No Solicitations Allowed," or other similar type posted sign, shall be deemed guilty of criminal trespass and/or attempted criminal trespass and may be punished as provided in V.T.C.A., Penal Code §§ 15.01, 30.05."

Deleted: and §15.01, respectively

Section 3. The Code of Ordinances of the City of Tomball is hereby amended by deleting Section 54-6 and substituting a new Section 54-6, to read as follows:

"Sec. 54-6. Hours and time limit of operation.

(a) It shall be unlawful for any peddler engaged in the business of peddling within the city, to go upon any residential premises and ring the doorbell, rap or knock upon the door, or create any sound in a manner calculated to attract the attention of the occupant of the residence prior to 9:00 a.m. or after 8:00 p.m. of any day Monday through Friday, or prior to 10:00 a.m. or after 8:00 p.m. on

Deleted: to

Deleted: for the purpose of engaging in or attempting to engage in a charitable solicitation or a home solicitation transaction,

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Saturday, Sunday, or any Federal, State or City of Tomball holiday, except by specific appointment with or invitation from the prospective customer.

(b) Peddlers shall not permitted to stay in one location or on one street block for more than one (1) hour in any given day, and also shall not be permitted to stay within one residential subdivision for more than three (3) hours in any given day. For purposes of this Section, a residential subdivision is a recorded residential subdivision or section of a recorded residential subdivision, whichever is smaller, that is filed in the real property records of the Harris County Clerk's office."

Deleted: the following morning,

Section 4. The Code of Ordinances of the City of Tomball is hereby amended by deleting Section 54-8 and substituting a new Section 54-8, to read as follows:

"Sec. 54-8. Misrepresentation.

(a) It shall be unlawful for any peddler to make false or fraudulent statements concerning the quality or nature of his goods, wares, merchandise or services for the purpose of inducing another to purchase the same.

(b) If, after a permit has been issued, the City determines that such permit was obtained by false representation in the application or the permit holder has committed any act or practice that violates Subchapter E of Chapter 17 of the Texas Business and Commerce Code, otherwise known as the Texas Deceptive Trade Practices-Consumer Protection Act, or any crime or misdemeanor involving moral turpitude, or any violation of this Chapter or any other City Ordinance, or any other state or federal law, during the term of the permit, the permit shall be revoked by the Chief of Police."

Section 5. The Code of Ordinances of the City of Tomball is hereby amended by adding a new Section 54-9, to read as follows:

"Sec. 54-9. Responsibility of owners, tenants and lessees allowing peddlers to utilized property.

Any property owner, tenant, or lessee who allows a peddler to utilize their private property shall be responsible, along with the peddler, for compliance with the adopted Zoning Ordinance of the City of Tomball. Approval by the Zoning Administrator must be obtained before a permit may be issued."

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Section 6. The Code of Ordinances of the City of Tomball is hereby amended by adding a new Section 54-10, to read as follows:

"Sec. 54-10. Compliance with the Home Solicitation Sales Act.

A peddler shall comply with the requirements of the Home Solicitation Sales Act provided for in Chapter 601 of the Texas Business and Commerce Code. In addition to any other rights or remedies available, a consumer may cancel a consumer transaction not later than midnight of the third business day after the date the consumer signs an agreement or offer to purchase. A peddler must provide a consumer notice and a complete cancellation form, as provided for in Sections 601.052 and 601.053 of the Texas Business and Commerce Code, at the time a consumer signs an agreement."

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Deleted: unlawful for any peddler to engage in the business of peddling within the city between the hours of 9:00 p.m. and 8:00 a.m. the following morning, except by specific appointment with or invitation from the prospective customer.

Section 7. The Code of Ordinances of the City of Tomball is hereby amended by adding a new Section 54-11, to read as follows:

"Sec. 54-11. Structures erected or maintained by peddlers.

It shall be unlawful for any peddler to erect or maintain any permanent or temporary structure without complying with the applicable Building Codes, Zoning Regulations, and other applicable City Codes."

Section 8. The Code of Ordinances of the City of Tomball is hereby amended by deleting Subsection (12) of Section 54-31 and substituting a new Subsection (12) and adding a new Subsection (13), to read as follows:

"Sec. 54-31. Required.

* * *

(12) Facts showing explicitly that the registrant is engaged in interstate commerce and an affidavit signed by an officer of the corporation, attesting that the registrant is a bona fide representative or employee of the corporation;

Deleted: .

(13) The limited sales tax permit number issued by the State Comptroller of Public Accounts, if any."

Section 9. The Code of Ordinances of the City of Tomball is hereby amended by deleting Section 54-37 and substituting a new Section 54-37, to read as follows:

"Sec. 54-37. Application and permit fee.

Before an application will be considered or any permit shall be issued under the provisions of this article, the applicant shall pay a fee, based upon the duration he desires to engage in business in the city, as follows:

Minimum Application Fees:

(1) Per day ____________ $ 10.00

(2) Per week ____________ $ 25.00

(3) Per month ____________ $ 50.00

(4) Per three months ______ $100.00

(5) Per six months ______ $150.00"

Deleted: F

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Deleted: Application fee: $10.00¶

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Deleted: 75

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(6) Per 12 months 100.00

Section 10. The Code of Ordinances of the City of Tomball is hereby amended by deleting Section 54-39 and substituting a new Section 54-39, to read as follows:

"Sec. 54-39. Approval, denial, issuance, and appeal.

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(a) No permit or license shall be issued under the provisions of this article until the applicant shall have complied with all the provisions and requirements of this chapter. A permit will not be issued until a background check has been completed on the individual.

(b) The Chief of Police shall cause such investigation of the applicant as he deems necessary for the protection of the public generally, no later than five (5) business days after receipt of the application from the City Secretary's office. If, as a result of such investigation, the applicant's character or business responsibility is found to be unsatisfactory, the Chief of Police shall enter the reasons for his denial on the application and return it to the City Secretary. If, as a result of such investigation, the applicant's character and business responsibility are found to be satisfactory, the Chief of Police shall approve the application and return it to the City Secretary.

(c) Any applicant denied a permit may appeal the denial by filing, within five (5) business days of the denial, a written notice of appeal to the City Manager and, if denial is upheld by the City Manager, the applicant may appeal to the City Council by filing, within five (5) business days of the denial, a written notice of appeal to the City Secretary for placement on the next City Council agenda. The decision of the City Council shall be final."

Section 11. The Code of Ordinances of the City of Tomball is hereby amended by deleting Section 54-40 and substituting a new Section 54-40, to read as follows:

"Sec. 54-40. Limitation.

No peddler's permit or license shall be issued to a corporation, partnership or other impersonal legal entity, but each individual person engaging in the business of peddling within the city shall be required to have a permit or license whether acting for himself or as an agent or representative of another. Permits are not assignable and may not be transferred to another individual. Only three (3) peddlers shall be permitted to receive a permit if such peddlers representing the same corporation, partnership or other impersonal legal entity."

Section 12. The Code of Ordinances of the City of Tomball is hereby amended by deleting Section 54-41 and substituting a new Section 54-41, to read as follows:

"Sec. 54-41. Contents of permit.

Each permit or license issued under the provisions of this article shall be signed by the city secretary; shall be dated as of the date of its issuance; and shall state the duration or term of such permit or license on the face thereof. Any permit or license not dated and signed as herein provided, or which was issued in violation of this section, shall be void. A permit, when issued, must contain a photo of the individual permit holder."

Section 13. The Code of Ordinances of the City of Tomball is hereby amended by deleting Section 54-43 and substituting a new Section 54-43, to read as follows:

"Sec. 54-43. Duration and renewal.

Every permit or license issued under the provisions of this article shall be valid for the period of time stated therein, but in no event shall any such permit or license be issued for a period of time in excess of six (6) months. A peddler shall only be allowed one renewal of a permit in any given twelve (12) month period from the date of issuance of the permit."

Deleted: 12

Section 14. All ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

Section 15. It is the intent of the City that this Ordinance shall comply in all respects with the applicable provisions of the United States Constitution, the Texas Constitution, and the Charter of the City of Tomball. In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

Section 16. Any person, firm or corporation that knowingly violates any of the provisions or terms of this Ordinance shall be subject to the same penalty as provided for in the Code of Ordinances of the City of Tomball, Texas, and, upon conviction, shall be punished by a fine not to exceed five hundred ($500.00) dollars for each offense.

Section 17. This Ordinance shall take effect immediately from and after its passage and the publication of the caption hereof, as provided by law and the City's home rule Charter.

FIRST READING:

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

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COUNCILMAN QUINN	______
COUNCILMAN STOLL	______
COUNCILMAN BROWN	______
COUNCILMAN TOWNSEND	______
COUNCILMAN DODSON	______

SECOND READING:

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

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COUNCILMAN QUINN	______
COUNCILMAN STOLL	______
COUNCILMAN BROWN	______
COUNCILMAN TOWNSEND	______
COUNCILMAN DODSON	______

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary

Regular City Council Agenda Item Data Sheet

Meeting Date: March 7, 2011

Topic:

Authorize City 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

Background:

Engine 4, a 1998 E-One Custom Pumper that was acquired, used, from the Magnolia Fire Department, has been moved from its front-line status and placed into permanent reserve status. Over the time I have been the Fire Chief at Tomball, the truck has been very expensive to operate and maintain. This has not been from a lack of preventative maintenance, as the truck has received excellent care, nor is the problem from excessive wear, as the truck only has 60,900 miles recorded on the odometer. From the information I have, it appears the truck sustained significant damage from an accident while it was owned by the Magnolia Fire Department.

In spite of our efforts to maintain the truck to a reasonable operational standard, the truck needs repairs in excess of $30,000, including, a new generator for emergency scene lighting and other electrical needs ($13,625), rebuild of the pump ($12,950) and numerous other items totaling in excess of $8,000. The value of the truck has been estimated by a fire apparatus broker to be in the $35,000 to $40,000 range.

This truck has been the primary response (first-in) engine for incidents on the north and west sides within the city limits of Tomball and, with its capabilities for applying foam, deploying rescue tools and 1,500-gallon per minute pump capacity, provided an excellent first-in engine. Our other engine at Station 1 is a 1995 E-One Commercial chassis pumper that does not have the ability to provide foam application, has a smaller pump capacity and a much-reduced cabinet storage capacity to carry hydraulic rescue tools. The other two pumping apparatus, a 3,300-gallon tanker and a 95-foot ladder tower truck, due to size and operating costs, are not suitable for consistent use as a primary "first-out" pumper.

The Department had identified Engine 4 as a problem as far back as three years ago. A plan was developed to replace this apparatus with proceeds from a proposed bond offering that, due to the economic conditions, never occurred.

We have identified a potential replacement apparatus for Engine 4 that would allow for more firefighter safety and would also better serve the needs of our limited staffing model. The new apparatus would be equipped to perform multiple tasks, similar to the Quint concept designed into Ladder 2. The truck would have the capability of a front-line pumper but would also perform the tasks of a heavy rescue truck, in that it would carry a significant quantity of various types of hydraulic tools, stabilizing jack systems and an air cascade system for refilling breathing air bottles for our airpacks. This would eliminate the need for a "specialty" truck to respond to structure fire incidents to only fill air bottles or provide lighting capability. This design also maximizes the utilization of our limited staffing by placing a number of different resources onto one vehicle.

We have completed the preliminary work of developing a specification for the new vehicle in order to estimate the cost. Based on the preliminary pricing of the truck of $689,000 and an estimated $100,000 for additional equipment, hose and appliances, we are looking at about $790,000. The Pierce dealer, Martin Apparatus has indicated they would take Engine 4 as a trade-in and are willing to offer about $37,500 of value for it. The Department would, by scavenging equipment from the existing Engine 4, keep the net cost of the truck to around $750,000.

A truck with this capability will serve our community and firefighters for the next two and one-half decades. Our operational plan for the new truck would be for it to be in front-line operation for a minimum of 20 years and then be placed into reserve status for 5 years. With its multiple task capabilities, including compressed air foam system (CAFS), it will also contribute to our efforts to maintain the City's ISO Class 1 rating. The proposed vehicle's safety features will provide better protection for our firefighters in the event of an accident. Additionally, the proposed vehicle's operational features, including the independent front suspension and engine/transmission retarder, will reduce the maintenance costs by increasing the lives of the braking system and tires. The apparatus is necessary to insure our Station 1 firefighters' safety by having a reliable first due apparatus from which to conduct fire suppression operations.

I have taken the liberty of speaking with Glenn Windsor regarding financing options for the truck. Glenn has indicated that now would be an ideal time to do a lease or lease/purchase, as the interest rates are extremely low. Financing of the apparatus would be arranged through the City's Finance Department and is estimated to carry a 10-year term. The interest rate is anticipated to be between 3.5 and 4.0%.

We would anticipate offsetting a portion of the annual lease payment for the first several years with estimated savings of $15,000 to $20,000 per year in reduced maintenance and operating costs.

Origination:

Fire Chief

Recommendation:

Staff recommends the acquisition of the proposed replacement apparatus

Funding: No

Funds will be transferred from Account: to Account:

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

Randall F. Parr

ACTION TAKEN

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

ATTACHMENTS:

Repair estimate from Apapratus Services

Randy Parr

From: Gary Morrison [apparatusservices@sbcglobal.net]
Sent: Thursday, December 23, 2010 10:57 AM
To: Randy Parr
Cc: Jonathon Fontenot
Subject: RE: Engine 4
Attachments: E-4 repair work.xlsx

I have not looked at the generator yet to see if it is something I can fix OR if it would be better to replace it.
A new Harrison Gen set is $10K plus a new PTO is another $1500.
Labor to remove the AMPS gen set and install the Harrison would be approx.
$2125.00

So, $~~2~~3625.00 for the gen set. $13625

Then I attached the repair spreadsheet for the other repairs.

-----Original Message-----
From: Randy Parr [mailto:Rparr@ci.tomball.tx.us]
Sent: Wednesday, December 22, 2010 8:56 AM
To: apparatusservices@sbcglobal.net
Subject: Engine 4

A few weeks ago, you had sent us a list of stuff that needed to be done just to get E-4 functional. I believe that list totaled about $6,000 but did not include the hydraulic generator. Can you resend to me that list?? Thanks.
Merry Christmas.

Randall F. Parr, EFO, CFO
Fire Chief
Tomball Fire Department
281-351-7101
281-357-4714 fax
281-924-3324 cell

E-4

Issue	Repair work	Est. Labor time	Labor cost	Est. parts cost
Exhaust flex pipe leaking	Remove flex pipe and replace, install new clamps	2 Hours	$ 170.00	$ 85.00
Water in air tanks, need to change air drier	Remove and replace air drier. Add solvent to air tanks and flush oil from system (this will get as much as possible but not 100% of the oil)	3 Hours	$ 255.00	$ 395.00
Front seal on Hydraulic pump leaking	Remove hydraulic pump, take to Hyd. Shop for re-seal	5 Hours	$ 425.00	$ 650.00
Tach on pump panel is broken	trouble shoot and replace/repair and necessary	2 Hours	$ 170.00	$ 233.00
Driver and passenger seats torn (2)	Replace both front seatbelts with new E-one units	1 Hours	$ 170.00	$ 512.70
Several Power steering leaks	Clean system, determine leaks and repair as needed. This inculdes pricing as if I have to remove the steering box and have it rebuilt.	8 Hours	$ 680.00	$ 1,200.00
Pump Packing and Lock pin, Pin bent and rusted in place	These 3 are togeather, Pull drive-line and pump transmission, Split pump case and remove pump shaft, determine parts needed to repair unit and reassemble with necessary parts and hardware.	40 Hours	$ 3,400.00	$ 9,536.56
Pump Auto-lube, full of water				
Drive line bolts severly corroded				
All gauges need to be changed, Pump Panel	Replace 2 master gauges and all discharge gauges	6 Hours	$ 510.00	$ 872.00
Oil pressure gauge on pump panel inoperative	Trouble shoot gauge and repair as necessary	2 Hours	$ 170.00	$ 155.00
Tank fill valve leaking from actuator stem	Remove tank fill valve and rebuild unit, Replace ball kit and replace valve stem operator, reinstall and verify repair	2 Hours	$ 170.00	$ 250.00
Water leak from Deck gun	Rebuild deck gun valve and replace the Victolic fitting gasket	3.5 Hours	$ 297.50	$ 185.00
Crosslay #3 bracket is broken	Repossition bracket and weld in place	1.5 Hours	$ 127.50	

$ 20,619.26 Total E-4